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P3 Initiatives in the USA: Government Funding and Streamlining of Regulatory Approvals

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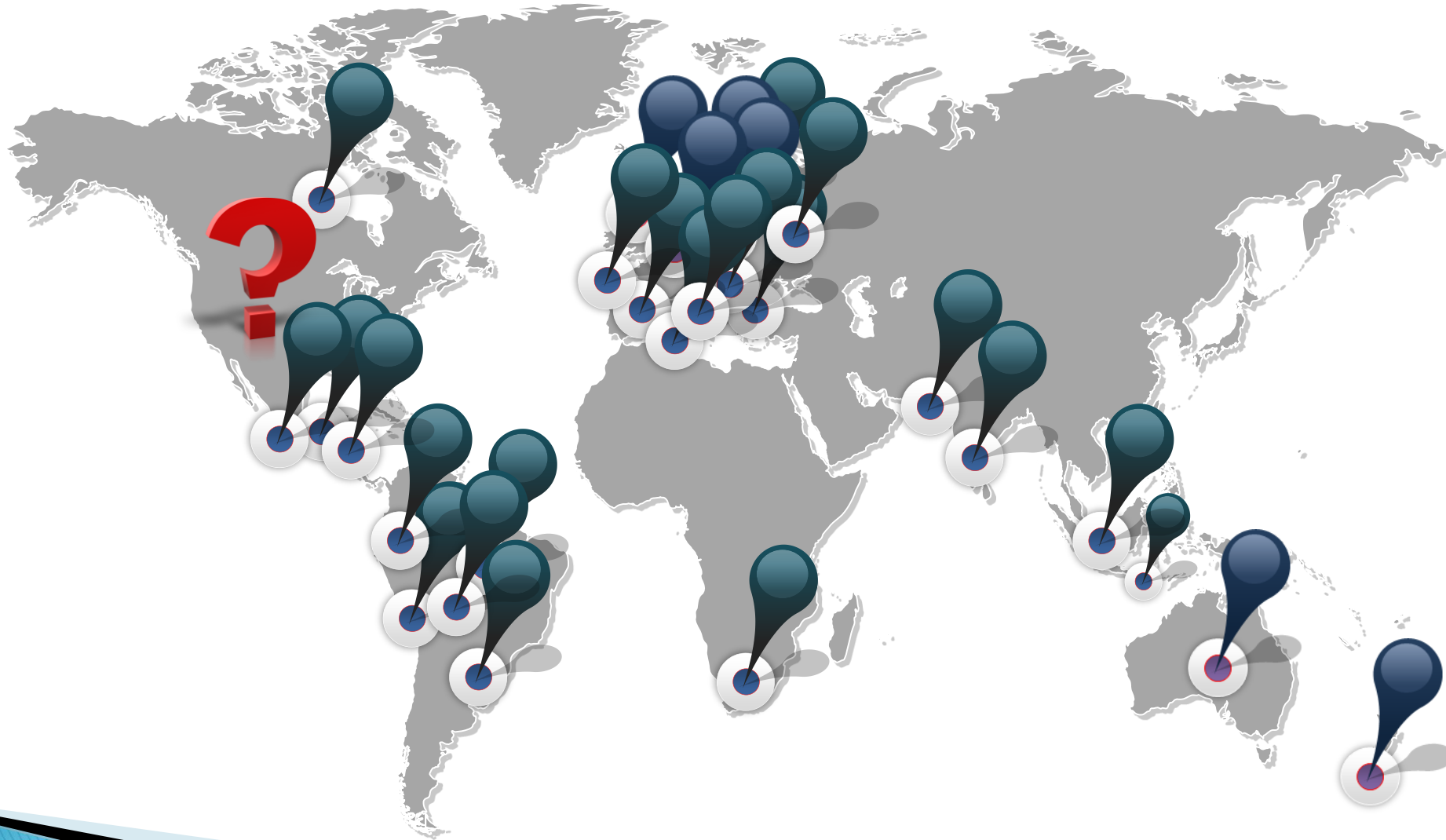
KAPLAN KIRSCH & ROCKWELL LLP

