

# ALCALDE & FAY

GOVERNMENT & PUBLIC AFFAIRS CONSULTANTS

May 14, 2012

## MEMORANDUM

**TO:** Chairman Joe A. Martinez  
Board of County Commissioners

**FROM:** Hector Alcalde  
Lois Moore  
Danielle McBeth  
Charlotte Hrcir

**SUBJECT:** **April Monthly Report**

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When Congress returned from its two-week recess on April 16, 2012, both the House and Senate Appropriations Committees began moving forward in earnest with markups of their respective appropriations bills. The House and Senate will be using different top line discretionary spending caps (\$1.028 trillion and \$1.047 trillion, respectively), which will likely lead to tougher conference negotiations on the final bills. The Senate Appropriations Committee approved its Subcommittee allocations (known as 302(b)s) on April 19, 2012, gaining support from many Republicans. During the Subcommittee hearing, Ranking Member Thad Cochran (R-MS) offered his support for adhering to the FY 2013 caps established by BCA, noting that it was "appropriate" for the Appropriations Committee to "proceed on the basis of the discretionary caps enacted into law less than nine months ago." Ranking Member Cochran did concede that additional changes may be sought by Members of both parties, and that as that process moves forward, "Senators will have every opportunity to propose changes to reduce or reallocate spending." In the House, the Appropriations Committee approved its FY 2013 Subcommittee allocations on April 25, 2012, and has begun markups of its spending bills.

As you know, due to the moratorium on Congressionally directed spending, neither the House nor Senate accepted appropriations requests. "Program" and "language" requests were accepted under strict guidelines and definitions.

Below is a summary of our work and an update on legislative issues of interest to the County for the month of April.

## SEAPORT DEPARTMENT

### *Miami Harbor Operation and Maintenance Funds*

During the week of April 23, 2012, the House and Senate Appropriations Committees marked up the FY 2013 spending measure for the Army Corps. The House committee included \$4,182,000 for Miami Harbor Operation and Maintenance (O&M) needs, only 3.5 percent less than the amount budgeted. The Senate Committee included the entire amount budgeted, which is \$4,334,000.

These committee actions followed the announcement in February 2012 of the inclusion of \$4,334,000 for Miami Harbor maintenance in the Corps budget.

To ensure that the budgeted funds were included in the committee spending bills, we scheduled meetings for Director Bill Johnson with members of the Miami-Dade Delegation on March 20 and 21, 2012 and accompanied Director Johnson to the meetings. We were pleased that Delegation members committed to support the budgeted allocations for Miami Harbor. As a member of the Appropriations Committee, Congressman Mario Diaz-Balart (R-21<sup>st</sup>) prioritized this request to the Appropriations Committee.

By way of background, during the month of January, we alerted the Seaport Department to the additional \$55 million in O&M funds provided by the FY 2012 Omnibus Appropriations Act for ongoing maintenance work and recommended that the Port seek funds from this account and the FY 2013 budget. The Port discussed both approaches with the Army Corps Jacksonville District and we drafted a congressional letter to Assistant Secretary Darcy requesting funds for the needed maintenance work. Congressman Diaz-Balart took the lead in securing Delegation signatures and the letter was forwarded to Secretary Darcy prior to the budget release in early February.

### *Miami Harbor Deep Dredge*

As previously reported, on October 7, 2011, the House Appropriations Committee gave final approval for the Army Corps to proceed with the Miami Harbor deep dredge project. This followed clearances by the Senate Appropriations Committee and the Office of Management and Budget (OMB). These approvals authorized the Army Corps to prepare the Performance Partnership Agreement (PPA) between the Army Corps and Miami-Dade County.

We have been working with the Port and Army Corps to facilitate a timely implementation of the PPA. We scheduled and accompanied Director Johnson and Port staff to a meeting at Corps Headquarters on December 9, 2011 to discuss the draft PPA,

which was prepared by the Corps. Responding to the Port's suggestions, Corps Headquarters attorney Susan Nee made several adjustments to the original draft and Port counsel is reviewing the revised draft PPA at this time.

Due to the significance of the deep draft, we have provided below a recap of numerous federal activities over the previous 18 months.

