

**CONTRACT BY AND BETWEEN  
CITY OF DENTON, TEXAS AND CAPITALEGE STRATEGIES, LLC FOR  
LEGISLATIVE REPRESENTATION  
(CONTRACT 6580)**

This agreement ("Agreement"), made this day \_\_\_\_\_, by and between the City of Denton, a Texas Municipal Corporation, with its principal office at 215 East McKinney Street, Denton, Denton County, Texas 76201, ("City"), and CapitalEdge Strategies, LLC, ("Consultant"), with its principal office at 1212 New York Avenue NW, Suite 250, Washington D.C., 20005 acting herein, by and through their duly authorized representatives.

**WITNESSETH**

WHEREAS, the City desires for the Consultant to provide Federal legislative representation to assist the City in advancing its Federal Legislative Program, addressing its proposed legislation, and notifying it of any legislative or administrative initiatives believed to be detrimental or beneficial to the interests of the City; and

WHEREAS, the City further desires to have the Consultant provide notification and advocacy to the City for funding opportunities, to augment the City's existing relationship with key legislators and policy administrators, and to maintain a high level of effective advocacy with the legislative and executive branches of the federal government; and

WHEREAS, Consultant has professional staff experienced and qualified to provide and perform the services desired by City as set forth hereinabove;

NOW, THEREFORE, and in consideration of the terms, covenants and conditions herein contained, the parties hereto do mutually agree as follows:

**ARTICLE 1. Period of Service**

The initial term of the agreement specified herein shall be for a one (1) year period, commencing upon contract execution. The City and the Consultant shall have the option to renew this contract for an additional two (2) one-year periods. Materials and services undertaken pursuant to this solicitation will be required to commence within fourteen (14) days of delivery of a Notice to Proceed.

The Contract shall commence upon the issuance of a Notice of Award by the City of Denton and shall automatically renew each year, from the date of award by City Council, unless either party notifies the other prior to the scheduled renewal date. At the sole option of the City of Denton, the Contract may be further extended as needed, not to exceed a total of six (6) months.

**ARTICLE 2. Termination**

A. The City and the Consultant shall have the right to terminate this Agreement, with or without cause, upon 60 days written notice.

B. The City may also terminate this Agreement with 30 days written notice to the Consultant for an irreconcilable conflict of interest or failure to allot sufficient funds.

C. If the Agreement is terminated prior to completion of the services to be provided hereunder, Consultant shall immediately cease all services and shall render a final bill for services to the City within thirty (30) days after the date of termination. The City shall pay Consultant for all services properly rendered and satisfactorily performed and for reimbursable expenses to termination incurred prior to the date of termination, in accordance with Article V "Compensation." Should the City subsequently contract with a new consultant for the continuation of services, Consultant shall cooperate in providing information. The Consultant shall turn over all documents prepared or furnished by Consultant pursuant to this Agreement to the City on or before the date of termination, but may maintain copies of such documents for its use.

### **ARTICLE 3. Compensation**

A. The City agrees to compensate the Consultant for services rendered in a not-to-exceed amount of, \$4,500 per month, for a total of \$54,000 annually, for a contract total of \$162,000, for the specified services. Invoice and payments will be sent monthly. The City will not be responsible for any additional expenses incurred by the Consultant, with the exception of travel costs requested and authorized by the City. These reimbursable costs will be billed at cost and shall not to exceed \$5,000 annually, for a contract total of \$15,000.

B. Reasonable pre-approved costs incident to travel shall be reimbursed to the Consultant upon submission of its invoice to the City. Consultant understands and agrees that travel is to be ***pre-authorized*** by the City. Expenses may include travel, lodging and business meals incurred on behalf of the City and at its request. Such itemized expenses, with corresponding paid receipts, shall be paid separately and shall be reviewed and approved by the City, prior to payment.

C. Such expenses do not include the normal office functions or daily expenses of the Consultant in the course of his functions in Washington, D.C. representing the interest of the City.

### **ARTICLE 4. Scope of Services**

A. The Consultant must perform the following services:

1. Operate a unit to act as a Washington office for the City and head this unit acting as a Washington representative for the City. The Consultant will make available office space for meetings necessary to promote the City's legislative agenda.
2. Assist in communicating the position of the City to the legislative and executive branches of Federal government, interested parties and the public.
3. Consult with the City to determine issues of specific interest to the City and to determine policies and positions which the City wishes to pursue.
4. Provide a regular report on Washington issues and events of interest to the City. This will be done by:

- a. A regular summary;
  - b. Written reports, bulletins, memoranda, and e-mails on developments regarding Texas- specific issues and Denton-specific issues; and
  - c. Direct phone and e-mail contact with City officials and representatives.
5. Provide Federal affairs briefings for the City at times and places specified by the City at least once per year.
6. Establish and maintain Congressional relations with Texas Senators and the City's delegation in the House of Representatives.
7. Provide advice and consult in relation with the White House and the following federal agencies or departments: Commerce, SBA, Treasury, HUD, Labor, HHS, DOT, EPA, Interior, Justice, DOE, and such other agencies, departments, and commissions as may be necessary to the performance of Washington service to the City.
8. Notify the City of potential federal funding opportunities that are available and provide assistance with capturing that funding.

#### **ARTICLE 6. Independent Contractor**

**A. The consultant will not:**

1. Directly or indirectly participate in or intervene in any political campaign on behalf of or in opposition to any candidate for city office.
2. Will not represent the interest of local constituents in pursuit of federal business.
3. By virtue of this Agreement, represent other local agencies in the City except those which are instrumentalities or agencies of the City.
4. Perform any legal, engineering, accounting or other similar professional services.

**B. The Consultant shall perform all services as an independent contractor not under the direct supervision and control of the City. Nothing herein shall be construed as creating a relationship of employer and employee or joint venture between the parties. The Consultant is customarily engage to provide services as described herein independently and on a nonexclusive basis in the course of its business. Consultant agrees to perform the services based on the skills required for the scope of work in connection with the services herein.**

#### **ARTICLE 7. Indemnity Agreement**

The City and Consultant agree to cooperate in the defense claims, actions, suits, or proceedings of any kind brought by a third party which may result from or directly or indirectly arise from any breach of the Consultant's obligations under this agreement. In the event of any litigation or claim under this Agreement in which the City is joined as a party, Consultants shall provide competent legal counsel to defend City and Consultant against such claim, provided that Consultant shall have the right to proceed with the competent legal counsel of its own choosing.

**THE CONSULTANT AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY AND ALL OF ITS OFFICIALS, OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES AGAINST ANY ALL CLAIMS RELATED TO AND INCIDENTAL TO THE PERFORMANCE OF THIS AGREEMENT. THE CONSULTANT AGREES TO PAY ALL EXPENSES, INCLUDING, BUT NOT LIMITED TO ATTORNEY'S FEES, COSTS OF COURT, REASONABLE EXPENSES, AND SATISFY ALL JUDGMENTS, WHICH MAY BE INCURRED OR RENDERED AGAINST THE CONSULTANT IN THE PERFORMANCE OF ITS DUTIES HEREIN. NOTHING HEREIN CONSTITUTES A WAIVER OF ANY RIGHTS OR REMEDIES THE CITY MAY HAVE TO PURSUE UNDER EITHER LAW OR EQUITY, INCLUDING, WITHOUT LIMITATIONS, A CAUSE OF ACTION FOR SPECIFIC PERFORMANCE OR FOR DAMAGES, A LOSS TO THE CITY RESULTING FROM CONSULTANT'S NEGLIGENT ERRORS OR OMISSIONS, OR BREACH OF CONTRACT, AND ALL SUCH RIGHTS AND REMEDIES ARE EXPRESSLY RESERVED.**

Nothing in this Agreement shall be construed to create a liability to any person who is not a party to this Agreement, and nothing herein shall waive any of the parties' defenses, both at law or equity, to any claim, cause of action, or litigation filed by anyone not a party to this Agreement, including the defense of governmental immunity, which defenses are hereby expressly reserved. This Agreement does not inure to the benefit of third parties.

#### **ARTICLE 8. Insurance**

The Consultant shall maintain and shall be caused to be in force at all times during the terms of this Agreement, a legally binding policy of commercial liability insurance, with a rating of at least A with Best Rated Carriers. Such coverage shall cover any claim hereunder occasioned by the Consultant's negligent professional act and/or error or omission, in an amount not less than \$500,000 combined single limit coverage occurrence. In the event of change or cancellation of the policy by the insurer, the Consultant hereby covenants to forth with advise the City thereof; and in such event, the Consultant shall, prior to the effective date of change or cancellation, serve substitute policies furnishing the same coverage. The Consultant shall provide a copy of such policy or the declarations page of the policy or a certificate of insurance, whichever is reasonably satisfactory, to the City through its City Manager simultaneously with the execution of this Agreement. Consultant's insurance policies, through policy endorsement, shall include wording which states that the policy shall be primary and non-contributory with respect to any insurance carried by the City. The certificate of insurance must reflect that the above wording is included in evidenced policies.

#### **ARTICLE 9. Ethical Requirements**

The Consultant covenants and agrees that its officers, employees, and agents will have no interest, including personal financial interest, and will acquire no interest, either directly or indirectly, which will conflict in any manner with the performance of the services called for under this agreement. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City

of any land, materials, supplies or services, except on behalf of the City or in compliance with the provisions of the City of Denton's Personnel Policies and Procedures Manual. Any violation of this provision shall render this Agreement voidable at the discretion of the City.

#### **ARTICLE 10. Compliance with Laws**

The Consultant shall comply with all applicable local, state and federal laws, rules and regulations.

#### **ARTICLE 11. Discrimination Prohibited**

In performing the services required hereunder, the Consultant shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, or physical handicap.

#### **ARTICLE 12. Notice**

All notices, communications and reports required or permitted under this Agreement shall be personally delivered or mailed to the respective parties by depositing same in the United States mail to the address shown below, certified mail, return receipt requested, unless otherwise specified herein. Mailed notices shall be deemed communicated as of three (3) days' mailing

To City:

City Manager  
Contract 6580  
215 E. McKinney St.,  
Denton, TX 76201

To Consultant:

CapitalEdge Strategies, LLC  
1212 New York Avenue NW, Suite 250  
Washington, DC 20005

All notices shall be deemed effective upon receipt by the party to whom such notice is given, or within three (3) days' mailing.

#### **ARTICLE 13. Venue**

The laws of the State of Texas shall govern this Agreement without regard to the conflict of laws, and any cause of action arising under this Agreement shall lie exclusively in a court of competent jurisdiction sitting in venue as Denton County, Texas.

#### **ARTICLE 14. Assignability**

Consultant understands that this Agreement is personal as to the Contractor and the Contractor shall not assign or transfer any interest in this Agreement (whether by assignment, transfer, novation or otherwise) without the prior written consent of the City.

#### **ARTICLE 15. Modification**

No waiver or modification of this Agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith, and no evidence of any waiver or modification shall be offered or received in evidence in any proceeding arising between the parties hereto out of or affecting this Agreement, or the rights or

obligations of the parties hereunder, and unless such waiver or modification is in writing and duly executed; and the parties further agree that the provisions of this section will not be waived unless as set forth herein.

#### **ARTICLE 16. Severability**

If any provision of this Agreement is found or deemed by a court of competent jurisdiction to be invalid or unenforceable, it shall be considered severable from the remainder of this Agreement and shall not cause the remainder to be invalid or unenforceable.

#### **ARTICLE 17. Right to Audit**

The City shall have the right to audit and make copies of the books, records and computations pertaining to this agreement. The Consultant shall retain such books, records, documents and other evidence pertaining to this agreement during the contract period and five years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents and other evidence shall be available, within 10 business days of written request. Further, the Consultant shall also require all Subcontractors, material suppliers, and other payees to retain all books, records, documents and other evidence pertaining to this agreement, and to allow the City similar access to those documents. All books and records will be made available within a 50 mile radius of the City of Denton. The cost of the audit will be borne by the Consultant unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Consultant which must be payable within five business days of receipt of an invoice. Failure to comply with the provisions of this section shall be a material breach of this contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents" and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

#### **ARTICLE 18. Registration Requirements**

Texas ethic laws require Consultant to disclose his representation of the City and to report certain moneys paid for some of the activities to be conducted under this Agreement. Consultant will comply with all rules regarding such disclosure and shall communicate with the City prior to filing such disclosures. In addition, if the Consultant performs any lobbying for the City with any local jurisdiction, it is the responsibility of the Consultant to properly register and comply with all local lobbying ordinances. Consultant agrees not to engage in any activity on behalf of the City, which is contrary to any Federal, State, or local law or regulation. Furthermore, Consultant agrees not to make or offer any gifts or gratuities to any public official on behalf of the City.

#### **ARTICLE 19. Entire Agreement**

This Agreement, along with the RFP 6580, which is on file in the City of Denton Purchasing Department, and the Consultant's Proposal attached as Exhibit A to this Agreement, all of which are incorporated herein, constitute the complete and final expression of the agreement of the parties ("Agreement Documents"). In the event of conflict between the Agreement Documents, the controlling terms will be in the following order of precedence: (1) this Agreement; (2) the RFP Contract 6580



6580; and (3) the Consultant's Proposal. No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in this agreement. All change orders to the Agreement will be made in writing by the City and approved by the City Council.

## ARTICLE 20. Statutory Requirements

By executing this Agreement below in conformance with Sec. 2270.001 of the Texas Government Code, the Consultant verifies that the Consultant: (1) does not boycott Israel currently; and (2) will not boycott Israel during the term of this Agreement with the City of Denton. The Consultant further certifies that the Consultant does not and will not engage in business with Iran, Sudan, or a Foreign Terrorist Organization as defined under Section 2252.151 of the Texas Government Code, and is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies for that purpose. Consultant further certifies that should it enter into a contract with an entity or individual that is on said listing of companies which do business with Iran, Sudan or any Foreign Terrorist Organization, it will immediately notify the City of Denton.

IN WITNESS HEREOF, the City of Denton, Texas has caused this Agreement to be executed by its duly authorized City Manager, and Consultant has executed this Agreement through its duly authorized undersigned officer on this date \_\_\_\_\_.

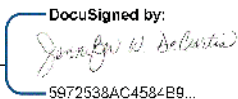
CITY OF DENTON, TEXAS

\_\_\_\_\_  
TODD HILEMAN, CITY MANAGER


ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
AARON LEAL, CITY ATTORNEY

BY: \_\_\_\_\_  
5972538AC4584E9...

CapitalEdge Strategies, LLC  
CONSULTANT:

BY: \_\_\_\_\_  
EF4180B8200C491...

