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# 2011 Budget Appropriations Compromise

On Friday, April 8th, President Obama, Senate Majority Leader Reid and Speaker of the House Boehner reached a last minute compromise to fund the federal government for the remainder of the fiscal year (2011). The House (260-167) and Senate (81-19) voted to pass H. R. 1473, the Department of Defense and full-Year Continuing Appropriations Act of 2011, which proposes to cut nearly $40 billion in spending. Approximately $17 billion of that total will come from changes to mandatory spending programs.

The bill sets 2011 spending levels at $1.049 trillion, a $78.5 billion decrease from the President's 2011 budget request and a $39.9 billion decrease from the $1.089 trillion 2010 spending bills. The cuts include $12 billion in cuts through three stopgap continuing resolutions and $28 billion in new cuts. These cuts represent the largest budget reduction for federal agencies in U.S. history.

Compared to 2010 levels, reduction highlights include:

- $504 million from the Women, Infants and Children (WIC) nutrition program.
- $415 million from the Justice Department's assistance to state and local law enforcement program.
- $1.6 billion from the Environmental Protection Agency, a 16 percent reduction.
- $786 million from the Federal Emergency Management Agency's (FEMA) first-responder grants.
- $600 million from community health center programs.
- $1 billion from HIV and other disease-prevention funds.
- $296 million from the Community Oriented Policing Services (COPS) program.
- $390 million from the Low-Income Heating Assistance Program (LIHEAP).
- $942 million from Community Development Funds.
- $650 million from the federal highway investment fund.
- 16.2 percent reduction in the Community Development Block Grant (CDBG) formula program. This means that CDBG formula funding will decrease from $3.99 billion in FY 2010 to $3.343 billion in FY 2011 (a $647 million cut). The Ferguson Group (TFG), along with U.S. Conference of Mayors, National Association of Counties and the National League of Cities advocated for full funding of CDBG. The initial cuts were slated to be much higher.

The bill will also impact the following agencies and programs:

- Renewable-energy programs will be cut 20 percent, or $407 million
- The Army Corps of Engineers will be cut 10 percent, or $578 million.
- The Commerce Department will be cut $6.2 billion, mostly from unspent Census money.
- The Homeland Security Department will see a 2 percent cut, mostly from grants to local first-responders.
- The National Institutes of Health will see a 1 percent cut of $260 million.
- Family planning aid will be cut 5 percent.
- The number of Transportation Security Administration workers will be capped.

On the positive side, the following grant programs were preserved at or near FY 2010 levels: TIGER, Housing and Urban Development Sustainable Communities, EDA Public Works and Infrastructure, EPA Brownfields, and Assistance to Fire Fighters. Additionally:

- The National Science Foundation will get $6.9 billion, $307 million more than the House voted for back in February.
- "Race to the Top" competitive education grants will be given an additional $700 million.
- The Food and Drug Administration will be able to implement last year's new food-safety bill.
- The Securities and Exchange Commission and Commodity Futures Trading Commission will get a get a combined $110 million more to help the SEC and the Commodity Futures Trading Commission start implementing the financial services regulatory changes enacted last year.
- The Pell Grant award will remain at the current maximum of $5,550.
- The Pentagon will get $513 billion, $5 billion more than last year.

In addition to the programs listed above, Broward County sent letters to Congressional leaders and successfully collaborated with TFG to advocate for limited budget reductions to the following federal grant programs:

- Low Income Home Energy Assistance Program (LIHEAP)
- Emergency Food and Shelter Program (EFSP)
- Community Services Block Grant (CSBG)
- Ryan White Program
- Community Development Block Grant (CDBG)
- Neighborhood Stabilization Program (NSP)
- HOME Investment Partnership Program
- Sustainable Communities Initiative
- Energy Efficiency and Renewable Energy Program
- Diesel Emissions Reduction Act (DERA)
- Transportation Investments for Greenhouse and Energy Reduction (TIGGER)
- Transportation Investment Generating Economic Recovery (TIGER) Program
- Transit Formula and Bus Grants
- FTA Capital Investment Grants
- Federal Aviation Administration (FAA) Grants-in-Aid for Airports
- Urban Area Security Initiative (UASI)
- Emergency Operations Center (EOC) Grant Program
- State Homeland Security Grant Program

