



City of Phoenix

To: Mayor and Council
Executive Team

Date: June 11, 2009

From: Karen Peters
Government Relations Director

Subject: FEDERAL UPDATE: MAY 29– JUNE 11, 2009

This memorandum provides an update of the past **two** week's federal activities – Congressional action, lobbying and national meetings. Please let me or Tom Remes know if you have any questions or need further information on specific legislation or issues.

MAY 29 – JUNE 11, 2009

Congressman Pastor Becomes Chair of Energy and Water

Last week, embattled House Energy and Water Appropriations Subcommittee Chairman Peter Visclosky (D-IN) asked panel member Rep. Ed Pastor (D-AZ) to take over work on the FY10 spending bill. The announcement comes after federal investigators subpoenaed Visclosky's offices as part of a probe of the PMA Group, a defense lobbying firm that disbanded this year after the FBI raided its Virginia headquarters in November. The City congratulates Congressman Pastor on his elevation to Chair.

FY 10 Appropriations Committee Begin Markups

The House Appropriations Committee began marking up FY 10 Appropriations bills last week, as follows:

Commerce, Justice, Science

The Commerce, Justice, Science Appropriations Subcommittee allocated \$800,000 for three City of Phoenix appropriation requests:

- \$500,000 for COPLINK;
- \$300,000 for Enhanced Mobile Technology; and
- \$100,000 for the ePRO Records Management Project.

The Committee also provides funding for the following national programs:

Community Oriented Policing Services (COPS): \$802 million, \$41 million above the President's request and \$252 million above 2009, to support local law enforcement agencies with personnel, technology and training grants. This includes \$298 million for COPS hiring grants. Combined with \$1 billion provided in the American Recovery and Reinvestment Act (ARRA), this will enable hiring of more than 7,000 police officers nationwide.

Office on Violence Against Women: \$400 million, \$11 million above 2009 (taking into account 6 programs funded through OVW in prior years that are funded for

2010 through the Office of Justice Programs), to prevent and prosecute violence against women and strengthen services to victims of domestic violence, sexual assault and stalking, including an increase of \$10 million for STOP formula grants and an increase of \$1 million for Sexual Assault Victims Services.

Office of Justice Programs: \$2.2 billion, \$644 million above the President's request and \$155 million above 2009, for grants to state and local organizations to fight and prevent crime, including Byrne Justice Assistance Grants, the State Criminal Alien Assistance Program, drug courts, and programs for at risk youth and missing or abused children.

Second Chance Act Offender Reentry Programs: \$100 million, \$75 million above 2009 and matching the President's request, for demonstration programs and other activities to reduce recidivism and future costs of incarceration.

Tribal Assistance: \$155 million for tribal law enforcement, \$65 million above both the President's request and 2009, for tribal courts, detention facilities, and law enforcement, methamphetamine enforcement, and federal investigations and prosecutions in Indian Country.

Federal Bureau of Investigation: \$7.7 billion, matching the President's request and \$654 million above 2009, to address national security needs including cyber crime, WMD incidents, and surveillance, as well as criminal law enforcement priorities such as financial fraud. Included in the total is \$101 million for FBI's overseas contingency operations, previously funded through supplemental requests.

Drug Enforcement Administration: \$2 billion, \$5 million above the President's request and \$81 million above 2009, to combat drugs with 128 new positions to stop the flow of illegal drugs across the southwest border and to investigate, disrupt and dismantle major Mexican drug cartels.

Bureau of Alcohol, Tobacco, Firearms: \$1.1 billion, \$9 million below the President's request and \$52 million above 2009, to reduce violent crime and enforce federal firearms and explosives laws including an additional 92 positions to combat firearms trafficking along the southwest border.

Department-wide Southwest Border Initiative: \$1.5 billion, \$345 million above 2009, for activities to combat violence, stop the flow of illegal weapons and drug trafficking, bring dangerous criminals to justice, and improve law enforcement capabilities along the southwest border.

Federal Bureau of Prisons: \$6.2 billion, \$97 million above the President's request and \$3 million above 2009, to address rising costs, add staff, and help inmates successfully reintegrate into their communities.