*Recap:*

House Committee approval followed numerous contacts with Chairman Rodney Frelinghuysen (R-NJ) and staff of the House Appropriations Subcommittee on Energy and Water Development. Congressman Diaz-Balart spoke with Chairman Frelinghuysen on two separate occasions regarding the urgency of moving forward with the project. Staff of the Miami-Dade Delegation, including the offices of Representatives Ileana Ros-Lehtinen (R-18<sup>th</sup>) and Frederica Wilson (D-17<sup>th</sup>), were in constant contact with appropriations committee staff. In addition, Port Director Johnson made several inquiries to appropriations committee majority and minority staff members, following up on previous meetings.

At the request of Alcalde and Fay, on September 22, 2011, Congressman Bill Young (R-10<sup>th</sup>) also spoke personally with Chairman Frelinghuysen. At that time, the Chairman advised Congressman Young that the committee could not approve the project because, despite the assumption of the entire construction cost by the non-federal sponsor, it was his (the Chairman's) understanding that a deeper draft would result in additional federal maintenance costs. This is not accurate and we immediately moved to correct this misunderstanding. We worked with the Seaport Department and the Army Corps Jacksonville District Office staff to prepare a letter. The final letter signed by the Army Corps Jacksonville District, dated September 23, 2011 stated:

*"Maintenance dredging is typically performed on a ten year cycle at the Port of Miami, which has one of the lowest average annual maintenance costs along the east coast, and is on average \$350,000 per year. Any increase in shoaling of the newly authorized channel, once constructed, is expected to be negligible."*

Representatives Young and Diaz-Balart met again with Chairman Frelinghuysen on October 6, 2011 at which time the Chairman agreed to release the hold on the project.

Multiple meetings were scheduled on behalf of the Seaport Department, including the following:

- Stacey Brown, Chief, Integrations Division, South Atlantic Division;
- Susan Nee, Legal Department, Army Corps Headquarters;

- Sally Ericsson, Associate Director, Office of Management and Budget;
- Richard Patrick, Legislative Director to Congressman Ed Pastor (D-AZ), Ranking Democrat, Energy and Water Development Appropriations Subcommittee;
- John Anderson, Staff Director, Water Resources Subcommittee, Transportation and Infrastructure Committee;
- Roger Cockrell, Professional Staff, Energy and Water Subcommittee, Senate Appropriations Committee;
- Michael Higdon, Chief of Staff, Office of Congressman Hal Rogers (R-KY), Chair, House Appropriations Committee;
- Angie Giancarlo, Professional Staff (Majority), Energy and Water Development Subcommittee, House Appropriations Committee;
- Taunja Berquam, Professional Staff (Minority), Energy and Water Development Subcommittee, House Appropriations Committee;
- Senator Bill Nelson (D-FL); and
- Miguel Mendoza, Legislative Director, Office of Congressman Mario Diaz-Balart (R-21<sup>st</sup>).

The purpose of the meetings was to facilitate support for the Army Corps' proposal to accept and use non-federal funds for the deep draft (50 foot) dredging project. The proposed authority originates from a 1925 Rivers and Harbors Act/Section 561 of federal code. A letter which proposed the use of the 1925 authority was sent by Secretary Darcy to OMB Director Lew on June 22, 2011. Another letter from Secretary Darcy was sent to the House and Senate Appropriations Committees on July 19, 2011. The Miami-Dade Delegation members and Senator Bill Nelson (D-FL) were consistently supportive of the deep dredge project. As previously reported, during the month of April, Congresswoman Ros-Lehtinen held a delegation meeting in her office with the Assistant Secretary of the Army (for Civil Works), Jo-Ellen Darcy. We assisted in preparing talking points in advance of the meeting and in coordinating with Congresswoman Ros-Lehtinen's staff and other delegation members. We were pleased to hear that the Members received a commitment from Secretary Darcy at that time that the Port of Miami deep dredge would be a priority of the Department.

