



# WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,  
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August 17, 2017

Congress is still on recess and will return to work after Labor Day on September 5. They will have a lot to do in a very short period of time. Despite the new fiscal year beginning on October 1, no FY'18 federal agency funding bills have been completed yet - raising the possibility of a government shutdown. In addition, Congress must act by mid-October to raise the government debt ceiling to avoid a financial crisis. The White House is also anxious to move a massive tax reform bill this fall. After all that is resolved, the hope is that the Administration and Congress will address infrastructure.

## Administration Infrastructure Plan

Yesterday, President Trump signed another Executive Order (EO) on environmental streamlining and made a public statement about his priorities for a national infrastructure plan.

The EO:

- sets a two-year goal for agencies to process environmental documents for major infrastructure projects
- requires that once a joint Record of Decision (ROD) is signed, all federal permitting decisions should be made within 90 days
- implements a "One Federal Decision" policy – essentially a "one-stop shopping" for environment reviews and federal permitting
- requires federal agencies to track the costs of conducting environmental reviews and making permitting decisions
- designates the Council on Environmental Quality (CEQ) to develop and implement an action plan to improve environmental reviews
- identifies OMB as the lead agency to establish a performance accountability system and score each agency on its implementation of the EO

The new Executive Order will also roll back an Obama Administration EO that required strict building standards for government funded projects to reduce exposure to increased flooding from sea level rise. The new EO would reinstate the prior flood management standard, issued by President Jimmy Carter in 1977, but it would not prohibit state and local agencies from using more stringent standards if they chose.



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The President also reiterated his commitment to identify \$200B in direct federal funding as part of his \$1 trillion infrastructure plan. The funding would support a program for rural infrastructure, grants to incentivize states and cities to raise their own revenue, and additional funding for federal lending programs such as TIFIA and WIFIA.

Here is a [link](#) to a White House fact sheet on the Executive Order (EO), a [link](#) to the actual EO, and a [link](#) to US DOT Secretary Chao's press statement about the President's announcements.

In related news, the White House formally announced the creation of a Presidential Advisory Council on Infrastructure to be housed within the Department of Commerce. This is the group led by NYC developers Steve Roth and Richard LeFrak which was first mentioned by the President in January.

The Council is tasked with studying the "scope and effectiveness of... Federal Government funding, support, and delivery of infrastructure projects," and will focus on multiple sectors including surface transportation, ports and waterways as well as broadband, renewable energy, and aviation, among others. It will be composed of 15 members, at the most, who represent either real estate, finance, construction, communications and technology, transportation and logistics, labor, environmental policy, regional and local economic development, or other sectors "determined by the President to be of value to the Council."

The Council will make recommendations about the prioritization of U.S. infrastructure needs, ways to accelerate the permitting process, and developing funding and financing methods, including ways to increase public-private partnerships. It is scheduled to terminate at the end of 2018, unless President Trump extends its mandate. Here is a [link](#) to the full announcement.

## FY'18 Appropriations

The new federal fiscal year begins on October 1. To date, none of the 12 federal agency appropriation bills have passed Congress. Right before the House adjourned for the August recess, it passed a "national security minibuss" comprised of four funding bills – Defense, Military Construction and Veterans Affairs, Energy and Water, and the Legislative Branch. Yesterday, it was announced that the House plans to package the remaining eight funding bills, including US DOT, in another large package and will bring the bill to the floor as early as the first week in September. The full Senate has not yet passed any FY'18 appropriations bills.



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The FY'18 THUD appropriation bills, which fund US DOT, have been approved by both the House and Senate Appropriations Committees and are pending floor action. The Senate bill provides significantly more funding for popular programs such as TIGER grants, transit Capital Improvement Grants (CIG), and Amtrak than the House bill does – see the [July 27 WSP Washington Update](#).

If the DOT bill is not completed by October 1, programs and projects will likely be funded through a short-term Continuing Resolution (CR) which would provide funding at current FY'17 levels.