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## 2012 House Budget Blueprint

On April 6, the House Budget Committee approved legislation by a vote of 22-16 that is intended to reduce federal spending by $6 trillion over 10 years. The legislation is purported to reduce federal spending, measured against the economy, to its lowest level since 1949 in order to create jobs, promote growth, and rebuild the economy. Overall, the budget resolution would spend about $40 trillion over the next decade, which is close to $6.2 trillion less than the budget President Obama proposed in February.

Starting in 2022, the proposal proposes to end Medicare as an open-ended entitlement for new retirees and begin slowly raising the age of eligibility from 65 to 67. Medicaid cuts in the bill exceed $700 billion over the next decade and would end the financing partnership between the federal government and the states, replacing it with block grants that give states less. Federal distributions would be reduced by more than a third by the end of the decade. The plan also proposes to raise the retirement age of Social Security recipients to reflect longer life spans and slow the growth in benefits for higher-income workers. Social Security, the single largest federal program, provides income support to nearly 60 million seniors and disabled workers in the United States.

The plan does not seek to cut military budgets below the President's request. However, the plan calls for deep reductions in many domestic agencies, holding programs for public education, transportation, justice, food safety and veterans' services, among others, to growth well below the rate of inflation. The plan additionally proposes to overhaul the tax code, lowering the top rate for individuals and corporations from 35 percent to 25 percent, while eliminating an array of loopholes and deductions that the legislation does not identify.

Looking forward, budget deficits under the proposal would be around 2 percent of Gross Domestic Product (GDP) in the 2020s and would decline during the 2030s. The budget would not reach a surplus until 2040 and plans to produce growing surpluses in the following decade. Finally, the federal debt would equal about 48 percent of GDP by 2040 and 10 percent by 2050.

## Mayor Gunzburger's Washington, DC Meetings

In order to present the County's federal appropriations priorities to our congressional delegation and Federal Agencies, Mayor Gunzburger attended two days of meetings, arranged by The Ferguson Group (TFG), on March 31st and April 1st. Due to the fact that half of Broward County's congressional delegation is newly-elected, the Mayor focused on County priority issue areas including water resources, transportation, customs and border patrol and the importance of allowing local governments to compete for funding through the federal grant process, in the absence of federal earmarks.

Meetings were held with Representatives Wasserman Schultz, West, Hastings, Deutch, and Wilson, as well as Senators Nelson and Rubio. The Mayor thanked each of the delegation members for helping to convince the White House Office of Management and Budget to include $2 million in the President's Fiscal Year 2012

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budget for the Corps of Engineers for maintenance dredging of Port Everglades. In coordination with TFG our delegation fought against, and prevented:

- The zeroing-out of beach renourishment funding.
- Restrictions to the Urban Area Security Initiative that would have prevented Broward County/Ft. Lauderdale UASI from receiving future funding.
- Major cuts to the Port security grant program.

In her meetings with the delegation the Mayor asked for strong support for:

- Customs and Border Patrol (CBP) language to be included in the FY12 appropriations bill requiring CBP to require Customs to address wait times at the Airport and Seaport. Last summer we successfully obtained new legislative language in the House DHS appropriation bill requiring CBP to anticipate increases in passenger volume at International Ports and Seaports and adjust their operations and staffing as necessary to avoid excessive customs and immigration wait times. This language was not included in the final FY11 bill negotiated last week.
- Giving the Corps of Engineers full authority to distribute their funding as they see fit, in the absence of earmarks, which would otherwise direct funding.
- The need for federal authority to use non-domestic sand sources for beach renourishment.
- The need for continued support of Port Everglades projects in the President's FY13 budget.

Additional items discussed with Members included the federal courthouse and utilizing congressional support in the federal grants process.

