

# Holland & Knight

800 17<sup>th</sup> Street, N.W., Suite 1100 | Washington, DC 20006 | T 202.955.3000 | F 202.955.5564  
Holland & Knight LLP | www.hklaw.com

## **Broward Metropolitan Planning Organization Federal Update April 2017**

### **HOLLAND & KNIGHT UPDATE**

Broward MPO's Visit to Washington, DC: Broward MPO board members, Greg Stuart, and Daniel Knickelbein visited Washington DC on April 25-27. Holland & Knight scheduled meetings for the group with: Senator Bill Nelson; Representatives Alcee Hastings, Frederica Wilson, Debbie Wasserman Schultz, Ted Deutch, and Mario Diaz-Balart; senior staff with Senator Marco Rubio, Rep. Lois Frankel, and House Transportation and Infrastructure Committee; the Department of Transportation; and the White House/National Economic Council (NEC)'s infrastructure lead.

The group shared the MPO's federal priorities which include: funding for the WAVE Streetcar, project streamlining for federal transportation projects; funding for the MPO's projects in the infrastructure package; the Port Everglades' FASTLANE grant application for the Intermodal Freight Connector project.

Michael Harkins at the NEC and the House Transportation and Infrastructure Committee shared that the Administration and Congress are looking for ideas for project streamlining for the infrastructure package, and the MPO discussed ways that the Administration could streamline the federal process by fixing right-of-way issues. The NEC and committee staff were very interested in the innovative approaches the MPO has used to streamline its transportation projects by working with the community and FDOT.

The House Transportation and Infrastructure Committee Republican staff said that they want to increase the FAST Act authorized programs funding levels in the infrastructure package. They would also like to include incentives for public private partnerships (PPPs) and environmental streamlining to expedite highway and transit projects. However, they do not want to open up the NEPA process.

### **CONGRESSIONAL UPDATE**

FY 2017 and FY 2018 Appropriations: Congress returned from a two-week recess on April 25, giving them just four legislative days to reach agreement on a spending deal to avoid a government shutdown when current FY 2017 funding expires at midnight on April 28. One of the major sticking points in reaching agreement on FY 17 funding was the President's insistence on the inclusion of approximately \$1.4 billion for construction of a wall along the southern border and an additional \$1.6 billion for border security-related efforts. Eventually, following

strong Democratic opposition and willingness to block any measure containing these provisions, the President indicated he would be willing to address border funding at a later date in order to avert a government shutdown.

Late on April 26, the House released text of a continuing resolution (CR) to extend FY 2017 federal funding through Friday, May 5. The intent of this short-term CR, in the words of House Appropriations Chairman Rodney Frelinghuysen (R-NJ) is to “continue to keep the government open and operating as normal for the next several days, in order to finalize legislation to fund the federal government for the rest of the fiscal year.” On Friday, April 28, the House passed the CR. Representatives Ted Deutch, Alcee Hastings, and Lois Frankel voted for passage. The CR was then passed through the Senate unanimously on Friday afternoon.

The FY 2018 appropriations process is also underway in Congress, though, the process has been delayed given the absence of the full FY 2018 presidential budget request, which is expected to be released in May. Separately, action is also required to avoid a debt ceiling breach. The last suspension of the debt limit expired on March 15, but the Treasury has been using so-called extraordinary measures to extend the government’s borrowing capacity for several more months. That capacity should last until “sometime this fall,” according to an estimate from the Congressional Budget Office (CBO).

Bipartisan Letter Sent to Appropriators in Support of Capital Investment Grants: A bipartisan letter circulated for member support by Reps. Jackie Walorski (R-IN) and Earl Blumenauer (D-OR) was submitted to the House Transportation & HUD Appropriations Subcommittee on April 4. [The letter](#) requests that the Appropriations Committee fund the Federal Transit Administration (FTA) Capital Investment Grants program (CIG), also known as New Starts and Small Starts, at the \$2.3 billion level authorized in the Fixing America’s Surface Transportation (FAST) Act. The letter was circulated in response to the President’s skinny budget released earlier this year, which proposes to phase out the Capital Investment Grant program after those projects with signed Full Funding Grant Agreements (FFGAs) are fully funded.

## **ADMINISTRATION UPDATE**

Infrastructure Plan Update: DJ Gribbin, special assistant to the President on infrastructure policy, said on April 12 that the President’s team is working on an infrastructure package that would combine private capital and federal spending. Gribbin said the President indicated there will be additional resources, but the origin and funding level of those resources have not yet been determined. He added that the plan has a broad definition of infrastructure, inclusive of veterans’ hospitals and air traffic control privatization. He did not provide information on whether infrastructure will be combined with other proposals, such as tax reform or a health care plan.

Secretary Elaine Chao has said that trillion dollar infrastructure package could be unveiled in the coming months. Additionally, Office of Management and Budget (OMB) Director Mick Mulvaney said on April 20 that the President’s FY 2018 budget proposal could include \$200 billion for infrastructure, and that specifics of an infrastructure package may not be revealed until the fall.