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Worldwide acceptance



News coverage has piqued interest in USA

- ▶ Expensive, high profile projects
 - LGA, JFK, STL, SJU
- ▶ Complicated (uncertain) bid processes
 - HPN, MCI
- ▶ Fierce competition
- ▶ Extended timeframes
- ▶ Highly uncertain
 - expectations
 - closing

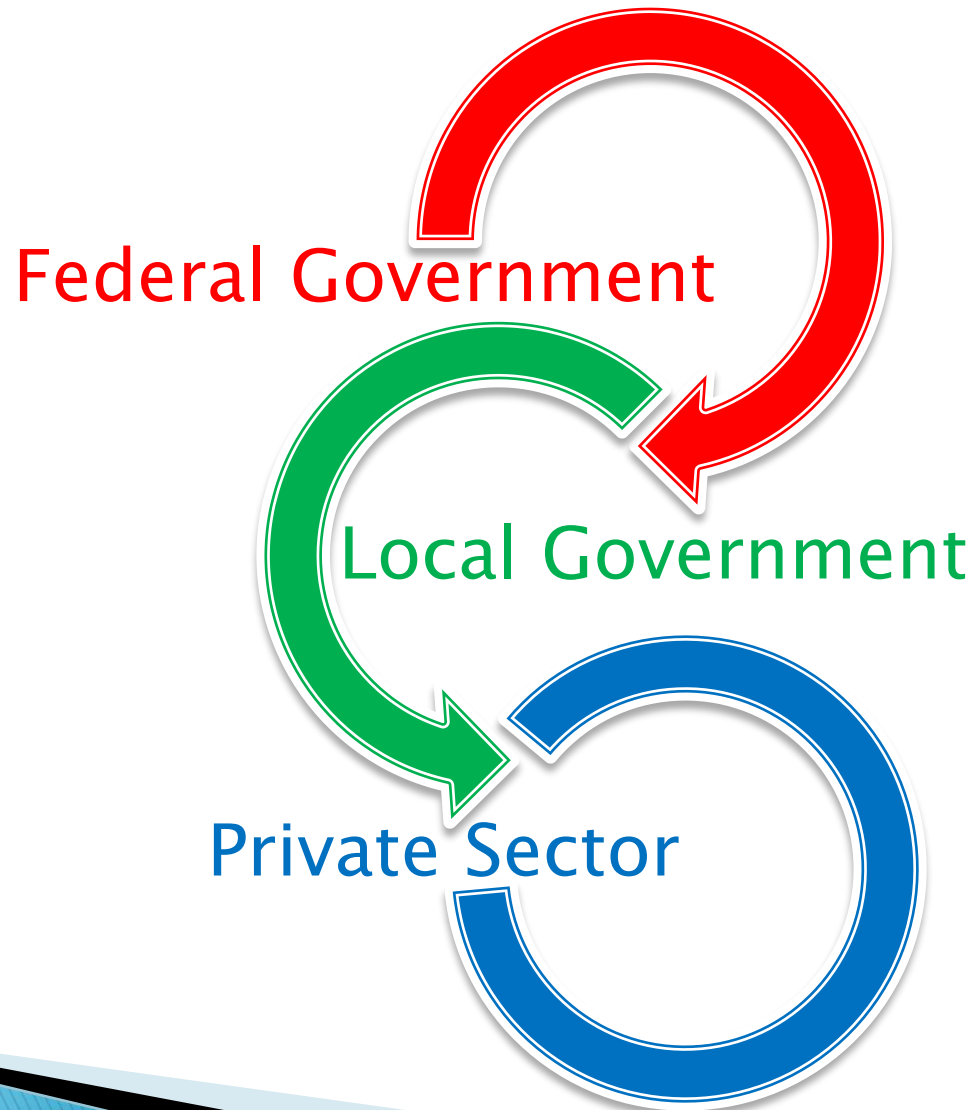


Context: USA airports

- ▶ Very few private *commercial* airports (2 ± of 550)
- ▶ Many publicly owned, operated *general aviation* airports (5,000 ±)
- ▶ Most *general aviation* airports are privately owned, operated (15,000±)
- ▶ Most commercial airports have some level of private investment



