

ORDER

Order No.: 4580.2A

Date: 1/26/93

Initiated

By: ASM-720

Subject: PERSONAL PROPERTY LOAN AGREEMENTS

1. PURPOSE. This order establishes guidelines, defines and assigns responsibilities to all Federal Aviation Administration (FAA) property managers, and prescribes standards and procedures for the management and control of domestic and international personal property loan agreements.
2. DISTRIBUTION. This order is distributed to the branch level in Washington headquarters, regions, and centers; and a standard distribution to all field offices and facilities.
3. CANCELLATION. Order 4580.2, Loan Agreements, dated April 13, 1977, is canceled.
4. EXPLANATION OF CHANGES.
 - a. The term "license" used throughout Order 4580.2 has been replaced with the term "permit."
 - b. The citation of the U.S. Economy Act of 1932 has been changed from "32 U.S.C. 68b" to "31 U.S.C. 1535."
 - c. All references to the term "lease" have been deleted.
 - d. All references to "Real Property" have been deleted. (Real property lease agreements are addressed in Order 4420.3, Land Acquisitions, and Order 4420.4, Space Acquisition).
5. DELEGATION OF AUTHORITY. Headquarters, regions, and centers may delegate authority to negotiate or execute loan agreements. Delegation shall be in writing and shall be consistent with assigned organizational responsibilities. If FAA requires reimbursement for loaned or borrowed property, the latest version of Order 2500.35, Reimbursable Agreements Covering Services and Materiel Provided by the FAA, must be consulted for policy guidance. The following legal authorities apply to all property loan agreements:
 - a. Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, et. seq).
 - b. U.S. Economy Act of 1932 (31 U.S.C. 1535).
 - c. International Aviation Facilities Act of 1948, as amended (49 U.S.C. 1151, et. seq.).
 - d. Foreign Assistance Act of 1961, as amended (22 U.S.C.

2151, et. seq.).

e. Federal Property Services Act of 1949, as amended.

f. Federal Property Management Regulations (FPMR) 41 CFR 101.

6. DEFINITIONS.

a. Loan Agreement. An executed document between authorized representatives of a loaning agency and a receiving agency which prescribes the terms and conditions under which FAA provides or receives personal property on a temporary and/or reimbursable basis.

b. Interagency Agreement. A written agreement between the FAA and another Federal agency where the FAA agrees to receive or exchange supplies or services with the other agency, and FAA funds are obligated.

c. Foreign Loan Agreement. An executed document between authorized representatives of a loaning agency and a receiving foreign government which prescribes the terms and conditions under which personal property is loaned to or from foreign governments. Both FAA-owned property and property borrowed by FAA for the express purpose of loaning it to a foreign government are covered by Memorandums of Agreement (MOA).

d. Permit. An official written document which allows the use of agency property by a private or government organization.

e. Users. Private organizations, governments, domestic or foreign, or approved nonprofit organizations using government property. Examples include Federal agencies of the U.S. Government, states, counties, cities, or other public authorities, international organizations, foreign governments or foreign government agencies, and private organizations or persons. (This order does not include loan transactions between FAA custodians. See the latest version of Order 4650.2, Management and Control of In-Use Personal Property.)

f. Washington Program Offices. Washington headquarters offices and services having primary program management responsibility for national activities conducted by regions and centers.

g. Personal Property. All tangible assets including facilities and equipment (F&E) project materiel which is subject to the ownership or under control of FAA and does not fit into the definition of real property; movable objects not permanently affixed to and a part of real property.

h. Property Manager Officer (PMO). The head of the FAA headquarters or regional organizational element which has the primary functional responsibility for the management and control of property including the administration of FAA property loaned to other organizations and property borrowed by FAA.

i. Property Custodian. The person formally designated (by the property manager) as being responsible for the management of and control of property within a specified custodial area.

j. Property Manager. The head of the organizational element which has the primary function for the management and control of property within a region or center including the administration of FAA property loaned to other organizations and property borrowed by FAA. Loan records for property borrowed by FAA for the purpose of loaning it to a foreign government will be maintained by headquarters property manager (normally, the NAS Support Division, Material Management Branch, ASM-720) through the Office of International Aviation, International Assistance Division, AIA-200.

