



Background

In late 2009, the Federal Aviation Administration (FAA) released a draft guidance letter regarding residential through-the-fence (RTTF) operations at public-use airports. An RTTF agreement is a legal document between a residential property owner and an airport owner that allows the property owner to access the airfield directly from the residential property by aircraft. The FAA's draft guidance letter stated that there "are no forms of acceptable" RTTF agreements and determined that RTTF agreements were unacceptable because the signing of these agreements violated the federal grant assurances signed by the airport sponsor (owner) in return for federal funds being expended for development at the airport¹.

Following the release of this draft guidance letter, there was significant debate throughout the general aviation industry regarding the role and appropriateness of RTTF agreements. In objecting to the draft guidance letter, supporters of RTTF agreements pointed to the fact that many such agreements currently exist and in some cases they had been approved by the FAA at the local or regional level. RTTF proponents claim that these agreements provide revenue and security benefits to airports. Some supporters of RTTF operations have urged Members of Congress to intervene and override the FAA's authority to determine whether RTTF agreements are in compliance or conflict with federal grant assurances.

On September 7, 2010, a proposed policy on RTTF agreements was published in the *Federal Register*² as a further response to the draft guidance letter the FAA released in 2009. The proposed policy explains that numerous RTTF agreements currently exist at public-use airports and in some cases may not be easily revoked by the airport. The basic framework of the proposed policy prohibits airport sponsors from entering into any new RTTF agreements while allowing existing RTTF agreements to continue under tighter federal oversight.

Issue

Congress has recognized the value of maintaining and developing a network of airports across the nation through the establishment of the Airport Improvement Program. This program provides federal funds for the maintenance and development of airports that are deemed important to the National Airspace System. This investment of taxpayer dollars in airport development is protected by the federal grant assurances. These assurances require airport owners (called sponsors) to operate the airport in a manner that best serves the interest of the entire transportation system. Without these assurances, the federal investment in airport infrastructure would be subject to the whim and preference of local politics and local consideration.

¹ There are also other activities, such as the granting of federal surplus property to an airport, that trigger the requirement for an airport sponsor to sign and abide by the federal grant assurances.

² 75 FR 54946

The general premise of grant assurances is that the federal investment in airport development is best realized when airports remain flexible enough to meet the changing transportation needs of the nation. Activities such as providing exclusive rights to airport users or encouraging incompatible land uses around the airports are prohibited because they lessen the long-term utility of the airport and thus degrade the federal investment.

NATA Position

While RTTF agreements may provide a short-term benefit to airports through additional revenue and community goodwill, NATA believes those benefits are far outweighed by the risk posed to the long-term usability of airports. NATA supports the FAA's proposed policy on RTTF agreements and believes that it provides a solution that protects the value of the taxpayer investment in airport development while allowing existing RTTF agreements to continue.

NATA believes that the FAA has proposed a policy that well serves the long-term interests of airports, airport business and the public. Any attempt to override that policy by statute could result in unintended consequences that damage the future utility of public-use airports and could call into question the future of all grant assurances and the FAA's ability to ensure that those obligations are followed by all airports receiving federal funding.