In addition to Hill meetings, TFG arranged for Mayor Gunzburger to meet with Environmental Protection Agency (EPA) officials to discuss legislation pending before the Florida Legislature. The Florida House and Senate have introduced bills (CS/SB 606 and CS/CS/HB 457) which would preempt our local government's ability to comply with federal water quality standards and therefore jeopardize funds the County receives from EPA. The Mayor met with EPA officials to prevent any negative effects of this legislation, if it is passed by the Florida Legislature. EPA officials offered to convene a discussion group of local officials within the next 30 days on this issue.

After EPA, the Mayor met with the head of the TIGER program at the Department of Transportation to get specific feedback on how to improve the County's chances of success in future TIGER grant solicitations. This meeting was particularly timely as the FY11 CR negotiated last week contains $527 million for DOT's TIGER II program.

## Beach Renourishment Funding

In early March, the County was awarded over $9 million by the U.S. Army Corps of Engineers (USACOE). This funding was reprogrammed from FY05 and FY06 Emergency Supplemental Funding that other Florida counties were unable to use. Once it was determined that these counties could not use the funds, TFG helped work with the congressional sponsors of the unused funds to obtain their consent for the funds to be reprogrammed to Broward County.

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# Dredging

TFG worked very closely with Port Everglades, the congressional delegation and the USACOE throughout last year in order to ensure that the Port received funds in the President's budget for maintenance dredging this year. These efforts paid off in the form of $2 million included in the President's FY12 budget, which was released in February. Work with the USACOE continues for additional funding of the project, as well as the Jetty Repair and Sand Tightening project at the Port.

# FAA Authorization

## Two-Month FAA Extension Cleared for the President

On March 31, President Obama signed into law H.R. 1079 (Public Law No: 112-7), the Airport and Airway Extension Act of 2011. The bill would provide a two-month extension of Airport and Airway Trust Fund taxes and expenditure authority and Airport Improvement Program (AIP) contract authority. Such taxes and authority were currently set to expire after March 31, 2011. P.L. 112-7 extends that date to May 31.

## FAA Authorization Bill Passes House

On April 1, the House of Representatives passed H.R. 658 to reauthorize programs administered by the Federal Aviation Administration (FAA). The bill authorizes $61 billion for the FAA capital improvement programs through FY 2014, including $37 billion for FAA operations and $12 billion for airport improvements. The measure establishes new requirements for the FAA to accelerate the modernization of the nation's air traffic control system, and authorizes new guidelines for the AIP. The bill includes a number of provisions opposed by organized labor, including a repeal of the National Mediation Board rule that allows union elections to be determined by the number of votes cast instead of the majority of workers. The measure also increases the number of long-distance flights from Ronald Reagan Washington National Airport. The Senate has already passed its version of the bill, so the measure now goes to a House-Senate conference committee. TFG advocated in support of an increase to the passenger facility fees, which remains at a maximum of $4.50 per trip segment in H.R. 658. The bill does create a pilot program for passenger facility charges that allows up to five airports to use the charges to fund intermodal ground access projects under more flexible standards than currently in place for such projects

# Transportation Reauthorization

## Transportation Authorization Hearings Held

The House Highways and Transit Subcommittee held hearings on March 29 and March 30 related to the reauthorization of federal surface transportation programs. The current extension of SAFETEA-LU expires on September 30 and House and Senate leaders have indicated a strong interest in passing authorization legislation this year.

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The hearings focused on the following issues:

- Highway Trust Fund (HTF) solvency – HTF continues to approach insolvency and requires cash infusions from Congress but did not identify possible solutions.
- Innovative financing – bonding, loan programs, and public private partnerships are techniques that can serve as a guide for the federal role in innovative financing.
- Project delivery – the Committee will look at potential reforms to project delivery processes, including existing rules and regulations in order to expedite and reduce the cost of processing projects.
- Programmatic reform – DOT currently administers over 100 programs of which many serve similar purposes or are obsolete, and will look at eliminating and consolidating programs.
- Performance standards – the Committee will study performance management approaches to increase transparency and accountability.

