

North Carolina

DEPARTMENT OF TRANSPORTATION

Procuring, Negotiating and Reviewing Aviation Contracts

Southeast Audit and Engineering
Meeting

Basil Yap, Airport Project Manager
September 9, 2014



Agenda

- Organizational Structure
- History of FAA and Division of Aviation
- Distribution of Funds
- Aviation Contracts
- Questions

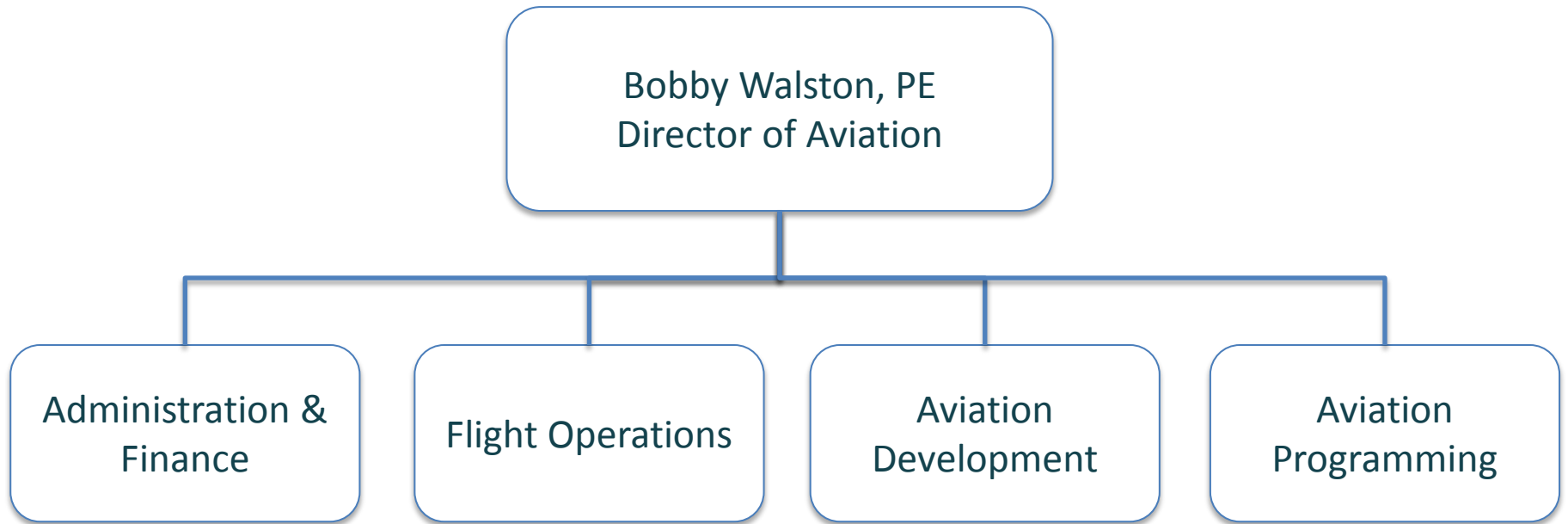
NCDOT – Division of Aviation

Mission Statement

Promote the economic well being of North Carolina through air transportation system development and improved aviation safety and education.



