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Broward Metropolitan Planning Organization
Federal Update
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Congress Passes Two-Year Budget Deal and Short Term Spending Measure

On February 9, the Senate (71-28) and the House (240-186) passed—in one package—a budget deal and a short-term FY 2018 continuing resolution (CR) to fund the government through March 23. Shortly thereafter, the President signed the bill into law.

The budget deal will set topline spending numbers for FY 2018 and 2019, with offsets and bipartisan reforms to minimize the deficit impact of increasing spending caps. The deal raises the spending caps by approximately $300 billion over two years; increases the limit on military spending by $80 billion in FY 2018 and $85 billion in FY 2019; and increases the limit on nondefense spending by $63 billion this year and $68 billion next year.

The short-term CR will fund the government through March 23, giving the House and Senate Appropriations Committees time to craft a FY 2018 omnibus spending bill under the new budget cap guidelines. The bill directs specific amounts of money to the House and Senate Appropriations Committees to be used for different spending "buckets" – such as infrastructure – and directs the committees to distribute funds to each subcommittee to craft its appropriations bill to distribute the money, prior to the CR deadline. If an omnibus is completed before March 21, then appropriators will begin work on FY 2019 bills and aim to complete them before the fiscal year ends on September 30.

The budget deal also includes the following over two years, FY 2018 and 2019:

- $89.3 billion in emergency supplemental appropriations for natural disasters – mostly hurricanes affecting Texas, Louisiana, Florida, Puerto Rico and the Virgin Islands, but also wildfires in the West.
- Extends the debt ceiling through March 1, 2019, past the November midterm elections.
- A one-year extension of expired tax breaks that were not included in the December 2017 tax reform bill.
- $6 billion over two years for anti-opioid and mental health efforts and extend authorization of the Children's Health Insurance Program (CHIP) for the next 10 years
- Authorizes $7 billion in total funding for community health centers for two years and closes the Medicare Part D prescription drug benefit "donut hole" for seniors in 2019.
- $20 billion for infrastructure including surface transportation, rural water and wastewater, clean and safe drinking water, rural broadband, and energy infrastructure;

- $5.8 billion for Child Care Development Block Grants; $4 billion to rebuild veterans hospitals and clinics.
- $4 billion for college affordability programs, including those for police officers, firefighters and teachers.

While Minority Leader Schumer (D-NY) and Majority Leader McConnell (R-KY) were optimistic about the deal, calling it a "breakthrough" and the "first real sprout of bipartisanship," a brief shutdown occurred because of Sen. Rand Paul's (R-KY) objection to the new budget agreement driving up federal deficits. House Democrats were also skeptical. House Minority Leader Nancy Pelosi (D-CA) said she could not agree to a budget deal unaccompanied by immigration and DACA legislation. On the House floor, Pelosi said that without a DACA commitment from House Speaker Paul Ryan (R-WI) comparable to that made by McConnell the package would not have her support, or that of a large number of House Democrats. However, enough House Democrats voted for the bill to advance funding, which led to final passage.

Administration Introduces FY 2019 Budget Request

On February 12, President Donald Trump submitted his budget request to Congress for fiscal year (FY) 2019. The President's budget request calls for approximately $4.4 trillion in total spending. Much of the budget seeks to scale back nondefense programs, and streamline permitting and review processes for projects. The administration projected an annualized economic growth of 3.1 percent over the next three years. It would add $984 billion to the federal deficit over the next year, despite seeking cuts to welfare programs such as Medicare and food stamps. Over the next 10 years, the plan would add $7 trillion to the deficit. The administration's request seeks $540 billion in nondefense spending for 2019, a $57 billion decrease from Congress' spending cap.

Below is a summary of the Department of Transportation (DOT) budget summary. The budget does recommend $100 million for the Peninsula Corridor Electrification project.

The President's FY 2019 budget requests $76.8 billion for the Department of Transportation, which would be a reduction of $248.9 million decrease over FY 2017 enacted levels and $1.7 billion from the FY 2018 appropriations, averaging the House and Senate FY 2018 Transportation-HUD (THUD) Appropriations bills which Congress has not yet completed.