**RESPONSE TO REQUEST FOR PROPOSALS  
FEDERAL GOVERNMENTAL RELATIONS AND LOBBYING SERVICES  
CITY OF DENTON  
RFP 6580  
October 2, 2017**



**CapitalEdge  
1212 New York Avenue NW – Suite 250  
Washington DC 20005  
202-842-5430 (phone)  
202-842-5051 (fax)  
<http://www.capitaledge.com>**

**Ralph Garboushian, Managing Member  
[ralphg@capitaledge.com](mailto:ralphg@capitaledge.com)**



Exhibit A

City of Denton

RFP for Supply of Federal Governmental Relations and Lobbying Services

**PRICING SHEET – ~~EXHIBIT 1~~****Exhibit 1**Respondent's Business Name **CapitalEdge Strategies**Principal Place of Business (City and State) **Washington, DC****RFP 6580 Pricing Sheet for Federal Governmental Relations and Lobbying Services***The respondent shall complete the following section, which directly corresponds to the specifications. The contractor shall not make changes to this format.***Services Proposal Pricing:**

ITEM	Est. Annual Quantity	UOM	Type of Service Requested	Unit Cost of Service	Total Cost of Service
1	12	MO	Federal Legislative Representation as described in Exhibit 3 (Year One)	\$4,500.00	\$ 54,000.00
2	12	MO	Federal Legislative Representation as described in Exhibit 3 (Year Two)	\$4,500.00	\$ 54,000.00
3	12	MO	Federal Legislative Representation as described in Exhibit 3 (Year Three)	\$4,500.00	\$ 54,000.00
Total Contract Amount (Three Years)					\$ 162,000.00

ITEM	UOM	Type of Service Requested	% Mark-up
4	NA	Travel expenses shall be billed at cost, plus ____ %	NA

**\*NOTE: PLEASE EMAIL THIS EXHIBIT 1 AS AN EXCEL FILE TO EBIDS@CITYOFDENTON.COM**

Exhibit A  
City of Denton

## RFP for Supply of Federal Governmental Relations and Lobbying Services

**SOLICITATION CHECKLIST**

Check when Completed	Task to be Completed by Respondent
✓	Exhibit 1 – Pricing sheet
✓	Review Exhibit 2 – General Provisions and Terms and Conditions
✓	Review Exhibit 3 – Scope of Work/Technical Specifications
NA	Review Exhibit 4 – Technical Drawings and Plans (if applicable)
NA	Submission of Exhibit 5 – FTP Site Form (if applicable)
NA	Review Exhibit 6 – Federal Grant Requirements (if applicable)
✓	Cover sheet
✓	Solicitation number
✓	Solicitation name
✓	Firm name
✓	Firm address
✓	Contact name
✓	Contact phone
✓	Contact fax
✓	Website address
✓	Contact email address
✓	Solicitation Checklist
✓	Attachment A- Business Overview Questionnaire
✓	Document how firm meets minimum qualifications (Section 3)
✓	Detail to support evaluation criteria
✓	Attachment B – Exception Form
NA	Attachment C – Safety Record Questionnaire (if applicable)
✓	Attachment D – Reference Form
✓	Attachment E – Conflict of Interest Questionnaire Form – <u>with signature</u>
✓	Attachment F - Acknowledgment
✓	Acknowledgment of Addenda
✓	Submission signed by authorized officer, in the order specified below
	<b>Hard Copy Submission:</b> If submitting a hard copy, the City requires one (1) original and three (3) copies, with the pricing sheet submitted electronically <u>in excel</u> or emailed <u>in excel</u> to <a href="mailto:Ebids@cityofdenton.com">Ebids@cityofdenton.com</a> with the Solicitation # and name in the subject line.
	<b>Electronic Submission:</b> If submitting an electronic proposal only, email to <a href="mailto:Ebids@cityofdenton.com">Ebids@cityofdenton.com</a> with the Solicitation # and name in the subject line. The pricing sheet (Exhibit 1) must be <u>in excel</u> format.

## City of Denton

## RFP for Supply of Federal Governmental Relations and Lobbying Services

~~ATTACHMENT A~~ BUSINESS OVERVIEW QUESTIONNAIRE AND FORMS

## 1. Contract Information

- Firm's Legal Name:  
**CapitalEdge Strategies, LLC**
- Address:  
**1212 New York Avenue NW – Suite 250  
Washington DC 20005**
- Agent authorized to sign contract:  
**Ralph Garboushian**
- Agents email address:  
[ralphg@capitaledge.com](mailto:ralphg@capitaledge.com)

2. Subsidiary of:  
**NA**

## 3. Organization class:

Partnership

☒ Corporation

Individual

Association

4. Taxpayer ID#:  
**27-0248027**5. Date Established:  
**January 1, 1995**6. Historically Underutilized Business:  
**No. However, CapitalEdge is a small business with 5 employees.**7. Does your company have an established physical presence in the State of Texas, or the City of Denton? Yes or No, in which?  
**No, CapitalEdge Strategies is located in Washington, District of Columbia.**8. Please provide a detailed listing of all products or services that your company provides.  
**CapitalEdge provides federal government relations to local governments and their instrumentalities.**

Exhibit A  
City of Denton

RFP for Supply of Federal Governmental Relations and Lobbying Services

9. Has your company filed or been named in any litigation involving your company and the Owner on a contract within the last five years under your current company name or any other company name? If so provide details of the issues and resolution if available. Include lawsuits where Owner was involved. (Notice: Failure to disclose this information during proposal submission, and later discovered, may result in contract termination at the Owner's option.)

**No.**

10. Have you ever defaulted on or failed to complete a contract under your current company name or any other company name? If so, where and why? Give name and telephone number of Owner.

**No.**

11. Have you ever had a contract terminated by the Owner? If so, where and why? Give name and telephone number (s) of Owner (s).

**No.**

12. Has your company implemented an Employee Health and Safety Program compliant with 29 CFR 1910 "General Industry Standards" and/or 29 CFR 1926 "General Construction Standards" as they apply to your Company's customary activities?

[http://www.osha.gov/pls/oshaweb/owasrch.search\\_form?p\\_doc\\_type=STANDARDS&p\\_toc\\_level=1&p\\_keyvalue=1926](http://www.osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=STANDARDS&p_toc_level=1&p_keyvalue=1926)

**NA – CapitalEdge is not a construction company.**

13. Resident/Non-Resident Bidder Determination:

Texas Government Code Section 2252.002: Non-resident bidders. Texas law prohibits cities and other governmental units from awarding contracts to a non-resident firm unless the amount of such a bid is lower than the lowest bid by a Texas resident by the amount the Texas resident would be required to underbid in the non-resident bidders' state. In order to make this determination, please provide the name, address and phone number of:

- a. Responding firms principle place of business:  
**1212 New York Avenue NW – Suite 250**  
**Washington DC 20005**
- b. Company's majority owner principle place of business:  
**1212 New York Avenue NW – Suite 250**  
**Washington DC 20005**
- c. Ultimate Parent Company's principle place of business:  
**1212 New York Avenue NW – Suite 250**  
**Washington DC 20005**

## City of Denton

## RFP for Supply of Federal Governmental Relations and Lobbying Services

**14. Provide details to support the evaluation criteria, including experience and delivery.****a) Compliance with specifications, quality, reliability, characteristics to meet stated or implied needs****b) Indicators of Probable Performance under contract**

As outlined in greater detail in question 15, CapitalEdge is one of the largest lobbying firms in Washington that solely represents local governments and their agencies. We have strong knowledge of cities and their needs and prospects for federal assistance and we are widely recognized for our expertise on federal-local relations and local government issues. Our clients are mostly of long standing; we have worked with many of them for over 20 years. This track record is perhaps the clearest demonstration of our performance.

- We are one of the few firms in Washington that provides services **exclusively to local governments** and their agencies. We spend all day of every day working on the distinctive issues of importance to municipalities.
- We have a strong record of legislative and regulatory achievements on behalf of our clients that stretch over 20 years.
- We have established significant long-term relationships with our clients that are based on providing timely, effective, and personalized service. As a result, our clients enjoy an uninterrupted, non-partisan presence in Washington.

**c) Price, Total Cost of Ownership**

The total price of the proposed contract is \$54,000 per year as outlined on the pricing sheet.

**15. Provide details on how firm meets the minimum qualifications stated in this Main document Section 3.****Three (3) year's experience providing similar products or services.**

CapitalEdge is one of the largest lobbying firms in Washington that solely represents local governments and their agencies. We have strong knowledge of cities and their needs and prospects for federal assistance and we are widely recognized for our expertise on federal-local relations and local government issues. Our clients are mostly of long standing; we have worked with many of them for over 20 years. This track record is perhaps the clearest demonstration of our performance.

Our current clients (with first year of service) include:

- City of Arlington, TX (2008)
- City of Austin, TX (1992)
- City of Dallas, TX (1984)
- City of Denton, TX (1997)

## City of Denton

## RFP for Supply of Federal Governmental Relations and Lobbying Services

- City of Avondale, AZ (2010)
- City of Beaumont, TX (1981)
- City of Columbia, SC (1979)
- City of Huntsville, AL (1992)
- City of Pasadena, CA (1981)
- City of Reno, NV (1999)
- City of Santa Cruz, CA (1992)
- City of Sumter, SC (2007)
- Denton County, TX Transportation Authority (2012)
- Santa Cruz County, CA (1999)
- Santa Cruz, CA Regional Transportation Commission (1995)
- Santa Cruz, CA Metropolitan Transit District (1995)
- Soquel Creek Water District (2017)

Some unique aspects of CapitalEdge:

- We are one of the few firms in Washington that provides services ***exclusively to local governments*** and their agencies. We spend all day of every day working on the distinctive issues of importance to municipalities.
- We have a strong record of legislative and regulatory achievements on behalf of our clients that stretch over 20 years.
- We have established significant long-term relationships with our clients that are based on providing timely, effective, and personalized service. As a result, our clients enjoy an uninterrupted, non-partisan presence in Washington.

CapitalEdge provides high-quality services to local governments across the country. Our clients benefit from a number of distinctive aspects of the firm:

- We are one of the few firms in Washington that provides advocacy services exclusively to local governments and their agencies. ***We spend all of our time working on issues that are important to municipalities.***
- We have a strong record of legislative and regulatory achievements on local government issues.
- We have long-term relationships with our clients and their congressional delegations that are based on timely, effective and personalized service, allowing us to provide our clients with a continuous, nonpartisan presence in our nation's capital.
- We have a strong working relationship of long-standing with the various public interest groups that represent local elected officials and their agencies in Washington, including the National League of Cities, the US Conference of Mayors, the National Community Development Association, the National Association of Clean Water Agencies, the American Water Works Association, and other similar organizations.
- We have a long history of developing broad-based, bipartisan coalitions on behalf of priority projects.



City of Denton

RFP for Supply of Federal Governmental Relations and Lobbying Services

- We are non-partisan and pride ourselves in serving as a trusted and effective liaison between elected officials of differing political parties who have a common goal of serving their constituents. We have served communities and dealt with congressional delegations covering the entire political spectrum.
- CapitalEdge also uses this same idea to create and participate in coalitions that assist in forwarding the federal agendas of our clients.

We also have been active on issues of common interest to Texas cities, including working with the Texas Municipal League when appropriate, regarding common issues such as:

- Preservation of the language that protects the ability of Texas cities to charge rent for the use and management of public rights-of-way in the Internet Tax Freedom Act;
- Preservation of the Contract Tower Program and turning back a proposal to increase local cost share under the program;
- Increased sub-allocation of federal highway funds to the Regional Transportation Commission;
- Preservation of the tax exempt status of municipal bonds; and
- Preservation of core local government programs in a period of austerity, including CDBG, HOME, UASI, and local law enforcement assistance.

CapitalEdge proposes to continue working with Denton as part of the Texas Cities Legislative Coalition, which also includes Arlington, Austin, and Dallas. This arrangement allows for a united voice on issues of common interest and helps keep the cost of services reasonable. CapitalEdge enjoys an excellent working relationship with the Texas congressional delegation and has built close ties during our many years of work. We also have strong ties with officials at key federal agencies of interest to local governments, including the Departments of Housing & Urban Development, Transportation, Justice and Homeland Security.

Three (3) references from governmental entities for the products or services requested.

As outlined in Attachment D, references among current clients include:

Ms. Jennifer Wichmann  
Administrative Services Manager  
City of Arlington  
817-459-6408  
[jennifer.wichmann@arlingtontx.gov](mailto:jennifer.wichmann@arlingtontx.gov)

The Honorable Stephen K. Benjamin  
Mayor  
City of Columbia  
803-545-3038  
[skbenjamin@columbiasc.net](mailto:skbenjamin@columbiasc.net)



Exhibit A

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Mr. Brett Wilkinson  
Intergovernmental Services Director  
City of Dallas  
214-670-5797  
[brett.wilkinson@dallascityhall.com](mailto:brett.wilkinson@dallascityhall.com)

The responding individual or business must be registered in the State of Texas, or the County of Denton, to provide the products or services required in the solicitation, and the individual or business must have all licensure required by the State to provide any services required under this contract.

Capital Edge is a District of Columbia firm specializing in federal government relations services to local governments and their agencies. CapitalEdge will meet all business license and registration requirements of the State of Texas and the District of Columbia.

I certify that our firm meets the minimum qualifications as stated in this Main document, Section 3.

  
\_\_\_\_\_  
Signature

CAPITALEGE  
\_\_\_\_\_  
Company

10/2/2017  
\_\_\_\_\_  
Date

## City of Denton

## RFP for Supply of Federal Governmental Relations and Lobbying Services

~~ATTACHMENT A~~ SUPPLEMENTAL QUESTIONS**16. Organization, Credentials, and Experience****a. Provide a summary of the company's qualifications, credentials, and related past experience.**

CapitalEdge provides high-quality services to local governments across the country. Our clients benefit from a number of distinctive aspects of the firm:

- We are one of the few firms in Washington that provides advocacy services exclusively to local governments and their agencies. ***We spend all of our time working on issues that are important to municipalities.***
- We have a strong record of legislative and regulatory achievements on local government issues.
- We have long-term relationships with our clients and their congressional delegations that are based on timely, effective and personalized service, allowing us to provide our clients with a continuous, nonpartisan presence in our nation's capital.
- We have a strong working relationship of long-standing with the various public interest groups that represent local elected officials and their agencies in Washington, including the National League of Cities, the US Conference of Mayors, the National Community Development Association, the National Association of Clean Water Agencies, the American Water Works Association, and other similar organizations.
- We have a long history of developing broad-based, bipartisan coalitions on behalf of priority projects.
- We are non-partisan and pride ourselves in serving as a trusted and effective liaison between elected officials of differing political parties who have a common goal of serving their constituents. We have served communities and dealt with congressional delegations covering the entire political spectrum.
- CapitalEdge also uses this same idea to create and participate in coalitions that assist in forwarding the federal agendas of our clients.

