



35th Annual Airport Law Workshop

Session #3

BASICS OF AIRPORT FINANCE



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BASICS OF AIRPORT FINANCE

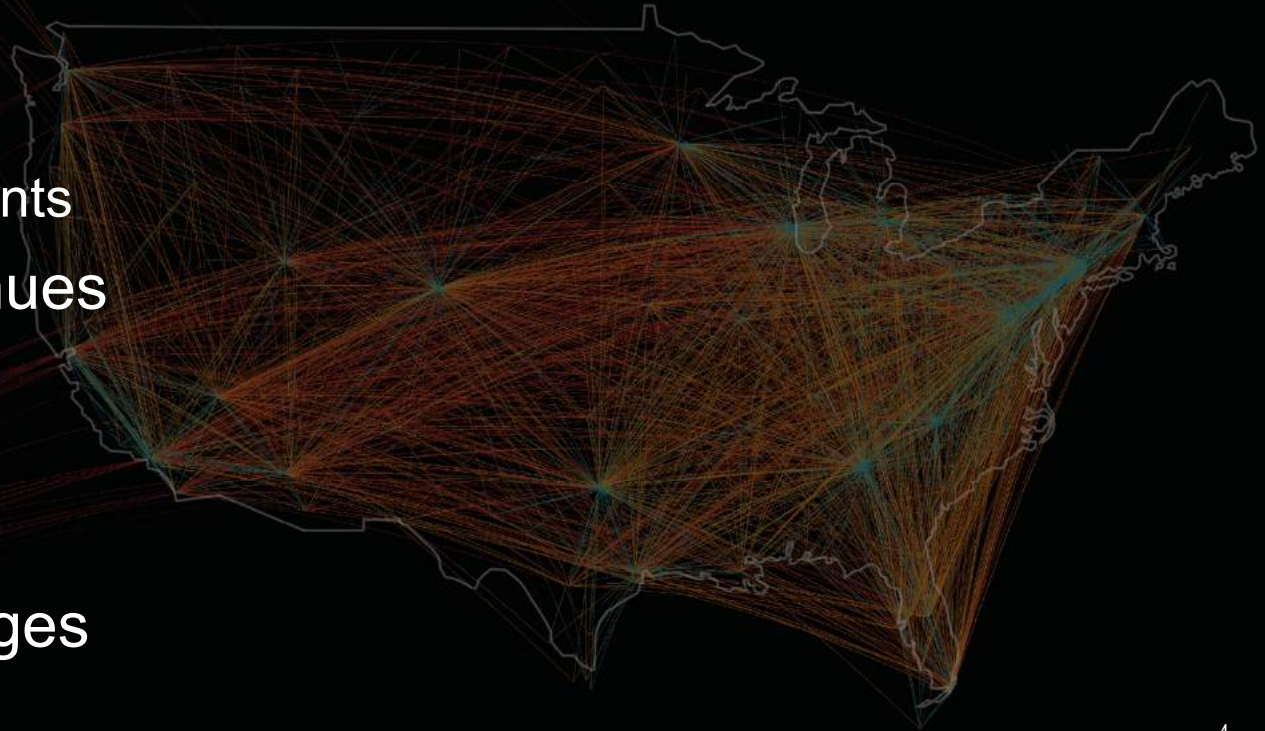
- This is an overview only
- Details of each area can be very complex (not appropriate for last session of the day right before a reception, hypothetically)
- This is an overview only

WERE YOU WONDERING...

- Where do airports get funds for operations, capital projects, and other airport purposes?
- What are the *general* statutory and regulatory issues about which one needs to be concerned?
- What federal funding sources exist?
- What private sources of funds exist?
- What are permissible and non-permissible uses of airport revenue?
- What are the *specific* regulatory requirements applicable to each source of funds?

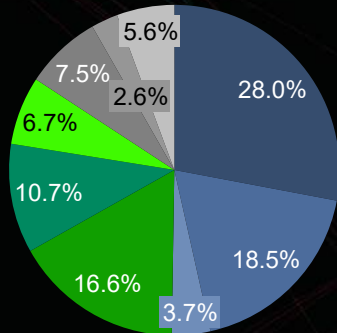
SOURCES OF AIRPORT OPERATING FUNDS

- Aeronautical rates and charges
 - Airline rates and charges
 - FBO rents
 - Fuel flowage fees
 - General Aviation (GA) rents
- Non-aeronautical revenues
 - Concession fees
 - Parking revenues
- Development rents
- Taxes and related charges