Division of Aviation Organization Chart



NCDOT – Division of Aviation

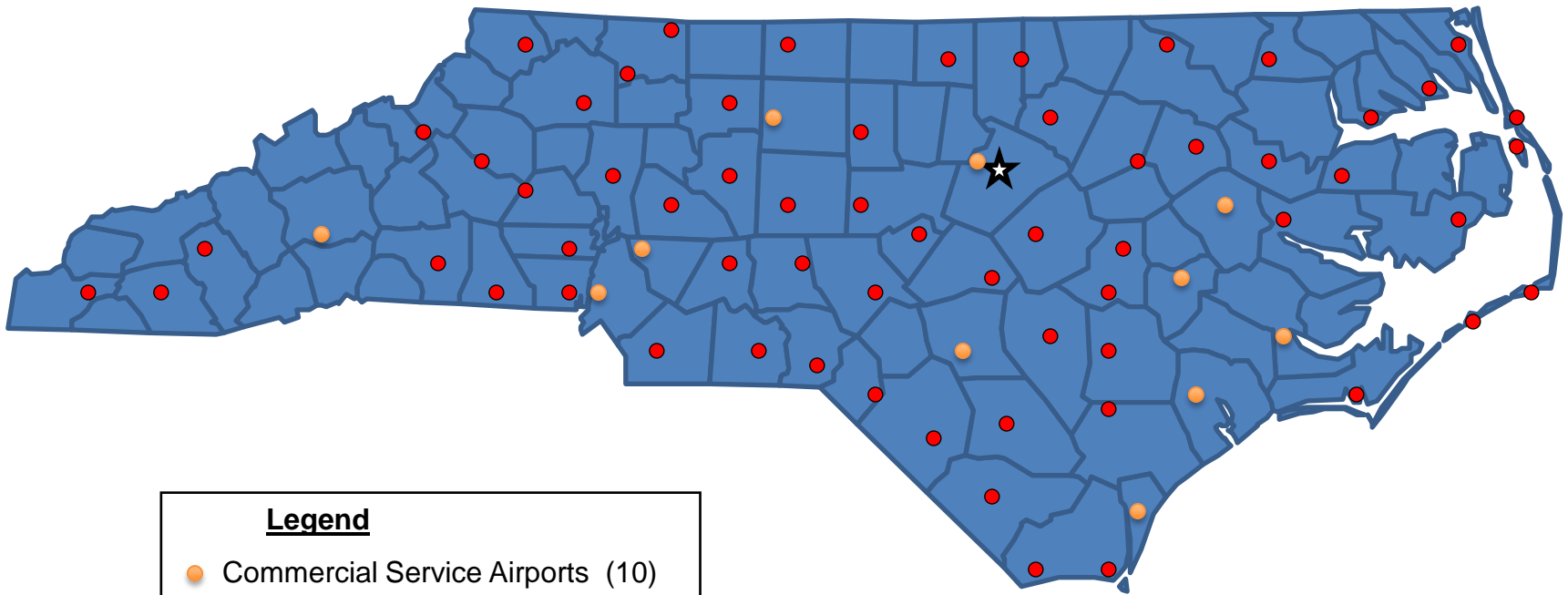


NCDOT – Division of Aviation

Headquartered and located at the Raleigh-Durham (RDU) International Airport



Our System of Airports



(74 Publicly Owned / Publicly Operated Airports)

