

MEMORANDUM

DATE: June 10, 2023
TO: Miami-Dade Board of County Commissioners
FROM: Alcalde & Fay
SUBJECT: Federal Government Relations Report

The Congressional focus during the month of May was on the debt ceiling negotiations between the House republican leadership and the White House. Movement on major pieces of legislation was postponed pending a final debt ceiling agreement, including committee markups of the 2024 appropriations bills and the National Defense authorization (NDAA) bills.

On Saturday, May 27th, a deal in principle to lift the debt-ceiling was announced by House Speaker McCarthy (R-Ca). That deal, now known as the *Fiscal Responsibility Act of 2023* (bill text [here](#)), effectively suspends the debt ceiling through January 1, 2025 and establishes spending caps for the next two years. The legislation was ultimately approved by the House and Senate the following week.

The final negotiated *Fiscal Responsibility Act of 2023* includes numerous policy reforms aimed at reducing spending in the coming years, including changes to the Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance (ASNAP) Programs. Notably, the legislation does *not* include funding rescissions from several of the programs of interest to local governments, including the State and Local Fiscal Relief Fund (SLFRF) authorized by the American Rescue Plan Act (ARPA) or the advance appropriations for critical transportation programs included in the *Infrastructure Investment and Jobs Act* (Bipartisan Infrastructure Law of 2021).

Please see the following update on issues of specific interest to PortMiami.

2024 APPROPRIATIONS

Community Project Funding (CPF)

Representatives Salazar and Gimenez submitted the Port's CPF requests to the relevant appropriations subcommittees, as described below. A&F assisted the Port in matching the Port's priorities with eligible CPF programs and in preparing the forms for submittal to the Members' offices.

- Rep. Salazar submitted a \$4 million request to the THUD Appropriations Subcommittee for PortMiami's Decarbonization and Electrification Master Plan, eligible by the Port Infrastructure Development Grant Program (PIDP) Section (IV) : *...environmental and emissions mitigation measures, including projects for— (a) port electrification or electrification master planning.*
- Rep. Gimenez submitted a \$2 million request to the Interior-EPA Appropriations Subcommittee for PortMiami's Drainage/Stormwater Master Plan, eligible by the Environmental Protection Agency's (EPA) State and Tribal Assistance (STAG) Program.

Appropriations committee markups are anticipated during the month of June at which time the CPF approved projects will be unveiled. We have recommended a follow up call with Congressman Diaz-Balart to request his continued support, as a member of the Appropriations Committee.

Programmatic Funding

The Port submitted two programmatic requests to Miami-Dade Delegation Members and Senators Rubio and Scott, which are a repeat of the Port's 2023 requests, as described below. A&F assisted in preparing the required forms and submitting to each office.

We have offered to schedule a follow up call with Senator Rubio's staff (Connor Tomlinson), as Senator Rubio sits on the Senate Appropriations committee.

(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 (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, as their shipping channels require little, if any, 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).

(ii) Programmatic Language Request/Mega Grants

PortMiami requests a repeat of the language in the Senate Explanatory Statement (THUD appropriations 2023) which highlights the importance of inland ports to the international supply chain, as stated below:

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.

Background -

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. Senator Rubio supported inclusion of this same language within the 2023 THUD appropriations bill, with the full support of the Senate Appropriations Committee.

PORTMIAMI NETZERO RESILIENT SUPPLY CHAIN PROGRAM

Mega Grant Application

As previously reported, 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 Net Zero 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 2023 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 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 the Miami Harbor.

Donor and Energy Transfer Ports Program

The Army Corps' 2023 workplan, released on March 2, provides \$2,726,000 for PortMiami's share of funding for the Donor and Energy Transfer Port Program (an approx. \$400,000 increase from previous years).

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.

Separately, the Corps is carrying out environmental reviews in advance of preparing a report to identify the improvements needed to eliminate the restrictions in the federal channel which is essential for the safe and efficient movement of vessel traffic in the federal channel.

As previously reported, A&F identified a discretionary authority available to the Assistant Secretary of the Army (ASA) to make these corrections (to the completed 50-52 foot project). We plan to work closely with the Corps to facilitate this work in advance of the next dredge event in the Miami Harbor.

WRDA 2014: Credit vs. Reimbursement

Payback for the federal share of costs of the Miami Harbor Dredge

Pursuant to recent discussions with PortMiami officials, Sec. 1136 of WRDA 2018 authorizes a credit for the unreimbursed portion of a completed federal navigation project, which can then be applied towards the nonfederal share of another dredging project.