- This reflects the recent two-year budget deal. From that additional funding DOT is providing an additional $300 million for the Maritime Administration (MARAD) to fund the replacement of two of the Maritime Academies aging schoolships.

Highways: Provides $45,268,596,000, the FAST Act funding level for FY 2019 and a $2 billion increase over FY 2017 enacted levels and $1,034,384,000 increase over FY 2018 (both the House and Senate THUD Appropriations bills provided the FAST Act's FY 2018 authorized level of $44,234,212,000)

- Includes a rescission of $216,951,000 of unspent allocated programs: $46 million from Appalachian Highways, $112 million in miscellaneous general fund appropriations for highways, and $59 million in miscellaneous earmarks of Highway Trust Fund (HTF) money.

- Similar to FY 2018 budget, this budget request does not recommend anything to fix the Highway Trust Fund solvency after it runs out of money in FY 2021. The budget appendix does recommend adjusting the baseline which could delay funding to the states in the future: "…beginning in 2022, the Budget presents an adjusted baseline to account for the mismatch between baseline rules that require assuming that spending continues at current levels and the law limiting the spending from the HTF to the level of available balances in the HTF. Under current law, DOT is unable to reimburse States and grantees when the balances in the HTF, largely reflecting the level of incoming receipts, are insufficient to meet their requests. Relative to the BBEDCA baseline levels, reducing outlays from the HTF to the level of receipts in the adjusted baseline presentation results in a reduction in HTF outlays of $122.4 billion over the 2022-2028 window."

<u>TIGER</u>: The budget proposes eliminating funding for TIGER grants, similar to last year's budget request. Congress will ignore this request as the Senate included $550 million in the FY 2018 THUD Appropriations bill and TIGER has been funded in every final enacted appropriations bill since it was created including $500 million in FY 2017.

<u>Federal Transit Administration (FTA):</u> $11,118,562,000, $1.29 billion decrease over FY 2017 enacted levels and $1,121,721,000 below House/Senate averaged FY 2018 THUD appropriations bills.

- *Transit Formula Grants*: The budget requests $9.939 billion, as enacted under the FAST Act, $205 million increase over FY 2017 enacted levels and $238 million increase over House/Senate averaged FY 2018 THUD appropriations bills.

- *Capital Investment Grants (New Starts/Small Starts/Core Capacity)*: As in the FY 2018 budget, this budget proposes to stop funding new Capital Investment Grant projects. Requests $1 billion to fund the projects already under construction. This is $1.4 billion decrease over FY 2017 enacted levels and $942.95 million decrease over House/Senate averaged FY 2018 THUD appropriations bills.
    - However, Congress will most likely ignore this request as the FY 2018 project proposed to cut the Capital Investment Grants program to $1.2 billion, and the House provided $1.8 billion and the Senate provided $2.1 billion. Since the new two-year budget deal provides additional money, there is no longer pressure to cut this account.

The FY 2019 Budget Request for the FTA Capital Investment Program, By Project/Activity

New Start Projects With Signed FFGAs	Million $
Los Angeles Regional Connector	$100.0
Los Angeles Westside MOS-1	$100.0
Los Angeles Westside MOS-2	$100.0
San Diego Mid-Coast Corridor	$100.0
Boston Green Line Extension	$150.0
Portland-Milwaukie (OR) Light Rail	$65.7
Fort Worth TEX Rail	$100.0
National Capital Area Purple Line (MD)	$120.0
Subtotal, New Starts w/ Signed FFGAs	**$835.7**
Core Capacity Projects With Signed FFGAs	
Caltrain Peninsula Corridor Electrification	$100.0
Chicago Red/Purple Line Mod. Phase 1	$100.0
Subtotal, Core Capacity w/ Signed FFGAs	**$200.0**
"New" New Start Projects	$0.0
New Core Capacity Projects	$0.0
Small Starts	$0.0
§5309(q) Joint Amtrak-Transit Projects	$0.0
Oversight Activities	$10.5
TOTAL FUNDING PROVIDED, FY 2019	**$1,046.2**
Funding Source:	
New FY19 Appropriation	$1,000.0
Reprogramming of Prior Year Funding	$46.2

Federal Railroad Administration (FRA): $854 million in funding, $997 million decrease over FY 2017 enacted levels and $1.238 billion less than the House/Senate FY 2018 THUD averaged current funding levels.

