



MAY 7, 2010

Things continue to be relatively quiet on the legislative front related to transportation and infrastructure issues. The Senate is still focused on financial reform legislation and will soon be preoccupied with the Supreme Court nomination hearings. Congress has only a few short weeks before the various summer recesses begin to limit floor time. With a late Labor Day and a tentative adjournment date of October 8 to return home to campaign, there is not an extensive amount of time left in this Congress to pass major legislation. Potential legislation could include an FY'10 war supplemental bill, a surface transportation authorization bill, the twelve FY'11 appropriations bills, a climate change bill and possibly an immigration bill and additional jobs bills. However, the recent defection of Republican co-sponsor Senator Lindsey Graham (R-SC) and the massive oil spill in the Gulf make it hard to envision Congress completing an energy reform/climate bill this year.

FY'11 Budget and Appropriations/Earmarks:

The big news in the appropriations world this week was the announcement by House Appropriations Committee Chairman, Rep. David Obey (D-WI), that he does not plan to run again for election in November. He was expected to face a tough Republican challenger. The next in line in seniority to replace him as chairman is Rep. Norm Dicks (D-WA).

Congress has once again missed the April 15 deadline for passing the non-binding FY'11 Budget Resolution. The Senate Budget Committee has approved its version of a Budget Resolution, but it seems unlikely it will make it to the Senate floor given the highly partisan, election-focused environment. Republicans won't support a Budget which doesn't substantially cut domestic discretionary spending and Democratic Senators up for election in November don't want to be on record voting to increase deficit spending. For similar reasons, the House is not expected to pass a Budget Resolution either.

In the absence of a Budget Resolution, the appropriations subcommittees must wait at least until May 15 to act on any FY'11 federal agency funding bills. While many subcommittees are expected to mark-up bills, floor action is dubious since House members do not want to make tough votes for program increases, only to have the bills die in the Senate. Therefore, it looks likely that Congress will simply pass a Continuing Resolution (CR) at current funding levels at least through the end of calendar year 2010. There is some thought that Congress might be able to pass the appropriation bills in a Lame Duck session after the November elections, but others feel that is unlikely and that a year-long CR through FY'11 is a possibility.

Another controversy which is holding up action on the appropriations bills is the issue of earmarks. In March, the House Republican Conference voted to prohibit Republican members from requesting any FY'11 project earmarks. The Democratic leaders of the House Appropriations Committee announced that they would not earmark any funds going to for-profit entities. For-profit earmarks generally occur in DOD and DOE appropriations bills and rarely in the DOT or Water-related appropriations bills. There were



several attempts to get the Senate to agree to a similar moratorium on all earmarks, but they were not successful.

Many observers expect some House Republican project sponsors will try to get around the earmark moratorium by going through their Senators to insert earmarks; however, in states such as California, Washington and many others with two Democratic senators, that may prove difficult.

The pending [Senate Budget Resolution](#) assumes the current funding levels for highway and transit programs in FY'11. It provides approximately \$1B for a TIGER III-type program, but does not appear to include any funds for US DOT's request for \$4B to fund the National Infrastructure Innovation and Finance Fund (NIIFF or 'I' Fund). It does include a reserve fund to finance a multi-year Surface Transportation reauthorization bill at higher funding levels, if sufficient new revenue is identified.

FAA Reauthorization Short-term Extension:

On April 30, President Obama signed a two-month extension (HR 5147) of the current FAA authorization which expires on **July 3**. This is the 13th extension of the FAA program. The FAA has been without a permanent authorization since September 30, 2007. The goal now is to complete a conference on a multi-year bill by that deadline.

The House and Senate have each passed a version of a multi-year FAA reauthorization bill, which authorizes funding for the Airport Improvement Program (AIP) and addresses Passenger Facility Charges (PFCs). However, the bills differ in many ways and it will likely be several weeks (or even months) before they are able to fully resolve the differences, although congressional staff is currently working through many of the issues. Here is a [comparison of the key provisions](#) in the House and Senate bills.

TIGER II Grants and US DOT Briefing Sessions:

As reported in the April 23 PB Update Interim Report, US DOT has issued an interim notice soliciting NII/TIGER II grant applications in the April 26 Federal Register. A total of \$600M is available for this round of applications, with \$25M of that amount for program administration, a minimum of \$140M for rural grants, a maximum of \$150M for TIFIA financing and a maximum of \$35M for planning grants. US DOT's "TIGER II Discretionary Grant" program is very similar to the original \$1.5B TIGER Grant program created in the ARRA stimulus bill. It has the same general eligibility and very similar criteria; however there are a few important differences, particularly related to cost-sharing. Here is a [side-by-side comparison](#) of the two programs and a [summary of the TIGER II program](#).

