

Grant Assurance #23

Resource: *Airport Sponsor Assurances* (3/2011)

[http://www.faa.gov/airports/aip/grant_assurances/media/airport_sponsor_assurances.pdf]

23. Exclusive Rights. It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and

b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

Aeronautical Activities – as defined by FAA (see FAA Order 5190.6B, Airport Compliance Handbook, http://www.faa.gov/documentLibrary/media/Order/5190_6b.pdf):

“...all activities that involve or are directly related to the operation of aircraft, including activities that make the operation of aircraft possible and safe. Services located on the airport that are directly and substantially related to the movement of passengers, baggage, mail, and cargo are considered aeronautical uses. It includes, but is not limited to:

- Air taxi and charter operations
- Scheduled or nonscheduled air carrier services
- Pilot training
- Aircraft rental and sightseeing
- Aerial photography
- Crop dusting
- Aerial advertising and surveying
- Aircraft sales and service
- Aircraft storage
- Sale of aviation petroleum products
- Repair and maintenance of aircraft
- Sale of aircraft parts
- Parachute activities
- Ultralight activities
- Sport pilot activities
- Military flight operation

Other resources:

FAA Advisory Circular 150/5190-6, *Exclusive Rights at Federally Obligated Airports*

FAA Order 5190.6B, *FAA Airport Compliance Manual*

FAA Order 5190.1A, *Exclusive Rights at Airports*

Quotes from Chapter #8 of FAA Order 5190.6B:

“The intent of this restriction is to promote aeronautical activity and protect fair competition at federally obligated airports.”

“The FAA considers it inappropriate to provide federal funds for improvements to airports where the benefits of such improvements will not be fully realized by all users due to the inherent restrictions of an exclusive monopoly on aeronautical activities.”

“The FAA has taken the position that the existence of an exclusive right to conduct any aeronautical activity at an airport limits the usefulness of the airport and deprives the public of the benefits of competitive enterprise.”

“Once federal funds have been expended at an airport, including through a surplus property conveyance, the exclusive rights prohibition is applicable to that airport for as long as it is operated as an airport.”

“...it does not matter how the sponsor granted the exclusive right (e.g., express agreement, unreasonable minimum standards, action of a former sponsor, or other means).”

“The exclusive rights prohibition does not apply to services provided by the sponsor itself. The airport sponsor may elect to provide any or all of the aeronautical services at its airport, and to be the exclusive provider of those services.”

“An airport sponsor can deny an individual or prospective aeronautical service provider the right to engage in an on-airport aeronautical activity for reasons of safety and efficiency if the kind of activity (e.g., skydiving, sailplanes, ultralights) would adversely impact the safety and efficiency of another aeronautical activity at the airport, typically fixed-wing operations.”