

The Influence of Contemporary Politics on Policy:

Sequestration and Federal Contract Towers

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ABSTRACT

On March 1, 2013, President Barack Obama ordered sequestration pursuant to the Budget Control Act of 2011 and the American Taxpayer Relief Act of 2012 (OMB 2013). The statutes require ten year funding caps in discretionary budgets at most Federal agencies and departments through amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 (GPO 2011, GPO 2012). As part of these budget caps, the law reduced the Federal Aviation Administration (FAA) Fiscal Year 2013 Operations Budget by 5.3% (Elias 2013). To stay within the sequester mandated funding limits, the FAA announced on March 22, 2013 the decision to reduce funding for the Federal Contract Tower (FCT) Program and proposed closing 189 of 251 air traffic control towers operated through seven contracts with three vendors.

This paper develops a case study analysis regarding the impact of politics on policy process through the Federal Contract Tower Program. Initially, the FAA developed a policy regarding shutdown of FCT sites based upon the number of annual operations. This policy provided for a secondary review utilizing criteria regarding national impact (FAA 2013d).

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However, special interest politics soon intervened. Organizations such as the Aircraft Owners and Pilot Association (AOPA), American Association of Airport Executives (AAAE), and the U.S. Contract Tower Association (USCTA) quickly leveraged grass root lobbying campaigns. As a result, special interest politics trumped partisan politics and countered the goals articulated in statute. This paper explores the implications of political influence upon future policy decisions at the FAA and develops recommendations to mitigate adverse influence.

I. Introduction and Background

On March 1, 2013, President Barack Obama ordered sequestration pursuant to the Budget Control Act of 2011 and the American Taxpayer Relief Act of 2012 (OMB 2013). The statutes require ten year funding caps in discretionary budgets at most Federal agencies and departments through amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 (GPO 2011, GPO 2012). These automatic reductions, known as sequester, resulted when the deadline expired for a deficit reduction agreement mandated by the American Taxpayer Relief Act of 2012 (GPO 2012). As part of these budget caps, the law reduced the Federal Aviation Administration (FAA) Fiscal Year 2013 Operations Budget by 5.3% (Elias 2013).

To stay within the sequester mandated funding limits, Secretary of Transportation Ray LaHood and FAA Administrator Michael Huerta issued a letter on February 22, 2013 stating that the FAA will take cost cutting actions to stay within the budget limitations (FAA 2013a). Among the actions the FAA announced were furloughing most of the

workforce, closing over 100 air traffic control facilities, eliminating overnights shifts at over 60 control towers, and reducing preventative maintenance for air traffic control equipment (FAA 2013b). The criteria for closing air traffic control facilities were airports with fewer than 150,000 flight operations or 10,000 commercial operations per year (FAA 2013a). Included in the facilities that could be closed were 189 of 251 airport traffic control towers operated by contractors under the Federal Contract Tower (FCT) program (FAA 2013b).

A. The Federal Contract Tower Program

The FCT Program resulted from the air traffic controller strike of 1981 to provide air traffic services at low-activity airports (Elias 2013). Initially, five airports participated in a pilot program (Elias 2013, Mills 2012). The number of towers grew to 27 by 1993. As a result of recommendations from Vice President Al Gore's National Performance Review, the FCT Program expanded to 160 locations in 1997 (Elias 2013). In 2012, the budget for the FCT Program was approximately \$130 million annually (Elias 2013). To manage the program, the FAA developed APO 90-7 as criteria to establish or discontinue airport traffic control towers, including contracted towers (Mills 2012).

The establishment and discontinuance criteria utilize an analysis with a benefit/cost ratio at or above 1.0 to continue or establish a control tower (Elias 2013, FAA 1990, Mills 2012). Benefits include monetized lifecycle efficiency and safety while costs include lifecycle operations and maintenance (Elias 2013, FAA 1990, Mills 2012). However, fluctuations in the economy and natural business cycle contribute to variation

in aircraft traffic volume that, in turn, causes the benefit/cost ratio to fluctuate above and below 1.0 (Mills 2012). As a result, Congress funded a program in 1999 that allowed an airport to enter into a cost-share agreement with the FAA for that portion of funding that fell below the benefit/cost ratio of 1.0 (FAA 2006, Mills 2012). This meant that an airport with a benefit cost ration of .75 might elect to participate in the FCT Program, if they contribute 25% of the operating cost (Elias 2013, FAA 2006, Mills 2012). Further, in 2012 Congress capped airport contribution at 20% regardless how far the benefit/cost ratio fell below 1.0 (Elias 2013, Mills 2012). As a result, sixteen of the locally funded cost share control tower were excluded from sequester driven closure (Elias 2013). Table 1 highlights the growth of the FCT Program and cost-share towers since 1999.

