



April 18, 2024

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. A summary is given of the President's fiscal year 2025 budgetary request and the various funding and policy provisions proposed. Information is provided on a regional letter submitted on the United States Environmental Protection Agency's proposed disapproval of the South Coast Contingency Measure State Implementation Plan. A House Transportation and Infrastructure Committee hearing related to Department of Transportation discretionary grants is summarized.

Recommendation

Receive and file as an information item.

Discussion

Overview of the President's Fiscal Year 2025 Budget Request

On March 11, 2024, the President submitted his fiscal year (FY) 2025 budget request to Congress, which includes a total of \$7.3 trillion in both mandatory and discretionary spending. Within this amount, \$1.9 trillion is proposed in discretionary spending, representing about the same levels as proposed in the FY 2024 topline discretionary spending level. Defense would receive a total of \$895 billion in discretionary spending, representing less than one percent increase from FY 2024, and nondefense spending would receive \$1.05 trillion, representing about less than one percent increase from FY 2024.

For transportation programs, the budget request includes \$25.4 billion in discretionary budget authority for FY 2025. Overall, the President's budget provides the Department of Transportation (DOT) with \$109.3 billion in gross

spending authority, which is a slight increase from FY 2024 enacted levels. A majority of the funding, however, has already been provided by the Infrastructure Investments and Jobs Act (IIJA) through advanced appropriations. Specifically for transportation, the President's budget includes:

- \$800 million for national infrastructure investments, which includes the new Megaproject Multimodal Grant Program created in the IIJA and Rebuilding American Infrastructure with Sustainability and Equity grants. This represents a \$400 million decrease from the FY 2024 request. The budget request also proposes to waive the 50 percent set aside for projects that cost between \$100 million and \$500 million.
- \$2.4 billion for the Capital Investment Grants (CIG), which is \$500 million less than what was requested in FY 2024. However, when combined with IIJA advanced appropriations, the budget request provides \$4 billion for CIG projects in FY 2025. The budget request would provide more flexibility with these available CIG funds by eliminating the specific IIJA allocations for New Starts, Core Capacity, Small Starts, and Expedited Project Delivery Pilot Program projects in FY 2025.
- \$1.2 billion for the Amtrak Northeast Corridor and \$1.3 billion for Amtrak national network, which is a \$100 million increase from the FY 2024 request.
- \$100 million for the Federal-State Intercity Passenger Rail Partnership grants, which is a \$460 million decrease from the FY 2024 budget request. When combined with the IIJA advanced appropriations, the total would be \$7.3 billion for this program in one year. Alongside this funding request, it proposes a federal share up to 90 percent for projects benefiting an underserved community. The request also sets aside no less than \$15 million for a grant to Washington Union Station with a federal share of 100 percent.
- \$1.8 billion for formula and competitive Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation grants, which is a program designed to fund resilience improvements.
- \$250 million for the Consolidated Rail Infrastructure and Safety Improvements Program (CRISI). When combined with \$1 billion in IIJA advanced appropriations, this total would be \$1.25 billion. CRISI supports freight and intercity passenger rail projects to improve safety, efficiency, and reliability. Of this total, \$20 million would be allocated for grants to states for state rail planning activities. The proposal would also allow any state, county, municipal, local, and regional law enforcement agency to be an eligible recipient for trespassing prevention projects and retains \$5 million to establish a National Rail Institute. Finally, for projects benefiting an underserved community, the budget proposes to eliminate

the statutory preference for projects where the federal share of the total project costs does not exceed 50 percent and provide a federal share up to 90 percent.

