



Potomac Partners DC

Monthly Legislative Report – April 2018

April Advocacy Meetings

Chairman Mario Diaz-Balart (R-FL) – We met with Congressman Mario Diaz-Balart, Chairman of the House Appropriations Subcommittee on Transportation, Housing, and Urban Development and his staff multiple times this month to discuss the Capital Investments Grant (CIG) program, and the status of the OC Streetcar's Full Funding Grant Agreement. We also discussed the FY19 appropriations process and how Appropriators will react to a rescissions package from the White House.

Senator Dianne Feinstein (D-CA) – We met with Senator Feinstein's staff to discuss the OC Streetcar and the need for an FFGA from the FTA. At the end of the month the Senator sent a letter to Secretary of Transportation Chao, which outlines the FY18 appropriations for the CIG program including \$99 million for the OC Streetcar in 2018, asking the Secretary to support the projects and sign the necessary FFGAs.

Congressman Alan Lowenthal (D-CA) – We met with Congressman Lowenthal and his staff to discuss the OC Streetcar and the need to press the DOT on the need for a timetable for an FFGA from DOT. We also discussed language that would address the aviation fuel tax issue that was ultimately not included in the FAA Reauthorization.

Congresswoman Grace Napolitano (D-CA) – We met with Congresswoman Napolitano's staff to discuss the FAA Reauthorization and language that would address the aviation fuel tax issue. We also discussed the President's upcoming infrastructure proposals and the timeline for hearings on potential legislation.

Congressman Lou Correa (D-CA) – We met with Congressman Correa and his Chief of Staff throughout the month to discuss the OC Streetcar and support for the CIG program in FY19 appropriations legislation. We also discussed support for language in the FAA Reauthorization regarding aviation fuel tax.

Chairman Sam Graves (R-MO) – We met with Chairman Sam Graves and his senior staff to plan his trip to Orange County at the beginning of May. During our meetings we also pre-briefed him on the status of the OC Street Car's Full Funding Grant Agreement (FFGA). We also discussed the timeline for the President's infrastructure proposal and opportunities for language that would facilitate key projects in any upcoming legislation and what to expect in the upcoming hearings regarding the proposal.

Congressman Ed Royce (R-CA) – We met with Congressman Royce and his staff to discuss the ongoing issues with the Aviation Fuel Tax and impact on self-help counties such as Orange County, and we worked with his staff on a potential solution that could

be included in the FAA Reauthorization. Congressman Royce did propose an amendment that was a compromise solution supported by Chairman Shuster, but the House Rules Committee did not accept that amendment. We also discussed next steps on the FFGA for the OC Street Car and gave an update on FTA's progress with advancing projects in the CIG program.

House Transportation and Infrastructure Committee – We met with senior staff on the House Transportation and Infrastructure Committee to discuss the CIG program and the timeline for an FFGA for the OC Streetcar. We also discussed President Trump's infrastructure proposal and upcoming hearings on the subject. Finally we met multiple times this month with the staff to discuss the aviation fuel tax issue.

Congressman Ken Calvert (R-CA) – We met with staff in Congressman Calvert's office to discuss FY19 appropriations timeline.

Senate Banking, Housing, and Urban Affairs Committee – We met with Professional Staff from the Senate Subcommittee on Housing, Transportation, and Community Development multiple times this month to discuss the CIG program and funding levels in the FY19 appropriations bills. We gave an update on the OC Streetcar and provided questions for a hearing with the nominee to be FTA Administrator, Thelma Drake. We discussed next steps for the project and how continued delays will drive up costs for the OC Streetcar.

FY19 Appropriations and Budget Update

House and Senate Appropriators continued their work on the individual FY19 appropriations bills. GOP Leadership is pushing to have the bills ready by as early as June to avoid any funding lapses before the mid-term elections. Senate Appropriations Committee Chairman Richard Shelby (R-AL), who took over as the full Committee Chair earlier this month, has promised to restore chamber-wide debate on amendments to individual appropriations bills. This move appears to have the support of both Majority Leader McConnell (R-KY) and Minority Leader Schumer (D-NY) and has many Senate Appropriators optimistic that this could help prevent spending deadlocks by giving rank and file Members an opportunity to propose and vote for/against provisions that are not included in the Committee-approved bills. Chairman Shelby also supports the return of earmarks, which continues to be a discussion topic in Congress.

