



U.S. House of Representatives
Committee on Transportation and Infrastructure

James L. Oberstar
Chairman

Washington, DC 20515

John L. Mica
Ranking Republican Member

February 6, 2008

David Heysfeld, Chief of Staff
Ward W. McCarragher, Chief Counsel

James W. Coon II, Republican Chief of Staff

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Aviation
FROM: Subcommittee on Aviation Staff
SUBJECT: The President's Fiscal Year 2009 Federal Aviation Administration Budget

PURPOSE OF HEARING

At 10:00 a.m., on Thursday, February 7, 2008, in Room 2167 Rayburn House Office Building, the Subcommittee on Aviation will hold a hearing to consider the Administration's fiscal year (FY) 2009 budget request for the Federal Aviation Administration (FAA).

FY 2009 FAA Budget Request

Background

The Administration's request for the FAA provides \$14.64 billion in FY 2009, \$272 million less than the FY 2008 enacted funding level. Under current law, the FAA's budget is broken down into four programs: Operations; Facilities & Equipment (F&E); the Airport Improvement Program (AIP); and Research, Engineering & Development (RE&D). (The Science Committee has jurisdiction over the RE&D program). The authorizations for these programs expired on October 1, 2007.¹

For FY 2009, the Administration proposes a new account structure that eliminates the Operations and F&E programs and creates the "Air Traffic Organization" account and "Safety and Operations" account. The Administration put forward a similar proposal last year, but it was not adopted by Congress. The FAA believes that its new account structure will better align funding with function. More specifically, the FAA asserts that the new structure is aligned with the FAA's lines of

¹ On September 20, 2007, the House passed H.R. 2881, the FAA Reauthorization Act of 2007, but the Senate has yet to act on its reauthorization proposal.

business and the FAA's reauthorization proposal wherein the FAA's financing system is transformed into a hybrid user-fee financing system.

This memo analyzes the FY 2009 request under the existing law, as authorized by this Committee, to provide a basis of comparison to prior years. The chart below compares the Administration's FY 2009 request for FAA with the FY 2009 authorized funding levels proposed in H.R. 2881 (the FAA Reauthorization Act of 2007) as passed by the House, and the FY 2008 enacted funding levels.

(\$ in millions)

| PROGRAM | FY 2008 | FY 2009 AUTHORIZED, PROPOSED PER H.R. 2881 | FY 2009 PRESIDENT'S BUDGET | DIFF. OF FY2009 PRES. BUDGET AND FY 2008 ENACTED |
|---|-------------------|---|----------------------------------|---|
| Operations | \$8,740.0 | \$9,126.5 | \$8,998.5 | \$258.5 (3.0%) |
| Facilities & Equipment | 2,513.6 | 3,246.0 | 2,723.5 | 209.9 (8.4%) |
| Airport Improvement Program | 3,514.5 | 3,900.0 | 2,750.0 | -764.5 (-21.8%) |
| Research, Engineering & Development | 146.8 | 488.3 | 171.0 | 24.2 (16.5%) |
| Total | \$14,914.9 | \$16,760.8 | \$14,643.0 | -271.9 (-1.8%) |

Aviation Trust Fund and General Fund

Most of the FAA's funding is derived from the Airport and Airway Trust Fund (commonly known as the "Aviation Trust Fund"). The Aviation Trust Fund holds the revenues from the various aviation excise taxes that are paid by aviation system users. The Aviation Trust Fund receipts totaled \$11.47 billion (\$11.94 billion including interest) in FY 2007, with approximately \$6.0 billion of this total derived from the 7.5 percent passenger ticket tax. The FAA estimates that, under the current tax structure, FY 2009 receipts will equal approximately \$12.57 billion (\$13.04 billion including interest).

The Administration's FY 2009 budget request again proposes to transform the FAA's current excise tax financing system to a hybrid cost-based user fee system that would take effect in FY 2010. Under this proposal, which is similar to the FAA's reauthorization proposal from last year, the FAA's financing sources shift from a mix of fuel taxes, other excise taxes, and a general fund contribution to user fees, fuel taxes and a general fund contribution.

The Administration's hybrid cost-based user fee proposal was not included in either the House or the Senate versions of FAA reauthorization legislation developed last year, although the Senate Commerce Committee did propose a \$25 per flight surcharge on commercial and general aviation (GA) jet and turboprop flights that access airspace controlled by the FAA.