In addition to the above, the President's budget request also includes various policy provisions, including:

- Allowance for large, urban transit agencies in areas over 200,000 population, such as the Orange County Transportation Authority (OCTA), to use their § 5307 Urbanized Area Formula Grant (5307) funds for operating purposes, if the agency meets correlating maintenance of effort requirements. This authority aligns with what is already allowed for areas under 200,000 population. Traditionally, these funds are used for transit planning and capital expenditures, in addition to preventative maintenance and some paratransit costs.
- Allowance for state departments of transportation to flex highway funds to transit operating purposes, expanding the authority already provided for Congestion Mitigation and Air Quality funds. The language allows this flexibility for any federal highway contract authority. Both this proposal and the proposal to flex 5307 funds were proposed in the President's FY 2024 budget request, which was rejected by Congress.
- Removes all congressional earmarks (otherwise known as community project funding or congressionally directed spending). This is similar to a proposal the President included in his FY 2024 budget request, which was rejected by Congress.
- For projects selected in FY 2025 under the § 5339(b) Buses and Bus Facilities Grant Program or § 5339(c) Low or No Emission Grant Program, the Transportation Secretary may lower the federal share from 85 percent to not less than 50 percent to disincentivize vehicle customization since the cost of doing so can be expensive. Limiting customization to a set of options and floor plans could strengthen the supply chain, reduce bus production schedule, reduce costs, and simplify bus procurements.
- Allows Federal Transit Administration grant recipients to fund shared use micromobility projects and systems, such as bicycles and scooters, as "associated transit improvement" capital projects, in addition to the current authority, which includes bicycle storage shelters and bicycle parking facilities.
- Expanding public transit agencies' authority to acquire land prior to completion of National Environmental Policy Act review by replacing the term "right-of-way" with "real property interests."

It should be noted that the President's budget request formally kicks off the negotiations for the FY 2025 appropriations bill. The final appropriations bill does not typically align with what was initially requested. Updates will be provided to the OCTA Board of Directors (Board) as these conversations unfold.

Update on the Environmental Protection Agency's (EPA) Proposed Disapproval of South Coast Air Quality Management District (AQMD) Final Contingency Measure State Implementation Plan

On April 2, 2024, transportation agencies within the Southern California Association of Governments (SCAG) region sent a letter to the United States EPA regarding the EPA's proposed disapproval of the South Coast Contingency Measure State Implementation Plan. In addition to SCAG, OCTA signed onto this coalition letter alongside other Southern California transportation partners, including the Los Angeles County Metropolitan Transportation Authority, the San Bernardino County Transportation Authority, the Riverside County Transportation Commission, the Imperial County Transportation Commission, and the Ventura County Transportation Commission. This letter is included as Attachment A.

As background, the EPA sets air quality standards that must be attained or could result in federal sanctions. Even with stringent regulations implemented by AQMD and California Air Resources Board (CARB), the South Coast Air Basin has been unable to demonstrate the ability to meet the current air quality standards by EPA. Because of this, in 2019, AQMD and CARB submitted a Contingency Measure Plan indicating that more must be done related to federally regulated sources to ultimately meet these goals. On February 2, 2024, EPA published its proposal to disapprove the Contingency Measure Plan as provided. If the disapproval were to be finalized, several sanctions would take place. First, 18 months after this action, permit emission reduction offsets would increase. Second, 24 months after this action, there would be a prohibition on federal highway funding for the region. Exceptions would be provided for projects related to safety or transit. And lastly, 24 months after this action, a Federal Implementation Plan (FIP) would be imposed. A FIP is an air quality plan developed by EPA when states cannot meet the requirements imposed by the Clean Air Act.

The coalition letter details that for sources within the control of state and local governments, the region has achieved more than its share of emission reductions toward federal attainment and calls on the EPA to work together with the State of California and local governments to provide meaningful opportunities to develop actions that will result in cleaner air. If a full disapproval were to occur, there would be significant impacts to planned projects throughout the Southern California region, discouraging private investment, impacting the regional economy, and risking readiness for the 2028 Summer Olympics. Delaying these projects and the associated much-needed repairs and investments to roadways and transportation infrastructure has the potential to exacerbate air quality

concerns. The transportation investments in the SCAG region are tailored to meeting not only federal transportation conformity requirements, but also California's ambitious goal to achieve carbon neutrality by 2045. The letter also aligns its comments with those submitted by the AQMD, included as Attachment B.

