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Broward Metropolitan Planning Organization Federal Update December 2015

Congress Passes Omnibus Appropriations Bill: On Friday, December 18, the House and Senate passed the Fiscal Year 2016 omnibus appropriations/tax extenders bill which will fund all federal agencies programs through September 30, 2016 and provide 680 billion in permanent and short-term extensions of tax breaks for businesses and individuals.

Additionally, the legislation includes a number of policy riders such as: lifting the 40 year ban on crude oil exports, postponing a number of taxes associated with President Obama's Affordable Care Act (ACA), encouraging greater information sharing for cybersecurity, toughening visa requirements in an effort to prevent terrorism, reauthorizing the Land and Water Conservation Fund through September 2018, and creating a grant program managed by the National Fish and Wildlife Foundation and the National Oceanic and Atmospheric Administration (NOAA) for the purpose of better understanding and utilizing the oceans.

The House passed a tax extenders legislation on Thursday, December 17, by a vote of [318-109](#). Reps. Hastings, Frankel, Wasserman-Schultz, and Wilson voted against the tax extenders measure, Rep. Diaz-Balart voted for it, and Rep. Deutch did not vote. On Friday, The House passed the omnibus appropriations legislation by a vote of [316-113](#). Reps. Hastings, Frankel, Deutch, Wasserman-Schultz, Wilson, and Diaz-Balart all voted for the spending package. The Senate passed the omnibus appropriations and tax extenders package by a vote of [65-33](#). Senator Nelson voted for the package while Senator Rubio did not vote. On Friday, December 18, the President signed the bill into law. Details on the tax extenders, Department of Transportation (DOT), and Army Corps of Engineers funding and policy provisions can be found below.

Tax Extenders

The tax extenders provisions include several tax credits for transportation agencies:

- Permanent extension for the transit commuter benefit and increases the amount an employer can offer to their employees either as a tax-free fringe benefit or as a pre-tax option to pay for their mass transit commute to and from work. The provision increases the transit commuter tax benefits from the current \$130 to \$250 in FY 2015, rising to \$255 in FY 2016.
- Extends for two years through FY 2016 (retroactive to 2015) the Alternative Fuels Tax Credit and the alternative fuels property (infrastructure) credit. These credits can be used by transportation agencies to fuel their vehicles with compressed (CNG) or liquefied (LNG) natural gas.

Overview of the Department of Transportation Funding and Policy

Total Department of Transportation (DOT) Funding: \$76.1 billion – over 5% increase over FY 2015 enacted funding

- Transportation Investment Generating Economic Recovery (TIGER) grant program: \$500 million – equal to FY 2015 enacted funding, lowers minimum award threshold from \$10 million to \$5 million
- Federal-aid highways: \$42.361 billion – same funding level as authorized in the FAST Act
 - Allow states to reprogram any old Federal Highway Administration (FHWA) administered earmark money that have at least 90 percent of its original earmark amount unspent for more than ten years after Congress provided it. The money can be transferred to the Surface Transportation Block Grant program and must be “applied to projects within the same general geographic area within 50 miles for which the funding was designated.”
- Capital Investment Grants (New Starts): \$2.177 billion - \$57 million more than FY 2015 enacted levels. Maximum share for a New Starts full funding grant agreements (FFGAs) is capped at 60 percent, consistent with the FAST Act.
 - \$1.25 billion for projects with signed FFGA
 - \$353 million for Small Starts projects
 - \$5 million for the new expedited project delivery pilot authorized in the FAST Act
 - \$497 million for projects anticipated to enter into a signed FFGA in 2016
- Mass transit formula and bus grants: \$9.348 billion – same funding level as authorized in the FAST Act
- State of Good Repair: \$2.5 billion
- Railroad Safety Grants: \$50 million, including \$25 million for Positive Train Control (PTC) implementation
- \$350 million for Section 130 Railway-Highways Crossing program
- Federal Aviation Administration (FAA): \$16.3 billion, \$303 million more than FY 2015 funding
 - FAA Operations: \$9.910 billion, \$169 million more than FY 2015
 - Facilities and Equipment: \$2.855 billion, \$255 million increase over FY 2015
 - Airport Improvement Program (AIP): \$3.350 billion, same as FY 2015
 - The House provision prohibiting the FAA from scheduling air travel to Cuba was dropped.