Adam Walsh and Child Exploitation: \$325 million, \$22 million above the President's request and \$41 million above 2009, for Adam Walsh Act activities and other sex offender and child exploitation prevention and enforcement programs.

Department of Homeland Security (DHS)

On Monday, the House Homeland Security Appropriations Subcommittee approved, by voice vote, its FY 10 Appropriations bill. The bill provides a 6.5 percent increase over the FY 09 funding levels or \$2.6 billion. One of the biggest program increases was for the Southwest Border initiative that combats Mexican drug gang operations, from \$70 million to over \$96 million. Other program funding includes:

State Homeland Security Grant Program: \$2.829 billion, \$133 million less than the President's Budget request and \$276 million less than FY 09 funding levels.

This does not include Firefighters Assistance Grants and Emergency Management Performance Grants.

Urban Area Security Initiative (UASI): \$887 million, \$50 million more than the FY 09 level and the same as the President's budget request.

Metropolitan Medical Response System (MMRS): \$40 million, same as the President's request and \$1 million less than the FY 09 funding level. The City's federal program requested full funding for this program.

REAL ID Grants: \$50 million, same level as the President. This program was not funded in FY 09. REAL ID is a nationwide effort to improve the integrity and security of state-issued driver's licenses and identification cards, which in turn will help fight terrorism and reduce fraud.

Interoperable Communications: \$50 million, the same level as FY 09 and same amount as the President's request. The program provides governance, planning, training and exercise and equipment funding to states and local governments.

Emergency Operations Centers: \$40 million, \$35 million above the FY 09 level. The President's Budget did not include any funding for this program. The Committee earmarked 76 projects in this account.

Fire Grant Program: \$380 million, \$210 million above the President's request and \$185 million less than the FY 09 level.

SAFER Act Grants: \$420 million, same as the President's request and \$210 million above FY 09 levels. The SAFER (Staffing for Adequate Fire and Emergency Response) Grant was created to provide funding directly to fire departments and volunteer firefighter organizations to help increase the number of trained, "front-line" firefighters available in their communities.

Energy Efficiency and Conservation Block Grant (EECBG)

The City's federal lobbyists contacted Congressman Pastor's office to reiterate the City's request for full FY 10 funding (\$2 billion) for the Energy Efficiency and Conservation Block Grant program. As mentioned above, Congressman Pastor is currently the interim Chair of the Energy and Water Appropriations Subcommittee, which has jurisdiction over the EECBG program. A copy of the US Conference of Mayors (USCM) letter signed by Mayor Gordon and over 400 mayors requesting that Congress fully fund the program was provided to the Congressman's staff.

As a result of ARRA funding, the City has received approximately \$15 million in EECBG money that the City plans to use to retrofit City facilities, establish a Citywide energy plan, conduct home energy audits, distribute solar energy panels city wide, and install LED technology/traffic signalization.

Community Development Block Grant (CDBG) Update

Last week, Government Relations staff and the City's federal lobbyists accompanied Councilman Michael Johnson to meetings with US Department of Housing and Urban Development (HUD) staff, congressional staff and the White House to advocate for Phoenix's fair share of CDBG funding. The meetings were planned to coordinate with HUD recommendations as CDBG legislation moves forward in the coming weeks.

Late last week, the National Association of Counties (NACo) and USCM hosted a meeting with HUD representatives to discuss the Administration's FY10 CDBG reform proposal. The HUD officials announced that they have reached agreement with the President's Office of Management and Budget (OMB) to recommend an "indefinite" hold harmless for

any CDBG formula change. HUD recognizes that any proposal that reduces CDBG funding from current (FY09) levels for current grantees is a non-starter. At this time, it appears that HUD will use the FY09 baseline as the hold harmless level.

Transportation (Re)authorization

Leaders and staff of the House Transportation and Infrastructure (T&I) Committee continue to work hard to produce a draft Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) reauthorization bill and bring it to markup, but the schedule is slipping. Staff now says that “white papers” summarizing the bill may be released as early as next week. Some say that the Highways and Transit Subcommittee will mark up the bill the last week of June, with full committee markup soon after the Fourth of July Congressional recess. No one would be surprised if that schedule slipped further.

