

# ALCALDE & FAY

GOVERNMENT & PUBLIC AFFAIRS CONSULTANTS

March 6, 2012

## MEMORANDUM

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

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

**SUBJECT: February Monthly Report**

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The House and Senate Appropriations Committees have begun initial hearings on the President's FY 2013 budget proposal, which was submitted to Congress on February 13, 2012. While recent reports have suggested that both the House and Senate will adhere to the \$1.047 trillion discretionary cap for FY 2013 established in the Budget Control Act, House Republicans may introduce a budget resolution that calls for lower levels of discretionary spending. Theoretically this would be done to garner support from some of the sixty-six House Republicans that voted against the debt limit law. House Budget Committee Chairman Paul Ryan (R-WI) has indicated that Republicans will unveil their FY 2013 budget resolution in March and hopes to have it on the House floor by the end of the month where it will likely be approved with the support of the Republican majority.

Such a resolution would be mostly symbolic since Senate Majority Leader Harry Reid (D-NV) has indicated that he will not bring any budget resolutions to the Senate floor for consideration. Majority Leader Reid recently noted that the Budget Control Act already established spending limits for FY 2013 and responded firmly to the question of whether he would consider even a Democrat-sponsored budget resolution, saying "We do not need to bring a budget to the floor this year — it's done, we don't need to do it." Furthermore, he indicated that Senate Appropriations Committee Chairman Daniel Inouye (D-HI) had already instructed his Subcommittee Chairmen to begin drafting their respective bills. Chairman Ryan criticized this decision as a sign of Democrats' unwillingness to tackle long-term reform, characterizing the Majority Leader's "refusal to budget...a recipe for crisis." It remains unclear, however, whether Senate Budget Committee Chairman Kent Conrad (D-ND) will mark-up a budget resolution, despite Majority Leader Reid's comments, and also whether Minority Leader Mitch McConnell

(R-KY) will try to force a floor vote on the President's budget proposal to highlight its unpopularity, as was the case last year.

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

## **SEAPORT DEPARTMENT**

### ***Miami Harbor Operation and Maintenance Funds***

We were pleased to report that the FY 2013 Army Corps of Engineers' budget included \$4,334,000 for Port Miami Operation and Maintenance (O&M) needs.

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 Mario Diaz-Balart (R-21st) took the lead in securing delegation signatures and the letter was forwarded to Secretary Darcy 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 S. 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-FL) 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-FL).

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*

The surface transportation reauthorization bill was marked up on February 1, 2012. The Maritime Title comprises a Sense of the Congress resolution that the harbor maintenance trust funds be fully used for maintenance dredging of the nation's navigation channels. This provision may be strengthened as the transportation legislation moves through Congress. 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:

- Ensuring that funds collected for the Harbor Maintenance Trust Fund (HMTF) are used as intended, by tying HMTF expenditures to revenues;
- 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 sometime in the spring, 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.

### ***Port of Miami Landside Infrastructure Improvements/TIGER Grants***

On October 19, 2010, the Department of Transportation announced a \$22.7 million grant to the Port of Miami for the proposed Intermodal and Rail Interconnection project at the Port of Miami. Another \$567 million is available for FY 2011. Applications were due to the Department of Transportation by the end of October. The recently enacted FY 2012 DOT Appropriations Act includes an additional \$500 million for another TIGER solicitation in 2012 and the NOFA was announced in January. Please advise, should the Seaport Department decide to submit a 2012 TIGER application.

### ***Commerce Committee Hearing on Cruise Industry***

The Senate Committee on Commerce, Science and Transportation announced a hearing to be held on March 1 entitled *"Cruise Industry Oversight: Are Current Regulations Sufficient to Protect Passengers & Environment."*

We recommended to the Committee that Director Johnson be invited to testify, assisted in preparing the Director's statement to the committee and discussed possible questions which may be addressed by committee members during the hearing. Christine Duffy, President and CEO of the Cruise Line International Association (CLIA), also testified on the same hearing panel.

