

# MEMORANDUM

**TO: Regional Policy and Municipal Infrastructure Committee**  
**FROM: Jennifer Wichmann, Assistant Director of Management Resources**  
**SUBJECT: FY 2012 Federal Legislative Consultant Contract Evaluation**  
**DATE: June 26, 2012**

The City has contracted with CapitalEdge Strategies LLC since FY 2009 for representation on the federal level as a part of the Texas Coalition of Legislative Cities which also includes the cities of Austin, Dallas, and Denton. As a part of the agreement, CapitalEdge works on the issues of common and individual interest to those cities. In the current contract the City pays \$65,800 annually, in installments of \$5,483 per month. This fee has not increased since the beginning of the City’s contractual relationship with CapitalEdge. Over the past four fiscal years, the performance of CapitalEdge has exceeded expectations of Intergovernmental Relations (IGR) staff and has garnered positive feedback from multiple members of City staff on a variety of levels. CapitalEdge has fulfilled its contractual obligations including weekly updates through its Washington Report and regular communications with staff.

The following chart summarizes the City’s expenditures and revenues for IGR’s federal relations effort, as well as the City’s successes in defending its local authority and undertaking initiatives with the assistance of CapitalEdge. Appendix A provides a detailed overview of the past year’s body of work and a brief preview of ongoing and anticipated federal issues for the coming year.

City Spending	City Revenues	Successful Defenses	Successful Initiatives
\$65,800 annually \$5,483 per month	<ul style="list-style-type: none"> <li>• Assisted in effort to limit cuts to DOJ, HUD and Homeland Security grants to cities (combined annual funds to City - \$8.75m)</li> <li>• Tracked federal and foundation grants</li> <li>• Congressional prohibition on earmarks continues to limit additional funding</li> </ul>	<ul style="list-style-type: none"> <li>• ROW/FCC (potential loss of \$6m)</li> <li>• 3% withholding (\$60k annual impact)</li> <li>• Dallas-Fort Worth–Arlington UASI Funding</li> <li>• MALSR funding</li> <li>• FAA Contract Tower Program funding</li> </ul>	<ul style="list-style-type: none"> <li>• D-Block preservation for Public Safety</li> </ul>

## Federal Lobbyist Report Card

Issue	FY 2012
Core Local Government Programs: Full Funding for CDBG, HOME, UASI, Byrne JAG, COPS etc.	<p>Most programs were cut in FY 2012, though not as severely as anticipated. Funding for core local government programs may face major cuts in FY 2013.</p> <p><u>FY 2012</u>            CDBG - \$2.948 billion (City received \$2.9 million)            HOME - \$1 billion (City received \$916,000)            Byrne JAG - \$296 million (City received \$ 165,959)            COPS - \$111 million (The City was not eligible to apply for FY 2012 funding.)            UASI - \$790 million (Region received \$14.3 million, City received \$4.8 million)</p>
Homeland Security-UASI	City, through partnership efforts with Dallas and Fort Worth remained a UASI region in FY 2012
Surface Transportation – Highway Reauthorization Bill & Passenger/Commuter Rail	City took a strong stance in efforts to maintain sub-allocation of highway funds to the Regional Transportation Council
Aviation – Reauthorization of Federal Aviation Program	After 22 short-term extensions, a two-year reauthorization of federal aviation programs was signed into law (PL 112-95) in February 2012
Telecommunications – Preservation of Local Control	<p>Right-of-Way - \$6.3 million currently from our telephone utility franchise fee</p> <p>Lost some zoning authority over collocation on existing towers</p>
Housing Issues – Efficient and Effective Service Delivery	Continuing to monitor – continuing threats to core HUD programs in FY 2013 budget
Sales Tax Collection from Remote Retailers- Marketplace Fairness	Continuing to monitor both the Senate and House bills (S 1832/HR 3179); Amazon agreement with Texas and other big states creates uncertainty about federal bill.
Eminent Domain – Preservation of Local Control	The City has serious concerns about House-passed legislation (HR 1433) that would bar eminent domain on property owned by religious and nonprofit institutions
Water – Local Government Reclamation Efforts	Legislative action is unlikely this year, but the City continues to advocate for increased federal investment in water infrastructure.
Water – Local Government MTBE	Continuing to monitor this issue, which may arise in the context of legislation to protect industry from lawsuits related to other fuel additives.
Environmental Issues – Programs to Improve Public and Environmental Health	FY12 \$5m to Water Research Foundation
General Issue – Reduce Liability Exposure, Internet	In February, Congress passed a law (PL 112-96) that includes a provision to reserve the D Block of the telecommunications

