

# Holland & Knight

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## **Broward Metropolitan Planning Organization Federal Update June 2016**

FY 2017 Appropriations Update: Despite continued work on funding measures during the month of June, not a single appropriations bill has yet to receive the President's signature. By way of background on transportation funding, the Senate agreed to their FY 2017 Transportation, Housing and Urban Development (THUD) bill on May 19. In the House, however, the THUD bill has passed the House Appropriations Committee but has not yet been agreed to on the floor.

Most recently in the continuing appropriations saga, House Democrats staged a 25-hour sit-in on the House floor that temporarily halted the House's progress on the Military Construction/Veterans Affairs Appropriations conference report. The chamber was set to give final approval to the measure, which included \$1.1 billion in relief to combat the Zika disease. Over the course of the sit-in, 168 Democrats joined in the effort. House Speaker Paul Ryan (R-WI), abandoning his commitment to regular order in the House, was able to reclaim control of the chamber just after 3:00 AM on June 23, pushing the appropriations bill through in a 239-171 vote. In the House, Representatives Hasting (D-FL), Frankel (D-FL), Deutch (D-FL), Wasserman-Schultz (D-FL) and Wilson (D-FL) voted "nay," while Congressman Diaz-Balart (R-FL) voted "yea." On Tuesday, June 28, the Senate was unable to reach a 60-vote threshold on a cloture motion to proceed to the bill containing funds for the Zika outbreak. The vote in the Senate was 52-48, with Senator Nelson (D-FL) voting "yea" and Senator Rubio (R-FL) voting "nay."

On the other side of the Capitol, progress on the Commerce, Justice and Science (CJS) spending bill in the Senate was held in abeyance as Democrats held a 15 hour filibuster – led by Senator Chris Murphy (D-CT) – regarding gun control measures. Murphy called for votes on a "no fly, no buy" measure and a provision that would extend background check requirements, but the measure failed to garner the requisite 60 votes to clear the Senate's procedural requirements. In response to the failed vote, Senator Feinstein (D-CA) [noted](#) "I'm hopeful we'll be able to revisit this bill at some point in the future and cooler heads will prevail." The Senate's move on June 28 to block advancement of the bill containing Zika funding means that action on the Military Construction/Veterans Affairs Appropriations bill will be delayed.

Both the House and Senate's last day in session for the summer is July 15<sup>th</sup> as they are in recess for the political conventions and the normal August break. The earliest the House can consider the THUD bill is September. However, Congress needs to pass a continuing resolution (CR) during September since the end of the fiscal year is October 1. The House is out of session the entire month of October for the November election so it is unlikely there will be time to consider the THUD bill before the end of the fiscal year. Most likely, the THUD bill will be considered as part of an omnibus appropriations bill during the lame duck sessions.

Below is a chart detailing the status of the twelve appropriations bills needed to fully fund the federal government for FY 2017.

Appropriations Bill	House Subcommittee Markup	House Committee Markup	Senate Subcommittee Markup	Senate Committee Markup	Floor Status
Agriculture, Rural Development, Food and Drug Administration	<a href="#">April 13</a>	<a href="#">April 19</a>	<a href="#">May 17</a>	<a href="#">May 19</a>	
Commerce, Justice, Science	<a href="#">May 18</a>	<a href="#">May 24</a>	<a href="#">April 19</a>	<a href="#">April 21</a>	Senate: Week of June 13
Defense	<a href="#">May 11</a>	<a href="#">May 17</a>	<a href="#">May 24</a>	<a href="#">May 26</a>	
Energy and Water Development	<a href="#">April 13</a>	<a href="#">April 19</a>	<a href="#">April 13</a>	<a href="#">April 14</a>	Senate Passed: May 12 House Failed: May 26
Financial Services and General Government	<a href="#">May 24</a>	<a href="#">June 9</a>	<a href="#">June 15</a>	<a href="#">June 16</a>	
Department of Homeland Security	<a href="#">June 9</a>	<a href="#">June 22</a>	<a href="#">May 24</a>	<a href="#">May 26</a>	
Department of the Interior, Environment	<a href="#">May 25</a>	<a href="#">June 15</a>	<a href="#">June 14</a>	<a href="#">June 16</a>	
Department of Labor, Health and Human Services, Education			<a href="#">June 7</a>	<a href="#">June 9</a>	
Legislative Branch	<a href="#">April 20</a>	<a href="#">May 17</a>	<a href="#">Summary</a>	<a href="#">May 19</a>	House Passed: June 10
Military Construction and Veterans Affairs	<a href="#">March 23</a>	<a href="#">April 13</a>	<a href="#">April 13</a>	<a href="#">April 14</a>	House Passed: May 19 Senate Passed: May 19 House Passed Conference Report: June 23
State, Foreign Operations			June 28	June 30	
Transportation, Housing and Urban	<a href="#">May 18</a>	<a href="#">May 24</a>	<a href="#">April 19</a>	<a href="#">April 21</a>	Senate Passed: May 19

