

10. Airports

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10.1. Introduction

This manual is one of a series of manuals developed by the Department of Transportation and Public Facilities (DOT&PF) for use by its staff and contractors. Its purpose is to guide staff and contractors through the right-of-way (ROW) acquisition, appraisal, relocation, and property management processes. This chapter covers procedures involving airports.

An overview and a summary of the various ROW processes, including the statutory and regulatory background for those processes, are set out in chapter 1 of this manual.

Electronic copies of the manual include hyperlinks to the appropriate section of the URL Index on DOT&PF's Web site. Simply scroll down the appropriate section to the referenced law, document, or other information. Efforts will be made to keep the URL Index current, but if a hyperlink does not work, please notify the state ROW chief in headquarters at 465-6962. **NOTE:** The hyperlinks are to statutes and regulations as those laws existed on the date the hyperlink was created. Please verify whether a law has since been amended.

DOT&PF holds title to the majority of airports that it maintains and operates under authority of Alaska Statute, Title 2 ([AS 02](#)), and Alaska Administrative Code, Title 17 ([17 AAC](#)). Most of these airports are in remote areas. Title to property outside airport boundaries is generally held in private ownership. Private ownership, with few exceptions, consists of Native corporations and allotments. Situations arise wherein DOT&PF has rights to maintain and operate airports where no substantive title is held. Air Navigations Sites and Interim Agreements are examples of such situations and are discussed in detail later in this section. Because of Federal Aviation Administration (FAA) requirements and the type of ownership involved in acquisition, this chapter

supplements the acquisition procedures contained in this manual.

Airport development and improvements are funded by the FAA and, as such, are governed by the Airports and Airways Improvement Act of 1982 (Public Law 97-248 Section 509(b)(2)), as amended, Airport and Airway Development Act of 1970 (Public Law 91-258 Section 16(c)(1)), and Federal Aviation Regulations (FAR) in [14 C.F.R. 152](#), in addition to the Uniform Act (see Chapter 1 of this manual). These public laws require that a federally-assisted airport project cannot be approved until DOT&PF (the sponsor) holds acceptable title to the airport lands, or gives satisfactory assurance that acceptable title will be acquired prior to construction. [Advisory Circular 150/5100-17](#) is the most current land acquisition guidance from the FAA. The ROW agent working on an airport project should become familiar with these guidelines and the most current [FAA Alaska Region Sponsor Guide](#).

This manual outlines the basic procedures to be completed for airport parcels as well as for highway parcels. However, the level of involvement with the FAA as compared with that of the FHWA is somewhat different. For instance, FHWA has waived the requirement for an appraisal for parcels with an estimated value of \$10,000 or less, while FAA has limited this waiver to parcels with an estimated value of \$2,500 or less (Section 4.1 of this manual).

FAA does not formally approve each appraisal, but makes spot-check reviews for compliance with the Uniform Act. The regional chief ROW agent must send to FAA informational copies of both the appraisal, including the Reviewer's Determination, and any Administrative Settlement approvals. Again, FAA does not specifically approve each one, but makes spot-check reviews. (The regional chief ROW agent must also provide a copy of all Administrative Settlements to the chief engineer, Division of Statewide Design and Engineering Services in headquarters.)

The acquisition agent on any airport project must be aware that the time frames for an airport project are different from those for highway projects. The schedule for airports is very abbreviated.

There is no "authority to appraise and acquire" with FAA projects as there is in the FHWA system. The

ROW Section is first notified of a project when the design project manager requests a scope schedule and budget for the project. At this time, each ROW section in the region prepares its portion of the FAA form Appendix 2-D, Summary of Force Account Costs (Exhibit 10-1 at the end of this chapter) and then the design project manager completes the form. Prior to environmental document approval, preliminary real estate market information can be gathered, and the regional preconstruction engineer can authorize appraisal and acquisition activities. Following approval of the environmental document, the ROW phase of the project progresses the same as for a highway project (see Chapters, 2, 4, 5, 6, and 7 of this manual).

10.2. Potential Types of Title Held on Airport Lands

DOT&PF must acquire real property rights that are adequate for the construction, operation, and maintenance of the grant-assisted project. Normally, fee title to all land within airport boundaries will be acquired. If fee acquisition for the Runway Protection Zone (RPZ) is not practical, then an avigation easement is required. This easement must secure the right of flight, with inherent noise and vibration, above the approach surface, the right to remove existing obstruction, and a restriction against the establishment of future obstructions. Generally, where less than fee title is acquired, the property rights acquired must be sufficient to encumber the remainder real estate with provisions that will ensure full use of the property as needed for airport construction and/or for safe airport operations. The minimum interest FAA will accept is a 20-year lease.

