

NOTICE OF PROPOSED GUIDANCE DOCUMENT

DTIMBOA7

Pursuant to Wis. Stat. s. 227.112, the Wisconsin Department of Transportation is hereby seeking comment on DTIMBOA7, a proposed guidance document.

PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to the Wisconsin Department of Transportation for 21 days by:

1. Department's website: <https://appengine.egov.com/apps/wi/dot/guidance-docs?guidDocId=DTIMBOA7>

2. Mailing written comments to:

Division of Transportation Investment Management
Wisconsin Department of Transportation
4822 Madison Yards Way
PO Box 7913
Madison, WI 53707-7913

WEBSITE LOCATION OF FINAL GUIDANCE DOCUMENT

The final version of this guidance document will be posted at wisconsin.dot.gov to allow for ongoing comment.

AGENCY CONTACT

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Wisconsin

Advance Land Acquisition

Loan Program

June 2014



Wisconsin Department of Transportation
Bureau of Aeronautics
4802 Sheboygan Avenue, Room 701
Madison, Wisconsin 53707-7914

Wisconsin Bureau of Aeronautics

Advance Land Acquisition Loan Program

Q. What is a Land Loan?

A. The Land Loan is a revolving fund administered by the Bureau of Aeronautics which loans funds to airport sponsors to acquire land needed for an airport. When an airport repays its loan the funds are then made available for another airport project.

Q. Why does the state have the Land Loan Program?

A. The purpose of the Land Loan is to promote the state's interest in preserving and improving a safe and efficient air transportation system by providing low interest loans to airport sponsors to acquire land needed for an airport project or to assure compatible land uses around the airport.

Q. Who is eligible?

A. Any county, city, village or township that owns an airport and owners of privately owned reliever airports are eligible for the Land Loan Program.

Q. What is eligible?

A. Properties eligible for loans must be part of an approved Airport Layout Plan or needed to assure compatible land use around the airport. Any activity leading up to acquisition (ex: surveys, title work, etc.), as well as the property acquisition are eligible activities under the land loan program.

Q. How does the program work?

A. Loans can be made for up to 80% of the Bureau of Aeronautic's estimated costs for acquiring the land, including the costs of any necessary ALP updates, project plans, surveys, appraisals, relocations and environmental studies in addition to the actual cost of the land or easements. The sponsor's 20% must be paid up front and will be used first. The loans are paid back at the rate of 1/5 per year for the five years following the issuance of the loan or immediately upon receiving proceeds from a federal aid grant. The interest rate is 4% per year on the unpaid principal balance.

Q. What are the advantages of a Land Loan?

A. The Land Loan Program offers airport sponsors a fast and flexible way to acquire land in advance of airport development projects. Any activity leading up to land acquisition, as well as the acquisition, are The state 80% loan share is available for immediate use as properties come on the market, without waiting for federal funding. Reimbursement of the sponsor 20% can be accelerated with the use of Non-Primary Entitlements or the sponsor can be reimbursed with other types of FAA funding. Repayment amounts are negotiable and can be done in installments or as a balloon payment. The loan can provide a buffer if you are uncertain of total project costs; you are not obligated to use all loan funds.

Q. How do you apply?

A. A call to us at the BOA 608-266-1709 will get the process started. We will send you copies of an Agency Agreement and a Responsibility and Performance Note which would need to be executed and returned to us along with a resolution from the governing body owning the airport.

Land Loan vs. State Aid Project Funding

(Note: Land loan interest goes to the transportation fund and does not count toward Sponsor share of any future project)

Total Project	Land Loan Project \$ 280,000.00	State Aid Project \$ 280,000.00
Initial Funding		
Loan Funds	\$ 224,000.00	---
State Share	---	\$ 224,000.00
Sponsor Share	\$ 56,000.00	\$ 56,000.00
Interest Paid		
<i>Interest Payment* – 4% of total unpaid loan</i>	\$ 4,025.86	N/A
Final Funding		
Federal Share – 90% of total project	\$ 252,000.00	---
State Share – 5% of total project	\$ 14,000.00	\$ 224,000.00
Sponsor Share – 5% of total project	\$ 14,000.00	\$ 56,000.00
Total Sponsor Out of Pocket Costs	\$ 18,025.86	\$ 56,000.00

