



WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,
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Things continue to be confusing and often hard to decipher in the nation's capital. The hope is that both the Administration and Congress will, at some point, want a distraction from the various controversies and work to pass an infrastructure investment bill that could be a bi-partisan, win-win for everyone. However, as time goes by, that hope is diminishing. Growing animosity between the two political parties, the shrinking 2017 congressional calendar, and the list of issues in line ahead of it, such as healthcare reform and tax reform, make the outlook for an infrastructure bill difficult to predict. However, industry stakeholders continue to pursue all options and opportunities to assure that infrastructure remains a high priority for both the Administration and Congress.

Trump Administration Infrastructure Plan

Last week, President Trump dedicated much of his time and public appearances to the topic of infrastructure. The beginning of the week was focused primarily on aviation issues and the reform of the Air Traffic Control (ATC) system, ending on Friday with a major address held at US DOT headquarters.

The main focus of Friday's event was environmental streamlining and reforming the regulatory process in order to expedite the delivery of infrastructure projects. The President stood next to the infamous flow chart showing the supposedly massive number of steps a highway project has to follow to get through the permitting process.

The President made the following observations during his speech (here is a [link](#) to the full transcript of his remarks):

- The current environmental process doesn't help and can often make things worse by unnecessarily delaying and even blocking projects from getting built. The President stated that "the excruciating wait time for permitting has inflicted enormous financial pain to cities and states and has blocked many important projects from ever getting off the ground." He also stated many regulations are redundant and duplicative and decision making should be returned back to state and local governments.
- A number of new government entities will be created such as a new permitting Council, an on-line project delivery dashboard, as well as a new permit reform office in the Council on Environmental Quality (CEQ). However, industry observers were quick to point out that these entities generally already exist having been created by



the Obama Administration and then authorized in statute in Title 41 of the FAST Act. Senators Rob Portman (R-OH) and Claire McCaskill (D-MO) sent a bi-partisan [letter](#) to the White House urging that the existing FAST Act provisions be implemented saying, “It is perplexing that the Administration has not taken full advantage of the powerful tools Congress gave it in the FAST Act to accomplish these goals”.

- Federal government agencies which unnecessarily delay projects will face tough, new penalties.
- During a pre-meeting with state DOT directors, the MD DOT secretary described the \$29M (\$24,000 per page) environmental documentation which resulted in a 70lb EIS for an 18-mile road (the ICC). The President believes this documentation “could be replaced by a few simple pages”. It is important to note the ICC EIS actually won multiple environmental awards for being a quality document with innovative approaches to public outreach, mitigation, etc.
- The consultant industry often works to exploit the process to make it more complex so people have to hire them. The President said, “So they make a very, very simple roadway a very complicated subject and they make it very much more expensive and they make it worse”. He also said, “Most (referring to consultants) want to make a lot of money”.

Here are some additional materials about the Administration’s infrastructure plan which were released last week:

White House blog post and video on the infrastructure plan – [Link](#). The site states that the key tenets of the infrastructure plan are:

- Lower the average permit time from 10 years to two years
- Unleash private sector capital and expertise to rebuild our cities and states
- Invest in rural infrastructure
- Reimagine America’s approach to infrastructure with transformative projects
- Work-force training initiative focused on skill-based apprenticeship education

The “By the Numbers” section states:

- \$200B infrastructure funding
- \$25B for rural infrastructure



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- \$15B for transformative projects (it is not clear how “transformative” will be defined or if actual proper name projects will be identified by the Administration)
- \$100B for local prioritization of infrastructure needs (it is not clear what this money will be used for)
- 1M apprentices in 2 years
- 8 year reduction in permit process time (from 10 years to two years)

That leaves approximately \$60B out of the total of \$200B undefined. The \$200B in new direct federal funding over ten years will be used to leverage additional funding from the private sector, states, and local governments to total \$1T. A description of what types of projects (beyond transportation, water and energy) would be eligible for this funding has not yet been provided by the Administration.

