

# *ALP Review and Approval*

## FAA Reauthorization Act of 2024

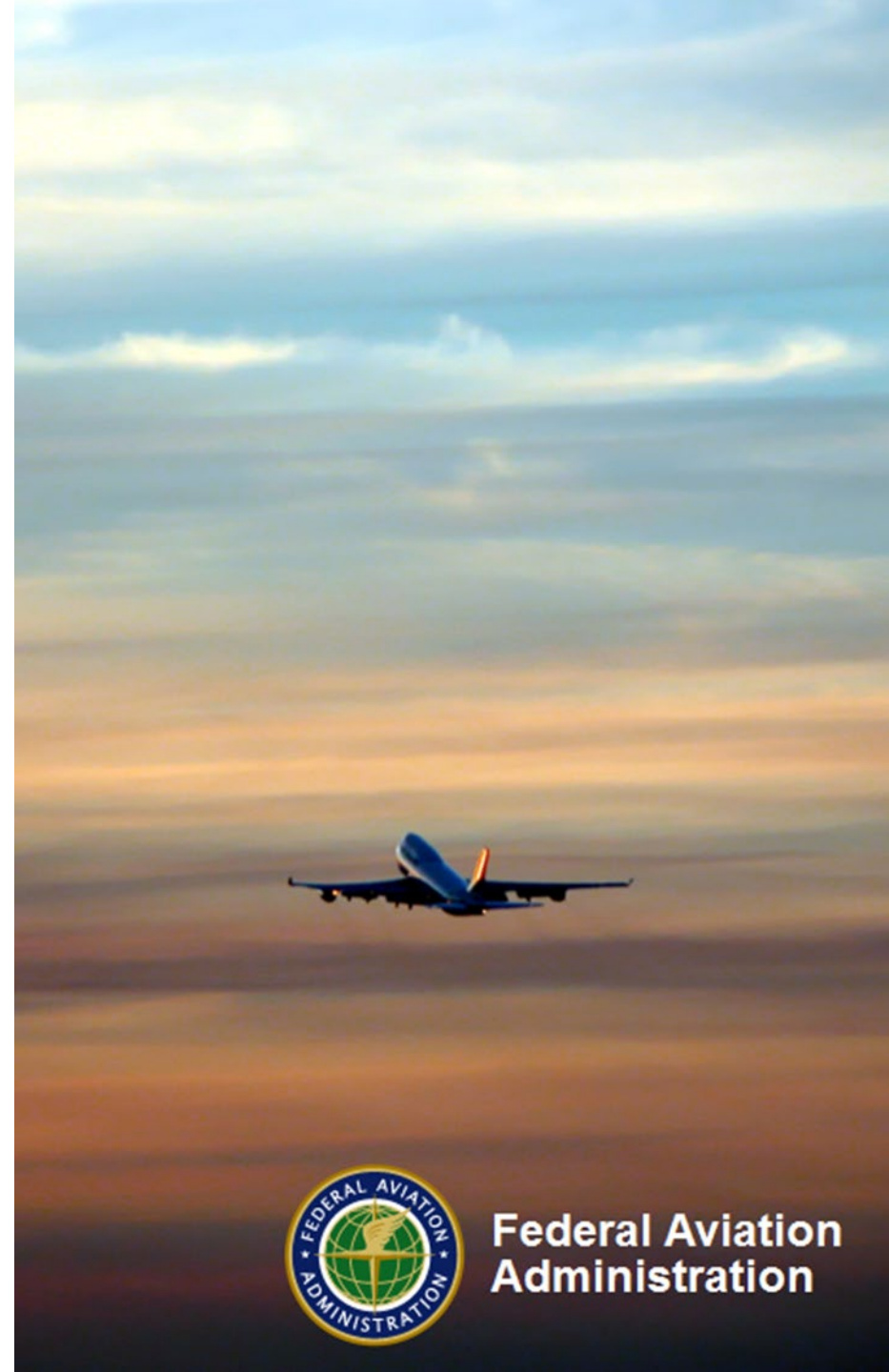
Presented to: MAMA / FAA Helena ADO

By: Mike Lawrance

Date: 11/15/2024



**Federal Aviation  
Administration**



# Agenda

- **Overview of H.R. 3935 Section 743**
- **ALP approval process**
- **Next steps after ALP determination made**
- **Open up for questions**



