



**June 21, 2018**

**To:** Legislative and Communications Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Federal Legislative Status Report

A handwritten signature in blue ink, likely belonging to Darrell E. Johnson, is written over the "From:" and "Subject:" lines.

**Overview**

An update is provided on the appropriations process and legislation that would rescind certain federal funds.

**Recommendation**

Receive and file as an information item.

**Discussion**

**Update on the Federal Fiscal Year (FFY) 2019 Appropriations Process**

The House and Senate Appropriations Committees both approved subcommittee allocations for FFY 2019 based on the budget deal agreed to in February. The House Appropriations Committee approved a \$71.8 billion allocation for the Transportation, Housing and Urban Development (THUD) Subcommittee by a vote of 29-22. The House allocation is more than \$23.8 billion greater than the President's budget request and \$1.5 billion higher than the level enacted in the FFY 2018 omnibus. The next day, the Senate Appropriations Committee approved its subcommittee allocations by a vote of 31-0, providing more than \$71.4 billion for the THUD Subcommittee. While approximately \$383 million less than the House allocation, the Senate's THUD allocation is still an increase of more than \$23.4 billion over the President's request and more than \$1.1 billion above the FFY 2018 omnibus allocation. Both House and Senate appropriators proceeded to draft THUD funding bills adhering to these allocations.

On May 23, 2018, the House Appropriations Committee approved its draft of the FFY 2019 THUD funding bill by a vote of 34-17. The House draft would provide \$27.8 billion for the Department of Transportation, which is more than \$11 billion above the President's budget request. Similar to the 2018 appropriations bill,

the House THUD bill appropriates funding from the General Fund for highway and transit programs in addition to Highway Trust Fund (HTF) formula funds. The House bill would provide an additional \$4.25 billion for highways and an additional \$800 million in transit grants. Programs funded under the House THUD bill include:

- \$15.7 billion for the Surface Transportation Block Grant (STBG), more than \$3.8 billion above the level authorized in the Fixing America's Surface Transportation (FAST) Act.
- \$567 million for Federal Transit Administration's (FTA) Bus and Bus Facilities Competitive program, which is \$300 million above the authorized level.
- \$750 million for Better Utilizing Investments to Leverage Development (BUILD) Transportation Discretionary Grants, which were formerly called the Transportation Investment Generating Economic Recovery (TIGER) program.

The transit funding increases would also provide significant funding increases above authorized levels for other FTA programs, notably the Low or No Emission Vehicle Program, State of Good Repair Grants, and Urbanized Area Formula Grants. The Congestion Mitigation and Air Quality (CMAQ) Improvement Program and Infrastructure for Rebuilding America (INFRA) Grants would be funded at authorized levels.

The House draft of the FFY 2019 THUD funding bill would also provide \$2.61 billion for the Capital Investment Grants (CIG) program. The bill also includes language requiring that \$2.22 billion (85 percent) of the CIG funding be spent by December 31, 2020. The House CIG funding levels are more than \$1.6 billion higher than the President's request and nearly \$312 million above the level authorized in the FAST Act. The House bill further specifies that \$835.7 million would go to New Starts projects with a Full Funding Grant Agreement (FFGA) and that \$500 million would go towards New Starts projects awaiting an FFGA, which includes the OC Streetcar.

In addition to fully funding the CIG program, the House THUD report includes language that could greatly benefit projects seeking an FFGA. The House THUD report language expands upon the notice requirements that FTA must adhere to in administering the CIG program. The report language directs FTA to report to the House and Senate Appropriations Committees on a monthly basis about the status of each project with an FFGA, or each project within two years of an FFGA. The House report language also requires that FTA provide detailed financial and operational information about the CIG pipeline when executing an FFGA. Finally, the House report language includes very detailed direction on



how FTA should advance projects through the FFGA pipeline. This language cites the specific statutory sections FTA should be following in moving projects through the CIG pipeline and also directs FTA to “recommend projects for funding” and “subsequently award grants to” projects meeting the statutory requirements.