7. RESPONSIBILITIES. The following responsibilities apply to all property loan agreements, both foreign and domestic, except those which require reimbursement. Any property loan or interagency agreement that requires reimbursement shall be prepared in accordance with this order and Order 2500.35. An eligibility determination for each receiving agency and an inquiry of property availability will be made for each proposed loan agreement by the following offices:

a. Headquarters and/or regional/center/program offices shall:

(1) Delegate authority to negotiate or execute agreements in writing and shall be consistent with organizational responsibilities in accordance with the FPMR and existing agency policy prior to loaning or borrowing personal property. Should the terms of the agreement call for reimbursement to the FAA, the delegation is limited to those individuals prescribed in Order 2500.35, paragraph 8.

(2) Ensure that all program office interagency loan agreements are in compliance with existing agency regulations.

(3) Ensure the accuracy of the shipment address for the loaned equipment.

(4) Ensure that all loan agreements contain a payment clause for packaging, handling, and transportation.

(5) Ensure that all property loan agreements specify the loan duration time periods. This period of time should not exceed 1 year.

(6) Provide disposition instructions complete with return shipment address to the transportation officer prior to loan or borrowed agreement expiration date.

(7) Ensure that two copies of interagency property loan agreements are provided to the Office of Information Technology and two copies to Systems Maintenance Service property manager.

(8) Monitor the use of nationally furnished F&E project

materiel used by the regions and centers for property loan agreements assuring that such agreements do not cause derogation to the agency's mission.

(9) Ensure that all property being loaned is accountable.

(10) Provide the appropriate property manager, Accounting Division, and when applicable, the Washington program office executing the loan agreement, with documentation evidencing receipt of the property by the user agency when it affects the shipment of FAA-loaned property.

b. The Office of Accounting shall:

(1) Ensure that all loan agreements initiated by headquarters, services, and/or regions/centers are in compliance with agency's accounting policy.

(2) Ensure that all loan agreements are executed in accordance with the provisions of the Federal Aviation Act.

(3) Maintain general ledger accounts for all headquarters office and service loan agreements citing borrowed property. (General ledger control of loaned and borrowed property is the responsibility of the appropriate Accounting Division serving the office maintaining the accountability records.)

c. The Systems Maintenance Service shall:

(1) Develop and implement agency guidance, systems, standards, and procedures relative to the management and control of personal property loan agreements.

(2) Ensure that applicable agency directives address all legal, regulatory, and directive requirements for effective and efficient management of personal property loan agreements.

(3) Monitor the FAA's personal property loan agreements program to ensure system integrity, effectiveness, and that loan agreement transactions are recorded in Personal Property In-Use Management System (PPIMS).

(4) Evaluate the FAA's personal property loan agreements to ensure compliance with this order.

d. The regional property managers shall:

(1) Provide the Accounting Operations Division, AAA-200, with a list identifying each property loan agreement, the borrowing organization's name, the total dollar value of FAA-owned personal property on loan as of the end of the period, and the date of the last written certification 10 workdays prior to the end of the fiscal year.

(2) Assume responsibility for management, control, and

annual certification of all regional office property loan agreements and loaned property listings. The property manager is authorized to inform the AAA-200 and is authorized to take appropriate action to recover all loaned property if the borrowing organization does not comply with the certification described in paragraph 7d(1).

NOTE: Certification must be accomplished by a date mutually agreed upon between the property manager and the borrower supported by a list identifying each item on loan. The list must reflect quantity, description, loan expiration date, value for each loaned item, and the total value of all items.

(3) Ensure that all loan agreements are executed in accordance with the provisions of the Federal Aviation Act and Order 2500.35 for budgetary aspects of reimbursable loan agreements.

(4) Ensure the validity of the loaned equipment shipping address.

(5) Provide disposition instructions and documentation through the transportation officer, if required, for the return of any loaned or borrowed property to the custody of the owner. A copy of the documentation will be furnished to AAA-200.

(6) Ensure that all loan agreements contain a payment clause for packaging, handling, and transportation.

(7) Ensure that all loan agreements specify the loan duration period not to exceed 1 year.

(8) Transfer intra-agency item and financial accountability as required.