Table 1
The Growth of the FCT Program, 1999-2012

Year	Federal Contract Towers	Cost-Share Towers	Aircraft Serviced By FCT	Aircraft per FCT	FCT Funding (Millions)	Cost-Share (Millions)
1999	186	0	18,991,627	102,106	\$47.3	N/A
2000	199	0	19,727,960	99,135	\$50.0	\$5.0
2001	206	10	19,115,831	92,795	\$55.3	\$5.0
2002	219	18	19,343,790	88,328	\$70.5	\$6.0
2003	219	30	18,514,967	84,543	\$78.0	\$6.0
2004	226	24	18,467,130	81,713	\$80.0	\$7.0
2005	231	33	18,244,307	78,980	\$86.0	\$7.0
2006	233	26	18,111,558	77,732	\$90.5	\$7.5
2007	239	32	18,263,323	76,416	\$97.5	\$8.0
2008	242	16	16,916,866	69,904	\$103.0	\$8.5
2009	245	16	14,997,481	61,214	\$110.0	\$9.5
2010	246	16	14,117,383	57,388	\$116.7	\$9.5
2011	248	16	13,903,105	56,061	\$111.0	\$9.5
2012	251	16	13,898,368	55,593	\$117.3	\$10.3

Note: Data from Mills (2012)

B. Special Interests Rally to Protect FCT Program from Sequester

The American Association of Airport Executives (AAAE) and U.S. Contract Tower Association (USCTA), an affiliated organization, issued a press release on February 25, 2013 in response to the Secretary LaHood's and Administrator Huerta's February 22, 2013 announcements of possible sequester driven cuts. Citing concerns about safety, efficiency, emergency response and the economy, the press release urged action to restore funding to the FCT Program (AAAE 2013a). On March 11, 2013, AAAE urged its membership through an "Action Alert" to contact congressional members utilizing an automated link (AAAE 2013b). In addition, AAAE stated that they met with staff of Senator Jerry Moran (R-Kansas) regarding the imminent closure of the contract towers.

On March 11, 2013, the Aircraft Owners and Pilot's Association (AOPA) sent a letter to FAA Administrator Huerta denouncing the closure of the contract towers citing disparate impact to the general aviation community and severe economic impact to local communities (AOPA 2013a). Also on March 11, Senator Jerry Moran, along with seven Kansas congressional cosigners, stated opposition to Administrator Huerta regarding closure of the contract towers because it compromised the FAA's mission, put the flying public at risk, impaired access to rural areas, jeopardized security and cost jobs (Moran 2013a). In addition, the letter cites July 2012 testimony from the Inspector General of the Department of Transportation (DOT) who stated that contract air traffic control towers demonstrate a lower rate of reported safety incidents and lower operational costs than similar FAA control towers (OIG 2012a).

That testimony reinforced findings from several audits conducted by DOT Office of Inspector General (OIG 1998, OIG 2000, OIG 2001, OIG 2003, OIG 2012b). DOT OIG found that the average annual cost to operate a contract tower in Fiscal Year 2010 was \$537,000 compared to \$2.025 million for a comparable FAA control tower (2012b). The operational cost difference was attributed to higher FAA salaries and lower staffing levels at contract towers. Additionally, OIG audits through the years stated that contract towers operated at the same level of safety as similarly situated FAA control towers (OIG 1998, OIG 2000, OIG 2001, OIG 2003, OIG 2012b).