- Amtrak: $737.897 million, $839 million below FY 2017 enacted levels and $776 million below the House/Senate FY 2018 THUD averaged funding levels.
    - Proposes that states pay half of the operating subsidy cost of long-distance routes going through their state.
    - Proposes that railroads pay $50 million per year in new rail safety user fees to defray FRA overhead costs.

- *FAST Act Authorized Grant Programs*: Does not provide any funding for the Federal-State Partnership for State of Good Repair (funded at $25 million in FY 2017), Consolidated Rail Infrastructure and Safety Improvement (funded at $68 million in FY 2017), or Restoration and Enhance Grants program (funded at $5 million in FY 2017).

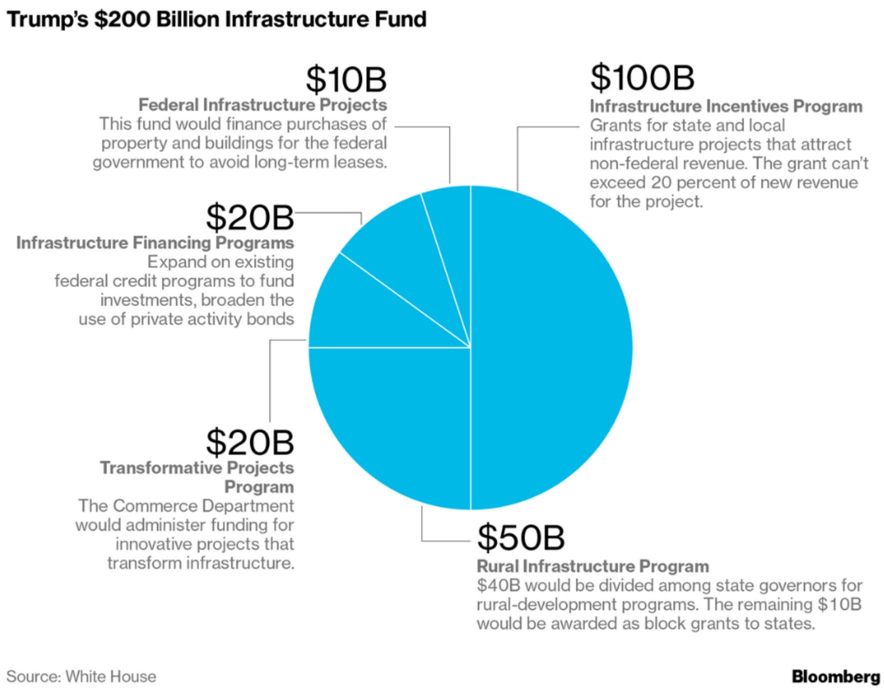
Federal Aviation Administration (FAA): The budget requests $16,122,290,000 for the FAA, a $285 million increase over FY 2017 enacted levels and $642.951 million below the House/Senate FY 2018 THUD averaged current funding levels.

- Airport Improvement Program (AIP): $3.35 billion, same as FY 2017 enacted levels. The program has been at this level since FY 2014 pending reauthorization.

White House Introduces Infrastructure Proposal:

On February 12, 2018 the White House unveiled its a 55-page proposal for infrastructure investment, the *Legislative Outline for Rebuilding Infrastructure*. The sweeping proposal seeks to inject funding into several key areas and priorities. Broadly, the proposal outlines $200 billion in overall funding, as depicted below in Figure 1.

