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Airport Privatization: Issues and Options for Congress

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Summary

In 1996, Congress established the Airport Privatization Pilot Program (APPP; 49 U.S.C. §47134; Section 149 of the Federal Aviation Reauthorization Act of 1996, P.L. 104-264) to increase access to sources of private capital for airport development and to make airports more efficient, competitive, and financially viable. Participation in the program has been very limited, in good part because major stakeholders have different, if not contradictory, objectives and interests.

Only two U.S. commercial service airports have completed the privatization process established under the APPP. One of those, Stewart International Airport in New York State, subsequently reverted to public ownership. Luis Muñoz Marín International Airport in San Juan, Puerto Rico, is now the only airport with a private operator under the provisions of the APPP.

As of August 2017, there are three active applicants in the APPP: Hendry County Airglades Airport in Clewiston, FL; Westchester County Airport in White Plains, NY; and St. Louis Lambert International Airport in St. Louis, MO.

Increasing interest in airport privatization is likely to require a number of significant policy changes, including the following:

- Making privatization more attractive to public-sector owners by facilitating the use of privatization revenue for non-airport purposes.
- Providing similar tax treatment to bonds issued by public-sector and private-sector airport operators, as public-sector operators now have access to less costly long-term finance than private operators.
- Easing requirements for private owners to comply with assurances previously made by public-sector owners to obtain federal Airport Improvement Program (AIP) grants.
- Accelerating the application and approval procedures for the APPP.

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Introduction

Almost all commercial service airports in the United States are owned by local and state governments, or by public entities such as airport authorities or multipurpose port authorities.[1] In 1996, Congress established the Airport Privatization Pilot Program (APPP)[2] to explore the prospect of privatizing publicly owned airports and using private capital to improve and develop them. In addition to reducing demand for government funds, privatization has been promoted as a way to make airports more efficient and financially viable.

Participation in the APPP has been very limited. Only two airports have completed the privatization process, and one of them later reverted to public ownership. Owners of other airports considered privatization, but eventually chose not to proceed. The lack of interest in privatization among U.S. airports could be the result of (1) readily available financing sources for publicly owned airports; (2) barriers or lack of incentives to privatize; (3) the potential implications for major stakeholders; and (4) satisfaction with the status quo.

Overview of Airport Privatization

Privatization refers to the shifting of governmental functions, responsibilities, and sometimes ownership, in whole or in part, to the private sector. With respect to airports, "privatization" can take many forms up to and including the transfer of an entire airport to private operation and/or ownership. In the United States, most cases of airport privatization fall into the category of "partial privatization"; full privatization, either under or outside the APPP, has been very rare.

Types of Airport Privatization

Figure 1 illustrates four generic airport privatization models, from the least privatized, the award of service contracts to private firms, to the long-term transfer of an airport out of the public sector.

- **Service Contracts.** Many U.S. airports outsource some non-core operations to private firms that specialize in those functions. Examples of operations that are frequently outsourced are cleaning and janitorial services, airport landscaping, shuttle bus operations, and concessions in airport terminals. This is probably the most common type of privatization among U.S. airports.

[1] Commercial service airports, as defined in the Federal Aviation Administration's (FAA's) *National Plan of Integrated Airport System* (NPIAS), are publicly owned airports that receive scheduled passenger service and board at least 2,500 passengers a year. Branson airport in Branson, MO, is the only privately funded, privately developed, and privately operated commercial passenger airport in the United States. However, Branson airport is not included in the NPIAS because it is not open to all aeronautical users.

[2] 49 U.S.C. §47134; Section 149 of the Federal Aviation Reauthorization Act of 1996; P.L. 104-264.

Figure 1. Levels of Airport Privatization

Source: Airport Cooperative Research Program (ACRP) Report 66, "Considering and Evaluating Airport Privatization," p. 3. Modified by CRS.

- **Management Contracts.** Some airports engage the management expertise of the private sector by contracting out specific facilities or responsibilities, such as parking, terminal concessions, terminal operations, airfield signage, fuel farms, and aircraft refueling. In a few cases, a private management company has been awarded a contract to manage an entire airport for a specified term. This is a form of partial privatization. For example, Virginia-based AvPorts, a specialized aviation facilities company, has management services contracts with a number of airports, including Albany International Airport, NY (ALB) and Westchester County Airport, NY (HPN).[3]
- **Developer Financing/Operation.** A wide range of contracts has been used to involve the private sector in providing financing, development, operation, and maintenance services. This is also known as the Design-Build-Finance-Operate-Maintain (DBFOM) model. Airport DBFOM examples include passenger terminals (notably Terminal 5 at Chicago O'Hare International Airport and Terminal 4 at New York John F. Kennedy International Airport), parking garages, and rental car facilities.[4]
- **Long-Term Lease or Sale.** Full privatization involves the sale or long-term lease of an airport to a private owner or operator. Under a long-term lease or concession agreement, the airport owner grants full management and development control to the private operator in exchange for capital improvements and other obligations such as an upfront payment and/or profit-sharing arrangements. Only two airports have successfully entered into long-term leases. Under a full sale, ownership and full responsibility for operation, capital improvements, and maintenance would be transferred to a private buyer. Several airports in Europe have been privatized in this way, but there have been no sales of commercial service airports in the United States.