Taxation & D Block	spectrum for public safety. It also includes \$7 billion in grants for states to build out a nationwide D Block network. We are closely following implementation efforts, which are just starting.
Appropriations- Earmark Regulation	No earmarks in the final FY 2012 spending bill; continued earmark ban in Congress in FY 2013

## Appendix A

### Overview

Nearly six months into the second session of the 112<sup>th</sup> Congress, Congress has enacted only 119 laws. The bulk of these laws have been short-term extensions of stalled reauthorizations bill or the naming of post offices and federal buildings. Sprinkled among them, however, are several major laws, including three of particular interest to local government:

- An agreement (PL 112-25) to raise the debt ceiling, immediately reduce growth in discretionary spending by \$935 billion over ten years and cut discretionary spending by \$1.2 trillion over nine years starting in January 2013 (sequestration),
- A two year reauthorization of federal aviation programs (PL 112-95), which came after 22 short-term extensions and
- Legislation (PL 112-96) to extend reduced payroll tax rates and unemployment insurance through the end of the year.

PL 112-96 also reserves the D Block of the telecommunications spectrum for public safety, a major victory for local government. The law includes \$7 billion for grants to the states for D Block network build out.

Looking ahead, Congress will continue work on:

- Small, non-controversial bills,
- Bills that come up every year such as Defense Authorization, Intelligence Authorization and annual appropriations bill and
- A few major bills, including the surface transportation bill in a House-Senate Conference Committee.

However, it appears that action on major issues will have to wait for a lame duck Congress or even the 113<sup>th</sup> Congress:

- The expiration of the 2001 and 2003 cuts to personal income tax rates,
- The expiration of numerous other tax provisions and
- The annual “fix” to the Alternative Minimum Tax.

Over the past year, major federal issues for the City included:

- Protecting federal appropriations for core local government programs,
- Reauthorizing federal surface transportation programs,
- Reauthorizing federal aviation programs,
- Preserving local authority and
- Preventing unfunded mandates

Through its participation in national organizations, Arlington has played a lead role in crafting local government policy positions and strategy and on local government

lobbying efforts, most notably on the issues of surface transportation, telecommunications, public safety communications, homeland security and childhood obesity.

The past year has seen a significant increase in the scope and a tightening in the focus of the City's intergovernmental relations activity. The City has also seen a number of successes at the federal level.

In the coming year, federal relations will continue to present both opportunities and challenges for the City. Major issues will be appropriations for core local government programs, reauthorization of federal surface transportation programs, telecommunications, continued threats to local government authority and, possibly, increased environmental regulation.

### **Budget**

Congress has grappled with stubborn deficits and the inability to address them via increased revenue or entitlement reform has led to the targeting of deficit reduction efforts on domestic discretionary spending (approximately one-sixth of the federal budget). As a result, funding for most core local government programs declined in FY 2012 and domestic discretionary spending continues to bear the brunt of deficit measures.

Indeed, in addition to the expiration of numerous tax provisions, perhaps the biggest issue a lame duck Congress or the 113<sup>th</sup> Congress will have to grapple with is the automatic across-the-board \$1.2 trillion spending cut scheduled to take effect January 2, 2013 as part of last summer's agreement to raise the debt ceiling. These cuts will:

- Be spread equally over the following nine years,
- Be divided equally between defense and non-defense programs and
- Come on top of stringent discretionary spending caps designed to reduce the growth in discretionary spending by \$935 billion over the next nine years.

### **US Conference of Mayors/National League of Cities**

The City's leadership in national local government organizations has been elevated, securing a strong voice for the City at the national level. In addition, the City's involvement and interaction with its congressional delegation and the Administration have increased, most notably illustrated by Mayor Cluck's successful effort to educate federal officials about the importance of maintaining local right-of-way management authority.

### **FY 2012 Appropriations**

Near the end of 2011, Congress passed a combined FY 2012 appropriation measure (HR 2055) to fund agencies under the jurisdiction of the nine appropriations bills (out of total of 12) that had yet to be completed. Congress approved a smaller bill that included the other three spending measures prior to Thanksgiving.

A review of FY 2012 appropriations bills shows that many core local government programs (CDBG, HOME, Law Enforcement Assistance, Firefighter Grants, UASI, etc.) received significant funding decreases in FY 2012. The City worked closely with the delegation to turn back efforts to cut funding for core local government programs. Arlington played a leading role in successfully defeating language that would have limited UASI to 10 metropolitan areas (via a successful amendment on the House floor).