When it was created in 1970, the Aviation Trust Fund was viewed as a fund to pay for improvements to the aviation infrastructure. For many years, this Committee and the aviation community have sought to ensure that the funds paid into the Aviation Trust Fund are actually used for aviation infrastructure improvements. The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106-181, commonly known as "AIR 21"), enacted in April 2000, included procedural points of order designed to guarantee that every dollar aviation users pay into the Aviation Trust Fund is actually spent on aviation programs, with aviation capital programs having first claim on these dollars. Under these points of order, aviation capital programs must be fully funded at the authorized levels before the remaining Aviation Trust Fund revenues are used to support FAA's operating costs. The Vision 100 - Century of Aviation Reauthorization Act (Public Law 108-176, commonly called "Vision 100") extended these points of order through fiscal year 2007. H.R. 2881 would further extend these funding guarantees through FY 2011.

Although most of the FAA's budget is derived from the Aviation Trust Fund, it also receives funding from the General Fund. The size of the General Fund contribution has varied significantly over time. During the past 20 years (1989-2008), the General Fund contribution has averaged 24 percent of FAA's total budget. During the past 5 years (2004-2008), it has averaged 19 percent. Based on the current formula and the assumptions in the Administration's budget, the General Fund will contribute approximately \$1.6 billion, or 11 percent of the FAA's budget for FY 2009.

The Administration's FY 2009 proposed new account structure divides Aviation Trust Fund and General Fund expenditures differently:

| PROGRAMS | AVIATION TRUST FUND | GENERAL FUND |
|-------------------------------------|---------------------|--------------|
| Air Traffic Organization | 85% | 15% |
| Safety & Operations | 37% | 63% |
| Research, Engineering & Development | 91% | 9% |
| Airport Improvement Program | 100% | 0% |

According to the FAA, this new breakdown is based on a cost allocation study that determined the costs of FAA's various activities, and assigned those costs to the user groups that benefit from, or drive the cost of, those activities. In general, the costs of FAA activities that benefit public aircraft or the general public are proposed to be funded by the General Fund. Under the Administration's proposal, the General Fund would contribute \$2.7 billion, or 18.7 percent of the FAA's budget for FY 2009.

Airport Improvement Program

Programs providing federal aid to airports began in 1946 and have been modified several times. The current AIP program began in 1982 and provides federal grants to airports for airport development and planning. AIP funding is usually limited to construction or improvements related

to aircraft operations, such as construction or rehabilitation of runways, taxiways, and aprons; noise mitigation; land acquisition; and the acquisition of safety, emergency or snow removal equipment.

There are approximately 19,847 airports in the U.S. Of those, 14,586 are private use, and 5,261 are public use. Approximately 3,431 of the public use airports are identified as critical to the National Airspace System (NAS) and are included in the National Plan of Integrated Airport Systems (NPIAS) 2007-2011. Listing in the NPIAS makes airports eligible for AIP grants.

Unlike some of the Committee's other programs, AIP reauthorization legislation does not include special earmarks. Instead, AIP money is divided into two broad categories: entitlement funds (also called apportionment funds), which are distributed by formulas that are set forth in the law; and discretionary funds, which are distributed by the FAA based on a national priority system that has been in use for many years.

Passenger and cargo entitlement funds are distributed to primary commercial service airports (airports that board at least 10,000 passengers per year) and cargo service airports in accordance with a formula that takes into account the number of passengers and amount of cargo that go through each airport. AIR 21 ensured that, beginning in FY 2001, each primary airport received a minimum passenger entitlement of at least \$650,000 (or \$1 million if AIP funding totals at least \$3.2 billion) per year. The maximum passenger entitlement for primary airports is capped at \$22 million per year (\$26 million if AIP is at least \$3.2 billion). There are 384 primary airports and 114 cargo airports that qualify for these entitlements.

States are entitled to 20 percent of AIP funds (if AIP is at least \$3.2 billion) for their general aviation airports and commercial service non-primary airports. The formula for the distribution of this money is based on the area and population of the state. In most states, the FAA, working with the state aviation authority, decides which general aviation airports receive AIP funding. Eight states (out of a total of 10 authorized slots) have authority to allocate the money themselves through the State Block Grant program. Alaskan airports receive their own separate entitlement, in addition to the amount apportioned to Alaska as a state.