Overview of Army Corps of Engineers Funding and Policy

Total Army Corps Funding: \$5.89 billion, \$506,500,000 increase over FY 2015 funding levels and \$1.257 billion increase over the President's FY 2016 budget request

- Investigations (Corps program that funds studies): \$121 million. \$1 million less than FY 2015 funding levels and \$24 million increase over the President's FY 2016 budget request

- Construction: \$1,862,250,000, \$222, 761,000 increase over FY 2015 funding levels and \$690,250,000 increase over the President's FY 2016 budget request
- Operations & Maintenance (O&M) (Corps program that funds port dredging): \$3.137 billion, \$228.489 million increase over FY 2015 funding levels and \$427 million increase over the President's FY 2016 budget request

The appropriations bill provides additional funding for Corps projects that either were not included in the President's budget or were inadequately budgeted. The Corps is required to submit a work plan which includes recommended funding for Corps projects to the House and Senate Appropriations Committees not later than 60 days after the enactment of the legislation.

A project or study is eligible for Work Plan funding if: (1) it has received funding, other than through a reprogramming, in at least one of the previous three fiscal years; (2) it was previously funded and could reach a significant milestone, complete a discrete element of work, or produce significant outputs in fiscal year 2016; or (3) as appropriate, it is selected as one of the new starts.

- Investigations Work Plan Funding: \$26.644 million
- Construction Work Plan Funding: \$684.319 million
- O&M Work Plan Funding: \$426.629

Congress Passes FAST Act: House and Senate conferees on the surface transportation bill announced a five-year, \$305 billion [conference report](#) on Tuesday, December 1. The conference report, the [Fixing America's Surface Transportation \(FAST\) Act](#) (H.R. 22), reconciles the differences between the Senate's Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act and the House's Surface Transportation Reauthorization and Reform Act.

It provides \$225 billion in Highway Trust Fund contract authority over five years for the federal-aid highway program, increasing funding from \$41 billion in 2015 to \$47 billion in 2020. This represents a 5% over current funding levels in FY 2016 and 15% increase by FY 2020. The bill continues to distribute nearly 93% of all federal-aid highway program funding to state DOTs through formula programs

The FAST Act provides \$61 billion over five years for transit programs, which represents a 10.23% increase in the first year of the bill, and 17.74% increase by FY 2020.

For highway safety, the bill provides a total of \$4.7 billion for the National Highway Traffic Safety Administration and \$3.2 billion for the Federal Motor Carrier Safety Administration.

Unlike previous surface transportation authorization bills, the FAST Act authorizes \$10 billion of U.S. Treasury General Funds over five years for the Federal Railroad Administration (FRA) and Amtrak. The FAST Act expedites rail project delivery and environmental streamlining for rail. The legislation provides \$199 million for implementation of positive train control systems by commuter railroads.

To pay for the \$305 billion bill, the bill transfers about \$70 billion in General Fund revenue to the Highway Trust Fund. That money would be made up through cutting the dividend the Federal Reserve pays to some member banks, tapping a Federal Reserve surplus account, and selling a portion of the Strategic Petroleum Reserve. The deal would also use some of the savings to restore \$3 billion in crop insurance payments that were cut in November as part of the two-year budget deal. Details of the pay-fors can be found in the chart below:

Summary of the 10-Year (FY16-FY25) Value of Funding Offsets and Direct Spending Increases In the FAST Act Conference Report

