



International Right of Way Association Weekly Update

Monday, August 14, 2017

Trump Administration

- As noted last week, Secretary Chao proposed nearly \$80 million in funding for ten “small projects” under the Nationally Significant Freight and Highway Projects program, which the U.S. Department of Transportation has branded the INFRA Program.
<https://www.transportation.gov/briefing-room/dot6517>
- President Trump noted on Thursday that he may not work with congressional Democrats to move an infrastructure bill, while simultaneously noting that Democrats may be more supportive of his plans than Republicans.
<http://thehill.com/policy/transportation/346121-trump-may-not-work-with-democrats-on-infrastructure-bill>

Analysis

- Nossaman experts spent a considerable amount of time this past week discussing the state of play with senior officials at the White House. There are a number of key takeaways from these conversations:
 - First, infrastructure is still a priority for the Administration, but its congressional consideration will trail tax reform efforts, as well as potential further activity to repeal and replace the Affordable Care Act. And as we know, the budget, government funding, and the debt limit will take precedence over other agenda items on the legislative calendar when Congress returns in September.
 - Second, the Administration has made significant progress formalizing and developing the concepts of its infrastructure proposal and has begun drafting legislative language. There is no specific timeline on how long it will take to finalize a complete draft of the entire package, including legislative text, and then vet it internally within the White House and the Administration.
 - Third, the Administration is considering how to unveil the full extent of its infrastructure proposal most effectively. This includes considerations involving legislative strategy, coalition building, media rollout, and uses of surrogates.
- What is unclear from these discussions is whether the White House fully appreciates the need for a bipartisan process with infrastructure legislation. At this time, Nossaman is not aware of any plans to engage with Members of Congress on both sides of the aisle. Senator Barrasso, Chairman of the Environment and Public Works Committee, has been publicly working on an infrastructure bill of his own for months, and there are other seasoned infrastructure gurus in Congress who are growing impatient at the slowness of

the Administration's infrastructure roll-out. The busy September calendar may buy the Administration more time, but engaging with Congress in a meaningful way is critical to achieving enactment of a comprehensive infrastructure policy.

- Any comprehensive infrastructure package will require 60 votes in the Senate to achieve cloture and proceed to a final vote. So, there will need to be some manner of bipartisan support if the proposal is to make its way to the President's desk for his signature. This suggests the President's stated uncertainty about whether he will work across the aisle on infrastructure may signal, in his unique way, his start of doing just that.