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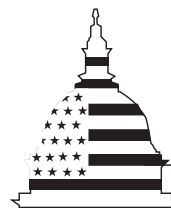
Before the Subcommittee on Aviation, Committee on
Transportation and Infrastructure, House of
Representatives

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GENERAL AVIATION AIRPORTS

Oversight and Funding

Statement of John H. Anderson, Jr., Director,
Transportation Issues,
Resources, Community, and Economic
Development Division



G A O

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Mr. Chairman and Members of the Subcommittee:

We are here today to discuss the Federal Aviation Administration's (FAA) oversight of and the funding for capital development at general aviation airports. The federal government has made financial grants or transferred federal land to about 2,000 general aviation airports.¹ For many communities, a general aviation airport is their primary access to air transportation, and general aviation airports can provide economic benefits to communities by attracting new employers to the area. Like commercial service airports, general aviation airports are subject to FAA's oversight and must compete with commercial airports for federal funding from FAA's Airport Improvement Program. Over the last few years, we have issued several reports and testimonies on commercial and general aviation airports' planned capital development and funding sources.² Just last month, we reported on FAA's oversight and enforcement of land use at general aviation airports.³

To receive federal assistance, airports must agree to abide by certain requirements designed to ensure that the public interest is served. Among other things, airports must obtain approval from FAA before altering the use or ownership of airport land and must use airport revenues only for their operation, maintenance, or development. FAA is responsible for monitoring and enforcing compliance with these requirements. My testimony today focuses on two questions important to general aviation airports: (1) How adequate is FAA's oversight and enforcement of general aviation airports' compliance with federal requirements related to the use of their land? and (2) How do general aviation airports' planned capital development costs compare with current funding levels?

In summary:

- All FAA field offices rely primarily on third-party complaints to identify airports' noncompliance with allowable uses. Only 4 of FAA's 23 field

¹While commercial service airports handle regularly scheduled commercial airline traffic, general aviation airports support noncommercial aviation traffic.

²Airport Development Needs: Estimating Future Costs (GAO/RCED-97-99, Apr. 7, 1997); Airport Financing: Funding Sources for Airport Development (GAO/RCED-98-71, Mar. 12, 1998); Airfield Pavement: Keeping Nation's Runways in Good Condition Could Require Substantially Higher Spending (GAO/RCED-98-226, July 31, 1998); Airport Financing: Annual Funding As Much As \$3 Billion Less Than Planned Development (GAO/T-RCED-99-84, Feb. 10, 1999); and Airport Financing: Smaller Airports Face Future Funding Shortfalls (GAO/T-RCED-99-96, Feb. 22, 1999).

³General Aviation Airports: Unauthorized Land Use Highlights Need for Improved Oversight and Enforcement (GAO/RCED-99-109, May 7, 1999).

offices monitor general aviation airports to ensure that they comply with federal requirements to use airport land only for airport purposes. To do this, these four field offices rely on the airports' self-certifications that they are in compliance. Relying on airports' self-certifications and third-party complaints is not sufficient. Without monitoring, airports' unauthorized use of land has gone uncorrected—in some cases for over a decade. For example, airport land has been inappropriately used for mobile home parks; little league baseball fields; dog pounds; duck-hunting blinds; and city police, fire, and vehicle maintenance facilities. Unauthorized land use has resulted in the loss or diversion of millions of dollars in airport revenues from general aviation airports, which are typically owned by local governments. In some cases, increased risks to aviation safety also resulted. For example, FAA determined that birds attracted by an unauthorized landfill on an airport posed a possible danger to aircraft. If and when FAA becomes aware that an airport is not complying, it has a variety of statutory and administrative alternatives. However, FAA has generally chosen not to use them, preferring to address noncompliance through negotiation and settlement, an approach that has not always been effective in resolving airports' noncompliance. Our report included recommendations designed to address these problems.

- We reported that the \$10 billion in annual planned capital development for all the nation's airports that are eligible for federal funding exceeded their 1996 funding by \$3 billion. For general aviation airports, which depend more heavily on federal grants for their capital development than commercial airports, the proportional shortfall is even greater. We reported that general aviation airports' annual planned development of nearly \$1.5 billion was more than twice as much as their 1996 funding. While federal grants for airports, including general aviation, increased in 1998, federal funding for general aviation capital development still represents only about 35 percent of these airports' planned capital development that is eligible for federal funding.