### Surface Transportation Reauthorization Insight on Funding

Speakers at a freight transportation conference addressed the prospect for a transportation reauthorization bill. House Transportation & Infrastructure Committee Chairman Mica reiterated his intention to produce a highway/transit bill from committee in the coming months, perhaps in May, and to take his bill to the House floor before July. During questioning he was pressed twice as to why he and others say Congress would not approve an increase in the fuel tax in order to support an expanded infrastructure bill. He responded vigorously, saying there are not sufficient votes in his committee to produce a significantly larger bill or in the House to change the current regime of Highway Trust Fund (HTF) taxes.

Other speakers – congressional committee staff and experienced observers – have no expectation that an increase in trust fund revenue would be approved in Congress. It was also suggested by one speaker who was involved in the writing of SAFETEA-LU that it would not be realistic to assume that HTF monies will be supplemented to any significant degree by project financing tools (as distinct from direct funding). Infrastructure bank proposals and other mechanisms to leverage private investment and loans likely would not make up the $200 billion or more that is the delta between the Administration’s desired 6-year program level ($556 billion) and existing revenues. Thus, the speakers agreed, the overall message was to be prepared for a reauthorization bill that for all practical purposes would be sized to current law HTF tax revenue. This is not what the freight community wants to hear, especially since freight stakeholders have signaled a willingness to entertain additional user fees to support an added emphasis on freight projects. One staffer said there would be few new programs and several observed that consolidation of existing highway and transit programs is proposed by the Administration and Chairman Mica.

## Homeland Security Funding

### Urban Area Security Initiative Funding

The FY 2011 appropriations agreement does not contain the limitation of Urban Area Security initiative (UASI) designations that had been included in the earlier House bill, H.R. 1. The Broward/Fort Lauderdale UASI is fully expected to be

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included on the list of eligible areas when the grant guidance is issued. TFG worked with the Broward County Congressional Delegation to oppose this provision in the House and as part of the negotiations over the budget deal. Discussions have also occurred on the issue with the FEMA Office of Grants. We can expect that grant guidance be issued by mid-May if not earlier. The FY 2011 appropriations agreement cut funding (FY 2011 compared to FY 2010) for all DHS grant programs to state and local governments. UASI and the State Homeland Security Grant Program will each receive $725 million. Port Security grants will receive $250 million.

### Flood Insurance Reform

The House Committee on Homeland Security and the Financial Services Committee conducted hearings on the reauthorization of the National Flood Insurance Program. FEMA Administrator Craig Fugate warned Congress that the program will remain insolvent, the nature of recent disasters, unless they provide sufficient funding. Inadequate funding will continue to limit the program's ability to help affected communities. TFG attended both hearings.

## Health Services Issues

### Restoring the Partnership for County Health Care Costs Act

Rep. Hastings is still in search of additional co-sponsors before introducing the bill. There is some question as to whether Rep. Burgess would sign on as an original co-sponsor, jeopardizing the goal of having a bi-partisan group of initial sponsors.

## Economic Development Issues

### Community Development Block Grants

On April 12, House Republicans unveiled the details of a final Continuing Resolution (CR) legislation that would provide funding to keep the federal government operating for the remainder of FY 2011. The spending compromise agreed to by House Republicans, Senate Democrats and the White House cuts nearly $40 billion in government spending. Included in those cuts is a 16.2 percent reduction in the Community Development Block Grant (CDBG) formula program. This means that CDBG formula funding will decrease from $3.99 billion in FY 2010 to $3.343 billion in FY 2011 (a $647 million cut). TFG, along with USCM, NACO and NLC advocated for full funding of CDBG. The initial cuts were slated to be much higher.

### 3% Withholding

S. 164 repeals the imposition of withholding on certain payments made to vendors by government agencies. Senators Brown and Snowe continue their bi-partisan efforts to pass this bill and garner broad based support. Recent news is that several Cabinet Secretaries have requested an extension of the effective date to prepare for compliance with the provision, given the size and scope of their contracts. Reportedly, the White House is assessing whether to adopt that request.

