

MEMORANDUM

DATE: April 2, 2023
TO: Miami-Dade Board of County Commissioners
FROM: Alcalde & Fay
SUBJECT: Federal Government Relations Report

During March, the Senate considered a number of President Biden's Judicial Nominees, while several Committees held hearings to question senior Administration officials about the President's Fiscal Year 2024 Budget, as submitted to Congress on March 9. In the House, highlights included passage of H.R. 1, the *Lower Energy Costs Act*, which, as the GOP response to the *Inflation Reduction Act*, is intended to increase domestic production of oil, natural gas and coal and ease restrictions that delay construction of pipelines and refineries.

Please see below, an update on key issues of interest to PortMiami.

2024 APPROPRIATIONS**Community Project Funding (CPF)**

The total available Community Project (CPF) funding for the House 2024 appropriations cycle will be .5% of total discretionary funding (vs 1% in previous years) and each Member will be allowed 15 total CPF requests. According to the House Appropriations guidance document, CPF projects will require a "federal nexus" whereby only projects tied to a federal authorization law will receive funding.

We worked with the Port to match the Port's priorities with CPF eligible programs and assisted in completing the required forms for submitting the following CPF requests to the Miami-Dade congressional delegation:

- \$4 million for PortMiami's Decarbonization and Electrification Master Plan, eligible by the Port Infrastructure Development Grant Program (PIDP), *Transportation (THUD) Appropriations* bill; and
- \$2 million for PortMiami's Drainage/Stormwater Master Plan, eligible by EPA's State and Tribal Assistance (STAG) Program, *Interior- EPA Appropriations* bill.

Programmatic Funding

The Port also submitted two programmatic requests to the Miami-Dade delegation and Senators Rubio and Scott, as described below. A&F assisted in preparing the required forms and submitting to each office.

I. Programmatic Request/Donor Ports

PortMiami requests implementation of the WRDA 2020 HMTF reforms (Sec. 102 and 104) and the following report language by the 2024 Energy and Water Development appropriations bill:

Donor and Energy Transfer Ports – The Committee urges the Corps to allocate HMTF funding for Donor and Energy Transfer Ports consistent with Sections 102 and 104 of the Water Resources Development

Act of 2020 (P.L. 116-260). The Corps is reminded that Donor and Energy Transfer Ports are eligible to receive additional funding provided in this account for Deep-Draft Harbor and Channels.

Background

Sec. 2106 of the *Water Resources Development Act of 2014* (WRDA 2014) established the Donor and Energy Transfer Ports Program (the Program) which provides funding for expanded uses at the nation's donor ports. The nation's 6 largest donor ports (including PortMiami) contribute significantly to the Harbor Maintenance Trust Fund (HMTF) but receive nominal amounts in return because their channels require little, if no, maintenance.

The *Water Resources Development Act of 2020* (WRDA 2020) provides additional equity to donor ports by HMTF reforms: Sec. 102 authorizes an allocation of 12% of available HMTF funds to the Program and Sec. 104 allows for an increase in Program funding (to \$58 million).

2. Programmatic Language Request/Mega Grants

PortMiami's NetZero Resilient Supply Chain Program includes the development of an inland port facility which is strategically positioned to improve trade flows and provide additional international trade capacity for the U.S. Hence, PortMiami requests a repeat of the language in the Senate Explanatory Statement (THUD appropriations 2023) by the 2024 THUD bill.

The language highlights the importance of inland ports to the international supply chain and reads as follows:

Mega Grants - The Committee recognizes that inland ports are an important element in the international supply chain, increasing intermodal capacity and efficiencies in the movement of global commerce from ships to major transportation networks for distribution. Benefits include reduced congestion at the marine terminal and on the Nation's highways, lower costs of moving cargo, environmental and safety benefits, economic development in underserved or rural areas as well as consolidation of import/export centers. Within the advance appropriations for this program, the Committee encourages the Secretary to consider Mega grant applications that include the development of coastal and inland ports in order to facilitate an efficient supply chain.

NETZERO RESILIENT SUPPLY CHAIN PROGRAM

On March 8th, we accompanied *Hydi Webb*, Port Director & CEO; *Jimmy Morales*, Chief of Operations for Miami-Dade County and *Debra Owens*, Director of Government Relations, to meetings with the Miami-Dade delegation Members. Port officials sought the delegation's continued support for the NetZero Resilient Supply Chain Program during the upcoming 2023 Mega grant cycle.

Also on March 8th, A&F secured meetings for Port officials with *Syed Mohsin*, Assistant Secretary of Transportation for Government Affairs, *Congressman Daniel Webster* (R-FL), Chairman of the House Coast Guard & Maritime Transportation Subcommittee and the new Chairman of the House T&I Committee, *Congressman Sam Graves* (R-MO).

As anticipated, the 2022 Mega grant process was extremely competitive, with only 9 grants awarded and over 100 applications received. However, DOT staff offered constructive suggestions to Port officials as to how the Port might strengthen its next Mega application. Notably, the Port received notification on March 8th that the DOT has designated NetZero as one of 13 Mega applications eligible for technical assistance from DOT's Build America Bureau. DOT will shortly post the ratings of all 2022 Mega applications which were reviewed by the Secretary's office. We will monitor for those ratings.

DOT has indicated that the 2023 NOFO (Notice of Funding Opportunity) for the Mega program will be released in the “spring.” We suggest meeting with Florida members statewide over the spring and summer months and are prepared to schedule those meetings on behalf of PortMiami.

We also recommend that all future congressional support letters highlight the Mega congressional prioritization language provided by the 2023 *Omnibus* (as referenced above).