Figure 1



As Figure 1 depicts, the Administration will seek to target Federal money to projects with significant funding contributions from States, local governments, private entities, and other non-Federal sources and offers recommendations for project streamlining. It does not, however, include any new revenue to pay for the $200 billion of new Federal spending.

Without identification of funding sources, doubtful that Congress will be able to pass infrastructure legislation. Congressional committees have started to hold hearings on infrastructure including several on water infrastructure and the Water Resources Development Act, the legislation that authorizes Army Corps of Engineers policy and projects. There is possibility that several of the water related policy provisions could be included in WRDA legislation that the House Transportation and Infrastructure and Senate Environment and Public Works Committees are hopeful to pass this year.

INFRASTRUCTURE INCENTIVES PROGRAM FUNDING

Funding:
$100 billion for a new incentive (competitive) grants program. This money would be distributed primarily between Department of Transportation (DOT), Army Corps of Engineers (Corps) and

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the Environmental Protection Agency (EPA)—and then other Federal agencies could ask DOT, the Corps, and EPA for funding.

The amount of an incentive grant would be capped at 20 percent of the new revenue that the entity is raising, and could be combined with a Federal loan or a private activity bond (PAB). Each State cannot receive more than 10 percent of the total amount available under the Incentives Program.

Applicability:
The proposal says the program "would provide support to wide-ranging classes of assets, including the following governmental infrastructure: surface transportation and airports, passenger rail, ports and waterways, flood control, water supply, hydropower, water resources, drinking water facilities, wastewater facilities, stormwater facilities, and Brownfield and Superfund sites."

Program:
Each lead Federal agency would solicit applications after the enactment of the Incentives Program and every six months thereafter, and each agency will determine the content, format and timing of the applications. Potential project sponsors could apply to its lead Federal agency for a grant, which will be judged primarily on how much new non-Federal revenue can be brought to the table. State/local sponsors who enacted a tax increase for infrastructure in the three years before February 2018 would get some credit for those revenues on a sliding scale, which was not described, in the proposal. The agencies "would calculate each application score by multiplying the weighted score from the evaluation criteria by the percentage of non-Federal revenues (out of total revenues) that would be used to fund the project or program of projects."

Evaluation Criteria:

- The dollar value of the project or program of projects (*weighted at 10 percent*);
- Evidence supporting how the applicant will secure and commit new, non-Federal revenue to create sustainable, long-term funding for infrastructure investments (*weighted at 50 percen*t);
- Evidence supporting how the applicant will secure and commit new, non-Federal revenue for operations, maintenance and rehabilitation (*weighted at 20 percent*);
- Updates to procurement policies and project delivery approaches to improve efficiency in project delivery and operations (*weighted at 10 percent*);
- Plans to incorporate new and evolving technologies (*weighted at 5 percent*); and
- Evidence supporting how the project will spur economic and social returns on investment (*weighted at 5 percent*).

RURAL INFRASTRUCTURE PROGRAM

Funding:
$50 billion for grants to rural areas that lack the tax base or the passenger/freight throughput to utilize much financial leveraging. 80 percent of that money ($40 billion) would be given out as block grants to governors via some kind of rural population/rural road-miles formula that is not spelled out in the plan. The goal is that this block grant money would have very few Federal

strings attached. The other 20 percent would go for "performance grants" selected by the Federal government.

These grants are intended for rural areas with populations of less than 50,000 and there would also be a set aside for Tribal infrastructure and territorial infrastructure.

Applicability:
The proposal says the program would support traditional transportation infrastructure as well as broadband, water and waste, power and electric and water resources. Further, the program only would apply to the specified asset classes and to other infrastructure that is essential to the operation of those assets.

Evaluation Criteria:
In addition to receiving formula funds, States could apply for rural performance grants.