Pursuant to AIR 21, smaller airports also began to receive entitlement funds in FY 2001. General aviation airports; commercial service airports that boarded between 2,500 and 10,000 passengers annually; non-primary airports; and reliever airports received entitlements (if AIP is at least \$3.2 billion) based on one-fifth of their expected infrastructure requirements as published in the latest NPIAS, capped at \$150,000 annually. In FY 2007, there were 2,774 non-primary airports that qualified for this entitlement.

The FAA must also reserve an amount equal to the entitlements that airports were entitled to, but chose not to use, in prior years. In FY 2007, these restored entitlements (also known as "carried-over entitlements") totaled \$447.8 million. The FAA has discretion over the allocation of any AIP money remaining after all new and carried-over entitlements have been funded. However, provisions requiring that a certain percentage of the remaining funds go to designated set-asides limit this discretion. For example, the law requires that 35 percent be allocated to noise mitigation projects and 4 percent to current or former military airports designated by the FAA. An additional set-aside for reliever airports equal to 0.66 percent of the discretionary fund is distributed when AIP is at least \$3.2 billion.

The Administration's FY 2009 budget request provides \$2.75 billion for the AIP program - \$764.5 million less than the FY 2008 enacted funding level of \$3.5 billion, and \$1.15 billion less than the authorized level proposed by H.R. 2881 for FY 2009.

(\$ in millions)

| AIP FUNDING CATEGORY | FY 2008 ENACTED* | FY 2009 AUTHORIZED, PROPOSED PER H.R. 2881 | FY 2009 REQUEST** |
|--|------------------|--|-------------------|
| APPORTIONMENTS | | | |
| Primary Airports | 857.7 | 752 | 620.1 |
| Cargo Airports | 118.8 | 132 | 79.6 |
| Alaska Supplemental | 21.3 | 21 | 18.5 |
| Non-primary (General Aviation) Airports | 409.6 | 409.0 | 300.5 |
| State Apportionment | 269.4 | 378 | 300 |
| Carried Over Entitlements (FY09 is estimate) | 447.8 | 447.8 | 447.8 |
| SMALL AIRPORT FUND | | | |
| Small Hubs | 66.7 | 81 | 172.3 |
| Non-Hub Commercial Service | 266.8 | 323 | |
| Non-primary | 133.4 | 161 | |
| DISCRETIONARY FUND | | | |
| Capacity/Safety/Security/Nois | 363.6 | 542 | 359.3 |
| Pure Discretionary | 121.2 | 181 | 119.8 |
| SET ASIDES | | | |
| Noise | 281.2 | 300 | 210.3 |
| Military Airport Program | 32.1 | 43 | 0 |
| Reliever | 5.3 | 7 | 0 |

*Assumes passage of legislation to authorize AIP for FY 2008.

** The effect of FAA's reauthorization proposal to change the distribution of AIP funds is shown in this column.

Because the Administration's FY 2009 AIP request falls below \$3.2 billion, several significant changes in the AIP entitlement formula funding would be triggered under the current statutory formula:

- Primary airports would receive 50 percent of their normal apportionment, and the minimum primary airport entitlement would be reduced from \$1 million to \$650,000.
- The state apportionment would be calculated at 18.5 percent of AIP, rather than 20 percent.

- The entitlements for approximately 2,774 general aviation airports – which are as much as \$150,000 per airport – would be eliminated.
- The Alaska Supplemental would be cut by one-half.

It is worth noting that AIP meets only a portion of airport infrastructure needs. To provide additional resources for airport improvements, the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) permitted an airport to assess a fee on passengers. This airport fee is known as the Passenger Facility Charge (PFC). PFC funds can be used for a broader range of projects than AIP grants and are more likely to be used for "ground side" projects, such as passenger terminal and ground access improvements. The PFC is added to the ticket price, collected by the airlines, and then turned over to the airport imposing the fee. PFC funds are not deposited in the U.S. Treasury and are not part of the Federal budget.