# Overview of H.R. 3935 Section 743

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# H.R. 3935, FAA Reauthorization Act of 2024

## Section 743 – Review of Airport Layout Plans

- 743(a) replaced nearly all of Section 163.
  - As the infomercial says: “Forget everything you know about 163!”
  - The exception is Section 163 (c), which requires a sponsor to get fair market value and prohibits revenue diversion.
- 743(b): Amended 49 U.S.C § 47107(a)(16)(B)
  - **Subject to 47107(x)**, FAA will review and approve or disapprove ALP or revision before ALP takes effect.
  - Sponsor will not make or allow any alteration in the airport or any of its facilities unless the alteration
    - is outside the scope of FAA’s review and approval authority **as set forth in 47107(x)**; or
    - complies with the portions of the plan approved by FAA.



# 49 USC 47107(x)

## (1) Scope of Airport Layout Plan Review and Approval Authority of Secretary

- Limits FAA approval authority for project on sponsor acquired land.

## (2) Limitation On Non-Aeronautical Review

- Limits FAA approval authority to portions of a proposed project. *(more to come...)*

## (3) Notice

- Allows sponsor to submit a notice of intent to proceed with a proposed project (or a portion thereof) that is outside of the review and approval authority of FAA, if the project was not on the most recently submitted ALP. FAA has 45 days to issue objection.
- Since Notice of Intent (NOI) introduces a significant shift in our ALP process we are requesting that RO/ADO **forward all NOI's to HQ as soon as they are received.**



# Do I Have ALP Approval Authority?

- The question that needs to be asked for every project\* is “Does the FAA have ALP approval authority for this project?”
- This is a change in the law – it always applies!
- FAA ALP approval authority has nothing to do with whether a project is aeronautical or non-aeronautical in use, nor does it matter that a project is going to be funded with federal dollars.
- **Reminders:**
  - **Do not reference Section 163.**
  - **Do not refer to this as 743.**
  - **Do refer to our ALP approval authority.**

*\* Note: “every project” means projects normally shown on an ALP*



# Do I Have Approval Authority?

- **Projects not normally shown on an ALP**

- Examples include: pavement maintenance (crack seal, overlays), equipment/vehicle purchases, in-kind/in-place replacement of airfield lighting or NAVAIDs.
- Since these projects are not normally shown on an ALP, ***a review of FAA approval authority is not needed.***
- NEPA is required if federal funds are being used.
- Determinations are not needed, but the sponsor should be notified if NEPA required.



# ALP Approval Process

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# ALP Approval Process

- RO/ADO staff must determine whether FAA has ALP approval *for every project normally shown on an ALP*.
- To determine whether the FAA has ALP approval authority, staff must confirm how the airport sponsor acquired the land affected by the proposed project.
- The determination process starts when the sponsor is ready to move forward with a project.
- Determinations are not done during planning projects (e.g., Master plans or ALP updates).
  - This may change in the future.
- Examples of determination timing:
  - At the conclusion of annual CIP meeting,
  - Submission of ALP pen-and-ink change,
  - Requests change in land use,
  - Request to dispose of airport-owned property,
  - Review of a project submitted through OE/AAA.



# ALP Approval Process – Federally Acquired Land

- Any airport development project, or portion of a project, to be constructed on land acquired with federal assistance (e.g., purchased with federal funds or federally conveyed) is subject to ALP approval authority.
  - Federally acquired land is land that was acquired with federal funds, including: Airport Improvement Program (AIP), Federal Aid to Airports Program (FAAP), Airport Development Aid Program (ADAP), or as part of an AP-4 agreement. It also includes airport sponsor-acquired land that was used for the airport sponsor match for an AIP project or was swapped for AIP purchased land.
  - Federally conveyed land is land conveyed to the airport sponsor by the Federal government through a written deed of conveyance, including surplus property and non-surplus property transfers.



# ALP Approval Process – Sponsor Acquired Land

- **FAA may have ALP approval authority for projects on sponsor acquired land:**
  - Staff must consider the proposed project and its individual components (e.g., cargo building, apron, auto parking, access road, etc.).
  - Staff must evaluate if the project, or portion of the project, implicates a “zone of interest”:
    - i. materially impacts the safe and efficient operation of aircraft at, to, or from the airport;
    - ii. adversely affects the safety of people or property on the ground as a result of aircraft operations; or
    - iii. adversely affects the value of prior Federal investments to a significant extent.