On March 12 and 13, 2013, Senator Moran announced an amendment to the Senate Continuing Resolution to prevent closure of contract control towers citing irresponsible sequestration cuts (Moran 2013b, Moran 2013c). Additionally, Senator Moran highlighted that he had support of the National Air Traffic Controllers Association (NATCA) and aviation industry groups (Moran 2013b). The proposed amendment listed nine bi-partisan cosponsors (Moran 2013c). The amendment to House Resolution 933 stated in part, “\$10,350,000 shall be for contract tower cost-share program and not less than \$130,000,000 shall be for the contract tower program” (Moran 2013d). On March 11 in anticipation of the amendment, AAAE sent an “Action Alert” to their membership encouraging members to contact their Senators to encourage co-sponsors (AAAE 2013b). AOPA’s March 14, 2013 member update articulated their support of the Moran Amendment and sent a letter to all members of the House General Aviation Caucus proposing similar action in the House (AOPA 2013b).

C. The Federal Aviation Administration Reacts to Criticism

On March 5, 2013, the FAA announced that it would consider keeping open any of the 189 towers if it would be in the national interest (FAA 2013c). The national interests included significant threats to national security; significant economic impact beyond the local area; significant impact upon multi-state transportation, communication or finance network; or the impacted airport served as critical diversion airport (FAA 2013d). After review of material submitted by the airports, on March 22, 2013, the FAA Air Traffic Organization (ATO) Chief Operating Officer David Grizzle announced 149 of 251 air traffic control towers operated through seven contracts with three vendors would close on April 7, 2013 (FAA 2013e).

On the same day, FAA provided ‘Notice of Termination For Convenience’ to Robinson Aviation, Inc.; Serco Management Services, Inc.; and Midwest ATC Service, Inc. (FAA 2013f, FAA 2013g, FAA 2013h). However, the FAA provided the opportunity for local airport owners “to participate in FAA’s non-federal contract program and assume the cost of continued, on-site air traffic control services at their airport” (FAA 2013e). Immediately, AOPA denounced the April 7, 2013 contract control tower closures and expressed their extreme disappointment (AOPA 2013c). Although Senator Moran’s amendment to the Continuing Resolution was procedurally blocked in the Senate, Senator Moran affirmed his commitment to fight the control tower closures (Moran 2013e).

Faced with multiple legal challenges, at least fourteen nationwide, the FAA announced on April 5, 2013 that the Agency would delay the closure of federal contract control towers until June 15, 2013 (Clark 2013, FAA 2013j). In addition, the delay provided

more time for approximately fifty airports that expressed interest in joining the non-federal contract tower program (FAA 2013j). AOPA applauded the decision and cited proliferating legal challenges including petitions to Federal Courts of Appeals (AOPA 2013e). Senator Moran shared that the delay is not a solution and that he had growing bipartisan support in spite of his failed amendment (Moran 2013f). On April 23, 2013, Senator Moran stated, “There is clearly something wrong at the FAA.” Additionally, he demanded answers from FAA Administrator Huerta regarding the need and timing of employee furloughs that commenced on April 21, 2013 (Moran 2013g).

D. Air Traffic Controller Furloughs Force Congressional Action

On April 25, 2013, the House and the Senate initiated action to provide the FAA the necessary authority and flexibility to transfer funds from grants-in-aids to airports to operations accounts. The action provided authority not to exceed \$253,000,000 to prevent reduced operations and staffing in Fiscal Year 2013 (GPO 2013). Although procedural errors precluded final signature until May 1 2013, the FAA initiated action to end employee furloughs on April 26, 2013. On April 25, 2013, AOPA highlighted its role in working behind the scenes to educate Congress on the importance of aviation and the role of air traffic controllers (AOPA 2013g). Among the behind the scene actions, AOPA listed letters to the White House, lobbying the FAA, and introduction of legislation to prevent controller furloughs and contract control tower closures (AOPA 2013g).

With budgetary flexibility assured and air traffic controller furloughs halted, AOPA and Senator Moran increased pressure to apply that funding to contract control towers. On

May 2, 2103, Senator Moran and forty Senate co-signers sent a letter to Secretary LaHood and Administrator Huerta. The letter stated that the \$253 million provided in the May 1 Public Law was far above the amount necessary to preclude employee furloughs. They highlighted that Congressional intent is clear and the FAA should stop the June 15, 2013 scheduled closure of 149 contract control towers (Moran 2013h). On May 7, 2013, AOPA announced they filed amicus curiae briefs to support several legal initiatives taken by local effected municipalities (AOPA 2013h). AOPA stated in court filings that the closures were “arbitrary, capricious, and fundamentally flawed” (AOPA 213h). In addition, AOPA argued that the FAA ignored primary safety concerns.