AIR 21 increased the cap on the PFC from \$3 to \$4.50 per passenger per flight segment. The FAA must approve the implementation of PFCs by airports. As of February 1, 2008, there are 333 airports collecting PFCs, including 94 of the busiest 100 airports. Of these 333 airports, 265 airports are approved to collect the maximum \$4.50 PFC, including 48 large and medium hub airports.

If a medium or large hub airport charges a PFC of \$3 or less, it must forego up to one-half of its AIP entitlement. If one of these airports charges a fee greater than \$3, it must forego 75 percent of its AIP entitlement. The foregone entitlements are turned back into the AIP program and divided between discretionary AIP (12.5 percent) and the Small Airport Fund (87.5 percent) that is distributed primarily to non-hub and general aviation airports. For FY 2008, the FAA estimates approximately \$2.7 billion in PFC collections.

In addition to AIP and PFCs, airports issue bonds to finance capital projects. According to Thomson Financial, a firm that tracks all municipal bond issues, over the last five years (from 2003-2007), airports issued an average of \$4.9 billion per year in new airport bonds.

The total funding available from all sources -- AIP, PFCs, and airport bonds -- can be compared to estimated airport capital development needs to calculate the "investment gap". The FAA estimates that, from FY 2007-2011, there will be \$41.2 billion² of AIP-eligible infrastructure development (an annual average of \$8.2 billion). The Airports Council International - North America (ACI-NA) issued its own Capital Needs Survey in May 2007. The ACI-NA survey, which includes both AIP-eligible and ineligible projects, and adjusts for inflation, estimates that airport capital development needs will total \$87.4 billion for 2007-2011 (an annual average of \$17.5 billion).

Based on a combination of the FAA NPIAS and the ACI-NA needs survey, the Government Accountability Office (GAO) testified before this Subcommittee in March 2007 that it estimates an investment gap of \$1 billion per year, assuming an average annual funding level of \$13 billion (from all sources) and an average annual need of \$14 billion.³ However, this GAO estimate

² In 2006 constant dollars.

³ Both the \$13 billion funding level and the \$14 billion needs estimate are in constant 2006 dollars. GAO is expected to estimate the same \$1 billion investment gap in its 2/7/08 testimony before the Subcommittee.

does not include any adjustment for rising construction costs. According to GAO, construction costs jumped 26 percent in 30 major U.S. cities over the past three years.

Airport groups contend that there is a significantly greater gap between airport capital needs and available funding than that estimated by GAO. In addition to the fact that GAO's estimate did not consider construction cost increases, according to airport groups, the PFC estimate GAO used to calculate the \$13 billion in average annual funding may be overstated by as much as \$660 million, because some airports use PFC revenue to finance bonds. Moreover, the FAA acknowledges that its prior NPIAS report, issued in September 2006, which showed \$41.2 billion in AIP-eligible capital needs for 2007-2011, is "understated."⁴ The GAO used this report to calculate its estimate of \$14 billion in average annual airport capital needs.

For FY 2008, assuming approximately \$11.7 billion in available funding (\$3.5 billion for AIP grants, \$500 million in local matching funds, \$2.7 billion from PFC collections, and \$4.9 billion in bonds), the investment gap could be as large as \$5.8 billion, based on the inflation-adjusted ACI-NA needs survey.

The FAA's reauthorization proposal, submitted early last year, included changes to the AIP formula and the PFC program, including an increase in the PFC cap that would free up additional AIP funds for small and medium airports. As a result, the FAA maintains that an AIP funding level of \$2.75 billion will provide enough funds to allow the agency to meet high priority airport capacity, environmental, safety and security needs, as well as meet other important commitments such as phased and scheduled projects.

Facilities & Equipment

The FAA's F&E program⁵ includes development, installation, and transitional maintenance of navigational and communication equipment to aid aircraft travel. This program supplies equipment for more than 3,500 facilities, including air traffic control (ATC) towers, flight service stations in Alaska, and radar facilities. The F&E program is funded completely by the Aviation Trust Fund. Unlike AIP, there are no F&E grants. Rather, the FAA uses the money in this program to purchase and install radars, computers, navigation aids, and other equipment according to scheduled priorities.