We also have been active on issues of common interest to Texas cities, including working with the Texas Municipal League when appropriate, regarding common issues such as:

- Preservation of the language that protects the ability of Texas cities to charge rent for the use and management of public rights-of-way in the Internet Tax Freedom Act;
- Preservation of the Contract Tower Program and turning back a proposal to increase local cost share under the program;
- Increased sub-allocation of federal highway funds to the Regional Transportation Commission;
- Preservation of the tax exempt status of municipal bonds; and
- Preservation of core local government programs in a period of austerity, including CDBG, HOME, UASI, and local law enforcement assistance.

## City of Denton

## RFP for Supply of Federal Governmental Relations and Lobbying Services

CapitalEdge proposes to continue working with Denton as part of the Texas Cities Legislative Coalition, which also includes Arlington, Austin, and Dallas. This arrangement allows for a united voice on issues of common interest and helps keep the cost of services reasonable. CapitalEdge enjoys an excellent working relationship with the Texas congressional delegation and has built close ties during our many years of work. We also have strong ties with officials at key federal agencies of interest to local governments, including the Departments of Housing & Urban Development, Transportation, Justice and Homeland Security.

**Track Record on Behalf of our Clients**Legislative Solutions

- ✓ After the 2000 Census combined the Denton and Lewisville urbanized areas and increased the urbanized area population to over 200,000, rendering the City ineligible for federal transit operating assistance, CapitalEdge worked with the Denton congressional delegation, the relevant House and Senate Committee, the Federal Transit Administration, and other similarly impacted communities to secure federal operating assistance for Denton for several years up to and through the transition from a City-operated transit agency to the creation of DCTA. We took the lead in forming the coalition that ***successfully fought for the enactment of legislative language allowing for the continued use of federal transit formula grants for operating assistance in Denton*** and other similarly impacted communities.
- ✓ Working with Denton, other Texas cities, and the Texas congressional delegation, we helped preserve language that protects the City's ability to charge rent for the use and management of City rights-of-way in the Permanent Internet Tax Freedom Act.
- ✓ When a draft version of a surface transportation reauthorization bill proposed the elimination of some metropolitan planning organizations, including client cities, CapitalEdge worked with that client's congressional delegation to oppose that language, which was not included in the final bill signed by the President.

Regulatory Relief

- ✓ We worked with Denton, Dallas, and North Central Texas congressional delegation to ***turn back a Bureau of Land Management mineral lease proposal for land next to Lake Lewisville.***
- ✓ In recent years, cities have lost some zoning authority over collocation on existing towers through legislation and regulatory actions. CapitalEdge prepared comments in response to a Federal Communications Commission proposed rule regarding zoning approval for collocation of new equipment on existing cell phone towers. The comments filed by Texas 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.

## City of Denton

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Grants Assistance

- ✓ CapitalEdge has worked with the City's congressional delegation and relevant House and Senate Committees to fight back proposals to eliminate the Federal Aviation Administration Contract Tower Program, which funds staffing for the air traffic control tower at **Denton Enterprise Airport**. It would cost the City over \$1 million annually to staff the tower in the absence of the Contract Tower Program.
- ✓ CapitalEdge worked with Denton, Arlington, Dallas, other Metroplex cities, and other impacted cities to successfully lobby against proposals to eliminate the Department of Homeland Security Urban Area Security Initiative (UASI) program, which provides Metroplex cities with approximately \$14 million per year in flexible security assistance.
- ✓ CapitalEdge worked closely with the US Conference of Mayors, the National League of Cities, the National Association of Regional Council, and the Texas congressional delegation to secure increased sub-allocation of federal highway funds to the Regional Transportation Commission recently enacted surface transportation reauthorization bill, the FAST Act. Under the FAST Act, the **Denton-Lewisville Urbanized Area's annual allocation will increase from \$6.4 million in FY 2015 to \$7.9 million in FY 2020.**
- ✓ Over the course of one weekend in late 2015, a CapitalEdge client was inundated with over 20 inches of rain in 48 hours, resulting in widespread flood damage, including to the City's primary water treatment plant. CapitalEdge worked with the City's legislative delegation to secure supplemental CDBG-Disaster Recovery funding in the FY 2015 Omnibus Appropriations Act. We then worked with HUD and White House officials, to secure a direct CDBG-Disaster Recovery allocation of \$26 million to the City, ensuring that the State will not complicate or slow down recovery efforts.
- ✓ We ensure that our client cities are aware of all federal grant opportunities and work with their congressional delegation to ensure their applications receive all due consideration. The congressional earmark moratorium has limited the role of Congress in allocating grant funds; prior to the moratorium, the City received **\$4.5 million for capital improvements to Denton Enterprise Airport, \$3.2 million for the construction of the Euline Brock Downtown Denton Transit Center, and \$1.8 million for police technology.**

City Official Leadership

- ✓ CapitalEdge client city officials have served in a number of leadership positions in national organizations and we have helped staff them in that capacity. Our clients have served in the highest leadership positions at the United States Conference of Mayors, and the National League of Cities, including President. Other organizations that we work with closely include the National Community Development Association, the American Water Works Association, and Municipal Bonds for America. We have staffed them in many ways, including organizing lobbying trips, assisting them at national meetings, preparing

Exhibit A  
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background and talking points, and organizing educational seminars for congressional staff.

- b. **Describe the size of your company, and indicate the principal, company official(s), and other personnel who will be assigned to work on behalf of the City.**

CapitalEdge has 5 employees.

The principal CapitalEdge contact for Denton will be:

Ralph Garboushian  
1212 New York Avenue NW – Suite 250  
Washington DC 20005  
202-842-5430 (telephone)  
202-674-3027 (cell)  
202-842-5051 (fax)  
[ralphg@capitaledge.com](mailto:ralphg@capitaledge.com)

Joy Grewatz and Amy Jo Jacobsen will also continue to work with the City of Denton on a regular basis. In addition, Christopher Giglio and Niharika Pendurthi will be available to assist Denton as needed. Resumes for Ralph, Joy, Amy Jo, Chris, and Niharika are attached (Appendix I).

Ralph Garboushian

Ralph has been honing his skills on behalf of local governments since he joined CapitalEdge in 1995. In the decade that Ralph has worked for cities in Washington, his interests have varied broadly. He is the only person in Washington who has actually read all of the major local government legislation passed during his tenure, and he has developed special expertise in transportation. He has helped his clients secure funding for a wide array of projects and has helped them navigate legislative and regulatory challenges ranging from maintaining transit operating assistance for several clients, including Denton, after Census changes threatened it to ensuring the direct allocation of disaster recovery assistance to his client cities and

Ralph holds a B.A. from Skidmore College, where he was elected to Phi Beta Kappa, and a M.A. in Political Science from Syracuse University

Christopher F. Giglio

Chris has been providing advocacy and information services to local governments in Washington for over 20 years. During that time, he has worked with a wide variety of federal agencies, congressional offices and committees, and local government organizations to promote the priorities of his clients. Federal matters in which Chris frequently performs services for his clients include transportation, community development, public safety, the environment and water resources, human services, and job training. In recent years, Chris

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played an integral part in the creation of the Small Transit Intensive Cities (STIC) program in the 2005 SAFETEA-LU surface transportation law. The program provides additional federal transit funds to smaller communities that provide higher levels of transit services than their larger counterparts, and has assisted over 160 communities in 45 states and Puerto Rico since its inception. Chris was also involved on behalf of a client with the enactment of a [provision](#) the 2012 FAA Modernization and Reform Act that allows General Aviation Airports under certain circumstances to spend revenues derived from mineral rights on Airport property to be used for off-Airport transportation projects.

Chris has been with CapitalEdge since its inception in 1995. For the five years previous to that, he served as an Assistant City Representative at the National Center for Municipal Development, a non-profit advocacy organization formed by the U.S. Conference of Mayors and National League of Cities. In addition, Chris has worked on Capitol Hill on the staff of a former member of the U.S. House of Representatives, as well as the U.S. Senate Committee on Foreign Relations.

Chris holds a B.A. in Political Science from Williams College in Massachusetts and is a Past President of the Williams College Society of Alumni, unofficially regarded as the oldest college alumni association in North America.

Joy Grewatz

Joy joined CapitalEdge in 2010 and brought with her an extensive background in local government and a strong knowledge of urban policy issues. Joy uses her experience in federal government relations and municipal government to promote client interests with congressional offices and federal agency staff. Since joining the firm, Joy has distinguished herself as a policy expert on issues relating to homeland security and defense.

Prior to joining CapitalEdge, Joy began her professional career working for the City of Dallas, Texas. In her role as legislative coordinator, she assisted in successfully representing the City's interest before the Texas State legislature and Congress. The Office of Intergovernmental Services relied upon Joy to track legislation, draft timely correspondence, and research various legislative programs and issues.

Joy received her Master's Degree in Public Administration from the University of North Texas and a Bachelor of Arts in Political Science from the University of Texas at Arlington. She serves as a board member of the DC Chapter of Women in Transportation and is involved with various professional organizations including Women in Government Relations and the Texas State Society.

Amy Jo Jacobsen

Amy Jo joined the CapitalEdge team in 2008 fresh out of college with a desire to pursue a government-related career and serve others. Her interest in the political system was peaked



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at an early age when campaigning for or tagging along with her mother, a locally elected official.

Amy Jo performs a wide variety of activities on any given day at CapitalEdge, including drafting correspondence, scheduling meetings, researching issues and seeking grant opportunities. Her broad interests in urban affairs and ability to conquer the task immediately at hand serve the firm well.

During her college years, Amy Jo held a number of internships, ranging from a community bank and private law firms to the Consumer Protection Division in the Iowa Attorney General's Office. She opted to spend her final semester participating in the Capitol Hill Internship Program. The program entailed talking courses and working nearly full-time for a United States Senator, allowing her to gain valuable knowledge of the legislative process and begin learning how Washington operates.

Amy Jo earned a B.A. with Honors from Simpson College with a double major in Political Science and Corporate Communication.

Niharika Pendurthi

Niharika joined CapitalEdge in February 2016 as a Legislative and Grants Research Assistant. Niha's responsibilities include researching federal grant opportunities, tracking legislation, scheduling meetings for visiting clients, and contributing to the weekly newsletter.

Niha's interest in local governments began in 2013 when she served as a Research Assistant for the Economic Policy Research Institute (EPRI) in Cape Town, South Africa. As a member of EPRI's Savings and Investments Linkages Team, Niha researched how to promote financial inclusion in Cape Town's township communities. This experience introduced her to the importance of local policy initiatives. In June 2014, Niha was awarded \$4000 by the International Public Service Fund to conduct qualitative research on the roles of nonprofits and local governments in improving the rates of adolescent girl education in rural, eastern Uganda. Niha then applied her passion for advocacy in a domestic context through her internships at the White House Office of Presidential Correspondence and on Capitol Hill with the offices of Congressman John Delaney and the Senate Committee on Health, Education, Labor, and Pensions' Minority Health Team.

She is a cum laude graduate of Williams College with a Bachelor of Arts in Political Science with a concentration in Gender in Politics.

**17. Provide a narrative of the company's understanding of the Scope of Work and detailed proposal to meet the City's goals and priorities.**

CapitalEdge will provide the City of Denton with congressional relations services and will maintain regular contact with the Texas Senators and the City's House delegation and assure its presence and visibility in their considerations of priority issues and projects.



## City of Denton

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We will initiate and respond to requests for meetings, research, reports, consultation, and other activities on behalf of the City throughout the year. As needed we will meet with City elected officials and City staff to review City budgets and priorities in order to outline a federal program. Working from that program, CapitalEdge will represent the City's position to legislative and Administration officials and facilitate communication among them.

We will communicate on a regular basis, at least weekly, with the City's legislative liaison and reports will be provided weekly and as requested, including our Washington Report, which we distribute to City officials and staff each week Congress is in session (Appendix II). We will also work with the City on grants, on resolving issues with federal programs and regulations and on other tasks as required.

Federal Program Development

Since 1997, CapitalEdge staff has visited Denton at least once a year in order to discuss federal issues of interest with elected officials and City staff with the intention of developing a federal program for the coming year. The visits also have included CapitalEdge staff updating the City Council on federal matters in a public City Council meeting or work session and usually include visits to Denton neighborhoods to receive first hand updates on projects and priorities.

Following these visits, we assist City officials with the development of an annual Federal Program for the City based on the information acquired during the visit. This plan involves projects on the local level that would benefit from federal assistance (legislatively or through grants), legislative issues we anticipate the City would take a position on throughout the year, and policy on Executive Branch actions like proposed regulations at federal agencies that might affect Denton.

Certainly, unanticipated issues have come up after the visit, and through frequent contact with City staff, we address them in an effective and efficient fashion.

Advice and Advocacy on the City's Behalf

Early each year, we begin the process of advocating Denton priorities with both Congress and the Executive Branch. Over time, we have developed relationships with the offices of the Denton congressional delegation, which we believe is a crucial element in this process. With direct federal assistance to local governments declining in recent years as Congress focuses on deficit reduction, it is extremely important that the City's congressional delegation be unified (and heard) in support of local priority projects in what has become an extremely competitive atmosphere.

We have also provided the City with detailed background on a variety of federal issues so that the City can develop an informed decision in response to any inquiries while advocating their position. While we provide advice, information, and assistance, we have found in most cases that city officials are their own best lobbyists, and a well-timed, well-informed visit or

## City of Denton

## RFP for Supply of Federal Governmental Relations and Lobbying Services

telephone call from the Mayor or members of the City Council – coordinated through the city staff – can make the difference in the success of a project.

There are several instances throughout the year when it is necessary for the City to react quickly to legislation that is unexpectedly addressed in Congress. We anticipate these situations and assist the City in drafting letters and contacting the congressional delegation to advise them of the City's position prior to the vote.

Federal Information Services

The backbone of almost every successful lobbying effort includes the flow of accurate and timely information on the subject of interest. It is for this reason that we consider our federal information services as important as the advocacy services that we provide.

In coordinating support for Denton in Washington, we look to provide all the involved parties with as much information on a project as possible in a timely manner. This includes drafting letters of support from key City officials, talking points for the City official who is promoting the project, and the current status of the legislation or regulation that is of interest. We pride ourselves on our accessibility to our clients.

We also use all of the available resources, electronic and otherwise, to obtain the latest information from Congress and the Executive Branch. These resources include legislation, committee reports, hearing testimony, rules, regulations, and grant notices.

Rather than simply passing this information along to Denton with little or no explanation, we look to present it to City officials in a form that is timely and brief, informative and coherent, and provides recommended courses of action. Periodic email and telephone communication with Denton staff is the favored vehicle for such transmittals. In addition, our Washington Report, which we send to the City each week Congress is in session, outlines federal actions that may have an impact on the City.