Both Senators Nelson and Rubio attended the hearing and thanked Director Johnson for his participation. We also scheduled meetings for Mr. Johnson with both Senators in advance of the hearing.

### **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.

## **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

### *Transportation Appropriations*

On February 13, 2012, President Obama released his budget proposal for FY 2013, and we provided the County with a detailed analysis of the funding and policy requests for various programs at each Federal agency. In addition to the provided overview, we have included below a chart detailing the President's specific funding requests for programs of interest at the Department of Transportation.

<b>Program</b>	<b>FY 2011 Enacted</b>	<b>FY 2012 Enacted</b>	<b>FY 2013 President's Request</b>
FTA Formula and Bus Grants Total	\$8.343 billion	\$8.361 billion	\$8.124 billion
FTA Capital Investment Grants (New Starts and Small Starts)	\$1.597 billion	\$1.955 billion	\$2.235 billion <i>(transferred from discretionary to mandatory spending)</i>
Urbanized Area Formula Grants (Section 5307)	\$4.151 billion	\$4.160 billion	\$3.535 billion
Fixed Guideway Modernization (Section 5309)	\$1.663 billion	\$1.667 billion	<i>(incorporated into the "Bus and Rail State of Good Repair" Program)</i>
TIGER Grants	\$527 million	\$500 million	\$500 million
AMTRAK Operating Subsidies	\$562 million	\$466 million	<i>(incorporated into the "System Preservation and Renewal" Program)</i>
AMTRAK Capital & Debt Service Grants	\$922 million	\$952 million	<i>(incorporated into the "System Preservation and Renewal" Program)</i>

### *Surface Transportation Authorization Act*

The current extension of the authorizations for highway and transit programs provided in SAFETEA-LU will expire March 31, 2012. Upon returning from the holiday recess in January, both the House and Senate failed to make any progress in advancing their

respective surface transportation reauthorization proposals. However, after months of inaction both chambers made significant strides in February towards approving their reauthorization bills.

On January 31, 2012, House Transportation and Infrastructure Committee Chairman John Mica (R-7th) introduced the highway title of the American Energy and Infrastructure Jobs Act of 2012 (H.R. 7). The 700-page bill would reauthorize surface transportation programs for five years and provide approximately \$260 billion in funding. Much like the Senate's "Moving Ahead for Progress in the 21st Century" or MAP-21 bill, the House legislation would consolidate and/or eliminate dozens of federal programs, streamline the environmental review process, and adjust the dedicated funding set-asides for specific programs. Of particular interest to the County are provisions to end dedicated funding for Transportation Enhancements (TE), the elimination of the Safe Routes to Schools (SRTS) program, and the restructuring of bicycle/pedestrian programs, which would force competition with highway and major infrastructure projects.

During the press conference to introduce the bill, Chairman Mica confirmed that the bill's energy package 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. The next day, the House Natural Resources Committee approved the bill's energy package, which is comprised of the following three bills: Alaskan Energy for American Jobs Act (H.R. 3407); Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act or "PIONEERS Act" (H.R. 3408); and the Energy Security and Transportation Jobs Act (H.R. 3410). While many Democrats had voiced their environmental concerns regarding the bill's energy package, there was an increase in criticism from both parties regarding the proposal's speculative nature and inability to provide an immediate source of funding, as reports have indicated it could be six to eight years before these new revenues are seen. Senate Environment and Public Works Ranking Member James Inhofe (R-OK), while a strong supporter of expanded domestic energy production, criticized the spending proposal, suggesting that, "you can't very well use revenues you don't have." Similarly, during the Natural Resources Committee's markup, Congressman Rush Holt (D-NJ) accused Republicans of drafting a bill that relies on "resources that might materialize, at best, years from now on technologies that will work, at best, decades from now." Despite these objections, the Committee approved the bills with a party-line vote.