Historic responsibilities in USA



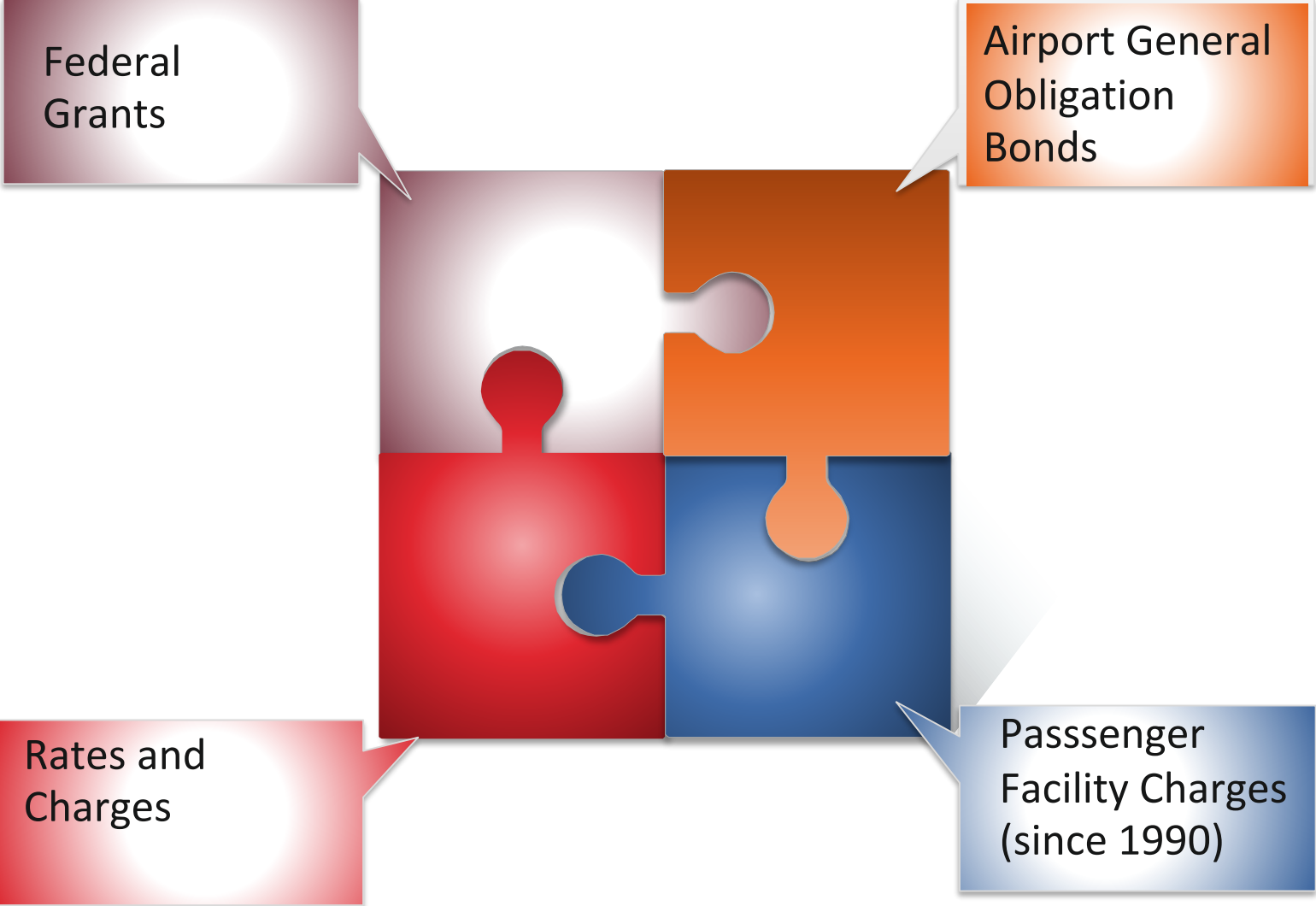
- Air traffic
- Capital funding
- Airport regulation
- Airport ownership
 - Airport control
- Airport operations
 - Airlines
 - Concessions
 - Service providers