Other types of title held on airports include the following:

1. **U.S. Patent:** The following portions of federal law allow airport patents to be granted to the State of Alaska: Section 16 of the Federal Airport Act of 1946, Section 23 of the Airport and Airway Development Act of 1970, and Section 516 of the Airport and Airway Improvement Act of 1982. Airport patents represent fee title from the United States. Patents contain a reversionary clause (a stipulation that the land reverts to the federal government when it ceases to be used for airport purposes).
2. **General Services Administration (GSA) Deeds:** Fee title with a reversionary clause as described in

(1) above. Relinquishments must be approved by FAA and are subject to disposal through the Federal Surplus Property Act.

3. **Omnibus Act Deeds:** Fee title issued under Section 45 of the Omnibus Act to the State of Alaska at Statehood. Since airports covered by these types of conveyances were originally federal installations, there are often federal reservation areas designated inside facility boundaries. Until a release of the federal interest is issued and recorded, the state does not have use of those areas.
4. **Bureau of Land Management (BLM) 20-Year Public Airport Leases:** These leases are renewable and are granted under authority of 43 C.F.R. 2911. Rental payments can be made lump sum with the use of grant money. The BLM appraises the land and usually charges 50% of market value.
5. **Trustee Deeds:** Fee title was granted by the BLM Townsite Trustee for Airports within surveyed federal townsites. It may contain exclusions for oil and gas in the patent. These deeds were issued under authority of Section 12 of 26 Stat. 1095.
6. **Air Navigation Site (ANS) Withdrawals:** A realty action taken in the past by BLM to segregate land from other appropriations and to protect them for airport purposes. However, they are withdrawals and do not provide a title interest. Interim Conveyances (ICs) to Native corporations are not subject to these withdrawals. Airports covered by these withdrawals are normally reconveyed under the Alaska Native Claims Settlement Act (ANCSA), P.L. 92-203, Section 14(c)(4).
7. **U.S. Forest Service (USFS) Permits:** Granted under authority of , the terms will vary according to the activity.
8. **Interagency Land Management Assignments (ILMA):** These are agreements issued by DNR, transferring management of state-owned lands. They replaced Interagency Land Management Transfers (ILMT) (see AS 38.05.020) and are for nonexclusive use, usually a 55-year term. They are often acquired over submerged lands. ILMA lands must be returned to DNR when no longer needed for airport purposes. In addition, every five years DNR must be notified in writing of

DOT&PF's continued use of these lands.

9. **Aviation and Hazard Easements:** Obtained for runway protection zones and transitional slopes. The language of the document must be acceptable to FAA (see Advisory Circular 150/5100.37, Advisory Circular 150/5190.6A, and FAR, 14 C.F.R. 77). These easements are not advisable—they should only be acquired when no other title interest is feasible (such as for graves or an old landfill in the approach). FAA prefers DOT&PF to acquire a greater quality interest in the runway protection zones.
10. **BIA Deeds:** Obtained by BIA or BIA's contractor for the benefit of the Allottee. 25 C.F.R. outlines the procedures and rules. BIA deeds are not unique to aviation facilities. They are acquired for highway projects as well. It is preferable to acquire a deed, not a Right-of-Way for Restricted Lands on Airports. See Chapter 6 of this manual.
11. **Department of Community and Economic Development (DCED)/Municipal Land Trustee (MLT) Leases and Grants of Right-of-way (airport access roads):** Under ANCSA, P.L. 203, Section 14(c)(3), as amended, each village corporation must convey surface estate in lands in and around the village to its municipality or, if no municipality exists, the state has provided an option to unincorporated communities to allow for expansion. The Department of Community and Economic Development (DCED) may receive lands in trust for any future municipality “as is necessary for community expansion, and appropriate rights of way for public use and other foreseeable community needs;”
12. **Leases from other government agencies:** Leases for airport facilities vary in term from a minimum of 20 years to perpetual. “Public agencies” such as the Alaska Railroad Corporation, state-chartered municipalities, DCED, and Tribal Governments are allowed to enter into leases for airport facilities.* (See 14 C.F.R. 152) A lease from an ANCSA corporation does not comply with federal rules for sufficiency of title.

* Any agreement, lease, contract, or title interest obtained from a tribal government requires the acceptance of an approved waiver of sovereign immunity by the tribe. These are written in

conjunction with the Department of Law and are specifically crafted for the individual tribe based on its constitution, if it has one.