The F&E program is also the FAA's primary vehicle for modernizing the National Airspace System (NAS). Broadly defined, the term "NAS modernization" refers to the FAA's ongoing effort to obtain new surveillance, automation, and communications systems. Since NAS modernization began in the early 1980s, several programs have been fraught with significant cost overruns and delays. However, most of this cost growth occurred before the FAA's Air Traffic Organization (ATO) began operations in 2004, which has been widely credited with making progress in controlling the costs of FAA's capital programs. The FAA states that the ATO has met its

⁴ See page 4 of the February 14, 2007, letter from FAA to Congress, transmitting the FAA's reauthorization proposal, the "Next Generation Air Transportation System Financing Reform Act of 2007".

⁵ Under the new account structure proposed in the Administration's FY 2009 request, the \$2.724 billion F&E program would be divided between the new "Safety and Operations" account - \$132 million, and new "Air Traffic Organization" account - \$2.591 billion.

acquisition performance goal for the fourth consecutive year -- that is, 80 percent of its system acquisitions are on schedule and within 10 percent of budget.

While the FAA has developed some new technological capabilities over the last 25 years, the U.S. air traffic management system is still fundamentally based on radar tracking, analog radios, and ground-based infrastructure. At the same time, the proliferation of regional jets, the emergence of low cost and new entrant carriers, more point-to-point service, and the anticipated influx of Very Light Jets (VLJs), not to mention other new users like unmanned aerial systems (UAVs) and commercial space vehicles, are placing new and different types of stresses on the system. The FAA forecasts that airlines are expected to carry more than 1 billion passengers by 2015, increasing from approximately 740 million in 2006. The DOT predicts up to a tripling of passengers, operations, and cargo by 2025.

The existing system is not capable of meeting this projected increased level of demand. According to the FAA, FY 2007 saw a six percent increase in NAS-related flight delays over the previous year. Chronic delays at chokepoints in the system are early indicators that the system is rapidly reaching critical mass.

Congress foresaw this issue and, in AIR 21, created the Joint Planning and Development Office (JPDO) within FAA to leverage the expertise and resources of the Departments of Transportation, Defense, Commerce, and Homeland Security, as well as National Aeronautics and Space Administration (NASA) and the White House Office of Science and Technology Policy, for the purpose of completely transforming the NAS by the year 2025 and developing a Next Generation Air Transportation System (NextGen).

In 2007, the JPDO issued both an Enterprise Architecture (EA) and a Concept of Operations, which will serve as a high-level blueprint for NextGen. Based on these documents, NextGen will include: satellite-based surveillance and procedures; enhanced automation capabilities; digital datalink communications; networked communications, and an integrated weather system. In concert, the FAA expects these enhanced capabilities will significantly increase system capacity.

While the Administration plans to embark on a major new modernization program, in recent years it has requested F&E funding well below Congressionally authorized levels for the program. In 2003, the FAA requested and received from Congress an authorization of approximately \$3 billion per year for its F&E program. Yet, for fiscal years 2005-2008, the Administration requested and received roughly \$2.5 billion per year for F&E. As a result, the FAA cancelled or deferred three major modernization programs: the Next Generation Communication (NEXCOM), designed to transition analog air-to-ground transmissions to digital; Controller Pilot Datalink Communications (CPDLC), which would allow digital email-type capability between controllers and pilots (some form of the CPDLC/datalink program will likely need to be revived as part of the NGATS effort); and Local Area Augmentation System (LAAS), a satellite-based precision-landing system. The ATO has also broken down its acquisition phases for the Standard Terminal Automation Replacement System (STARS) and has deferred its decision on whether to fully deploy the system.

For FY 2009, the Administration has requested a slight increase in F&E funding, to \$2.72 billion. Of this amount, the Administration identifies \$631 million (approximately 23 percent) as

part of NextGen.⁶ For example, the Administration’s FY 2009 request provides \$300 million for the Automatic Dependant Surveillance – Broadcast (ADS-B) program, which is FAA’s flagship program to transition to satellite-based surveillance.