# ALP Zones of Interest (i) and (ii)

1. Any area on an airport where an aircraft moves or parks, which includes these two areas:
  - I. Movement areas (e.g., runways, taxiways, and other areas of an airport that are used for taxiing or hover taxiing, air taxiing, takeoff, and landing of aircraft including helicopters and tilt-rotors);
  - II. Non-movement areas (e.g., aircraft parking areas, including ramps and hangars);
2. All safety and obstacle setbacks to those areas (e.g., Runway and Taxiway Safety Areas, Object Clearing Areas, Object Free Area, or Obstacle Free Zone);
3. Runway Visibility Zones;
4. Runway Protection Zones;
5. Navigational Aids and associated critical areas;
6. Parachute Drop Zones;
7. Commercial Space Development;
8. Aircraft self-fueling stations;
9. Electric aircraft charging stations;
10. Hydrogen aircraft fueling facilities;
11. ARFF Stations; or
12. Impacts an approach or departure surface and/or procedure or impacts to Airport Traffic Control Tower (ATCT) line of sight. **NOTE: Will disapprove when submitted, then once the issue fixed, we will not have ALP approval authority.**



# ALP Zone of Interest (iii)

- The threshold for triggering zone of interest (iii) is that the project adversely affects a prior federal investment to a significant extent.
- Whether a project implicates zone of interest (iii) can be more difficult to determine, and it is not common. Factors to consider include:
  - Will the proposed project negatively impact existing or projected future airport capacity?
  - How old is the pavement/facility? Is it beyond its useful life?
  - How is the area currently being used and is the proposed project consistent with the current use?
- Please reach out to FAA HQ if there are any questions on determining whether a project implicates zone of interest (iii).



# ALP Approval Process – Sponsor Acquired Land

- The evaluation of a project wholly located on sponsor-acquired land will result in one of three outcomes:
  - If the entire project implicates an FAA zone of interest, then FAA retains ***ALP approval authority over the entire project.***
  - If a portion of the project implicates an FAA zone of interest, then FAA retains ***ALP approval authority over only those portions of the project that implicate a zone of interest.*** FAA does not retain ALP approval authority over the remaining portions of the project that do not implicate a zone of interest.
  - If the project or any of its components do not implicate an FAA zone of interest, then the ***FAA does not have ALP approval authority for the project.***



# Land Acquisition Funding Umbrellas\*

## Federally Acquired/Conveyed

- AIP
- ADAP
- FAAP
- AP-4
- BIL
- Surplus
- Non-surplus
- Donated Land for Local Match

