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To: Celia McAdam
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Subject: November 2010 Monthly Report

The following addresses various issues with respect to PCTPA.

FY11 Appropriations

This week Congress will have to address the FY11 appropriations situation as the current stopgap funding bill to keep the government operating expires December 3. As of this writing, the White House is pressing hard for a full year CR- covering the last 10 months of the fiscal year ending September 30. As part of such bill, the Administration is seeking broader discretion over how the funds would be allocated- a huge grant of authority to the Executive Branch, especially DOD. Conversely, the Republicans in both Houses are promoting a 3 month CR through the end of February. This would allow them to set up an early confrontation with Obama over not just deeper cuts from the President's FY11 budget but also the tens of billions of dollars in rescissions from prior years. To review, earlier this year PCTPA submitted its FY11 appropriations request to the Offices of Senators Feinstein and Boxer for \$3.084M for the I-80/SR-65 Interchange Improvement Project. Congressman McClintock, as he did last year, was not accepting requests as he will not be pursuing earmarks in the appropriations process. Along those lines, on March 11, 2010, the House Republican Conference voted to adopt a one year unilateral moratorium on all appropriation earmarks. The Senate Republicans did not choose to follow suit. In the Senate, Senators Feinstein and Boxer did not include anything in their Transportation Appropriations requests for the I-80/SR-65 Project.

SAFETEA-LU Reauthorization

In September the Administration sent to Congress a \$50 Billion infrastructure package which included funding for highways and transit. No further details have been forthcoming from the White House on the package (i.e., funding source; specific allocations for highway, transit, aviation, and rail; policy structure; etc.). Although no action has been taken to date on this, there is speculation that \$25 Billion of the package could be included when SAFETEA-LU is extended

in December as a “down payment” on the first year of the SAFETEA-LU reauthorization. Recently, the US DOT announced that it would be submitting its SAFETEA-LU reauthorization proposal to the Congress in February. The current SAFETEA-LU program is extended until December 31, 2010. The Administration recommends extending the current authorization through March 2011, during which time it will work with the Congress to reform surface transportation programs and put the system on a viable financing path. The Administration seeks to integrate economic analysis and performance measurement in transportation planning to ensure that taxpayer dollars are better targeted and spent. Regardless of the current extension situation or the Administration’s position, the House is committed to passing a bill as soon as possible. They are currently considering creative financing approaches for doing so. The House already has a Subcommittee reported bill without funding totals. In addition, Senator Boxer announced her intent to introduce the Senate’s SAFETEA-LU Reauthorization Bill by October 1 with markup to follow in the lame duck session. At this time, the plan is for the bill to not include any funding as the revenue title still remains a challenge. To date, the bill has not been introduced. CBO projected that the Highway Trust Fund (funded by gas taxes) would remain solvent through 2013 at a total revenue estimate of \$240B. The problem is that both the House and Senate want to do a reauthorization bill at \$400-\$500B. The challenge lies in where/how to come up with the additional revenues in ways that are politically and programmatically acceptable.

On the issue of SAFTEA-LU projects and all the discussion of earmarks, see attached article.

To review, on April 29, PCTPA submitted to Congressman McClintock a request for \$4 million to help fund the construction of Phase 2A of the Lincoln Bypass on SR65 as it’s a high priority project in the reauthorization of SAFETEA-LU. The Congressman submitted PCTPA’s request to the House Committee on Transportation and Infrastructure. It was one of only four projects he submitted. In addition, PCTPA decided to cosponsor SACOG’s high priority SAFETEA-LU project request of \$4 million from Congresswoman Matsui for the Roseville-Sacramento rail track improvements. The Congresswoman submitted \$3 million for the SACOG project to the Committee on Transportation and Infrastructure. Federal Advocates is coordinating advocacy of this issue with SACOG’s DC representative. The Bypass Project at \$18.203M was also submitted to the Senate Environment and Public Works Committee and Senator Feinstein, per Senator Boxer’s July 2009 “call for projects.”

Grants

While it is still unclear how earmarks will be addressed in the FY12 appropriations process, Federal Advocates is in the process of expanding significantly its client grant solicitation service with more details to follow in December.