### *Maritime Title of Transportation Bill*

On March 14, 2012, the Senate passed a two-year \$109 billion transportation reauthorization bill. Despite approval of a four and one-half year \$260 billion transportation bill in February by the House Transportation and Infrastructure Committee, the House Leadership did not schedule the committee bill for a Floor vote. Instead, on April 18, 2012, the House passed a 90-day extension through September 30, 2012. Sixty-nine Democrats voted with Republicans to support the measure. The extension includes language intended to force the President to approve the controversial Keystone XL oil sands pipeline. Also adopted as amendments to the bill

are provisions intended to ease federal environmental permitting requirements for highway construction projects and to provide states with more authority over environmental reviews. A House/Senate conference will need to iron out the differences between the two bills. The conference begins on May 8, 2012.

Pending for conference consideration is language which provides that the harbor maintenance trust funds be fully used for maintenance dredging of the nation's navigation channels, by tying HMTF expenditures to revenues.

Committee staff advised that other issues that were being discussed for inclusion in the maritime title will most likely wait to be considered for inclusion in the next WRDA (water resources) legislation. These issues include:

- Expediting permits administered by the Corps to help address backlogs that increase project costs;
- Streamlining the study process for Corps navigation projects;
- Ensuring that policies and projects among departments sharing jurisdiction of maritime transportation are coordinated and streamlined;
- Encouraging short-sea shipping by prohibiting double-taxation of vessels shipping goods between domestic ports;
- Allowing non-federal project sponsors that have already arranged financing to contract with the Corps to expedite studies for navigation projects;
- Stimulating domestic shipbuilding and creation of maritime jobs by expanding the allowable use of tax-deferred Capital Construction Fund accounts;
- Clarifying provisions relating to credit for work carried out by non-federal sponsors; and
- Amending the cost share formula for construction of channel depths greater than 45 feet.

### *Water Resources Development Legislation (WRDA 2011)*

Chairman Mica's staff has indicated to us that the committee plans to begin work on WRDA legislation after the transportation conference is finalized.

The Port of Miami previously submitted a WRDA request for federalization of the Dodge Island Cut extension for maintenance dredging. Since this is defined as an earmark, we contacted committee staff to suggest a policy approach establishing a mechanism whereby non-federal sponsors could request federal assumption of maintenance, based upon specific criteria. We provided the following suggested language for inclusion within the Maritime section of the transportation bill.

*Upon the request of a nonfederal interest, the Secretary shall be responsible for maintenance of navigation channels constructed or improved by the nonfederal interest if the Secretary determines that such maintenance is economically justified and environmentally acceptable and that the channel was constructed in accordance with applicable permits and appropriate engineering and design standards."*

We have been advised that the Senate EPW committee also has plans to work on WRDA legislation. We will monitor closely for any significant developments.

## **MIAMI INTERNATIONAL AIRPORT: FAA REAUTHORIZATION CONFERENCE**

Although our firm is not assigned to the MIA, we reached out to MIA government relations in December to advise of Section 208(h) of the Senate – passed FAA bill (S. 223) which modifies the eligibility standards for the “noise set-aside program” to include water quality mitigation projects. The flexibility afforded by Sec. 208 provides an important funding opportunity for critical environmental projects which are integral to airport capacity expansion needs.

We thought MIA would be interested as sources of federal assistance for environmental needs are limited not only due to federal budget cutting, but also the current moratorium on legislated earmarks by Members of Congress. We also reached out to the Florida Airports Council and numerous other airports to alert them to this important provision, as we have learned that there was not widespread knowledge of the provision. The Florida Airports Council sent a letter of support to Congressman Mica, who, as Chairman of the House Transportation and Infrastructure (T&I) Committee, was the lead House conferee.

We are pleased that Sec. 208(h) was incorporated into the final conference agreement during final staff deliberations on January 30, 2012. The FAA is accepting applications for grant funds pursuant to the amended language.

## **WATER & SEWER DEPARTMENT**

While the FY 2012 Omnibus Appropriations Act (enacted on December 23, 2011) includes \$29 million for Army Corps Section 219/ Environmental Infrastructure projects, legislative language indicates that only continuing projects would be eligible for this funding. As the authorized reclaimed water pipeline is designated as a “new start” project, it would not be eligible for allocation of funds at this time. We will continue to seek funding from other sources.

While we prepared submissions to Senator Nelson's office for additional authorization for the pipeline project and other projects on behalf of the Water and Sewer Department, it is evident that there will be no project specific provisions in WRDA legislation (unless projects have a finalized Chief of Engineers' report by the Army Corps). The pending projects are as follow:

**\$6.25 million for the Water Transmission Pipeline authorized in the Water Resources Development Act of 2007.** Congress authorized this reclaimed water pipeline to receive up to \$6.25 million in grant assistance from the Army Corps, pending an appropriation.