Background

Of the more than 18,000 general aviation airports in the United States, only 2,806 qualify for federal Airport Improvement Program (AIP) grants. These grants are awarded by FAA and funded through the Airport and Airway Trust Fund, which is financed by taxes on domestic airline tickets, international air travel from the United States, domestic cargo transported by air, and noncommercial aviation fuel. General aviation airports range from small rural facilities that have only a few resident aircraft to large general aviation airports that accommodate hundreds of corporate aircraft and thousands of tons of cargo. These airports rely on grants from federal

and state governments as well as tax-exempt bonds and revenue from operations to fund their capital development projects.

Since 1982, FAA has provided \$4.7 billion in AIP grants to general aviation airports and has historically provided federal land to some general aviation airports to develop and expand the nation's aviation infrastructure. In exchange for this federal assistance, airports must agree to abide by a number of requirements, such as obtaining approval from FAA before altering the use or ownership of airport land and using airport revenues only for the airports' operating expenses and other nonoperating expenditures, such as capital development.⁴ The purpose of the restriction on revenue uses is to make airports as self-sustaining as possible and to minimize the need for federal assistance.

FAA's Office of Airports, through its network of 23 field offices, administers AIP and is responsible for overseeing airports' compliance with federal grant and land transfer requirements. These offices are also responsible for taking enforcement actions, when necessary.

FAA's General Aviation Oversight Is Inadequate to Ensure Land-Use Compliance

FAA's oversight of general aviation airports is inadequate to ensure compliance with land use requirements. When airports have not complied with federal requirements for the use of airport land, FAA's preference for negotiation over enforcement has not always been effective in resolving the noncompliance.

Internal Controls Are Inadequate to Ensure Compliance

Although FAA policy clearly calls for compliance monitoring, only 4 of the 23 FAA field offices regularly monitor general aviation airports' compliance with land-use requirements. Combined, these four offices are responsible for only about 20 percent of the general aviation airports that have received grant funds or land from the federal government. These four offices meet FAA's monitoring requirement by periodically obtaining airport's self-certifications. All FAA field offices rely primarily on third-party complaints to identify airports' noncompliance.

Relying on airports' self-certifications and third-party complaints is not sufficient for ensuring compliance with federal requirements. For

⁴With the consent of FAA, airport land not needed for aviation purposes may be sold or leased so that the airport can use the resulting revenues to support airport development, improvement, maintenance, and operations. Generally, if an airport sells or leases land for less than its fair market value, the revenues are considered to be lost, or forgone. In addition, if an airport owner uses airport land for nonairport purposes, such as for city police or fire departments, and does not pay rent to the airport, the revenues are considered to be diverted from the airport.

example, the Department of Transportation's Inspector General reported that 14 of the 15 general aviation airports it had identified as not complying with revenue use requirements had previously certified they were in compliance, and third-party complaints had been filed against only 2 of the 15 airports.⁵

Because FAA does not monitor general aviation airports' compliance, neither FAA nor we know the extent of noncompliance. However, using the limited information we obtained from some FAA field offices, we identified 24 airports where unauthorized land use has occurred since 1990. Transportation's Inspector General found that for five of these airports, almost \$6.8 million in revenues had been lost or diverted. The 24 cases involved airports in 15 states under the oversight of 12 different FAA field offices. The seriousness of the land use violations ranged from minor, isolated infractions to periods of repeated unauthorized use spanning more than two decades without correction. For example, airport land has been inappropriately used for mobile home parks; little league baseball fields; dog pounds; duck-hunting blinds; and city police, fire, and vehicle maintenance facilities. Safety problems can also result from the unauthorized use of airport land, and 4 of the 24 cases we identified involved safety issues. For example, at one airport, an unauthorized landfill attracted birds, creating a risk to landing and departing aircraft. At another airport, the unauthorized use of airport land to promote hunting activities attracted birds, and one aircraft suffered \$20,000 in damage because of a "birdstrike." Unauthorized construction at another airport led to an aircraft accident—while taxiing at the airport at night, a plane hit an unmarked and unlighted excavation hole for a sports facility. No injuries occurred.

FAA Emphasizes Negotiation Over Enforcement Actions

FAA has a variety of administrative and statutory enforcement tools for resolving noncompliance but has generally chosen not to use them. If an airport does not voluntarily make corrections, FAA's policy is to formally notify the airport of its noncompliance as the first step toward appropriate sanctions or penalties. We found, however, that FAA field offices very rarely take this first step. For example, out of the 24 cases of unauthorized land use we reviewed, FAA had only formally notified 2 airports about their noncompliance. However, in both cases, FAA reached an agreement with the airport to resolve the noncompliance without using enforcement tools.