Federal government oversight

- ▶ Grounded in capital investment
- ▶ Mostly contractual (from receipt of annual federal grants)
- ▶ Substantial regulatory supervision of airport operations and capital projects



Historic sources of capital funding



Why so little private investment

- ❌ Availability of federal grants (Airport Improvement Program) – about \$3.5bil/year
- ❌ Federal government regulatory hurdles
- ✅ Attractive municipal bond financing options
- ❌ Local control is endemic
- ✅ Needs met through traditional sources

Airport Privatization Pilot Program

- ▶ Authorized by statute 49 U.S. Code 47134 (1996)
- ▶ Substantial oversight by Federal Aviation Administration
- ▶ Maximum of 10 airports
- ▶ Few successful efforts
 - San Juan, Puerto Rico
 - Applications:
 - St. Louis, Missouri
 - Hendry County, Florida
 - ~~Westchester County, New York~~



Constraints on *full* privatization

- ▶ FAA approval authority
- ▶ Grant contracts (“Grant Assurances”)
- ▶ Legal limits on use of airport revenue
- ▶ Eligibility for future grants
- ▶ Grant repayment
- ▶ Constitutional rights and protections
- ▶ Property tax exemption
- ▶ Anti-trust immunity
- ▶ Passenger facility charges



Recent policy shifts favor P3s

- ▶ Administration's \$1 Trillion infrastructure *idea*
- ▶ Declining role of federal grant funds
- ▶ Declining value of Passenger Facility Charge (unchanged at \$4.50 for decades)
- ▶ Increased marketplace comfort
- ▶ Deferred or backlogged projects
- ▶ Local government contracting, hiring impediments
- ▶ Airline profitability has returned



Successful public private partnerships

- ▶ View airport **functions**, not **entire** airport
- ▶ Balance control
 - Revenue-producing function
 - Federally regulated airfield
- ▶ Speed and efficiency of project delivery
- ▶ Understand where private sector is value-added
- ▶ Appreciate how USA is behind rest of world!



Illustrative P3 precedents

- ▶ Large hub
 - LGA/ JFK terminals
 - LAX people mover
- ▶ Intermodal connections
 - DEN rail connection
- ▶ Commercial passenger functions
 - PAE (Everett, WA)
 - AUS (Austin, TX)
- ▶ Design, build without operate, maintain
 - HOU (Houston, TX)

Paine Field (Seattle area)



