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LEGISLATIVE Update

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION



July 19, 2018

This Legislative Update addresses a myriad of recent Administration actions and legislative issues, including:

- FTA Announces Fiscal Year 2018 Apportionments and Policy Priorities for Formula and Competitive Grant Programs;
- FTA Dear Colleague on Capital Investment Grants Policy and Risk Assessment Process;
- FTA Issues Final Rules regarding Public Transportation Agency Safety Plans and Safety Certification Training Program;
- APTA White Paper: Pending Trade and International Investment Issues;
- Funding Opportunity for Consolidated Rail Infrastructure and Safety Improvements Grants; and
- Funding Opportunity for Tribal Transit Program.

FTA ANNOUNCES FISCAL YEAR 2018 APPORTIONMENTS AND POLICY PRIORITIES FOR FORMULA AND COMPETITIVE GRANT PROGRAMS

On July 13, 2018, the Federal Transit Administration (FTA) announced its Fiscal Year (FY) 2018 apportionments and policy priorities for formula and competitive grant programs. In [this notice](#), FTA provides information regarding the authorized funding levels, the basis for the allocations, requirements for specific programs, periods of availability, and other program information. The notice includes a reference to tables on FTA's website that show new contract authority apportioned and made available through September 30, 2018.

FTA DEAR COLLEAGUE ON CAPITAL INVESTMENT GRANTS POLICY AND RISK ASSESSMENT PROCESS

On June 29, FTA Acting Administrator K. Jane Williams sent a [Dear Colleague letter](#) to public transit agencies highlighting the Trump Administration's policies regarding the Capital Investment Grants (CIG) program. FTA also made changes to the CIG Risk Assessment process (which were posted to the FTA website). The Administration's Dear Colleague letter and CIG Risk Assessment process include four primary issues of note:

- emphasizing the discretionary nature of FTA's decision-making regarding CIG projects;

- establishing geographic diversity as a factor in FTA funding allocation decisions;
- considering U.S. Department of Transportation (DOT) loans “*in the context of*” all federal funding sources requested by the project sponsor, and not separate from the Federal funding sources; and
- changing the CIG Risk Assessment process.

FTA has stated that these changes reflect the Administration’s current policy and are in effect. In the near future, we expect FTA to publish revised CIG Policy Guidance for notice and comment.

APTA has serious concerns with the FTA policy changes and the potential impacts on CIG project schedules, costs, and access to the program. APTA strongly encourages FTA to work with the public transit industry to better understand the implications of these policy changes before proceeding. To view the APTA Summary of the FTA Dear Colleague, please click [here](#).

Several Congressional leaders echoed the transit industry’s concerns regarding the FTA Dear Colleague. On July 16, 2018, House Committee on Appropriations Chairman Rodney Frelinghuysen (R-N.J.) wrote a [letter](#) to Secretary of Transportation Elaine L. Chao indicating that U.S. Department of Transportation (DOT) staff had clarified to Committee on Appropriations staff that FTA will continue to count federal loans as local share in its rating of CIG projects. He further states that “using DOT loans to finance the local share of infrastructure projects should be treated consistently across transportation modes, regardless of size or scale of the projects.” Chairman Frelinghuysen expressed a desire for Congress and DOT to work together before DOT pursues any formal changes to policies related to the use of Federal loans to finance infrastructure projects.

On July 17, 2018, House Committee on Transportation and Infrastructure Ranking Member Peter DeFazio (D-Ore.) and Subcommittee on Highways and Transit Ranking Member Eleanor Holmes Norton (D-DC) wrote a [letter](#) to Secretary Chao, expressing serious concerns with FTA’s Dear Colleague letter. In their letter, Ranking Member DeFazio and Subcommittee Ranking Member Norton state that the Dear Colleague letter “outlines new layers of bureaucracy that appear to be designed to add unnecessary delays, increase project costs, and add considerable uncertainty to the Capital Investment Grant (CIG) program.” Specifically, the Members object to the treatment of TIFIA loans; the use of geographic diversity as a criterion; and the changes to the risk assessment process. The letter also highlights Congress’ recent actions demonstrating strong bipartisan support and congressional intent regarding the CIG program.