The Highway title of the reauthorization bill was considered by the full T&I Committee on February 2, 2012, in what ended up being a marathon 16-hour markup session with the bill being approved again along party lines by a vote of 29 to 24. During the markup, various amendments were submitted aimed at restoring dedicated funding for bicycle and pedestrian funding, including a bipartisan amendment submitted by Congressman Tom Petri (R-WI) aimed at restoring the TE set-aside and the SRTS program. In support of the amendment, Congressman Peter DeFazio (D-OR) suggested that Republicans should support programs that cut down on traffic and that SRTS actually managed to “get people out of their cars [and] it mitigates congestion.” Despite bipartisan support, the amendment was ultimately defeated by a vote of 29 to 27.

Perhaps the most controversial aspect of the bill was a provision that would essentially eliminate the current source of dedicated funding for public transit through the Mass Transit Account of the Highway Trust Fund (HTF), in part by redirecting the 2.86 cents from fuel tax receipts currently provided to public transit agencies. Instead of using HTF receipts, the bill called for a one-time \$40 billion infusion from the general fund, to be appropriated on an annual basis over the five-year authorization period. The provision was only briefly discussed during the T&I markup, however, because the Ways and Means Committee, which has jurisdiction over the funding title of the bill, did not announce the plan and subsequent hearing until very early on the day of the T&I markup. Chairman Mica, in defense of this updated funding source, said that what the Committee was “trying to do is straighten the books out here for the first time,” and was addressing the fact that mass transit does not pay into the trust fund. The Ways and Means Committee held a markup the following day, February 3, 2012, and approved the “American Energy and Infrastructure Jobs Financing Act of 2012,” by a vote of 20 to 17; Congressmen Vern Buchanan (R-FL) and Erik Paulson (R-MN) joined Committee Democrats in opposing the legislation.

Although the Ways and Means Committee approved the transit funding provision, the public and political backlash ultimately was a major contributor to the bill’s current status. Amidst mixed reactions from their own members and strong opposition from Democrats and hundreds of transit agencies in the days leading up to the President’s Day recess, the House Republican leadership announced it would be splitting the reauthorization package into three packages to allow members to vote on specific aspects of the legislation. The first title of the bill to reach the House floor was the energy portion and it was passed by a vote of 237 to 187 on February 16, 2012. Votes on the bill’s remaining two components, the revenue title and the highway title, were postponed until after Congress returned from the weeklong recess. Over the break, reports indicated that Republicans were working to restructure the transit funding portion of the bill to garner support from within their own party. We contacted the

County's Delegation requesting their signature on a letter in support of an amendment co-sponsored by Congressman Steve LaTourette (R-OH) that would "restore dedicated, guaranteed funding for public transportation programs." On February 21, 2012, we monitored a conference call between the American Public Transportation Association (APTA) and Congressman LaTourette, who has strongly opposed the elimination of dedicated transit funding. Congressman LaTourette noted that the provision's two strongest detractors were "very very conservative members" who suggest that the bill is not sufficiently funded or that it spends too much, and "transit folks" who are united in their opposition to removing dedicated public transit funding.

Upon returning from the weeklong break, the House Leadership announced it would postpone further action on the reauthorization bill at least another week, and at this time the Rules Committee has not scheduled a hearing to determine the process for addressing the nearly 300 amendments that have been submitted. Reports indicate that Republicans are now working on an 18-month bill that would be more in line with the Senate's \$109 billion two-year bill, although overall funding would likely be cut so as to stay within the funding restrictions of the HTF. In addition to the dramatically shorter timeframe, dedicated transit funding from the HTF would be restored; however, the energy provisions would remain as this was a key sticking point for Republicans, especially Speaker John Boehner (R-OH).