Ultimately, the coalition is urging the EPA to not disapprove the Contingency Measure State Implementation Plan as proposed. However, if that is not possible, conditional approval may allow for further discussions to take place while avoiding any sanctions. Staff will continue monitoring the rulemaking process and provide the Board with updates as they become available.

Summary of House Transportation and Infrastructure Committee Hearing on DOT Discretionary Grants

On March 7, 2024, the House Transportation & Infrastructure Committee held a hearing entitled "*Department of Transportation Discretionary Grants: Stakeholder Perspectives*." The hearing explored the opportunities and challenges for state and local agencies related to new and existing DOT discretionary grant programs.

Committee Chairman Sam Graves (R-MO) opened the committee's hearing about DOT discretionary programs by highlighting that the House Transportation & Infrastructure Committee has heard concerns from stakeholders on implementing IIJA funding, reporting stakeholders' concerns with delays and inconsistencies with notices of funding opportunities, in addition to the amount of time it takes to execute grant agreements after an award has been announced. Chairman Graves explained that the most notable concern from stakeholders regarding these grant programs is the longer-than-normal wait times that they are experiencing for the execution of grant agreements.

Ranking Member Rick Larsen (D-WA), followed Chairman Graves with his own opening statement, highlighting the positive impact that the IIJA has provided with record-breaking funding for critical infrastructure projects. Ranking Member Larsen shared that DOT grant competitions reflect directives from Congress, and the DOT is actively helping applicants that are new to the federal grant process. He concluded his opening statement by stating that the committee welcomes the opportunity to celebrate the benefits of these grant opportunities to all districts and constituents, while also welcoming the opportunity to examine how the discretionary grant process can be improved.

Representative Valerie Foushee (D-NC) inquired about the top issues that local governments experience when applying for discretionary funding. Amy O'Leary, Executive Director of the Southeast Michigan Council of Governments, noted that local governments face difficulty knowing which grant to apply for; there are so many funding opportunities that local governments are challenged by figuring

out which grant is the best fit for the project. In addition, O'Leary shared that the cost of applying for grants can be an impediment to local governments, especially local governments that do not have a grant writer on staff. Lastly, O'Leary shared that local governments face financial difficulty with the matching requirements set forth by the grant application. Several witnesses emphasized the importance of predictable funding as Congress approaches reauthorization of the surface transportation bill, especially the advanced appropriations included under the IIJA. Some witnesses and committee members highlighted their interest in favoring a formula funding approach in the next surface transportation reauthorization as opposed to discretionary grant funding to afford more predictability, while there were others that emphasized the importance of discretionary programs for larger, more complex projects. Overall, witnesses underscored the need for Congress to simplify grant program criteria, enhance staffing at DOT, and establish clearer timelines.

Summary

Information is provided on the fiscal year 2025 budget request from the President. A summary is given of a coalition letter related to the United States Environmental Protection Agency's recent action to disapprove an air quality plan. A summary is provided for a hearing that discussed Department of Transportation discretionary grant programs.

Attachments

- A. Letter from Kome Ajise, Executive Director, Southern California Association of Governments, and others, to Ginger Vagenas, U.S. Environmental Protection Agency (EPA), Region IX, re: SCAG Region Comments on U.S. EPA's Proposed Disapproval of South Coast Contingency Measure State Implementation Plan for the 1997 Federal Ozone Standard [Docket ID No. EPA-R09- OAR-2023-0626], dated April 2, 2024
- B. Letter from Wayne Nastri, Executive Officer, South Coast AQMD, to Ms. Ginger Vagenas, U.S. Environmental Protection Agency, Region IX, re: 89 Fed. Reg. 7320 (Feb. 2, 2024) (Proposed) Air Plan Disapproval; California Los Angeles-South Coast Air Basin; 1997 8-hour Ozone standard, dated March 27, 2024
- C. Potomac Partners DC, Monthly Legislative Report – March

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