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Smart Cities Challenge Award Goes to Columbus, Ohio: On June 23, U.S. Department of Transportation (DOT) announced Columbus, Ohio as the winner of the \$50 million Smart Cities Challenge. The city will receive \$40 million in federal seed money, \$10 million from Vulcan Inc., and additional add-on technologies from Sidewalk Labs and Mobileye. Columbus plans to use these funds to roll out autonomous shuttles, universal transit cards, electric vehicle infrastructure, and vehicle-to-vehicle communications across 13,000 buses and cars. To support these efforts, the city has \$90 million in matching funds lined up from private and institutional partners.

The Department of Transportation and Vulcan have formed an initiative to raise money and support to help implement the plans of the other six finalist cities: Austin, Denver, Kansas City, Pittsburgh, Portland, and San Francisco. Overall, 78 cities applied for the challenge.

Foxx Testifies Before Senate Committee on FAST Act Implementation: Secretary of Transportation Anthony Foxx testified on June 8 before the Senate Committee on Commerce, Science, and Transportation to provide a six month update on the Fixing America's Surface Transportation Act (FAST Act). Chairman John Thune (R-S.D.) opened the hearing by expressing pride in certain portions of the legislation, specifically highway safety and impaired driving provisions, but reminded the committee that much work still needs to be done, especially in railway safety. Ranking Member Bill Nelson (D-Fla.) used the hearing to express his concerns to Foxx on vehicle safety issues, specifically on airbag safety and preventing use of faulty airbags, and also asked Foxx what more can be done to improve the auto recall process.

Committee members asked the Secretary questions on a variety of issues including: CAFÉ standards, child safety in automobiles, drug impaired and drunk driving, freight, and truck safety. Other topics included:

- Crude by rail: Senator Maria Cantwell (D-WA) asked Foxx why, given the continuing number of fiery crude-by-rail accidents, he has not issued a quick interim rule setting standards based on the volatility of the specific type of oil. Foxx replied that “that is an issue that's within our sights – that’s one of the reasons why we’ve worked with the Department of Energy to formulate a study to understand the dimensions of this material and to have a definitive study out there that really allows us to set policy around it.”
- Innovative Finance Bureau: The FAST Act established a new National Surface Transportation and Innovative Finance Bureau within DOT to serve as a one-stop shop for state and local governments to receive federal funding, financing or technical assistance. Foxx said that he expects to have the new Bureau’s office space set up by mid-summer and to have an executive director hired and have the Bureau fully operational by the end of the year.
- Project delivery: In his opening statement, Foxx mentioned that the Federal Railroad Administration (FRA) had just opened a public comment period on its survey of categorical exclusions used in railroad projects, and he hopes to finalize those procedures by the end of the year. In response to a question, the Secretary said that “on project

delivery, we are looking at the expanded use of categorical exclusions...we are also working on speeding up the permitting process by incorporating more concurrent reviews in the work so that there are fewer documents flowing between agencies and government.”