Nevertheless, the Administration’s FY 2009 F&E request appears to be at odds with its own preliminary NextGen F&E cost estimates, raising the question of whether the FAA is requesting enough funds to achieve its goal of technologically transforming the system while at the same time sustaining the existing system. Both the GAO and the Department of Transportation Inspector General reported that, in 2006, the FAA’s ATO developed preliminary F&E cost estimates for the NextGen. As shown in the table below, those preliminary F&E cost estimates, which include both the cost of sustaining the system and transitioning to NextGen, are significantly higher than the funding levels being requested by the Administration:

F&E Preliminary Cost Estimates (Including NextGen)

| | |
|------------------|-----------------|
| Fiscal Year 2008 | \$3.120 billion |
| Fiscal Year 2009 | \$3.246 billion |
| Fiscal Year 2010 | \$3.259 billion |
| Fiscal Year 2011 | \$3.301 billion |
| Fiscal Year 2012 | \$3.411 billion |

Operations

The FAA’s ATC system operates 24 hours a day, 365 days a year, providing aircraft separation and guidance services to commercial, military, and general aviation users. The U.S. operates the largest and one of the safest ATC systems in the world, handling almost one-half the world’s air traffic. The Operations account⁷ funds the FAA’s daily activities and programs. Operations represents about 60 percent of the FAA’s annual budget, and mostly funds personnel costs. In FY 2007, the Operations account funded 39,743 full-time equivalent employees.

The ATO and the Office of Aviation Safety (AVS) are the two major activities funded by the Operations account, representing over 90 percent of the Operations budget.

(\$ in millions)

| | FY 2008 | FY 2009 |
|------------------------|---------|---------|
| ATO | 6,966 | 7,079 |
| AVS | 1,082 | 1,131 |
| Commercial Space (AST) | 13 | 14 |
| Staff Offices | 680 | 775 |

The ATO accounts for about 80 percent of the Operations budget. The ATO’s budget supports: air traffic controller training, compensation, and operating expenses of ATC facilities; air

⁶ An additional \$56.5 million in the Research account is also identified as part of NextGen.

⁷ Under the new account structure proposed in the Administration’s FY 2009 request, the \$9.0 billion Operations program would be divided between the new “Safety and Operations” account - \$1.92 billion, and the new “Air Traffic Organization” account - \$7.08 billion.

traffic management and routing; the provision of aeronautical and weather information to pilots and controllers; and safety planning and runway incursion reduction programs.

AVS accounts for more than 10 percent of the Operations budget. The AVS budget supports: safety regulation enforcement; the development of standards to ensure aircraft are safe and in compliance with noise and environmental regulations; the investigation of accidents to identify unsafe conditions and practices; safety oversight of air traffic operations; and the certification of new aircraft to ensure that they are safe and airworthy.

The Administration attributes 67 percent of its FY 2009 request to safety. Yet, while commercial aviation safety trends have been positive over the last several years, the GAO notes that recent safety trends may warrant attention, including the commercial air carrier fatal accident rate, the number of fatal GA accidents, and the number of runway incursions. As a result of four fatal commercial air carrier accidents in 2006, FAA did not meet its FY 2006 performance target of .018 accidents per 100,000 flights. In addition, FAA did not meet its FY 2007 performance of 0.010 fatal accidents per 100,000 flights. Regarding GA, the number of fatal accidents has fluctuated between 300 and 366 annually since 2000.

Regarding runway incursions, while the number of severe runway incursions generally decreased from 53 in FY 2001 to 24 in FY 2007, the total number and rate of runway incursions is increasing. Data for FY 2007 indicate that the overall runway incursion rate of 6.05 incursions per 1 million air traffic control operations is 12 percent higher than in 2006, and is nearly as high as the FY 2001 peak of 6.1 incursions per 1 million operations. In addition, during the first quarter of FY 2007, there were ten severe runway incursions.

The FAA also faces staffing challenges, particularly with its air traffic controller and safety inspector workforce. The FAA employs nearly 15,000 air traffic controllers at approximately 316 federally-operated facilities. The FAA developed its first comprehensive Controller Workforce Plan in 2004 and now updates it annually to adjust hiring and attrition projections to actual experience. In anticipation that more than 60 percent of the controller workforce will become eligible to retire over the next 10 years, the FAA plans to hire more than 16,000 controllers over that period. In FY 2007, the FAA hired 1,815 controllers and ended the year with 14,874 controllers on board. In FY 2008, the FAA plans to hire approximately 1,877 controllers, which after estimated losses due to retirements and other attrition translates into a net increase of about 256 controllers, to meet a year-end target of 15,130. The FY 2009 budget request includes funds to increase the controller workforce further, to 15,436 by the end of FY 2009. The FAA is currently updating its 2008 Controller Workforce Plan (to be issued in March 2008).