This week the House Appropriations committee also released the text of the [Legislative Branch](#) and [Military Construction-Veteran Affairs](#) (MilCon-VA) bills. We expect the House THUD draft-spending bill to be released in early May.

Individual Appropriation Subcommittees in the House held a number of hearings called "Members Day" hearings to give rank and file members a chance to testify before the Committee on issues important to their district.

During such a hearing on Wednesday, April 18th, Congressman Peter Visclosky (D-IN) gave testimony before the House Appropriations Subcommittee on Transportation, Housing, and Urban Development (THUD). During his testimony, Rep. Visclosky thanked the committee for supporting the Capital Investment Grant (CIG) program. He also asked the committee for their continued support of the CIG program. In response, Chairman Diaz-Balart (R-FL) said that on this issue he believes that the Subcommittee is doing what's right for the Country and that he and the Ranking Member, Rep. David Price (D-NC), will continue to support the program.

The THUD Subcommittee held another hearing on April 26th, entitled "*Hearing: FY 2019 Budget - FTA, FHWA, MARAD Administrators.*" Witnesses in this hearing included Jane Williams (Acting FTA Administrator), Brandye Hendrickson (Acting Administrator FHWA), and Rear Admiral Mark Buzby (US Maritime Administration). In his opening statements, Chairman Diaz-Balart said that he is looking forward to continuing the Subcommittee's investments in key infrastructure projects around the country. Chairman Diaz-Balart noted that the FY18 omnibus included \$2.64 billion for the CIG program, to ensure enough funding that all projects that have been executed FFGAs as well as for all projects that are ready for FFGAs this year. He went on to say for the record that it is the intent of Congress and this committee that projects that have successfully gone through the FTA's rating and evaluation process, meeting the requirements, receive and executed construction agreement. Chairman Diaz-Balart asked acting FTA Administrator Williams if the FTA is committed to signing new FFGAs. Williams said that the FTA is continuing to look at the FY18 omnibus and continuing to process projects through the program as is required by statute. Williams said that when she took office, there were many projects with FFGAs experiencing large cost overruns and that she believes that the FTA should be a good steward of taxpayer funds and should closely monitor future projects.

When questioned further by the Committee's Ranking Member about the timeline for new FFGAs, Williams said "I do not have a project in front of me that is ready today for the signing of an FFGA, so when that occurs we will continue to process that through the program like we do all projects". When asked why, out of 55 projects in the pipeline not one is ready for an FFGA Williams said "We have three that have just entered engineering, one specifically in California that is nearing completion that we will be looking at closely." A clip of this testimony can be seen [HERE](#). The full hearing can be found [HERE](#).

White House Rescissions Proposal Update

According to senior officials at the White House, President Trump is still preparing to submit a rescission request as early as next week. Agencies like DOT will not be able to use funds named in the rescissions package for a maximum of 45 days while Congress weighs the proposal. Nevertheless, White House Legislative Director Marc Short suggested that the rescissions package could be more focused on FY17 dollars that are left over and are not being utilized. We will continue to monitor this rescission process for any impact to the CIG program.

FAA Reauthorization Act of 2018 & Infrastructure Proposal Update

The House passed [H.R. 4](#), the FAA Reauthorization Act of 2018, by a vote of 393-13 after adopting 105 amendments.

The Committee's one-page summaries of the bill and manager's amendment can be found at the following link: <https://transportation.house.gov/faq/h-r-4-faa-one-pagers.htm>.

All the letter's of support touted by the Committee can be found and the following link: <https://transportation.house.gov/faq/h-r-4-faa-one-pagers.htm>.

The measure authorizes \$97 billion bill for aviation programs from FY 2019-23. The current authorization runs through September 30, 2018. The bill does not include Chairman Shuster's previous efforts to remove air traffic control from the FAA, which he abandoned in February, and it does not include language to address the aviation fuel tax issue.

Chairman Shuster said that this bill is "the first piece of the president's infrastructure bill." Whether that means this bill will be combined with our infrastructure related bills at some point remains to be seen. Nevertheless, with the House FAA bill passed, the Senate will now need to find floor time for its own long-term reauthorization so that the FAA programs can be reauthorized well before the September 30th deadline. We are expecting the Senate to act in the next few weeks. In parallel with the FAA Reauthorization, the House and Senate Transportation and Infrastructure committees also plan on tackling the Water Resources Development Act and a potential infrastructure bill this summer.