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## The BUILD Act Introduced

On March 15, Senators John Kerry (D-MA), Kay Bailey Hutchison (R-TX) and Mark Warner (D-VA) introduced the "Building and Upgrading Infrastructure for Long-Term Development Act" (BUILD Act), which would create a $10 billion American Infrastructure Financing Authority (AIFA) – similar to an infrastructure bank – to provide loans and loan guarantees in support of transportation infrastructure, water infrastructure and energy infrastructure projects. These loans and loan guarantees would be limited to financing no more than 50 percent of the total costs of the project, which would be required to be at least $100 million in size and of national or regional significance.

AIFA would be a government-owned entity, but it would not be controlled by any federal agency and instead would operate independently, led by a board of directors with seven voting members and a chief executive officer.

The bill would provide a 5 percent set-aside for rural projects, which would have a reduced project threshold cost of $25 million, and would create an Office of Rural Assistance to provide technical assistance regarding the development and financing of rural projects.

Last month, the President's FY 2012 Budget proposed its own national infrastructure bank with a capitalization of $30 billion to provide grants and loans, but limited it to only transportation projects.

## H.R. 1123, Transportation Infrastructure Finance and Innovation Act Expansion Act of 2011

On March 18, Congresswoman Laura Richardson (D-CA) introduced legislation to amend the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. Presently, TIFIA provides Federal credit assistance to help finance large-scale surface transportation projects of national and regional significance in the form of direct loans, loan guarantees, and lines of credit for up to 33%. TIFIA credit assistance provides improved access to capital markets, flexible repayment terms, and potentially more favorable interest rates than can be found in private capital markets for similar instruments. TIFIA can help advance qualified, large-scale projects that otherwise might be delayed or deferred because of size, complexity, or uncertainty over the timing of revenues. Many surface transportation projects - highway, transit, railroad, intermodal freight, and port access - are eligible for assistance. Eligible applicants include state and local governments, transit agencies, railroad companies, special authorities, special districts, and private entities. Each dollar of Federal funds can provide up to $10 in TIFIA credit assistance - and leverage $30 in transportation infrastructure investment.

Congresswoman Richardson's bill, H.R. 1123, the TIFIA Expansion Act of 2011, would amend TIFIA to do the following:

- Allow the Secretary of Transportation to make advance credit commitments.
- Increase the maximum federal commitment from 33% to 49% of the total cost of the project.
- Increase the annual level of budget authority available to fund the subsidy costs of credit instruments from $122 million to $375 million for

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FY 2011-FY 2015.

- Allows for interconnected projects to enter into a newly created "master credit agreement" so entities can get some degree of certainty for future projects.
- DOT would be able to use prior year unobligated funds (if there are leftover funds) to offer a lower interest rates IF interest rates had gone up between the time of the signing of the master credit agreement and the dispersal of funds.
- If the project uses "clean construction" machinery, they are eligible for a slightly better interest rate if there are excess funds left over.
- For funds going to projects that are backed through tax revenue (as opposed to project specific fees) the loans under TIFIA do not automatically "spring" to be equal to other debt in the case of a bankruptcy. This would allow for greater utilization of TIFIA loans for cases when springing loans to not make sense.

The goal behind the proposed legislation is to increase funding for vital surface transportation projects across the nation and to get those funds allocated and distributed quickly so projects can be completed in a timely manner.

## Neighborhood Stabilization Program Legislation

On March 16, the House passed by a vote of 237 to 180 the Neighborhood Stabilization Program (NSP) Termination Act, H.R. 861. The bill would rescind the unobligated $1 billion made available by the Dodd-Frank Act for NSP 3, but would not affect NSP 1 or NSP 2. H.R. 861 is currently pending before the Senate Committee on Banking, Housing, and Urban Affairs.

On March 17, House Financial Services Committee Ranking Member Frank introduced the Emergency Mortgage Relief and Neighborhood Stabilization Programs Cost Recoupment Act of 2011, H.R. 1151. The bill would offset the cost of the Emergency Homeowners' Loan Program and NSP 3 by directing the Treasury Secretary to make risk-based assessments in the total amount of $2.5 billion on financial companies that manage hedge funds with $10 billion or more in assets and on other financial companies with $50 billion or more in total consolidated assets. The bill has been referred to the House Financial Services Committee and will need bi-partisan support for further action.

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