(9) Coordinate and submit to headquarters program offices any proposed property loan agreements with background information that involves the use of any nationally furnished F&E project materiel.

(10) Ensure that all legal requirements are in compliance with public laws, statutes, decisions, and internal agency standards. All loans must be properly documented and contain specific terms and conditions that adequately protect the Government and agency interests.

(11) Ensure that financial accountability is accomplished for loaned and borrowed property in accordance with agency regulations.

(12) Monitor the loan agreement expiration dates and the return of property for all loaned or borrowed property agreements.

(13) Validate requirements to extend loan agreements

beyond 2 years.

(14) Ensure that all loan agreement extensions are to be approved by the headquarters program offices, Office of International Aviation, regional administrators, and center directors, or their designees, as appropriate, as to the scope of the agreement.

e. The regional property custodian shall furnish to the supporting Accounting Division and the supporting Logistics Division (property manager) a list identifying each property loan agreement, the borrowing organization's name, the total dollar value of FAA-owned personal property on loan as of the end of the period, and the date of the last written certification 20 workdays prior to the end of the fiscal year. Annual certification is required of each borrowing organization for verification of custody and accountability for all FAA property furnished under property loan agreements.

f. The Office of International Aviation (AIA) shall:

(1) Negotiate, execute, and administer agreements providing for loan of property for the benefit of foreign and international recipients. These agreements require coordination with foreign government agencies, international organizations, and coordination with other federal agencies such as the Departments of State, Defense, and Commerce, the Agency for International Development (AID); World Bank; and Export-Import Bank (EXIM).

(2) Obtain concurrence from the Office of Chief Counsel to ensure that all international loan agreements are in compliance with existing regulations and that both the FAA and the receiving organization's interests are protected to the fullest extent possible.

(3) Ensure that all documentation for loaned international and foreign property agreements reflect the intended purpose for the property. For example, if the loan is required for a foreign government or equivalent, one copy of all international or foreign loan agreements shall be provided to the Washington headquarters property manager, International Assistance Division, and the Accounting Operations Division for accountability of loaned property.

(4) Ensure that foreign agencies or international organizations are advised to return loaned property promptly at the end of the loan agreement expiration date.

(5) Ensure that the executing office and/or program office will review loan agreements prior to the expiration date. The property manager will be promptly notified of any decision that affects loan property status, such as, loan extensions, permanent transfers, sales, loan returns, property location changes, etc.

(6) Serve as focal point for guidance and coordination of international property loan agreements by:

(a) Maintaining foreign and domestic liaison with the Department of State, embassies of foreign countries located in the United States, the Agency for International Development (AID), and other agencies engaged in international activities.

(b) Approving the need for FAA loans for international aviation assistance programs and obtaining loan requirements from foreign governments.

(c) Negotiating and signing international loan agreements for transferring or loaning FAA property.

(7) Ensure that all loan agreement extensions are reviewed in ample time prior to the expiration date to allow consideration by the foreign agency or international organizations.

8. LOAN AGREEMENT PREREQUISITES. Prior to execution of an agreement, a formal request containing the following information will be obtained from an authorized official of the element desiring the use of FAA property:

- a. Complete description of the property desired.
- b. Use to be made of property.
- c. Location at which property will be used.
- d. Proposed duration of loan (not to exceed 1 year).
- e. Name and address of party requesting loan of property.
- f. Shipping information including concurrence of the borrower to bear costs of packing, crating, and transportation.
- g. Intent of borrower to return property in same condition as furnished, fair wear and tear excepted.

9. INTERAGENCY LOAN AGREEMENTS. All agreements shall specify the duration of the loan. Interagency agreements shall be prepared in accordance with the sample format in Appendix 1, Sample Format for Interagency Loan Agreements. Agreements covering use of equipment involving a continuous long-range requirement will cover only that time required for FAA to acquire replacement items.

a. Each determination will be supported by a record in the file establishing the basis for the determination. The following determinations will be made and documented prior to executing loan agreements:

(1) Property managers are authorized to loan FAA property if it does not derogate the FAA's mission and associated National Airspace System programs.

(2) The regional property manager will ensure that the

loaned property will benefit civil aviation or the public interest.

