



# PB Washington Update

PREPARED BY CATHY CONNOR  
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## July 2, 2010

Congress is heading out of town for the week-long July 4 recess. The House will return for only three short weeks before leaving for the August recess having decided to leave town a week early on July 30. The Senate is expected to stay in session an additional week. Both chambers won't return to work until after Labor Day. Congress leaves without completing work on several critical bills including the FY'10 war supplemental (which in the House version also includes billions in domestic funding), the financial reform bill (the Senate is still trying to find 60 votes), and an extension of expiring unemployment benefits.

### FY'11 Appropriations:

In an effort to make some progress on the 12 federal agency FY'11 appropriations bills, five House appropriations subcommittees held mark-ups this week, including the THUD (DOT) subcommittee.

The House subcommittee bill includes:

- FHWA Core Highway Program - \$45.2B (versus \$41.1B in FY'10)
- FTA - \$11.3B (versus \$10.7B in FY'10), including \$2B for New Start/Small Start projects (see details below), the same amount as FY'10
- FAA Airport Improvement Program - \$3.5B (same as current level)
- High-Speed and Intercity Passenger Rail - \$1.4B (versus \$2.5B in FY'10)
- Amtrak - \$1.76B (\$1.2B for capital and debt service and \$563M for operating grants)
- Positive Train Control (PTC) - \$75M (versus \$50M in FY'10)
- New Livability Initiative - in the range of \$500M (this is a new discretionary program proposed by the Obama Administration which is funded with \$300M from the transit program and additional funds from the highway program)
- TIGER III discretionary grant program - \$400M (versus \$600M in FY'10)
- National Infrastructure Innovation and Finance Fund (NIIFF) - no funding is provided for this Administration proposed \$4B program
- TIGER Program Amendment - an amendment was accepted that would require greater transparency of TIGER grants. US DOT would have to post all TIGER applications on their website and release more information about criteria and weighting.

The higher funding levels for the highway and transit program obligation ceilings are somewhat misleading. The proposed highway level can probably be used by the states, although the margin is small, especially since the subcommittee also proposes to rescind some of the highway contract



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authority recently restored by the HIRE Act. In the transit formula programs, the increased funding is not meaningful, since there is not currently sufficient contract authority to use the additional obligation limitation. In fact, the House T&I Committee voted yesterday to rescind \$17.4M in transit contract authority for formula and bus programs which exceed the current limitation and therefore cannot be used.

Particularly in the case of highways, there will be significant consequences of providing additional obligations in FY'11 if the program has to adjust to reduced trust fund income in FY'12. Cash flow on prior contracts, including those entered into with the additional FY'11 funding, will absorb most of the Trust Fund revenues. New obligations in FY'12 might have to be cut by more than 50%.

A chart comparing the subcommittee's FY'11 funding levels with the FY'10 levels and the [Administration's Budget Request](#) can be accessed online. The subcommittee typically does not release the text of the bill or report prior to full committee mark-up. It is not clear at this time when or if that mark-up will occur.

A [list of the projects earmarked in the bill](#) is also available.

- FTA New Start/Small Start Projects are listed in two places - pages 2 and 3 for those projects that were requested in the President's budget (those with FFGAs or proposed FFGAs) and page 19 for additional projects designated by Congress. All NS/SS projects included in the President's budget were funded by the subcommittee at 100%.
- FTA Bus Projects - pages 15 through 19
- FTA Alternative Analysis Projects - pages 14 and 15
- FHWA Projects - pages 4 through 14
- FAA AIP Projects - pages 3 and 4

At this point it is unclear if the House subcommittee funding bills will go to full committee or to the Floor or if the Senate will move any appropriations bills at all. Given the limited number of days left in this session, the political pressures of the November elections and the concern over the growing deficit, most observers predict that Congress will simply pass a Continuing Resolution (CR) to continue current level funding through the end of the calendar year with the hope of completing the bills during a post-election *Lame Duck* session. Short-term CRs usually do not include project earmarks.



## High Speed-Rail Grants:

On July 1 FRA published two Notices of Funding Availability (NOFAs) in the Federal Register regarding the FY'10 appropriated funds for high-speed and intercity passenger rail. This funding is in addition to the \$8B in federal ARRA funds already awarded. One NOFA is for \$2.1B for the development of new and existing high-speed rail corridors. The other is for \$245M for construction of specific, free standing projects within a corridor. Applications are due by **August 6** with the goal of announcing the grants by September 30. The two NOFAs can be accessed [here](#) and [here](#).