Modest terminal



Customer service focus



Market opportunities

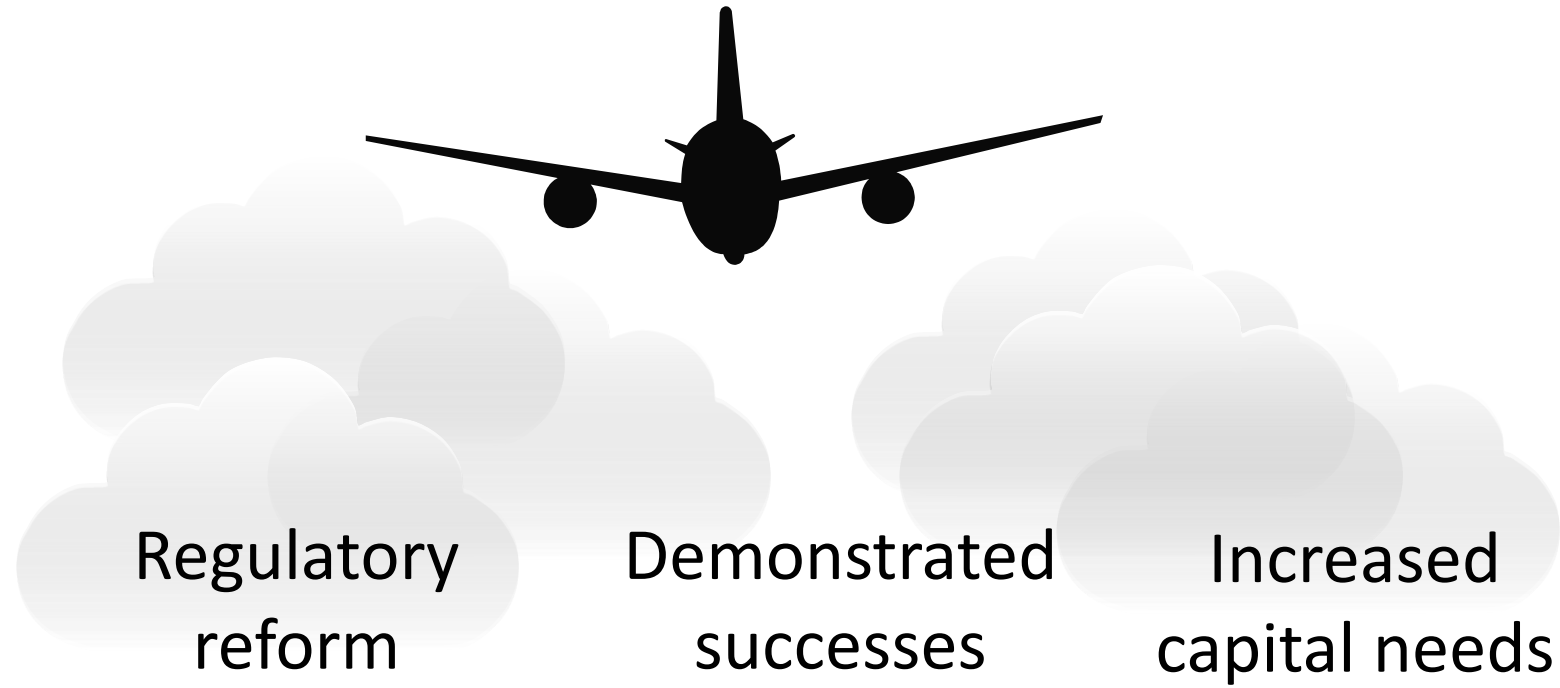


Regulatory challenges

- ▶ Unfamiliarity with market demands
- ▶ Federal control
- ▶ Complex, rigid contracting requirements
 - DBFOM?
- ▶ Bureaucracy (“we have not done that before...”)
- ▶ Accountability to federal regulators

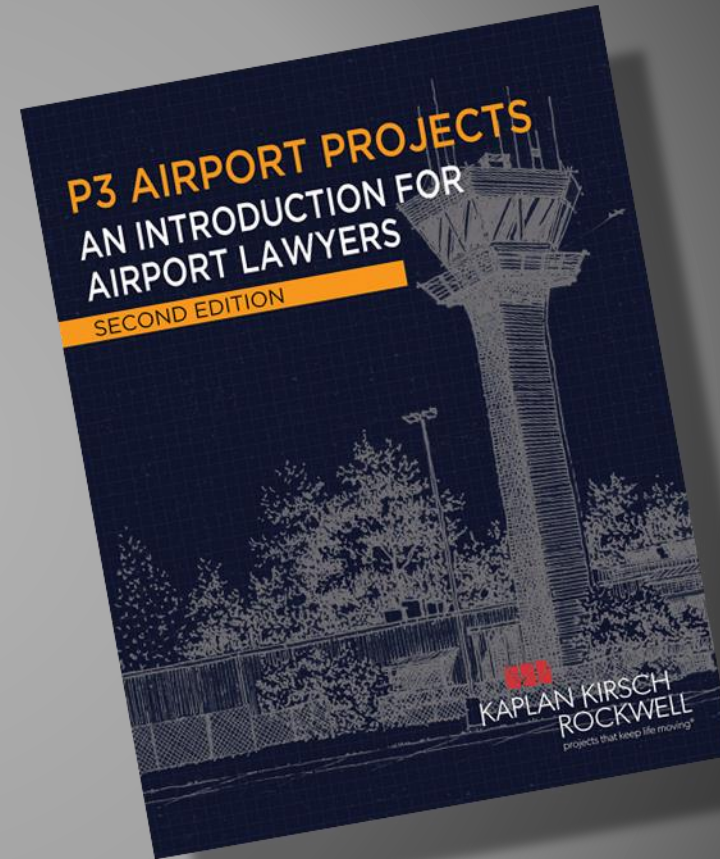


What's next



Thanks!

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