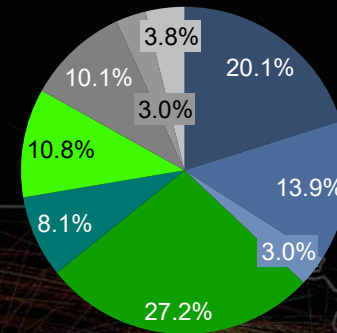


U.S. AIRPORT OPERATING FUND SOURCES

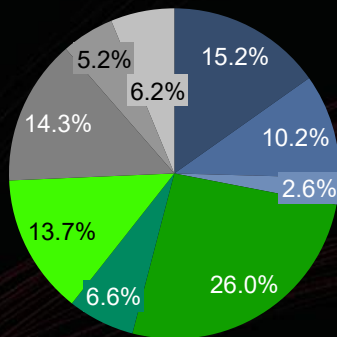
Large Hubs: 50.2% Passenger Airline



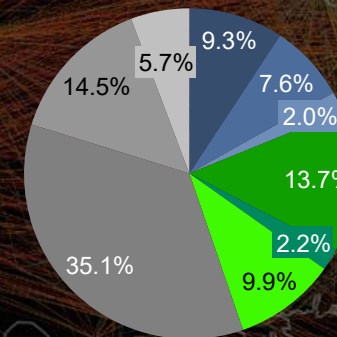
Medium Hubs: 37.0% Passenger Airline



Small Hubs: 28.0% Passenger Airline



Non-Hubs: 18.9% Passenger Airline



- Passenger Airline Terminal
- Passenger Airline Other
- Concessions
- Other Aeronautical
- Other Non-aeronautical
- Passenger Airline Landing Fees
- Parking
- Rental Car
- Land Rentals

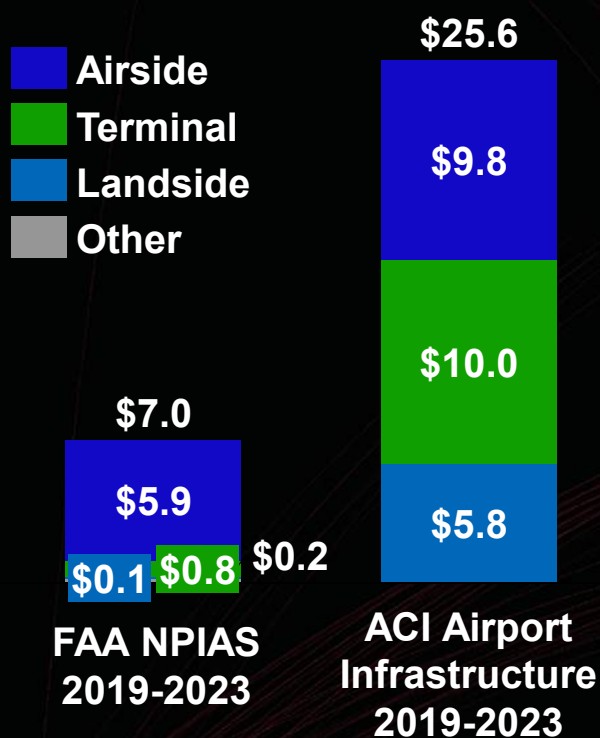
USES OF AIRPORT FUNDS

- Operational Costs and Debt Service
 - Importance of indenture or trust agreement
- Capital Projects
 - Airfield improvement and maintenance
 - Terminal projects
 - Air cargo facilities
 - GA facilities
 - Parking
 - Rental cars
 - Access projects
 - Non-aeronautical development

Always be cognizant of Revenue Use Policy / Grant Assurance!

