

Memorandum**TO:** Miami-Dade County**FROM:** Greenberg Traurig**DATE:** October 31st, 2022**RE:** October 2022 Monthly Report

Below please find a summary of Greenberg Traurig's efforts on behalf of Miami-Dade County and the latest news stories and updates in Washington from the month of October. If you have any questions, or if we can be of any further assistance, please let us know.

Overview

Throughout the month of October, GT has kept Miami-Dade County staff up-to-date on the latest breaking news and developments in Washington with an on the ground presence in the nation's capital. GT has also helped County staff navigate the Congressional Budget and Appropriations process. Our team continues to work with the Delegation and Congressional leadership to advocate for funding and support for programs that are important to the County.

GT's efforts on behalf of the County have focused on issues such as Public Health related to the COVID-19 pandemic, Economic Development, Justice, WRDA, Housing, Broadband/5G, Appropriations/Budget, Immigration, Infrastructure, and Transportation issues among many others.

Our team features former Congressional and White House staff whose strong connections in Washington can enable Miami-Dade County staff to maximize their opportunities to discuss specific high-level priorities with the top decision-makers in the Federal government. Through these connections, GT has also provided County staff with relevant "Dear Colleague" letters, draft versions of legislation, legislative analysis, and other insights not available through public means. GT continued to cultivate these relationships in the Federal government this month and maintains an open dialogue with Members of the Florida delegation, Congressional leadership, and key contacts within the Administration.

Budget & Appropriations

Top Democrats are privately discussing the possibility of using the budget reconciliation process in the upcoming lame-duck session to raise the statutory debt limit if Republicans retake one or both chambers in the midterms. No decisions have been made, and the path to enacting another filibuster-proof budget bill in the short time allotted between Nov. 14 and Dec. 16, when lawmakers would like to wrap up the 117th Congress, is procedurally treacherous. And there's a week off for Thanksgiving as well. But the motive would be to take the issue off the table before Republicans assume control in January and use a "must-pass" debt ceiling bill as leverage to try and extract spending cuts that are anathema to Democrats and the White House. "The idea is very

much on the table,” a former Democratic aide familiar with the discussions said. Current expectations are that the Treasury Department’s \$31.4 trillion borrowing ceiling won’t really start to bite until the third quarter of 2023. Even though the debt subject to limit stood just \$189 billion below the ceiling as of Friday, Treasury has a \$600 billion-plus cash stockpile it can dip into plus “extraordinary measures” it typically employs such as suspending new civil service retirement fund investments.

But some Democrats advocate action well in advance to avoid putting President Joe Biden in a difficult position next year. Republicans are favored to win control of the House in the midterms according to recent polls. House Minority Leader Kevin McCarthy, R-Calif., who’d likely become speaker if the House flips, in an interview with Breitbart News said if Republicans win back both chambers, they’d likely use reconciliation to try to send a spending-cuts bill to Biden’s desk. Some conservatives have discussed changes to Social Security and Medicare, among other programs, which has become a major talking point for Biden and the Democrats in the midterm campaign. Top Republicans say they have no interest in cutting benefits for seniors, however.

Accordingly, a lame-duck reconciliation bill may be more attractive if Democrats hold onto the Senate on Election Day, since they’d be able to confirm more Biden nominees next year. But one complicating factor is the Georgia Senate race, which is very close and may not be decided until a Dec. 6 runoff if neither incumbent Democrat Raphael Warnock nor GOP challenger Herschel Walker reach 50 percent of the vote on Nov. 8. Reconciliation bills have been used to raise the debt limit four times — in 1986, 1990, 1993 and 1997 — but all were done as part of broader deficit reduction packages. There was also an unsuccessful attempt: After gaining control of Congress in the 1994 midterms, Republicans sent then-President Bill Clinton a reconciliation bill that included a debt limit increase paired with enough spending cuts to balance the budget. He vetoed it.

Broadband

On October 19th, The Department of Commerce released its [Internet for All Workforce Planning Guide](#), which helps states and territories develop a workforce plan as required by the \$42.5 billion Broadband Equity, Access, and Deployment (BEAD) program. The Department of Commerce’s National Telecommunications and Information Administration (NTIA) released the new Workforce Planning Guide for states and territories to use when planning high-speed Internet deployment projects.

The high-speed Internet deployment and digital equity projects funded through the Biden-Harris Administration’s Internet for All initiative will create over 150,000 of good-paying jobs. To ensure states have the necessary workforce to deploy high-speed Internet projects, this guide is a resource and offers strategies to develop a highly trained, diverse workforce that can safely do their jobs to connect everyone in America to high-speed Internet.

The Internet for All initiative's Broadband, Equity, Access and Deployment (BEAD) program contains workforce requirements that grant recipients and subgrantees must meet when implementing their projects. This guide is part of NTIA’s obligation to provide technical assistance materials those entities need to meet the workforce

requirements and promote a skilled workforce. The guide may also be helpful for entities participating in other Internet for All programs like the Digital Equity Planning Grant program and the Middle Mile program.

Healthcare

On October 13th, 2022 the U.S. extended the public health emergency status for the COVID-19 pandemic. The move extends the order through Jan. 11, 2023, as health officials warn once more of a winter surge. The declaration of a public health emergency has enabled the emergency authorization of vaccines, testing and treatment.