⁵Interim Summary Report on the Audit of Monitoring Airport Revenue; Federal Aviation Administration, R9-FA-4-004 (Mar. 7, 1994).

When agreements cannot be negotiated, FAA field offices may take administrative actions such as denying requests to use airport property for nonairport purposes. In cases of egregious or persistent noncompliance, FAA may assess civil penalties, pursue legal action through the courts, and ultimately, reclaim title to donated land. In addition, the Congress has strengthened FAA's enforcement powers to resolve revenue diversion cases by including restrictive language in appropriations and transportation laws. For example, the Airport Revenue Protection Act of 1996 gives the Secretary of Transportation the authority to withhold federal aviation, transit, and rail funds from local governments that fail to reimburse airports for illegally diverted funds.⁶ FAA has never used these more aggressive enforcement tools.

FAA prefers to address noncompliance through negotiation and settlement, exhausting all avenues of voluntary corrective action before undertaking enforcement actions. FAA officials told us that airports are generally willing to take corrective action and that a confrontational approach using its enforcement authority would be justified only if it resulted in a higher level of compliance than maintaining a cooperative relationship with airports.

FAA's emphasis on negotiations is not always effective. In our May 1999 report, we identified two cases of long-standing noncompliance at general aviation airports in which the airports' lack of willingness to comply with federal requirements justified greater efforts to enforce compliance. In fact, in both cases, unauthorized land use and revenue diversion had been going on for decades without correction. When enforcement actions are not taken, even in instances of long-standing noncompliance such as these two cases, the lack of action becomes a de facto policy of permissiveness. Unauthorized uses of land at the airports included city police, fire, street maintenance and sports facilities constructed on airport land without FAA's approval. At one airport, Transportation's Inspector General estimated the revenue diversion caused by the city's rent-free use of airport property from 1984 through 1995 at about \$2.8 million.

At the time of our review, FAA had not initiated the enforcement process by formally notifying either airport of its noncompliance, despite a 1997 report by the Inspector General in one case and the city's disregard of its promise to stop diverting airport revenues in the other. In fact, one of these airports was scheduled to receive an AIP grant earlier this year, before we raised questions about the appropriateness of providing

⁶P.L. 104-264, section 805.

additional AIP funds to a noncompliant airport. At the time we completed our review, FAA officials said they had taken steps to delay the award of the grant.

Recommendations for Improving FAA's Oversight of General Aviation Airports

Our report contained a number of recommendations for improving FAA's compliance monitoring and enforcement efforts. FAA has not yet reported to us what actions it plans to take on these recommendations. We recommended that FAA revise its current compliance policy guidance to require regularly scheduled monitoring methods that provide for periodic on-site visits. There is no substitute for on-site monitoring. Periodic face-to-face contact with airport owners provides FAA with the opportunity to directly observe airport operations and provide continuing education on federal requirements. Such direct contact could also improve the quality of negotiations if a conflict arises.

We recognize that FAA's Airports field office staff have a number of duties other than monitoring and enforcing compliance with federal requirements related to general aviation airports' land use and that these other duties place limitations on the time available to conduct on-site visits. FAA could take a number of steps to improve its oversight while minimizing any strain on its resources. For example, through a combination of on-site visits and self-certifications, FAA could collect information that would allow it to target its resources on airports that are more likely to have problems with land use compliance. FAA could also involve interested parties to help FAA keep abreast of current activities at general aviation airports. The Aircraft Owners and Pilots Association recently instituted a program to establish general aviation points of contact across the nation at airports to monitor public-use airports. Coordination with this nationwide network could provide FAA with another set of "eyes."

Finally, FAA already has the necessary enforcement tools. FAA could improve enforcement by establishing specific criteria for initiating enforcement actions, applying the variety of enforcement tools already available, and setting reasonable time frames for taking progressively stronger enforcement actions.