While replacing retiring controllers is a critical issue for the FAA, it is also important for the FAA to maintain a safety inspector workforce sufficient to achieve its mission of safety oversight. The FAA employs approximately 3,780 inspectors in its Flight Standards Service (AFS) and about 221 inspectors in its Aircraft Certification Service (AIR).⁸ Attrition and a 2005 hiring freeze have led to concerns that FAA may be understaffed in its safety office, although the FAA was able to increase staffing in these areas during FY 2007, and further increases are planned for FY 2008. By the end of FY 2008, the FAA plans to increase the AFS inspector workforce to 3,880, and the AIR inspector workforce to 230. However, no further increases in these workforces are requested for FY 2009.

⁸Full-time permanent positions on-board as of September 30, 2007.

At the same time, new classes of airspace users, such as commercial space launch vehicles, UAVs, and VLJs, may place additional workload demands on the FAA. For example, the FAA predicts 400-500 new VLJs per year starting in 2007, reaching 4,950 by 2017. In addition, the FAA's oversight workload could greatly expand with expected increases in commercial space launches due to the emergence of a space tourism industry and spaceports.

FY 2008 FAA Budget Situation

In addition to the FY 2009 budget request, the FAA's current FY 2008 budget situation will likely be discussed at the hearing. The FAA is potentially facing significant FY 2008 budget problems due to the lapse in funding for the AIP program, and the upcoming expiration of both the aviation excise taxes and the authority to make expenditures from the Aviation Trust Fund. The AIP program is currently not authorized and, without further Congressional action, the FAA will be unable to pay the salaries of approximately 4,000 of its employees beginning on March 1, 2008.

These current and upcoming lapses in FAA's authorities are the result of a stalemate that has developed in the Senate over FAA reauthorization legislation. The House has acted on three separate occasions to extend the authorization for FAA programs. On September 20, 2007, the House passed H.R. 2881, the "FAA Reauthorization Act of 2007", to reauthorize FAA programs for FYs 2008-2011. On September 24, 2007, the House passed H.R. 3540, the "Federal Aviation Administration Extension Act of 2007" to provide a short-term extension of FAA programs. On November 6, 2007, the House amended and passed S. 2265, in a subsequent attempt to provide a short-term extension of FAA programs. The Senate has not yet acted on any of these bills, or on any other FAA reauthorization legislation, either short-term or long-term.

On January 29, 2008, the FAA wrote to Congress regarding the impacts of the current lapse in AIP funding, and the upcoming expiration of both the aviation taxes and the FAA's authority to make expenditures from the Aviation Trust Fund. These impacts are discussed below.

Current Authorities and Impacts

The government currently has authority to collect taxes from aviation system users for deposit into the Trust Fund. However, these taxes are scheduled to expire on February 29, 2008. In addition, the FAA currently has authority to expend money from the Trust Fund. This authority is also scheduled to expire on February 29, 2008.

As of December 31, 2007, the FAA no longer has any funding available for the AIP program. The AIP is funded by contract authority, which is typically provided by authorization acts, rather than appropriations acts. The previous FAA authorization act, Vision 100, expired on September 30, 2007, and Congress has yet to enact either a short-term or long-term reauthorization of aviation programs. Therefore, there is currently no contract authority in place for the AIP in FY 2008, and no new AIP grants can be made. The FAA continues to have the ability to provide funds for previously obligated grants to the extent funds are available.

If FAA's authorities are not extended prior to March 1st, the FAA will be unable to issue new AIP grants, with increasingly negative impacts. The FAA estimates that its inability to issue

grants on and after March 1 will mean many airports, especially those in northern climates, cannot take advantage of the full 2008 construction season.

According to the FAA, a continued lapse in AIP funding will affect important safety and capacity projects, including runway safety area projects, letters of intent (LOI) disbursements, runway safety action team projects, enhanced taxiway and centerline making projects, and aircraft rescue, firefighting and snow removal equipment.