The Interests at Stake

Airport privatization, especially in the case of long-term lease or sale, involves four major stakeholders: airport owners, which in the United States are mostly local or regional governments or public entities; air carriers; private investors; and the federal government. These stakeholders ultimately decide whether a privatization deal goes forward and they tend to have different objectives and, in many cases, divergent interests. Airline passengers may experience the effect of

[3] http://www.avports.com/cfiles/airports.cfm.

[4] Airport Cooperative Research Program (ACRP) Report 66, "Considering and Evaluating Airport Privatization," p. 4.

privatization via, for example, airport concession offerings, operational efficiency, and changes in prices and fees, but passenger interests are usually not represented formally in discussions of privatization.

Airport owners, who are usually local governments**,** might opt for privatization if they could extract money for general use. However, federal regulations generally require that lease or sale revenue from airport privatization be used only for airport purposes (unless the majority of airlines agree otherwise, under the APPP). On the other hand, privatization involves surrendering control of an economically important facility. By reducing or eliminating responsibilities of the public agency or authority that owns the airport, it may lead to the loss of public-sector jobs. Hence, a public-sector owner may see few benefits from selling or leasing an airport to a private operator unless the facility is losing money—and in that case, private investors might not find the airport an attractive investment. The federal Airport Privatization Pilot Program, discussed below, is meant to encourage privatization by granting certain exemptions to public-sector owners with regard to revenue diversion and other obligations.

Air carriers, including both scheduled passenger airlines and cargo airlines, would like to keep their costs low. They also want to have some control over how airport revenues are used, especially to ensure that the fees paid by themselves and their customers are used for airport-related purposes. Their interest in low landing fees and low rents for ticket counters and other facilities may be contrary to the interest of potential private operators in increasing revenue. At the same time, however, air carriers have an interest in ensuring that the airports they use are well maintained and carefully managed. They might have reason to support a proposed privatization if they thought it would result in lower charges, better airport services, or increased efforts to promote the airport.

Private investors and operators expect a financial return on their investments. They will be looking above all at growth potential, such as opportunities to bring additional flights to the airport, to earn additional lease revenue by improving amenity offerings such as shopping and dining for passengers, or to draw more freight traffic by offering lower fees or improved facilities. If they attempt to increase profitability by raising landing fees or rents, that may bring them into conflict with air carriers using the airport.

The federal government, represented by the Department of Transportation (DOT) and DOT's Federal Aviation Administration (FAA), has been directed by Congress to engage private capital in aviation infrastructure development and reduce reliance on federal grants and subsidies. However, FAA also has statutory mandates to maintain the safety and integrity of the national air transportation system and to enforce compliance with commitments, known as "grant assurances," that airports have made to obtain grants under the federal Airport Improvement Program (AIP).[5] Thus, while FAA administers the APPP, it is likely to carefully examine privatization proposals that might risk closures of runways or airports or otherwise reduce aviation system capacity or that appear to favor certain airport users over others.

The divergent interests of stakeholders are a significant issue in privatization. Striking a balance among these interests while facilitating privatization is one of the purposes of the Airport Privatization Program.

[5] Examples of AIP grant assurances include making the airport available for public use on reasonable conditions and without unjust economic discrimination (against all types, kinds, and classes of aeronautical activities); charging air carriers making similar use of the airport substantially comparable amounts; and maintaining a current airport layout plan. See http://www.faa.gov/airports/aip/grant_assurances/ for a complete list.

The Airport Privatization Pilot Program

The Federal Aviation Reauthorization Act of 1996 (49 U.S.C. §47134; Section 149 of the Federal Aviation Reauthorization Act of 1996, P.L. 104-264) established the APPP. The program was created to test a new concept for increasing private participation, especially private capital investment, in airport operations and development.

The law authorizes the Secretary of the U.S. Department of Transportation and, through delegation, the FAA Administrator, to exempt participating airports from certain federal requirements. Specifically, the Administrator may exempt the airports from all or part of the requirements to use airport revenue for airport-related purposes, to repay federal grants, or to return airport property acquired with federal assistance upon the lease or sale of the airport deeded by the federal government. [6]

The law originally limited participation in the APPP to no more than five airports. The FAA Modernization and Reform Act of 2012 (P.L. 112-95) increased the number of airports that may participate from five to 10. Only one large hub commercial airport may participate in the program and that airport may only be leased, not sold. Only general aviation airports can be sold under the APPP. (See the **Appendix** for definitions of airport types.)

Table 1 provides a comparison of the requirements and regulations governing airport privatization under and outside the APPP.

[6] For any primary airport participating in the APPP, the use of sale or lease proceeds for non-airport-related purposes requires approval by 65% of the scheduled air carriers serving the airport and by the scheduled and unscheduled air carriers representing 65% of the total landed weight of all aircraft serving the airport in the preceding calendar year. For more information about the APPP, see http://www.faa.gov/airports/airport_compliance/privatization/. See the **Appendix** for definition of primary airports.