* assume reimbursement of land loan is done in less than one year

Total Project	Land Loan Project \$ 280,000.00	State Aid Project \$ 280,000.00
Initial Funding		
Loan Funds	\$ 224,000.00	---
<i>Repayment #1</i> \$ 48,000.00	\$ 179,200.00	
<i>Repayment #2</i> \$ 48,000.00	\$ 134,400.00	
<i>Repayment #3</i> \$ 48,000.00	\$ 89,600.00	
<i>Repayment #4</i> \$ 48,000.00	\$ 44,800.00	
<i>Repayment #5</i> \$ 48,000.00	---	
State Share	---	\$ 224,000.00
Sponsor Share	\$ 56,000.00	\$ 56,000.00
Interest		
<i>Total Interest Payment – 4% of total unpaid loan</i>	\$ 21,945.86	N/A
Final Funding		
Federal Share – 90% of total project	\$ 252,000.00	---
State Share – 5% of total project	\$ 14,000.00	\$ 224,000.00
Sponsor Share – 5% of total project	\$ 14,000.00	\$ 56,000.00
Total Sponsor Out of Pocket Costs	\$ 35,945.86	\$ 56,000.00

Advance Land Acquisition Loan Project Organizational Workflow

Action Item	Responsibility		
	Sponsor	State	Consultant
Petition to acquire land	X		
Prepare eligibility statement		X	
Prepare estimate for land purchase price		X	
Analyze federal/state/local plans, priorities & funding		X	
Land Loan Committee review		X	
Prepare final project financial statement		X	
Prepare finding ¹ and submit for approval		X	
Pass resolution and application for land loan	X		
Submit agency agreement	X		
Remit 20% payment of estimate of land costs	X		
Submit responsibility and performance note	X		
Consultant selection	X	X	
File Relocation Order with County Clerk			X
File relocation plans with Dept. of Administration <i>(if needed)</i>			X
Environmental Assessment or CatEx			X
Hazardous materials assessment			X
Agricultural impact statement <i>(if needed)</i>			X
Archeological/historical assessment			X
Title report			X
Surveying and mapping			X
Appraisals and reviews			X
Approve recommended purchase price		X	
Negotiate and acquire property			X
Approve administrative settlement <i>(if needed)</i>		X	
Relocation and site preparation <i>(if needed)</i>		X	X
Assemble project documentation		X	X
Remit reimbursement		X	

¹ Findings may be required at various stages of a land loan project.

RESOLUTION--ADVANCE LAND ACQUISITION LOAN

RESOLVED, By the County Board that, whereas, it is deemed to be in the best interest of the County of County to apply for a State loan to acquire land or interests in land for improvement of the airport Airport:

THEREFORE, BE IT RESOLVED, By the County Board of said County that the Chairman is hereby authorized to execute all necessary loan agreement documents and associated agency agreement on behalf of the County, and to file with the Secretary of Transportation an application for such loan; that said application in the following form is hereby approved, to wit:

"APPLICATION FOR LAND ACQUISITION LOAN"

By County Board, Wisconsin,

TO THE SECRETARY OF TRANSPORTATION: (In care of Wisconsin Department of Transportation, Bureau of Aeronautics.)

THE APPLICANT, ALSO KNOWN AS SPONSOR, DESIRING TO ACQUIRE LAND OR INTERESTS IN LAND, RESPECTFULLY REPRESENTS AND STATES:

1. The land to be acquired in fee simple or encumbered by easement is within the recommended minimum property limits shown in a Department approved Airport Layout Plan.
2. The land is needed for planned airport improvements and/or approach clearance, or protection from encroachment, for the safety of aircraft using the airport.
3. The descriptions of the land and property interests are as follows: Describe property interests to be acquired
4. The requested loan is to cover up to 80% of the total cost of the acquisition, including necessary project plans, environmental studies, land surveys, relocation costs, and all other costs incidental to the land acquisition process and cost documentation.

5. Land Loan funding breakdown:

Sponsor share (20%)	\$sponsor's 20% share
Loan amount (80%)	\$loan amount, 80%
Total Land Loan project	\$total project amount

6. The Sponsor will forward 20% of the project funding, \$Sponsor's 20%, to the Bureau of Aeronautics, to be used in full before loan funds will be disbursed.
7. If actual costs incurred exceed the estimate and the established maximum is inadequate, the loan amount may be adjusted up to 80% of a revised project cost by an amended agreement between the Secretary of Transportation and the County when duly authorized by resolution of the County Board

8. Simple interest at the rate of four percent per annum will be paid annually by the County on the unpaid balance of the loan.
9. The amount of the loan, plus interest, will be repaid to the State, in full, within five years. Repayment may be made by annual budget appropriations, or project appropriations of the County, State and FAA, or a combination of both methods acceptable to the Secretary of Transportation and the applicant.

