

MEMORANDUM

TO: Regional Policy and Municipal Infrastructure Committee

FROM: Jennifer Wichmann, Director of Management Resources

SUBJECT: 2015 Federal Legislative Consultant Contract Evaluation

DATE: January 12, 2016

The City has contracted with CapitalEdge Strategies LLC since FY 2009 for representation on the federal level as a part of the Texas Cities Legislative Coalition, which also includes the cities of Austin, Dallas and Denton. As part of the agreement, CapitalEdge works on the issues of common and individual interests to those cities.

The current contract is for a term of two years, which began in October 2012 and expired at the end of September 2014. The City renewed the agreement for another two years through September 2016. The contract amount remained the same; \$67,750 annually and paid in monthly installments. This fee includes all travel and out-of-pocket expenses.

The performance of CapitalEdge continues to exceed expectations of Intergovernmental Relations (IGR) staff and to receive 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, regular communications with staff, and written reports, bulletins, and memoranda regarding city- and state-specific issues.

An evaluation of the work completed and assisted by CapitalEdge is contained within this document. Appendix A highlights actions taken and results for the City's federal legislative agenda issues with the assistance of CapitalEdge. Appendix B provides a preview of ongoing and anticipated issues for the coming year.

Appendix A
2014 Federal Lobbyist Report Card

| Legislative Issue | Actions Taken/Results |
|---|--|
| Tax Exempt Bonds | The City continues to protect the tax-exempt status of municipal bonds and will continue to oppose proposals that would eliminate or cap the exemption. |
| Marketplace Fairness – Sales Tax Collection from Remote Retailers | The Senate passed legislation in May 2013. The City is continuing to monitor the progress in the House and advocate for its passage. |
| Surface Transportation – Highway Reauthorization Bill & Passenger/Commuter Rail | <p>The City took a strong stance in efforts to increase allocation of highway funds to the Regional Transportation Council. The FAST Act increases allocation to the RTC, growing it from \$89.6 million in FY 2015 to \$109.8 million in FY 2020.</p> <p>In September, the Federal Railroad Administration (FRA) issued a notice for public comment on the scope of the Environmental Impact Statement (EIS) for the Dallas-Fort Worth Core Express Service. The City filed comments in support of the high-speed rail project and advocated for the route along the Interstate 30 corridor with a station in Arlington. The City and various community stakeholders in support of the project also made comments at the public meetings conducted locally by the FRA.</p> <p>Also, the City has been actively working with its Congressional representatives to secure operational funding for Handitran. In September, a letter of support was signed by U.S. Representatives Joe Barton, Marc Veasey and Eddie Bernice-Johnson requesting FY 2016 funding for Handitran as well as other Texas agencies that provide similar transportation services. The FAST Act includes language secured by the delegation that will allow Handitran to use federal funds for operating costs.</p> |
| Aviation – Federal Aviation Administration (FAA) Contract Tower Program Funding | The City has successfully maintained funding for the contract tower at Arlington Municipal Airport and will continue to advocate for its preservation. |
| Homeland Security – Urban Areas Security Initiative (UASI) | The City has successfully preserved Dallas-Fort Worth-Arlington UASI funding. |

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| Public Safety | The City has tracked implementation at the federal and state level of a nationwide, interoperable public safety broadband communications system on the D-Block. Congress set aside the D-Block for public safety; creating the system will take years and considerable funds. |
| Core Local Government Programs: Full Funding for CDBG, HOME, UASI, Byrne JAG, COPS, etc. | After absorbing sequestration-related cuts in beyond. FY 2013, we saw level funding or slight increases in FY 2014 and FY 2015. Sequestration and general austerity present challenges for FY 2016 and |
| Housing | In July, 2013, the Department of Housing & Urban Development (HUD) proposed rules regarding fair housing. The City submitted comments outlining concerns with the proposed rule. In September 2014, HUD followed with its proposed Fair Housing Assessment Tool. In response, the City submitted comments in November 2014 expressing various concerns about HUD's proposed assessment tool and administrative costs associated with using that tool. |
| Telecommunications | <p>In the past couple of years, cities have lost some zoning authority over collocation on existing towers.</p> <p>The City submitted comments in response to a Federal Communications Commission proposed rule regarding zoning approval for collocation of new equipment on existing cell phone towers.</p> <p>The comments filed by Arlington and other local governments resulted in a final rule that pared back the original proposals preemption of local authority and gives cities some leeway when working with providers to approve and site attachments to existing cell phone towers. Local governments challenged the rule, and the case is before the 4th Circuit Court of Appeals.</p> <p>Congress reauthorized the Internet Tax Freedom Act through September 30, 2015, maintaining all grandfathered and the carve-out for Texas line access fees. The City will continue to advocate for protection of grandfathered and the carve-out as Congress considers reauthorization.</p> |

Appendix B 2015 Overview & 2016 Preview

This year, federal issues for the City of Arlington included:

- Funding for core local government programs;
- Reauthorization of highway, transit and aviation programs;
- The Internet Tax Freedom Act;
- Sales tax fairness;
- Protection of municipal bonds;
- Prevention of unfunded mandates and preemption of local authority;
- Funding for the Contract Tower Program;
- Telecommunications; and,
- Funding and general troubleshooting for priority Arlington projects.