Table 1. Full Airport Privatization Under the APPP vs. Outside the APPP

	Full Privatization Under APPP	Full Privatization Outside APPP
Eligible Airports	A maximum of 10 airports may participate, among which only one may be large hub airport. One slot is reserved for a general aviation airport. Commercial airports may only be leased; general aviation airports may be sold.	No restrictions on number or type of airports.
Use of Sale/Lease Proceeds	Airports can request DOT approval to use sale/lease proceeds for non-airport purposes. For commercial service airports, this requires consent of 65% of airlines. For general aviation airports, this requires consultation with owners of aircraft based at the airport.	Sale/lease proceeds are considered airport revenue and must be used for airport purposes.
Grant Repayment	DOT may grant exemptions from existing repayment obligations. Airports must abide by other grant assurance obligations.	DOT cannot grant exemptions from grant assurance obligations or existing repayment obligations.
AIP Formula Grants	Private operator is eligible for grants from AIP formula funds, but at a lower federal share.	Private operator may be eligible for grants from AIP formula funds under certain conditions, such as when a privately owned airport is used for public purpose as a reliever or provides at least 2,500 passenger boardings a year.
Rates or Charges on Airlines	Rates on airlines may not rise faster than the inflation rate without consent of 65% of airlines. Rate increases for general aviation aircraft owners may not exceed percentage rate increase for airlines.	Rates and charges must be reasonable and not unjustly discriminatory, pursuant to grant assurances.
Charges on Passengers	Private operator is authorized to impose, collect, and use revenue from passenger facility charges (PFCs).	Private operator is authorized to impose charges on passengers (subject to reasonableness and non-discrimination requirements of the grant assurances) but not to impose, collect, or use PFCs.

Source: FAA.

Notes: The Airport Improvement Program (AIP) provides federal grants to airport development and planning. AIP program structure and authorizations are set in FAA authorization acts. Authorized by the federal government, the Passenger Facility Charge (PFC) is a state, local, or port authority fee imposed on each paying passenger boarding an aircraft at an airport.

Participation in APPP

The APPP has had very limited success in increasing the number of privately run airports. Since its inception, 12 airports have applied to enter the APPP, but only two have completed the entire privatization process. One of these later reverted to public ownership. **Table 2** lists the APPP applicants and their status.

Table 2. Participation in the APPP
(as of August 2017)

Status	Airport	Location	Application Results
Inactive	Brown Field Municipal Airport	San Diego, CA	Application withdrawn in 2001
Inactive	Chicago Midway International Airport	Chicago, IL	Application withdrawn in 2013
Inactive	Gwinnett County Briscoe Field Airport	Lawrenceville, GA	Application withdrawn in 2012
Active*	Hendry County Airglades Airport	Clewiston, FL	Preliminary application approved in 2010; approval of final application pending
Inactive	Louis Armstrong New Orleans International Airport	New Orleans, LA	Application withdrawn in 2010
Privatized*	Luis Muñoz Marín International Airport	San Juan, Puerto Rico	Preliminary application approved in December 2009; final application for privatization under long-term lease approved in February 2013
Inactive	New Orleans Lakefront Airport	New Orleans, LA	Application terminated in 2008
Inactive	Niagara Falls International Airport	Niagara Falls, NY	Application withdrawn in 2001
Inactive	Rafael Hernandez Airport	Aguadilla, Puerto Rico	Application withdrawn in 2001
Active*	St. Louis Lambert International Airport	St. Louis, MO	Preliminary application accepted in April 2017
Inactive	Stewart International Airport	Newburgh, NY	Airport privatized in 2000 after FAA approval; reverted to public operation in 2007
Active*	Westchester County Airport	White Plains, NY	Preliminary application accepted in December 2016

Source: FAA.

Notes: The rows marked with an asterisk represent the four active participants as of August 2017. FAA terminated New Orleans Lakefront Airport's application when the airport missed the deadline to submit additional materials.

Stewart International Airport

In 2000, Stewart International Airport in Newburgh, NY, became the first commercial service airport privatized under the APPP. National Express Group PLC, a U.K.-based transportation company, made an initial $35 million up-front payment to the owner, the state of New York, for a 99-year lease, and agreed to pay the state 5% of the airport's gross income on the lease's 10th anniversary or after 1.38 million passengers used the airport, whichever occurred first. National Express Group also made $10 million in capital contribution during its operation of the airport.[7] Unable to obtain airline approvals to use airport revenue for general purposes, the airport owner, the state of New York, agreed to use the lease payments for airport purposes and to recoup past

[7] Airport Cooperative Research Program (ACRP) Report 66, "Considering and Evaluating Airport Privatization," pp. 43-44 and pp. 86-87. FAA, "Report to Congress on the Status of the Airport Privatization Pilot Program, 49 U.S.C. §47134," August 2004, p. 7.

subsidies for Stewart Airport and other state-owned airports in accordance with FAA's revenue use policy.[8]

National Express apparently was unsuccessful in increasing passenger traffic at Stewart; according to FAA data, the airport registered 274,126 enplanements in 2000, the year National Express assumed management, but only 156,638 six years later.[9] The company's attempt to make the airport more attractive to passengers going to and from New York City by renaming it "New York-Hudson Valley International Airport" was abandoned amid local opposition.[10]