AIRPORT CAPITAL NEEDS

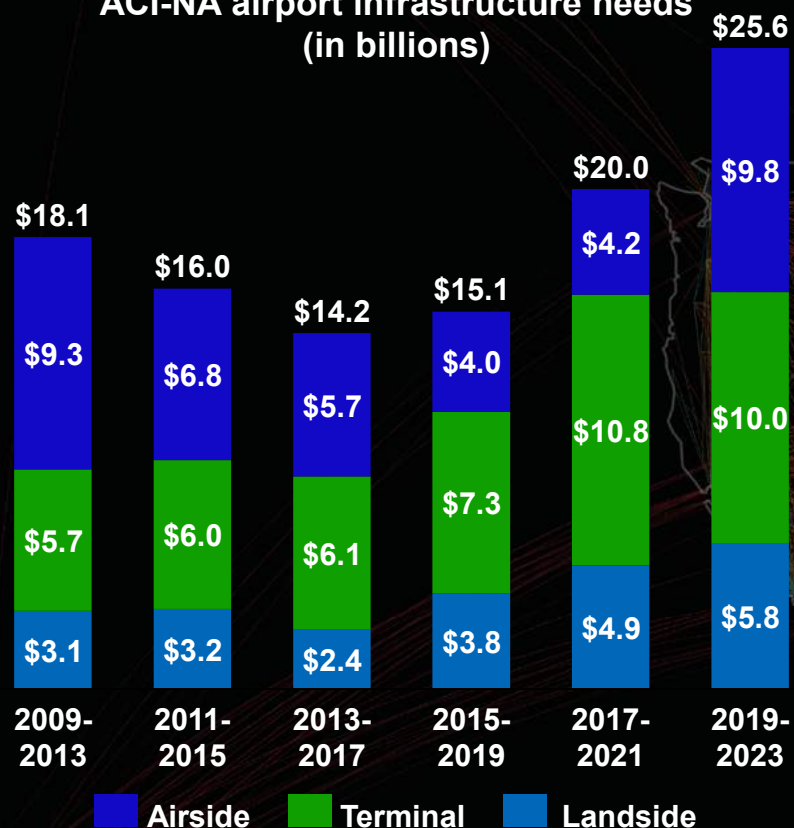
Annual airport infrastructure needs
(in billions)



- FAA and ACI-NA estimate that airports nationwide need between \$7.0 billion and \$25.6 billion annually to meet capital needs
- Estimates differ due to what is included and excluded

TRENDS IN AIRPORT CAPITAL NEEDS

ACI-NA airport infrastructure needs
(in billions)



- Needs reduced through 2015
- Airfield needs increasing
 - Maintenance of existing pavement
 - Hot spot resolutions
- Still at high levels in terminal and landside
 - Replacing aging infrastructure
 - Average terminal is 30 years old
 - Federal funding (AIP and PFC) favors capacity over maintenance

FEDERAL INFLUENCE AND USE OF FUNDS

Source	Vehicle	Federal Involvement
AIP	Federal funds via FAA Authorization and Appropriations	Eligible projects provided capital funding through user fees
PFC	Local funds via FAA Authorization	Sets rate structure and defines eligibility criteria
TSA	Federal funds via DHS Authorization and Appropriations	Eligible projects provided capital funding through user fees
Airport revenue bonds	Local funds via tax legislation and bond counsel	Defines use of tax-exempt and private activity bonds instruments
Other	FAA Authorization (use of airport revenue) and leases	Federal AIP grant assurances bound local use and revenue use requirements

AIRPORT CAPITAL FUNDING SOURCES

- Airport Improvement Program grants
- Passenger Facility Charges
- Airport bonds
- Airport equity
- State and other grants



AIP GRANTS AND ASSURANCES

- Overview of AIP program
- Grant assurances
- Revenue use requirements



AIP STATUTE DEFINES...