In somewhat related news, the Obama Administration this week released an announcement regarding a proposal to free up federal and commercial radio and TV spectrum with the possibility that some of the revenue generated from a spectrum auction could be used for high-speed rail, FAA's NextGen air traffic control modernization and the Smart Grid as well as developing a wireless broadband network for public safety. It is expected that more details on this proposal will be included in the President's FY 12 budget when it is released next January.

## DOT/HUD Joint Notice on Sustainable Community Challenge and TIGER II Planning Grants:

On June 24 [US DOT and HUD issued a joint notice](#) in the Federal Register that solicits applications for \$40M in HUD Sustainable Community Challenge Grants and up to \$35M in US DOT TIGER II Planning Grants. The funding for the TIGER II planning grants comes from the \$600M in TIGER II grants previously announced on May 28. The HUD funding is part of \$200M in FY'10 funding for HUD's new office of Sustainable Housing and Communities.

A short summary of the Notice of Funding Availability:

- **General:** By submitting a single application in response to this notice, applicants can apply for funds from both HUD's Community Challenge Grant program and USDOT's TIGER II Planning grants. The intent of this joint notice is to provide funds for *planning activities* that ultimately lead to the development of projects that integrate housing, economic development, land use, and transportation components.
- **Evaluation process and criteria:** Applications submitted in response to this joint notice will be evaluated by a team of HUD, DOT, and EPA staff. The selection criteria for this joint notice are the extent to which the proposed project aligns with HUD-DOT-EPA's six "livability principles" and a clear articulation of the plan's expected outcomes, the proposed work plan, the extent to which the application includes a financial match greater than 20% non-federal funds, and the applicant's technical capacity to complete the proposed activities successfully.



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- **Dates:** A pre-application is due by **July 26**, with final applications due **August 23<sup>rd</sup>**.
- **Grant size and cost sharing:** A maximum of \$3M per grant with no minimum. A minimum 20% non-federal match is required (this is waived for rural areas).

For project sponsors who are interested in TIGER II planning grants (for planning or design of transportation projects) but feel that their project does not align well with the criteria in this joint HUD-DOT program, note that applicants can still request planning funds through the prior TIGER II grant notice. US DOT can award up to \$35M in TIGER II planning grants through either the regular TIGER II Discretionary Grant program or through the DOT-HUD joint notice. Both programs are expected to be very competitive.

## **TIGER II Discretionary Grants:**

The pre-application deadline for the \$600M TIGER II Discretionary Grant Program has been extended from July 16 to **July 26**. The deadline for final applications remains **August 23**. View the [pre-application instructions](#). [US DOT TIGER II Frequently Asked Questions](#) can also be accessed online.

## **FAA Reauthorization Bill:**

Congressional staff continues to make progress on resolving the final differences in the House and Senate multi-year FAA reauthorization bills; however several controversial items, primarily related to labor issues, which require direct Member involvement, are holding up final passage. With the latest short-term extension expiring on July 3, Congress was forced this week to pass yet another extension (HR 5611) to avoid the program shutting down. They agreed to a one-month extension through August 1.

## **Federal Transit Safety Oversight:**

This week the Senate Banking Committee unanimously approved a bill, the Public Transit Safety Act of 2010, establishing federal safety oversight of transit rail systems. The Senate bill is very similar to the bill originated by US DOT. The hope is to bring the bill up on the Senate floor under Unanimous Consent (UC), which does not require any debate, after the July 4 recess. The Senate is anxious to be on record regarding transit safety in advance of the NTSB's upcoming report on the WMATA Red Line crash. At this time it doesn't appear the House plans to take up the bill, preferring to incorporate it into the broader SAFETEA-LU reauthorization legislation, but now with action on the Senate side and the outlook for a reauthorization bill this year diminishing, they could decide to reconsider. The Banking Committee press release includes a [summary of the key provisions in the bill](#).



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In a related effort, this week US DOT announced the members of its new Transit Rail Advisory Committee for Safety (TRACS), a recently formed advisory committee that will assist FTA with development of national safety standards for rail transit. A DOT press release listing the [names of the TRACS members](#) is available.

### Other News:

- **FTA ANPRM on Major Capital Investment Project** - as mentioned in the June 18 Update, FTA published an Advance Notice of Proposed Rulemaking on Major Capital Investment Projects (also known as New Start/Small Start projects) in the June 3 Federal Register. Comments are due by **August 2**. The final two FTA listening sessions will be held on July 12 in Dallas and July 15 in Washington DC.