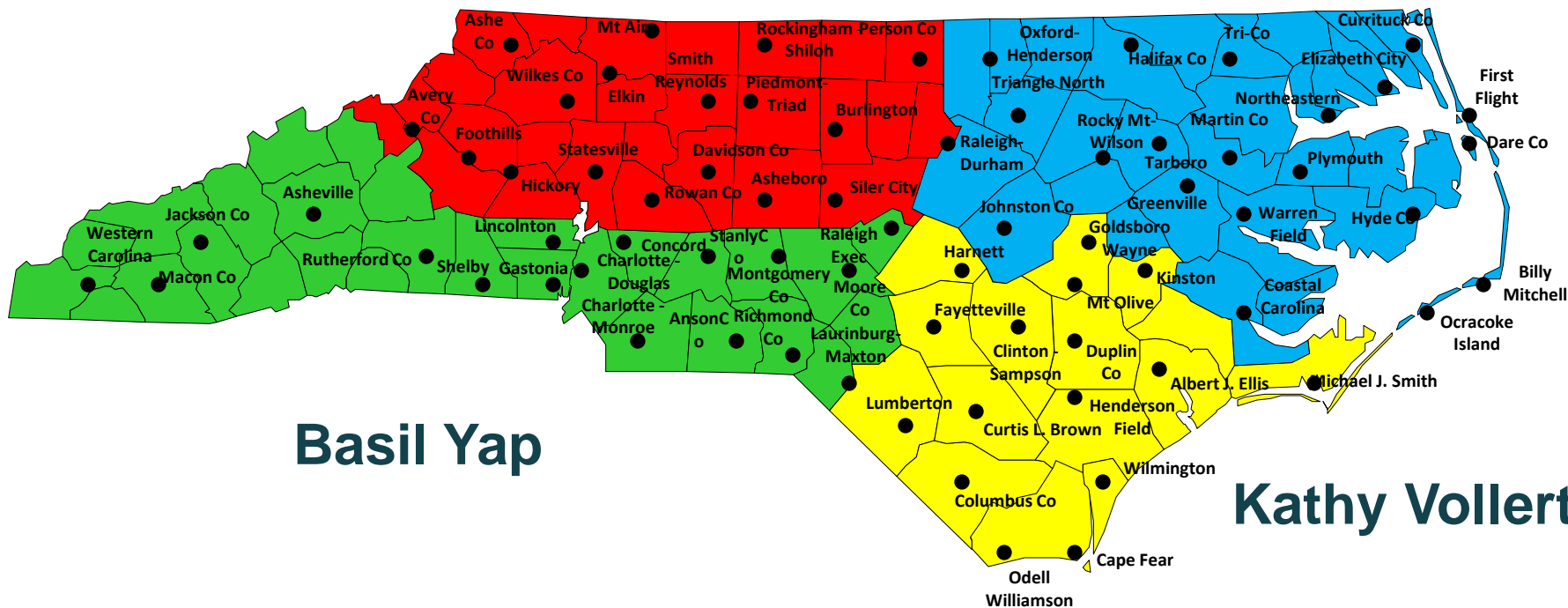
NC Airports

- 74 Public Owned/Operated
 - 10 Commercial Service
 - 64 General Aviation
- 37 Private Owned/Public Use
- 300 Private Owned/Private Use
- TOTAL: 411
- National Park Service
 - Ocracoke Island
 - Billy Mitchell (Hatteras)
 - First Flight