In 2006, National Express decided to focus its U.S. efforts on school bus operations, and moved to dispose of its lease on Stewart.[11] The following year, the Port Authority of New York and New Jersey purchased the remaining term of the lease for $78.5 million. Although National Express never disclosed the profitability of its operation at Stewart, the Port Authority reported a $0.8 million loss in 2007, when it ran the airport for part of the year, and a $5.5 million loss in 2008, its first full year of operation.[12] This suggests that the operation may not have been profitable for the private owner. However, National Express booked a profit of £16.2 million (approximately $33 million at the time) on the sale to the Port Authority, suggesting that it earned a significant return on its investment.[13]

Chicago Midway Airport

The APPP slot reserved for a large hub commercial airport was once taken by Chicago Midway International Airport but its privatization efforts never materialized. The City of Chicago received airline approval to lease the city-owned airport to private investors. On October 3, 2006, FAA authorized the city to select a private operator, negotiate an agreement, and submit a final application under the pilot program.[14] On October 8, 2008, the Chicago City Council agreed to a $2.52 billion, 99-year lease with Midway Investment and Development Corporation (MIDCo), a consortium led by Citigroup, Inc., John Hancock Life Insurance Co., and a unit of Vancouver (British Columbia) International Airport. The deal was delayed due to the inability of the selected consortium to secure financing in the credit market during the global economic crisis. The lease agreement was terminated when the group missed the April 6, 2009 payment deadline. MIDCo had to pay a $126 million penalty to the city.[15]

A renewed effort to lease Midway was abandoned in 2013 after one of the two bidding groups dropped out. The city then announced that it would suspend plans to lease the airport. On September 9, 2013, the City of Chicago withdrew its preliminary privatization application. This opened up the APPP slot reserved for a large hub airport.

[8] New York Department of Transportation, "Governor Pataki Hands Stewart Airport Keys to National Express (Orange County)," press release, March 31, 2000.

[9] See http://www.faa.gov/airports/planning_capacity/passenger_allcargo_stats/passenger/.

[10] See http://ulstercountyny.gov/sites/default/files/documents/143-06.pdf.

[11] National Express Group, *Interim Report 2006*, p. 6.

[12] Port Authority of New York and New Jersey, *Annual Report 2007*, p. 94, and *Annual Report 2008*, p. 90.

[13] National Express Group, *Annual Report and Accounts 2007*, p. 66.

[14] See FAA, "Fact Sheet: Chicago Midway Airport Pilot Privatization Program," *FAA News*, April 2008.

[15] Airport Cooperative Research Program (ACRP) Report 66, "Considering and Evaluating Airport Privatization," p. 44.

Luis Muñoz Marín International Airport

Luis Muñoz Marín International Airport, a medium hub airport in San Juan, Puerto Rico, is the only commercial service airport operating under private management after privatization under the APPP. FAA approved the final privatization contract in February 2013, and the airport was transferred to a private operator, Aerostar Airport Holdings (Aerostar), on February 25, 2013.

Aerostar Airport Holdings[16] paid $615 million in upfront proceeds to the Puerto Rico Ports Authority, and will pay a further estimated $550 million over the 40-year lease that includes an annual lease payment of $2.5 million for the first five years of the contract, 5% of gross airport revenues during the following 25 years, and 10% of gross airport revenues during the final 10 years of the lease.[17]

Aerostar also agreed to a $1.2 billion capital plan, including the remodeling and renovation of the terminal buildings. Aerostar reported that by the end of 2016 it had invested over $176 million in remodeling and renovations, as well as other improvements.[18]

Active Applicants

Hendry County Airglades Airport

Hendry County Airglades Airport in Clewiston, FL, a general aviation airport,[19] received preliminary approval from FAA for privatization under the APPP in October 2010. In August 2014, FAA approved a management contract between the county and a private operator. As of August 2017, the airport is working with the proposed private operator to finalize its application.[20]

Westchester County Airport

In December 2016, FAA accepted a preliminary application from Westchester County Airport. The airport is owned and operated by the County of Westchester and is in White Plains, NY, about 40 miles north of New York City. It serves an average of 1.75 million passengers a year.[21]

St. Louis Lambert International Airport

The preliminary application from St. Louis Lambert International Airport was accepted by FAA in April 2017. This medium-hub airport, once known as Lambert Field, is owned and operated by

[16] Aerostar Airport Holdings, LLC is jointly owned by Aeropuerto de Cancún S.A. de C.V. and Highstar Capital. Aeropuerto de Cancún S.A. de C.V. is a subsidiary of Grupo Aeroportuario del Sureste S.A.B. de C.V. of Mexico. It operates the Cancún Airport. For more information on the lease, see FAA Docket 2009-1144, "Record of Decision for the Participation of Luis Muñoz Marín International Airport, San Juan, Puerto Rico, in the Airport Privatization Pilot Program," February 25, 2013.

[17] Email exchange between CRS and FAA, January 2016-February 2016.