One important element of both WRDA and the infrastructure proposal has been to include OCTA's recommended reforms to expedite project delivery. In that regard, on Monday April 9th, the White House issued a Memorandum of Understanding (MOU) implementing "One Federal Decision" under Executive Order (EO) 13807. The full text of the MOU can be found [HERE](#). EO 13807 can be read [HERE](#). The MOU was signed by a number of Departments and agencies to include Interior, Agriculture, Commerce, HUD, Transportation, Energy, Homeland Security, Army Corps of Engineers, EPA, Federal Energy Regulatory Commission, Advisory Council on Historic Preservation, and the Federal Permitting Improvement Steering Council. The purpose of the MOU is to establish a cooperative relationship "for the timely processing of environmental reviews and authorization decisions for proposed major infrastructure projects". This MOU closely aligns with OCTA's Breaking Down Barriers initiative and directs that one agency take lead on a project so that one environmental impact statement and one record of decision can be issued with a specific aim of completing the permitting process within two years.

As it relates to the WH Infrastructure proposal, it is also worth noting that White House infrastructure advisor DJ Gribbin announced his departure from the White House for new opportunities. It is unclear when Gribbin is scheduled to make his departure, but he has said he is "planning" to move on "now that the [infrastructure] plan has been presented and is making its way through Congress." DJ Gribbin was a key architect of the draft

principals released in February. He was also the leading White House official working on the legislation with Congress. It is unclear at this point who may be taking over Mr. Gribbin's roles and responsibilities.

In meeting with senior members of the House Transportation and Infrastructure Committee this month we have learned that the Committee may be looking to begin hearings on an infrastructure package as early as June this year. According to Committee Members, this package will be very different from the White House funding principles that have already been proposed.

Hearing on the Nomination of K. Jane Williams to be Administrator of the FTA

On Tuesday, April 17th, the Senate Banking, Housing, and Urban Affairs Committee held a hearing to examine the nominations of Thelma Drake to be Administrator for the Federal Transit Administration (FTA). We met with senior staff on the committee prior to the hearing to discuss the CIG program and the OC Streetcar. We also discussed potential questions for Administrator-Designate Drake. The full hearing can be seen [HERE](#).

Positive Train Control (PTC) Update

PTC implementation continues to be an ongoing topic with Congress and the FRA. According to some railroads that must implement PTC, funding has been a major impediment to implementation. While DOT has provided almost \$2.9 billion for PTC implementation, about \$2.3 billion has actually been obligated to railroads as of the end of fiscal 2017, according to the DOT's Inspector General. Just four agencies out of the 37 funding recipients have spent all the federal money received; more than half of those railroads reported expending more than 50 percent of their money. "While the U.S. rail industry and Congress are committed to implementing PTC nationwide, progress has been slower than anticipated, and ensuring that the rail industry has a sense of urgency will be a key watch item for the Department," the Inspector General said in the report. FRA said it expects to obligate the remaining \$12.1 million in PTC grants by May 31.

On April 11th, the House Appropriations Subcommittee on Transportation, Housing and Urban Development (THUD) held a Hearing entitled "*FY 2019 Budget Rail Safety and Infrastructure: Stakeholder Perspectives*." Again, PTC was a major topic during the hearing as executives from Amtrak and the Association of American Railroads discussed the progress that rail companies are having with implementing PTC technology. They also discussed what kind of funding levels are adequate to complete these projects according to their intended timelines. The installation deadline is the end of this year, December 31st, 2018. According to the latest FRA update, positive train control is currently equipped and operable on 78% of freight locomotives and 56% of passenger locomotives. However, on track segments, only 73% of freight and 27% of passenger

tracks have been completed. A full list of PTC implementation status by freight and passenger railroads can be found [HERE](#). A video of the full hearing can be found [HERE](#).

DOT changes TIGER program to “BUILD”

On Friday, April 20th, the Department of Transportation announced that the TIGER program will be re-tooled as the “Better Utilizing Investments to Leverage Development” (BUILD) program. The program will change its focus to give preference to rural areas, including eligibility for rural broadband in some cases. President Trump’s FY18 and FY19 budget requests both asked Congress to eliminate the TIGER program. In response, Congress has tripled the program’s appropriations to \$1.5 billion through FY20. For this round of BUILD Transportation grants, the maximum grant award is \$25 million, and no more than \$150 million can be awarded to a single State, as specified in the FY 2018 Appropriations Act. At least 30% of funds must be awarded to projects located in rural areas. The DOT will be hosting a series of webinars on how to apply for funding at the end of May. These webinars will be posted [HERE](#).