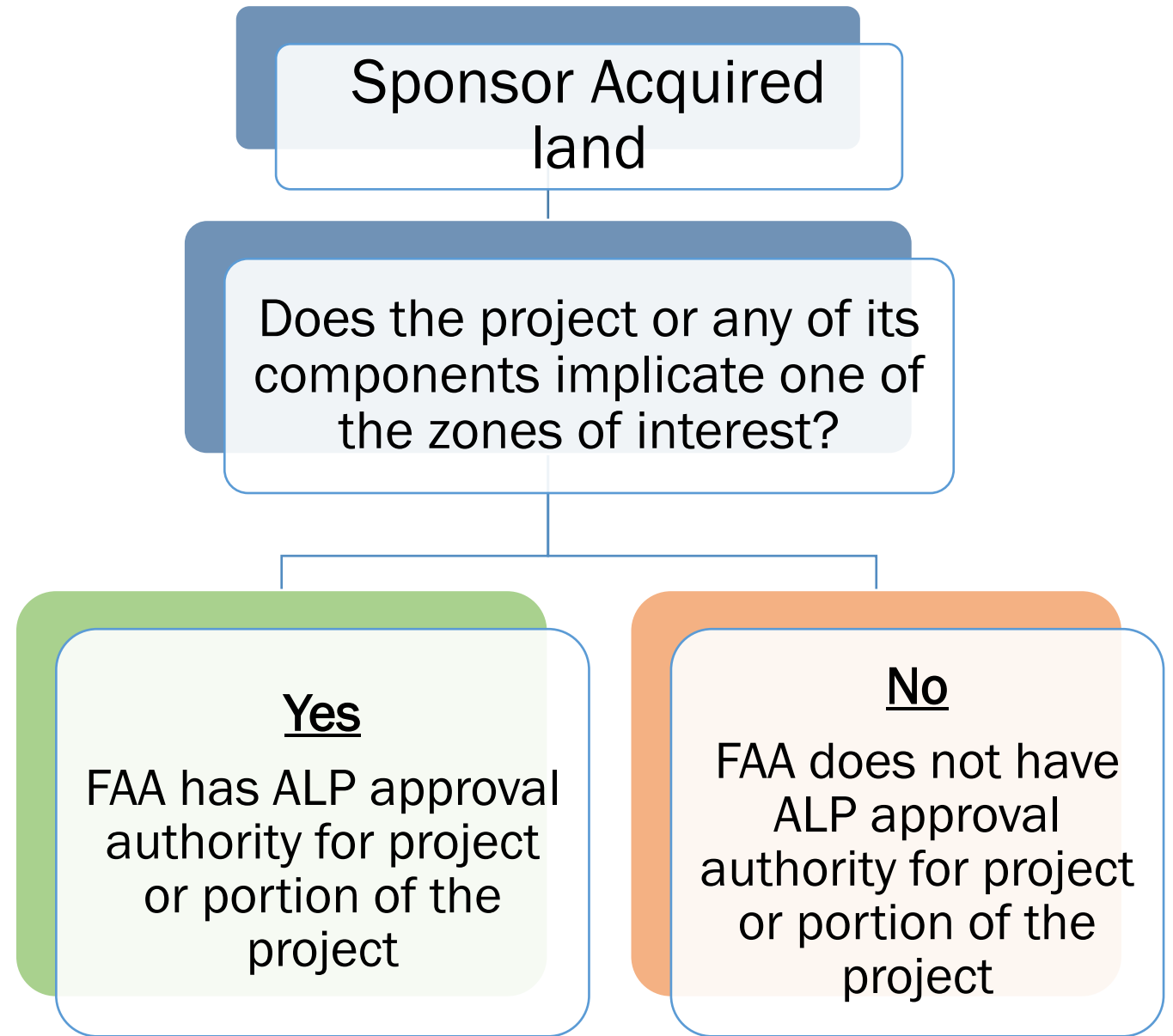
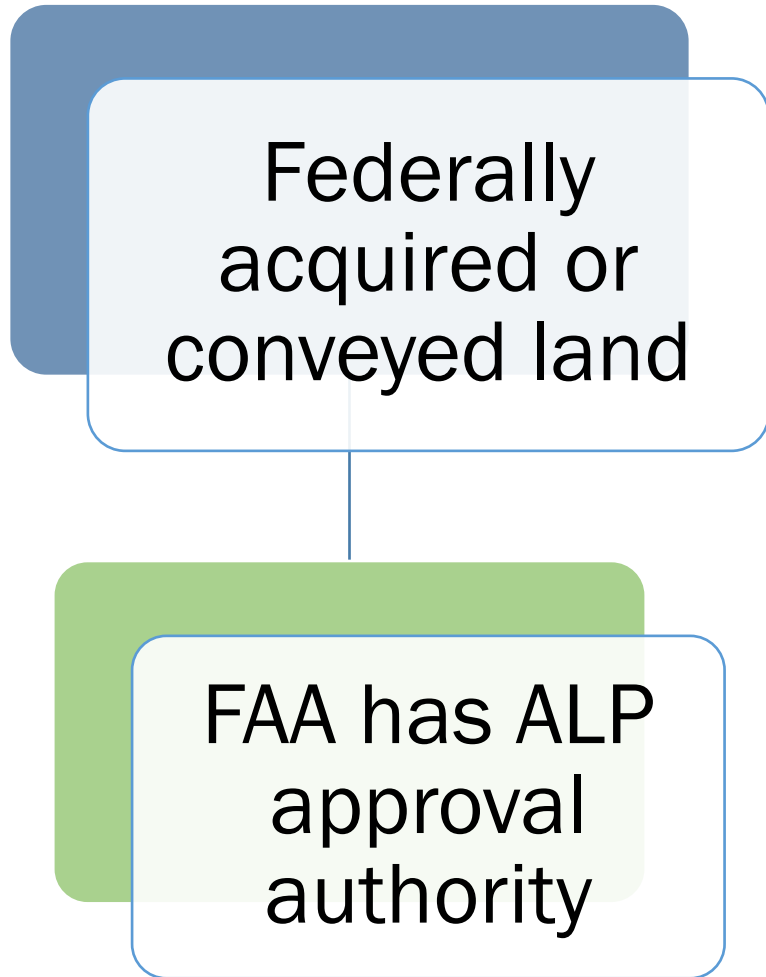
## Sponsor Acquired