Specific success over the past year included:

- Preservation of core local government programs in the face of austerity, including CDBG, HOME and local law enforcement assistance;
- Increased sub-allocation of federal highway funds to the Regional Transportation Commission;
- Enactment of federal operating assistance for Handitran;
- Preservation of the Contract Tower Program; and,
- Preservation of the language that protects the City's ability to charge rent for the use and management of City rights-of-way in the House-passed renewal of the Internet Tax Freedom Act.

These issues and others will continue to present both opportunities and challenges in the year ahead.

- Most notably, Congress will be working on reauthorization of federal aviation programs, which expire on March 15, 2016; the future of the Contract Tower Program will be a priority issue as Congress looks into shifting air traffic control from the Federal Aviation Administration to a new quasi-governmental agency.
- Congress will focus on police-community relations and law enforcement issues.
- The Administration is moving forward with regulations related to fair housing, clean water, clean air and overtime pay.

Budget

The expiration of the 2013 Murray-Ryan Budget Agreement meant that sequestration was back for FY 2016.

- The Administration proposed a FY 2016 Budget that assumes the end of sequestration.
- Congress was using a discretionary spending cap that reflects sequestration.

Last month, Congress and the Administration agreed on a new budget deal that:

- Lifts the debt ceiling until March 15, 2017;

- Increases the discretionary spending cap \$50 billion above the sequester level for FY 2016, split evenly between Defense and non-Defense discretionary spending,
- Increases the discretionary spending cap \$30 billion above the sequester level for FY 2017, split evenly between Defense and non-Defense discretionary spending; and,
- Offsets the additional spending through an array of tax and policy provisions.

As a result of this agreement, most programs of interest to the City; (most notable CDBG, HOME and UASI), should see level funding or small increases in FY 2016 and FY 2017.

Surface Transportation

Last week, President Obama signed a five-year, \$305-billion surface transportation law; the FAST Act.

- In the broadest terms, the bill is a status quo bill that largely maintains the basic structure of the federal highway and transit programs, and it funds those programs at roughly current levels plus inflation.

However, the bill includes some important policy changes.

- It includes an intercity passenger rail title – the first time intercity passenger rail has been in the same bill as highway and transit programs. The bill authorizes \$1.6 billion for intercity passenger rail grants in FY 2016, growing to \$2.4 billion in FY 2020.
- With \$70 billion of the bill’s five-year, \$305-billion cost paid for by General Funds transfers and other non-Highway Trust Fund revenue sources, the bill may signal that the era of paying for highway and transit programs through user fees (mostly the federal gas tax plus federal taxes on truck tires and similar products) may indeed be over.

Highways

In a big victory for local governments, the bill grows the Surface Transportation Program, one of the core highway programs, from the FY 2015 level of \$10 billion to \$11.1 billion in FY 2016 and \$12.3 billion in FY 2020. It also ***increases the share sub-allocated to Metropolitan Planning Organizations by one percent per year***, going from the current 50 percent to 55 percent in FY 2020.

In addition, the bill maintains the Transportation Alternatives Program, which funds bicycle, pedestrian, trail and safe routes to school projects (now as a subset of STP), and funds it at \$835 million in FY 2016 growing to \$850 million in FY 2020. Half of TAP funds will continue to be sub-allocated to MPOs, which must make them available to their constituent governments via a competitive process (as the state must do with its half).

The bill also:

- Maintains the small but important Rail-Highway Grade Crossing Program, funding it at \$225 million in FY 2016 growing to \$245 million in FY 2020;

- Makes bridges that are not on the National Highway System eligible for National Highway Performance Program funds;
- Provides \$100 million per years for Intelligent Transportation Systems grants;
- Incorporates the design manual of the National Association of City Transportation Officials in addition to the traditional design manual of the American Association of State Highway & Transportation Officials;
- Creates a formula National Highway Freight Program funded at \$1.03 billion in FY 2016 growing to \$1.4 billion in FY 2020; and,
- Creates a discretionary Nationally Significant Freight & Highway Projects Grant program funded at \$800 million in FY 2016 and growing to \$1 billion in FY 2020; MPOs and local governments are eligible to apply.

Transit

The core transit formula program, the Section 5307 Urbanized Area Formula Grant Program, is funded at \$4.5 billion in FY 2016 and growing to \$4.9 billion in FY 2020. The bill also maintains the other core formula programs that benefits CMRTA, the Section 5310 Elderly & Disabled Program, the Section 5337 State of Good Repair Program (formerly rail modernization) and the Section 5339 Bus & Bus Facilities Program.

- The bill allows Handitran to use Section 5307 funds for operating expenses.