13. **Split Estate Lands and Subsurface Easements:** Split estate lands acquired adjacent to most communities are generally owned by the ANCSA village corporation (surface) and the ANCSA regional corporation (subsurface). DOT&PF makes offers based on the fee value of the combined surface and subsurface estates. DOT&PF does not divide estate values. Property owners are responsible for dividing the compensation.

If the sale is an Administrative Settlement, the same unit value must be presented in a written counteroffer from both corporations. Settlements are processed as outlined in Chapter 6 of this manual.

DOT&PF often ends up with a different quality of interest in the two different estates. While DOT&PF occasionally obtains deeds for subsurface interests, subsurface easements are a more common type of title. Subsurface easements come in two forms. First, those that are part of split estate acquisition (compensable) are adequate title if they convey material rights and sublateral, subjacent support to the DOT&PF facility. Secondly, there are also subsurface easements, generally titled Restrictive Covenants, that protect DOT&PF facilities where only an ANCSA surface estate is held.

14. **Road Dedications:** Part of the entire title clearance process for an FAA Grant is securing public access from the community center to the airport facility. This is generally accomplished through a road dedication and not necessarily by acquisition of the lands encompassing the road. Should a purchase of those lands be needed, FAA considers it a participating expense.
15. **ANCSA, Section 14(c)(4), Village Airport Reconveyances:** A project may require acquisition of land upon which an airport existed as of December 18, 1971. Under ANCSA, Section 14(c)(4), each village corporation “shall convey to the ... State ... title to the surface estate for existing airport sites, airway beacons, and other navigational aids, together with such acreage and/or easements as are necessary to provide related services and to insure safe approaches to

airport runways.” The physical airport boundaries are based upon the boundary that existed on December 18, 1971, the date of the ANCSA enactment.

The ROW agent assigned to an airport project must obtain a copy of the current airport property plan as the baseline exhibit for negotiations, and the plan must show the boundaries as they existed on December 18, 1971 as the area to be reconveyed. Title will be reconveyed to DOT&PF from the village corporate entity, as it was conveyed from the Federal government. There are very few airports where this entitlement has not been previously exercised.

16. **Interim Maintenance Agreements:** Occasionally situations arise wherein a title interest to a facility will lapse entirely. If the facility is to be retained as a public airport but the funding for any land acquisition may be years off, there is an interim solution. DOT&PF crafts an Interim Maintenance Agreement, sometimes called a limited lease, with the owners of the airport land. The most common use for such an agreement is at the expiration of a BLM Lease that has been administratively waived to the village corporation. Until DOT&PF can acquire a more long-term title interest, these agreements allow the State to continue the operations and maintenance of the facility. Leases for long terms are not possible nor do they constitute sufficient title for grant funding. These interim agreements or limited leases are not to be used within the 20-year grant obligation period. DOT&PF should advise the village municipality that it may undertake no new improvement projects at an airport operated under a limited lease.

10.3. Title Certification Process for FAA Grants

Identify which airport projects require land acquisition and which do not.

10.3.1 *Projects That Do Not Require Land Acquisition*

The [FAA](#) references Appendix 6, “Sponsor Certificate of Title.” DOT&PF and the FAA have coordinated a simpler process for title certification when no land acquisition is involved. Appendix 6 is no longer required for these projects.

Complete an abbreviated title check as follows:

1. Complete a cursory review of the title by reviewing the BLM Master Title Plats for possible new Native Allotment Applications and by reviewing the public records at the recorder’s office database for recent sales.
2. Check the Airport Property Plan to be sure it is updated and make a copy for FAA.
3. Complete the FAA Grant Form --Part II, Section C, (Exhibit 10-2 at the end of this chapter, and see FAA’s Alaska Region Airport Sponsor’s Guide) and submit it to the project manager. Item 4 on the form requires a listing of the property interest in areas of land shown on the property map. The data should include all title interests held on the airport, the date of acquisition, the date of the last title opinion or certification, and the latest property plan.

If any title interest is not permanent, detail the expiration and remaining years of interest. Maintain this data on an ongoing database, and update it each time a new acquisition is made.

4. Retain copies of all submissions in the grant file specific to each airport project.

10.3.2 *Projects That Require Land Acquisition*

A title opinion is required for new acquisitions or ANY change in the title held. The ROW agent must prepare a draft title opinion and recommendation for approval by the Department of Law that includes the following:

1. Half-size prints of the current Airport Property Plan
2. A narrative explaining the grant and title history at the airport, and an explanation of the chain of title documents. If a title opinion has been submitted to FAA for a previous federal-aid project, report only on those documents received since the date of the previous opinion. Detail any exceptions to the title that may affect the quality of the title assurance.
3. Submit the recommendation to the Department of Law for comment. The Department of Law will finalize the opinion.
4. Complete the FAA Grant Form Part II, Section C (Exhibit 10-2 at the end of this chapter, and see

FAA's Alaska Region Airport Sponsor's Guide) and submit it to the project manager. Item 4 on the form requires a listing of the property interest in areas of land shown on the property map. The data should include all title interests held on the airport, the date of acquisition, the date of the last title opinion or certification, and the latest property plan. If any title interest is not permanent, detail the expiration and remaining years of interest.

