

FAA bill revision – a game changer for US airports?

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The airports sector in the US has both fascinated and frustrated the private sector given the huge potential for investment. But in the last month, the Federal Aviation Administration's reauthorization bill has made important revisions – including removing the cap on the number of airports that can be leased and allowing the public sector to retain a stake in a potential project – which could pave the way for more deals in the future.

President Donald Trump signed the revised legislative bill on 5 October (2018), supported by both Congress and the Administration. Other revisions to the bill that could benefit future airport deals include:

- the airport operator is exempt from repaying prior federal government grants to the airport on a FAA-approved project
- \$750,000 grants are available for US airports to investigate a potential lease

The new plan will be called the "Airport Investment Partnership Program" and will replace the FAA's 1996 Airport Privatisation Pilot Programme (APPP). Removing the word privatisation could arguably be the best revision given that it is often confused for "selling off the family silver". The revised bill makes it clear that the public sector cannot sell any assets, but can obtain a partner provided it meets all FAA requirements.

Successes and failures

The previous pilot programme failed to make an impact when it was signed into law with six slots available for airports to be leased to private operators. This was later increased to 10 slots in 2012 though only one could be a hub airport. So far, there has been two successes and a third which almost made it:

- [Chicago Midway](#) – which held hub status
- Puerto Rico's [San Juan Airport](#)
- Stewart Airport in New York

New York's Stewart Airport, which was leased to private operator National Express Corporation, reverted back to public hands when the Port Authority of New York and New Jersey (PANYNJ) purchased the lease in 2007 for around \$80 million.

The Midway Airport project came close to being leased in 2008, but became a casualty of the financial crisis when winning bidders Citi Infrastructure Investors, John Hancock and Vancouver Airport Services could not line up debt in support of their \$2.52 billion acquisition.

The 99-year lease would have been the first of its kind in the US, and had received approval from both of its users, chief among them airline Southwest and the FAA.

One investor says: "Many in the industry believe that airports are mainly controlled by airlines which means gaining their approval can make or break a deal. The great thing about leasing an airport to a private operator, especially with the refreshed law, is that the public sector can regain some of that control."

If a public entity plans to use some or the entire portion of proceeds for non-airport purposes, it requires:

- approval of 65% of the airlines
- airlines with 65% of the traffic at the airport

John Schmidt, a partner at Mayer Brown, says that this requirement of airline approval is unusual in the global airport world, and at one time it

was “widely viewed as an almost insurmountable barrier to a major US airport lease.”

However, Chicago Midway showed that it was possible to gain the support of airlines as long as it is beneficial to both. While Chicago Midway took another stab at reviving the lease deal, it failed to generate the same level of interest as the 2008 deal and eventually fell through.

In 2013, the Commonwealth of Puerto Rico successfully leased San Juan Airport to the ASUR consortium for 40 years. Puerto Rico achieved the 65% consensus to support a P3 process as required by the FAA, with supporting airlines including American Airlines, Delta and JetBlue.

Next in line – Lambert International Airport

Lambert International Airport in Missouri made a preliminary application to the FAA in 2017 to join the Airport Investment Partnership Program. It is anticipated that an RFQ will be issued in Q1 2019 to lease the airport.

The [project](#) has had to jump through a number of political hoops, but is now at a stage where procurement can begin. It has set a target of having a private operator in place by the end of 2019.

The City of St Louis’ Board of Estimate and Apportionment (E&A) approved the appointment of an advisory team for the project in June (2018). The advisory group assisting in developing an RFQ consists of:

- Grow Missouri
- Moelis & Company – financial
- McKenna & Associates – legal

The City of St Louis is the owner of St Louis Lambert International Airport, located 14 miles north west of the city's downtown.

Schmidt adds: “Participants in the global airport market have long been mystified at the failure of US government entities to use airport leases to get the managerial benefits of experienced private operators and realize the enormous equity value of their airports. The FAA limits were never the only factor but they were an important one – with added political/psychological impact. The message has now changed – the legal limits are gone – and the global market is excited about the US prospects.”

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