While the House has returned to the drawing board in an attempt to produce legislation that could gain the support needed to pass, the Senate bill has received strong bipartisan support as it moves towards a floor vote. As you recall, the Senate EPW Committee previously approved its bipartisan two-year reauthorization bill, titled "Moving Ahead for Progress in the 21st Century" or MAP-21, last November. Continuing this bipartisan process, the Senate Banking, Housing and Urban Affairs Committee, which has jurisdiction over the mass transit section of the legislation, approved its section of the reauthorization bill on February 2, 2012. The "Federal Public Transportation Act of 2012" would maintain current funding levels for the duration of the two-year bill, while making minor policy changes to help streamline the grant process and also create a "State of Good Repair" program that would assist public transit agencies with identifying those projects that need funding to keep transit systems safe and by addressing a backlog of maintenance needs. Another key provision would create a program that would provide transit agencies with increased flexibility during periods of high unemployment to use Section 5307 funding for operating expenses, within the limits of certain qualifying factors and time restraints. The bill was approved by unanimous consent.

## *Highway Investment, Job Creation and Economic Growth Act of 2012*

On February 7, 2012, we covered the Senate Finance Committee's markup of the Highway Investment, Job Creation and Economic Growth Act of 2012 (S. 2132), which will be incorporated into MAP-21 as the revenue/finance title of the legislation. The bill would use several revenue raisers to cover the projected \$10 billion shortfall between the bill's cost and expected trust fund resources. The offsets approved by the Committee included, but are not limited to, the transfer of \$3 billion from the Leaking Underground Storage Tank Trust Fund to the HTF, transferring profits collected on specific imported tariffs, requiring inherited IRAs to be distributed within five years, and a provision authorizing the issuance of Transportation and Regional Infrastructure Project (TRIP) bonds by state infrastructure banks.

Notable amendments that were approved during the markup included Senator Jeff Bingaman's (D-NM) that will (1) allow accelerated depreciation of applicable leased highway property, and (2) provide for amortization of intangibles relating to such property. An amendment by Senator Robert Menendez (D-NJ) to lift the volume cap on private activity bonds for waste and wastewater projects for a period of time such as would be fully offset was also approved. Ranking Member Orrin Hatch (R-UT) submitted an amendment that coincided with the House-bill's provisions to expand oil and gas drilling in the Arctic and coastal waters, as well as to approve the Keystone XL oil pipeline from Canada, however the amendment was ruled non-germane and was withdrawn. The bill was approved by a vote of 17 to 6, with Senator Jon Kyl (R-AZ) voting "present" and suggesting that it was "clear that this bill needs a great deal of work."

After a failed vote to agree on the incorporated version of the MAP-21 bill on February 17, 2012, the Senate adjourned for the President's Day recess. Over the weeklong break, relevant Democrat and Republican members and staff staffers worked to identify any amendments which they might be able to agree on and include as part of a Manager's Amendment on the Senate floor. Republicans have submitted several non-germane amendments for consideration, including an amendment by Senator Roy Blunt (R-MO) addressing a health care law mandate that employers provide coverage for contraception, as well as an amendment from Senator Rand Paul (R-KY) regarding federal aid provided to Egypt. Majority Leader Reid announced on February 28, 2012, that debate on the bill's amendments, beginning with Senator Blunt's, would begin on March 1, 2012 in hopes of passing the bill by March 9, 2012.

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

We understand that the County will submit two applications for consideration under the Transportation Investment Generating Economic Recovery (TIGER) grant program, for which approximately \$500 million is available for a fourth round. Upon receipt of the project narratives and abstracts, we will prepare suggested draft letters of support and circulate to the South Florida Congressional Delegation.

TIGER IV grants can be used for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant impact on the nation, a metropolitan area, or a region. Eligible projects include, but are not limited to: (1) highway or bridge projects eligible under title 23, United States Code; (2) public transportation projects eligible under chapter 53 of title 49, United States Code; (3) passenger and freight rail transportation projects; and (4) port infrastructure investments. Grants may not be less than \$10 million and may not be greater than \$200 million for urban entities. TIGER IV grants will require a 20 percent local cost share, although this requirement can be waived for “rural” entities.