5. Complete the FAA Grant Form Appendix 4, (Exhibit 10-3 at the end of this chapter, Sponsor Certification for Real Property Acquisition, and see FAA's Alaska Region Airport Sponsor's Guide) and submit it to the project manager to obtain approval by the regional chief ROW agent.
6. Retain copies for the appropriate grant file in the regional ROW project files and submit the original to the FAA.

10.4. Project Closeout

The regional pre-audit agent will participate in the project closeout and complete the "Land; Section IV" of the project closeout checklist (Exhibit 10-4 at the end of this chapter) and submit it to the project manager.

10.5. Relinquishment and Disposal of Airport Lands

The ROW agent must review the chain of title, in addition to all grant agreements, for any limitations on disposals or relinquishments. The agent must obtain

the necessary permissions and authorizations from inter-Department and the FAA. DOT&PF does not entertain the relinquishment and/or sale of airport lands until these approvals are obtained.

Depending on the chain of title, the lands may have to be returned to FAA or DNR. Convey relinquishment of patented property using the federal relinquishments form. Prepare other disposals using a Commissioner's Quitclaim Deed. Provide public notice, as required by the Alaska Constitution.

The State of Alaska, as sponsor, may relinquish an entire airport to a city or municipality only if the city or municipality will operate the airport in accordance with grant assurances. If no airport grant is received, then the airport may be relinquished in accordance with state law. If an FAA grant is received, then the transfer requires the approval of and coordination with FAA. A Memorandum of Agreement is required that involves all three parties and that outlines the conditions for transfer of the facility and the conditions under which the transfer is possible.

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PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use. The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

2. Defaults. The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

3. Possible Disabilities. There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceeding) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

4. Land. (a) The Sponsor holds the following property interest in the following areas of Land* which are to be developed or used as part of or in connection with the Airport, subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit “A”:

* State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

FAA Form 5100-100 (4-76)

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Exhibit 10-2
FAA Grant Form --Part II, Section C
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PART II – SECTION C (Continued)

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit “A”:

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit “A”:

5. Exclusive Rights. There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

* State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

Appendix 4: Sponsor Certification for Real Property Acquisition

Sponsor's Name

Airport

Project Number

Project Description (Identify specific parcels acquired under project)

Section 47105(d) of the Federal Aviation Reauthorization Act of 1996, as amended (herein called the Act), authorizes the Secretary to require certification from sponsors that they will comply with statutory and administrative requirements. The following list of certified items includes major requirements for this aspect of project implementation. However, the list is not comprehensive, nor does it relieve sponsors from fully complying with all applicable statutory and administrative standards. Every certified item must be marked. Each certified item with a "no" response must be fully explained in an attachment to this certification. If the item is not applicable to this project, mark the item "N/A". General requirements on real property acquisition and relocation assistance are in 49 CFR 24. The project Grant Agreement contains specific requirements and assurances on the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act).

1. Good and sufficient title (is) (will be) held on the property in the project. The sponsor's attorney or other official (has prepared) (will prepare) and (has) (will have) on file title evidence on the property.

Yes _____ No _____ N/A _____

2. If defects and/or encumbrances exist in the title which adversely impact the sponsor's intended use of property in the project, they (have been) (will be) extinguished, modified, or subordinated.

Yes _____ No _____ N/A _____

3. If property for airport development (is) (will be) leased, the term is for 20 years or the useful life of the project. The lessor is a public agency and the lease contains no provisions which prevent full compliance with the grant agreement.

Yes _____ No _____ N/A _____

4. Property in the project (is) (will be) in conformance with the current Exhibit "A" (property map). The property map is based on deeds, title opinions, land surveys, the approved Airport Layout Plan and project documentation.

Yes _____ No _____ N/A _____

5. For any acquisition of property interest in noise sensitive approach zones and related areas, property interest (was) (will be) obtained to ensure land is used for purposes compatible with noise levels associated with operation of the airport.

Yes _____ No _____ N/A _____

6. For any acquisition of property interest in runway protection zones and areas related to FAR Part 77 surfaces, property interest (was) (will be) obtained for the right of flight and right of ingress and egress to remove obstructions. Interest (was) (will be) obtained for the right to restrict the establishment of future obstructions.