Airport Project Managers

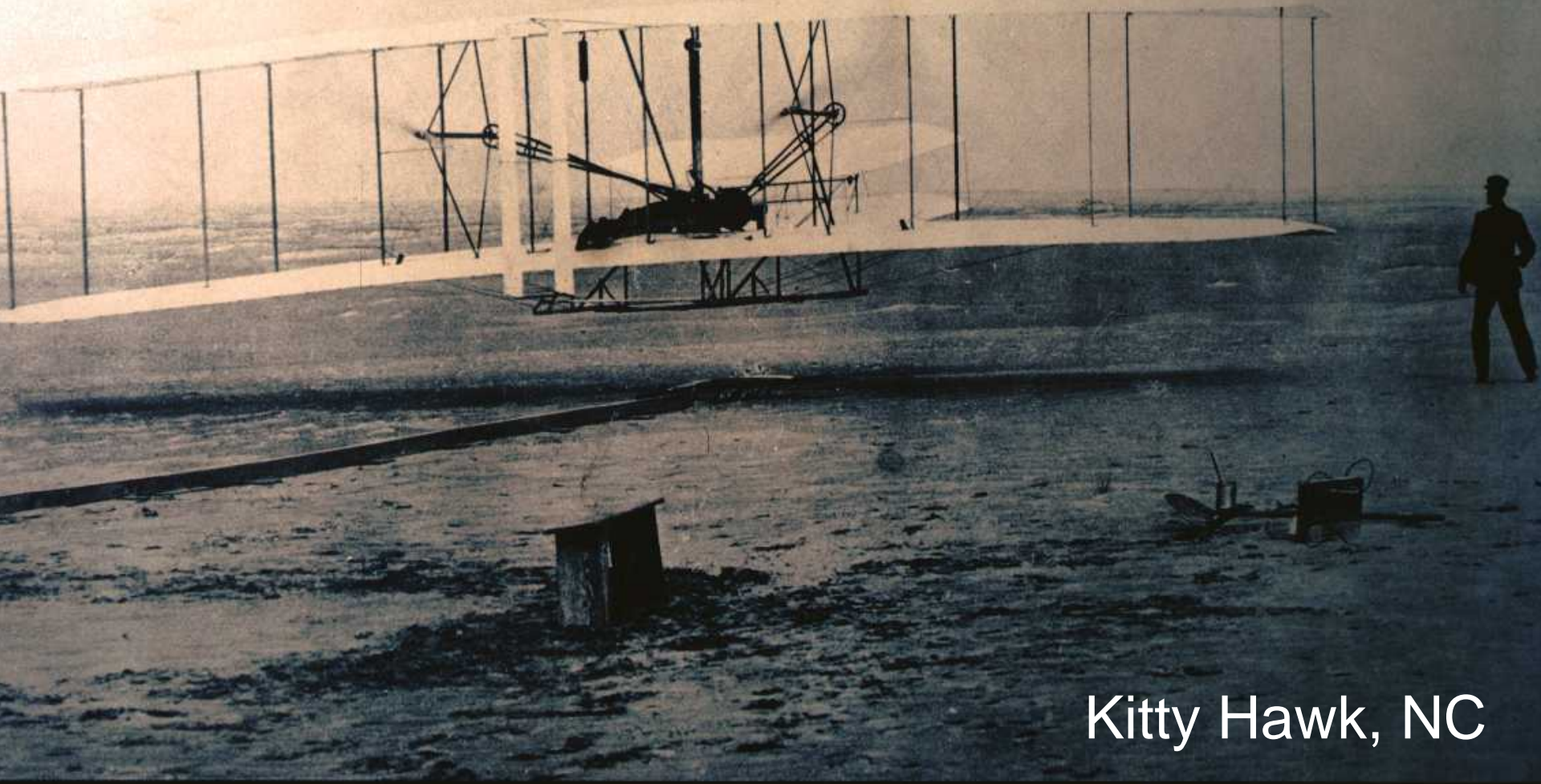
Rachel Bingham

Philip Lanier



Wright Brothers World Famous Flights

The first successful sustained powered flights in a heavier-than-air machine were made here by Wilbur and Orville Wright on December 17, 1903.



Kitty Hawk, NC

FAA and Division of Aviation History

- 1926 – Air Commerce Act created Aeronautics Branch under the Department of Commerce
- 1938 – Civil Aeronautics Act creates a new independent agency Civil Aeronautics Authority
- 1941-1945 - World War 2 – Creation of many airfields within North Carolina
- 1946 – Federal Aid to Airport Program created



FAA and Division of Aviation History