Although this round of TIGER grants is similar to the previous round, the NOFA did include a list of significant changes from the August 2011 TIGER grant notice:

- To ensure applicants receive the most accurate information possible, eligible applicants must contact DOT directly, rather than through intermediaries, to get questions answered, set up briefings on the TIGER Discretionary Grants selection and award process, or receive other assistance.
- As in previous rounds of TIGER, high speed and intercity passenger rail projects remain eligible for funding under this program and are a high priority of this Administration. DOT would like to encourage those seeking funding for passenger rail projects to consider TIGER and will, therefore, make up to \$100 million in TIGER funds available to high speed and intercity passenger rail projects.
- Applications must include a detailed statement of work, detailed project schedule, and detailed project budget in the project narrative. Due to the shorter timeframe allowed for the obligation of TIGER Discretionary Grant funds in this round of funding in comparison to previous rounds, applicants must include this detailed information in their application in order to demonstrate that their projects are ready to proceed within this shortened timeframe.

- The discussion on Benefit-Cost Analysis (Appendix A: Additional Information on Benefit-Cost Analysis) has been streamlined and includes tools to aid applicants in preparing their analyses.

Final applications must be submitted through Grants.gov by March 19, 2012, at 5 p.m. EDT.

## ECONOMIC DEVELOPMENT

### *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, the majority in Congress has been opposed to reauthorizing the BAB program because of its costs to the federal government, and neither Chairman Mica nor Chairwoman Boxer included the program in their respective surface transportation reauthorization proposals. However, prior to the 1<sup>st</sup> session August recess, Senator Ron Wyden (D-OR) introduced bipartisan legislation, with Senators John Hoeven (R-ND) and Mark Begich (D-AK), that would create Transportation and Regional Infrastructure Project Bonds, or TRIPs bonds, in an attempt to rebrand BABs by changing certain aspects of the original program that concerned members of Congress. The “Transportation and Regional Infrastructure Project Bonds Act of 2011” (S. 1436) differs from BABs in that TRIP bonds would exclusively fund transportation investments and the program would be capped at providing \$50 billion over six years. Also, TRIPs would be issued/run by State Infrastructure Banks, which would be authorized to issue \$1 billion over the program’s six-year duration for projects in their state, while also allowing multiple states to work together on larger projects of regional and national significance. Senator Wyden commented recently that, “TRIPs will build on recent experience with tax-credit bonds and leverage private funding in a fair and efficient [manner] that has been proven to save taxpayer money.” It remains unclear whether this bill will be considered during the second session of Congress.

## 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. Officials in Portland, OR announced at year's end that they would begin efforts to collect the city's lodging tax from online travel sites. Recently the online firms hired a local law firm to seek an injunction against the city in Multnomah County Court. During February, the Kentucky Supreme Court, a U.S. District Court in Tennessee and a state appeals court in Pennsylvania all affirmed that local jurisdictions in Kentucky, Tennessee and Philadelphia cannot impose taxes on online travel companies (OTCs) for their reservation services under existing hotel occupancy tax ordinances.

### **OTHER LEGISLATION OF INTEREST**

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

The current extension of NFIP expires May 31, 2012. This is the fifteenth NFIP extension since 2002 and was agreed to after the Senate failed to address the Flood Insurance Reform and Modernization Act of 2011 (S. 1940), which as you recall was approved by the Senate Banking Committee last fall. A month before the current extension was approved, Senator David Vitter (R-LA) introduced legislation that would have extended NFIP through the end of FY 2012; however this proposal was reportedly met with stern opposition from Congresswoman Judy Biggert (R-IL), the House-passed bill's sponsor, who pushed for a five-month extension so that the Senate would face renewed pressure to address this issue early in 2012. At this time it remains unclear if the Senate will move quickly on this issue, however the full Senate would need to pass their bill soon in order to give House and Senate negotiators enough time to reconcile the differences between the two bills prior to the current extension's expiration.



We confirmed that the Senate bill's current iteration includes a 15 percent cap on annual premium rate increases, instead of the 10 percent the County prefers or the 20 percent cap included in the House version of the bill. Furthermore, the bill included 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.