Miami Harbor O&M Funding

The Army Corps’ 2024 Civil Works budget, released on March 8th, includes \$100,000 for Miami Harbor Operation and Maintenance (O&M). The 2023 enacted *Omnibus Appropriations Act* includes \$50,000 for 2023. Each allocation reflects the Corps’ full capability for Miami Harbor.

Donor and Energy Transfer Ports Program

The Army Corps’ workplan, as released on March 2, provides \$2,726,000 million for PortMiami’s share of funding for the Donor and Energy Transfer Ports Program (an approx. \$400,000 increase from previous years).

The 2023 Omnibus does not allocate 8% of available HMT to the Ports Program, as authorized by Section 102 of WRDA 2020. As indicated above, the Port is pursuing this HMT funding during the upcoming 2024 appropriations cycle. We have recommended coordinating efforts with the American Association of Port Authorities (AAPA) and other donor ports.

Miami Harbor Feasibility Study and Channel Restrictions

The final conference agreement on WRDA 2022 (H.R. 7776, *Water Resources Development Act*) urges the Corps to prioritize and expedite completion of the ongoing Miami Harbor Feasibility Study. The language was initially added to the House report (#117-347) by the T&I Committee during markup on May 18th, following the Port’s meeting with T&I Committee Chairman DeFazio (D-OR) and then repeated as bill text in the final conference document.

The feasibility study will identify the modifications needed to the federal project, to enable the new state-of-the-art (14,000) TEU container vessels to traverse directly to the U.S. and avoid cargo diversion to nearby non-U.S. transshipment ports (such as Panama, Freeport, Bahamas, and Jamaica). The current timeline for completion of a Chief of Engineers’ report is 2025, with project authorization by WRDA 2026.

The Corps is also carrying out environmental reviews in advance of preparing a report which will identify the improvements needed to eliminate the restrictions in the federal channel which were not intended by the completed (50-52 foot) dredge project. These improvements are essential to the safe and efficient movement of vessel traffic and we plan to work closely with the Corps to make every effort to facilitate these corrections in advance of the next dredge event in the Miami Harbor.

OTHER LEGISLATION OF INTEREST AND POTENTIAL GRANT OPPORTUNITIES

Grants to Reduce Air Pollution at Ports

Established by the *Inflation Reduction Act* (IRA), this new program provides grants to ports for the purchase or installation of zero emissions equipment or technology and could be a critical source of funding for components of PortMiami’s NetZero Program. A Notice of Funding Opportunity (NOFO) is some months away.

PortMiami has joined AAPA in submitting comments and suggestions to the EPA as the agency prepares to develop the guidelines/eligibility. The EPA is expected to issue another RFI (request for information) in the near future, prior to finalizing guidance.

Shore Power Grant Eligibility/Port Infrastructure Development Grant (PIDP) Program

The FY 2023 enacted *National Defense Authorization Act* (NDAA) extends the (PIDP) authority for grants for shore power connections to cruise berths (with limited application to ports which serve both cargo and passenger ships). This new grant source for shore power was originally requested by PortMiami in the 2022 NDAA and fully supported by the industry. Congressman Gimenez was the lead sponsor of the amendment.

Additional Funding to the Urban and Community Forestry (UCF) Program

The *Inflation Reduction Act* (IRA) includes a significant boost in funding for the *Urban and Community Forestry* (UCF) Program, providing \$1.5 billion (up from \$30 to \$50 million annually) for multiyear competitive grants (through 2031) for tree planting and related activities. Eligible entities include state agencies, local governments and nonprofits. The USDA Forest Service is preparing guidance for the allocation of these additional funds.

PortMiami as a Strategic Defense Port

The National Defense Authorization Act (2023) includes strategic seaports as eligible for funding by DOD's *Defense Community Infrastructure Program* (DCIP). The DCIP provides competitive grants to address deficiencies in community infrastructure supportive of a military installation.

In addition, WRDA 2020 calls for allocations of HMT (Harbor Maintenance Trust) funds to the nation's strategic seaports, with allocations based on the percentage of HMT dollars collected and the historic share of annual HMT funds provided to these ports.

The Port has indicated an interest in designation as a *Strategic Defense Port* by the Department of Defense (DOD). We have provided the information on the process for consideration by the DOD. The first step is for PortMiami to provide an Expression of Interest to the Surface Deployment and Distribution Command (SDDC) which is the Army component of the U.S. Transportation Command.

MARAD administers the *Strategic Port Program* and is charged with facilitating the movement of deploying military forces through strategic ports while minimizing commercial disruptions. There are 23 Strategic Ports and 13 Alternate Ports.

H.R. 7579, the Western Hemisphere Nearshoring Act

Congressman Mark Green (R-TX) has reintroduced legislation to incentivize producers to relocate factories from China to Latin America and the Caribbean, with the intent of reducing the U.S. supply chain dependence on China. The bill provides a low interest loan program through the International Development Finance Corporation, with financing provided by existing tariffs on Chinese goods. Representatives Gimenez (R-FL) and Salazar (R-FL) signed on as cosponsors to the original legislation.

Ocean Shipping Reform

We are monitoring implementing regulations to the *Ocean Shipping Reform Act*, signed into law in 2022, as a major overhaul of federal regulations relating to the shipping industry. The legislation is intended to ease current supply chain challenges and includes the following provisions:

- Require ocean carriers to certify that late fees —known in maritime parlance as "detention and demurrage" charges—comply with federal regulations or face penalties;
- Shift burden of proof regarding the reasonableness of "detention or demurrage" charges from the invoiced party to the ocean carrier;

- Require ocean common carriers to report to the FMC each calendar quarter on total import/export tonnage and 20-foot equivalent units (loaded/empty) per vessel that makes port in the United States;
- Authorize the FMC to self-initiate investigations of ocean common carrier's business practices and apply enforcement measures, as appropriate; and
- Establish a new authority for the FMC to register shipping exchanges.