- 1958 - Congress set up the Federal Aviation Agency to provide funding for airports
- 1965 – Aviation Specialist within the Department of Conservation and Development
- 1966 – FAA moves under the New Department of Transportation
- 1967 - NC General Assembly passed first “State Aid to Airports Program” funds



FAA and Division of Aviation History

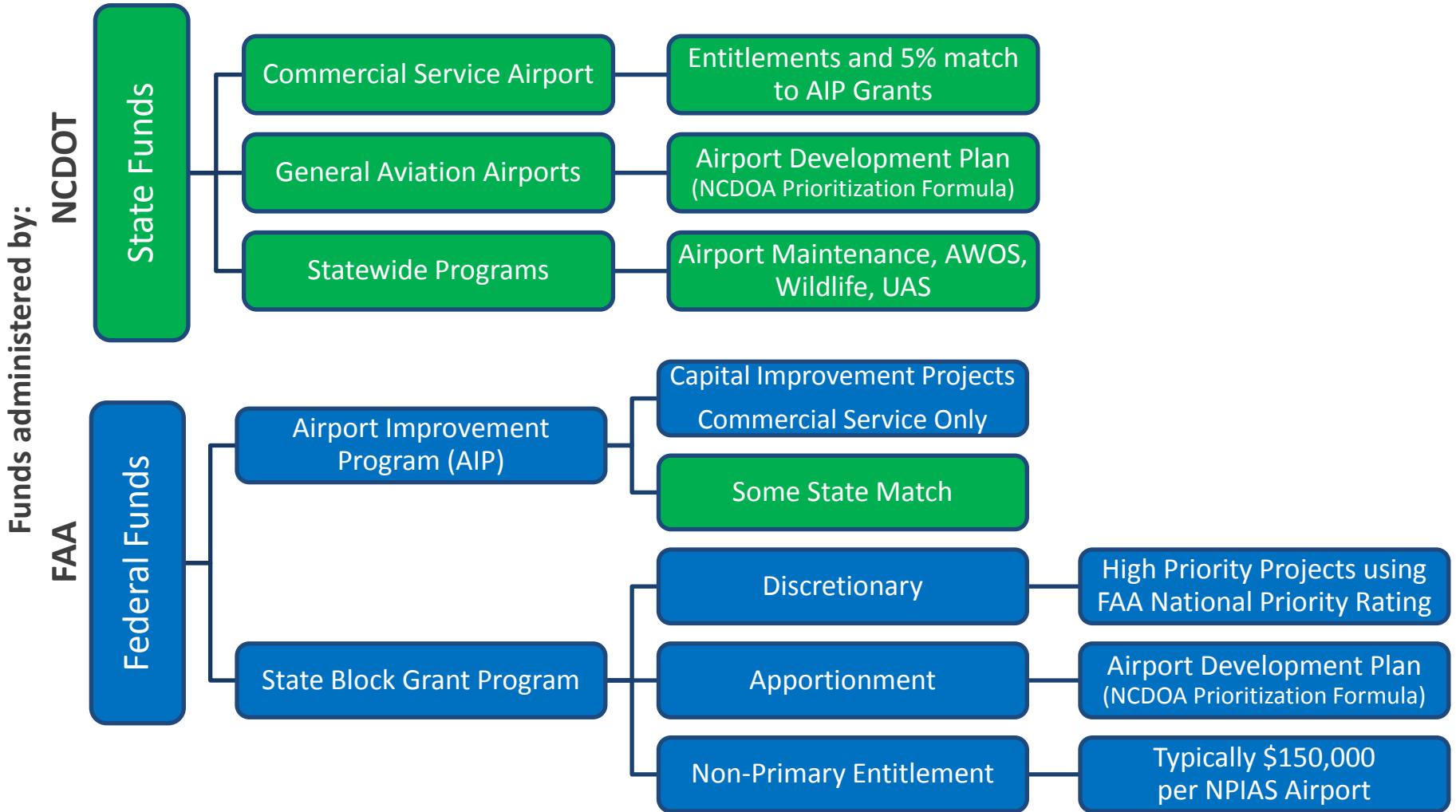
- 1970 – Airport and Airway Development Act creates new airport aid program
- 1973 - Aviation was included in the “new” NC Department of Transportation
- 1974 - NCGA provided \$2 million for NC airports
- 1982 – Airport and Airway Improvement Act established the Airport Improvement Program



