

# Holland & Knight

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## **Broward Metropolitan Planning Organization April 2018**

FY 2018 Omnibus Passes, Funding Government Through September: On March 23, Congress passed a [\\$1.3 trillion FY 2018 omnibus spending bill](#), narrowly avoiding a government shutdown. The measure boosts funding for defense and domestic programs, and is consistent with the two-year budget caps deal reached earlier in February, which allowed for a \$80 billion increase in defense spending, and a \$63 billion increase for nondefense programs.

The bill also includes \$10 billion for infrastructure which funds programs at the Army Corps of Engineers, Environmental Protection Agency (EPA), Bureau of Reclamation, and the Department of Transportation (DOT). This funding was based on the two-year bipartisan budget deal that included \$20 billion, split between 2018 and 2019, for infrastructure defined as “to invest in infrastructure, including programs related to rural water and wastewater, clean and safe drinking water, rural broadband, energy, innovative capital projects, and surface transportation.”

The bill provides funding for all of the federal agencies for fiscal year 2018 (which ends on September 30, 2018). The bill passed with bipartisan support with a vote of [256-17](#) in the House and [65-32](#) in the Senate. Below is a summary of the funding for DOT departments and programs.

The FY 2018 Omnibus Appropriations bill includes \$86,854,866,000 for the [Department of Transportation](#), a \$8.257 billion increase over FY 2017 funding.

*Highways*: \$47.5 billion for the Federal Highway Administration (FHWA), a \$2.18 billion increase over FY 2017 funding.

- Does not rescind any federal-aid highway contract authority.
- \$44.234 billion from the Highway Trust Fund for the **Federal-Aid Highways Program**, consistent with the FAST Act authorization and a \$968 million increase over FY 2017 funding.
  - Appropriates an additional \$2.525 billion for FHWA programs from the Treasury General Fund, in addition to the contract authority programs:
    - \$1.98 billion for **Surface Transportation Block Grant Program (STBG)**-- Apportioned to states in the ratio that states receive obligation limitation distribution under the omnibus. Funding is available for obligation for FY 2018-2021. Money can be spent on construction of highways, bridges, tunnels, including designated routes of the Appalachian development highway system and

local access roads under section 14501 of title 40.” Cannot spending money on the transportation alternative projects.

- \$225 million for a **competitive highway bridge program** for states that have a population density of less than 100 individuals per square mile
- Allows states to reprogram “dead earmarks” (at least 10 years old and have had no more than 10 percent of its available funding obligated) and transfer the money to other STBGP-eligible purposes located within 50 miles of the original earmark.

*TIGER*: \$1.5 billion for TIGER grants, which is \$1 billion more than the FY 2017 funding.

- Provides up to \$15 million for **planning grants**, with no minimum grant size.
- Maximum grant size remains \$25 million, and minimum grant size remains \$5 million.
- Maximum TIGER share of a project cost is still 80 percent.
- 30 percent of the money for rural areas with a minimum grant size of \$1 million and the maximum federal share is 100 percent.
- The maximum amount given to any one state is still 10 percent of the total, which is \$147.5 million.
- “the Secretary shall not use the federal share as a selection criteria in awarding projects.”
- DOT will be required to issue the NOFA by May 22. All grant applications will be received by August 20. DOT will have to announce grant recipients by December 18, 2018.

*Federal Transit Administration (FTA)*: \$13.5 billion for the FTA, a \$1 billion increase from the FY 2017 level.

- \$2.64 billion for **Capital Investment Grants**, a \$232 million increase from the FY 2017 funding.
  - \$1.5 billion for **New Starts** projects-- limits federal match for New Starts Full Funding Grant Agreements to 51%.
  - \$716 million for **Core Capacity** projects
  - \$400 million for **Small Starts** projects
  - Orders the DOT Secretary to “continue to administer the capital investment grant program in accordance with the procedural and substantive requirements of section 5309.”
  - Orders the FTA to obligate at least 85 percent of the FY 2018 money by December 31, 2019.
- The bill provides the FAST Act authorized \$9.733 billion for **transit formula grants** from the Highway Trust Fund plus an additional \$834 million from the General Treasury Fund for transit infrastructure grants.
  - \$400,000,000 for **State of Good Repair Formula**
  - \$209,104,000 for **Buses – Formula**
  - \$161,446,000 for **Buses – Discretionary**

- \$29,450,000 for **Buses – Low/No Emission**
- \$30,000,000 for High Density State Formula

*Federal Railroad Administration (FRA):* \$3,091,445,000 for the FRA, \$1.24 billion increase over FY 2017 funding.