**Authorization of \$30 million for a pipeline to convey reclaimed water to the Florida Power and Light (FPL) complex at Turkey Point.** The \$120 million project would require a nine-mile pipeline from the South District Water Treatment Plant to the FPL complex. The reclaimed water would be used to cool a proposed power plant addition, and to replace cooling water for existing units.

**Authorization of \$1.5 million for a Water Main to convey reclaimed water to Fisher Island and Miami Beach.** The \$3 million project includes the construction of a 20-inch reclaimed water main from the Central District Wastewater Treatment Plant on Virginia Key to Fisher Island and Miami Beach. The reclaimed water, delivered through the 8,300 foot pipeline, would be used for irrigation replacing potable water from the Biscayne Aquifer.

**Increase to \$20 million the authorization for the South Miami Dade Reuse Pipeline.** Section 5158 (128) of the Water Resources Development Act of 2007 included the authorization of \$6.25 million for the \$357 million project to construct new water reuse treatment facilities and pipelines. This request will increase the federal participation level, in this important environmental project, to six percent.

We are seeking any opportunities for federal grant assistance with the following project.

**\$5 million for the Pump Station Optimization Program (PSOP).** The PSOP consists of the installation of a program addition to pump station Supervisory Control and Data Acquisition (SCADA) controls for each station. Five million dollars is needed for program upgrades and monitoring well installations, upgrades to pump station control panels, and level sensing equipment to allow for increased pressures, which result from increased wastewater elevations during the PSOP operations.

#### *Chemical Facilities Security Bill*

On June 29, 2011 the Senate Homeland Security and Governmental Affairs Committee reported out legislation which extends the Department of Homeland Security's program requiring high-risk chemical facilities to comply with federal security

standards. The Chemical Facility Anti-Terrorism Standards program, or CFATS, sets 18 risk-based performance standards that high-risk chemical facilities must meet. The security standards cover a range of vulnerabilities, such as perimeter security, access control, theft, internal sabotage, and cyber security.

#### *Water Quality Standards/ Clean Water Cooperative Federalism Act*

On June 24, 2011 the House Transportation and Infrastructure Committee reported a bill that would strip the Environmental Protection Agency (EPA) of its authority under the Clean Water Act to revise state water-quality standards once they are agreed to by the state and EPA. Under current law, EPA may veto a new state water quality standard for a previously regulated pollutant if the EPA determines that the new standard is not consistent with the Clean Water Act. H.R. 2018, the Clean Water Cooperative Federalism Act, would give each state the final say in whether a revised state water-quality standard satisfies the Clean Water Act. Thirty Republicans and five Democrats on the committee supported the legislation.

## **TRANSPORTATION**

### *National Infrastructure Investments (TIGER IV)*

In mid-April, we informed the County that DOT announced they had received 703 applications totaling \$10.2 billion in TIGER IV funding, which greatly exceeds the \$500 million available. We prepared a side-by-side of the two grants submitted for ease of reference during Congressional visits April 24-25, 2012. Awards are expected to be announced in June.

In anticipation of the County's submission of two applications for consideration under the Transportation Investment Generating Economic Recovery (TIGER) grant program, we prepared suggested draft letters of support and circulated them to the South Florida Congressional Delegation for their signature. We received joint letters of support for the County's two project submissions - State Road (SR) 836 Express Enhanced Bus Service Project and the NW 27th Avenue Enhanced Bus Service Project - each signed by Congressman Mario Diaz-Balart (R-21<sup>st</sup>), Congresswoman Ileana Ros-Lehtinen (R-18<sup>th</sup>), Congresswoman Debbie Wasserman Schultz (D-20<sup>th</sup>), Congresswoman Frederica Wilson (D-17<sup>th</sup>), and Congressman David Rivera (R-25<sup>th</sup>).