A pre-application is due by **July 16th** and final applications must be submitted through www.Grants.gov by **August 23rd**. US DOT cannot announce the successful applications prior to September 15th and many expect that we won't see announcements before October. Comments on the interim notice are due today, **May 7**. The pre-application review will focus on project eligibility, status of the NEPA process and the required 20% non-federal match (less for rural projects).



PB Washington Update

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US DOT will be holding two briefing sessions in May in DC related to helping agencies with their grant submittals. On May 17 there will be a workshop on "[Benefit/Cost Analysis for Transportation Infrastructure](#)" at US DOT. We have been told the workshop is now full, however, interested parties will be able to access the hand-out materials on-line and a video of the workshop will be posted on-line for viewing later that day. While this session is not solely focused on the TIGER grants applications, DOT is expected to want to see more thorough benefit-cost analysis in the TIGER II applications.

A separate seminar on May 18 on "[Lessons on How to Compete for a DOT Discretionary Grant](#)" will focus on the lessons learned from the first round of TIGER grants and information on the next round will be presented. The seminar begins at 1:00 PM, is free and will be simulcast via the web. You must register to attend at TigerGrants@dot.gov by May 12.

PB will have attendees at both briefing sessions.

Other News:

- **FTA Bus and Bus Facility Grants** – In the [May 4 Federal Register](#), FTA published a notice of availability of up to \$775M in unallocated FY'10 Section 5309 discretionary Bus and Bus Facility funds. These are bus funds which Congress did not earmark for specific projects. Proposals must be submitted by **June 18**. FTA has named this effort the State of Good Repair (SGR) Initiative. Funds can be used to finance capital projects to replace, rehabilitate and purchase buses, to construct bus-related facilities and to fund components of asset management plans. Grants are expected to be announced in late summer.

A similar notice to apply for an estimated \$135M in unallocated FY'10 New Starts/Small Starts funding is likely to be issued in early June.

- **US DOT Draft Strategic Plan** - US DOT has made available their [draft Strategic Plan](#) for FY 2010-2015, entitled "Transportation for a New Generation" and has asked for comments back on the plan. The report is organized into five strategic goals: Safety, State of Good Repair, Economic Competitiveness, Livable Communities, and Environmental Sustainability. There is one organizational goal of Excellence.

According to the 74-page report, DOT will use this Strategic Plan to develop and implement policies and programs that will transform the transportation infrastructure into a truly multimodal system that provides travelers and businesses with safe, convenient, affordable, and environmentally sustainable transportation choices.

The plan is likely to generate some controversy as it reflects Administration policies. The plan eliminates mobility as a goal and substantially downplays any capacity additions in surface transportation in favor of the livable communities/sustainability approach. The plan also calls for reducing truck freight movement in favor of rail and water transport.



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- **FRA National Rail Plan Sessions** - FRA will be holding five [public outreach meetings](#) to solicit input from stakeholders to support the development of the first National Rail Plan. The meetings will be held May 19 in Kansas City, May 20 in Atlanta, May 26 in New York City, June 3 in Salt Lake City and June 4 in Portland. The sessions are open to the public. On October 16, 2009 FRA submitted a [Preliminary National Rail Plan](#) to Congress. The final plan is due by September 15. PB will have attendees at all five sessions.
- **Guide to "Leveraging the Partnership: DOT, HUD, EPA Programs for Sustainable Communities"** – The three agencies have jointly released a handy [guide to their funding and technical assistance programs](#) to help communities and public agencies identify resources available to support their efforts to promote livable and sustainable communities.
- **US DOT Greenhouse Gas Report** – On April 22 US DOT released a 600-page [report detailing transportation's role in reducing greenhouse gas emissions](#). The report, while making no specific recommendations, analyzes the full range of strategies available to reduce transportation's greenhouse gas emissions, including reducing VMT, increasing CAFE standards, expanded public transportation, and even targeted road capacity increases. The report also discusses policy options for implementing these strategies, such as efficiency standards, transportation planning and investment, market-based incentives, research and development and economy-wide carbon policies.