- \$1.94 billion for **Amtrak**, a \$446 million increase over the FY 2017 enacted funding.
  - \$650 million for Northeast Corridor grants
  - \$1.3 billion to support the national network including \$50 million for “the development, installation and operation of **railroad safety technology**, including the implementation of a **positive train control system**, on State-supported routes as defined under section 24102(13) of title 49, United States Code, on which positive train control systems are not required by law or regulation.”
- \$863 million for three new rail grant programs established by the FAST Act:
  - \$593 million for **Consolidated Rail Infrastructure and Safety Improvements (CRISI)**, a \$525 million increase over the FY 2017 funding, and includes \$250 million for positive train control implementation. Commuter railroads are eligible for this money which is new.
  - \$250 million for the **Federal State Partnership for State of Good Repair** grants program, which is \$225 million more than the FY 2017 funding.
  - \$20 million for **Restoration and Enhancement Grants**, a \$15 million increase over FY 2017 funding.
- \$25 million for **Railroad Rehabilitation & Improvement Financing (RRIF)** credit subsidy authority and orders the Office of Management and Budget (OMB) to start rating RRIF loans by annual cohort.

*Federal Aviation Administration (FAA):* \$18 billion for the FAA, a \$1.59 billion increase over the FY 2017 funding.

- **Six month extension** of the FAA authorization bill.
- Includes full funding for all air traffic control personnel.
- \$3.35 billion from the FAA for the **Airport Improvement Program (AIP)** plus an additional \$1 billion from the Treasury General Fund. This funding will be distributed by discretionary grants, and FAA will give priority to nonprimary, nonhub, and small hub airports, and the federal cost share of projects at the nonprimary airports shall be 100 percent.

*Federal Motor Carrier Safety Administration (FMCSA):* \$845 million for FMCSA, \$201 million increase over FY 2017.

- \$100 million for a new program, **Highly Automated Vehicles research and development.**
  - \$38 million to establish a joint research program between NHTSA, FMCSA, FTA and FHWA, of which no more than \$5 million is for R&D for advanced driver assistance systems (ADAS – the SAE Level 1 and 2 vehicles) and the remainder for R&D for highly autonomous vehicles (HAV – Levels 3, 4 and 5). The research program “advances DOT’s understanding of HAV and ADAS technologies to the benefit of both commercial motor vehicle and light duty vehicle safety and is consistent with the comprehensive plan developed pursuant to GAO’s recommendation. The research should leverage the expertise of the private sector to identify methods and criteria for measuring the cyber security assurance levels deployed in autonomous vehicles. The Secretary is expected to prioritize research topics that fill gaps in research being conducted by the private sector, have the strongest potential to advance the safe deployment of HAV and ADAS technologies, and deliver the highest net benefits to road safety.”
  - \$60 million for demonstration grants to public sector entities to test HAV and ADAS deployment. The maximum grant size is \$10 million, and no more than \$15 million in grants can go to a single state. DOT is expected to “include as eligible activities the following: technologies associated with autonomous vehicles and other collision avoidance technologies, including systems using cellular technology; advanced safety systems, including vehicle-to-vehicle and vehicle-to-infrastructure communications; advanced mobility and access technologies, such as dynamic ridesharing and information systems to support human services for elderly and disabled individuals; dynamic road network mapping; roadway marking and signage; community education and outreach; and transportation data collection and analysis.”
  - \$1.5 million for a joint DOT-Department of Labor study to provide “a comprehensive analysis of the impact ADAS and HAV technologies on drivers and operators of commercial motor vehicles, including labor displacement.”
  - \$500,000 for DOT to develop a comprehensive plan to manage its AV activities to address recent GAO recommendations.

