

# I Want To... Manage “Through the Fence” Agreements

Aviation Division

## Overview

What is through the fence? In general, the FAA defines through the fence (TTF) operations as any activity or use of real property of an aeronautical or non-aeronautical nature that is located outside (or off) of airport property but has access to the airport’s runway and/or taxiway system. “Airport property” is property owned by the airport sponsor and shown on an FAA approved Airport Layout Plan (ALP). TTF operations occur from property that is immediately adjacent to the airport, but which is owned by corporations, business, or private parties.

This document outlines some basics concerning TTF agreements; much more detail can be found in FAA documentation. See “Helpful Links” on page 2 for a list of documents.



## Types of Agreements and Access

**Types of Agreements** There are several categories of agreements, and you will need to determine which category best suits your needs:

- **Airpark or Residential Environment:** Private parties construct a residence most often with an aircraft hangar and are provided access to the airport infrastructure.
- **Private Party or Company:** Typically owns land next to the airport with access to the airport infrastructure and constructs facilities with the intent of providing commercial aeronautical services to the public that often compete with existing on-airport business.
- **Businesses:** Own property adjacent to the airport with access to the airport infrastructure but does not provide any commercial services to the public and aircraft use is incidental.

**Types of Access** Airport access is primarily provided via two different mechanisms:

- **Deeded Access:** The adjacent property owner is granted a real estate deed that specifically outlines the property owner’s right to access the airport from their adjacent property. This is a legal right of passage governed and bound by state laws in the state where the transaction occurs.
- **Access Agreement:** A legal document entered into between the specific parties, much like a lease. It contains the terms and conditions associated with granting access to the airport. These agreements may or may not have an annual fee associated with the access.

### Contacts

Your Designated TxDOT Aviation Planner

TxDOT Aviation: 512-416-4500

FSDO: There are four offices in Texas serving different areas of the state

- Houston
- North Texas
- Lubbock
- San Antonio

Contact information for each office can be found at

[https://www.faa.gov/about/office\\_org/field\\_offices/fsdo/?state=TX](https://www.faa.gov/about/office_org/field_offices/fsdo/?state=TX)

FAA Airports Division and District Office (ADO), Southwest Region:

<https://www.faa.gov/airports/southwest>



## Access Not Permitted

Per the Airport Compliance Manual, the FAA will not approve TTF access for the following two purposes:

- (1) Residential use, since that action is inconsistent with the obligations to ensure compatible land use adjacent to the airport; and
- (2) Release of airport land for access by aircraft. Airport land may only be released if the land no longer has an airport purpose; if the land would be used for the parking and operation of aircraft, it would not qualify for a release. A release of airport land for aeronautical use would serve to reduce the sponsor’s control over the use and its ability to recover airport costs from the user.

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## Considerations

There are several points that should be taken into consideration when considering and/or negotiating a TTF agreement and are briefly described below.

- **Rights and Obligations of Airport Sponsors** The obligation to make an airport available for the use and benefit of the public does not impose any requirement to permit access by aircraft from adjacent property.
- **Economic Discrimination** The development of aeronautical enterprises on land off-airport (not controlled by the sponsor) can result in an economic competitive advantage for the TTF operator to the detriment of on-airport tenants.
- **Safety** Arrangements that permit aircraft to gain access to the airfield from off-site properties complicate the control of vehicular and aircraft traffic and may create unsafe conditions.
- **Off-Airport Aeronautical Business** The FAA is generally directed to not support sponsor requests to enter into any agreement that grants TTF access to the airfield for aeronautical businesses that would compete with an on-airport aeronautical service provider such as an FBO.
- **FAA Determinations** The FAA regional airports division will determine whether arrangements granting access to the airfield from off-site locations are consistent with applicable federal law and policy.
- **Reasonable Access is Not Required** Users having access to an airport under a TTF agreement are not protected by the sponsor’s obligations to the state and/or FAA.
- **Federal Conditions** While the FAA does not support TTF agreements, if a sponsor chooses to proceed it should only do so by going through an FAA review and providing access agreement provisions.
- **Term** The expiration date of the access agreement should not extend beyond a reasonable period from the sponsor’s perspective.

The above points are laid out in much more detail in Chapter 12, Section 7, “Agreements Granting Through the Fence Access”, of the Airport Compliance Manual.



## Helpful Links

TxDOT Aviation Division: <https://www.txdot.gov/business/aviation.html>

FAA Order 5190.6B, Airport Compliance Manual: [https://www.faa.gov/airports/resources/publications/orders/compliance\\_5190\\_6](https://www.faa.gov/airports/resources/publications/orders/compliance_5190_6)

FAA Grant Assurances (Obligations): [https://www.faa.gov/airports/aip/grant\\_assurances](https://www.faa.gov/airports/aip/grant_assurances)

FAA AC 150/5190-7, Minimum Standards for Commercial Aeronautical Activities: [https://www.faa.gov/airports/resources/advisory\\_circulars/index.cfm/go/document.current/documentnumber/150\\_5190-7](https://www.faa.gov/airports/resources/advisory_circulars/index.cfm/go/document.current/documentnumber/150_5190-7)

FAA Residential TTF Access Toolkit: [https://www.faa.gov/airports/airport\\_compliance/residential\\_through\\_the\\_fence](https://www.faa.gov/airports/airport_compliance/residential_through_the_fence)

### Are You Federally Obligated?

If your airport is obligated to federal grant assurances, then the FAA has legal authority to become involved with the airport sponsor regarding working on a solution that is in the best interest of your airport. This applies to public- and private-owned airports. If your airport has never accepted any FAA airport development funding; the airport is not bound by any federal surplus property Quit Claim Deed restrictions; or any past federal obligations have expired, then you are probably not federally obligated, and the FAA may have no jurisdiction over any TTF matters. Consult your TxDOT planner to be sure.

However, state funded airports in Texas are also discouraged to enter into TTF agreements, but they can be evaluated on a case-by-case basis. Contact your planner with any questions or issues.

### Points to Remember

The FAA views through the fence access as a privilege, not a right. Under existing federal law, there is no requirement for a public airport sponsor to provide access to the airport from adjacent private property.

Through the fence agreements apply to property and not to individuals. Individual activities, such as independent aircraft mechanics and flight instructors, are specifically addressed in the FAA Advisory Circular on Minimum Standards for Commercial Activities.

TTF agreements MUST comply with any grant assurances and compliance requirements.