The bill also:

- Revives the Section 5339 Bus & Bus Facilities Discretionary Grant Program and funds it at \$268 million in FY 2016 growing to \$344 million in FY 2020;
- Authorizes \$2.3 billion for the Section 5309 Capital Investment Grants Program (New Starts), which funds new rail transit projects;
- Allows a person to serve as both a representative of a municipality and a transit agency on the MPO board;
- Allows Section 5309 Capital Investment Grants, which generally fund fixed guideway transit projects, to be used for joint intercity passenger rail and transit projects, with the 5309 funds covering the net capital costs of the transit portion of the project; and,
- Makes “improving rail station and increasing transit-oriented development” eligible for Railroad Rehabilitation & Improvement Financing (RRIF) assistance.

Intercity Passenger Rail

The bill authorizes \$5.45 billion over five years for non-Northeast Corridor Amtrak capital and operations. It also authorizes \$10 billion over five years for capital grants to improve intercity passenger rail service and makes a number of changes and reforms to Amtrak.

The bill makes a number of changes and reforms to RRIF, which make it a more viable tool for rail improvements in the region, most notably related to Dallas-Fort Worth Core Express Service.

Internet Tax Freedom Act/Sales Tax Fairness/Local Authority

The Internet Tax Freedom Act expired on October 1. In addition, the issue of sales tax fairness, a top City priority, has gained considerable momentum.

The House passed a permanent extension of the Internet Tax Freedom Act.

- The House-passed bill would maintain the exemption for Texas access line fees, a top City priority.
- However, it would end the grandfather for Texas sales taxes on Internet access costing more than \$25/month.

Senators Michael Enzi (R-WY) and Richard Durbin (D-IL) continue to insist that any extension of the Internet Tax Freedom Act be paired with their sales tax fairness bill, the Marketplace Fairness Act (S 698).

- In the last Congress, they introduced a bill that pairs the Marketplace Fairness Act (S 698) with a 10-year extension of the Internet Tax Freedom Act, including all exemptions and grandfathers.

In the House, Representative Jason Chaffetz (R-UT) recently introduced legislation (HR 2775) similar to the Marketplace Fairness Act, it has garnered 46 cosponsors, including Representatives Barton and Veasey.

Public Safety

Congress is increasingly focused on criminal justice issues. The focus includes:

- Police-community relations;
- Sentencing reform;
- Mental health; and,
- Comprehensive reform, including a National Criminal Justice Commission.

Recent Action

The Senate Judiciary Committee approved the **Sentencing Reform & Corrections Act** (S 2123), which would lower federal mandatory minimum sentences for low-level, nonviolent offenders without a criminal record, give judges more discretion to impose sentences shorter than those minimums and make some prisoners eligible for early release.

The **National Criminal Justice Commission Act** (S 1119) would establish a national commission of law enforcement and other experts to review and examine all facets of the criminal justice system as well as issue recommendations for increasing public safety and improving police-community relations.

The **Comprehensive Justice & Mental Health Act** (HR 1854/S 993) would:

- Reauthorize and make changes designed to improve the Mentally Ill Offender Treatment and Crime Reduction Act of 2004 (MIOTCRA), which authorizes an array of small (\$50,000 - \$250,000 per grant) grant programs that help law enforcement agencies and courts address the needs of mentally ill persons;

- Authorize \$30 million per year from FY 2016 through FY 2020 for MIOTCRA programs (they were authorized at \$50 million a year from FY 2009 through FY 2014 and funded at \$8.5 million for FY 2015); and,
- Implement new audit requirements for MIOTCRA grants and authorize a General Accountability Study of best practices for appropriately responding to the needs of individuals with mental illness.

The **Juvenile Justice & Prevention Act** (S 1169) would reauthorize and reform federal juvenile justice grant programs, with a focus on best practices, reducing recidivism and greater tracking, and reporting of state programs.

The House Republican Policy Committee has launched a **Law Enforcement Task Force** to look at the issue of police-community relations.

Regulations

The Administration is pursuing an ambitious regulatory agenda in its final 14 months in office.

Clean Air

EPA issued a new ozone standard of 70ppb, down from the current standard of 75ppb.

- It will take effect in the next three to four years.
- EPA projects that all but 14 counties outside of California will meet the standard by 2025 due to other EPA regulatory actions (Clean Power Plan, fuel efficiency standards, efficiency standards for boilers, emissions standards for municipal solid waste landfills); Tarrant County is one of the 14 counties that EPA projects will not meet the new standard.

Municipal Solid Waste Landfills

EPA has issued new greenhouse gas emission standards for municipal solid waste landfills.

Clean Power Plan

EPA has issued final rules limiting greenhouse gas emissions from new and existing power plants.

- 23 states (including Texas) and industry have challenged the rule in court.
- If upheld, the rule will require the phasing out of many coal-fired power plants.

Clean Water

EPA and the Army Corps of Engineers have issued a new definition of “Waters of the United States” subject to Clean Water Act regulation.

- The courts have temporarily stayed the rule pending legal challenges.

Fair Housing

HUD has issued a new reporting and compliance process to assess grantee efforts to identify and address barriers to fair housing.

Overtime Pay

The Department of Labor will soon issue a final rule lifting the minimum salary for “white collar” and managerial employees eligible for overtime pay.