- Qualification for rural performance grants will require States to:
    - Publish a comprehensive rural infrastructure investment plan
    - Demonstrate the quality of any investments planned with rural performance funds
    - Demonstrate how they will leverage formula funds with Federal credit programs and rewarding rural interstate projects through the infrastructure incentives program

TRANSFORMATIVE PROJECTS PROGRAM

Funding:
$20 billion, led by the Department of Commerce, for projects that are likely to be commercially viable, but have characteristics that otherwise deter private sector investment. The goal is fund riskier projects that could have transformational effects if successful. Infrastructure sectors covered by this program could include, but would not be limited to transportation, clean water, drinking water, energy, commercial space, and broadband.

Eligible funding could be used for—

- Up to 30 percent of eligible costs under the demonstration track;
- Up to 50 percent of eligible costs under the project planning track; and
- Up to 80 percent of eligible costs under the capital construction track.

Evaluation Criteria:
To be determined by a Department of Commerce led committee that would be comprised by other relevant cabinet agencies.

Other important factors
This program is intentionally vague in details on how this would be implement. The point is to create a program that is flexible enough so the decision makers could be as creative as possible in funding innovative but risky projects.

INFRASTRUCTURE FINANCING PROGRAMS

Funding:
$20 billion to advance major, complex infrastructure projects by increasing the capacity of existing Federal credit programs and by broadening the use of private activity bonds (PABs).

- $14 billion to be given to existing Federal credit programs to pay for credit subsidy authority to make new loans and loan guarantees to sponsors of infrastructure projects.
    - Expand DOT Transportation Infrastructure Finance and Innovation Act (TIFIA) Funding and Broaden Program Eligibility
        - Additional budget authority
        - Support airport and non-Federal waterways and port financing options
    - Expand Federal Railroad Administration (FRA) Railroad Rehabilitation and Improvement Financing (RRIF) and Broaden Program Eligibility
        - Additional budget authority for RRIF subsidy costs for 10 years
        - Provide funding for RRIF credit risk premium
    - Expand Environmental Protection Agency (EPA) Water Infrastructure Finance and Innovation Act (WIFIA) Funding and Broaden Program Eligibility
        - Eliminating lending limit of $3.2 billion and provide additional budget authority to EPA for subsidy costs
        - Broadens the eligibility of the program
            - Includes non-Federal flood mitigation navigation and water supply.
            - Eliminate requirements under WIFIA for borrowers to be community water systems.
            - Authorizes Brownfield rehabilitation and cleanup of Superfund sites under WIFIA.
            - Reduces rating agency opinions from two to one for all borrowers
            - Provides EPA authority to waive the springing lien in certain lending situations.
            - Increases the base level of administrative funding authorized to ensure EPA has sufficient funding to operate the WIFIA program.
            - Removes the restriction on the ability to reimburse costs incurred prior to loan closing under WIFIA.
            - Expands the WIFIA program to authorize eligibility for credit assistance for water system acquisitions and restructurings.
            - Expands WIFIA authorization to include Federal deauthorized water resource projects.
    - Expands Department of Agriculture Rural Utilities Service (RUS) lending programs funding.
- $6 billion to represent the estimated cost to the Treasury over ten years of the lost tax revenue because of the increased issuance of PABs paying tax-exempt interest that will be issued under the more expansive PAB rules proposed in the plan.

CHANGES TO EXISTING PROGRAMS

<u>Highways</u>

- Allow States to toll existing Interstates, as long as the toll proceeds are used for infrastructure.
- Provides flexibility for the States to commercialize Interstate rest areas.

- Increases the threshold for Federal Highways Administration (FHWA) "major project oversight" rules from $500 million to $1 billion per project. Amending the law to raise the threshold for major projects from $500 million to $1 billion would remove unnecessary oversight requirements from smaller, less complex projects that are routinely managed by FHWA and State departments of transportation.
- States would be allowed to pay the Federal government back for the Federal contribution for already-completed highway projects to be relieved of Federal compliance that is attached to that project. These Federal requirements typically include "restrictions on tolling; requirements pertaining to the location of a commercial plaza within the right-of-way of an Interstate highway; restrictions on Interstate access; and compliance with size and weight standards, highway beautification standards, and high occupancy vehicle lane operation standards."
- Allows States to do utility relocation before the NEPA process is completed.