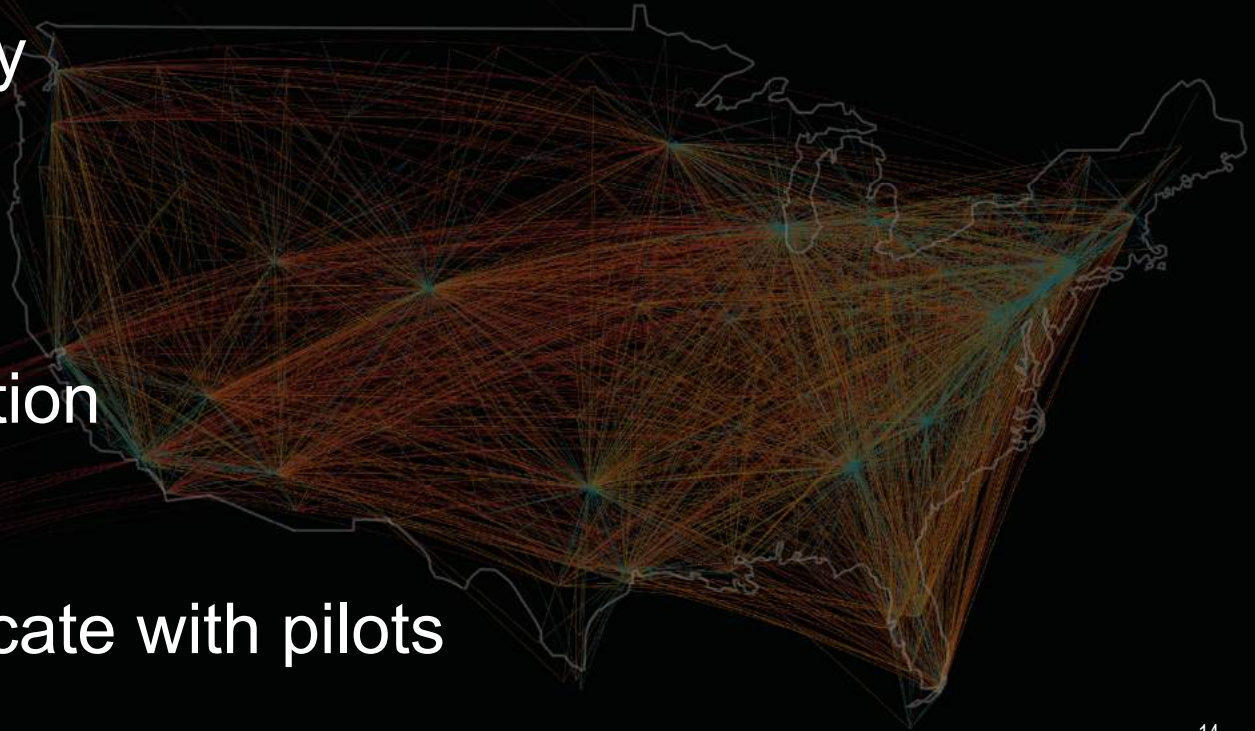
1. Who can get a grant –
 - Eligible sponsorship
2. What types of projects get funded –
 - General rules for AIP grants
3. What is required for a grant project –
 - Pre-Grant requirements checklist
 - Procurement rules
 - Grant administration
4. Post-Grant assurances
5. How to allocate AIP funds

ELIGIBILITY ... "SPONSORS"

- NPIAS – National Plan of Integrated Airport Systems
- State/local government or Indian tribes owning airports
- Private owners of designated relievers or airports with more than 2,500 enplanements
- State/local government not owning airports – for planning and noise mitigation
- (Federal government may never be sponsor)

USES OF FUNDS ... GENERALLY ELIGIBLE

- Safety and standards
- Airfield/airport security
- Airport planning
- Airport development
- Environmental mitigation
- Public use facilities
- Things that communicate with pilots



GENERALLY NOT ELIGIBLE

- Things that make money at larger airports (revenue producing facilities)
- Things that add to aesthetics
- Things that communicate with air traffic
- Other federal agency facilities
- Day-to-day operational and maintenance costs

PRE-GRANT REQUIREMENTS CHECKLIST

- Airport in National Plan of Integrated Airport Systems
- Appropriate airport sponsorship
- Local share – with state, private contributions
- Airport has Airport Layout Plan, local and area planning
- Capacity Projects > \$10 million discretionary must have benefit-cost
- Environmental finding and good land title
- Project meets aviation standards – justified based on established aeronautical demand

GRANT PROCUREMENT RULES

- Full and open competition
- Most costs must be incurred after a grant has been issued
- Must follow required federal provisions
 - Brooks Act for professional services
 - DBE
 - Veterans preference