(3) The regional property manager will ensure that the borrower will encourage and foster the development of civil aviation and air commerce in the United States and abroad.

b. The regional property manager will ensure that all interagency loan agreements initiated by the regions will be in compliance with agency regulations.

c. Before an interagency agreement is executed, the Office of Budget and the Office of the Chief Counsel shall affirm that authority and funds are available.

d. All loan agreements are to be approved by the headquarters program offices, Office of International Aviation, regional administrators, and center directors, or their designees, as appropriate, as to the scope of the agreement.

e. Inquiries concerning FAA property will be directed to the FAA element responsible for negotiating, executing, and administering agreements for the type of property involved.

10. EMERGENCY LOANS. In emergency situations, FAA property is authorized for loan to domestic governments without a loan agreement but only for a specified period of time until a loan agreement can be executed. Property loaned under this authority will be transferred on a properly executed transfer document which states: EMERGENCY LOAN NOT TO EXCEED _____ DAYS. LOAN AGREEMENT TO FOLLOW.

11. LOAN AGREEMENTS WITH FOREIGN PARTIES AND GOVERNMENTS.

a. Loan Agreement Standards.

(1) The basic authorities for transfer or loan of FAA property to foreign parties are listed in paragraph 5.

(2) The Office of International Aviation is the focal point within FAA for guidance and coordination of international agreements and associated activities.

(3) FAA excess property shall be made available to all international assistance programs to the fullest extent possible in accordance with the procedures contained in the latest version of Order 4800.2, Utilization and Disposal of Excess and Surplus Personal Property.

(4) FAA nonexcess property may be utilized from agency resources or FAA may borrow property for the purpose of loaning it to a foreign government. Prior to consummating any loan agreements for nonexcess property, the Office of International Aviation shall make the same determination as those prescribed for domestic agreements.

b. Other. In addition to loan agreements, other types of agreements entered into by the Office of International Aviation

include, but may not be limited to, those for air navigation, facility flight inspection, services, and procurement.

12. REVOCABLE PERMITS WITH PRIVATE PARTIES.

a. Comptroller General and Attorney General decisions have been used, in the absence of expressed statutory authority, as authority to loan public property to private parties. These decisions have held, generally, that:

(1) The head of a Government department or agency has authority to grant a private individual or business a revocable permit to use Government property provided that such use does not damage the property and serves some purpose useful or beneficial to the Government. The permit is subject to termination at any time by the Government.

(2) The granting of a revocable permit should not be construed as alienation of title, ownership, or control of Government property in violation of the constitutional prohibition.

b. Private parties shall request the use of FAA property in writing. Approval or disapproval shall be based upon the merit(s) of the individual request, availability of the property, and the impact the loan has upon agency programs.

c. FAA private-party permits for Government property shall contain, but not necessarily be limited to, provisions stating that:

(1) Title to property and all vested rights shall be retained by the Government.

(2) The use of property granted by the permit is temporary.

(3) Property shall be returned to Government in the same serviceable condition as when received (fair wear and tear excepted).

(4) Use of property must be beneficial to Government.

(5) Property permit is revocable by the Government at any time and that the user shall not represent its use of the property as being for or on behalf of the Government nor in any way represent that the user is acting for in the name of or on behalf of the U.S. Government. (See Appendix 2, Checklist -- Revocable Permit with Private Parties.)

d. The approval level for revocable permits with private parties is the same as that prescribed for loan agreements in paragraph 9b.

13. EXCEPTIONS. All FAA personal property, with the exception of excess property, that has been reported to the General Services Administration (GSA), may be loaned if the requesting

agency is determined to be eligible. If excess property is to be utilized by the prospective borrowing agency, then the procedures contained in Order 4800.2 and FPMR shall apply.

14. SUPPLY SUPPORT AND MAINTENANCE FOR LOANED PROPERTY. The borrowing organization is responsible for providing supply support, maintenance, and associated services for property loan agreements. Property loan agreements must document the responsible organization for these services; and, if reimbursement is required, the agreement must state so and comply with Order 2500.35.

