OCTA

June 15, 2023

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Legislative Status Report

Overview

The Orange County Transportation Authority regularly updates the Legislative and Communications Committee on policy and regulatory issues directly impacting the agency's programs, projects, and operations. An overview of the negotiated federal debt ceiling deal and a summary of projects the Orange County delegation members have submitted for community project funding and congressionally directed spending on behalf of the Orange County Transportation Authority are provided herein.

Recommendation

Receive and file as an information item.

Discussion

Community Project Funding/Congressionally Directed Spending Requests

Similar to what occurred during the federal fiscal year (FY) 2022 and FY 2023 appropriations process, Members of Congress have again solicited earmark requests for FY 2024. For context, the House of Representatives (House) uses the term, "community project funding," (CPF) while the Senate uses "congressionally directed spending" (CDS). Both are colloquially known as earmarks and can be defined as any congressionally directed spending, tax benefit or tariff benefit that would benefit an entity or a specific state, locality, or congressional district. CPF and CDS are similar to the earmark process, but with added transparency and accountability rules to ensure the funding is being used for its intended purposes, supported by the community, and can be used on a project or program in a timely manner. The House created additional parameters to requests this year to require a federal nexus.

This year, the Orange County Transportation Authority (OCTA) has been actively engaged with the Orange County delegation members to submit requests for a variety of multimodal projects. The following projects have been submitted for consideration in the FY 2024 appropriations package by members:

- $5 million for the acceleration of zero-emission bus deployment in Orange County submitted by Senator Padilla (D-CA). This project would support the advancement of zero emission buses including necessary infrastructure upgrades.

- $4 million for the Coastal Rail Corridor Relocation Study in Southern Orange County submitted by Representative Mike Levin (D-Dana Point). This study will examine long-term solutions to address slope failure and beach erosion in South Orange County, including potential relocation of the railroad.

- $3 million for the Orange County (OC) Loop submitted by Representative Young Kim (R-Placentia). The OC Loop includes 66 miles of seamless connections that provide the community opportunities to bike, walk, and connect to some of California's most scenic beaches and inland reaches. This funding would be used to close gaps on the trail that cut off continuous use and enhance existing segments, specifically Segment A in the City of La Habra and Segment B in the City of Brea. In the FY 2023 appropriations process, Representative Young Kim also secured a $3 million CPF for the OC Loop for OCTA.

- $3 million for Segment 2 of the State Route 91 Improvement Project submitted by Representative Young Kim. The Project will add a new eastbound general purpose lane and reconstruct Kramer Boulevard and Tustin Avenue overcrossings to include standard lanes, shoulders, and sidewalks in each direction. In the FY 2023 appropriations process, Representative Young Kim also secured a $5 million CPF for Segment 1 of State Route 91 Improvement Project for OCTA.

- $2 million for the South Coast Rail Infrastructure Study submitted by Senator Diane Feinstein (D-CA). This study will evaluate strategies to ensure uninterrupted rail operations in Southern Orange County in the short and medium term. The funding from the requested CDS will allow the OCTA to move identified strategies to the next phase of project approval and environmental documentation.

This list does not include other projects that were submitted within Orange County, which were requested by individual cities, the County, or other transportation agencies like Metrolink. Although a project may be submitted by a member for funding, this does not guarantee that the project will receive funding in the final FY 2024 appropriations bill. Staff will continue to work with the delegation members throughout the appropriations process and will provide updates to the OCTA Board of Directors.

Summary of Approved Debt Limit Deal

The United States Secretary of the Treasury communicated that the United States will be unable to meet its financial commitments on June 5, 2023, if Congress does not suspend or increase the debt limit. In an effort to keep the federal government from defaulting on its debt, the Biden Administration and Congress have been engaging in weeks-long negotiations to finalize a deal regarding the debt limit. On May 31, 2023, the House of Representatives approved HR 3746, or the Fiscal Responsibility Act of 2023, with a vote of 314 to 117 and on June 1, 2023, the Senate approved the legislation with a vote of 63-36. The President signed the bill on June 3, 2023. The Fiscal Responsibility Act of 2023 suspends the debt limit through January 1, 2025, and reduces spending and makes policy changes in several ways, as detailed below.