WHEREAS, the Sponsor is required by State Statute and Wis. Administrative Code (Trans 54.05) to designate the Secretary as its agent to accept, receive, receipt for and disburse any funds loaned by the State of Wisconsin under the Advance Land Acquisition Loan Program.

THEREFORE, BE IT RESOLVED, by the Sponsor that the Secretary is hereby designated as its agent and is requested to agree to act as such in matters relating to the land loan project described above, and is hereby authorized as its agent to make all arrangements for the development and final acceptance of the completed work whether by contract, agreement, force account or otherwise; and particularly, to accept, receive, receipt for and disburse monies, either public or private, for planning and land acquisition, for the airport; and, to acquire property or interests in property by purchase, gift, lease, or eminent domain under chapter 32 of the Wisconsin Statutes; and, to supervise the work of any engineer, appraiser, negotiator, subagent or other person employed by the Secretary; and, to execute any assurances or other documents required or requested by any agency of the state or federal government and to comply with all federal and state laws, rules, and regulations relating to airport development projects.

And be it further resolved that _____ be authorized to sign and execute the Agency Agreement and the Land Loan Documents authorized by this Resolution.

Therefore, the Sponsor hereby requests that the Secretary order as provided in section 114.33 (8)(a) of the Wisconsin Statutes, that the Sponsor may acquire the required land or interests in land that the Secretary shall find necessary.

THEREFORE, you are requested to take such action as may be deemed necessary by the facts presented.

Chairman, County Board of Supervisors

Introduced: Date _____

Passed: Date _____

Attest: _____
County Clerk

I do hereby certify that the above and foregoing is a true, accurate, and complete copy of the original resolution No. _____, introduced and passed by the County Board on _____, 20____.

County Clerk

preparer's initials
WIDOT-BOA rev2/28/03

**Land Loan #
AGENCY AGREEMENT**

**Designating the
Wisconsin Department Of Transportation
Bureau Of Aeronautics
As Agent For
Airport Owner, Wisconsin, Airport Owner**

WHEREAS, the Airport Owner, in County County, Wisconsin, hereinafter referred to as the Sponsor, desires to sponsor an airport project to be funded by the Advance Land Acquisition Loan Program for Airports specifically, the Airport name Airport project to: Brief description of the project and,

WHEREAS, the Sponsor adopted a resolution on (date), a copy of which is attached and the prescribed terms and conditions of which are hereby fully incorporated into this agreement, designating the Secretary as its agent and requesting him to act as such as set forth in the resolution; and

WHEREAS, upon such request, the Secretary is authorized by law to act as agent for the Sponsor;

NOW THEREFORE, the Sponsor and the Secretary do mutually agree that the Secretary shall act as the Sponsor's agent in the matter of the airport land loan project described above as provided by law and as set forth in the attached resolution; provided, however, that the Secretary is not required to provide legal services to the Sponsor.

This agreement shall terminate upon final financial closing of the project.

SPONSOR:

By: _____

Title: _____

Date: _____

WITNESS:

By: _____

Title: _____

SECRETARY OF TRANSPORTATION:

By: _____

David M. Greene Director
Bureau of Aeronautics



RESPONSIBILITY AND PERFORMANCE NOTE
Installment Payment

1. BORROWER'S PROMISE TO PAY

In return for a loan received, the promisor, (the sponsor) promises and agrees to pay to the order of the State of Wisconsin, Department of Transportation, the promisee, its successors and assigns, at its offices in Madison, Wisconsin, the principal sum of *spell out loan amount* U.S., \$*loan amount* (this amount is called "principal").

2. INTEREST

Interest will be charged on the unpaid principal balance until the full amount has been paid. Interest will be calculated at the yearly rate of four percent (4%).

3. PAYMENTS

Annual interest payments plus \$*installment amount*/20% of principal (entire balance if less) will be due beginning February 1st of the calendar year immediately following the first disbursement of loan funds. A final payment of principal and interest is due on February 1, *five years from the note date*.

All outstanding principal and interest will become due and payable, at the option of the holder of this instrument, immediately following receipt of federal or state project aid which includes an allocation for engineering, planning, incidental and acquisition cost of the parcel(s) of land otherwise acquired via the proceeds of this note.