Meetings such as the annual National League of Cities Legislative Conference in Washington also provides CapitalEdge the opportunity to update Denton officials on federal activities, including a formal briefing with other Texas cities, and annual visits to Denton often include presentations to the City Council in public meetings or work sessions.

CapitalEdge is committed to providing Denton with all of the information it needs to make informed decisions regarding federal policies. In order to present that information in the manner that work best for the City, we encourage and enjoy frequent communication with City officials.

Support for City Officials Traveling on Federal Business

CapitalEdge works to make Denton visits to Washington as effortless and as productive as possible. We participate in all aspects of the planning process, including suggesting and

## City of Denton

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making appointments with pertinent officials, providing background materials and talking points, itineraries, and strategies in preparation for the meetings, as well as logistical assistance with navigating around Washington.

CapitalEdge offices would also double as a Washington Office for the City of Denton. Located in downtown Washington, blocks from the White House and minutes from the Capitol, we provide a fully-equipped office that is available for use whenever Denton officials are in Washington. The office has telephone, fax, copying, word processing, and Internet services, as well as a conference room and office services staff that may be used by Denton officials.

- An important aspect of Denton visits to Washington is that they are scheduled at appropriate times in order to make the best use of City resources. There have been instances where we have recommended that Denton officials *not* make a trip to Washington, for a variety of reasons. Keeping track of the congressional schedule, having a daily feel of the political mood in Washington, and knowing whether the proper officials will be amenable to the City's argument all factor into these decisions.

Equally important to these visits by Denton officials is the follow-up with pertinent federal officials. CapitalEdge works with congressional staff and federal agency officials after a visit to provide them with the tools they need to successfully advocate on behalf of the City. In a situation such as the NLC conference, where so many communities are in Washington making their case at one time, such follow-up ensures that Denton priorities are not lost among the many requests these offices receive.

#### Performance Reports

As mentioned above in the "Federal Information Services" section, we use several vehicles to keep Denton up-to-date on our activities on your behalf, as well as providing you with timely and pertinent updates regarding matters in Washington.

These include the Washington Report, sent to the City each week Congress is in session. It covers events, activities, legislation, rulemakings, and funding opportunities in Congress and the Executive Branch that may be of interest to Denton and local governments in general.

In addition to an annual in-person visit to brief the City Council and city staff, CapitalEdge works with city staff on the federal items that are part of periodic intergovernmental affairs reports to the City Council.

In the same spirit of supporting the frequent flow of information to the city, CapitalEdge is pleased to provide any updates or reports that the City requires, whether they are formally included in the agreement or determined to be useful at a later date.

City of Denton

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National Organization Support

CapitalEdge staff has long-standing relationships with the main local government membership organizations in Washington, the National League of Cities (NLC) and US Conference of Mayors (USCM). Numerous clients have served in leadership positions of the organizations, and we attend both their legislative conferences and annual meetings each year. In addition, we have developed strong relationships with the staff for both groups, and they often call on us to provide them with input, support, or information on an issue.

Each year at the NLC legislative conference in March, in coordination with Denton city staff, we arrange and manage a comprehensive schedule for Denton officials in attendance. This includes a briefing with other Texas cities, assisting in preparing background and talking points on federal priorities; arranging meetings with the City's congressional delegation and pertinent federal agencies, and monitoring sessions at the conference that others may be interested in but not able to attend.

On the staff level, we attend periodic meetings of Washington Representatives of local governments hosted by USCM, NLC, and other similar organizations where common issues and strategies are discussed.

**18. Provide a written statement that the Consultant shall comply with all applicable local, state and federal laws, rules, and regulations.**

CapitalEdge Strategies, LLC shall comply with all laws, rules, and regulations of the United States, the State of Texas, the District of Columbia, the County of Denton, and the City of Denton.



Exhibit A  
City of Denton

RFP for Supply of Federal Governmental Relations and Lobbying Services

~~ATTACHMENT~~ REFERENCES

Please list three (3) Government references, **other than the City of Denton**, who can verify the quality of service your company provides. The City prefers customers of similar size and scope of work to this solicitation.

REFERENCE ONE

GOVERNMENT/COMPANY NAME: **City of Arlington, Texas**

LOCATION: **Arlington, Texas**

CONTACT PERSON AND TITLE: **Jennifer Wichmann, Administrative Services Manager**

TELEPHONE NUMBER: **817-459-6408**

SCOPE OF WORK: **Federal government relations**

CONTRACT PERIOD: **2008 - Present**

REFERENCE TWO

GOVERNMENT/COMPANY NAME: **City of Columbia, South Carolina**

LOCATION: **Columbia, South Carolina**

CONTACT PERSON AND TITLE: **Mayor Stephen K. Benjamin**

TELEPHONE NUMBER: **803-545-3038**

SCOPE OF WORK: **Federal government relations**

CONTRACT PERIOD: **1995 - Present**

REFERENCE THREE

GOVERNMENT/COMPANY NAME: **City of Dallas, Texas**

LOCATION: **Dallas, Texas**

CONTACT PERSON AND TITLE: **Brett Wilkinson, Intergovernmental Services Director**

TELEPHONE NUMBER: **214-670-5797**

SCOPE OF WORK: **Federal government relations**

CONTRACT PERIOD: **1995 - Present**

Exhibit A  
City of Denton

RFP for Supply of Federal Governmental Relations and Lobbying Services

~~ATTACHMENT~~ **CONFLICT OF INTEREST QUESTIONNAIRE**

<b>CONFLICT OF INTEREST QUESTIONNAIRE -</b>		<b>FORM CIQ</b>
<b>For vendor or other person doing business with local governmental entity</b>		
<b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b>		
<p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>		
<b>1</b>	<b>Name of vendor who has a business relationship with local governmental entity.</b>	
<b>2</b>	<input type="checkbox"/>	<p><b>Check this box if you are filing an update to a previously filed questionnaire.</b></p> <p>(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7<sup>th</sup> business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>
<b>3</b>	<b>Name of local government officer about whom the information in this section is being disclosed.</b>	
	<div style="text-align: center;">_____ Name of Officer</div>	



Exhibit A  
City of Denton

## RFP for Supply of Federal Governmental Relations and Lobbying Services

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

- A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐

Yes

☐

No

- B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐

Yes

☐

No

- C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐

Yes

☐

No

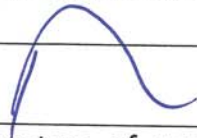
- D. Describe each employment or business and family relationship with the local government officer named in this section.

4

☒

I have no Conflict of Interest to disclose.

5

  
Signature of vendor doing business with the  
governmental entity

Date

10/2/2017

City of Denton

RFP for Supply of Federal Governmental Relations and Lobbying Services

~~ATTACHMENT F~~ ACKNOWLEDGEMENT  
XXXXXXXXXX

The undersigned agrees this submission becomes the property of the City of Denton after the official opening.

The undersigned affirms he has familiarized himself with the specification, drawings, exhibits and other documents; the local conditions under which the work is to be performed; satisfied himself of the conditions of delivery, handling and storage of materials and equipment; and all other matters that will be required for the work before submitting a response.

The undersigned agrees, if this submission is accepted, to furnish any and all items/services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specification. The period for acceptance of this submission will be 120 calendar days unless a different period is noted.

The undersigned affirms that they are duly authorized to execute this contract, that this submission has not been prepared in collusion with any other respondent, nor any employee of the City of Denton, and that the contents of this submission have not been communicated to any other respondent or to any employee of the City of Denton prior to the acceptance of this submission.

Respondent hereby assigns to the City any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

The undersigned affirms that they have read and do understand the specifications, all exhibits and attachments contained in this solicitation package.

The undersigned agrees that the solicitation package posted on the website are the official specifications and shall not alter the electronic copy of the specifications and/or pricing sheet (Exhibit 1), without clearly identifying changes.

The undersigned understands they will be responsible for monitoring the City of Denton Purchasing Website at: <http://www.cityofdenton.com/index.aspx?page=397> to ensure they have downloaded and signed all addendum(s) required for submission with their response.

I certify that I have made no willful misrepresentations in this submission, nor have I withheld information in my statements and answers to questions. I am aware that the information given by me in this submission will be investigated, with my full permission, and that any misrepresentations or omissions may cause my submission to be rejected.

Exhibit A

City of Denton

RFP for Supply of Federal Governmental Relations and Lobbying Services

Acknowledge receipt of following addenda to the solicitation:

Addendum No 1 Dated \_\_\_\_\_

Received \_\_\_\_\_

Addendum No 2 Dated \_\_\_\_\_

Received \_\_\_\_\_

Addendum No 3 Dated \_\_\_\_\_

Received \_\_\_\_\_

**NAME AND ADDRESS OF COMPANY:**

CapitalEdge Strategies, LLC  
1212 New York Avenue NW – Suite 250  
Washington DC 20005

Tel. No.: 202-42-5430

Email.: [ralphg@capitaledge.com](mailto:ralphg@capitaledge.com)

**AUTHORIZED REPRESENTATIVE:**

Signature \_\_\_\_\_

Date: October 2, 2017

Name: Ralph Garboushian

Title: Managing Member

Fax No.: 202-842-5051

**Ralph Garboushian**  
1212 New York Avenue, NW - Suite 250  
Washington, DC 20005  
(202) 842-5430 Fax: (202) 842-5051  
[ralphg@capitaledge.com](mailto:ralphg@capitaledge.com)

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## **PROFESSIONAL EXPERIENCE**

### **Managing Member, CapitalEdge Strategies, LLC**

*Washington, DC*

*January, 2010 – Present*

Principal of a consulting firm providing Washington advocacy assistance to local governments and their agencies that represents the concerns of the Texas Cities Legislative Coalition (Arlington, Austin, Dallas and Denton) and the cities of Columbia, SC; Huntsville, AL, and Sumter, SC. Service to clients falls into three basic areas:

*Legislative Branch:* liaison between the City and its Congressional delegation, analyzing both the positive and negative impact of relevant legislation, strategizing and mobilizing support for legislation of direct benefit to the city.

*Executive Branch:* facilitator for exploring grant opportunities and assisting the city through the process of application and review; monitoring regulations which affect the city; anticipating and communicating new program opportunities to the city; and cutting bureaucratic red tape.

*Washington Resources:* locator of private resources available in Washington to advance the city's efforts and increase its role and recognition nationally, including private organizations and foundations.

### **Legislative Associate, Barbara T. McCall Associates, Inc. / CapitalEdge Strategies, LLC**

*Washington, DC*

*May 1995 – December 2009*

Responsibilities included: identifying, researching and analyzing legislative, executive and administrative action regarding urban issues and recommend legislative strategies. Tracked federal grant opportunities and assist client cities through the grant application process. Prepared and contributed to weekly reports.

## **EDUCATION**

**BA, Government (Phi Beta Kappa)**, Skidmore College, Saratoga Springs, New York, May, 1992.

**MA, Political Science**, Maxwell School of Citizenship and Public Affairs, Syracuse University, Syracuse, New York, December, 1994.

**Christopher F. Giglio**  
1212 New York Avenue, NW - Suite 250  
Washington, DC 20005  
(202) 842-4930 Fax: (202) 842-5051  
[giglio@capitaledge.com](mailto:giglio@capitaledge.com)

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## PROFESSIONAL EXPERIENCE

***January 1995***

***Present***

**CapitalEdge, Washington, DC**

Managing Principal of a government relations firm specializing in federal advocacy for local governments and their agencies before Congress and the Executive Branch. Activities on behalf of clients include:

- Seeking Federal aid for City projects in areas such as transportation, flood control, law enforcement, housing, human services, and community and economic development
- Serving as liaison between clients and the U.S. Congress and federal agencies
- Assisting in the Federal grant application process
- Monitoring federal regulatory activity
- Crafting, advocating, and/or opposing Federal legislation
- Contributing and editing articles for weekly newsletter

***March 1990-***

***January, 1995***

**National Center for Municipal Development, Washington, DC**

Assistant City Representative for a public interest group that represents individual cities in Washington. Promoted from Staff Assistant in March, 1993. Performed legislative advocacy and Federal grants research on behalf of clients and assisted proposal writing and marketing of new clients. Duties included frequent contact with local elected officials, city staff, and congressional offices of client cities.

***September 1989-***

***March 1990***

**U.S. Senate Committee on Foreign Relations, Washington, DC**

Staff Assistant for the Majority Staff of the full committee. Duties included coordinating hearings, responding to constituent requests and correspondence, handling and organizing testimony, and communicating committee operations with staff of committee members.

***June-August 1988***

**U.S. House of Representatives, Washington, DC**

Staff Assistant in the Legislative Department of a former U.S. House Member from the State of Maryland. Responsibilities included answering constituent correspondence, performing legislative research and making contact with the local media.

## **EDUCATION**

### **Williams College, Williamstown, MA**

Graduated with Bachelor of Arts degree, June, 1989. Political Science major with a concentration in American Government.

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## **PROFESSIONAL EXPERIENCE**

### **Legislative Associate, CapitalEdge Strategies, LLC**

*Washington, DC*

*October 2010 - Present*

Responsibilities include: identifying, researching and analyzing legislative, executive and administrative action regarding urban issues and recommend legislative strategies. Track federal grant opportunities and assist client cities through the grant application process. Prepare and contribute to weekly reports.

### **Legislative Coordinator, Office of Intergovernmental Services, City of Dallas, TX**

*Dallas, TX*

*June 2008 – October 2010.*

Responsibilities include: identifying, researching and analyzing state and federal legislative action regarding urban issues. Track department budget throughout fiscal year. Provide direct oversight of administrative tasks for the department.

## **EDUCATION**

**BA, Political Science**, University of Texas at Arlington, Arlington, Texas, May, 2008.

**MA, Public Administration**, University of North Texas, Denton, Texas, August, 2010.



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*August 2008 - Present*

Responsibilities include: identifying, researching and analyzing legislative, executive and administrative action regarding urban issues and recommend legislative strategies. Track federal grant opportunities and assist client cities through the grant application process. Prepare and contribute to weekly reports.

### **Legislative Intern, Office of Senator Charles E. Grassley**

*Washington, DC*

*February 2008 - May 2008*

Responsibilities included: Drafting constituent reply mail, researching upcoming legislative issues, compiling appropriations data, leading tours of the Capitol and completing administrative tasks assigned by legislative staff to the Senator.

## **EDUCATION**

**BA, Political Science and Corporate Communications**, Simpson College, Indianola, Iowa, May, 2008.

Exhibit A

**Niharika Pendurthi**

1212 New York Avenue NW, Suite 250, Washington, D.C. 20005 | pendurthi@capitaleedge.com | 202-842-4930

**CapitalEdge***Legislative and Grants Research Assistant***Washington, D.C.***February 2016 – Present*

- Research federal grant opportunities for clients, track legislation, schedule Capitol Hill meetings for visiting clients, and contribute to weekly written reports.

