May 21, 2020

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Legislative Status Report

Overview

An update is provided on the federal response to the novel coronavirus pandemic, and efforts to improve the Transportation Infrastructure Finance and Infrastructure Act loan program as well as efforts to improve the federal discretionary grant process.

Recommendation

Receive and file as an information item.

Discussion

Federal Response to Novel Coronavirus (COVID-19) Pandemic

On April 24, 2020, the President signed into law the fourth bill in response to the COVID-19 pandemic. This bill provided supplemental funding for three of the programs from the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Specifically, the bill provides approximately $484 billion in additional funding for small business loans, hospitals, and testing. While these programs do not directly benefit transportation programs, they are part of the ongoing efforts to stabilize the economy as businesses adhere to guidance from state and local health officials. The $25 billion in Federal Transit Administration (FTA) funding from the CARES Act has been allocated to transit agencies across the country, and Orange County Transportation Authority (OCTA) staff is closely monitoring everchanging FTA guidance to ensure that the $225 million in FTA funding from the bill that will benefit Orange County is spent in compliance with the CARES Act.

On May 4, 2020, the Senate returned to Washington, D.C. to reconvene, taking measures to respect social distancing while conducting business. The House of Representatives (House) cancelled plans to hold session that week on the advice of medical professionals, although the House Appropriations Committee did hold a subcommittee hearing focused on healthcare issues. As of the writing of this staff report, the House was considering changing its voting procedures to implement a proxy voting system that would facilitate legislative business while also trying to implement measures to protect the health of lawmakers and staff. There were also reports of discussions about additional stimulus legislation, although the timetable for such efforts remains uncertain.

As part of the budget process, the Congressional Budget Office (CBO) released updated budget deficit projections, marking the first official attempt to adequately quantify the economic consequences of the COVID-19 pandemic. The CBO projects that the budget deficit will more than triple to $3.7 trillion, which would drive projections on federal debt held by the public to 101 percent of Gross Domestic Product. This potentially historic budget deficit will make it incredibly difficult for Congress to find a solution for the Highway Trust Fund’s long-term structural revenue deficit, especially with gas tax revenues declining as people stay home to limit the spread of COVID-19. With the Fixing America’s Surface Transportation Act expiring later this year, Congress will have to find a way to continue to fund federal transportation programs under tremendous budgetary pressures. The difficulties with finding long-term solutions could lead to either one, or maybe a series, of short-term extensions for federal transportation programs.

Improvements to the Transportation Infrastructure Finance and Infrastructure Act (TIFIA) Loan Program

Given the fiscal pressures facing Congress, it is unlikely that increased deficit spending will be approved. In light of this dynamic, OCTA has focused its advocacy efforts on seeking policy solutions to allow for financial benefits for OCTA projects and programs, with minimal added cost pressures for the federal government. Most recently, toll agencies nationwide have started to engage with Congress about financing reforms that could benefit toll operators while also respecting the fiscal pressures facing Congress. In coordination with other toll agencies within the state, including the Riverside County Transportation Commission, OCTA has started to focus on ways to streamline the TIFIA loan program.

Leveraging its experience with the TIFIA loan on the Interstate 405 Improvement Project, OCTA submitted correspondence to the Orange County Congressional Delegation, as well as relevant committees of jurisdiction, outlining potential improvements to the TIFIA program. One of these letters is included in Attachment A. Specifically, OCTA’s letter, like those sent by its partners across California, focuses on allowing current loan holders to take advantage of a one-time interest rate reset based on the interest rates for current TIFIA loan issuances. Staff estimates that such a reset would allow the agency to take advantage of the sharp decreases in interest rates since OCTA’s TIFIA agreement was executed to save taxpayers $200 million. Additionally, this proposal would allow TIFIA loan holders to avoid the cumbersome, time-consuming refinancing process that would not provide the type of expedient financial incentive necessary in these difficult times.

Staff will be following up on the letter to discuss the one-time rate reset and other TIFIA improvements in anticipation of either additional stimulus measures or surface transportation reauthorization legislation. As noted in the letter, another area of focus is allowing a borrower in good standing to amend their TIFIA loan agreement to borrow up to 49 percent of eligible project costs, as currently authorized under statute, removing the 33 percent administrative cap that currently exists. Such a change could free up $305 million for OCTA. Staff will continue to provide updates to the Board of Directors (Board) as necessary on these efforts and any other infrastructure policy proposals that may benefit the agency.

Update on Discretionary Grant Selection Process

As part of ongoing oversight efforts, the Government Accountability Office (GAO) sent a letter to Secretary of Transportation Elaine L. Chao regarding outstanding GAO recommendations, which is included as Attachment B. The GAO's latest annual report found that, on a government-wide basis, 77 percent of their recommendations had been implemented. The letter to Secretary Chao notes that the Department of Transportation has only implemented eight of GAO's priority 16 recommendations, below the government-wide average. Most importantly to OCTA, the first outstanding priority recommendation mentioned in the letter is the "long-standing" issue with the discretionary grant award selection process. Specifically, the letter recommends a department-wide directive to develop a plan for evaluating project proposals, documenting key decisions, and aligning policy priorities with the evaluation and selection process. The letter also notes that, while there has been some progress made on this issue, modal agencies have not been able to "consistently interpret and implement the recommendation." The GAO asks for the Secretary's continued attention in meeting the remaining recommendations. Staff will continue to keep the Board updated on relevant developments in anticipation of potential surface transportation reauthorization legislation later this year.

Summary

An update is provided on the federal response to the COVID-19 pandemic, and OCTA's efforts to streamline the TIFIA program to help generate economic stimulus. An update is also provided on GAO recommendations to improve the discretionary grant process.

Attachments

A. Letter from Steve Jones, Chairman, Orange County Transportation Authority Board of Directors, to Representative Harley Rouda, United States House of Representatives, dated May 4, 2020, re: Transportation Infrastructure Finance and Innovation Act (TIFIA) Loan Modification Requests to Assist Economic Relief
B. Letter from Gene L. Dodaro, Comptroller General of the United States, to Secretary of Transportation Elaine L. Chao, U.S. Department of Transportation, dated April 23, 2020, re: Priority Open Recommendations: U.S. Department of Transportation
C. Potomac Partners DC, Monthly Legislative Report – April 2020

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