Here is a [link](#) to the House US DOT appropriations bill HR 3353, a [link](#) to the House Committee Report HR 115-237, a [link](#) to the Senate bill S. 1655, and a [link](#) the Senate Report S. 115-138.

## FAA Reauthorization

The current authorization of federal aviation funding and programs expires on September 30. Both the House and Senate committees of jurisdiction have each passed multi-year FAA reauthorization bills, but the bills have not yet been passed by the full House and Senate and the bills differ in many ways. The primary difference and the main sticking point is a House provision to privatize the Air Traffic Control (ATC) system. Opposition continues to grow, particularly from the general aviation industry, to the ATC provision. It is therefore likely that a short-term extension will need to be passed in September to keep FAA programs, such as the construction-related Airport Improvement Program (AIP), running until the ATC issue can be resolved.

Although neither the House nor the Senate FAA authorization bills include a provision to increase the cap on Passenger Facility Charges (PFC) which are used by airports to fund and finance construction projects, the pending Senate FY'18 US DOT appropriations bill includes a provision to increase the current \$4.50 cap up to \$8.50 for originating airports.

## US DOT Personnel

Right before adjourning for the August recess, the Senate approved a number of pending Trump Administration agency nominees. However, several US DOT nominees were left hanging. Mark Buzby, a retired Navy Rear Admiral and former president of the National Defense Transportation Association, was confirmed to be the Maritime (MARAD)



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Administrator, but Ron Batory, nominee for FRA Administrator, Steven Bradbury, nominee for General Counsel, Derek Kan, nominee for Under Secretary for Policy, and Adam Sullivan, nominee for Assistant Secretary for Government Affairs, are still waiting to be confirmed.

With regard to US DOT positions that do not require Senate confirmation, several people were named to key positions in late July including Brandye Hendrickson as FHWA Deputy Administrator and Mala Parker as FHWA Associate Administrator for Policy. Hendrickson was Commissioner of Indiana DOT appointed by then Governor Mike Pence and Parker came from the American Trucking Associations and from 2002 to 2009 worked with US DOT Secretary Elain Chao at the Department of Labor.

The Administration has not yet nominated anyone for the positions of Assistant Secretary for Budget/CFO, Assistant Secretary for Policy, FTA Administrator and Deputy Administrator, FHWA Administrator, and NHSTA Administrator and Deputy.

## Other News

- FTA has announced a proposal to facilitate public-private partnerships (P3s) in public transportation. The newly proposed Private Investment Project Procedures (PIPP) for public transportation capital projects will help FTA develop more effective approaches to spurring private participation and investment in areas such as project planning, development, finance, design, construction, maintenance, and operations. Here is a [link](#) to the Notice of Proposed Rulemaking (NPRM) that was published in the Federal Register on July 31 and a [link](#) to the FTA press release. Comments from the public are due by September 29. Once finalized, the proposed rule will permit transit grant recipients to apply to FTA to request modification or waiver of specific federal requirements if the recipient demonstrates that the requirements discourage the use of public private partnerships.
- FTA has issued a Notice of Funding Opportunity (NOFO) for the FY'17 Bus and Bus Facilities competitive grant program. This program was authorized in the FAST Act. Application are due by August 25. Approximately \$226.5M in FY'17 funding is available for these grants. Here is a [link](#) to the NOFO, a [link](#) to an FTA press release, and a [link](#) to more information about this program.
- On August 2, US DOT notified Congress of the projects that were selected to receive small project set-aside grants from the October 2016 FASTLANE competitive grant notice. US DOT selected 10 projects to receive a total of approximately \$80M in funding. Per the FAST Act, Congress has 60 days to review the project selections



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before the funds can be released to the recipients. Here is a [link](#) to the list of projects selected. US DOT released a separate NOFO last month renaming the FASTLANE program as the INFRA program and combining the remainder of the FY'17 funds with the FY'18 funds. The new NOFO makes approximately \$1.5B available and applications are due November 2, 2017. Here is a [link](#) to the INFRA NOFO in the July 5 Federal Register and a [link](#) to the US DOT INFRA website which provides more information about the program, including links to several webinars and slide deck presentations.

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