**The White House***Office of Presidential Correspondence Intern  
(on leave from CapitalEdge)***Washington, D.C.***Aug. 2016 – Jan. 2017*

- Read and responded to over 300 letters a day from the American people on behalf of President Obama.
- Suggested and responded to letters included in President Obama's 10 Letters a Day, a sample of ten letters from the American people that President Obama requested to read nightly.
- Selected to write one of President Obama's 10 Letters a Day in the President's voice, that was reviewed by the Director of the Office of Presidential Correspondence, and read and hand-signed by President Obama himself.
- Processed potentially threatening correspondence sent to the President on behalf of the U.S. Secret Service using Salesforce.

**Senate HELP Committee, Ranking Member Senator Patty Murray's Health Office***Legislative and Communications Intern***Washington, D.C.***September 2015 – February 2016*

- Researched and wrote policy recommendations on ways to stop sexual assault and intimate partner violence on college campuses for the Senior Health Counsel.
- Designed and implemented the first electronic and hardcopy filing system for all official committee correspondence received by the Health Policy Office.
- Managed front office, greeted visitors, sorted mail, answered phones, prepared daily press clips, researched legislation using tools like CRS, Thomas, and LIS, wrote policy memos, and attended briefings and hearings for legislative staffers.

**Office of Congressman John Delaney (D-MD-6)***Legislative and Communications Intern***Washington, D.C.***July - September 2015*

- Greeted constituents, answered phones, sorted mail, completed flag requests, and processed and batched all incoming correspondences using Intranet Quorum.
- Prepared daily press clips and wrote constituent letters and policy memos for legislative staffers.

**Williams College Democrats***Volunteer***Williamstown, MA***July - November 2012*

- Called constituents through Obama for America to discuss President Obama's reelection platform.
- Called Massachusetts residents to advocate for Elizabeth Warren's Senate campaign.

**Pearl Community Empowerment Foundation (PCE)***International Public Service Fellow***Kampala, Uganda***June - August 2014*

- Awarded \$4000 by the Williams College International Public Service Fund to conduct qualitative research on the role of sponsorship programs in improving the rates of adolescent girl education in rural, eastern Uganda.
- Created an impact assessment of the Pearl Community Empowerment Foundation's sponsorship program from its starting date in January 2012 to present.

**Leadership****McDonald Cadet Leadership Conference (MCLC) at the United States Military Academy***Participant***West Point, NY***April 16 - 19 2015*

- One of two Williams students selected to attend the annual conference hosted by the Secretary of Veterans Affairs, Bob McDonald, that brings student leaders together with world-class leaders to discuss current global issues.
- Wrote and published an op-ed for the New York Times' Leadership section titled, "To confront labor shortages, international businesses must utilize technology, education, and cross-cultural strategies", in collaboration with Secretary McDonald and six other students.

**Academics****Williams College**

- Bachelor of Arts, Political Science (*cum laude*)

**Williamstown, MA***September 2011 - June 2015*

# TEXAS CITIES LEGISLATIVE COALITION

Volume 23, Issue 4  
January 27, 2017



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## EXECUTIVE ORDERS FOCUS ON CAMPAIGN PROMISES

### EXECUTIVE ACTIONS

President spends busy first week issuing directives addressing campaign promises. In his first full week as President, Donald Trump used the power of his pen to make several high-profile orders designed to address issues he had stressed during his campaign. While the effectiveness of these orders is in question, they have established the President's intent to move quickly on matters of interest, and in some cases, attempt to bypass Congress.

The orders came in the form of Executive Orders and Presidential Memoranda, the differences between the two being relatively minor and both hold the force of law over the Executive Branch.

Executive Orders included:

- Construction of a wall along the U.S.-Mexican border (Congress must appropriate the funds for the multi-billion-dollar project),
- Enforcement of federal immigration law, including withholding federal funding to so-called "sanctuary cities" (see related story below),
- Expedite environmental reviews and approvals for infrastructure projects designated as "high priority" by the White House (Presidents Obama and Bush issued similar Orders but had limited success in accelerating the National Environmental Protection Act process), and
- Allow federal agencies to "minimize... the burdens" of the Affordable Care Act pending repeal by Congress (there is much debate over how much impact this will have).

Presidential Memoranda included:

- Streamlining permitting and reducing regulatory burdens for domestic manufacturing facilities,
- Allowing construction of the Dakota Access and Keystone XL pipelines,
- Requiring "Buy America" provisions regarding construction of American pipelines (this may violate World Trade Organization rules, however),
- Freezing all non-defense related federal hiring,
- Withdrawal of the United States from the Trans-Pacific Partnership negotiations and agreement,
- Prohibiting federal funding for international organizations that provide abortion counseling, and
- Freezing all new and pending federal regulations pending review.

Between the two, it appears that the Presidential Memoranda will have more of an immediate impact than the Executive Orders, as many address Obama Administration actions that required no congressional involvement.

In addition to the Orders and Memoranda, The Trump Administration has also undertaken less formal administrative actions, such as the instructions to the Environmental Protection Agency to temporarily prohibit the awarding of grants or contracts. Reports are that the EPA freeze could be lifted as early as today.

Meanwhile, Congress continues to consider the President's nominees for Cabinet positions. Thus far, James Mattis at Defense, John Kelly at Homeland Security, Mike Pompeo at the CIA, and Nikki Haley at the United Nations have been confirmed by the Senate. Elaine Chao at Transportation, Ben Carson at HUD, and Wilbur Ross at Commerce appear to be next in line for Senate floor consideration.

While Senate Democrats are taking all their allotted time in vetting the Trump nominees and questioning them rigorously in hearings, it does not appear that any of his slate will have trouble ultimately being approved. Republicans hold a 52-48 majority in the Senate, and nominees will not need 60 votes for approval due to a 2013 rule change in that chamber that prevents filibusters of Cabinet appointees.

## INFRASTRUCTURE

Senate Democrats propose \$1 trillion infrastructure plan; Chao confirmation close. Senate Democrats offered a plan this week to spend \$1 trillion in direct federal spending on transportation and other infrastructure projects over 10 years. The proposal is designed as early engagement with President Trump, whose own \$1 trillion infrastructure plan is said to rely heavily on tax breaks for private investment, as opposed to direct federal spending.

The Democrats' plan does not provide specifics on revenue to fund the proposal, nor does it name specific projects to fund. Some of the sixteen spending categories in the plan include:

- \$100 billion for roads and bridges,
- \$100 billion to "revitalize America's Main Streets",
- \$10 billion for the TIGER discretionary grant program,
- \$110 billion for water and sewer systems,
- \$50 billion for modernizing rail infrastructure,

- \$130 billion for repairing and expanding transit,
- \$30 billion for improving airports,
- \$10 billion for ports and waterways, and
- \$100 billion for 21<sup>st</sup> Century Energy Infrastructure.

The proposal is not expected to garner much support from congressional Republicans, although key GOP legislators have endorsed the idea of direct federal spending, just not \$1 trillion. In addition, the idea of using "repatriated" funds from the return of U.S. company profits currently overseas also has some support among Republicans, although that debate would be part of a larger, more complicated comprehensive overhaul of the tax system. Additional information on the Senate Democrat plan can be found here:

<http://bit.ly/2ka02XU>.

In a related event, the existence of a list of 50 large-scale infrastructure projects across the country is being reported by news outlets this week. The list appears to have been compiled by the National Governors' Association and presented to the Trump transition team in December. Trump transition officials denied seeing the list earlier this week, while congressional sources claim that the list has been circulating among the Trump team. Look at the list here if you wish, but please do not consider it to be endorsed by the Trump Administration or Congress:

<http://bit.ly/2kBoLWd>.

## President Remarks on Infrastructure

For his part, Trump is reportedly unhappy that House Speaker Paul Ryan (R-WI) did not include infrastructure in his priorities for the "first 200 days" of the 115<sup>th</sup> Congress. At a GOP congressional retreat this week, Trump mentioned that he wants to fix existing infrastructure first before diving into new projects:

"Our infrastructure is in serious trouble. We will build new roads and highways and tunnels and airports and railways across the nation. We will fix our existing product before we build anything brand new, however. We have to fix what we have. It's a mess. So we're going to fix it first. The thing I do best in life is build. We will fix it first 'cause we have a lot of things that are in bad shape."

Senate Panel Approves DOT Nominee

Meanwhile, the Senate Commerce, Science and Transportation Committee approved the nomination of Transportation Secretary-nominee Elaine Chao this week by voice vote. The full Senate is expected to vote on the nomination of Chao on January 31, and she should be approved easily, if not unanimously. Chao will be central to Trump's infrastructure plans.

**IMMIGRATION & FEDERALISM**

Trump issues Executive Order targeting 'sanctuary' cities. In an effort to quickly fulfill a campaign promise, President Trump signed an Executive Order this week designed to expedite the deportation of certain classes of undocumented immigrants and to punish state and local governments that he argues obstruct federal immigration authorities.

Titled Enhancing Public Safety in the Interior of the United States, the Order's stated purpose is to: "Direct federal executive departments and agencies to employ all lawful means to enforce the immigrations laws of the United States."

It follows that statement by arguing that although federal law provides a framework for federal-local cooperation, the "federal government has failed to discharge this basic sovereign responsibility". Expanding blame beyond federal agencies, the Order argues that:

"Sanctuary jurisdictions across the United States willfully violate federal law in an attempt to shield 'aliens' from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic".

Specific policies outlined in the Order include:

- Directing federal agencies to "employ all lawful means to ensure the faithful execution of the immigration laws of the United States";
- Prioritizing the removal of undocumented immigrants who are criminals and of new arrivals who do not have permission to enter the United States, including refugees and people seeking political asylum;
- Ordering the Department of Homeland Security to issue guidance and promulgate regulations to ensure the assessment and collection of all fines and penalties from undocumented

immigrants that are authorized by law;

- Hire 10,000 new immigration and customs officers, subject to available appropriations;
- Eliminating the Obama Administration's Priority Enforcement Program and reinstating the Bush Administration's Secure Communities Program;
- Directing the Attorney General and the Secretary of Homeland Security to designate 'sanctuary jurisdictions' and withhold federal grants from those jurisdictions;
- Directing the Secretary of Homeland Security to compile and make public, on a weekly basis, a comprehensive list of criminal actions committed by undocumented immigrants and any jurisdiction that ignored or otherwise failed to honor federal immigration detainers with respect to those undocumented immigrants;
- Directs the Office of Management and Budget to obtain and provide relevant information about federal grant funds received by any 'sanctuary' jurisdictions;
- Creates an Office of Crimes Committed by Removable 'Aliens' within Immigration and Customs Enforcement charged with assisting victims and providing quarterly reports about the "effects of victimization" of crimes committed by undocumented immigrants;
- Directs the Secretary of Homeland Security and the Attorney General to collect data and provide quarterly reports on the immigration status of all undocumented immigrants incarcerated by federal, state, and local prisons and jails;
- Directs the Attorney General and the Secretary of Homeland Security to develop and implement a program that ensures that adequate resources are devoted to the prosecution of criminal immigration offenses and to develop a strategy to reduce violent crime and the reach of transnational criminal organizations in the United States;
- Directs the Secretary of Homeland Security and the Secretary of State to discontinue granting visas to nationals of a country denying or delaying accepting an undocumented immigrant who is a citizen or national of that country upon the request of the United States, as appropriate; and



- Directs the Secretary of State to ensure that diplomatic efforts and negotiations with other countries include as a condition the acceptance by those foreign states of their nationals who are subject to removal from the United States.

The Order drew strong rebukes from local elected officials and from human rights and immigrant advocacy organizations. In addition, some legal experts questioned the extent to which the Administration will be able to fulfill some of the policy goals outlined in the Order. For example, hiring 10,000 new immigration and customs officers can only happen if Congress appropriates funding for immigration and customs agencies that accommodates that level of staffing. At a more complicated level, many legal experts question whether taking punitive actions against 'sanctuary' jurisdictions will stand up to legal challenges. (Indeed, some legal experts argue that provision of law cited in the Executive Order, 8 USC 1373, might itself not pass Constitutional muster.) In addition, many critics argue that this Executive Order, like the others the White House issued this week, was prepared hastily without input from relevant agencies and other experts, making it more vulnerable to legal challenges and generally more difficult to translate into concrete policy outcomes.

Nevertheless, the Executive Order could create challenges for local governments. For example, even if the punitive actions the Order outlines against 'sanctuary' jurisdictions are eventually struck down by the Courts, in the short term local governments could face the loss of federal grants. The Order gives the Secretary of Homeland Security and the Attorney General broad latitude to determine which jurisdictions are not complying with 8 USC 1373. In addition, it does not make clear which grants would be withheld from those jurisdictions they dub as 'sanctuary' jurisdictions. So, in the short term, while cases are making their way through the Courts, cities could face a sudden loss of federal grants. Even if Courts granted stays, the process could create considerable uncertainty in local government budgeting.

It is important to note that under the Executive Order, participation in Secure Communities remains voluntary (as was participation in the Priority Enforcement Program). In addition, under the Executive Order, the federal government still cannot compel any local government to have their police officers perform the duties of federal immigration officers. Any such program requires a written agreement and the full consent of the local government.

The White House posted the Executive Order on its website:

<http://bit.ly/2jybzNG>.

A detailed summary of the Executive Order:

<http://bit.ly/2kayDFe>.

### TELECOMMUNICATIONS

Preemption threat avoided in Senate for now, but the challenges to local authority are just getting started. The Senate Commerce, Science, and Transportation Committee approved a spectrum reallocation legislation (S 19 – The Mobile Now Act) this week. The bill is similar to legislation that the Committee approved last year. Facing a packed agenda that included several bills, approving the Committee's rules and subcommittee assignments, and voting on two cabinet appointments, the Committee did not take up many amendments.

So, Senator Dan Sullivan (R-AK) did not offer his amendment to preempt local zoning and rights-of-way management authority over cell phone facilities. However, Sullivan reportedly plans to offer his amendment when the Senate takes up S 19. Local government concerned about the amendment should plan on contacting their senators ahead of that vote; this office will give notice when that happens.

The Sullivan Amendment is similar to language that was included in the first discussion drafts of the bill that the Committee approved last year. The preemption language was taken out of last year's bill before it was formally introduced.