4. BORROWER'S RIGHT TO PREPAY

Borrower has the right to make prepayments or partial prepayment of principal at any time without prepayment charge.

5. BORROWER'S FAILURE TO PAY AS REQUIRED

If payments are not received payment, in the full amount on the due date, the loan will be in default. The borrower has (90) days from the due date to pay overdue payments or the entire principal and accrued interest shall become due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise it at any other time.

6. ADVANCED LAND ACQUISITION LOAN

That a duly adopted resolution, dated *land loan resolution date*, authorizes promisor's participation in the Advance Land Acquisition Loan program, that said resolution is incorporated herein by reference to evidence that this instrument is a legal obligation of the promisor, its successors and assigns, and that Bureau of Aeronautics is authorized to execute this note on behalf of the promisor.

7. WAIVER

All remedies provided in this instrument are distinct and cumulative to any other rights or remedies afforded by law or equity, and may be exercised concurrently, independently, or successively. If any clause or clauses herein are hereafter declared unconstitutional or in violation of Wisconsin Statutes, it shall not affect the validity of the remaining portions of this instrument.

NOTE DATED *enter note date*

Executed by promisor at _____ County, Wisconsin, this _____ day of _____.

For Promisor:

By: _____

Title: _____

Address: _____

Notary:
State of Wisconsin
County of _____

This instrument was signed before me on _____ by _____
(date) (name)

as _____ of _____
(officer) (city, town)

(Signature, Notary Public, State of Wis.)

(Print or Type Name of Notary Public)

(Date Commission Expires)

114.37(1)

(1) **Purpose.** The purpose of this section is to promote the state's interest in preserving and improving a safe and efficient air transportation system by means of a program to provide loans for advance land acquisition for airport projects planned under s. 114.33.

114.37(2)

(2) **Administration.** The department shall administer an advance land acquisition loan program to assist a county, city, village, town or an owner of a public-use airport in acquiring land necessary for airport projects under s. 114.33. The department shall have all powers necessary and convenient to implement this section, including the following powers:

114.37(2)(a)

(a) To specify conditions of eligibility for loans under this section. Such conditions shall include the requirement that the land to be acquired must be part of a planned airport improvement project or a land acquisition project that is essential to future airport development or to the safety of aircraft using the airport.

114.37(2)(b)

(b) To receive applications for loans under this section and to prescribe the form, nature and extent of the information which shall be contained in applications.

114.37(2)(c)

(c) To establish standards for the approval of loans under this section. No loan may be made for an amount greater than 80% of the department's assessment of the value of the property.

114.37(2)(d)

(d) To enter into loan agreements with applicants to ensure the proper use and prompt repayment of loans under this section. The loan agreement shall include the requirements that the loan be repaid within a period not to exceed 5 years and that the proceeds of any state or federal land acquisition funding received under s. 114.33 be fully pledged to repayment of the loan. The department may not make a loan for more than 80% of the estimated land acquisition costs, including the costs of any necessary project plans and environmental studies. The loan agreement shall require that the department be designated to act as the loan recipient's agent in the acquisition of the land. Title to the land acquired shall be held by the loan recipient, but the department may retain a security interest in the land until the loan is repaid. The loan agreement shall require the payment of interest and reasonable costs incurred by the department.

114.37(2)(e)

(e) To acquire lands under s. 114.33 (6) and (7) as the designated agent of a loan recipient.

114.37(2)(f)

(f) To audit and inspect the records of loan recipients.

114.37(3)

(3) **Funds.** The department may make loans under this section from the appropriation under s. 20.395 (2) (dv). The total outstanding balance of loans under this subsection may not exceed \$6,500,000.

114.37(4)

(4) **Rules.** The department may adopt rules as necessary to implement this section.

114.37 - ANNOT.

History: 1981 c. 20; 1985 a. 29; 1991 a. 39; 1993 a. 16; 2005 a. 335.

114.37 - ANNOT.

Cross-reference: See also ch. Trans 54, Wis. adm. code.

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

Chapter Trans 54

ADVANCE LAND ACQUISITION LOAN PROGRAM FOR AIRPORTS

Trans 54.01	Purpose and scope.
Trans 54.02	Definitions.
Trans 54.03	Eligibility.
Trans 54.04	Loan initiation.

Trans 54.05	Sponsor action required.
Trans 54.06	Allocation.
Trans 54.07	Ownership and property management.
Trans 54.08	Recovery of loan balance, interest and administrative costs.