### *Surface Transportation Reauthorization*

The Surface Transportation Extension Act of 2012 (H.R. 4281) was signed into law by President Obama on March 30, 2012, extending the authorizations for highway and transit programs provided in SAFETEA-LU through June 30, 2012. Following Senate passage of MAP-21 (Moving Ahead for Progress in the 21st Century-S. 2183) on March



14, 2012, both House and Senate Democrats had pressured House Republicans to act on the two-year reauthorization bill. However, House Republicans instead chose to move forward with the short-term bill, and Congress ultimately voted in favor of the 90-day extension on March 29, 2012, only two days before the previous extension was scheduled to expire.

Before leaving Washington for a two-week recess on March 30, 2012, House Speaker John Boehner confirmed that the bill's top stakeholders would be working over the recess to finalize a modified version of Chairman John Mica's (R-7<sup>th</sup>) five-year bill, the American Energy and Infrastructure Jobs Act of 2012 (H.R. 7). It remained unclear, however, which policy provisions would be left in the updated draft of the bill, although Chairman Mica had indicated that he was willing to remove language that would have eliminated the 20 percent set-aside from the Highway Trust Fund for mass transit programs. Speaker Boehner continued his support for the domestic energy provisions he had previously championed, which would supplement the depleted Highway Trust Fund with revenue gained from future oil and gas production, including drilling in the Arctic National Wildlife Refuge (ANWR), expanding similar efforts in the eastern Gulf of Mexico and along the mid-Atlantic Coastline, and approval of the Keystone XL pipeline. Referencing the post-recess strategy in the House, Speaker Boehner confirmed that House Republicans would "move quickly to move a highway bill with our energy initiatives and ship it over to the United States Senate."

However, upon returning from the two-week recess on April 16, 2012, House Republicans announced that instead of moving forward with a long-term reauthorization bill that would be conferenced with MAP-21, they would instead seek an additional 90-day extension through September 30, 2012. This strategy would allow the House Leadership to essentially use the extension as a "shell bill" in order to begin conference negotiations with the Senate on a long-term reauthorization bill. Speaker Boehner admitted if it were solely up to him, "H.R. 7 would have been on the floor six weeks ago," but that due to a lack of Republican support for Chairman Mica's bill, or for any modified versions that had been proposed, the House was forced to use the extension as a "Plan B" to get to conference on a long-term bill.

The extension was approved by the full House on April 18, 2012, by a vote of 293 to 127, which included supporting votes from T&I Ranking Member Nick Rahall (D-WV) and 68 Democrats, many of whom only supported the bill in order to move forward with conference negotiations. The extension included several policy provisions designed to garner support from House Republicans, including a mandate for approving the Keystone XL pipeline and language that would send fines from the BP oil spill to projects in the Gulf States. These provisions were included by the House leadership in order to garner support from within their own party, and to signify some of their main policy priorities before beginning conference negotiations.

The House and Senate conferees were announced and shared with OIA as included below for your reference:

***Senate Conferees***

Barbara Boxer (D-CA)  
Max Baucus (D-MT)  
Dick Durbin (D-IL)  
Tim Johnson (D-SD)  
Bill Nelson (D-FL)  
Charles Schumer (D-NY)  
Robert Menendez (D-NJ)  
James Inhofe (R-OK)  
David Vitter (R-LA)  
Orrin Hatch (R-UT)  
Richard Shelby (R-AL)  
Kay Bailey Hutchison (R-TX)  
Jay Rockefeller (D-WV)  
John Hoeven (R-ND)

***House Conferees***

John Mica (R-FL)  
Don Young (R-AL)  
John Duncan (R-TN)  
Bill Shuster (R-PA)  
Shelley Moore Capito (WV)  
Rick Crawford (R-AR)  
Jaime Herrera Beutler (R-WA)  
Larry Buschon (R-IN)  
Richard Hanna (NR-NY)  
Steve Southerland (R-FL)  
James Lankford (R-OK)  
Reid Ribble (R-WI)  
Fred Upton (R-MI)  
Ed Whitfield (R-KY)  
Doc Hastings (R-WA)  
Rob Bishop (R-UT)  
Ralph Hall (R-TX)