[18] Luis Muñoz Marín International Airport privatization status report to FAA, April 12, 2017.

[19] General aviation airports do not receive scheduled commercial or military service but typically support business, personal, and instructional flying; agricultural spraying; air ambulances; on-demand air-taxis; and/or charter aircraft service.

[20] Email exchange between CRS and FAA, June 2017.

[21] https://www.regulations.gov/docket?D=FAA-2016-9477; https://www.faa.gov/news/fact_sheets/news_story.cfm?newsid=21174.

the City of St. Louis. The airport is located about 10 miles northwest of St. Louis and is the largest airport in the State of Missouri.[22]

Why Has the APPP Not Stimulated Privatization?

Over its 20-year history, the APPP has not been successful in stimulating wide interest in airport privatization. The program's modest results appear to have several causes.

APPP Application Process

Applying to privatize an airport under the APPP, as reported by FAA, makes the transfer from public to private ownership too "time consuming" and presents risks that could cause a potential deal to fail.[23] The process may take years to complete. In the cases of Luis Muñoz Marín International Airport, more than three years elapsed from preliminary application to final FAA approval, and informal discussions with FAA may have consumed additional time prior to the filing of the preliminary applications. In the case of Hendry County Airglades Airport, more than six years have elapsed since the application was submitted to FAA.

The application process begins with an airport filing a preliminary application for FAA approval, upon which one of the ten slots available under the APPP is reserved for that airport. The preliminary application must include a summary of privatization objectives; a description of the process and a timetable; current airport financial statements; and a copy of the airport owner's request for potential private operators to submit proposals. FAA has 30 days to review the preliminary application.

Once an airport receives preliminary approval, it then may select a private operator from among those offering proposals, negotiate an agreement, and submit a final application to FAA. There is no timeline as to how quickly FAA must complete its review of the final application. After FAA gives notice of its proposed approval of the final application and lease agreement in the *Federal Register*, there is a 60-day public review and comment period. After that, FAA completes its review and prepares its Findings and Record of Decision (ROD), in which it addresses the public comments and publishes the details of its decision.[24]

Regulatory Conditions and Obligations

Airport privatization under the APP has a number of regulatory requirements, some of which have been criticized as overly restrictive or vague. These requirements may have lessened airport owners' and/or investors' interest in privatization. They include the need for 65% of air carriers serving the airport[25] to approve a lease or sale of the airport; restrictions on increases in airport rates and charges that exceed the rate of increase of the Consumer Price Index (CPI), and a

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[22] https://www.regulations.gov/docket?D=FAA-2017-0325; https://www.faa.gov/news/fact_sheets/news_story.cfm?newsid=21614.

[23] U.S. Department of Transportation, FAA, "Report to Congress on the Status of the Airport Privatization Pilot Program, United States Code, Title 49, Section 47134," August 2004, p. 1; Matthew Hummer, "Airport Privatization: A Plan to Help Fill a $50 Billion-Plus Investment Gap," Bloomberg Government, December 20, 2011, p. 13.

[24] For details of the APPP application procedures, see http://www.faa.gov/airports/resources/publications/federal_register_notices/media/obligation_private97.pdf.

[25] Approval must be granted both by 65% of the air carriers using the airport and by carriers collectively accounting for 65% of the landed weight during the previous year.

requirement that a private operator comply with grant assurances made by the previous public-sector operator to obtain AIP grants.[26] In addition, after privatization the airport will be eligible for AIP formula grants to cover only 70% of the cost of improvements, versus the normal 75%-90% federal share for AIP projects at publicly owned airports. This serves as a disincentive to privatize an airport, because it will receive less federal money after privatization.

Adequate Access to Funding

In surface transportation, a key purpose of privatization is to attract private capital to supplement public spending that is insufficient to provide the desired level of construction and maintenance.[27] In general, lack of resources has been a far less important issue for airport operators than for highway and public transportation agencies.

Publicly owned airports have access to five major sources of funding. The Airport Improvement Program (AIP) provides federal grants to airports for planning and development, mainly of capital projects related to aircraft operations, such as runways and taxiways.[28] Local passenger facility charges of up to $4.50 per boarding passenger, imposed pursuant to federal law, can generate revenue for a broad range of projects, including "landside" projects on airport property such as passenger terminals and ground access improvements, and for interest payments. Tax-exempt bonds, often secured by airport revenue, offer less costly financing than is generally available to private entities. Tenant leases, landing fees, and other charges are important revenue sources at some airports. Many airports, especially smaller ones, also benefit from state and local grants.[29]

These financing arrangements have important implications for airport privatization.

