



## **Airport Privatization**

The airport privatization pilot program was established during FAA reauthorization in 1996. The program authorized FAA to designate up to five airports, having particular size classifications, to participate in the program. For a variety of reasons, interest in the program, to date, has been limited.

This lack of activity is unique to airports in the United States. In a variety of forms, privately operated airports are common in much of the world. Most often privatized airports are operated pursuant to a lease of an entire airport facility or airport system to a private operator on a long-term basis, usually 30 years or longer. Governmental entities usually have underlying ownership interest in the land and other facilities at an airport. In general, privately operated airports internationally operate similar to public utilities, such as electrical power or water systems, and are subject to various forms of regulation, including regulation of rates and charges paid by airport users.

Currently, there exists a renewed interest in airport privatization in the United States. In part, this interest is driven by the availability of investment capital seeking stable investment opportunities. Other modes of transportation, particularly highways, are also experiencing an increased interest in private operators.

As part of the stakeholder outreach process, FAA asked a number of parties in a variety of forums why there was surprisingly limited interest in the privatization pilot program. Among the inventories reasons were: the narrow airport classifications eligible for the program were too restrictive; the airline super-majority “approval” procedure included in the pilot program amounted to a veto of any proposal; the approval process established by FAA was too time consuming and presented too many risks to closing a transaction; and the downturn of the industry followed by the events of September 11, 2001 effectively shelved a number of proposals that were being considered.

In parallel with the development of the FAA reauthorization proposal, the City of Chicago indicated that it sought to lease Midway Airport to a private operator and subsequently secured the pilot program’s one slot for a large-hub airport. The City of Chicago has been indicating that a Request for Proposal for this lease opportunity has been forthcoming since late in 2006. In late 2007, Southwest Airlines signed off on the City of Chicago’s plan to privatize Midway. The city is now in the process of securing four of the airport’s six other carriers to endorse its privatization plan. If that is accomplished, a request-for-qualifications will be issued and after operators are pre-qualified, request for proposals will be evaluated to select the highest bidder.

According to media reports, a number of well-funded teams have already expressed interest in the potential Midway Airport opportunity. If the privatization effort is completed, public discussion of the policy issues related to airport privatization is expected to increase. Under such a scenario,

airport operators are likely to be asked questions about whether or not privatization is worth considering in each local situation.

The number of unresolved issues associated with airport privatization, which are in many cases are unanswerable today, seem boundless. These include, but are not limited to:

- Impacts on and regulation of fees paid by airport users, including both airlines and the traveling public;
- Appropriate use the financial proceeds of a transaction;
- Consequences for environmental issues such as aircraft noise associated with increased airport operations;
- Regulation of rates of return to reasonable levels for invested capital;
- Tax status of airport-issued debt when airports are privately operated;
- Customer service implications of private operations; and
- The extent to which the airport sponsor may be obligated to repay past federal grants, and the extent to which grant assurances will be effective post-privatization.

The original intent of the airport privatization pilot program was to use the five authorized airport opportunities to develop information to help answer these questions. Additionally, the program was to inform the policy process for potential expansion or institutionalization of privatization as an avenue for airports or their sponsors to consider, particularly in regard to capital development and/or more efficient operations.

ACI-NA has not taken a position in support of or against airport privatization. However, ACI-NA has generally supported greater flexibility for airports and their sponsors to have increased independence of operations and increased means of developing investment capital to improve and expand facilities. Since reducing federal restrictions that are barriers to privatization is consistent with these goals, ACI-NA has provided guidance to improve or correct those aspects of the privatization pilot program that seem to prevent the pilot program from achieving its defined objectives related to testing the issues arising from privatization proposals.

Many of these suggestions were included in the H.R. 1356, the Bush Administration's FAA Reauthorization proposal, introduced in the House of Representatives on March 6 and S. 1076, introduced in the Senate on March 29. The Administration's proposal increased the number of pilot program slots from the original five to 15 without limiting these opportunities to particular classifications or sizes of airports. In addition, among other things, the proposed changes would eliminate the airline approval requirement originally included in the airport privatization pilot program launched in 1996. The airline industry opposed the proposed changes to the pilot program.

The House FAA Reauthorization legislation H.R. 2881, passed on September 20, 2008, does not include the Administration's proposed privatization language. However, H.R. 2881 does amend the pilot program by increasing the airline approval requirement from 65% to 75%. Additionally, any airport receiving an exemption from revenue diversion under the pilot program will be prohibited from receiving AIP apportionments or discretionary funds.