This year, however, as the Biden administration asks Congress for billions more in pandemic funding — announcing student debt relief and citing strains associated with the pandemic — Republicans have pushed back and pressed to end the emergency. The federal government stopped sending free COVID-19 tests in the mail, saying the program had run out of money. The administration has said it would provide 60 days' notice before it ends the public health emergency.

Infrastructure

On October 11th the U.S. Department of Transportation (USDOT) Federal Highway Administration (FHWA) [apportioned \\$53.54 billion in FY 2023](#) for nine federal-aid highway programs (FAHP). Apportionments were also made for new programs created by the Bipartisan Infrastructure Law (BIL), including the Bridge Formula Program (BFP) and the National Electric Vehicle Infrastructure (NEVI) Formula Program. Owning and operating more roads and bridge than any other level of government, counties benefit from consistent FAHP funding.

While USDOT's annual FAHP apportionments come in the form of lump sums to state departments of transportation (DOTs), some programs require these funds be further sub-allocated to local areas based on population. Both the [Surface Transportation Block Grant \(STBG\) Program](#) and the new, BIL-established [Carbon Reduction Program \(CRP\)](#) require state DOTs to sub-allocate 55 percent and 65 percent, respectively, to the local level based on population.

In FY 2023, approximate sub-allocation amounts for local areas under these programs are:

- \$7.14 billion through STBG, including:
 - \$1.04 billion for local bridges through the increased STBG off-system bridge (OSB) set-aside
 - \$1.41 billion for transportation alternatives projects
- \$817.91 million through the CRP

Neither of the programs' suballocations flow directly to counties. Instead, metropolitan planning organizations (MPOs) representing areas of 200,000 and above are given project select authority — in the case of STBG — while the state largely controls project and funding decisions for smaller areas. Under the CRP, this project selection authority begins at MPOs representing 50,000 and above. County and other local officials make up MPOs where region-wide transportation

decisions are made.

USDOT also released FY 2023 apportionments for the BFP, which unlike the aforementioned FAHP programs, is funded through by appropriations rather than the Highway Trust Fund. Created by the BIL, [this program provides \\$5.5 billion annually](#) through FY 2026 to state DOTs to replace, rehabilitate, preserve, protect and construct highway bridges with 15 percent of funds set-aside for local bridges. In FY 2022, USDOT released guidance advising state DOTs that they may further invest in local bridges beyond the 15 percent requirement at a 100 percent federal cost share.

In FY 2023, state DOTs will receive \$5.3 billion through the BFP, making \$796.13 million available for local bridges through the program's OSB set-aside. In combination with the STBG set-aside, states are required to expend roughly \$1.8 billion on local bridge needs each year through FY 2026. In comparison with the previous surface transportation reauthorization, this represents an over 130 percent in resources for OSBs, the majority of which (62 percent) are owned by counties.

Finally, USDOT issued the first-of-its-kind, \$885 million apportionment notice for the [NEVI Formula Program](#). Similar to the BFP, NEVI is funded by the BIL Division J's "advance appropriations." Under the program, FHWA must set-aside \$100 million in FY 2023 for grants to state and local governments requiring additional assistance to deploy EV charging infrastructure. While USDOT approved the EV charging plans of all 50 states last month, should a state fail to take action to carry out its plan, FHWA may redistribute the state's NEVI funding to local governments via competitive grants to carry out eligible activities under the program.

Waters of the United States (WOTUS)

The Supreme Court in early October questioned whether the Biden administration's preferred test for determining jurisdiction for wetlands under the Clean Water Act is too broad during oral arguments. The justices heard the case of Sackett v. EPA, in which Idaho landowners are challenging the agency's determination that a property they wished to build a home on was subject to regulation as one of the "waters of the United States" which fall under federal jurisdiction under the act. The court also appeared skeptical of the Biden administration's preferred test for determining which wetlands are subject to regulation.

The EPA and Army Corps of Engineers are expected by the end of the year to finalize a new waters of the United States, or WOTUS, definition that relies upon the "significant nexus" test put forward by Justice Anthony Kennedy in his concurrence in the Rapanos case. Under this test wetlands that have a significant connection to a navigable water protected under the CWA could be subject to regulation, regardless of whether it is a surface connection. Principal Deputy Solicitor General Brian Fletcher said that with this rulemaking "the agencies are now doing what members of this court have repeatedly urged them to do by promulgating regulations that recognize and appropriately limit the coverage of the act."

Non-Governmental Partners and Coalitions

Throughout October, GT continued to work with organizations like NACo, the Large Urban County Caucus, the National League of Cities, and the United States Conference of Mayors to push for additional state/local aid that would benefit Miami-Dade County and their residents.

GT staff have attended many meetings and been on regular calls with the organizations mentioned above and others this month on the County's behalf. Partnering with these and other organization allows Miami-Dade County officials the opportunity to amplify their voices and help attain County policy priorities at the federal level.

Media Updates

GT continues to send daily media updates on legislative and political issues to the County in order to ensure that the Commission and staff remain up-to-date on developments within the Beltway. We conduct careful daily monitoring of the federal legislative calendar, executive orders, and other policy directives from the White House, action by the federal regulatory agencies, and key decisions issued by the federal courts. We will continue to monitor the issues most relevant to the County and provide timely and accurate information in order to make certain that the County is aware of any developments which may provide an opportunity to accomplish established goals.