- If a publicly owned airport were to be privatized outside the APPP, its private operator may not be eligible to receive AIP formula funds and may have to draw on its own resources to improve runways and taxiways. The operator would not be entitled to issue bonds with federal tax-exempt status, and would therefore have to pay higher interest rates on its bonds than a public-sector operator. On the other hand, the private operator would have relative freedom to impose passenger usage fees and to increase landing fees, rents, and other charges, so long as this was not done in a discriminatory fashion.
- An airport privatized under APPP would continue to have access to federal AIP grants, although the private operator would have to provide a 30% match, considerably more than the 10%-25% matches required of publicly owned airports. The operator would not be entitled to issue bonds with federal tax-exempt status, and would therefore have to pay higher interest rates on its bonds

[26] Examples of grant assurances include making the airport available for public use on reasonable conditions and without unjust economic discrimination (against all types, kinds, and classes of aeronautical activities); charging air carriers making similar use of the airport substantially comparable amounts; maintaining a current airport layout plan; making financial reports to FAA; and expending airport revenue only on capital or operating costs at the airport. For a listing of the AIP grant assurances, see http://www.faa.gov/airports/aip/grant_assurances/.

[27] See CRS Report R43410, *Highway and Public Transportation Infrastructure Provision Using Public-Private Partnerships (P3s)*, by William J. Mallett.

[28] For more discussion of AIP and airport financing, see CRS Report R43327, *Financing Airport Improvements*, by Rachel Y. Tang.

[29] Government Accountability Office, *Airport Finance: Observations on Planned Airport Development Costs and Funding Levels and the Administration's Proposed Changes in the Airport Improvement Program,* GAO-07-885, 2007, p. 8.

> than a public-sector operator. It could continue to collect passenger facility charges, but could not impose charges higher than those authorized by federal law. Its ability to raise fees paid by air carriers would be constrained.

These limitations are largely the consequence of federal laws. They may explain why airport privatization has been less attractive in the United States than in Europe and Canada.

Airport Privatization in Europe and Canada

Several European countries and Canada have undertaken notable steps in airport privatization. Two factors that have facilitated privatization in other countries do not exist in the United States. First, many of the major airports that have been privatized in Europe and Canada were previously owned by national governments, not by local or provincial governments, so the decision to privatize did not need to be taken at multiple levels of government. Second, the tax-favored status of debt issued by state and local governments in the United States has no analogue in most other countries, so the shift from public to private ownership did not necessarily entail higher borrowing costs.

Europe

Airport privatization started to build momentum when British Prime Minister Margaret Thatcher's administration privatized the former British Airport Authority (BAA). BAA had been part of the British Aviation Ministry from 1946 to 1966, and then became an independent government agency. The transfer of BAA to the private sector in 1987 transformed the airport sector in the United Kingdom and, eventually, around the world. By listing the shares of BAA plc on the London stock exchange, the government privatized the seven BAA airports, including London Heathrow, London Gatwick, and London Stansted.[30] The British government initially owned a stake in BAA plc, but sold all its shares by 1996. It retained a "golden share," which entitled it to block a takeover by foreign investors, until 2003.

Under the British approach to privatization, airports' charges were subject to economic regulation by the Civil Aviation Authority, a government agency, which had additional authority over the largest airports. Due to statutory changes enacted in 2012, only airports with more than 5 million annual passengers are now subject to government regulation of their charges. Heathrow, Gatwick, and Stansted have been deemed "designated" airports subject to closer regulatory supervision.[31]

The privatization of BAA has not been without its critics. Some economists argued that by selling BAA's seven airports all together, the U.K. government had, in effect, converted public assets into a regulated private monopoly.[32] In 2009, the U.K. Competition Commission required BAA plc to divest Gatwick, Stansted, and either Edinburgh or Glasgow airports in order to maintain competition.

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[30] The other airports originally owned by BAA plc were Glasgow, Edinburgh, Aberdeen, and Prestwick. BAA plc purchased Southampton Airport in 1990 and sold Prestwick in 1992. International Civil Aviation Organization, "Case Study: United Kingdom," February 2013, http://www.icao.int/sustainability/CaseStudies/UnitedKingdom.pdf.

[31] Civil Aviation Authority, "Transition of the framework for the economic regulation of airports in the United Kingdom" (2013), https://www.caa.co.uk/docs/33/CAP1017%20frameworkforairportregulation.pdf.

[32] Government Accountability Office, *Airport Finance: Issues Related to the Sale or Lease of U.S. Commercial Airports,* GAO/T-RCED-96-82, February 29, 1996, p. 6.

In 2006, BAA plc was acquired for £10.1 billion by Airport Development & Investment Ltd (ADI), a consortium led by Ferrovial Aeropuertos S.A. of Spain. Ferrovial then sold BAA's non-U.K. airport stakes such as Budapest and a number of Australian airports. The name BAA was officially dropped on November 12, 2012, and the company was rebranded as Heathrow Airport Holdings Ltd (HAH). Following the transactions, Ferrovial remains the largest shareholder in HAH with a 25% stake.

Not all airport privatizations in the United Kingdom have been successful. Cardiff Airport in Wales, formerly operated by a consortium of the Spanish companies Albertis and AENA,[33] was purchased by the Welsh government for £52 million in March 2013. The private owners were interested in selling after annual passenger numbers fell from 2.1 million in 2007 to barely 1 million in 2012 and the airport became unprofitable. Prestwick Airport in Scotland, which BAA plc had sold to another private operator in 1992 and was most recently owned by the New Zealand company Infratil, was purchased by the Scottish government in November 2013 for the nominal amount of £1. As with Cardiff, several carriers had ceased service at Prestwick and passenger numbers had fallen sharply.