15. LOANED PROPERTY AGREEMENT DISPOSAL. At the end of the loan expiration period, property managers shall make the following disposal determinations:

a. Whether or not it is beneficial and cost effective to return the property to the agency.

b. Whether or not the loaned property should be provided through the grant program.

c. Whether or not the loaned property should be disposed of at the site of the loaned property. All loaned property returns shall comply with the procedures defined in Order 4800.2 to the fullest extent possible.

/s/ Carlisle C. Cook Jr.
for Arnold Aquilano
Associate Administrator for Airway Facilities

APPENDIX 1. SAMPLE FORMAT FOR INTERAGENCY LOAN AGREEMENTS

WHEREAS equipment owned by the United States and now in the custody of the Federal Aviation Administration is listed as follows:

Include the following information for each line item of equipment:

1. National Stock Number (if available).
2. Complete Description, including condition code.
3. Quantity.
4. Unit Price.
5. Total Value.

and, WHEREAS, (cite borrower) desires to utilize the above equipment on a loan basis at (cite location) to (cite use of property). Now, therefore, pursuant to the authority vested in the Administrator under the Federal Aviation Act of 1958, as amended, the Federal Aviation Administration, hereinafter referred to as the Permitter, hereby grants to (cite borrower)

hereinafter referred to as the Permittee, the custody and possession of the equipment as set forth above for a period of (cite duration of loan not to exceed 1 year) from the date of execution of this agreement by the Permittee, subject to the following terms and conditions:

1. This agreement may be terminated at any time by the Permitter and may be terminated by the Permittee at any time upon furnishing 30 days written notice to the Permitter.

2. The costs of packing, crating, and transportation of said property from (cite location in FAA) will be borne by the Permittee. The Permitter may provide packing and crating services. The (cite FAA billing office) will bill the Permittee for reimbursement in accordance with instructions provided by the Permittee.

3. Permittee assumes responsibility for property upon receipt of equipment by either the Permittee (or his agent) (commercial carrier or other designee).

4. Permittee agrees not to alter the basic configuration of said equipment unless authorized by the Permitter, such authorization to be included as a separate condition of the agreement.

5. The Permittee agrees to: _____

a. Maintain said equipment in proper operating condition at all times. Perform such repairs and replacements as may be needed at no expense to the Permitter. Permit the Permitter to inspect said equipment at any time during the period of the loan agreement.

b. Assume the liabilities, responsibilities, and costs incurred arising from the operation or use of said equipment during the period of the loan agreement.

NOTE: Agreements with non-United States Government organizations will include a provision that the U.S. Government is not liable for, and will be indemnified against any claim for, injury or death of persons, or damage to property incident to use of said equipment.

6. Upon expiration or termination of this agreement, the Permittee will return said equipment at no expense to the Permitter to (cite shipping address).

7. The Permitter may consider a written request by the Permittee to extend this agreement beyond its expiration date. Loan extensions and any other change to the contents of this document will be formalized by an appropriate written amendment which outlines in detail the exact nature of the change.

8. The Permitter and Permittee agree to the terms of this

agreement as indicated by the signature of the duly authorized officials as of the dates shown below each signature. The effective date of this agreement is the date the Permittee or his agent receives said equipment at _____.

PERMITTER

PERMITTEE

By _____

Title _____

Date _____

APPENDIX 2. CHECKLIST - REVOCABLE PERMIT WITH PRIVATE PARTIES

1. Parties to permit (FAA element and name and address of private party).
2. Purpose of permit (cite benefits to Government either in permit itself or as a written administrative determination filed in loan file).
3. Description (make, model, serial number), price, quantity, and condition code of property loaned.
4. Duration of permit.
5. Borrower's responsibility to use property only at location and for purpose specified in permit, to return property in the same condition as received (fair wear and tear excepted), and responsibility for all damage to or loss of property until returned to FAA.
6. Borrower's responsibility for transportation charges during duration of permit.
7. A statement that the permit is revocable at any time by FAA and that, if revoked, the private party shall return the property to FAA upon demand.
8. A clause that the borrower agrees to hold FAA harmless from all liability arising from borrower's use or custody of property listed in the permit.
9. Identification of billing office (if applicable). Method and frequency of billing.
10. Signature and title of FAA approving official and of borrower's approving official and date of approval by each official.