Chip Cravaack (R-MN)  
Dave Camp (R-MI)  
Patrick Tiberi (R-OH)  
Nick Rahall (D-WV)  
Peter DeFazio (D-OR)  
Jerry Costello (D-IL)  
Jerrold Nadler (D-NY)  
Corrine Brown (D-FL)  
Elijah Cummings (D-MD)  
Leonard Boswell (D-IA)  
Tim Bishop (D-NY)  
Henry Waxman (D-CA)  
Ed Markey (D-MA)  
Eddie Bernice Johnson (D-TX)  
Earl Blumenauer (D-OR)  
Del. Eleanor Holmes Norton (D-DC)

The first conference meeting is scheduled for May 8, 2012, after Members return from the District Work Period. EPW Ranking Member James Inhofe (R-OK) stated that relevant staff would begin meeting over the week-long recess to begin outlining the conferees stance and to help determine “Where do we disagree?” on key issues. House conferee Congressman Peter DeFazio (D-OR) dismissed concerns that the meetings would be simply political theater, suggesting instead that he believed “it’s going to be a real conference.” Congressman DeFazio also expressed concern regarding the two sides coalescing around the length of the reauthorization, noting that Chairman Mica is “still saying he wants a long-term bill, but he couldn’t produce one and their caucus won’t support it. ... I don’t even see how you do that because it’s going to mean more revenues.” With deliberations over policy provisions expected to be somewhat contentious, and with the current enacted extension scheduled to expire on June 30, 2012, the likelihood of passing a long-term reauthorization bill remains tenuous.

## **ECONOMIC DEVELOPMENT**

### ***Community Development Block Grant Program (CDBG)***

On April 19, 2012, the Senate Appropriations Committee approved the FY 2013 Transportation, Housing and Urban Development Appropriations (T-HUD) by a vote of 28 to 1. The Community Development Fund was provided with \$3.21

billion, which is \$198 million more than the FY 2012 enacted level but \$66.9 million more than what the White House had requested for FY 2013. Including in this funding was \$3.1 billion for the CDBG program, \$151 million more than the President's request which was the same as the FY 2012 enacted level. At this time it remains unclear when the House Appropriations T-HUD Subcommittee will introduce its version of the FY 2013 spending bill; however Committee staff have indicated that a draft bill may not be completed/released until mid-June or early July.

### ***Build America Bonds (BABs) & Transportation and Regional Infrastructure Project Bonds (TRIPs)***

As you are aware, Congress did not renew the BAB program prior to its expiration on December 31, 2010, and while the program has enjoyed some renewed support in the 112<sup>th</sup> Congress, it was not included in the Senate-passed MAP-21 bill or in Chairman Mica's five-year reauthorization bill, therefore making it unlikely that the program would be revived during conference negotiations on a long-term bill. However, the Senate did include in MAP-21 provisions that would allow for the issuance of Transportation and Regional Infrastructure Project Bonds, or TRIPs bonds. These bonds, championed by Senator Ron Wyden (D-OR) and initially introduced as stand-alone bipartisan legislation with Senators John Hoeven (R-ND) and Mark Begich (D-AK), are essentially a "re-branded" version of BABs. The bill describes qualifying projects as "capital improvements to any transportation infrastructure project of any governmental unit or other person, including roads, bridges, rail and transit systems, ports, and inland waterways proposed and approved by a State infrastructure bank." The bill authorizes the bonds to be issued by state infrastructure banks and requires states to develop a "transparent competitive process" for awarding the funds.

## **ELECTIONS**

As previously reported, the House has approved, [H.R. 3463](#), a measure to terminate the Presidential Election Campaign Fund and abolish the Election Assistance Commission, a national clearinghouse on the mechanics of voting. Senate Majority Leader Harry Reid (D-NV) has stated that the controversial legislation will not likely garner approval in the Senate.

### ***FY 2013 Budget Information***

The President's FY2013 Budget Proposal includes \$11,500,000 for the EAC of which \$3 million will be transferred to Inspector General and NIST.

## Election Assistance Commission (EAC)

	FY2013			FY2013
FY2012 Actual	Administration Request	House Mark	Senate Mark	Conference Final
\$11,500,000	\$11,500,000			

## TRAVEL & TOURISM

### *Draft Internet Travel Tax Fairness Act*

We continue to monitor the internet hotel tax issue. A Leon County, FL circuit judge has sided with the online-travel industry in a long-running legal battle about whether companies such as Expedia and Orbitz owe disputed county hotel taxes. Judge James Shelfer ruled in favor of the industry, going against 17 Florida counties that argue they have improperly lost millions of dollars in tourist-development taxes. Roberto Martinez, a lawyer for the counties, said the case is "far from over" and that the counties definitely will appeal.