General Aviation Airports Face Future Funding Shortfalls

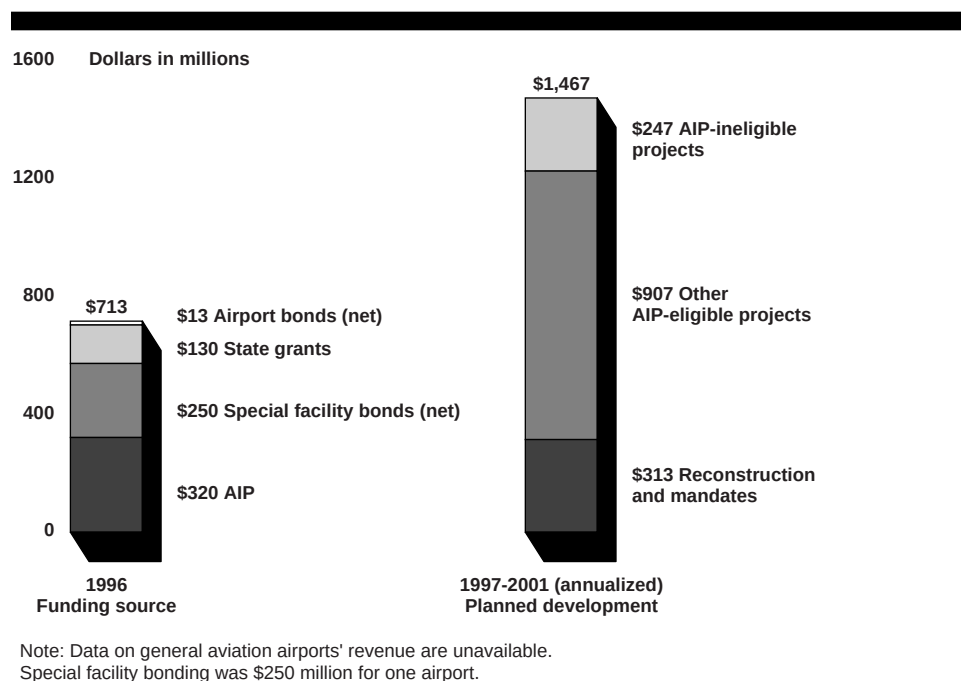
General aviation airports depend heavily on federal grants for their capital development, however, their annual planned capital development that is eligible for federal funding is at least \$775 million more than the federal funding they received in 1998. While federal grants to general aviation

airports have been limited so far this year, current proposals would increase funding for federal airport grants.

AIP Funding Is Insufficient to Cover Eligible Projects

Over the last few years, we have reported and testified several times on future funding shortfalls for the nation's airports. Overall, we reported that, for all airports that are eligible for federal funding, planned capital development for 1997 through 2001 may cost as much as \$10 billion per year, or \$3 billion more than their 1996 funding. Of that amount, general aviation airports' planned capital development was estimated to be nearly \$1.5 billion per year, or over \$750 million per year more than these airports raised in 1996. Figure 1 compares general aviation airports' total funding for capital development in 1996 with the annual cost of their planned development.

Figure 1: 1996 Funding Compared With Annual Planned Development Costs for General Aviation Airports, 1997–2001



Funding for 1996, the bar on the left, is shown by source of funding (AIP, state grants, and bonds). General aviation airports received 45 percent of their capital development funding from AIP in 1996. State grants accounted

for another 18 percent, while airport bonds accounted for only 2 percent of general aviation airport capital development funding. In addition, one airport's issuance of \$250 million in special facility bonds accounted for 35 percent of all general aviation airports' funding sources for 1996.

Planned development for general aviation airports, the bar on the right, shows FAA's highest priority projects, other projects that are eligible for AIP, and general aviation airports' planned development that is not eligible for AIP.⁷ Reconstruction and mandated projects, FAA's highest priorities, are for projects to maintain existing infrastructure (reconstruction) or to mitigate noise, or to meet federal mandates, including safety, security, and environmental requirements. Other projects that are eligible for AIP include FAA's higher-priority projects, such as adding capacity, as well as FAA's lower-priority projects, such as bringing airports up to FAA's design standards. Finally, general aviation airports plan for projects that are not eligible for AIP funding, such as general aviation terminals and fuel depots.

For this hearing, we updated the amount of AIP funding for fiscal year 1998 as well as the planned development that is eligible for AIP funding for the period 1998 through 2002.⁸ Increases in AIP appropriations in fiscal year 1998 led to increased funding for general aviation airports. In fiscal year 1998, general aviation airports received about \$418 million in AIP grants. Planned development that is eligible for federal funding at general aviation airports from 1998 through 2002 decreased slightly from earlier estimates to almost \$1.2 billion annually. Thus, 1998 AIP grants represent about 35 percent of the planned projects that are eligible for AIP—leaving the remaining 65 percent of planned projects that will have to be funded by some other means, abandoned, or postponed.