The big obstacle to passage of a reauthorization bill is determining how to pay for it, which is the job of the House Ways and Means Committee. That committee has shown no appetite for the task and is preoccupied with many other priorities, especially health care reform. Nonetheless the Committee reportedly has decided to at least hold hearings on the subject -- informal word is that it will start with a joint hearing of the Oversight Subcommittee and the Select Revenue Measures Subcommittee on June 25 on the capital funding needs of the nation’s surface transportation system.

Transportation Secretary LaHood told the House Transportation-HUD Appropriations Subcommittee last week that the Highway Trust Fund (HTF) will run out of money sooner than expected---August instead of September. Congress will need to pass a HTF “fix” before it leaves for the August recess and LaHood said the Administration wants the fix “paid for” by offsetting spending cuts or revenue increases. The Administration estimates that the HTF will need \$5-7 billion to get through FY 2009 and \$8-10 billion to get through FY 2010; they intend to propose a solution that addresses both shortfalls.

Interestingly, LaHood said “we also believe that any solution must be tied to reform of the current highway program. It needs to be more performance-based and accountable to our priorities, including making our communities more livable and sustainable”. That statement is being interpreted as support for principles of transit-friendly “smart growth” policies. Some believe that the Administration’s HTF fix will incorporate some of its views on what reauthorization should look like, a first installment on SAFETEA-LU reauthorization. In addition, the Administration has an interagency task force working on principles for SAFETEA-LU reauthorization. The membership of that task force is very telling – in addition to USDOT, it includes EPA, the Department of Energy and HUD. It is apparently looking at ways that reauthorization can serve the Administration’s goals of environmental sustainability, energy conservation, affordable housing and smart-growth land use policies.

Climate Change and Transit (and SAFETEA-LU?)

A related dynamic is playing out with climate change legislation currently before Congress. The House Energy and Commerce Committee reported its climate change bill (H.R. 2454) and House Speaker Nancy Pelosi has told other committees with jurisdiction over the issue to report their bills by June 19 or waive jurisdiction. House Democratic leaders are counting heads and twisting arms to get to the 218 votes needed for floor passage, which will probably happen before the Fourth of July recess.

Last year’s Senate climate change bill dedicated 2 ½ percent of its emissions allowance revenues to emission-reducing transportation initiatives, especially for transit. H.R. 2454,

however, doesn't provide any revenue for transportation. Energy and Commerce Committee leaders negotiated with individual Committee members on allowance revenues for electric utilities and energy-intensive industries in order to get the votes for passage, but transportation didn't make the cut. H.R. 2454 would require every state to develop plans to curb transportation-related greenhouse gas (GHG) emissions. States would receive some funding for planning efforts, but not for implementation of those plans. As written, the bill is an unfunded mandate to reduce transportation-related GHG emissions.

Rep. Earl Blumenauer (D-OR) and others are considering floor amendments to provide transportation funding in the bill, but H.R. 2454 is regarded as a delicate compromise that leaders don't want to re-open. Any transportation funding would mean less funding for something else. Many advocates for transportation funding in the climate change bill are looking to the Senate for help because last year's Senate bill provided it. But some observers fear that the Senate might also be reluctant to upset the delicate House compromise and might approve it basically intact.

Senators Tom Carper (D-DE) and Arlen Specter (D-PA) have introduced "CLEAN TEA" (S. 575) (the Clean, Low-Emission, Affordable New Transportation Efficiency Act), which would require that 10 percent of GHG emission allowances created by a climate change law would be auctioned off and the proceeds used to reduce GHG emissions from the transportation sector. They are trying to build support to add this provision to the Senate climate change bill.

The Senate climate change bill might not be able to secure the 60-vote margin necessary to avoid a filibuster. But the SAFETEA-LU reauthorization bill likely comes next. The Senate Environment and Public Works Committee has primary jurisdiction over both bills. Committee Chair Barbara Boxer (D-CA) frequently says that she thinks the bills are closely intertwined. The Obama Administration appears to agree.