The Sullivan Amendment would:

- Significantly expand the Communication Act's standard regarding "unreasonable discrimination", which prohibits local governments from treating providers differently, to preempt any local requirements that have the effect of prohibiting the provision of wireless service or the ability of "any entity to provide any service in support of personal wireless service",
- Impose the most conservative interpretation of the FCC's "shot clocks", which require local government action on a permit application for the placement of wireless infrastructure within 60 days, and apply it collectively to all proceedings required for the approval of the

request, with all applications deemed granted if the local government fails to meet that deadline,

- Preempt local government ability to require removal or replacement of wireless facilities due to “the passage of time” or “the availability of alternative technology or design”,
- Prohibited local government from requiring information to evaluate a provider’s claim that there is “gap in coverage” when evaluating an application for wireless infrastructure placement, and
- Prohibit local governments from governing the size or placement of emergency backup power systems that comply with federal and state environmental regulations.

The Sullivan Amendment comes a few weeks after the Federal Communications Commission (FCC) issued a notice inviting comments on how the Commission might preempt local authority to help spur wireless deployment. The FCC action, the Sullivan Amendment, and preemption efforts in several states signal that industry has launched a multipronged attack on local authority that will pose a major challenge to local governments in the coming months and years.

The extent of that challenge grew when President Trump this week appointed FCC Commissioner Ajit Pai as Chairman of the Commission. Since he has already been approved by the Senate, Pai takes up his position as Chairman immediately. In addition, he will have a 2-1 majority, meaning that he will be able to move his agenda relatively easily. (There are two vacancies on the Commission, one Republican and one Democratic.)

Most media reports about Pai’s appointment have focused on his opposition to recent FCC policies enacted by its then Democratic majority, included rules regarding network neutrality, Internet privacy, and the expansion of the Lifeline Program to direct billions of dollars to broadband access at schools and libraries. However, Pai, whose resume includes a stint as Associate General Counsel at Verizon and as a staff person for the Senate Judiciary Committee, has also regularly expressed strong opinions that local government regulations are a barrier to broadband and advanced wireless deployment and that the Commission must act strongly to preempt local government authority to manage public rights-of-way and other locally-owned infrastructure and to collect compensation for their use and management.

His official biography on the FCC website (<http://fcc.us/2kCdEfs>) includes a statement about his general views on local government authority:

It [the FCC] must create a roadmap for state and local governments so that companies that want to compete in the broadband market don’t have to jump through unnecessary regulatory hoops in order to lay fiber to consumers. It must promote common-sense policies like “Dig Once” and reform pole attachment rules to reduce the costs of building digital networks. It must streamline the process for deploying wireless infrastructure, from big towers to small cells.

In a speech to the Competitive Carriers Association last September (<http://fcc.us/2jFRUvc>), Pai expanded on these views, laying out specifically how the Commission should act to preempt local governments:

*First*, the FCC must aggressively use its legal authority to make sure that local governments don’t stand in the way of broadband deployment. That means taking a fresh look at section 253 of the Communications Act and preempting state and local regulations that prohibit or have the effect of prohibiting the provision of service. It means looking at section 332(c)(7) of the Communications Act and section 6409 of the Spectrum Act, where Congress clearly and specifically granted the Commission the power to remove barriers to infrastructure deployment.

It’s time for us to fully use those authorities to preempt barriers to broadband deployment. For example, the FCC has already established a shot clock within which local governments are supposed to review wireless infrastructure applications. But if a city doesn’t process the application in that timeframe, a company’s only remedy is to file a lawsuit. We should give our shot clock some teeth by adopting a “deemed-grant” remedy, so that a city’s inaction lets that company proceed.

*Second*, the FCC needs to reform its rules governing pole attachments. We need to bring down the costs that ISPs currently pay to attach fiber, coax, and other infrastructure to utility poles. We should exclude capital expenses from the



pole attachment formula and re-examine the reasonableness of costs charged by pole owners for preparing poles, ducts, conduits, and rights-of-way for pole attachments. And where our authority is lacking—say, poles owned by governments or railroads—Congress should expand it.

*Third*, the FCC should develop a model code for cities and towns that want to encourage broadband deployment and competitive entry. To do this, we should establish a new advisory committee, a Broadband Deployment Advisory Committee, and ask it to draft for the Commission's consideration a model code covering local franchising, zoning, permitting, and rights-of-ways regulations. Its approach should be forward-looking. It should recommend to the FCC an appropriate shot clock for local action. It should consider what fees are reasonable. It should recommend allowing ISPs to hire certified, private safety inspectors to speed up the work of deployment. It should examine how to ensure new entrants get speedy access to poles and conduit. It should identify categories of deployments, particularly wireless, for which there should be minimal regulatory hoops for providers to jump through.

*Fourth*, it's time for the federal government to do its part to speed up the deployment of broadband on federal lands.

*Fifth*, we must make "dig once" a central tenet of our nation's transportation policy. The concept is simple enough: Every road and highway construction project should include the installation of the conduit that can carry fiber optic cables. This step could go a long way in lowering the cost of broadband deployment.

## GRANTS & NOTICES

### Department of Commerce

The National Institute of Standards and Technology released proposed updates to Cybersecurity Framework:

<http://bit.ly/2ePWDZM>

### Department of Housing and Urban Development

HUD announced the expansion of the Moving to Work demonstration program to support public housing agencies:

<http://bit.ly/2j3meSJ>

### Department of Justice

The Bureau of Justice Assistance announced the availability of \$7 million for its FY 2017 Comprehensive Opioid Abuse Site-based Program. Applications are due April 25:

<http://bit.ly/2jxdynC>

### 100 Resilient Cities

100 Resilient Cities released the report titled, "Catalyzing the Urban Resilience Market" on water management, big data management, innovative financing, and technologies for community engagement:

<http://bit.ly/2jmuqdt>

### American Legion Child Welfare Foundation

The American Legion Child Welfare Foundation is seeking applications for its competitive grant program to award grants to child welfare organizations to disseminate information about new programs to benefit children. Applications are accepted on a rolling basis:

<http://bit.ly/1UcX01C>

### US Conference of Mayors

The Conference of Mayors announced the availability of \$3 million through its CommunityWINS Grant Program to provide grants to nonprofits to promote long-term economic prosperity and wellness in communities. Applications are due March 17:

<http://bit.ly/1Qx9ZXc>

### US Water Alliance

The US Water Alliance is seeking applications for the 2017 US Water Prize competitive grant program that will award five prizes to organizations and individuals to advance water resource management strategies. Nominations are due March 8:

<http://bit.ly/1MSPgPF>

# TEXAS CITIES LEGISLATIVE COALITION

Volume 23, Issue 17  
May 26, 2017



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## TRUMP ISSUES DETAILED FY 2018 BUDGET

### CONGRESS

Legislative agenda faces many hurdles. Congress enters its summer months far behind the schedule that both the White House and congressional leadership had hoped to achieve by now. While the gridlock is not unusual, particularly for the last several years, Republicans leaders had hoped that having a Republican in the White House again would smooth passage of their agenda.

Reasons for the lack of output range from investigations into presidential campaign activities, delays in filling important Executive Branch jobs, internal disagreements among Republicans in Congress, and a closely divided Senate where Democrats can block consideration of many bills. Some of the high-level issues include:

#### Health Care

Republicans are using a parliamentary procedure known as "reconciliation" to speed approval of the repeal of the Affordable Care Act. However, the measure recently approved by the House would not pass the Senate even by a simple majority if a vote were held today. A group of GOP Senators is reportedly working on an alternative but there is not much confidence that consensus can be achieved. A Congressional Budget Office estimate that 23 million would be uninsured if the House-approved bill became law did not help advocates of that measure. Democrats have thus far been excluded from talks in the Senate.

#### Tax Reform

Tax reform has been the ultimate goal for House Speaker Paul Ryan (R-OH), and he and his caucus had hoped to approve health care first in order to reap the benefits of the hefty tax cuts in the ACA repeal measure. If the health care measure were to become law, it would include \$1 trillion in tax cuts that would not have to be offset in a separate tax bill. While the House Ways and Means Committee appears to be close to unveiling a bill, its future is unclear, as its centerpiece offset is expected to be a "Border Adjustment Tax," or tax on imports, that the White House has publicly opposed. Some Members of Congress now openly talk about not completing tax reform until 2018.

*Congress is in recess next week; we will send the next issue of the weekly report on June 9.*

Infrastructure

The President this week released a brief outline of what he sees to be the main components of a ten year, \$1 trillion infrastructure plan. As expected, the focus would be on private investment, with only about \$200 billion in federal spending included. White House officials are hoping to send some legislative proposals to Congress in the fall. The issue appears to be stuck in line behind health care and tax reform even though many observers believe that infrastructure might be the President's best path to a legislative victory. See related story below.

Budget

The only true "must pass" legislation each year, approval of an FY 2018 budget prior to the start of the new fiscal year on October 1 appears to be a near impossibility. President Trump has proposed a FY 2018 budget that includes deep cuts to domestic discretionary programs that are likely to be unacceptable to Congress and he has indicated that a government shutdown in the fall might be necessary to accelerate changes in the current congressional system (most believe he was referring to the 60 votes necessary to break a filibuster in the Senate). Add to that the specter of a battle between the White House and conservative House Republicans over an increase in the debt limit, and chances for an easy budget season have been extinguished. See related story below.

Both the House and Senate are in recess for Memorial Day week and both will return to Capitol Hill the week of June 5.

**BUDGET**

White House releases detailed FY 2018 budget request. The Trump Administration unveiled a detailed FY 2018 budget request this week, and there were few surprises in the document that builds on the budget outline the White House released in March.

The budget proposal recommends steep cuts, and even elimination, for a number of non-defense discretionary programs in order to fund a proposed \$54 billion increase in Defense Department programs. Among those programs and agencies marked for elimination include:

- Community Development Block Grant program at HUD,
- HOME Investment Partnerships program at HUD,
- Economic Development Administration at Commerce,
- National Corporation for National and Community Service (AmeriCorps),
- National Endowments for the Arts and Humanities,

- Low Income Home Energy Assistance Program at HHS,
- Community Services Block Grant at HHS,
- TIGER Discretionary grant program at DOT,
- State Criminal Alien Assistance Program at Justice,
- Legal Services Corporation at Justice,
- Institute of Museum and Library Services, and
- Corporation for Public Broadcasting.

Only three federal departments would receive increases in the Trump proposal – Defense (+9%), Homeland Security (+7%), and Veterans' Affairs (+6%). The hardest hit agencies would be EPA (-31%), State (-29%), and Agriculture and Labor (-21% each).

The Budget also outlines \$1.7 trillion in cuts to entitlement programs over the next decade. It assumes the passage of the House-passed health care bill, resulting in turning Medicaid into a block grant for savings of \$610 billion over 10 years, plus another \$250 billion in reduced health care spending from reduced subsidies.

Other cuts over the next decade would include \$193 billion for Food Stamps (with those costs passed on to the states), \$22 billion in Temporary Assistance for Needy Families, and the elimination of contributions from Fannie Mae and Freddie Mac profits to the Housing Trust Fund and the Capital Magnet Fund for a savings of \$2.8 billion.

Response to the Trump budget proposal from Congress ranged from outrage (from Democrats) to concern (from Republicans). It is not likely that all of the President's recommendations would become law. However, that does not mean that endangered programs are out of the woods. Pressure to stay below pre-determined budget caps will make it difficult for Congress to fund all programs at or near their current levels.

Partisan differences, combined with a very slow start to the FY 2018 budget season makes it highly unlikely that all 12 appropriations bills that compose the budget will be considered individually by the House and Senate. In fact, some Republican appropriators are already promoting moving a 12-bill "omnibus" appropriations bill prior to the August recess. While the House could go that route, it would likely include some objectionable cuts to domestic discretionary programs and face a tough road in the Senate.

On top of that, the White House budget office has

indicated that Congress may need to consider an increase in the debt limit prior to August. House conservatives have threatened to withhold their vote for a debt limit increase unless federal spending is sharply reduced. Without those votes, House GOP leaders would have to rely on Democrats to raise the debt limit, giving that group leverage that the minority party usually does not enjoy in the House.

## INFRASTRUCTURE

DOT budget request includes outline of infrastructure package. The President's FY 2018 budget proposal for the Department of Transportation (DOT) adhered to the same recommendations the White House outlined in March and added a six-page outline of a \$1 trillion infrastructure package that would include \$200 billion in direct federal spending over the next 10 years.

The DOT budget proposal would honor the FAST Act authorized funding levels for highway and transit programs, equating to approximately a 2% increase over current levels. As expected the budget focuses its suggested cuts on DOT programs funded outside of the Highway Trust Fund, including elimination of the popular TIGER discretionary grant program, the Capital Investment Grant Program (New Starts/Small Starts), the Essential Air Service Program at FAA, Restoration Enhancement grants at FRA, and funding for Amtrak long-distance routes.

The DOT budget also proposes funding levels for new intercity rail grant programs created by the FAST Act well below their authorized levels, including \$25 million for the Consolidated Rail Grants Program (authorized at \$230 million) and \$26 million for the Good Repair Partnership Grants Program (authorized at \$175 million).

In another nod towards privatization, the FY 2018 budget outlines a plan to transfer responsibility over air traffic control from the FAA beginning in 2021. House Transportation & Infrastructure Committee Chairman Bill Shuster (R-PA) was pleased to see this proposal included, as his plans to privatization air traffic control have been met with resistance by his House and Senate colleagues.

Congress is not expected to go along with the proposed cuts to DOT, similar to its reaction to the President's FY 2017 proposals.

President's Infrastructure Initiative Short on Details. While the President rolled out his much anticipated Infrastructure Initiative in the budget proposal, it was little more than a set

of principles. Transportation Secretary Elaine Chao said the Administration will be sending a legislative package to Congress later this year. The Administration indicated that it will be reevaluating the role for the Federal government in infrastructure investment, since they do not believe that more Federal funding is the solution, and that emphasis should be placed on incentives, procedures, and policies to spur better infrastructure decisions.

While the 2018 budget suggests \$200 billion over the next ten years for the infrastructure initiative, the funds are to be used for incentivizing non-federal funding to bring total investments to the \$1 trillion number the White House has touted. The following are some "Key Principles" outlined in the Infrastructure Initiative Fact Sheet:

**Make Targeted Federal Investments.** Focusing Federal dollars on the most transformative projects and processes stretches the use and benefit of taxpayer funds.

**Encourage Self-Help.** Localities are better equipped to understand the right level – and type – of infrastructure investments needed for their communities.

**Align Infrastructure Investment with Entities Best Suited to Provide Sustained and Efficient Investment.** The Federal Government provides services that non-Federal entities, including the private sector, could deliver more efficiently. The Federal Government can also be more efficient about disposing underused capital assets.

**Leverage the Private Sector.** The private sector can provide valuable benefits for the delivery of infrastructure, through better procurement methods, market discipline, and a long-term focus on maintaining assets.

Examples of funding proposals the Administration will be pursuing in the Infrastructure Initiative are the following:

- Expand the TIFIA program at DOT,
- Lift the cap on private activity bonds,
- Incentivize innovative approaches to congestion mitigation,
- Liberalize tolling policies,
- Fund the Water Infrastructure Finance and Innovation Act program at EPA,
- Encourage the use of Army Corps of Engineers Contributed/Advanced Funding Authorities, and
- Streamlining the environmental review and permitting processes.