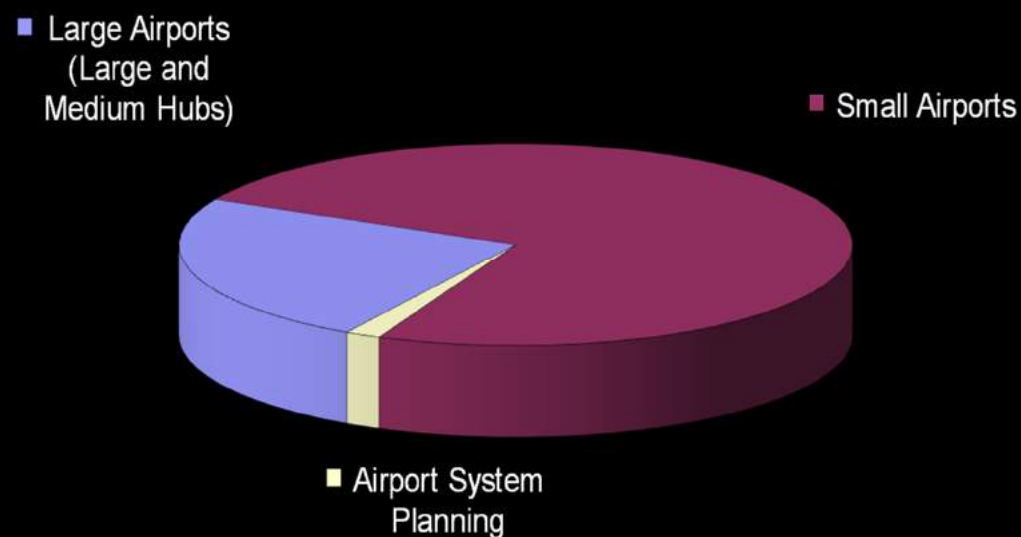
GRANT ADMINISTRATION

- Design must use FAA-approved plans and specifications
- Davis-Bacon Act for construction wages
- Must follow published FAA requirements
 - Project inspection
 - Record keeping
 - Financial grants management
- The contracts! ★

LAWYER ALERT!

AIP HISTORICAL FUNDING

- Majority of funding goes to smaller airports
 - Large/medium = approx. 24%
 - Small/other = approx. 76%
- (FY2017)



POST-GRANT REQUIREMENTS – GRANT ASSURANCES

- Grant Assurances
- Part 16



PASSENGER FACILITY CHARGES – STATUTORY DETAILS

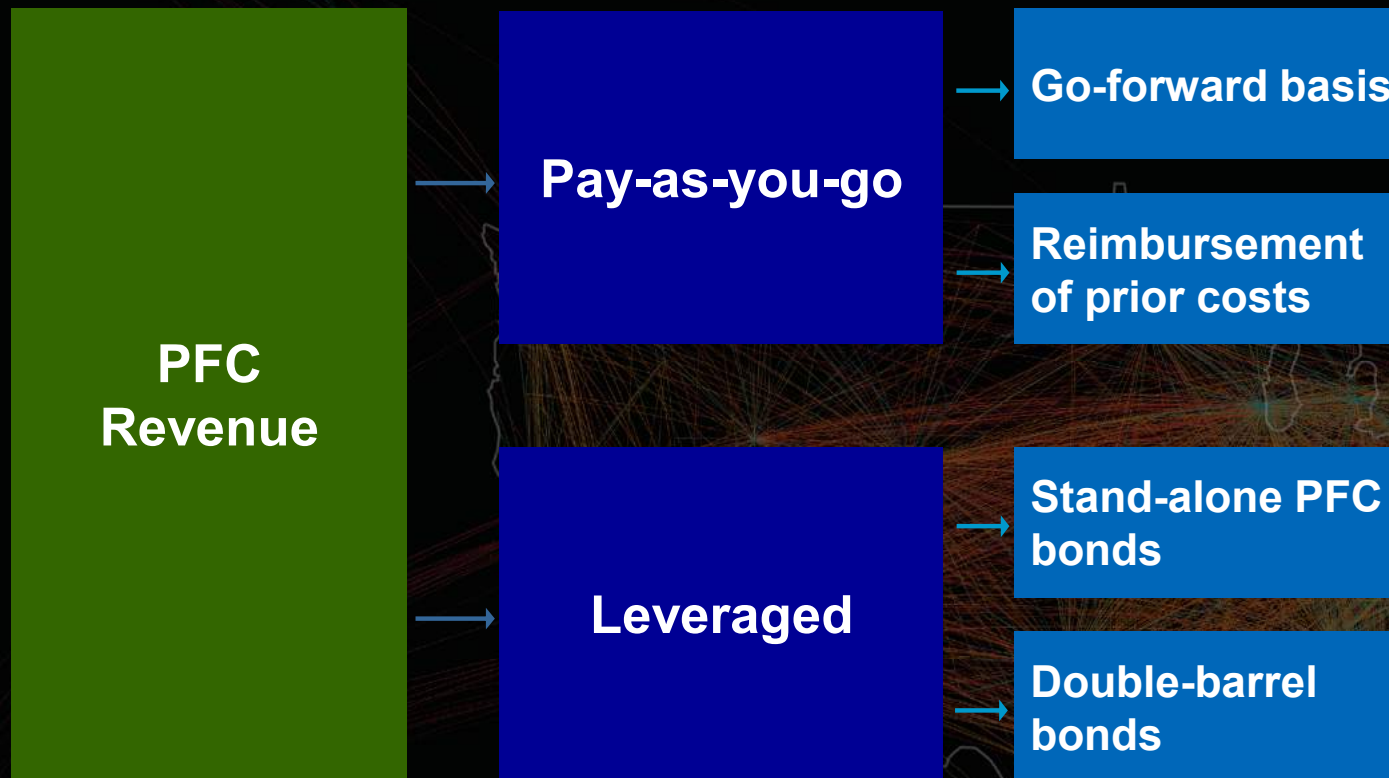
- The Anti-Head Tax Act – 49 U.S.C. 40116
- PFCs – a per passenger fee – 49 U.S.C. 40117
- FAA oversight of PFC collection and use
- Limitations on use of PFCs
 - Enhance safety, security, or capacity
 - Reduce noise
 - Increase air carrier competition
 - Not for “exclusive use” facilities