DOT Plans New Top-Level Hires: The Department of Transportation (DOT) plans to implement new top-level roles and reorganize officials in other positions to supplement two of the President's key priorities –infrastructure and overhauling the Federal Aviation Administration (FAA). President Trump announced on April 6 that he plans to nominate Derek Kan to be Undersecretary for Policy at the Department of Transportation DOT. Kan is a former aide to Senate Majority Leader Mitch McConnell (R-KY) and currently works for Lyft in Los Angeles. Kan also serves on the Amtrak board of directors, a post for which he received Senate confirmation in December 2015.

On April 18, DOT staff confirmed that Secretary Elaine Chao will appoint current chief of staff Michael Britt as senior adviser for FAA modernization. Chao will also appoint James Ray to be a senior adviser on infrastructure. Ray previously worked at OMB, and served as Acting Administrator of the Federal Highway Administration (FHWA) and general counsel for DOT from 2006 to 2008. Geoff Burr, a former construction industry lobbyist, will serve as acting chief of staff, and Matt Kopko, a private sector attorney, will serve as counselor to the deputy secretary.

## **GRANTS**

DOT/Federal Highway Administration (FHWA) – Advanced Transportation and Congestion Management Technologies Deployment Initiative Grant: The DOT has issued a NOFA for large scale installation and operation of advanced transportation technologies to improve safety, efficiency, system performance, and infrastructure return on investment. These model deployments are expected to provide benefits in the form of: reduced traffic-related fatalities and injuries; reduced traffic congestion and improved travel time reliability; reduced transportation-related emissions; optimized multimodal system performance; improved access to transportation alternatives, including for underserved populations; public access to real time integrated traffic, transit, and multimodal transportation information to make informed travel decisions; cost savings to transportation agencies, businesses, and the traveling public; or other benefits to transportation users and the general public. This competitive advanced transportation and congestion management technologies deployment grant program will promote the use of innovative transportation solutions.

The DOT hosted a webinar regarding this Funding Opportunity focused on the Advanced Transportation and Congestion Management Technologies Deployment Initiative on April 25 at 1:00 pm EST: <https://connectdot.connectsolutions.com/e4x9x0mcr0a/event/registration.html>. This session was conducted as a virtual forum and focused on specific topics to help potential applicants gather additional information and ask specific questions. Participation in this session was not mandatory in order to submit an application under this solicitation. However, potential applicants were encouraged to take advantage of this opportunity to gather information regarding this specific funding opportunity. All applications are due by June 12, 2017.

DOT/Federal Transit Administration (FTA) – FY 2017 Competitive Funding Opportunity: Low or No Emission Grant Program: The FTA has issued a notice of funding opportunity (NOFO) for eligible applicants (include designated recipients, States, local governmental authorities, and Indian Tribes) to apply for \$55 million in FY 2017 funds for the Low or No Emission Bus

Discretionary Grant Program. However, only \$31.5 million is available under the existing continuing resolution providing funds for FY 17. Grant funds will be awarded competitively for the purchase or lease of low or no emission vehicles that use advanced technologies for transit revenue operations, including related equipment or facilities. Funds are available for obligation until September 30, 2020. Funds are only available for projects that have not incurred costs. All applications are due by June 26, 2017.

## **APRIL EXECUTIVE ORDERS**

*Tuesday, April 18, 2017*

### **Executive Order: Buy American and Hire American**

This EO calls for maximizing federal financial assistance towards the use of goods, products and materials produced in the United States. Within 150 days of the date of this EO, heads of all agencies are directed to assess the monitoring, enforcement and compliance to develop and propose policies for their agencies that ensure federal procurements maximize the use of materials produced in the United States. Within 60 days of the date of this order, the Secretary of Commerce and the OMB Director, in consultation with the Secretaries of State and Labor, the United States Trade Representative and the Federal Acquisition Regulatory Council, will issue guidance to agencies about how to make assessments and develop policies required.

*Friday, April 21, 2017*

### **Executive Order: Identifying and Reducing Tax Regulatory Burdens**

President Trump signed this EO directing the Treasury Secretary to review significant changes to the tax code from the start of 2016, and determine whether or not they impose an undue financial burden on American taxpayers; add undue complexity; or exceed statutory authority of the Internal Revenue Service (IRS). The EO further directs the Secretary to prepare and submit a report to the President that recommends specific actions to mitigate any burdens identified by the Secretary's review. The Secretary and the OMB Director will review and reconsider the scope and implementation of the existing exemption for tax regulations under the initial review process.

*Tuesday, April 25, 2017*

### **Executive Order: Promoting Agriculture and Rural Prosperity in America**

This EO directs the Secretary of Agriculture to identify and eliminate unnecessary regulations that hurt farmers and rural communities. It further establishes the Interagency Task Force of Agriculture and Rural Prosperity, to be led by the Secretary of Agriculture. The task force will seek to examine existing barriers to prosperity in rural America, and work to enable long-term, sustainable rural development. Members of the task force will be the President's Cabinet; the Chairman of the Federal Communications Commission (FCC); the OMB Director; Office of Science and Technology Policy Director; Office of National Drug Control Policy Director; Chairman of the Council of Economic Advisers; Assistant to the President for Domestic Policy;

Assistant to the President for Economic Policy; Administrator of the Small Business Administration; the United States Trade Representative; and the Director of the National Science Foundation. Within 180 days of the order, the Agriculture Secretary and the Task Force will submit a report to the President identifying legislative, regulatory, or policy changes to benefit rural communities.