The push for infrastructure privatization does not sit well with either Democrats or Republicans. Republicans were more muted in their responses, but made it clear that the President's Infrastructure Initiative is only a starting point and that Congress will have their own set of ideas.

A link to the Infrastructure Initiative Fact Sheet is below:

<http://bit.ly/2rdFhiv>.

## IMMIGRATION

It was a busy week for those tracking the issue of so-called 'sanctuary' jurisdictions. On Monday, Attorney General Jeff Sessions issued a memo regarding enforcement of Executive Order 13768. Two days later, the Administration released a FY 2018 Budget proposal that includes legislative language that would significantly expand the role of local law enforcement in immigration enforcement. The next day, the House Judiciary Committee approved legislation (HR 2431) that includes provisions similar to those proposed by the Administration.

In the memo released on Monday, Sessions backtracks considerably from previous statements made by the Trump Administration. The memo appears to have been written with an eye to pending Court challenges to Executive Order 13768, Enhancing Public Safety in the Interior of the United States, which the Administration issues in January, a few days after President Trump took office. The Executive Order's stated purpose is to: "Direct federal executive departments and agencies to employ all lawful means to enforce the immigrations laws of the United States." A central goal of the Executive Order is to direct the Department of Justice and the Department of Homeland Security to identify and punish, through the withholding of federal grants, so-called 'sanctuary jurisdictions'.

In the memo, Sessions concedes that only jurisdictions that "willfully" refuse to comply with 8 USC 1373 will be labeled a 'sanctuary jurisdiction' subject to penalty under the Executive Order. That statute simply prohibits state and local governments from restricting communication between local law enforcement and federal immigration authorities. In addition, the memo clearly states that only grants funds from the Department of Homeland Security and the Department of Justice can be withheld from a jurisdiction labeled a 'sanctuary jurisdiction' under the Executive Order. The memo is clearly designed to help the government's case in the lawsuit filed against the Executive Order, which is pending in District Court in California. Nevertheless, the memo closes on a more defiant note, stating:

"While the Executive Order's definition of 'sanctuary jurisdiction' is narrow, nothing in the Executive Order limits the Department's ability to point out ways that state and local jurisdictions are undermining our lawful system of immigration or to take enforcement action where state or local practices violate federal laws, regulations, or grant conditions."

Two days after the memo was issued, the Administration released its FY 2018 Budget Proposal. Buried deep in the Appendix to the FY 2018 Budget Proposal is proposed legislative language that would significantly expand the scope of 8 USC 1373 to require local law enforcement to take a much more proactive approach to collecting and transmitting information about immigration status and to enforcing federal immigration laws.

Perhaps of most concern to local governments, the proposed language would expand 8 USC 1373 to condition all Justice and Homeland Security grants on not prohibiting a local government entity, official, or employee from inquiring into or verifying information of any individual in custody or suspected of violating the law. In addition, it would expand the scope of the law from communications regarding citizenship or immigration status between local and federal authorities to "the nationality, citizenship, immigration status, removability, scheduled release date and time, home address, work address, or contact information, of any individual in custody or suspected of a violation of law." In addition, the proposed language would condition grants on maintaining custody of a person subject to an immigration detainer for 48 hours, a provision that could force local authorities to risk violating the 4<sup>th</sup> Amendment's prohibition against warrantless detention.

Also this week, the House Judiciary Committee completed a contentious markup of legislation (HR 2431) that would authorize increased funding and staffing for federal immigration enforcement and would generally make it easier for federal immigration authorities to detain and deport people. The Committee approved the bill by a party line vote of 19-13.

Title I of the bill is title "Immigration Law Enforcement by States and Localities" and the entirety of that title focuses on that issue. In what could be a troubling intrusion into federalism, the bill would allow state and local governments to enact, implement, and enforce criminal penalties for being in the United States without

documentation, as long as those criminal penalties do not exceed relevant federal criminal penalties. The bill would also allow state and local law enforcement to investigate, identify, apprehend, arrest, detain, or transfer to federal custody people in the United States without documentation. The bill would also require that violators of immigration law be listed in the National Crime Information Center Database, regardless of whether they are suspected of or have committed another crime.

It would also significantly expand the information that state and local law enforcement must provide to federal immigration authorities under 8 USC 1373 regarding undocumented persons in their custody, including:

- Name,
- Address,
- A physical description,
- The date, time, and location of the encounter and reason for stopping, detaining, apprehending, or arresting the person,
- Driver's license number,
- The type and number of any other identification document,
- License plate number of the person's car, if applicable,
- A photo if available or readily obtainable, and
- Fingerprints, if available or readily obtainable.

The bill requires the federal government to reimburse state and local governments for all reasonable costs of providing such information but does authorize funding to do so or define what would constitute reasonable costs.

Similar to the language proposed by the Administration in its Budget, HR 2431 would also expand the scope of the law from communications regarding citizenship or immigration status between local and federal authorities. It would also expand the 287(g) Program, which allows state and local law enforcement to serve as immigration enforcement officers, by requiring that the Attorney General approve any request to participate in the program.

Under the bill, the Department of Homeland Security would have to prepare an annual report regarding compliance with 8 USC 1373 and would also have to prepare a detailed report about any individual jurisdiction upon the request of the House or Senate Judiciary Committee.

Committee Democrats criticized the bill's interference with state and local law enforcement and unsuccessfully offered

several amendments to strip all or parts of Title I from the bill. They argue that giving involving local law enforcement unchecked authority, with little restraint from the cities that employ them, the authority to enforce federal immigration laws, the bill would harm police-community relations and thus decrease public safety. They point to data showing that communities that participate in the 287(g) Program generally have higher crime rates and less success with community policing.

Most local government and police management organizations and several state organizations oppose the bill, including the Major Cities Police Chief Association, US Conference of Mayors, National League of Cities, National Association of Counties, and National Conference of State Legislatures. Nevertheless, we may soon see similar bills. The Senate Republican leadership is reportedly working with House Homeland Security Committee Chairman Michael McCaul (R-TX) and with the Administration on an immigration bill that will include 'sanctuary jurisdiction' provisions.

## GRANTS & NOTICES

### Department of Justice

The Community Oriented Policing Services (COPS) Office is accepting applications for approximately \$137 million in grant funding through the FY 2017 COPS Hiring Program (CHP). Additional consideration will be given to applications who select one of the following focus areas: violent crime, homeland security problems, and illegal immigration. A 25 percent local cash match is required. Applications are due July 10:

<http://bit.ly/2l62xv9>

The COPS Office announced the availability of \$11 million through its FY 2017 Community Policing Development (CPD) Program. A total of \$7.5 million is reserved for preparing for active shooter situation projects. No local match is required. Applications are due June 23:

<http://bit.ly/2qh9KMc>

The Office of Juvenile Justice and Delinquency Prevention is seeking applications for the 2017 Juvenile Justice Emergency Planning Demonstration Program. The program will provide funding up to \$150,000 for projects that create emergency preparedness plans specifically for children, youth, and families involved in the justice system. Cost sharing is not required. Applications are due June 26:

<http://bit.ly/2r4Ra9f>

DOJ announced the nationwide rollout of the National Blue Alert Network, which promotes rapid dissemination of information to law enforcement, the media, and the public about violent offenders. It can also alert when an officer is missing in connection with official duties, and it is operationally similar to an AMBER alert:

<http://bit.ly/2rmuUsl>

#### Administration for Children & Families

ACF is seeking applications for its FY 2017 Basic Center Program. The program will award approximately 90 grants of \$50,000-\$200,000 annually for three years to community organizations that provide temporary shelter and meet immediate needs of runaway and homeless youth and their families. A 10 percent non-federal cash or in-kind match is required. Applications are due July 14:

<http://bit.ly/2rEvUrE>

ACF announced the availability of \$20 million for its Transitional Living Program and Maternity Group Homes grant programs. The goal of these programs is to help runaway and homeless youth ages 16-22 to establish sustainable living for themselves and their children. A 10 percent non-federal cash or in-kind match is required. Applications are due July 14:

<http://bit.ly/2rISvcS>

#### Department of Education

The Office of Postsecondary Education announced the availability of \$14 million for the Veterans Upward Bound Program. The program will support projects that assist military veterans in postsecondary education programs. No cost sharing is required. Applications are due June 21:

<http://bit.ly/2qjGRPu>

#### Department of Labor

The Employment and Training Administration published updated tables defining "low income individual" qualifications for program eligibility under the Workforce Innovation and Opportunity Act:

<http://bit.ly/2qh9lQu>

#### Department of Transportation

The Federal Railroad Administration extended the stay on a final rule requiring passenger railroads to develop and implement a system safety program until June 5:

<http://bit.ly/2pZrD21>

#### Department of the Treasury

The 2017 New Markets Tax Credit (NMTC) Program

electronic application is now available online. Applications are due June 21:

<http://bit.ly/2qd5gpR>

The CDFI Fund updated the 2017 NMTC Program FAQ document in response to questions raised during two May webinars for interested applicants:

<http://bit.ly/2r4cgCR>

#### Environmental Protection Agency

EPA announced a 90-day stay on the updated emissions guidelines for municipal solid waste landfills issued in August 2016. EPA is reconsidering these guidelines and expects to prepare a proposed rule regarding the matter:

<http://bit.ly/2riolYa>

#### Federal Emergency Management Agency

FEMA issued a guidance notice on how FY 2016 Fire Prevention and Safety grants will be awarded through its Assistance to Firefighters Grant Program. Of approximately 1,000 applications, FEMA anticipates it will make 100 awards totaling \$34.5 million:

<http://bit.ly/2rAyTBw>

#### Small Business Administration

SBA launched a new, free online training series for small businesses about cybersecurity. The classes are first come, first serve and require registration:

<http://bit.ly/2rp8WoF>

#### Census Bureau

New nationwide population estimates were released – statistics as of July 1, 2016:

<http://bit.ly/2rUHFru>

#### American Foundation for Suicide Prevention

The American Foundation for Suicide Prevention is seeking Letters of Intent (LOI) for its Focus competitive grant program. The program will provide awards of \$500,000 per year for up to three years to support suicide prevention efforts. LOIs are due August 1:

<http://bit.ly/2qr7Wvy>

#### Value of Water Campaign

The Value of Water Campaign is hosting a webinar on May 31 to discuss the findings of its March report entitled, "The Economic Benefits of Investing in Water Infrastructure":

<http://bit.ly/2s3NAte>



# TEXAS CITIES LEGISLATIVE COALITION

Volume 23, Issue 25  
August 4, 2017



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## CONGRESS FACES PACKED SEPTEMBER AGENDA

### CONGRESS

Senate adjourns for summer recess. The Senate adjourned for a month-long summer recess on Thursday after a relatively quiet week that did not achieve leadership goals of making progress on health care reform and the FY 2018 budget. The House started its break last week.

The Senate did use the week to clear more than 80 Trump Administration nominees for sub-cabinet level positions, federal judgeships, and various ambassadorships. Democrats had been holding up many of those nominations in protest of the way that Senate Republican leaders were rushing health care reform to the floor.

Among those approved this week were: FBI Director Christopher Wray, former Texas Senator Kay Bailey Hutchison as Ambassador to NATO, Neal Rackleff of Houston as Assistant HUD Secretary for Community Planning and Development (which administers CDBG and HOME), several important positions at the Treasury and Justice Departments, and two commissioners at the FCC. The entire list can be found here:

<http://bit.ly/2v5plsa>.

Congress will return to Washington after Labor Day with a significant laundry list of items that must be approved prior to October 1, but with only 12 legislative days to complete the tasks. Some of the issues that must be addressed include: the FY 2018 budget, an increase in the debt limit, a reauthorization of programs at the Federal Aviation Administration, and the National Flood Insurance Program, and the Children's Health Insurance Program (CHIP).

In addition, Republican leadership wants to move quickly on comprehensive tax reform in September, and there are reports of various groups of Members trying to resurrect health care reform discussions.

### AUTONOMOUS VEHICLES

House panel approves autonomous vehicle measure. By a vote of 54-0, the House Energy and Commerce Committee approved legislation (HR 3388) that would outline a regulatory framework for autonomous vehicles.

*Congress is in recess through Labor Day; we will send the next issue of the weekly report on September 8.*

According to reports, negotiations on the bill went down to the wire, with the final version not posted on the Committee's website until late in the evening before the Committee took up the bill. The bipartisan effort and extensive stakeholder outreach to produce a bill indicate that lawmakers feel pressed to address this issue and codify a regulatory framework that accommodates the development of autonomous vehicles.

As approved by the Committee, the bill, dubbed the SELF DRIVE Act (Safely Ensuring Lives Future Deployment and Research in Vehicle Evolution Act), would outline the federal and state roles in regulating autonomous vehicles. In general, the bill would reserve the regulation of the design, construction, and performance of autonomous vehicle for the federal government, mostly the national Highway Safety Administration (NHTSA). The following areas would be the domain of the state and local governments:

- Registration,
- Licensing,
- Driving education and training,
- Insurance,
- Law enforcement,
- Crash investigation,
- Safety and emissions inspections,
- Congestion management of vehicles, or
- Traffic.

Many of the above provisions were added in response to concerns raised by local government organizations that earlier versions of the bill would rob cities of the authority to regulate and manage city streets. However, the language reserving those powers for state and local governments is followed by a large caveat that reads "unless the law or regulation is an unreasonable restriction on the design, construction, or performance of highly automated vehicles, automated driving systems, or components of automated driving systems."

The bill does not include a definition of "unreasonable restriction" and one does not have to be a legal or regulatory expert to imagine the regulatory and legal battles that this section of the bill could spawn if it becomes law. Local government organizations remain concerned that the bill could compromise local authority to manage city streets for safety and congestion management as well as local government efforts to address air quality.

Although the Committee approved the bill unanimously,

some Committee Democrats share those concerns and are also concerned that NHTSA does not have the bandwidth or resources to implement the bill.

In a victory for local governments, the bill specifically states that state and local governments are allowed to set performance requirements higher than those set by the federal governments for vehicles they are purchasing for their own use. In addition, in response to lobbying by local government organizations, the bill would require local government representation on the Highly Automated Vehicle Advisory Council that it would establish.

The other provisions of the bill outline the regulatory regime for autonomous vehicles, set cybersecurity requirements for autonomous vehicles, and provide for the gradual deployment of autonomous vehicles, with a manufacturer allowed to produce 25,000 vehicles in the first year it obtains regulatory approval, ramping up to 50,000 the second year and 100,000 the third and fourth years.

The Senate Commerce Committee has been working on autonomous vehicle but is not likely to consider it until the fall.