But wait, there is
more...
PFC Assurances!

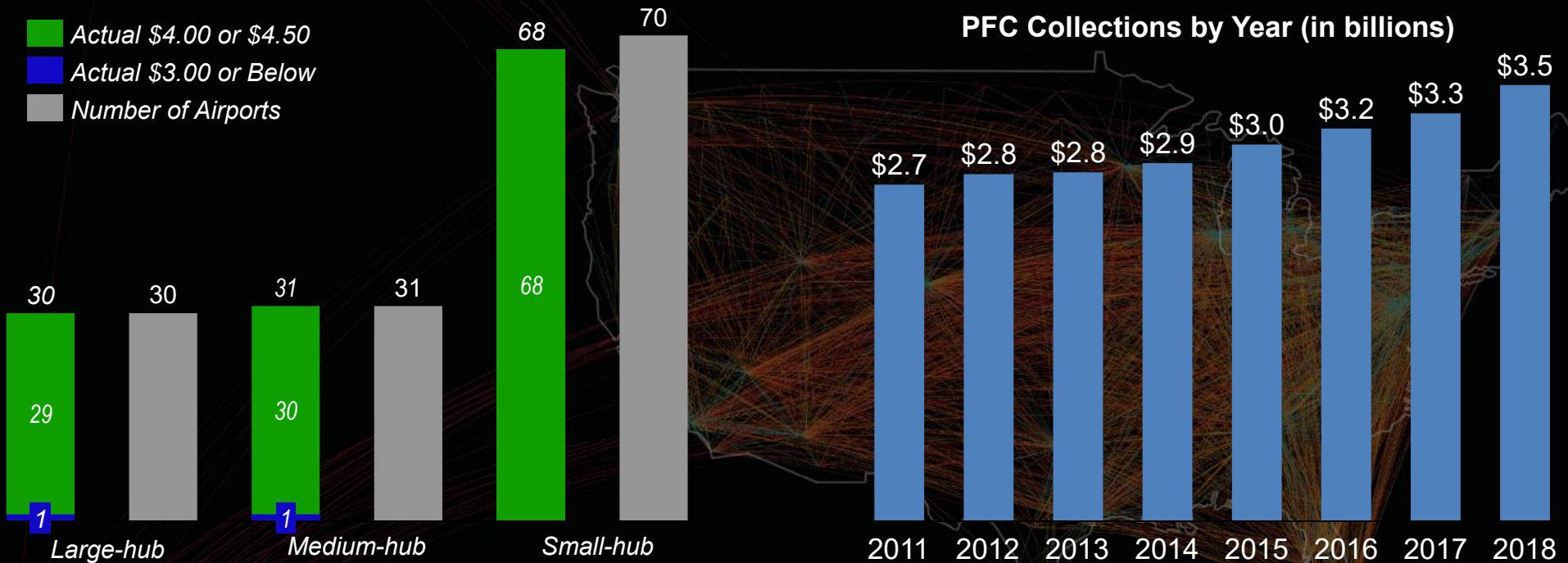
PASSENGER FACILITY CHARGES – STATUTORY DETAILS

- \$1, \$2, \$3, \$4, or \$4.50 per eligible passenger
 - Significant contribution requirements removed as part of 2018 Reauthorization for large and medium hub airports ★
- Eligibility generally same as AIP
 - Terminals primarily for movement of passengers and baggage in non-revenue producing areas
 - Excludes revenue-producing areas
- Can be used on a pay-as-you-go basis or leveraged (i.e., PFC-backed debt)

PFCS PROVIDE FLEXIBILITY IN FUNDING



AIRPORTS AT \$4.50 LEVEL, BUT COLLECTIONS ARE LARGELY OBLIGATED TO PAST PROJECTS



Source: FAA, PFC Branch, as of July 1, 2019.