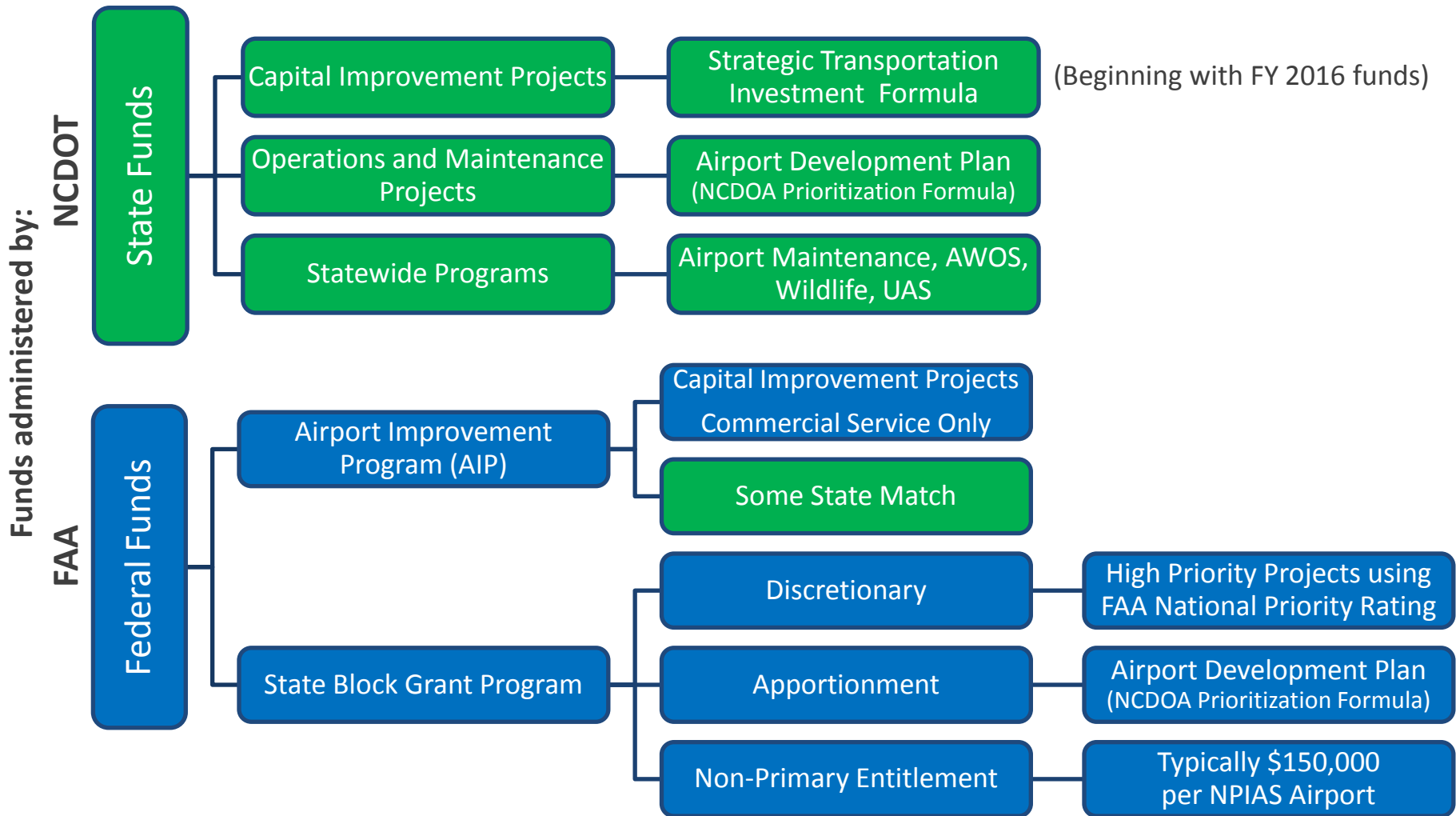
FAA and Division of Aviation History

- 1987 - NCGA revised its funding approach taking into account taxes collected on aviation products and services
- 1990 - Began administering the FAA State Block Grant Program
- 2005 - Division of Aviation funding source moved from the General Fund to the Highway Fund
- 2015 – Funding provided through Strategic Transportation Investment (STI) Program