## OTHER LEGISLATION OF INTEREST

### *National Flood Insurance Program (NFIP) Reauthorization*

We are nearing the expiration of the current extension of NFIP on May 31, 2012. As you are aware, the House approved a five-year reauthorization bill (Flood Insurance Reform Act of 2011—H.R. 1309) last summer. Although the Senate Banking Committee last fall approved its own five-year bill (Flood Insurance Reform and Modernization Act of 2011—S. 1940), the full Senate has not yet voted on either bill. Reports indicate that Majority Leader Reid is hesitant to bring the bill to the floor for a vote due to concerns that it will be consumed by non-germane amendments and use too much floor time. The House bill's sponsor, Congresswoman Judy Biggert (R-IL), recently said that she had asked the Banking Committee's Chair and Ranking Members "'Do you want this or not?' And they said, 'Yes, we really do,'" but that Majority Leader Reid continued to contend that they lack the available floor time.

In response to the Senate's inaction, proponents of the House bill have sought to force the Senate's hand by attaching the text of their bill to legislation in hopes of forcing a Senate vote and/or consideration of their bill. As you may recall, the text of H.R. 1309 was included as an amendment to initial versions of the FY 2012 Interior Appropriations bill, as well as to an earlier draft of the payroll tax extension bill. Most recently, the House Financial Services Committee included

the legislation as one of its budget reconciliation recommendations that were submitted to the House Budget Committee. Although it remains unclear if the Senate will even chose to address the House budget reconciliation recommendations that are ultimately approved by the Budget Committee, the inclusion of the NFIP reauthorization bill once again draws attention to the legislation and the Senate's inaction.

Echoing concerns that the NFIP may be allowed to expire, or lapse, FEMA Administrator Craig Fugate on April 17, 2012, called on Congress to pass a two-year reauthorization bill. In a letter to the Chair and Ranking Members of the House Financial Services and Senate Banking Committees, Administrator Fugate stressed the importance of reauthorizing the program in order to prevent the "adverse and avoidable consequences of short-term reauthorizations and temporary suspensions of the NFIP." He also noted that it was important to provide a longer-term solution in order to "send a clear signal to citizens, communities, and private sector partners that the federal government will continue to support our Nation's efforts to manage flood risk." Following up in a press release a week later, David Miller, Associate Administrator for FEMA's Federal Insurance and Mitigation Administration, said that reauthorizing NFIP was the "prudent thing to do." He also noted that if the current NFIP extension was allowed to expire at the end of May, FEMA and NFIP would be unable to issue, renew, or modify existing policies. During the program's four previous "lapses", FEMA estimated that these policy-writing issues prevented thousands of people from closing on home purchases in NFIP-covered areas.

As we have previously reported, the current version of the Senate bill includes a 15 percent cap on annual premium rate increases, instead of the 10 percent the County prefers; the House version of the bill caps the annual premium rate increases at 20 percent. The Senate bill also includes a provision requiring the mandatory purchase of flood insurance by residents living behind federally certified levees; however, this provision has garnered significant opposition and Senators Thad Cochran (R-MS) and Mark Pryor (D-AR) sent a letter to the Banking Committee's leadership requesting reconsideration of this provision (Section 107). We provided the County with a draft copy of the letter, which was ultimately co-signed by a bipartisan group of 11 Senators; however, Senators Nelson and Rubio did not sign the letter.

The legislation that is ultimately approved by the full Senate will still need to be reconciled with the House-passed bill, which would extend the program for five years, provide for a five-year phase-in of full premium rates for newly re-mapped areas, and allow for qualifying "areas" to apply for three one-year delays for the mandatory purchase of flood insurance. The bill also allows for a

fourth and fifth year of extensions, provided that a community can demonstrate that “more than adequate progress has been made on the construction of a flood protection system for such area.” The bill would also establish a 16-member Technical Mapping Advisory Council to provide recommendations and reports to FEMA regarding the adoption of updated mapping standards to be used in creating 100-year flood insurance rate maps.