OVERVIEW OF THE PFC PROGRAM

- Airlines must be consulted but have no right to approve or veto collection or use of PFCs.
- FAA approves individual projects for PFC funding and total amount of PFCs the airport may collect.
- Streamlined process for non-hub airports, to explore extending to all airport under 2018 FAA Reauthorization.
- Despite federal approval, PFCs are considered local funds; AIP requirements and assurances do not apply.

PFCS FOR NOISE MITIGATION PROJECTS

- Public agencies can use PFC funds for noise mitigation projects even if they are not in a Part 150 plan.
- The projects must meet the criteria for approval under Part 150 – but they don't have to have been in a Part 150.
- Public agencies must supply a local planning document and noise exposure map similar to a Part 150.

RELATIONSHIP OF PFCS AND AIRPORT FUNDING

- PFCS complement AIP
- Smaller airports often use PFCS to finance local matching requirements
- Larger airports use PFCS to finance terminal and airport access projects that receive little AIP funding

THE HAVES AND THE HAVE-NOTS

- Large and Medium Hub Airports
 - Higher cash flow
 - Operational revenues
 - Passenger-generated revenues
 - Significant PFC revenue
 - More self-sufficient
- Small and GA Airports
 - Cash flow challenged
 - Funding for major capital improvements difficult without grants
 - Often important to local economy



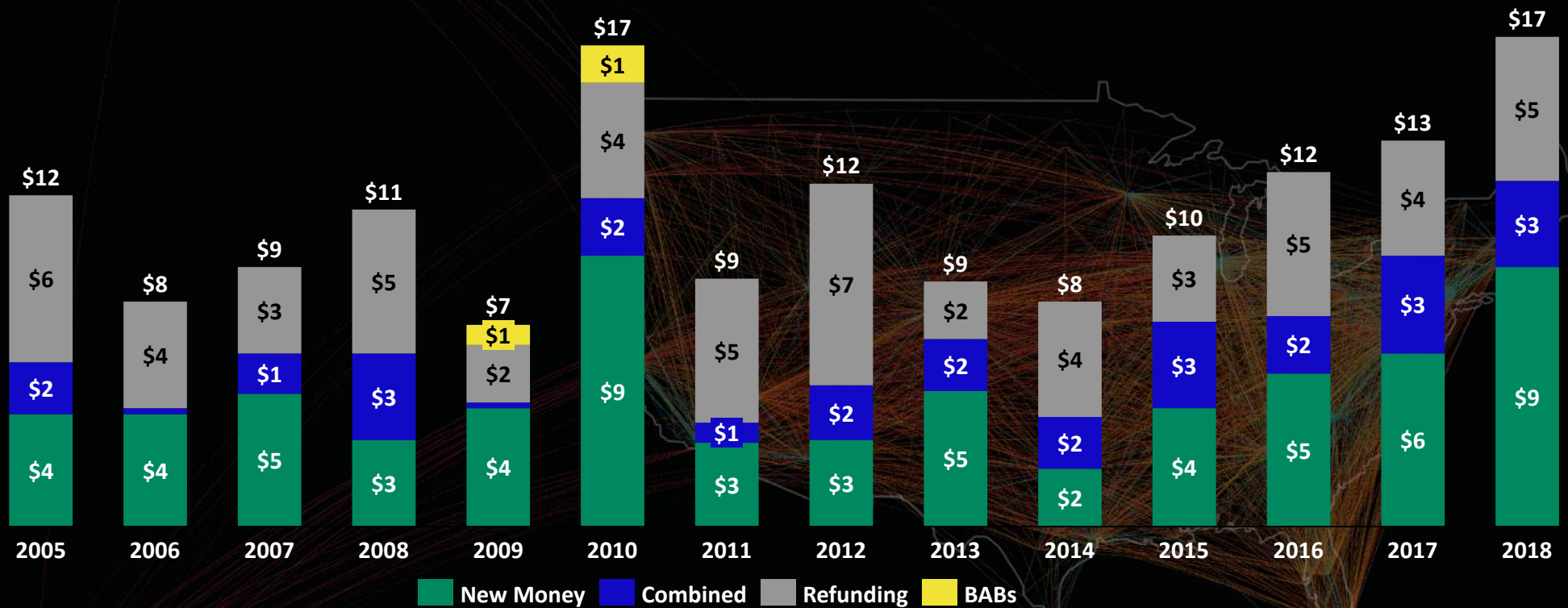
BONDS, AIRPORT BONDS

- Airport bonds
 - General airport revenue bonds (GARBs)
 - Special facility bonds
- Local government bonds
- Local agency bonds
- Tax issues
- Securities law issues



AIRPORT REVENUE BOND ISSUANCES

(IN BILLIONS)



BOND DOCUMENTS



- The Bond Indenture – covenants and more!
- The Official Statement – materiality and due diligence
- Bond purchase agreement
- Tax certificate
- Why all the certifications?