FTA ISSUES FINAL RULES REGARDING PUBLIC TRANSPORTATION AGENCY SAFETY PLANS AND SAFETY CERTIFICATION TRAINING PROGRAM

On July 19, FTA issued a [final rule](#) for Public Transportation Agency Safety Plans. The final rule requires States and public transit agencies to develop and implement Agency Safety Plans based on the Safety Management System approach. To view the APTA Summary of the Agency Safety Plans final rule, please click [here](#).

FTA also issued a [final rule](#) for the Public Transportation Safety Certification Training Program. The final rule provides minimum training requirements for federal and state personnel and contractors who conduct safety audits and examinations of transit systems and for transit agency personnel and contractors who are directly responsible for safety oversight. The revised requirements reduce the number of training hours required by the interim training program. To view the APTA Summary of the Safety Certification Training Program final rule, please click [here](#).

APTA WHITE PAPER: PENDING TRADE AND INTERNATIONAL INVESTMENT ISSUES

On July 17, 2018, APTA staff released a White Paper on pending trade and international investment issues.

In 2018, both the Trump Administration and Congress have taken actions regarding trade, international investment, and other issues that impact or have the potential to impact APTA members.

At the direction of President Donald J. Trump, the Administration has taken the following actions:

- imposed tariffs of 25 percent on steel imports and 10 percent on aluminum imports from all nations (except Argentina, Australia, Brazil, and South Korea);
- initiated an investigation to determine whether to impose a 25 percent tariff on imported automobiles and automotive parts;
- proposed to impose U.S. content requirements in motor vehicle manufacturing under the North American Free Trade Agreement;
- imposed tariffs of 25 percent on products, covering 1,102 tariff lines valued at approximately \$50 billion annually, imported from China. The tariffs are being implemented in two phases. The first set of tariffs on \$34 billion of Chinese imports took effect on July 6, 2018. The second set of tariffs on \$16 billion of Chinese imports are expected to take effect after July 31; and
- proposed a 10 percent additional tariff on products, covering 6,031 tariff lines valued at \$200 billion annually, imported from China, including rail locomotives, motor vehicle parts and accessories, parts made of metal, and other products.

In addition, the Administration has announced procedures for excluding products from the steel, aluminum, and Chinese product tariffs. Review of exclusion requests and related objections is being conducted on a case-by-case basis. To date, the Administration has processed less than one percent of the more than 20,000 pending requests for exclusions.

In response to the tariffs, many nations, including major trading partners such as Canada, China, the European Union on behalf of its member countries, and Mexico, have imposed retaliatory tariffs on U.S. products.

Congress has also taken actions regarding trade that impacts or has the potential to impact APTA members. The House Committee on Appropriations has marked up a bill that prohibits any federal public transit funding from being used to procure any transit or passenger rail asset from an entity that is owned, directed, or subsidized by China. In a separate Senate bill, there is no prohibition on funding such procurements, but it requests a study of this issue.

To view the APTA White Paper, please click [here](#).

FUNDING OPPORTUNITY FOR CONSOLIDATED RAIL INFRASTRUCTURE AND SAFETY IMPROVEMENTS GRANTS

On July 19, the Federal Railroad Administration (FRA) issued a Notice of Funding Opportunity (NOFO) for \$318 million of Consolidated Rail Infrastructure and Safety Improvements (CRISI) Grants. Applicants may apply for positive train control (PTC) system elements under this NOFO if such elements are otherwise eligible under the CRISI Program. Funding specifically provided for PTC under the CRISI Program was provided under a separate NOFO. At least 25 percent of CRISI Program funding is set aside for rural projects. Applications for funding are due by September 17, 2018. To view the NOFO, please click [here](#). To view the APTA Summary of the NOFO, please click [here](#).

FUNDING OPPORTUNITY FOR TRIBAL TRANSIT PROGRAM

On July 11, FTA issued a NOFO for approximately \$5 million provided by the Public Transportation on Indian Reservations Program (Tribal Transit Program). The NOFO applies to eligible projects for Fiscal Year (FY) 2018 funding. Complete proposals for Tribal Transit Program funding are due September 10, 2018. To view the NOFO, please click [here](#).

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