A June 8 Federal Register notice issued by US DOT which states that “DOT is reviewing its existing policy statements, guidance documents, and regulations to identify unnecessary obstacles to transportation infrastructure projects. As part of this review, the Department invites affected stakeholders and the public to identify non-statutory requirements that the Department imposes and that should be removed or revised.” Comments must be submitted by July 24 - [Link](#)

It is still unclear when the Administration will release a formal legislative proposal to Congress to implement the President’s campaign promise of a \$1T infrastructure plan, although US DOT Secretary Elaine Chao has said to expect something in the third quarter.

FY’18 Appropriations

Congress is just starting to begin the process of passing an FY’18 Budget Resolution and drafting and passing the 12 federal agency FY’18 funding bills which must be completed by the start of the new fiscal year on October 1. The congressional schedule is getting very tight to meet that date and already many observers are assuming that yet again Congress will have to pass a short-term Continuing Resolution (CR) to keep the government funded. Some Members of Congress have even suggested that Congress pass a government-wide CR before they recess for the month of August and “get the pain out of the way early”. Complicating the situation, Congress will have to approve an increase in the debt ceiling this fall, which the Republican-majority Congress is very reluctant to have to do.



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Of particular concern to the transportation industry are the Administration's proposed FY'18 cuts to TIGER, Amtrak, and transit Capital Improvement Grants (CIG). The hope is that, as in FY'17, Congress will restore funding for these programs.

On June 6, over 70 House members wrote to the leadership of the House THUD (US DOT) appropriations subcommittee urging them "to include bill language that would ensure that the FTA continues to sign grant agreements for CIG program transit projects". A similar effort to include language in the Senate THUD bill is underway.

Trump Administration Personnel

A number of new political nominations and appointments have been announced for positions at US DOT and other federal agencies. Here is a [link](#) to a list of people (and their bios), not requiring Senate confirmation, named to positions at US DOT. Currently, no modal administrators, such as for FHWA, FTA and FRA, have been nominated, although Heath Hall, a PR executive from Mississippi who previously worked for Sec. Chao at US DOT, has been named as FRA Deputy Administrator.

New US DOT personnel nominations which require Senate confirmation include:

Deputy Secretary - Jeffrey Rosen – confirmed – partner at Kirkland & Ellis law firm, former US DOT and OMB General Counsel in the George W. Bush Administration

Under Secretary for Policy - Derek Kan – nominated – corporate executive with Lyft, previously with Bain Consulting and on the staff of Senator Mitch McConnell (R-KY)

General Counsel – Steven Bradbury – nominated – anti-trust attorney with Dechert LLP specializing in automotive safety and airline competition

Assistant Secretary for Government Affairs –Adam Sullivan – nominated – staffer on Senate Appropriations Committee

Other News

A bipartisan majority of the House - 253 members - signed a June 12 letter urging leaders of the tax-writing Ways & Means Committee to include a long-term Highway Trust Fund (HTF) revenue solution as part of legislation being developed to reform the



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nation's tax code. In addition to this level of support which far exceeds the 218 votes needed to pass legislation in the House, a majority of each party's membership in the chamber signed the letter - 119 Republicans and 134 Democrats. House Highways & Transit Subcommittee Chairman Sam Graves (R-MO) and Ranking Democrat Eleanor Holmes-Norton (D-DC) led the effort to send a powerful signal about the broad-based, bipartisan support that exists for a tangible and sustainable way to pay for future highway and public transportation investments. Here is a link to the [final Graves-Norton letter](#), including all the signatories, and a link to a list of members who signed the letter [arranged by state](#).

FHWA/FTA/FRA have released a new document on "New Questions and Answers Regarding FAST Act Changes to the Environmental Review Process Statute." This new set of detailed Qs & As provide stakeholders and practitioners with a more thorough discussion of the FAST Act section 1304's specific changes, such as changes to the definitions, programmatic reviews, lead agency, and participating agency roles and responsibilities, project initiation process, alternative analysis, coordination plans, issue resolution, and project/process transparency - [Link](#).

Additional information and materials, including archived Washington Updates, are located on the WSP *Federal Briefing* website at www.federalbriefing.com.