- Rail safety: Senator Jerry Moran (R-KS) asked Foxx about studies of electronically controlled pneumatic (ECP) brakes on trains that the FAST Act requires the Government Accountability Office (GAO) and the National Academy of Sciences (NAS) to conduct. Foxx did not know the status of the GAO study but said that DOT is working concurrently to test the technology for NAS evaluation and that “no results of the testing that is being done will be published or put out there until the NAS task force has a chance to really drill into it and validate it or invalidate it.”
- Railroad Rehabilitation & Improvement Financing (RRIF): Foxx stated that work is already underway “to try to consolidate a lot of the program structures of the RRIF program and the TIFIA program so that they look more like each other.”
- TIFIA: In response to a question about transit-oriented development (TOD), Foxx said that FHWA has already released TIFIA guidance that clarifies that TOD investments are eligible under the FAST Act, and expects the FRA “to follow suit very shortly with the RRIF program. And so we don't have to date any applications, but we've heard a lot of interest in this program.”
- Vehicle-to-vehicle infrastructure: Senator Gary Peters (D-MI) asked the Secretary about vehicle-to-vehicle technology and dedicated short-range communication (DSRC) radios and their roles in the evaluation of Smart City and other technology grant applicants. Foxx replied that “there are a lot of opportunities in this space. How they actually get deployed is one of the questions the Smart City Challenge is asking. We've tried not to be prescriptive with the cities to tell them you have to have your streetlights coordinated; you have to do this; you have to do that. It's more a question of what is the vision each city has and how does technology relate to that vision.” He also noted that “I can't overstate how important it is to be very sure that spectrum sharing is safe.”

House Roundtable Examines Innovation Provisions of FAST Act: On June 9th, the House Transportation and Infrastructure's Subcommittee on Highways and Transit held a roundtable discussion about the implementation of the FAST Act's innovation title which reauthorizes transportation research programs and introduces new competitive grant programs for congestion management technology and alternative user-based funding revenues.

The panelists were: Kirk Steudle, Director of the Michigan Department of Transportation (MDOT); John E. Roberti, Vice President of Government Relations and Strategy at Cubic Corporation; David Schwietert, Executive Vice President of Federal and Government Relations and Public Policy at the Alliance of Automobile Manufacturers (AAM); and Joshua Schank, Chief Innovation Officer at Los Angeles County Metropolitan Transportation Authority (L.A. Metro).

The panelists' opening remarks highlighted their current work within the technology space and opportunities that the FAST Act could provide in reducing automobile fatalities and improving data analytics to connect information between travelers and providers.

Most of the discussion focused on the challenges and barriers posed by regional governance and that the choice of technology is not necessarily about the “best” technology, but rather the appropriate one for a region and its specific goals.

All of the panelists observed that regulatory barriers are not the only challenge associated with implementing innovative transportation technology solutions. Challenges include lack of funding and patchwork of legislation at the state level,

The subcommittee members were very interested in recalibration of traffic signals in real-time to reflect changing traffic conditions. The panelists said that this technology is not yet available on a large scale. The panelists discussed how spectrum is required to enable wireless communications and is a crucial component for not only connected vehicles, but also connected infrastructure in general, such as the real-time changing traffic signals. Panelists stated that a rulemaking that would require Dedicated Short Range Communications (DSRC) technology in vehicles has been proposed and is still pending.

The panelists also discussed the issues with managing congestion. There is no significant system for pricing road systems in the United States, and managing congestion also involves predicting traffic patterns and more data analytics would be necessary for accurate predictions.

Grants/Funding Opportunities Update: Holland & Knight has heard from DOT that FASTLANE grants could be announced as early as the week of July 11. TIGER awards are likely to be announced the last week of July/first week of August.

FAA Authorization Update: The Federal Aviation Administration (FAA) authorization expires on July 15, the last day Congress is in during the summer before recessing for the political conventions. Recently, Senate Commerce Committee Chairman John Thune stated that his committee and the House Transportation and Infrastructure Committee are in the "final stages" of drafting legislation that would authorize funding for the FAA through the end of 2017. The bill will also include provisions addressing airport security concerns raised in light of recent terror attacks and the government's role in regulating drones. House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) and Senate Commerce Committee Ranking Member Bill Nelson (D-FL) still have "outstanding issues" they would like to include.