Source: Congressional Budget Office

<u>Sec.</u>	<u>"Pay-for" provision</u>	<u>Bil. \$</u>
24410	Increase NHTSA civil penalties	0.423
32101	Passport revocation for tax scofflaws	0.395
32102-3	Allow the IRS to hire private tax collectors	2.408
32201	Index COBRA 1985 Customs fees for inflation	5.188
32202	Federal Reserve surplus account transfer	53.334
32203	Federal Reserve dividend payment reduction	6.904
32204	Sell 66 million barrels of SPR crude oil	6.200
32301	ONRR royalty overpayment fix	0.320
Total ten-year value of "pay-fors"		75.172
31201	Minus 70.0 billion in GF to HTF transfers	-70.000
32205	Minus cost of repeal of crop insurance reform	-3.038
43001	Minus cost of AMRF MAP-21 offset repeal	-0.595
	Minus other miscellaneous spending increases	-0.026
	Minus rev. lost from more tax-exempt bonds	-0.035
Equals 10-year deficit reduction under House scoring of GF to HTF transfers as real money		1.478

Both the House and Senate passed the conference report on December 4. The House agreed to the report by a vote of [359-65](#), while the Senate passed it by a vote of [83-16](#). Senator Nelson, along with Reps. Hastings, Frankel, Deutch, Wasserman-Schultz, Wilson, and Diaz-Balart all voted for the legislation, while Senator Rubio voted against it. The President signed the legislation into law on December 4, just hours before the midnight deadline when the extension would have expired.

Holland & Knight worked with the Broward MPO to advocate before the congressional delegation, House Transportation & Infrastructure and Senate Environment and Public Works Committees to secure its priorities in the FAST Act. The conference report includes many of the Broward MPO's federal priorities including:

- **Increased Funding:** Increases funding for highway and transit programs over MAP-21 funding levels--the state of Florida should receive \$11,965,610,453 over the five years of the bill.
- **Prioritizes Freight/Goods Movement:** According to the Senate EPW Committee, "Over the life of the bill (FY2016-FY2020), FL will receive \$301,452,866 in addition to growth of the existing programs for freight. Creates two new programs for freight.
 - Creates a new National Highway Freight program funded for a total of \$6.2 billion/ an average of \$1.2 billion per year that is distributed to states by formula. Each state's share of the formula program will be based on the state's overall share of highway program apportionments.
 - Creates a new discretionary grant program, entitled the Nationally Significant Freight and Highway Projects is established, funded at a total of \$4.5 billion/an average of \$900 million per year.
 - Includes Critical Urban Freight Corridor as part of the national freight network. Critical Urban Freight Corridor is a MPO-identified network in areas of 500,000 population or higher meeting certain requirements, and in consult with a state, with a maximum of 75 percent of highway miles of 10 percent of a state's PHFS miles.
 - Includes ferries/terminals, truck parking facilities, rail-grade crossings and intermodal transfers in ports as eligible projects in the new STBGP.
- **Increased Funding for MPOs:** Under the newly created Surface Transportation Block Grant Program (STBGP), the FAST Act gradually increases the percentage of STBGP that is suballocated by population from 51 percent in 2016 to 55 percent by 2020. Increases Transportation Alternatives Program (TAP) funding within the STBGP program. TAP is funded at \$835 million in the first two years and \$850 million in the last three.
- **Railway-Highway Grade Crossings Program:** Increases funding for the Railway-Highway Grade Crossings Program to an average of \$235 million per year/total of \$1.175 billion (previous funding was \$220 million per year).
- **Congestion Management:** Establishes the Advanced Transportation and Congestion Management Technologies Deployment initiative funded at \$60 million per year. This program provides grants to eligible entities to develop model deployment sites for large scale installation and operation of advanced transportation technologies focused on improvements in safety, efficiency, system performance, and infrastructure return on investment.

- Tolling: Adds a requirement that MPOs must be consulted on the placement and amount of tolls on an HOV facility located on the Interstate system if the facility is located in a metropolitan planning area.