- Airport revenue
- Local Government
- Land Donated to Sponsor
- State

**\*Examples not all inclusive**

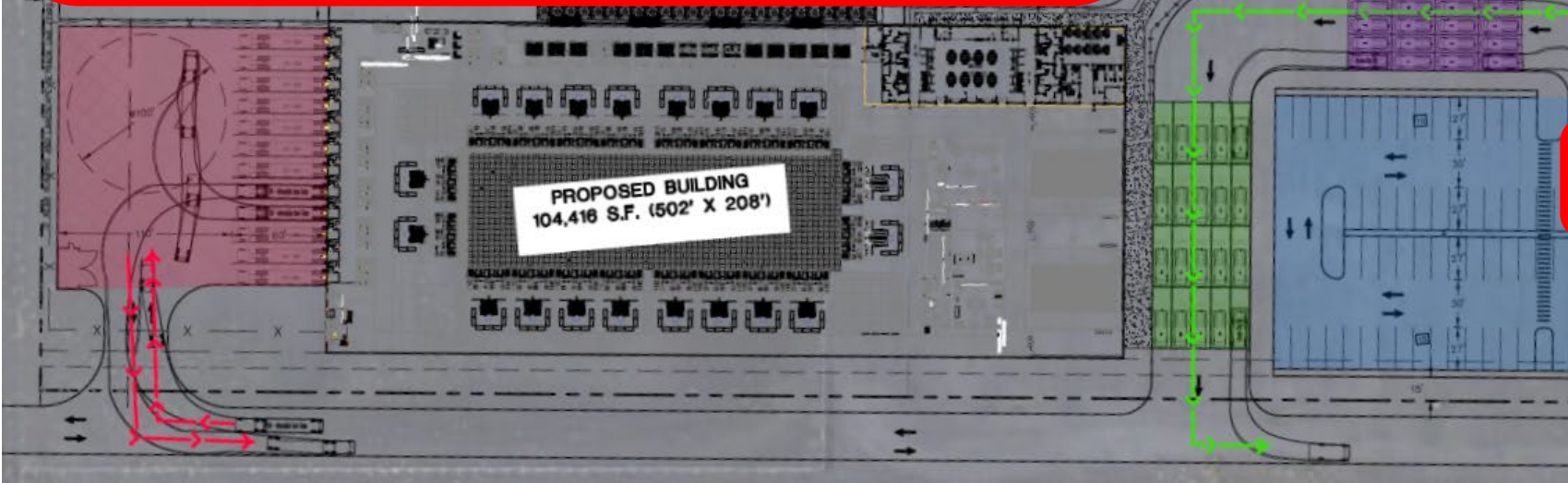
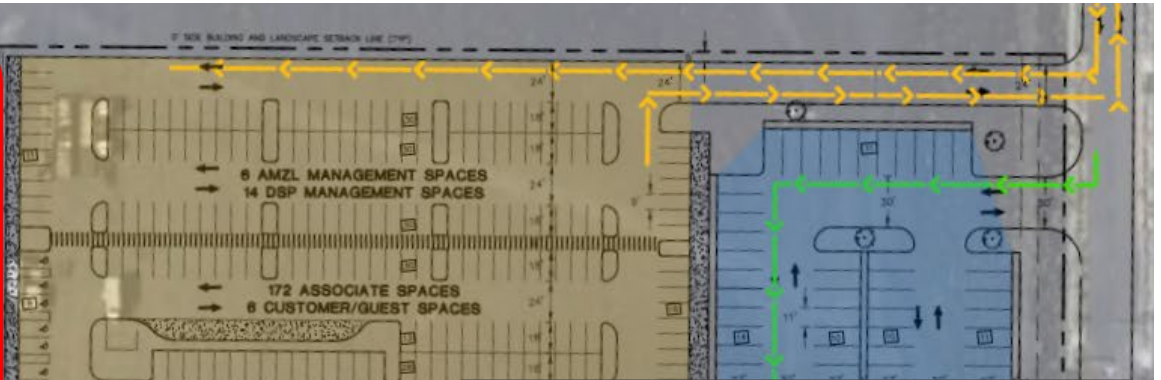
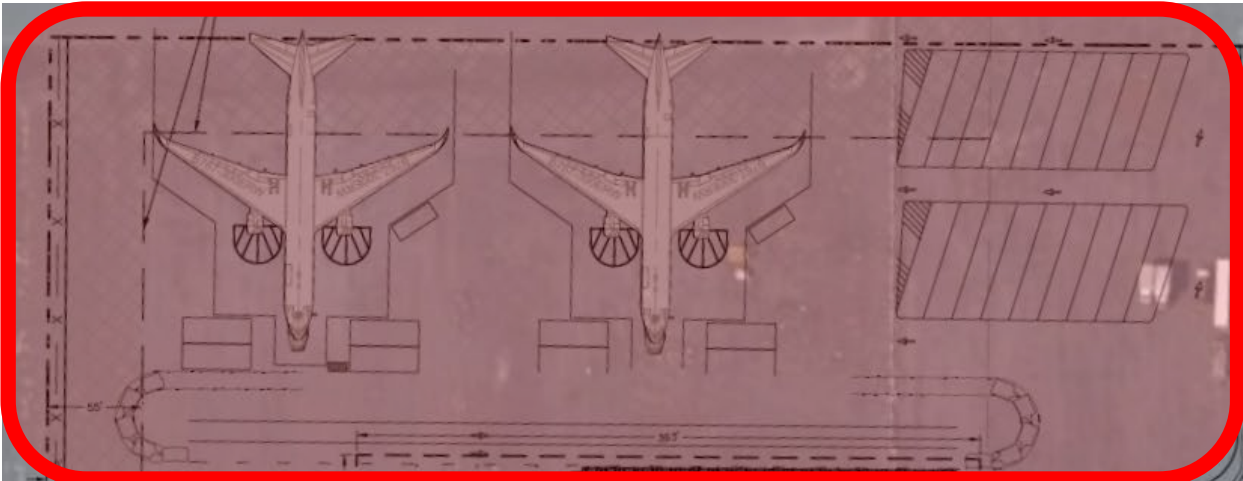