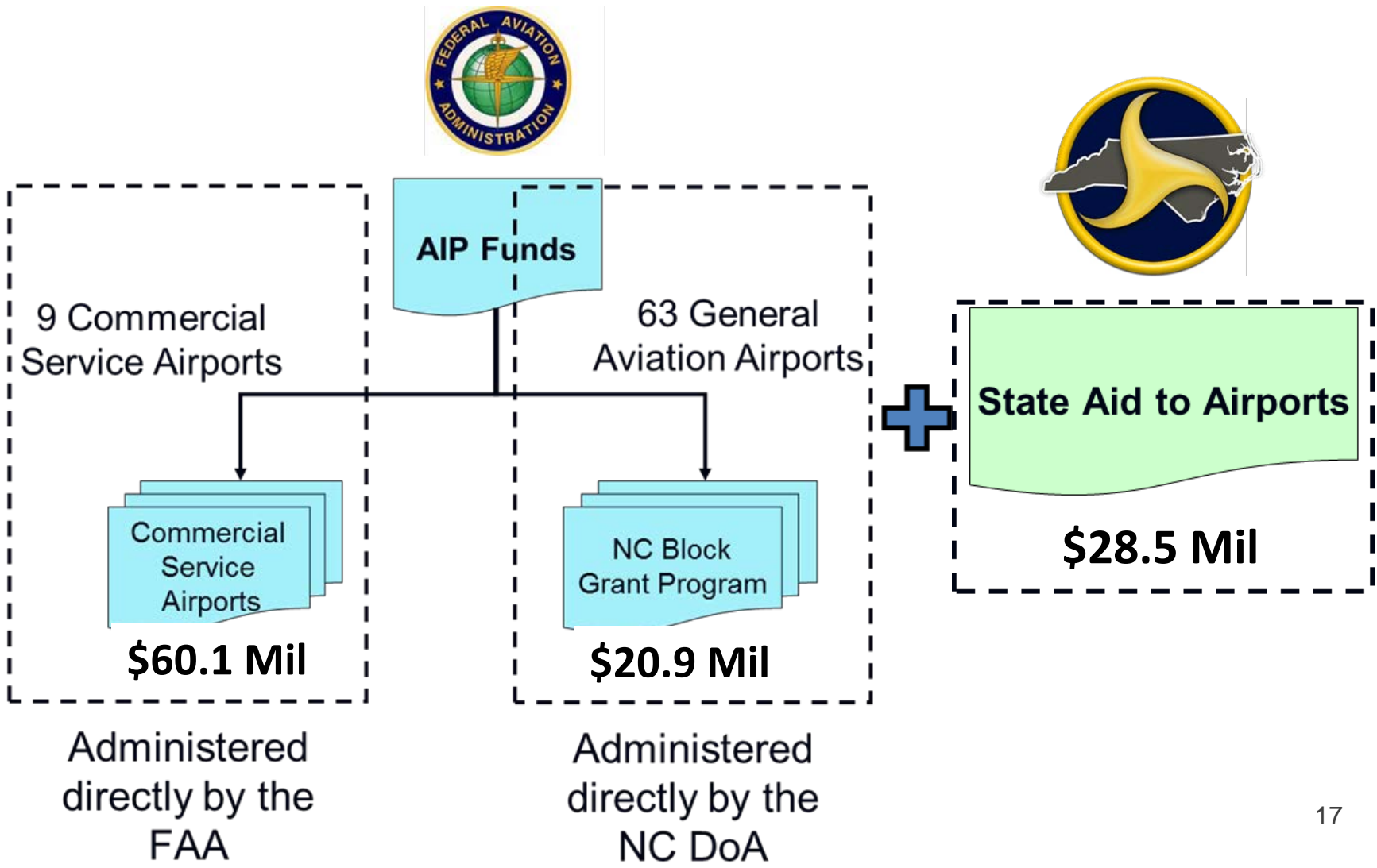
Available Airport Funding



Available Airport Funding



2013-2014 Funding



2013-2014 Funding

FY 14 State Funding - \$28.5M

FY 13 Federal Funding - \$20.9M

- Apportionment - \$5.3M
- Discretionary - \$4.5M
- Non-Primary Entitlement - \$10.1M
- Primary Entitlement - \$1.0M



Current Project Requests

Projects entered into NC Partner Connect

- 900+ projects totaling over \$1.6 billion

Projects being submitted for consideration in STI

- 498 projects totaling over \$1.3 billion

Projects submitted for Operations & Maintenance consideration

- 300+ projects totaling over \$250 million

Airport Project Types



Economic Impacts of NC Airports

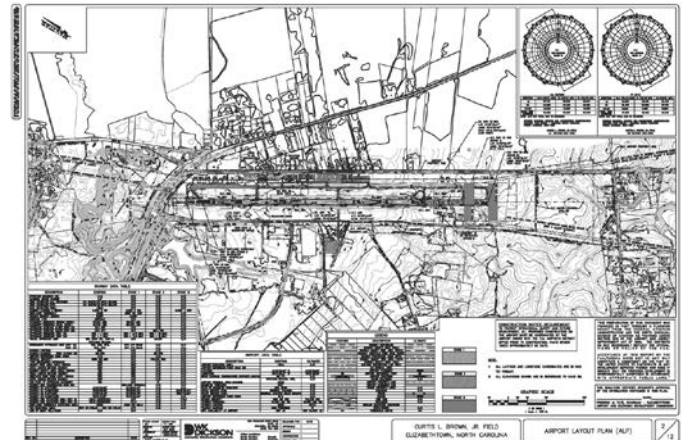
Commercial and General Aviation Airports provide more than \$25.9 Billion in economic impact each year

Commercial and General Aviation Airports support over 108,000 jobs throughout NC



Aviation Contracts

- Architectural/Engineering (A/E) Services
 - Division of Aviation Contracts
 - Statewide System Planning
 - Design/Construction Review
 - Project Inspection/QA Testing
 - 5010 Inspections
 - Airport (Sponsor) Contracts
 - Planning
 - Design
 - Environmental
 - Construction Administration
 - Project Inspection



Aviation Contracts

- Funding Sources
 - Division of Aviation Contracts
 - FAA Discretionary Funds
 - State Funds
 - Airport (Sponsor) Contracts
 - FAA Discretionary, Apportionment, or NPE Funds
 - State Aid to Airports Funds



FAA's policies and procedures

From FAA: “Policies and procedures for procurement of professional services are established in Federal Regulation **Title 49 CFR Part 18**. The Airport and Airway Improvement Act (AAIA) of 1982, as amended, serves as the enabling legislation. Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects, serves as the official FAA guidance for sponsors to assure conformance with Title 49 CFR Part 18.”

Additional Guidance:

- AIP Handbook FAA Order 5100.38C
 - Chapter 9. Procurement and Contract Requirements
- Advisory Circular FAA 150/5100-14D
 - Advises how to comply with 49 CFR 18 and 48 CFR 31

State Funds treated as Federal Funds

- North Carolina Administrative Code
- Title 19A – Transportation - Chapter 05 – Administration .0301
Adoption of Federal Contract Guidelines
 - (a) In order to provide consistency and uniformity in the administration of all contracts, these the following guidelines including any subsequent amendments or editions of the same are hereby incorporated by reference as rules of the North Carolina Department of Transportation to be used as contract guidelines on non-federally funded projects.

State Funds Contd.