Road projects may survive earmark ban

Some Republican lawmakers endorsing their caucuses' pledges to swear off earmarks are already suggesting there may still be wiggle room for funneling money to transportation infrastructure projects. That is because — despite the fact that perhaps the most infamous earmark ever involved an Alaska bridge — infrastructure earmarks are seen as particularly vital to communities, and especially useful politically to the lawmakers who deliver them.

For transportation insiders, how the GOP will square infrastructure spending with its earmark ban is key to whether Congress can enact a multi-year surface transportation bill. Earmarks have been almost universally viewed as vital to bringing along support for that bill, often as a tool to win the backing of lawmakers from states that do not fare as well as others under spending formulas.

James L. Oberstar, D-Minn., the outgoing chairman of the House Transportation and Infrastructure Committee, said that the importance of earmarks grew as the price tags of surface transportation bills climbed during the 1980s.

"The argument at the time was if you don't give members some say in how these dollars are spent they're not going to vote," Oberstar said. But he also noted that before that time, these bills succeeded without any earmarks at all.

According to Taxpayers for Common Sense, a group critical of earmarks that closely tracks their use, about 20 percent of the total dollars spent on earmarks in fiscal 2010 — \$3.18 billion spread over 1,109 earmarks — were transportation related.

Sen. Richard C. Shelby, R-Ala., said that he did not think there would be any room in the GOP moratorium to carve out exceptions for infrastructure earmarks.

"It's been done a long time but I think that era's probably ended," Shelby said.

There's evidence, though, that other Republicans who endorse the ban do not plan to completely forswear infrastructure earmarks.

John L. Mica, R-Fla., who is set to take the gavel of the House Transportation committee next year, is wary about a rigid ban. In an interview, Mica said the issue will have to be decided on a case-by-case basis, and that he has spoken to GOP leaders about the matter.

"There are some bills that require some legislative language to direct the funds, otherwise you're just writing a blank check to the administration," Mica said.

Even Michele Bachmann, R-Minn., founder of the House Tea Party Caucus and one of several lawmakers who have pledged not to seek earmarks, appears to make an exception for infrastructure spending. Bachmann recently told the Minneapolis Star-Tribune that she thinks the word "earmark" shouldn't apply to infrastructure projects.

"I don't believe that building roads and bridges and interchanges should be considered an earmark," Bachmann said, adding that there is a difference between a "tea pot museum" and a bridge.

Sen. Saxby Chambliss, R-Ga., said he supports the Senate GOP's earmark moratorium, though he added that there may be issues "of such importance to Georgia, such as critical support to the port of Savannah, and the nation that I reserve the right to ask Congress and the president to approve funding."

Johnny Isakson, Georgia's other Republican senator, took a similar stance, noting that he supports the moratorium but also believes in Congress' constitutional duty to direct federal spending.

"I will never abandon my oath, and I will continue to fight for funding for projects such as the expansion of the Savannah port that is critical to my state and to U.S. trade," Isakson said.

The sentiment does not appear limited to rank-and-file lawmakers. At least one GOP leader — Lamar Alexander, R-Tenn., chairman of the Senate Republican Conference — said "in an emergency case I reserve the right to ask Congress and the president to approve measures of urgent importance to Tennesseans."

Several Republicans also expressed concern about ceding so much of Congress' ability to direct spending to the White House.

Sen. James M. Inhofe, R-Okla., ranking member on the Environment and Public Works Committee and one of the most conservative senators, regularly declares that he is all for fiscal discipline, but opposes the earmark ban. Inhofe views the moratorium as an abdication to the executive branch of Congress' constitutional control of the government's purse strings.

Sen. Susan Collins, R-Maine, said she supports making earmarking more "open and transparent," but worries that Congress "may be relinquishing its constitutional duty" and allowing unelected bureaucrats to decide how best to hand out money.

Even if transportation earmarks slide under the earmark ban radar, they are sure to be more thoroughly vetted than in the past.

Lawmakers remember the public relations nightmare over the "Bridge to Nowhere," an earmark in the 2005 highway law (PL 109-59) for a \$398 million bridge linking Ketchikan, Alaska, to sparsely populated Gravina Island.

The project was eventually canceled, but not before it became a symbol of what critics viewed as an abuse of earmarks.