Trans 54.01 Purpose and scope. (1) The purpose of this chapter is to establish administrative policies and procedures necessary to implement the advance land acquisition loan fund for airports as established in s. 114.37, Stats.

(2) The scope of this chapter shall include all provisions of s. 114.37, Stats., and applicable provisions contained in ss. 114.13 and 114.33, Stats.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82.

Trans 54.02 Definitions. Along with words and phrases as defined in ss. 114.001 and 114.002, Stats., the following definitions shall apply in the interpretation of this chapter:

(1) "Assessment of value" means a value ascribed to the property by the department. It includes, but is not limited to, the purchase price, awards of damages, and awards or values set by courts, regulatory bodies, or arbitration, plus such other costs as may be incurred in the purchase, including the cost of litigation, relocation, relocation assistance, land surveys, appraisals, negotiation, legal services, necessary project plans, environmental studies, and other costs incidental to the acquisition.

(2) "Bureau" means department of transportation, bureau of aeronautics.

(3) "Fund" means the advance land acquisition loan funds referred to in s. 114.37 (3), Stats.

(4) "Sponsor" means the owner or prospective owner of a public-use airport in the Wisconsin state airport system plan, including a city, county, town, village or owner of a public-use airport and any 2 or more such governmental units having joint ownership.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82; am. (4), Register, April, 1993, No. 448, eff. 5-1-93.

Trans 54.03 Eligibility. Land to be purchased under the advance land acquisition program shall meet all of the following requirements:

(1) The land to be acquired must be part of a planned airport improvement project or a land acquisition project.

(2) The site or airport shall be included in the Wisconsin state airport system plan.

(3) The land to be acquired shall be included in a department approved airport layout plan.

(4) The land to be acquired shall be capable of being utilized and developed in substantial compliance with state and federal environmental protection laws.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82.

Trans 54.04 Loan initiation. The sponsor shall submit an application for an advance land acquisition loan in the form of a resolution satisfactory to the secretary.

Note: Application and grant contract forms are available from the department of transportation, bureau of aeronautics, P.O. Box 7914, Madison, WI 53707.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82.

Trans 54.05 Sponsor action required. The sponsor shall, by contract, agree to:

(1) Pay the cost of any loan initiation plans or investigations necessary for the department to justify making the loan.

(2) Designate the secretary as the sponsor's agent and execute an agency agreement.

(3) Execute a contract of responsibility and performance with the secretary as part of the loan agreement.

(4) Petition for the relocation order to acquire land under s. 114.33, Stats., if condemnation is required.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82.

Trans 54.06 Allocation. (1) In making loans from the fund, the secretary shall consider:

(a) The statewide priority of the proposed land acquisition.

(b) The adverse effect that failure to acquire the property would have on air traffic safety and future airport development.

(2) The department may make a loan for up to 80% of the estimated land acquisition costs, including the costs of any necessary project plans and environmental studies so long as that amount does not exceed 80% of the department's assessment of the value of the property as defined in s. Trans 54.02.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82.

Trans 54.07 Ownership and property management. (1) Title to the land or any property interest acquired through this program shall be held by the sponsor, but the department may retain a security interest in the land until the loan is repaid.

(2) Land or improvements, acquired as uneconomic remnants or to minimize severance damage, may be disposed of by the sponsor.

(3) Building sites or other improvements on the land may be cleared by the sponsor before development or prior to the disposition of unneeded segments.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82.

Trans 54.08 Recovery of loan balance, interest and administrative costs. As part of the loan agreement, the secretary shall provide for the recovery of loan funds, interest, and administrative costs. The agreement shall require:

(1) That the primary source of repayment shall be:

(a) Any federal, state, or sponsor's share of funds received for the land acquisition.

(b) Net income derived from the sale of surplus land and improvements acquired with loan funds. Such income shall be returned immediately upon receipt by the sponsor.

(2) If funds available under sub. (1) are insufficient, then the remaining loan balance, interest, and administrative costs shall be repaid from:

(a) Any net income derived from leasing the land or improvements on the land acquired by the sponsor under the advance land acquisition loan program.

(b) Any other sources of revenue available to the sponsor.

(3) The period for repayment of the loan balance, interest, and administrative costs shall not exceed 5 budget years. The repayment schedule shall be a matter of negotiation between the state and the sponsor.

(4) Interest shall be charged at the rate of 4% per year on the unpaid principal balance.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82.