On May 10, 2013, DOT Secretary LaHood announced that the transfer authority in the Reducing Flight Delays Act allowed the FAA to keep open the 149 low-activity contract control towers slated for closure (FAA 2013k). That same day, Senator Moran, AOPA, AAAE applauded the decision declaring victory after a long fight to prevent contract control tower closures (AAAE 2013c, AOPA 2013i, Moran 2013i).

II. Literature Review of National Policy Change

As demonstrated in the previous section, there are significant barriers to policy change. Political institutions, long-standing social constructs, and constitutional rules favor the status quo creating a policy inertia favoring deliberation over response (Bardach 2009, Birkland 2006, Scheider and Ingram 1997). Rather than produce reasonable and responsible compromises, policy makers’ self-interested pursuit of re-election creates additional caution in advocating policy interests and change (Kingdon 2011, Scheider

and Ingram 1997). Therefore, successful policy change must exhibit characteristics necessary to overcome policy inertia. The reviewed literature can be organized into three key characteristics of policy change – opportunity, preparation, and action.

Kingdon (2011) and Birkland (2006) describe conditions that provide the opportunity for significant and lasting policy change. Kingdon provides a model of ever changing circumstances that flow along three distinct streams: problems, policies, and politics. As circumstances change, the streams may shift their flow to merge at critical times. The merging streams open a “window of opportunity” enabling policy change (Kingdon 2011). Birkland expands that model to describe conditions where a “focusing events elevate problems on the policy agenda.”

Focusing events include crises, disasters and catastrophes (Birkland 2006). Disasters and catastrophes result from natural phenomenon outside human control and differ only in scale of impact. However, organizational action or inaction creates a crisis (Birkland 2006). Birkland describes conditions in which a focusing event shifts any or all of Kingdon’s policy streams and opening a window of opportunity. Significantly, the focusing event may create an opportunity to create policy change thought to be politically impossible (Birkland 2006). Birkland and Kingdon agree that the window of opportunity may close before policy change can occur while Bardach (2009) stresses the early days of an opportunity are the most significant in influence.

Therefore, organizations must be prepared to leverage a window of opportunity. Kingdon (2011) shares that policy advocates must be ready with solutions during the window of opportunity. Because novel problems and solutions are rare, Birkland (2006) articulates that policy advocates must be prepared to bring attention to preexisting ideas.

Kingdon emphasizes that executive branch political appointees wield true policy influence and policy advocates must gain their support. In addition, congressional staffers have considerable sway and often borrow ideas from the executive branch (Kingdon 2011). Therefore, policy advocates increase their influence by arming political appointees and congressional staffers with sound policy alternatives.

However, opportunity and preparation is not sufficient but must be matched with quick, decisive action to realize policy change. Bardach (2009) describes a six-step policy change model that recognizes that the “pushing and hauling of many sort of stakeholders” is more important than intellectual arguments. The literature recognizes the power and influence of interest groups and underscores the need to either align or overcome those interests (Bardach 2009, Birkland 2006, Kingdon 2011, Schneider and Ingram 1997).

Bardach shares that bringing some interest onboard early will ease the political process while Birkland states the need to develop an advocacy coalition to increase the likelihood of policy change. Schneider and Ingram describe the excessive power and influence of interest groups that capture the policy-making process and result in suboptimal policy results. Kingdon explains that special interest groups seek to preserve benefits and devote much of their energy to block initiatives to reduce those benefits. The special interest groups mobilize support, write letters, send delegations, and align allies in support of their positions (Kingdon 2011). In addition, special interest groups tend to promote advantaged groups that are already overrepresented, oversubscribed and overfunded (Schneider and Ingram 1997).

The salience of a problem to the public is an important factor in policy change (Birkland 2006). Policy makers are in tune with public sentiment and public sentiment is

closely aligned with media coverage (Bardach 2009, Birkland 2006, Kingdon 2011). Therefore, media attention that influences the public's perception regarding the importance or potential influence of the problem increases saliency and the prospect that policy makers will take action. Policy advocates must be prepared to frame and reframe the facts to make arguments that connect to the public (Bardach 2009).