Title 19A – Transportation - Chapter 05 – Administration

.0301 Adoption of Federal Contract Guidelines

(b) The guidelines hereby incorporated are:

(2) Code of Federal Regulations

Title 48 Part 31.2 (48 CFR 31.2) Contracts with commercial organizations

Title 49 Part 18 (49 CFR 18) Uniform administrative agreement for grants and cooperative agreements with state and local governments

Grant Assurances

- Federal Grant Assurances

- Sponsor Certification

- 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments

- Grant Assurance #32 Engineering and Design Services

- It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under **Title IX of the Federal Property and Administrative Services Act of 1949** or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

Division of Aviation Contracts

- Utilized Professional Services Management
 - RFQ
 - NCDoA chooses firms
 - Prequalified firms
 - Scope of Services
 - NCDoA create and review
 - Fee Estimate
 - NCDoA review, comment, and negotiate
 - PSM review audited overhead, direct expenses, etc..
 - Contract Management
 - NCDOT PSM
 - NCDoA

General Aviation Airport Contracts

- RFQ
 - Sponsor
 - NCDotA reviews for compliance
- Scope of Services
 - Sponsor and Consultant
 - NCDotA reviews and comments
- Fee Estimate
 - Sponsor and Consultant negotiate
 - NCDotA reviews, completes fee analysis, and comments
- Contract Management
 - Sponsor holds contract, submits invoices for reimbursement
 - NCDotA reviews submitted invoices

Compliance

- 49 CFR Part 18.36, 48 CFR Part 31
 - Qualification-Based selection (RFQ)
 - Scope of Service
 - Fee Estimate
 - Cost Analysis

49 CFR 18

- 18.3 Definitions

- *Grantee* means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.
- *Subgrantee* means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.

49 CFR Part 18.36

- (t) FHWA, UMTA, and Federal Aviation Administration (FAA) grantees and subgrantees **shall** extend the use of qualifications-based (e.g., architectural and engineering services) contract selection procedures to certain other related areas and shall award such contracts in the same manner as Federal contracts for architectural and engineering services are negotiated under **Title IX of the Federal Property and Administrative Services Act of 1949**, or equivalent State (or airport sponsor for FAA) qualifications-based requirements.

49 CFR Part 18.36

- (f) Contract cost and price-
 - (1) Grantees and subgrantees must perform a cost or price analysis in connection with **every procurement action** including contract modifications.
 - (2) Grantees and subgrantees will negotiate **profit** as a **separate element** of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.

49 CFR Part 18.36

- (f) Contract cost and price-
 - (3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with **Federal cost principles (see §18.22)**. Grantees may reference their own cost principles that comply with the applicable Federal cost principles..

49 CFR Part 18.22

- (b) Applicable cost principles-
 - For the costs of commercial organizations (A/E) use the principles in 48 CFR Part 31
- 48 CFR Part 31 Contract Cost Principles and Procedures
 - Addresses, among other things, indirect costs (overhead rates) and direct costs

48 CFR Part 31

- General Contracting Requirements
 - Indirect Costs (Overhead Rate)
 - 48 CFR 31.105(c)(2) – A/E Contracts
 - Negotiating indirect cost rates.
 - 48 CFR 31.110 – Indirect cost rate certification and penalties on unallowable costs.
 - Certain contracts require certification – 42.703-2
 - If unallowable costs included penalties may be assessed
 - 48 CFR 42.703-2
 - Indirect cost rates certified prior to contractual agreement
 - Commercial organizations not exempt

48 CFR 31.2

- Contracts with commercial organizations
 - 48 CFR 31.201-3 Determining reasonableness
 - A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business.
 - 48 CFR 31.201-7 A/E contracts
 - Follow 31.000 series and 31.100 series
 - 48 CFR 31.203 – Indirect cost rate
 - Accounting period – 12 months

Oversight Role for NCDotA

- Block Grant Assurances
 - 2. Ineligible or Unallowable Costs. The State must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
- Sponsor Federal Grant Assurances
 - By accepting an AIP Grant the sponsor assures and certifies that it will comply with 49 CFR Part 18
- FAA Order 5100.38C
 - Chapter 9. Procurement and Contract Requirements – FAA Airport Office personnel are required to assure that a proposed procurement meets the standards of Part 18.36.

Awarding Agency

- 49 CFR 18.11 State plans
 - State plan shall comply with all applicable Federal statutes and regulations
- 49 CFR 18.36 Awarding agency review
 - (g)(1) – Review of technical specifications
 - (g)(2) – Pre-award review of procurement documents
- 49 CFR 18.37 Subgrants
 - (a) States role with local governments
 - (2) Ensure that subgrantees are aware of requirements imposed upon them by Federal statute and regulation
- 49 CFR 18.43 Enforcement
 - Authority to recover funds

Questions

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bkyap@ncdot.gov



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