



## September 26, 2012

Congress has recessed until after the November 6 elections. Their last action before leaving town was to pass a six-month Continuing Resolution (CR) which will fund all government programs at approximately current funding levels from the October 1 start of the new fiscal year through March 31, 2013. While “pro forma” sessions are being held during the recess, Congress officially returns to Washington after the elections on November 13 for a “Lame Duck” session.

On November 6, the entire US House of Representatives and approximately one-third of the US Senate, as well as the Presidency, are up for election. Current polls seem to indicate that while Senate Democrats may lose some seats, it is becoming less likely they will lose their current majority. Similarly, in the House, Republicans appear likely to lose a few seats, but not their majority. So unless Members are willing to find some bi-partisan consensus on key issues, the ability of either party to achieve their goals in the new 113th Congress will be severely limited.

The agenda for the post-election Lame Duck session includes numerous highly contentious issues, including the expiration of the Bush tax cuts as well as numerous other expiring tax provisions, and sequestration, the massive government-wide spending cut mandated to go into effect on January 1, 2013 under the 2011 Budget Control Act. The length and outcome of the session will greatly depend on the results of the November elections – who wins the Presidency and which party controls the House and Senate, even though the Lame Duck session will be conducted by the Members of Congress currently in office, regardless of the outcome of their elections.

The latest speculation is that all or most of the tax cuts may be temporarily extended and implementation of the sequester postponed until sometime next year in order to give the new Congress and whomever is President time to develop a strategy to resolve these critical issues and avoid having the US Government fall off a “fiscal cliff”.

## Impact of CR and Sequestration on US DOT Programs

Congress was not able to pass any of the FY’13 annual federal agency appropriations bills before they adjourned for the elections. In order to keep the government running, they passed a six-month Continuing Resolution (CR). The CR funds most US DOT programs at approximately their current FY’12 funding levels. Unfortunately, funding under the CR does not incorporate an obligation ceiling allowing for the modest increases in highway and transit funding authorized in the new MAP-21 bill. For instance, MAP-21 increased highway funding by \$550M in FY’13 and transit funding by \$100M. It is possible that when Congress passes a bill to fund the remainder of FY’13, the MAP-21 increases could be restored.



Shortly after the October 1 start of the new fiscal year, FHWA and FTA are expected to issue apportionment notices for six months worth of all formula programs. However, funding for discretionary programs, such as the transit New Starts/Small Starts program, may not be allocated until a full-year's funding is appropriated.

Under the CR, funding for US DOT formula programs will be apportioned using the new MAP-21 authorized program structure and procedures.

The mandatory January 1 sequestration will not impact those US DOT programs which are funded through contract authority from the Highway or Airport Trust Funds. However, those programs funded from the General Fund, such as the FTA New Starts/Small Starts program, Amtrak, and FAA Operations, will be hit with an automatic 8.2% cut, unless Congress acts to postpone or eliminate the sequester. In addition, it appears that the FY'13 installment of General Funds which the new MAP-21 law transfers to the Highway Trust Fund to once again bail it out are also covered by the sequestration process and will be cut by 7.6%. This could leave the Trust Fund with very low balances at the end of the two-year MAP-21 authorization.

## MAP-21 Implementation

US DOT continues its efforts to implement the new MAP-21 surface transportation law. On September 25, FHWA released interim guidance documents and expanded Q&A's regarding implementation of MAP-21. The guidance materials are online [here](#) and the Q&A's [here](#). The new guidance documents include: National Highway Performance Program, Surface Transportation Program, Metropolitan Planning, Tolling, and Major Projects Finance Plan. Coming soon is guidance on CMAQ, Transportation Alternatives Program, and Federal Lands Transportation Program.

FHWA will also hold two webinars – Wednesday 9/26 and Thursday 9/27 – to provide an overview of the MAP-21 guidance documents. All interested members of the public are invited to participate.

### MAP-21 Implementation Webinars:

- 1:30 - 3:30 p.m. EST, Wednesday, September 26. Register online at: [http://www.nhi.fhwa.dot.gov/resources/webconference/web\\_conf\\_learner\\_reg.aspx?webconfid=25047](http://www.nhi.fhwa.dot.gov/resources/webconference/web_conf_learner_reg.aspx?webconfid=25047)
- 1:30 - 3:30 p.m. EST, Thursday, September 27. Register online at: [http://www.nhi.fhwa.dot.gov/resources/webconference/web\\_conf\\_learner\\_reg.aspx?webconfid=25066](http://www.nhi.fhwa.dot.gov/resources/webconference/web_conf_learner_reg.aspx?webconfid=25066)



Here is a [link](#) to the presentations and recordings of previous FHWA webinars on various MAP-21 subjects such as Tolling and Pricing, Financial Plans, P3s, Transportation Alternatives, and Freight & Operations.

U.S. DOT has extended the National Online Dialogue on Performance Measures comment deadline until this Sunday, September 30. The public is invited to participate in a discussion online [here](#) and share thoughts on establishing and implementing performance measures in categories including safety, system performance, traffic congestion, freight movement, on-road mobile source emissions, transit, and infrastructure condition.

A similar National Online Dialogue on Freight Policy closed for comments on September 23, although previous comments can be viewed [here](#). The Online Dialogue was a follow-up to a Freight Stakeholders Roundtable hosted by US DOT on September 13. The purpose of the Roundtable was to introduce the newly-formed Freight Policy Council. Stakeholders heard from Senator Maria Cantwell (D-WA), Secretary Ray LaHood, Deputy Secretary John Porcari, the chair of the Council, Assistant Secretary for Policy Polly Trottenberg and a panel led by FRA Administrator Joe Szabo. Joe Bryan, with PB Strategic Consult Freight and Logistics group, represented Parsons Brinckerhoff at the Roundtable.

Additional MAP-21 information and materials can be found on the PB Transportation Update website at [www.PBTransportationUpdate.com](http://www.PBTransportationUpdate.com)

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## Other News

On September 24, the US DOT Inspector General released a report on DOT administration of the highly popular TIGER discretionary grant program. Here is a [link](#) to the audit report. The IG raised concerns about a lack of effective reporting and oversight measures as well as a lack of attention to measurements of outcomes of TIGER investments. Almost \$3B in TIGER funding has been allocated to date with billions more in unmet requests. The MAP-21 bill did not authorize any additional TIGER funds, although the program remains very popular with the congressional Appropriations Committees who could opt to continue funding the program on an annual basis. As a program funded in FY'12, TIGER should receive six months of funding (\$250M) under the temporary CR; however, government-wide language in the CR may prevent their expenditure.

In the final days before adjournment, Rep. John Mica (R-FL) chairman of the House T&I Committee, held two oversight hearings on Amtrak. Here is a [link](#) to an overview of those hearings which includes links to the testimony of the various witnesses and to a report issued by the committee on Amtrak competition with private operators on state supported commuter lines. Mica, a long time critic of Amtrak and a supporter of privatizing the Northeast Corridor, severely chastised Amtrak leadership about mismanagement, waste, and cost to taxpayers. Mica plans as many as three additional hearings on Amtrak this fall.