Although much policy discussion is built upon the power to publically and privately persuade, the foundation of political consensus building is bargaining (Kingdon 2011). Therefore, policy advocates must engage to offer and extract concessions that build toward policy change (Bardach 2009). Often, budgetary considerations provide a basis for negotiation and may promote a solution (Kingdon 2011). Importantly, policy advocates must acknowledge and accept that a compromise solution is the most likely acceptable political outcome.

III. Analysis and Recommendations Regarding FCT Program Policy Change

An organization's ability to recognize opportunity, prepare policy alternatives and initiate action determines the likelihood of successful policy change. This section analyzes FAA attempt to change policy through closure of federal contract towers and develops recommendations for consideration in future policy change.

Sequester is pursuant to the Budget Control Act of 2011 and the American Taxpayer Relief Act of 2012 and requires ten year funding caps in discretionary budgets at most Federal agencies including the FAA (OMB 2013). Using Birkland's (2006) description of focusing events, a crisis results from the actions or inactions of an organization.

Therefore, the impact of sequester driven FAA operations budget reductions is a focusing event for the FAA. In addition, the problem stream – operation of low-activity contract control towers, the policy stream – benefit/cost ratio analysis for discontinuance of low-activity contract control towers, and the political stream – congressional support of benefits to low-activity airports, merge to provide an opportunity for policy change. The FAA recognized the opportunity and attempted to change policy.

However, the FAA was not prepared with a robust alternate policy. The benefit/cost analysis utilized safety benefit aircraft accident rates from the 1980s (FAA 1990, Mills 2012). However, general aviation accidents decreased steadily since the 1980s and are 33% below the rates used to determine benefits (The Washington Post 2013). Therefore, the benefits calculations are skewed high and the FAA had not updated APO 90-7 with current, accurate accident rates (FAA 1990). In addition, the FAA did not initiate safety analysis required by national policy until after the announcement to close the contract control towers (FAA 2008). As a result, the FAA suffered accusations of not following its own safety policies.

Prior to the February 23, 2013 letter announcing actions to meet sequester budget caps, the FAA did not release details on possible alternatives and full impacts. Consequently, the FAA did not engage stakeholders in comprehensive, collaborative discussions on alternatives. Therefore, the FAA did not or could not align major advocacy to support the policy change initiatives.

However, the announced closure of the contract control towers was not salient to the general public as the low-activity airports they serviced were used by general aviation aircraft and not commercial aviation, of which most of the public is familiar. Despite

repeated press releases and media interviews, broad public concern did not materialize. As a consequence, Senator Moran's Continuing Resolution amendment to direct funding to the FCT Program was procedurally blocked and failed. Only after the flying public encountered daily delays to commercial airline flights due to furlough of the FAA air traffic control workforce, Congress took swift action to provide budget authority to restore air traffic operational levels.

Nonetheless, the FAA failed to fully recognize or appreciate long-standing congressional actions to increase benefits to low-activity airports through the FCT Program (Mills 2012). The FAA utilized procedural and cost rational to justify policy change with the intent of maximizing benefit to the largest segment of aviation, commercial airlines and medium to large airports. On the surface, this appears to be sound policy. However, this was a policy solution and failed to address the political problem. Senator Moran was able to block policy implementation by aligning political support (AOPA 2013h, Moran 2013h).

Therefore, this paper provides several recommendations for future policy changes to the FCT Program. First, the FAA needs to develop a comprehensive alternate policy to the benefit/cost analysis contained in APO 90-7 that updates the benefits calculations utilizing current safety risk and allows for use of the safety management system. Next, the FAA must share accurate and indisputable facts regarding the FCT Program to develop an advocacy coalition. Third, the FAA must consider the political implications of policy change to the FCT Program and develop alternatives that allow for negotiation and compromise. Next, the FAA must fully align support amongst political appointees in the executive branch, including the White House. Last, the FAA must leverage the critical

early days of policy with an integrated communication strategy to stakeholders, the media and the public. Utilizing these recommendations, founded in the concept and principals in the reviewed literature, the FAA is presented the best opportunity to enact policy change to meet the sequester budget challenges. Additionally, these recommendations serve as foundation for other significant policy decision regarding Next Generation Air Traffic Control System and aging, outdated ground based aviation infrastructure.

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