Subsequent to the British privatization action of 1987, a number of governments in Europe privatized major airports, either fully or partially. Some of these private owners or operators then acquired full or partial ownership interests in other airports. At the same time, some public-sector airport operators expanded by providing management services at other airports. Entities such as AENA and Schiphol Group of the Netherlands are active internationally. Schipohl Group, of which the Dutch government is the majority owner, rebuilt and now operates Terminal 4 at Kennedy International Airport in New York. According to a 2016 study by Airports Council International—Europe, approximately 14% of European airports are owned by mixed public-private shareholders and 9% are fully privatized.[34]

Canada

The Canadian Air Transportation Administration (CATA) of the Department of Transport (later renamed Transport Canada) owned and managed most airports and air navigation facilities in Canada until the early 1990s. In 1992 the Canadian government started to devolve the operation, management, and development of airports in Canada from Transport Canada to local airport authorities (LAAs) that were set up as not-for-profit corporations. These airport authorities are fully responsible for funding all operating and infrastructure costs and must invest all profits back into the airports.[35] As a first round of airport transfer, the federal government leased out four major airports in the summer of 1992—Calgary, Vancouver, Edmonton, and Montreal.[36]

In July 1994, Transport Canada announced a National Airports Policy (NAP) that grouped airports into five categories: 26 National Airports System (NAS) airports, 71 regional and local

[33] Aeropuertos Españoles y Navegación Aérea (AENA, literally "Spanish Airports and Air Navigation"), the world's largest airport group, runs 54 airports in Spain and has airport holdings in the United Kingdom, Mexico, and elsewhere. AENA formerly was entirely owned by the Spanish government, but 49% was sold through a public offering in 2015; see http://www.aena.es/csee/Satellite/Accionistas/en/Page/1237568537246/1237572367889/Significant-holdings-and-treasury-stock.html.

[34] Airports Council International (ACI) Europe, "The Ownership of Europe's Airports, 2016," p. 4.

[35] See Transport Canada, "Airport Divestiture Status Report," for a detailed list of airport privatization status, http://www.tc.gc.ca/eng/programs/airports-status-menu-441.htm.

[36] International Civil Aviation Organization (ICAO), Air Transport Bureau, Economic Analysis and Policy Section, "Case Study: Canada," January 9, 2013.

airports, 31 small airports, 13 remote airports, and 11 Arctic airports. The NAP required that ownership of regional and local airports be transferred from the federal government to regional or local interests such as provincial and local governments, airport commissions, and private businesses. The NAS airports—the 26 airports that handled more than 200,000 passengers per year or served provincial or territorial capitals—were leased to Canadian Airport Authorities (CAAs), not-for-profit and non-share corporations similar to LAAs, which are responsible for operations, management, and capital expenditures. The government retains ownership of the airports and receives rent payments from the CAAs and LAAs.[37]

The government removed operating subsidies from regional or local airports over a five-year period. In its place, an Airport Capital Assistance Program (ACAP) was established to provide federal funding for safety-related airside capital projects at these airports. Thirty of the 31 small airports have been transferred to local interests, per an NAP requirement that all small airports be transferred to local interests or closed. The government continues to support remote and Arctic airports that service isolated communities.[38]

Except for the airports operated by or on behalf of Transport Canada, the federal government does not regulate airport charges at airports already transferred to CAAs, LAAs, or local interests. The government permits airport authorities to determine airport charges as long as they are non-discriminatory and competitive. Airports are also free to impose local passenger fees as a way to generate revenues for capital improvements or infrastructure expansions.[39] The airports pay hundreds of millions of dollars a year in rent to the federal government and hundreds of millions in "payments in lieu of tax" to municipal governments across Canada. For the 2014-2015 fiscal year, Transport Canada reportedly collected C$313 from NAS airports.[40]

Critics of Canada's "users pay" system question whether it has benefited aviation consumers. Some contend that these "quasi-independent" authorities, whose board members are often nominated by municipalities, often represent the interest of local stakeholders.[41] A 2012 report prepared for the Standing Senate Committee on Transport and Communications indicated that passengers departing Canadian airports often pay 60% and 75% above the base airfare to cover taxes and charges, compared to between 10% and 18% in the United States. The Canadian Airports Council estimated that in 2011, 4.8 million Canadians chose to cross the U.S. border and fly from U.S. airports. For example, about 85% of the annual passengers at Plattsburgh International Airport in upstate New York, near the Canadian border, are Canadian residents. The report concluded that the burden of Canada's airport rents, fees, and other service charges was undermining the competitiveness of Canadian airports located near the U.S. border.[42]

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[37] International Civil Aviation Organization (ICAO), Air Transport Bureau, Economic Analysis and Policy Section, "Case Study: Canada," January 9, 2013.

[38] Ibid. Eight Arctic airports were transferred to territorial governments between 1995 and 1996.

[39] Ibid.

[40] *Globe and Mail*, "Why Canada's airport model is working for taxpayers," March 7, 2014; "Canada's sky-high airprot fees creat turbulence for carriers," June 6, 2016.