# Simplified Flow Chart



# Example – Cargo Facility

**ALP Approval for Apron Only**



- Project Components:
- Cargo building
  - Apron
  - Access road
  - Truck parking
  - Auto parking



# What About Land Use Authority?

- Section 743 is primarily focused on ALP approval authority.
- If FAA lacks ALP approval authority for a project or portion of a project on sponsor-acquired land, it also does not have land use authority, so a change in land use or release is not required.
- FAA retains land use authority for all projects on federally acquired or federally conveyed land, along with projects on sponsor acquired land implicated by a zone of interest. Work with your compliance specialist to determine whether a change in use or release is required



# What about NEPA? Funding?

- Section 743 has nothing to do with NEPA or funding....but,
- We do need to consider both after the ALP approval determination is made.
- Why? Because once a determination is made, an EPS needs to verify whether there are any federal actions on the project that will trigger a NEPA review, including:
  - ALP approval
  - Land use change approval
  - AIP or other federal funding
  - PFC funding
- Again, this is not a new process!



# Review

- Sponsor submits project or is ready to move forward with project.
- Is this a project that is normally shown on the ALP?
- If yes, determine whether we have ALP approval for the project.
- Has sponsor submitted sufficient project description and land information?
- Does sponsor know how project will be funded?
- If FAA has ALP approval, coordinate with compliance specialist to determine if land use change or release is required.
- FAA hands determination to EPS to confirm NEPA requirements, if any.
- Document the determination (Excel and/or ALP).
- Communicate determination to sponsor.



# What is the Sponsor's Responsibility?

- Process for the sponsor has not really changed.
- The sponsor should understand it is FAA's responsibility to determine whether we have approval authority, and that a determination needs to be made on whether we retain authority for the project.
- Submit pen-and-ink change on ALP, along with project description.
- Provide documentation on how land was acquired and ensure all land owned by the airport is documented (*is your Exhibit A up to date?*).
- Identify how the project will be funded.
- Do not begin NEPA for a project until you have had initial discussion with FAA.



# Questions?