Congress May Complete FAA Reauthorization Bill Before August: With the current authorization for the Federal Aviation Administration (FAA) set to expire at the end of the month, the FY18 omnibus spending deal contained a provision to extend the authorization of the through September 2018. However, House and Senate authorizing committees have said a full reauthorization of the agency may receive a vote prior to August congressional recess. House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) and Senate Commerce Committee Chairman John Thune (R-SD) met last week to discuss the next steps in reconciling the chambers’ authorization bills – [H.R. 2997](#) and [S. 1405](#). Since Chairman Shuster is no longer pursuing privatization of air traffic control and Chairman Thune dropped a

controversial provision on pilot training, lawmakers believe they can quickly reconcile the bills and provide a full authorization for the agency before in the next deadline in September.

Infrastructure Adviser Departs White House: The White House's top infrastructure adviser, DJ Gribbin, announced he would be leaving the Administration to pursue other opportunities. Gribbin was a key drafter of the Administration's infrastructure plan, which released in February. However, given that Congress is still considering the plan through committee hearings, and midterm elections are approaching in November, an infrastructure proposal is unlikely to come through Congress in 2018.

Secretary Chao Testifies Before THUD Appropriations Subcommittees: On April 11 and April 12 respectively, Senate and House Transportation-HUD (THUD) Appropriations Subcommittees questioned Transportation Secretary Elaine Chao on the budget for the DOT. During the Senate hearing, Democrats questioned the Secretary over funding for the major Gateway project, a controversial infrastructure project that would provide money to build a tunnel under the Hudson River, connecting New Jersey and New York City. The Secretary also fielded questions about the Administration's infrastructure plan, which would be funded partially through cuts to programs in the DOT FY 2019 budget – cuts would come from discretionary grant programs favored by appropriators, such as TIGER. Congress has shown reluctance in approving these cuts, most recently providing full funding to TIGER in the FY 2018 omnibus.

In the House hearing, members stated their concern to Secretary Chao over the reduction in funding for several critical grant programs, including TIGER and cuts to the Capital Investment Grants (CIG) program. Several members raised the \$2.6 billion appropriation for the CIG program in the recently enacted FY 2018 omnibus appropriations bill. House THUD Chairman Mario Diaz-Balart (R-FL) emphasized to the Secretary that the bill requires her to obligate at least 80 percent of the CIG money by December 31, 2019, which the Secretary said would be a tight timeline. She promised House THUD Ranking Member David Price (D-NC) that she would submit a list of timetables for projects that are moving from phase to phase of the CIG program, but would not commit to any timeline for signing full funding grant agreements (FFGAs). In response to criticism of cuts to TIGER, Secretary Chao mentioned that the President recommended redirecting funding from the grant to a more comprehensive program that highlighted rural investment. She also stated that she hopes to announce INFRA grants awards by the end of May.

Members also questioned the Administration's infrastructure plan. Rep. Charlie Dent (R-PA) expressed concerns of the lookback provision for the "incentive grants". He said that the state of Pennsylvania enacted a massive revenue increase for transportation, but the law was passed in 2013. The Secretary responded that the Administration had tried to be "fair and compromised" with a three-year lookback provision to give credit for revenues raised prior to enactment of the infrastructure legislation.

When members criticized her for not introducing a plan to extend the solvency of the Highway Trust Fund past 2020, the Secretary said that all revenue sources "are on the table" and mentioned that the trucking industry and other are support a gas tax increase.

FTA Nomination Hearing in April: The Senate Committee on Banking, Housing, and Urban Affairs is scheduled to meet on April 17 to conduct a hearing on the nomination of former Rep. Thelma Drake to serve as FTA Administrator. Drake previously served in Congress, representing Virginia. Most recently, she served as the city of Norfolk, VA's assistant director of transportation.