Republican Caucus Selects New House Steering Committee: After becoming Speaker of the House, one of Rep. Paul Ryan's (R-Wis.) first acts was to overhaul the House Republican Steering Committee, which selects committee assignments for Republican lawmakers, with the goal to diversify ranks. The biggest change made, which was adopted by the Republican conference last month, was to eliminate the six committee chairmen who currently have seats on the Steering Committee. On December 10, House GOP members voted for six "at large" representatives to replace the committee chairmen for the remainder of the 114th Congress. Eleven members announced their intentions for the six slots, and the following six members received the votes needed to be selected: Rep. Fred Upton (Mich.), Rep. Mike Rogers (Ala.), Rep. Jason Smith (Mo.), Rep. Tom Cole (Okla.), Rep. Susan Brooks (Ind.) and Rep. Tim Huelskamp (R-Kan.). The majority of these members were from the Tuesday Group, a caucus for moderate Republican members. Rep. Huelskamp is the only member selected from the House Freedom Caucus, and he is also the chairman for the Tea Party Caucus. Each member of the Steering Committee will have one vote while Speaker Ryan will have four.

FHWA Issues Guidance on Road Design: The FHWA issued a [new rule](#), effective November 12, 2015, regarding regulations governing the required design standards to be utilized on federal-aid highway program (FAHP) projects. Following a comment period, the FHWA issued a revised rule that encourages flexibility to achieve a design that best fits the community. While previous regulations had 13 controlling criteria in regards to design standards, the new rule eliminated three of the criteria: bridge width, horizontal clearance, and vertical alignment. The new criteria, which include design speed, lane width, shoulder width, horizontal curve radius, super-elevation, maximum grade, stopping sight distance, cross slope, vertical clearance, and design loading structural capacity are important design considerations. Additional revisions to the rule clarify when exceptions may be needed if a certain criterion is not met and streamlines the administrative process.

GAO Releases Report on Bridge Conditions: The Government Accountability Office (GAO) recently released a [report](#) regarding bridge conditions. In a study conducted from July 2015 to October 2015, the GAO found that nearly 25 percent of all bridges are deficient, with 10 percent categorized as structurally deficient and 14 percent categorized as functionally obsolete. Of bridges on the National Highway System (NHS), 4 percent are structurally deficient, while 17 percent are functionally obsolete. Currently, state agencies own about half of all bridges and over 90 percent of NHS bridges. However, the GAO report also found that the nation added over 15,000 bridges and almost 400-million square feet of deck area between 2005 and 2014. Additionally, during the same period, the number of deficient bridges decreased.

DOT Smart City Challenge: DOT is encouraging cities to put forward their best and most creative ideas for innovatively addressing the challenges they are facing. The vision of the Smart City Challenge is to demonstrate and evaluate a holistic, integrated approach to improving surface transportation performance within a city and integrating this approach with other smart city domains such as public safety, public services, and energy. DOT intends for this challenge

to address how emerging transportation data, technologies, and applications can be integrated with existing systems in a city to address transportation challenges. DOT seeks bold and innovative ideas for proposed demonstrations to effectively test, evaluate, and demonstrate the significant benefits of smart city concepts.

Following the announcement of the Smart City Challenge, Holland & Knight attended a forum hosted by DOT regarding the grant application process. Phase 1 of the application is due February 4, and five finalists are expected to be announced mid-March at the South by Southwest Festival in Austin, Texas. The five finalists will be awarded \$100,000 each to build their proposed demonstration for Phase 2. Phase 2 applications will be due in May, and the final award will be announced in June.

The application has a thirty page limit, and DOT wants to see the involvement of partners, such as universities or private sector partners involved in the application. Successful applicants will be able to demonstrate how they can achieve 25 percent in traffic reduction. Another important aspect of the application is the ability to connect with the elderly population.

DOT will make an award of up to \$40 million for one mid-sized city that can demonstrate how advanced data and intelligent transportation systems (ITS) technologies and applications can be used to reduce congestion, keep travelers safe, protect the environment, respond to climate change, connect underserved communities, and support economic vitality. Applications for this program are due by February 4, 2016. For more information, please visit the Funding Application Announcement via Grants.gov.