Yes _____ No _____ N/A _____

7. Appraisals (include) (will include) valuation data to estimate the current market value for the property interest acquired on each parcel and (were) (will be) prepared by qualified real estate appraisers hired by the sponsor. An opportunity (was) (will be) provided the property owner or representative to accompany appraisers during inspections.

Yes _____ No _____ N/A _____

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Exhibit 10-3
Sponsor Certification for Real Property Acquisition
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8. Each appraisal (has been) (will be) reviewed by a qualified review appraiser to recommend an amount for the offer of just compensation. The written appraisals and review appraisal are available to FAA for review.

Yes _____ No _____ N/A _____

9. A written offer to acquire each parcel (was) (will be) presented to the property owner for not less than the approved amount of just compensation.

Yes _____ No _____ N/A _____

10. Effort (was) (will be) made to acquire each property through negotiation with no coercive action to induce agreement. If negotiation (was) (will be) successful, project files (contain) (will contain) supporting documents for settlements

Yes _____ No _____ N/A _____

11. If a negotiated settlement is not reached, condemnation (was) (will be) initiated and a court deposit not less than the just compensation (was) (will be) made prior to possession of the property. Project files (contain) (will contain) supporting documents for awards.

Yes _____ No _____ N/A _____

12. If displacement of persons, businesses, farm operations, or nonprofit organizations is involved, a relocation assistance program (was) (will be) established. Displaced persons (received) (will receive) general information on the relocation program in writing, notice of relocation eligibility, and a 90- day notice to vacate.

Yes _____ No _____ N/A _____

13. Relocation assistance services, comparable replacement housing, and payment of necessary relocation expenses (were) (will be) provided within a reasonable time period for each displaced occupant in accordance with the Uniform Act.

Yes _____ No _____ N/A _____

I certify that, for the project identified herein, the responses to the forgoing items are correct as marked, and that the attachments, if any, are correct and complete.

Signed:

Dated:

Sponsor's Authorized Representative

Typed Name and Title of Sponsor's Representative

Exhibit 10-3
Sponsor Certification for Real Property Acquisition
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Appendix 5-B - AIP Project Closeout Checklist

Airport _____ AIP # _____
 Project _____

ITEM	See Note
All Projects; Appendix 5-A, Section 1:	
a) Final Pay Request SF-271, except for letter of credit grants (original + 1 copy)	
b) Final Pay Summary Worksheet	
c) Summary of DBE Utilization	
d) Grant Special Conditions, list and discuss compliance with each	
e) Amendment Letter, if applicable	
f) Final Project Report as Applicable (construction, land or equipment)	
g) Required Sponsor Certifications, unless previously submitted	
Sponsor's Certification for Construction Project Final Acceptance	
Sponsor's Certification for Equipment/Construction Contracts	
Sponsor's Certification for Project Plans and Specifications	
Sponsor's Certification for Real Property Acquisition	
Sponsor's Certification for Selection of Consultants	
Sponsor's Certificate of Title	
Final Project Report , Planning; Appendix 5-A, Section 2:	
a) Statement that all work was accomplished	
b) Date when aviation forecasts were approved by FAA	
c) Date when Master Plan accepted by FAA	
e) Date when Airport Layout Plan approved by FAA	
Final Project Report , Construction; Appendix 5-A, Section 3:	
a) Project History	
b) Administration	
c) Engineering Design and Construction Management	
1) Consultant Services Summary	
2) Force Account Services Summary	
d) Construction	
1) Summary of Change Orders	
2) Summary of final quantities	
3) Final Inspection Report	
4) Contractor's release	
5) As-constructed plans	
6) Summary of test results	
7) Date when force account construction approved by FAA	
8) Summary of force account construction	
e) Revised Exhibit "A" Property Map, if applicable	
f) Date of FAA approval of revised ALP	
g) Date of Airport Master Record update	
h) Date of Sign Plan update, if applicable (for Part 139 certificated Airports)	
Final Project Report , Land; Section 4:	
a) Land Acquisition Cost Breakdown	
b) Revised Exhibit "A" Property Map, if applicable	
c) Project Summary	
d) Summary of contract approvals	
Final Project Report , Equipment; Section 5:	
a) Summary of contract approvals	
b) Table of Dates (contract award, NTP, delivery, acceptance, etc.)	
c) Summary of Acceptance Test Results	
d) Inventory of Non-Expendable Personal Property	
Note: Check (√) to indicate item included in Project Closeout Report, N/A if not Applicable, include date if previously submitted, or include date if requested.	

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Exhibit 10-4 AIP Project Closeout Checklist

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