Senator Jay Rockefeller (D-WV), Chair of the Senate Commerce Committee, and Senator Frank Lautenberg (D-NJ), Chair of its Surface Transportation Subcommittee, have introduced S. 1036, the Federal Surface Transportation Policy and Planning Act, which sets goals for the national surface transportation system, including reducing transportation-related GHG emissions by 40 percent by 2030. Reps. Rush Holt (D-NJ), Jay Inslee (D-WA) and Russ Carnahan (D-MO) have introduced similar legislation (H.R. 2724, the National Transportation Objectives Act) in the House.

Derron Lovaas, Transportation Policy Director for the National Resources Defense Council, says that "the two bills, climate and transportation, will have to complement each other". Or become legislatively intertwined. As Colin Peppard, Climate and Infrastructure Director of the Environmental Defense Fund, has said: "There has always been a necessary companionship between emissions regulation and transportation infrastructure."

Which Federal Agency is Spending ARRA Funds the Fastest?

When it comes to spending economic stimulus funding, some agencies appear to be ahead of others after the first 100 days of the program. So far, the Department of Health and Human Services has paid out more than \$18.7 billion of the \$29.5 billion in ARRA money it has available, according to the government's Recovery.gov web site. Second is the Social Security Administration with \$15 billion in expenditures, mostly in the form of one-time payments of \$250 to seniors. Of course, those giant agencies are used to sending out checks to the states for Medicaid, and to seniors for retirement income. The

Education Department ranks third, meanwhile, having spent \$4.9 billion of the \$38.8 billion it has available in ARRA. That money has offset some of the sharp cutbacks in state and local budgets brought on by the recession. Surprisingly, the Department of Transportation which was expected to spend its ARRA allotment quickly on “shovel-ready” road and bridge projects, is lagging in fourth position. Of the \$15 billion it has available, so far only \$151.7 million has been paid out. A total of \$135.3 billion in ARRA funds has been divided so far among some 28 agencies, ranging from the Labor Department to the Smithsonian Institution. Of that sum, \$43.7 billion has been spent.

Vice President Joseph R. Biden Jr., who oversees the recovery program for President Obama, said Monday that the goal now is “putting some pace on the ball here. Every hundred days, if we’re doing this right, Mr. President, should produce more than the last hundred days.”

FEMA Releases Guidance for Recovery Act Funding

The U.S. Department of Homeland Security released application guidance for more than \$500 million in Federal Emergency Management Agency (FEMA) preparedness grants for fire station construction and port and transit security-funded by the American Recovery and Reinvestment Act (ARRA).

The Fire Station Construction Grant (SCG) Program will provide \$210 million directly to fire departments to build new or modify existing fire stations in order to enhance response capabilities and protect communities from fire-related hazards. These grants will replace unsafe or uninhabitable structures and expand fire protection coverage to meet increased service demand in compliance with National Fire Protection Association standards.

The Transit Security Grant Program (TSGP) provides \$150 million to hire transit law enforcement officers, mobile explosive detection screening teams, and anti-terrorism teams; shovel-ready anti-terrorism security enhancements that must begin within 90 days of the release of funds and be completed within two years; and other security projects, including improvements to high-density tunnels, stations and bridges.

The Port Security Grant Program (PSGP) provides \$150 million for sustainable, risk-based effort to protect critical port infrastructure from terrorism. While 90 ports have been pre-selected and categorized based on levels of risk, each port will compete for funding with other ports that have similar risk levels.

EPA Issues National Waivers for ARRA ‘Buy America’ Provision

Earlier this week, EPA issued two national waivers to the ‘Buy America’ provision of the ARRA for Clean Water and Drinking Water State Revolving Fund projects.

The first is for projects that solicited bids between October 1, 2008 and February 17, 2009, and that did so “in [a] reasonable and prudent [manner], [with] specific anticipation of ARRA funding, or any other source of timely funding.” The waiver permits the use of non-domestic iron, steel and manufactured goods in such projects funded by ARRA.

The second waiver allows use of non-domestic iron, steel and manufactured goods in “de minimus incidental components” where the components comprise no more than five percent of the total cost of the materials used in an ARRA-funded project. Examples of such components are “miscellaneous, generally low-cost components that are essential for but incidental to the construction, and are incorporated into the physical structure of the project, such as nuts, bolts, other fasteners, tubing, gaskets, etc.”