This legislation establishes budgetary caps on both defense and nondefense spending for FYs 2024 and 2025. In FY 2024, total nondefense spending, which includes transportation funding, is $703.7 billion, which is a $40.2 billion (5.4 percent) decrease compared to FY 2023 funding levels. Following enactment, appropriators will begin to determine how that funding will be distributed across the 12 FY 2024 spending bills; therefore, it is not yet clear what the exact impacts will be to the Department of Transportation.

Additionally, the bill includes new accountability measures for future spending. If Congress cannot agree on any or all of the annual FY 2024 appropriations bills this year, and any agencies are still operating on stopgap “continuing resolutions” as of January 1, 2024, then the spending cap for 2024 for that respective side of government will be reduced to 99 percent of its 2023 level. Then, if any of the twelve appropriations bills are still not enacted by April 30, 2024, then whatever continuing resolution that is in effect at that time will be subject to further reductions across the board of one percent. It also provides that, whenever a federal agency is considering an action that is not required by law and would increase mandatory federal spending by more than $100 million in a year or more than $1 billion over a decade, the agency must also include a proposal that would decrease federal spending by the same amount. This will expire on December 31, 2024.

The bill also rescinds the unobligated balances of remaining coronavirus (COVID-19) funds from a variety programs. For OCTA’s purposes, it is expected that the Highway Infrastructure Programs is estimated to have a recission amount of $2.242 billion of the supplemental funds that were provided through the Coronavirus Response and Relief Supplemental Appropriations Act in FY 2021. These recissions are anticipated to occur immediately upon enactment. At the time of writing this staff report, California transportation planning agencies engaged with state and federal agencies to ensure these dollars could be obligated before the recission took place. It should be noted, however, that the bill does not rescind public transit COVID-19 unobligated balances as originally proposed by House of Representatives leadership. The legislation does ensure that funding, including the advanced appropriations, in the Infrastructure Investments and Jobs Act are not impacted by these recissions.

Finally, the bill also amends the National Environmental Policy Act (NEPA) for the first time since 1982 to incorporate streamlined environmental review processes. The legislation sets timelines for completing environmental reviews and establishes responsibilities for lead agencies during the review process, codifying elements of the “One Federal Decision” policy.

Specifically, environmental impact statements are directed to be completed within two years, environmental assessments are to be completed within one year, and limits are placed on the number of pages for both documents. Additionally, the amendments would require a lead federal agency to be appointed and for a single environmental analysis to be done even if multiple agencies are involved in approving a specific project. It also expands categorial exclusions by allowing agencies to adopt a categorical exclusion listed in a different agency’s NEPA procedures. Perhaps most notably, the amendments limit where NEPA applies to “reasonably foreseeable” environmental impacts and a “reasonable range” of alternatives that are “technically and economically feasible.” Many of these NEPA reforms were largely informed by OCTA’s commissioned Breaking Down Barriers initiative, which sought to accelerate the federal transportation project approval process.

Also under this legislation, the White House Council on Environmental Quality is directed to study within a year addressing delays in NEPA reviews and improve public accessibility, including the potential for technologies to aid in communications and data sharing during the environmental review process with the potential of a government-wide permitting portal.

Summary

An update is provided on the federal debt ceiling negotiated deal and the fiscal year 2024 community project funding and congressionally directed spending requests.

Attachments

A. Potomac Partners DC, Monthly Legislative Report – April 2023
B. Potomac Partners DC, Monthly Legislative Report – May 2023

Prepared by:

Aleicht

Alexis Leicht
Government Relations Representative
Government Relations
(714) 560-5475

Approved by:

Lance M. Larson
Executive Director,
Government Relations
(714) 560-5908