Estimates Do Not Fully Represent Future Development Costs

While estimates of future capital development are useful indicators of future development activity, the actual level and types of development that ultimately occur are likely to be different for a number of reasons. FAA and other estimates of development are based on airports' master plans, whose accuracy diminishes beyond 3 to 5 years into the future, and these projections tend to underestimate actual construction costs. In addition, development anticipated by airports' master plans might not reflect the

⁷Estimates of planned development costs are contained in our report entitled Airport Development Needs: Estimating Future Costs (GAO/RCED-97-99, Apr. 7, 1997).

⁸Other sources of funding during 1998 are not known. Estimates of planned development that are eligible for AIP were drawn from Report of the Secretary of Transportation to the United States Congress Pursuant to Section 47103 of Title 49, United States Code, National Plan of Integrated Airport Systems, 1998-2002. Planned development that is not eligible for AIP is not known.

concurrence of local communities. The availability of and cost to acquire funds also affect actual capital spending. For example, general aviation airports are sensitive to changes in the availability of AIP grants, upon which they especially rely. Finally, airports' master plans may not anticipate all future costs, such as meeting new regulatory requirements or responding to unanticipated changes in demand for air travel.

Maintaining airport runway pavement in good condition is an example of how future development costs may exceed estimates of planned development. We recently reported that while the nation's airport runways are in generally good condition, the costs of maintaining them over the next 10 years will be considerable, especially for general aviation airports.⁹

Delaying maintenance and rehabilitation will only increase the cost of eventual improvements. In examining over 1,000 of the nation's general aviation airports' runways, for which detailed data on pavement condition are available, we found that the cost to rehabilitate and maintain these runways in good condition will approach \$1 billion over the next 10 years. However, a majority of this spending will be required in the first year to immediately bring runways up to good condition. Conversely, if runway rehabilitation and maintenance are funded at historical levels, necessary rehabilitation and maintenance would have to be deferred. While the 10-year cost is comparable to immediately bringing runways up to good condition, approximately \$1.9 billion in unmet runway rehabilitation and maintenance needs will remain.

Increasing Total AIP Funding Provides Greater Benefit to General Aviation Airports

General aviation airports depend heavily on federal grants for financing their capital development. In 1996, general aviation airports obtained 45 percent of their total funding from AIP. In contrast, AIP represented only 10 percent of the 71 largest airports' funding. The amount of AIP funds provided to general aviation airports is especially sensitive to changes in total AIP funding. Our prior work has shown that as AIP funding increases, an increasing percentage of total funds are directed to smaller airports.

While the Congress increased fiscal year 1999 AIP appropriations by \$250 million to \$1.95 billion, appropriations limitations have thus far constrained funding, especially for general aviation airports.¹⁰ As a result,

⁹Airfield Pavement: Keeping Nation's Runways in Good Condition Could Require Substantially Higher Spending (GAO/RCED-98-226, July 31, 1998).

¹⁰AIP appropriations for fiscal year 1999 are \$1.95 billion, although AIP was initially authorized only through Mar. 31, 1999, and therefore, not more than \$975 million could be obligated. Since then, this limitation has twice been increased and extended, now to \$1.66 billion and until Aug. 6 (Sec. 6002 of 1999 Emergency Supplemental Appropriations (P.L. 106-31, May 21, 1999)).

only \$80 million in grants have been provided to general aviation airports out of the \$737 million in total AIP grants made through May of this year. The Congress has twice extended, but not fully funded, AIP for this fiscal year, leading to great uncertainty for general aviation airports. The Congress is currently considering increasing funding for AIP for fiscal year 2000 and beyond. Current proposals would increase funding for AIP above current levels—helping general aviation airports better fund their future development plans.¹¹

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions that you or Members of the Subcommittee may have.

Contact and Acknowledgment

For future contacts regarding this testimony, please contact John H. Anderson at (202) 512-2834. Individuals making key contributions to this testimony included Janet Barbee, Chris Keisling, Mark Lambert, and Paul Aussendorf.

¹¹The administration has requested \$1.6 billion in funding for AIP for fiscal year 2000 and the House and Senate Appropriations committees proposed funding for AIP in fiscal year 2000 of \$2.25 and \$2 billion, respectfully. Meanwhile, the House Transportation Committee is considering legislation that would substantially increase funding for AIP, especially beginning in fiscal year 2001 when spending from the Airport and Airway Trust Fund would be linked to trust fund receipts.

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