[41] *Globe and Mail*, "It's time to privatize Canada's leading ports and airports," February 17, 2014.

[42] The Standing Senate Committee on Transport and Communications, "The Future of Canadian Air Travel: Toll Booth or Spark Plug?," June 2012, http://www.parl.gc.ca/content/sen/committee/411/trcm/rep/rep05jun12-e.pdf. A June 6, 2016, *Globe and Mail* article, "Canada's sky-high airport fees create turbulence for carriers," echoed these estimates that 80% to 85% of passengers at Plattsburgh, NY, and 30% of passengers at Burlington, VT, are Canadian, and that every year about 5 million Canadians cross the border to fly from U.S. airports.

Issues and Options

Congress has been interested in airport privatization as a way to save money by making airports less dependent on federal assistance while also, in the long run, increasing the nation's aviation capacity to meet growing demand for air travel. However, under current federal law, privatization has struggled to achieve these goals. Federal AIP spending is ultimately determined via the budget process and therefore budget savings may or may not result from airport privatization.

Privatization outside the framework of the APPP is generally unattractive to both airport owners and potential investors, as it is likely to result in higher financing costs and loss of federal AIP grants and will not provide the public-sector owner with revenues that can be used for other purposes. Privatization within the framework of the APPP may generate minor reductions in federal outlays due to the requirement for a privately run airport to match a larger share of federal AIP grants, but it is not clear that privatization serves the interests of public-sector owners or air carriers, except in cases where the airport is losing money or the owner can channel the proceeds of privatization into capital projects at other airports. Private investors' ability to earn money from an airport privatized under the APPP is limited by restrictions on passenger facility charges and limitations on increases in other airport fees. Air carriers, in most cases, will see advantages from privatization only if they can negotiate lower rents and landing fees in return for agreeing to it, but this would diminish the potential financial return to investors.[43]

Streamlining the APPP application and review process might make privatization somewhat more attractive by reducing the risks arising from a long application period, such as changes in economic and capital market conditions. However, significantly increasing interest in airport privatization is likely to require structural change to the existing airport financing system. Options might include the following:

- **Offering the same tax treatment to private and public airport infrastructure bonds.** This could be done by eliminating the current federal income tax exemption of interest on bonds issued by public-sector airport owners or by extending tax-exempt or tax-preferential treatment to airport infrastructure bonds issued by private investors. Either change would eliminate a major disincentive to shift airports from public to private ownership. On the other hand, removing the tax exemption on public-sector airport bonds would raise airports' financing costs, while extending it to private-sector bonds could have consequences for federal revenues.
- **Changing AIP requirements.** Reducing the percentage match private operators must provide to obtain AIP grants to the level of comparable public operators would make privatization more attractive to private investors, but would increase the share of federal funding.
- **Relaxing AIP grant assurances.** If private investors were freed from some of the requirements agreed to by the public owner in order to obtain AIP funds, privatization might become more attractive to investors. However, some of the changes that might be most attractive to investors, such as allowing the sale of airport property, might interfere with the federal interest in maintaining aviation system capacity and safety.

[43] Brad McAllister, *Airport Business*, "Exploring Privatization," January 26, 2011.

- **Liberalizing rules governing fees.** Allowing privatized airports more flexibility to impose passenger facility charges and to raise rents and landing fees would make privatization more attractive to investors. However, this might increase airline opposition to privatization and could lead to higher costs for passengers and air cargo shippers.
- **Easing limits on use of privatization revenue.** Reducing the obstacles for public-sector owners to use privatization revenue for non-airport purposes would stimulate local and state government interest in privatization. On the other hand, it could potentially lead to a lower level of investment in aviation infrastructure.

Appendix. Airport Definitions[44]

The following types of airports are discussed in this report:

Commercial Service Airports

Publicly owned airports that receive scheduled passenger service and board at least 2,500 passengers each year. There are 509 commercial service airports.

Primary Airports

Commercial service airports that board more than 10,000 passengers each year.

- **Large Hub Airports** board 1% or more of system-wide passengers (30 airports, 72% of all enplanements).
- **Medium Hub Airports** board 0.25% but less than 1% of system-wide passengers (31 airports, 15% of all enplanements).
- **Small Hub Airports** board 0.05% but less than 0.25% of system-wide passengers (72 airports, 8% of all enplanements).
- **Non-Hub Airports** board more than 10,000 but less than 0.05% of system-wide passengers (249 airports, 4% of all enplanements).

Non-primary Commercial Service Airports

Board at least 2,500 but no more than 10,000 passengers each year (127 airports, 0.1% of all enplanements).

General Aviation Airports

General aviation airports do not receive scheduled commercial or military service but typically support business, personal, and instructional flying; agricultural spraying; air ambulances; on-demand air-taxies; and/or charter aircraft service (2,564 airports).

Reliever Airports

Airports designated by FAA to relieve congestion at commercial airports and provide improved general aviation access (259 airports).

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[44] FAA, *Report to Congress: National Plan of Integrated Airport System (NPIAS) 2017-2021*, September 2016, https://www.faa.gov/airports/planning_capacity/npias/reports/media/NPIAS-Report-2017-2021-Narrative.pdf.