This provision was sponsored by Representative Wilson and narrowly scoped expressly for PortMiami as a means to facilitate a “payback” for the federal share of Miami’s completed 50/52 foot dredge project. The Port can request use of this authority for the next (Phase IV) dredging event.

PortMiami as a Strategic Defense Port

As reported, the National Defense Authorization Act (2023) includes strategic seaports as eligible for funding by DOD’s *Defense Community Infrastructure Program (DCIP)*, a competitive grant program 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.

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.

PENDING LEGISLATION AND GRANT OPPORTUNITIES

LEGISLATION

On May 23, the House Transportation and Infrastructure Committee approved a package of bills which are designed to strengthen the nation’s supply chain and protect from future disruptions. Please see brief descriptions of three of those measures, below.

H.R. 3365, the *Supply Chain Improvement Act*, sponsored by Representative John Duarte (R-CA), ensures that priority consideration is given to projects that would improve or build resiliency in the supply chain pursuant to DOT’s INFRA and MEGA discretionary grant programs. Please note, enactment of this legislation could be consequential for PortMiami’s future grant application(s) on behalf of the NetZero Resilient Supply Chain Project.

H.R. 1836, the *Ocean Shipping Reform Implementation Act of 2023*, sponsored by Representative Dusty Johnson (R-SD), builds upon the Ocean shipping Reform Act of 2022 (addressed below) to strengthen the Federal Maritime Commission’s (FMC) authority regarding unfair trade practices. Specifically, the legislation authorizes the FMC to review complaints about market manipulation and anti-competitive operations of maritime exchanges.

H.R.3316, *Streamlining the Environmental Review Process for Major Projects*, sponsored by Representative Rick Crawford (R-AR), extends One Federal Decision (OFD) environmental review streamlining provisions – such as combining environmental documents among agencies, concurrent agency reviews, creating reasonable time limits for reviews – to port, aviation, and pipeline projects, as applicable. OFD for highway projects has already been approved under the Infrastructure Investment and Jobs Act (IIJA 2022).

Additional Legislation -

H.R. 490, the Federal Infrastructure Bank Act of 2023, sponsored by Representatives Daniel Webster (R-FL) and Colin Allred (D-TX), creates a federal infrastructure bank, intended to leverage the power of the private sector to spur sustained, long-term investment. The Bank will provide loans for infrastructure projects, with broad eligibility, to include surface transportation projects, ports, electric grid security and broadband connectivity. Funding for the bank will come from municipal, state and union pension funds which are loaned to the Bank.

H.R. 3169, the Port Crane Security and Inspection Act of 2023, sponsored by Representatives Gimenez (R-FL) and Garamendi (D-CA) requires the inspection of certain foreign cranes before use at a United State port.

Congressman Gimenez also sponsored (in the 117th Congress) H.R. 6488, the Port Cranes for America Act, which requires the U.S. Maritime Administration to provide grants to eligible applicants for the procurement of mega cranes (container cranes with a lifting capacity in excess of 50 tons) for use at U.S. ports. Funds may be used to procure such a crane, including to pay for any manufacturing costs associated with the procurement, provided that the entity manufacturing the crane is not associated with a country that is a nonmarket economy, fails to protect intellectual property rights, and violates foreign trade agreements.

H.R. 722, the Western Hemisphere Nearshoring Act, reintroduced by Congressman Mark Green (R-TN) this session of Congress, the legislation incentivizes 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 legislation 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 Act of 2022

We are monitoring the 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, which is intended to ease supply chain challenges, 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.

GRANT OPPORTUNITIES

Reduction of Truck Emissions at Port Facilities

The Federal Highway Administration (FHWA) has posted the Notice of Funding Opportunity (NOFO) for the first round of IJA grant funding for the Reduction of Truck Emissions at Port Facilities Grant Program. Please see the program [announced](#) and more information [here](#).

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.

PortMiami joined AAPA in submitting comments and suggestions to the EPA as the agency prepares to develop the guidelines/eligibility. We have suggested a meeting with EPA officials during the Port's next DC visit. A Notice of Funding Opportunity (NOFO) is some months away.

Shore Power

The FY 2023 enacted *National Defense Authorization Act (NDAA)* extends the 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 supported by the industry. Congressman Gimenez was the lead sponsor of the amendment.

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 NOFO is available at <https://www.fs.usda.gov/managing-land/urban-forests>. Please note, this new opportunity is in addition to a \$250 million allocation to state forestry agencies, which includes \$3,750,000 to the *Florida Forest Service*.