

December 15, 2020

BI-PARTISAN COMPROMISE COVID RELIEF BILL --- AIRPORT CONCESSIONS RELIEF

ARRA Members:

Late yesterday the ‘Gang of 8’ bipartisan, bicameral members of Congress released the compromise COVID-19 relief bill. The original \$908B plan has been split into two bills, one containing state and local government assistance and liability protections for businesses and local governments (\$160B), the other providing \$748B, including \$45B for the transportation and aviation industries.

The bill provides \$4B in relief and assistance for airports, including concessionaires, through additional Airport Improvement Program (AIP) grants to airports to “prevent, prepare for and respond to coronavirus.” These funds would come from the U.S. general treasury, not the aviation trust fund where AIP grants normally come from. The grants will cover 100% of the project costs (no local airport share).

Each airport would receive grants based on its 2019 passenger enplanements compared to total U.S. passenger enplanements. In order to receive the grants, **airports are required to provide relief to concessionaires** “to the extent practicable and permissible under state and local laws, and applicable trust indentures.” **Relief must be provided from the date of enactment of the bill until the amount of relief given equals the amount of the grant the airport received.**

For concessionaires, the bill requires at least \$500 million be provided “to provide relief from rent and minimum annual guarantees to on-airport car rental on-airport parking, and in-terminal airport concessions (as defined in part 23 of title 49, Code of Federal Regulations) located at primary airports.”

- Each concession would receive an amount of relief that reflects its proportional share of total amount of the rent and MAG of all the concessions at the airport.
- To extent permissible, airports are to prioritize rent and MAG relief for minority-owned businesses. • To be eligible for relief, concessions must certify they “have not received a second draw or assistance for a covered loan under section 7(a)(37) of the Small Business Act that has been applied toward rent or MAGS,” and
- It appears that concessions companies would be prohibited from applying for a covered loan for rent or MAG costs.

Note: ARRA is seeking clarification and further guidance from Congress on the meaning and interpretation of the above-referenced bill language.

Concession businesses are restricted from receiving airport rent or MAG relief if they have already received a second draw loan, or received assistance regarding a loan covered under Section 7(a)(37) of the Small Business Act for rent or MAG relief.

- A **second draw loan** is a loan from the Paycheck Protection Program to an entity that has already received funding from the 7(a) program and is a qualified business that attests that it has or will use before the disbursement of the second draw loan, the full amounts of that company's first PPP loan.
- A **covered loan under Section 7(a)(37)** is a loan given during a covered, specified period. Under the CARES Act, covered loans were Paycheck Protection Program loans issued between February 15 and December 31, 2020. This new Act changes the 'covered period' end date for loans to March 31st, 2021.

Note, PPP Second Draw Loans additionally allows for:

- New entities formed 1 year period proceeding Feb. 15, 2020 to apply for loans;
- Loan proceeds can be utilized for following costs incurred or expenditures made towards 1) payroll costs, 2) payment of interest on mortgage, 3) covered operations expenditures, 4) covered property damage costs, 5) covered rent obligations, 6) covered utility cost, 7) covered supplier cost, 8) covered worker protection expenditure.

Other Airport/Aviation Funding Provisions

- Airlines received \$17B to extend the Payroll Support Program through March 31, 2021. Airlines and contractors would be required to recall furloughed employees and retain employees through March 2021. Airlines would also be subject to DOT minimum air service guarantees from the CARES Act.
- At least \$3.407B of the funds are for primary airports (airports over 10,000 annual enplanements) and certain cargo airports for "costs related to cleaning, sanitation, janitorial services, combating the spread of pathogens at the airport and other purposes, and debt service payments."
- Up to \$50 million is provided for general aviation and small commercial service airports for the same purposes.
- No additional funding is given to any airport that received more than four years of operating funds under the CARES Act.
- \$8.15M for non-primary airports that participate in the Contract Tower Program.
- The Small Community Air Service Program received up to \$20 million with priority for communities that lost service as a result of COVID-19.
- Essential Air Service would receive up to \$23 million.

Outlook

Neither the House nor the Senate leadership has yet endorsed the bill, so the prospects for passage remain uncertain. Congress is also working to pass the omnibus spending bill to keep the government running. COVID relief provisions may be included in that bill. We are very pleased that the compromise bill includes airport concessions relief as part of airport emergency assistance, as ARRA and our concessions coalition partner and ACI-NA and AAAE have been requesting. However, we are disappointed that the amount we requested has been reduced substantially and concerned about the effect some of the restrictions will have on the ability of all concessionaires to receive airport relief and survive this prolonged economic downturn due to the pandemic.

Nonetheless, it is a major achievement to have concessionaires' needs recognized and addressed in the COVID relief proposal.

Please continue to touch base with your legislators to support keeping concessionaires in the airport provisions of any COVID relief package, and urge the House and Senate leaders to pass relief for concessions and airports.

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