<u>Mass Transit</u>

- Mandate "value capture" as a component of all new subway and light rail projects and would eliminate existing legal constraints on the use of public-private partnerships in mass transit.
    - ➢ The American Public Transportation Association (APTA) defines value capture as "instruments allow jurisdictions to collect revenue in specific areas and direct that revenue towards specific improvements." Mechanisms include: special assessment districts, tax increment financing (TIF), impact fees, joint development, and split-rate property taxes
- The <u>Expedited Project Delivery for Capital Investment Grants (CIG) Pilot Program</u>, which was created in the FAST Act, would be permanently codified and its Federal share is increased from 25 percent to 50 percent.
    - ➢ In this pilot program, the Federal Transit Administration (FTA) can select up to eight New Starts, Small Starts, or Core Capacity projects that are supported through public-private partnerships during the FAST Act authorization (FY 2016-2020).

<u>Airports</u>

- The proposal would allow small hub airports to apply for permission to levy passenger facility charges (PFCs) and relieves the paperwork that now currently only applies to non-hub airports.
- Expands the <u>existing Federal Aviation Administration (FAA) Airport Privatization Pilot Program</u>. The proposal removes the current cap that only allows 10 airports, including only one large hub airport. Also changes the existing requirement that 65 percent of carriers at an airport must approve privatization to a simple majority.
- Allows airports to offer incentive payments for early completion of Airport Improvement Program (AIP) projects.
- Limits FAA approval and oversight of non-aviation development activities at airports

<u>Rail</u>

- Lowers the statute of limitations for challenges to the permitting of rail projects from two years to 150 days (allowed for highway and transit project in the FAST Act).

Water

- Allows “privately owned public-purpose treatment works” to utilize the Clean Water State Revolving Fund (SRF), similar to the Safe Drinking SRF.
- Provides the EPA with similar statutory authority to the former FHWA SEP-15 authority to experiment with new project delivery provisions. This will allow the EPA Administrator “to explore alternative and innovative approaches” to the overall project delivery process (contracting, compliance with environmental requirements, right-of-way acquisition, and project finance) and to develop more effective approaches to project planning, project development, finance, design, construction, maintenance, and operations.” State departments of transportation and local transportation agencies have been able to utilizes SEP-15 to expedited project delivery.
- Provides “flexibility to the application of Federal requirements where the project funding is primarily non-Federal and the Federal share is minimal.”

Army Corps of Engineers

- Authorizes the Corps to execute agreements with non- Federal entities to use Federal dollars for construction, repair, rehab, maintenance and operation of inland waterways.
- Establishes a pilot program that would authorize the issuance of user fees to carry out Corps projects at up to 10 sites to enable public-private partnerships under the Water Resources Reform and Development Act (WRRDA) of 2014 Water Infrastructure Public-Private Partnership Pilot Program.
- Extends the duration of a contract that the Corps can sign from 5 years to 50 years. This will allow the Corps “to enter into long term contracts that encompass the full life-cycle management of infrastructure assets in the program.”
- Would allow the Corps to determine whether operation and maintenance functions at hydropower facilities on Corps projects are commercial activities and appropriate for non-Federal entities.
- Creates a streamlined deauthorization process for old Water Resources Development Act (WRDA) projects that allows for Corps projects approaching the end of their service life and for those projects operated and maintained by non-Federal interests that do not require Federal oversight. This would relieve the Federal regulatory and statutory compliance including Section 408 review.
- Currently, a local sponsor can provide local fund to the Corps through contributed and advanced funds to—hopefully—expedite Corps projects. However, under current law, the Corps process to accept the contributed and advanced funds is limited and often takes a long time, and the Corps is unable to take the benefit of a willing sponsor to provide local funds to expedite a project. The proposal would expand the authority for the acceptance of contributed funds even if no Federal funds have been appropriated for the authorized project. And, expands the applicability of advanced funds authority to all authorized water resources studies and projects that “would increase non-Federal spending and expedite project execution.”