



International Right of Way Association Weekly Update

Monday, May 29, 2017

Trump Administration

- The Administration released its fiscal year 2018 budget proposal on Tuesday. (<https://www.whitehouse.gov/omb/budget>) Some of the noteworthy infrastructure-related proposals include:
 - \$200 billion in additional infrastructure funding to be used to achieve \$1 trillion in total infrastructure spending;
 - A \$1.1 billion reduction below the FAST Act authorized amount for the Federal Transit Administration's Capital Investment Grant ("CIG") Program, which funds New Start, Small Start, and Core Capacity projects);
 - Elimination of the Transportation Investment Generating Economic Recovery ("TIGER") Program; and
 - A 50 percent reduction below the FAST Act authorized level for Amtrak.
- Buried in the budget proposal is a fact sheet entitled "2018 Budget: Infrastructure Initiative." (https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/fact_sheets/2018%20Budget%20Fact%20Sheet_Infrastructure%20Initiative1.pdf) Key provisions reflect the Administration's common themes and provide some additional detail, including:
 - Encouraging self-help;
 - Leveraging the private sector;
 - Expanding the Transportation Infrastructure Finance and Innovation Act ("TIFIA") Program;
 - Lifting the cap on Private Activity Bonds ("PABs");
 - Reducing restrictions on tolling;
 - Allowing private investment in rest areas; and
 - Reevaluating the federal government's role in infrastructure investment, including "exploring whether this arrangement still makes sense, or whether transferring additional responsibilities to the States is appropriate."

Analysis

- The Administration is still working to flesh out the details of its infrastructure plan, and it is unclear whether the Administration intends for the fact sheet to constitute the "principles" document that Secretary Chao has promised to unveil by the end of May.

Secretary Chao noted after the release of the budget proposal described this fact sheet as “the main key principles” but noted that the Administration will have “more details forthcoming.” (<http://www.politico.com/story/2017/05/23/infrastructure-transportation-trump-budget-238741>)

- Much of the content of the fact sheet reflects common Administration themes, but some items, such as reevaluating the federal role in infrastructure and exploring appropriate opportunities to shift responsibilities to the states, have not previously been discussed by the Administration. This concept of shifting responsibility from the federal government to the states has many in the industry concerned, because this is a rephrased version of the “devolution” argument made by many on the extreme right-wing of the Republican Party. In general, the argument goes that the federal government no longer has a compelling interest in infrastructure now that the Interstate Highway System is largely complete, and as a result, the federal government should “devolve” its infrastructure programs to the states. Many industry professionals believe the “devolution” argument misstates the premise of the argument, disregards how such a change could actually be implemented, and ignores the fact that no state department of transportation actually supports the idea.
- The fact that this “devolution” principle made its way into the Administration’s infrastructure fact-sheet is even more noteworthy when viewed in light of the proposed cuts to the CIG Program, Amtrak, and TIGER, which are all programs commonly criticized by the Tea Party. Remember, the Director of the Office of Management and Budget, Mick Mulvaney, is a former Tea Party Congressman.
- Not surprisingly, many Democrats and stakeholders have expressed great concern over the budget proposal. (https://www.washingtonpost.com/politics/with-proposed-trump-cuts-chances-fade-for-a-bipartisan-infrastructure-deal/2017/05/24/ed00bf3e-4090-11e7-adba-394ee67a7582_story.html; <https://www.seattleweekly.com/news/trump-budget-presents-a-major-threat-to-sound-transit-plan/>)
- In conversations with senior White House staff this week, Nossaman experts believe that, in very general terms, there is a debate between the Mulvaney-led budget office and the infrastructure policy experts within the White House and at the U.S. Department of Transportation. The reason the budget proposal may have been a more ideological document than expected could simply be due to the fact that preparing the budget proposal is a months-long process that began prior to many infrastructure policy staff joining the Administration. Whether or not this is accurate (and the truth is assuredly much more complicated), the Administration will have a long road to travel to reassure stakeholders and Democrats that they are serious about advancing a bipartisan infrastructure proposal.