

Memorandum

From: Rick Spees, Jane Sargent and Jose Villalobos

To: Board of County Commissioners

CC: Phillip Drujak

Date: May 4, 2023

Subject: April 2023 Monthly Report

Appropriations Update:

In April, the House took a step forward on the budget situation, although it is unclear what will happen next. As reported previously there are two major budget matters that must be addressed this year. First the Congress must increase the ability of the federal government to borrow funds to cover the ongoing deficits in the current account. Second it must pass the Fiscal Year 2024 appropriations bills. While Congress has months to get the FY 2024 budget bills done, they have far less time to raise the debt ceiling. Fiscal matters will dominate the agenda all this year in Washington.

Regarding first the debt ceiling, the existing federal debt is over \$31 trillion and this year the federal government will spend roughly a trillion more than it takes in with taxes. The government must borrow to cover the difference. This has been the situation for decades—Congress has not balanced the federal budget since the time of the Clinton Administration. The debt continues to grow. Periodically the Congress passes legislation authorizing the Treasury to borrow more money. Congress could pass a bill allowing borrowing to continue without limits but in an effort to appear fiscally responsible they instead set arbitrary limits on how much can be borrowed. Once the debt ceiling has been raised, they proceed to spend more than they bring in until they run up against the new limit. Then they beat themselves up, terrify the financial markets and then pass another bill to raise the debt ceiling that will last for one or two more years. Then they go through the process again.

This is exactly how it is playing out this year. The President and the Democrats have insisted that the Republicans pass a bill to raise the debt ceiling without any conditions. The Republicans are responding that they will raise the debt ceiling but only if the bill also includes spending cuts. In late April, the House did pass a bill that raised the debt ceiling by \$1.5 trillion but, as promised, it also included a number of funding cuts and other Republican wish list measures. The bill will absolutely not get through the Senate and would not be signed into law by the President. But the Speaker is using it as the starting point in negotiations with the Democrats to get a final deal. The Speaker went to Wall Street after the bill passed to say, “see, we passed bill that raises the debt ceiling. We have done our job. It is now up to the Democrats to either accept our package or to work out a deal. If the Democrats refuse to talk with us, it is their fault.”

The ball is now in the Democrat’s court. However, there is not much time. On May 1st, Treasury Secretary Yellen announced that the existing budget ceiling may be reached as early as June 1st. After her announcement, the President called for the party leaders to meet with him on May 9th to discuss potential solutions. But with time so short, we doubt they will find a solution by the end of the month. Instead, we think they will agree to a short-term debt ceiling until later in the year.

Regarding the appropriations bills, House Appropriations Committee Chairwoman Granger has announced that markups will start in the middle of May for the FY 2024 bills. There are twelve appropriations bills that make up the federal budget. Each bill is marked up by a separate subcommittee. Before the bills can be written the full Appropriations Committee sets a limit for all the discretionary spending. For FY 2024 the House leadership has said that they want to go back to the level of discretionary spending that was in place in Fiscal Year 2022. That is a reduction of \$131 billion below the amount for the current fiscal year. In addition, they also say that they want to increase the amount of spending for defense and veterans' programs.

What does this all mean? It means that we believe eventually that debt ceiling and the FY 2024 budget bills will pass around the same time later this year. We also believe that the House Appropriations Committee will mark up the FY 2024 bills, with increases for defense and veterans spending while cutting \$131 billion out of the rest of the budget. There will be massive cuts in most domestic programs. The bills will get out of the Appropriations Committee but may not pass on the House floor and will not pass in the Senate. Then after writing such drastic bills in the House, the two sides will work out a final deal. The numbers in the House versions of the FY 2024 bills will not be the final numbers. There will be some cuts in the final budget, but not nearly the magnitude reflected in the first version of the bills.

The road will get rockier before it gets better.

Miami Dade County Appropriations Requests:

The County submitted several FY 2024 programmatic and Community Project Funding requests to the members of the Miami-Dade delegation. We worked with the OIA to complete and submit five of the County's programmatic appropriations requests, including the necessary forms. This includes requests for law enforcement, community development, public housing and health priorities. We also offered guidance on the appropriate accounts for Community Project Funding requests being developed by the County. Members had to submit their requests to the House and Senate Appropriations Committee in late March and early April. House members had to post their Community Project Funding requests to their websites in late April. The delegation submitted a number of the County's requests to the House Appropriations Committee. While that does not guarantee funding, it is a necessary first step in the process. The Committee is now in the process of reviewing those requests. Throughout the FY 2024 appropriations process, we will work with the County to weigh in on the items it supports and opposes in the President's budget and help to secure funding for the County's priorities in the appropriations process.

Waters of the U.S. (WOTUS):

In April, there were more developments on the controversial rule that defines the "waters of the U.S." that fall under the jurisdiction of the Clean Water Act (CWA). In 2015, President Obama proposed a controversial WOTUS rule that faced significant legal challenges by states, local governments and other stakeholders. When President Trump was elected, he rescinded and replaced the WOTUS rule with a new rule, the Navigable Waters Protection Rule (NWPR), which was narrower in scope and reduced the number of waterways that are covered by the CWA. The Trump-era rule took effect in June 2020. However, like the Obama-era rule, it faced significant legal challenges by States and other interest groups. One of the first actions of the Biden Administration was to announce it would repeal the Trump-era WOTUS regulation.

In late 2021, the Environmental Protection Agency (EPA) and Army Corps of Engineers (USACE) released a proposed rule revoking the NWPR and re-instating a revised version of the pre-2015 CWA rules. The Biden rule more closely follows Bush Administration guidance and Supreme Court decisions. Under the new rule, the WOTUS definition would rely on a "significant nexus" test. In other words, if a wetland or waterway has a significant connection to a navigable waterway protected under the CWA it could be subject to regulation. The Biden Administration finalized the new WOTUS rule in December 2022. Republicans who opposed the rule tried to nullify it under the Congressional Review Act, which allows Congress to overturn final rules issued by federal agencies by a simple majority vote. In March, the House and Senate passed legislation (H.J. Res. 27) to prevent the Biden WOTUS rule from taking effect. However, President Biden vetoed the measure on April 6. The House tried to override the President's veto on April 18 but failed to get the necessary two-thirds vote required. In the meantime, legal challenges to the rule have blocked it from taking effect in some states while allowing it to be implemented in others. Several cases are still pending in the federal court

system, including a Supreme Court case (*Sackett v. EPA*) from the current term, which could impact the rule. We will continue to track the issue.

Activities for May:

The House is out of session for the first and last week of May. The Senate will be out of session for the week of May 22nd through Memorial Day. When they are in session, they will be focused on debt ceiling negotiations. The House Appropriations Committee also plans to start marking the FY 2024 bills. They plan to hold subcommittee markups of five bills on May 17-18, with full committee markups the following week. The Senate Appropriations Committee is expected to wait until after the debt ceiling negotiations to start their markups. The House will start working on the annual defense authorization bill in May as well. In the meantime, hearings will continue on the farm bill and FAA reauthorization. Both bills expire at the end of September and will need to be extended or reauthorized before then. We will continue to monitor and report on legislative and executive branch developments of interest to the County.