BONDS – THE PARTICIPANTS

- The Airport Attorney's role – you know your airport best
- Working with your finance colleagues
- Bond counsel
- Disclosure counsel
- Underwriters and their counsel
- Financial advisor
- The trustee
- Feasibility consultants and other professionals
- Rating agencies

REVENUE USE

- Airport revenue (in-bound cash)
 - Aeronautical fees – reasonable
 - Non-aeronautical fees – fair market value
- Permitted uses (spending)
- Unlawful diversion (the money went where???)

RATE MAKING – WHAT THE SPONSOR CAN CHARGE AERONAUTICAL USERS

- Grant Assurance requirements
 - Reasonable fees
 - Not unjustly discriminatory
- Anti-Head Tax Act
 - Prohibits state or political subdivision from charging aeronautical fees except “reasonable rental charges, landing fees and other service charges”



REVENUE DIVERSION

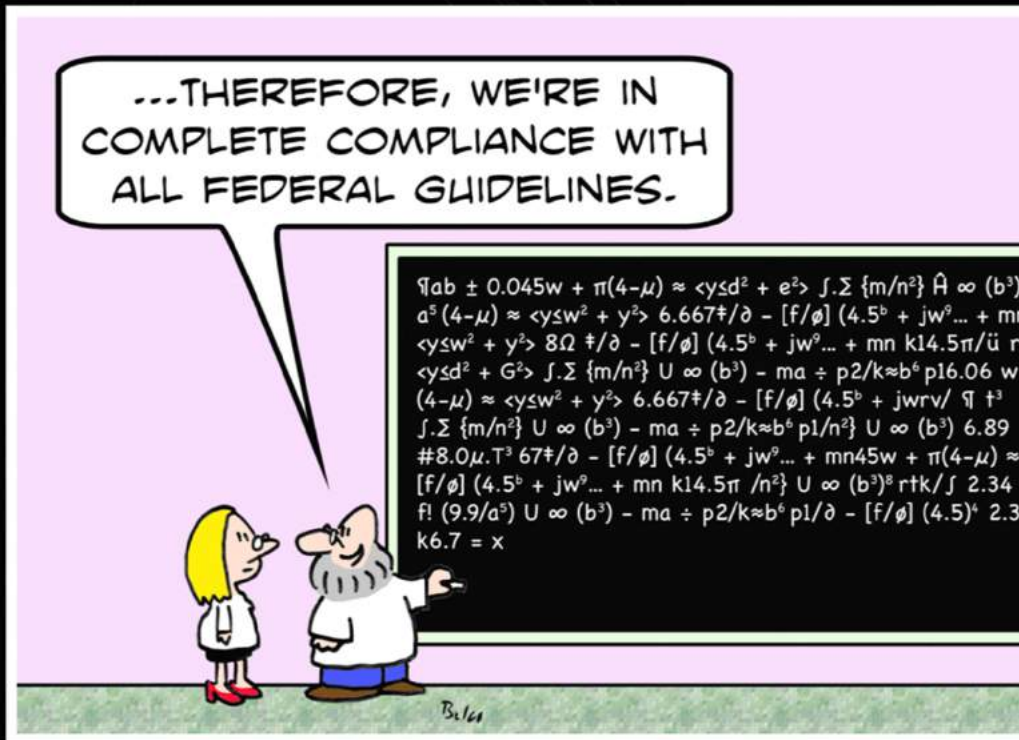
- Airport revenue—virtually all funds generated for use of the airport from any source—includes aviation fuel taxes
- Airport revenue must be used for the capital and operating costs of
 - The airport
 - The local airport system
 - Other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property

CONSEQUENCES OF REVENUE DIVERSION

- Loss of AIP grants
- Loss of PFCs
- Penalties?
- Hearing?



WRAP-UP / QUESTIONS



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