### **FY 2013 Appropriations**

Congressional hearings on the 12 annual appropriations bills for FY 2013 have begun. The House of Representatives recently approved its version of a FY 2013 budget resolution with a discretionary spending limit of \$1.028 trillion in FY 2013, which is \$19 billion below the level set in the debt limit/deficit reduction law approved by Congress last year. The budget blueprint does not set funding levels for individual programs in FY 2013 but provides an overall spending limit under which the Appropriations Committees must operate.

The extremely tight spending cap is expected to make appropriators' jobs particularly difficult and could jeopardize a number of programs of importance to local government. In addition, Senate appropriators will be working with the higher cap set by the debt limit/deficit reduction law, which will complicate the task of reconciling House and Senate spending bills.

To date, the 112th Congress has abided by its self-imposed moratorium on earmarks. Potential opportunities to fund City priorities are continually being sought out.

### **Local Authority**

The City of Arlington successfully pushed the effective date of a federal requirement that local governments withhold three percent of all payments to private vendors to ensure that those vendors meet their federal tax liability from January 1, 2012 to January 1, 2013. This requirement, seeking to solve a simple IRS enforcement problem by imposing an unfunded mandate on local governments, would significantly increase City purchasing costs; the City continues to push for its repeal.

The City also played a lead role in convincing the Federal Communications Commission (FCC) to remove language in the National Broadband Plan that would have called for preemption of local authority over public rights-of-way and related revenue (worth \$37.3 million to the City). Following up on that effort, Mayor Cluck and TML staff met with key congressional leaders, FCC staff and White House staff in response to a FCC Notice of Inquiry that many local government advocates feared would lead to a FCC rulemaking to preempt local government right-of-way authority and related revenue. The FCC has signaled that they do not plan to pursue a rulemaking on this issue this year.

The City has serious concerns with House-passed legislation (HR 1433) that would prohibit the use of eminent domain on property owned by religious or nonprofit institutions.

Additionally, the City was active in efforts to counter a FCC proposed rule to preempt local zoning authority over cellular telecommunications towers, however, was unable to overturn the ruling.

### **UASI**

The City acted quickly to protect its most important homeland security grant in early 2012, immediately after passage of the FY 2012 Omnibus Appropriations Act (PL 112-74). That law mandated that the Federal Emergency Management Agency outline its plans for distributing state and local homeland security grants within 60 days. In early January, the Arlington/Dallas/Fort Worth Police and Fire Chiefs met with Department of Homeland Security officials and congressional staff in Washington to discuss the importance of UASI funding in our Urban Area and the positive impact it has made for the safety and security of our citizens. Thanks largely to the efforts of the Chiefs, the Dallas/Fort Worth/Arlington Metropolitan Area remained as a funding recipient and sustained under the UASI grant program.

### **Sales Tax Collection from Remote Retailers**

#### *Marketplace Equity Act (Senate)*

Last November, Senators Michael Enzi (R-WY) Lamar Alexander (R-TN), and Richard Durbin (D-IL) introduced the Marketplace Fairness Act (S 1832) that would authorize states to collect sales and use taxes from out-of-state remote retailers.

- S 1832 is cosponsored by seven other Senators, giving the bill a true bipartisan group of five Republicans and five Democrats.
- Under S 1832, in order to require out-of-state remote retailers to collect sales taxes, a state could participate in the Streamlined Sales and Use Tax Agreement (SSUTA).
- States that do not participate in the SSUTA would have to:
  - Provide state-level administration of sales taxes, including local taxes,
  - Provide a uniform tax base,
  - Adopt a destination (rather than an origin) rate for out-of-state retailers
  - Make software available to remote retailers, and
  - Provide remote sellers and single and consolidated providers with 30-days notice of a rate change by any locality in the state.

#### *Marketplace Fairness Act (House)*

Representatives Steve Womack (R-AR) and Jackie Speier (D-CA) have introduced similar legislation (HR 3179) in the House. However, HR 3179 would not require states to collect local option sales taxes.

National public interest organizations (USCM, NLC) and a coalition of brick-and-mortar retail interest groups are spearheading an effort to get legislation passed in this Congress.

### **Surface Transportation**

Congress continues to struggle finding a way to pay for a long-term reauthorization of federal surface transportation programs; those programs are currently operating under

their ninth short-term extension that expires June 30, 2012, which congressional leaders hope provides sufficient time to enact a long-term reauthorization bill. A House-Senate Conference Committee is working to reconcile the Senate's passed a two-year, \$109 billion surface transportation bill, MAP-21 (S 1813) with the House's 90 day extension of current law.