March 1 Impacts Without Extension of Any Authority

Without an extension of FAA's authorities prior to February 29, 2008, the government will no longer be able to collect taxes for deposit into the Trust Fund and will lose its ability to expend funds from the Trust Fund for new obligations. In other words, absent further action by Congress, the Trust Fund will be effectively "locked" as of March 1, 2008.

Most of the FAA's funding is derived from the Trust Fund. In particular, the FAA's capital accounts (AIP, F&E, and RE&D) are funded 100 percent from the Trust Fund. (This is in contrast to the FAA's Operations account, which is funded partly from the Trust Fund, and partly from the General Fund.)

According to the FAA, the F&E program impacts if there is no access to the Trust Fund after February 29th are as follows:

- The salaries of approximately 4,000 FAA employees who are paid from the AIP, F&E, and R&D accounts will not be paid after February 29th.
- Important F&E-funded contracts to improve the safety and efficiency of the NAS, such as contracts for systems to reduce runway incursions, will not be awarded.
- Funding will not be available to continue major existing contracts such as ADS-B, STARS, ERAM and WAAS, which are the foundational programs for both FAA's existing air traffic control system and NextGen.
- FAA will be unable to move forward with vital testing and implementation of NextGen.
- There will likely be an increase in delays due to the FAA's inability to pay to replace obsolescent and failing parts in its air traffic facilities.

The FAA's Operations account would be in a slightly better position, since it is not 100 percent funded from the Trust Fund. A total of \$8.7 billion has been appropriated for FAA Operations in FY 2008, of which \$2.3 billion is derived from the General Fund, and \$6.4 billion is derived from the Trust Fund. Therefore, even if the Trust Fund expenditure authority expires on February 29th, a small amount of General Fund monies would still be available to cover the FAA's Operations expenses for a few more months. The FAA anticipates that the General Fund allocation

will fund the salaries of those employees who are paid out of the Operations account until early June 2008.⁹

March 1 Impacts If Trust Fund Expenditure Authority Only Is Extended

Should FAA receive an extension of its authority to make expenditures from the Trust Fund; but no extension of the authority to collect taxes, the FAA would have access to the uncommitted balance of the Trust Fund. However, the uncommitted balance in the Trust Fund is not sufficient to fund the FAA for the remainder of FY 2008. As of the end of FY 2007, the uncommitted balance of the Trust Fund was \$1.5 billion. The FAA estimates that this, in combination with the General Fund allocation, will fund FAA employee salaries (including those employees who are paid from the AIP, F&E and RE&D accounts) until approximately August 2008.

While an extension of the Trust Fund expenditure authority would be helpful, the FAA states that it will still adopt strict spending restrictions. For example, plans to hire additional controllers and safety inspectors would likely be suspended. Training of essential employees would be at risk, and the award of new contracts to improve safety and efficiency would also be suspended.

March 1 Impacts If Expenditure Authority and AIP Contract Authority Are Extended

According to the FAA, even if AIP contract authority is provided without an extension of the taxes, the FAA would refrain from using that contract authority to issue new grants. This is because, until the taxes are extended, the FAA would have to be judicious in managing the use of the remaining Trust Fund balance. The FAA has stated that it would preserve the Trust Fund balance to maintain critical agency operations, such as safety programs and air traffic control, not AIP grants. In other words, for new AIP grants to be made in FY 2008, all three authorities must be in place: (1) contract authority to provide funding for AIP; (2) the authority to make expenditures from the Trust Fund; and (3) the authority to collect aviation excise taxes for deposit into the Trust Fund.

⁹ Should this situation not be rectified, the FAA will notify affected employees one pay period in advance of the potential shut down. For employees funded by the FAA's AIP, F&E, and RE&D accounts, which face a February 29th cut-off of funds, this notification would occur in early February 2008. For all other FAA employees (i.e., those funded by the FAA Operations account), this notification would occur in early May.

WITNESSES

Mr. Ramesh K. Punwani
Assistant Administrator for Financial Services
Chief Financial Officer
Federal Aviation Administration

Accompanied by:

Mr. Gene Juba
Senior Vice President for Finance
Air Traffic Organization
Federal Aviation Administration

The Honorable Calvin L. Scovel, III
Inspector General
U.S. Department of Transportation

Dr. Gerald Dillingham
Director, Physical Infrastructure Issues
U.S. Government Accountability Office