On June 7, 2018, the Senate Committee on Appropriations approved its draft of the FFY 2019 THUD funding bill by a vote of 31-0. Although the Senate draft differed slightly from the House version, the two bills were much closer to the omnibus that passed in March than the President’s budget request. The Senate THUD bill would provide \$26.6 billion for the Department of Transportation, which is more than \$10 billion above the President’s budget request. Like the House bill, the Senate THUD bill would provide resources from the General Fund to supplement HTF formula programs, including \$3.3 billion in additional highway funding and \$800 million in additional funding for transit grants. Programs funded under the Senate THUD bill include:

- \$14.27 billion for the STBG program, which is nearly \$2.4 billion above the authorized level.
- \$428 billion for FTA’s Bus and Bus Facilities Competitive program, \$161 billion above the authorized level.
- \$1 billion for BUILD Grants, formerly known as the TIGER program.

Like the House bill, CMAQ and INFRA funding are both at authorized levels.

The Senate THUD bill would provide \$2.55 billion for the CIG program, which is more than \$1.55 billion higher than the President’s request and over \$250 million above the FAST Act authorized level. The Senate proposal would provide more than \$1.3 billion for New Starts projects, although the bill does not specify which New Starts projects should receive funding. The Senate THUD bill includes language that first appeared in the omnibus directing the Administration to “continue to administer the capital investment grant program in accordance with the procedural and substantive requirements” of the CIG authorizing statute. Unlike the omnibus and the House THUD bill, the Senate bill does not include bill language requiring that any portion of the CIG funding be expended by a certain date. Senate Appropriators did include more specific direction on other transportation programs like BUILD, just not for the CIG program. The Senate report language on the CIG program expresses its concern about delays in advancing projects through the pipeline and directs the Secretary to advance projects through the pipeline when they meet the statutory requirements.

Appropriators in the House and the Senate are trying to package the THUD bill with one or two other appropriations bills that would be passed before the end of

the fiscal year. This strategy would require that Congress pass multiple “minibus” funding bills, rather than an omnibus funding bill, due to the President’s last-minute opposition to the omnibus spending bill that passed in March. As of the writing of this staff report, the two chambers had not agreed on which bill to package with the THUD funding bill. Senate Majority Leader Mitch McConnell (R-KY) announced the Senate would take only one week of recess in August, compared to the scheduled four weeks, to work on spending bills. The Orange County Transportation Authority (OCTA) staff will continue to monitor the funding proposals and keep the Board of Directors updated on the latest developments. A detailed summary of the ways in which the House and Senate bills differ on funding for programs important to OCTA can be found in the table included as Attachment A

#### The President’s Proposed Rescissions

On May 8, 2018, the President proposed rescinding \$15.3 billion in unobligated federal funds. This proposal included \$279.3 million from five transportation accounts, none of which initial analysis shows would impact funding for OCTA. The proposed rescissions were introduced as legislative language in both the House and Senate. On May 22, 2018, the Government Accountability Office issued a report raising technical issues with some of the President’s proposed rescissions, including two of the five transportation accounts. On June 5, 2018, the President revised the proposed rescissions to address these issues. The revised proposal lowers the total amount of funding that would be rescinded to approximately \$15 billion. As such, the amount of funding to be rescinded from the Department of Transportation decreased to \$145.4 million. The House rescission bill was amended to reflect the President’s revised proposal. As of the writing of this staff report, the House had passed its version of amended legislation, and it awaited action in the Senate. While this bill would not affect funding for OCTA, there are reports of a second round of rescissions targeting the spending increases in the FFY 2018 omnibus legislation. Staff will continue to monitor these proposals should a bill be introduced that would affect funding for OCTA.



***Summary***

An update is provided on the appropriations process and legislation that would rescind unobligated federal funding. The May monthly activity report from OCTA's Washington advocate, Potomac Partners DC, is provided as Attachment B.

***Attachments***

- A. Overview of Federal Fiscal Year 2019 Appropriations Bills
- B. Potomac Partners DC, Monthly Legislative Report – May 2018

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