### TELECOMMUNICATIONS

Court slaps down FCC cable rules; decision could have far reaching implications on network neutrality and other controversial issues. Last month, the 6<sup>th</sup> Circuit Court of Appeals in Cincinnati overturned Federal Communications Commission (FCC) rules that limited local government ability to negotiate franchise agreements with cable providers.

More specifically, the FCC rules:

- Allowed cable providers to deduct the cost of in-kind services negotiated by a franchising authority from the franchise payments due the franchising authority, and
- Limited the ability of franchising authorities (state and local governments) to regulate the non-telecommunications offerings of cable providers (the "mixed-use" rule),
- Forbade franchising authorities from regulating institutional networks or requiring that cable operators provide them.

The ruling in the case, *Montgomery County, Maryland v. Federal Communications Commission*, was a victory for

local governments and local authority.

On the first issue of in-kind services, the Court excoriated the FCC, stating that:

"...the FCC has offered no explanation as to why the statutory text allows it to treat "in-kind" cable-related exactions as franchise fees. The FCC likewise has offered no explanation as to why Local Regulators' structural arguments are, as an interpretive matter, incorrect...

...if an agency wants the federal courts to adopt (much less defer to) its interpretation of a statute, the agency must do the work of actually interpreting it. The FCC's orders reflect none of that work as to whether "in-kind" cable-related exactions are "franchise fees" under 541(g)(1). We therefore vacate, as arbitrary and capricious, the orders to the extent they treat "in-kind" cable-related exactions as "franchise fees" under 541(g)(1). On remand, the FCC should determine and explain anew whether, and to what extent, cable-related exactions are "franchise fees" under the Communications Act. And the FCC should do so expeditiously, rather than take another seven years to issue a proper order under the law."

On the second issue regarding the "mixed-use" rule, the Court found that the FCC order overstepped the agency's bounds when it prohibited franchising authorities from regulating the non-telecommunications offerings of incumbent cable providers, most of which are not primarily common carrier telecommunications companies. In arguing the case, the plaintiffs agreed that the FCC order was correct insofar as it applies to new entrant cable providers that are primarily common carrier telecommunications providers. In siding with the plaintiffs, the Court states:

"In sum, the FCC's orders offer no valid basis – statutory or otherwise – for its application of the mixed-use rule to bar local franchising authorities from regulating the provision of non-telecommunications services by incumbent cable providers. Thus, on the record now before us, the FCC's extension of the mixed-use rule to incumbent cable providers that are not common carriers is arbitrary and capricious."

On the final issue of institutional networks – which link to community institutions such as schools and libraries and

which local governments use for public, educational, and governmental programming – the FCC conceded the point and the Court accepted that concession.

The decision could potentially put the FCC and cable-based Internet service providers in a bind. It has issued proposed rules that would reclassify Internet service. Current rules classify it as Title II common carrier service, thus placing it out of reach of local regulators, particularly Internet service provided by incumbent cable providers. Should the FCC move ahead with its reclassification, it would allow cable franchising authorities to require that Internet service provided by incumbent cable providers treat all traffic equally, meet minimum customer standards, and protect customer information. The FCC has been moving to reclassify Internet service at the behest of Internet service providers. Internet service providers dislike the current network neutrality rules, which were issued under the current classification of the Internet as a Title II common carrier service. The specter of local franchising authority involvement in network neutrality, customer privacy, and customer service may raises new questions for the industry.

The 6<sup>th</sup> Circuit's decision is at:

<http://bit.ly/2uS7tWB>.

## IMMIGRATION

Justice Department and Congress continue to look for ways to punish "sanctuary cities." Attorney General Jeff Sessions this week reportedly sent letters to four communities warning them that they would be ineligible for a new Justice Department program unless they that they are cooperating with federal immigration officials.

DOJ told Albuquerque, Baltimore, San Bernardino, and Stockton (CA) that their request to be including in the DOJ Public Safety Partnership program would be denied unless they could show proof of compliance with federal immigration law by August 18. The Public Safety Partnership is a new DOJ initiative that provides technical assistance to state and local governments looking for ways to reduce crime. The letters imply that those jurisdictions in questions have policies that would define them as a so-called sanctuary city

Last week, Sessions released guidelines for cooperation with federal immigration officials that local law enforcement must comply with in order to receive Byrne Justice Assistance Grant formula allocations:

<http://bit.ly/2u2HKJL>.

Meanwhile, a group of Republican Senators this week introduced legislation designed to provide additional resources to border security efforts that also includes punishments for sanctuary cities. This measure, which does not include funding for a border wall, would deny CDBG funds at HUD and Economic Development Administration funds at Commerce to communities defined as sanctuary cities.

Finally, President Trump made a public appearance with two Republican Senators this week to endorse their legislation to reform the U.S. immigration process. The measure is designed to change immigration policy from what they see as a family-based system of entry to one that is based on skills. While a merit-based immigration system is currently used by developed countries such as Canada, those nations also admit many more immigrants than the 50,000 annually that the legislation would allow.

<http://bit.ly/2wea79G>.

The White House event came amid increasing reports that the U.S. Immigration and Customs Enforcement (ICE) is increasing its arrests and deportation of illegal immigrants who have not committed crimes while in the U.S. The agency under the Obama Administration did not focus on that population in favor of directing resources to violent criminals.

## PUBLIC SAFETY

Senate approves measure to reauthorize AFG and SAFER programs. This week, the Senate unanimously passed legislation (S 829) that would reauthorize the Assistance to Firefighters Grant program (AFG), the Staffing for Adequate Fire and Emergency Response (SAFER) program, and Fire Prevention and Safety (FP&S) grant program at the Department of Homeland Security through FY 2023.

Of particular interest, the legislation would eliminate a sunset provision in the original authorization for the AFG and SAFER programs that would have ended each on January 2, 2018.

In addition, the bill includes a provision that would update SAFER eligibility requirements to allow grants funds to be used for fire departments to change part-time or paid-on-call firefighters to full-time firefighters. The measure would also codify current DHS policy that permits waivers to allow for the use of SAFER funds to supplant state and local funds,

the local match, and the requirement that applicants have sustained their fire-related programs and emergency response budgets by at least 80 percent in the three preceding years.

In FY2017, Congress appropriated \$345 million for AFG and \$345 million for SAFER. For FY2018, the House has proposed level funding and the Senate is expected to do the same.

The Congressional Fire Services Institute (CFSI), the Board of the International Association of Fire Chiefs and the National Volunteer Fire Council (NVFC) has all endorsed the legislation. Similar legislation is expected to be introduced in the House in the near future.

## LAW ENFORCEMENT

Juvenile Justice Bill goes to Conference Committee. The Senate approved legislation this week (S 860) that would modify and reauthorize juvenile justice programs and activities at the Department of Justice for five years. The House passed a similar bill (HR1809) in May, so now representatives of the two chambers will meet to reconcile their differences.

Last reauthorized in 2002, the Juvenile Justice and Delinquency Prevention Act (JJDP) authorizes federal funding for delinquency prevention programs, sets federal standards for treatment of youth in the juvenile justice system, and supports the operation of the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

In general, both the Senate and House bills have a strong focus on making the juvenile justice system less punitive and more focused on rehabilitation, and on ensuring that juvenile offenders are separated from their adult counterparts.

Both bills would significantly change state reporting requirements for juvenile justice grants, with a strong focus on having states outline alternatives to incarceration, protecting children in the juvenile justice system from abuse and dangerous practices, addressing the needs of children in the juvenile justice system suffering from mental health and substance abuse problems, and ensuring that children in the juvenile justice system are adequately represented.

The major difference between the two bills is a provision in the House bill that would phase out valid court order



exceptions for status offenders known as Deinstitutionalization of Status Offenders and Valid Court Orders. Senator Tom Cotton (R-AK) has objected to language that would limit the ability of judges to lock up juveniles charged with status offenses (minor offenses such as truancy, curfew violations, and drinking alcohol). Currently, the JJDPa prohibits the detention of minors for status offenses, behaviors such as truancy or running away that are only considered offenses when committed by minors, unless a judge issues a court order.

For funding, the Senate bill authorizes \$160 million for FY 2017, with a 1.5 percent increase each fiscal year for the five-year term of the reauthorization. The House bill would authorize \$92 million for FY 2018 and FY 2019 with a 1.5% increase for each additional year.

## CLEAN AIR

EPA backs off proposal to delay implementation of new ozone standards. The Environmental Protection Agency (EPA) announced this week that the agency will not delay implementation of a new National Ambient Air Quality Standard (NAAQS) for ozone.

The decision reverses a June announcement that EPA would delay implementation of the new standard for one year until October 2018 and came two days after sixteen states (New York, California, Connecticut, Delaware, Illinois, Iowa, Maine, Massachusetts, Minnesota, New Mexico, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and the District of Columbia) sued EPA challenging the delay. It also came a few weeks after the US Court of Appeals for the District of Columbia struck down an EPA decision to delay implementation of an Obama-era methane emissions rule.

EPA issued a new NAAQS standard for ozone of 70 parts per billion in 2015, down from the previous standard of 75 parts per billion. Under the schedule and guidance issued by the Obama Administration, EPA is scheduled to make designations of compliance with new ozone standard this fall and the states are required to start developing implementation plans for meeting the new standard in the coming years, with compliance targets ranging from 2020 to 2037. This week's reversal means that the original schedule is intact.

Last month, the House passed legislation (HR 806) that would delay the implementation of the new NAAQS for ozone from 2017 until 2025. The bill would also change the

change the schedule for EPA review of NAAQS from every five years to every ten years. The House vote of 229-199 to pass the bill was largely along party lines, with 4 Democrats voting yes and 11 Republicans voting no. The Senate is unlikely to consider or pass HR 809 or any similar proposal to delay or weaken ozone standards, as they would not be able to reach the 60-vote threshold to end an all-but-certain Democratic filibuster.

A wide array of industry groups, led by the American Petroleum Institute, lobbied in favor of the postponement while a number of state and local governments, the American Lung Association, other medical associations, and environmental organizations lobbied against it. The same groups faced off on either side of the debate over HR 809.

The decision to reverse course on the delay of the ozone rule was made via press release. The press release states that EPA "is moving forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information." However, it goes on to state that "The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take further action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information." The press release cites the issues of whether the new standard was so low that some areas would violate it based on naturally occurring background levels of ozone.

The June 6 EPA notice extending the deadline:

<http://bit.ly/2wsQbza>.

The June 6 EPA letter to governors about the extension:

<http://bit.ly/2vpSMgC>.

The August 2, EPA announcement repealing the delay:

<http://bit.ly/2u8Fe5j>.

## GRANTS & NOTICES

### Department of Justice

The Bureau of Justice Assistance is seeking applications for the FY 2017 Edward Byrne Memorial Justice Assistance Grant (JAG). Applications are due September 5:

<http://bit.ly/2vp13kS>

The COPS Office released the August issue of its monthly e-newsletter:

<http://bit.ly/2uqnBS3>

### Department of Housing & Urban Development

HUD announced the availability of over \$38 million in FY 2017 funding through its Fair Housing Initiatives Program to support the enforcement of fair housing laws and policies and educate the public, housing providers, and local governments about their rights and responsibilities under the Fair Housing Act. No cost sharing is required. Applications are due September 18:

<http://bit.ly/2vwO1SO>

### Department of the Interior

The National Park Service is seeking applications for its FY 2017 African American Civil Rights (AACR) Grant program. The program will support Historical and Preservation projects up to \$50,000 that document, interpret, and preserve historical sites that relate to the African American struggle for equality in the 20th Century. No cost sharing is required. Applications are due September 29.

Physical Preservation Projects: <http://bit.ly/2vx5wRY>

Research/Documentation Projects: <http://bit.ly/2vwOQu6>

### Department of Transportation

The Federal Transit Administration (FTA) issued a proposed rule that would allow recipients of federal funding for public transportation projects to request that certain FTA regulations be waived in order to encourage more private investment. Public comments on the proposed rule are due September 29:

<http://bit.ly/2ukYX0H>

The Federal Aviation Administration made additional announcements of discretionary and entitlement grants through its Airport Improvement Program totaling nearly \$186 million in infrastructure grants:

<http://bit.ly/2uV7haX>

### Department of the Treasury

The Community Development Financial Institutions Fund released a new, independent report on the New Markets Tax Credit Program entitled, "Compliance Review of New Markets Tax Credit Program:"

<http://bit.ly/2uqEQhV>

### Environmental Protection Agency

EPA published its annual air quality report, which includes interactive graphics with detailed information by pollutant,

geographic location and time period:

<http://bit.ly/2w75z57>

### Federal Communications Commission

FCC announced a nationwide test of all Emergency Alert Systems (EAS) on September 27, 2017:

<http://bit.ly/2wbiAe1>

### National Endowment for the Humanities

NEH awarded over \$39 million in grants for 245 humanities projects through its third and final round of FY 2017 awards:

<http://bit.ly/2f873lf>

### Small Business Administration

SBA launched a new Historically Underutilized Business Zones map to help small businesses determine if they are eligible to participate in SBA's HUBZone program:

<http://bit.ly/2u5rIPN>

### Local Initiatives Support Corporation

The Local Initiatives Support Corporation in partnership with the National Football League is seeking applications for the NFL Foundation Grassroots Program. General Field Support grants of up to \$50,000 are available for capital improvement projects that provide access to clean, safe football fields for children in underserved communities; Field Surface Grants of up to \$250,000 are available to help finance the resurfacing of a community, middle school or high school football field. A minimum 1:1 local funding match is required. Applications are due October 16:

<http://bit.ly/2wsAHvl>

### Quadrattec

Quadrattec is seeking applications for its Energize the Environment grant program. The program will support one project up to \$3,500 to pursue a program or initiative designed to benefit the environment in the local community. Applications are due October 30:

<http://bit.ly/2oUcPzC>

### Target Foundation

Target is accepting applications for its Youth Soccer Grants Program that provides \$1,000 grants to schools and organizations serving youth 5 to 18 years old for player registration fees, equipment and training for volunteer coaches. Applications are due August 30:

<http://bit.ly/2wpB9KD>



## FAST ACT

On December 4, 2015 President Obama signed the Fixing America's Surface Transportation (FAST) Act (PL 114-94).

- The FAST Act is a five-year, \$305 billion surface transportation bill.

### STP Sub-Allocation - A Local Government Victory

In a victory for local governments, the bill addresses a top local government priority: increased Surface Transportation Program (STP) funding for urbanized areas.

Under the FAST Act, STP will grow from the FY 2015 level of \$10 billion to \$11.1 billion in FY 2016 and \$12.3 billion in FY 2020. In addition, the FAST Act will increase the share of STP funds sub-allocated to urbanized areas, incrementally increasing it from the current 50 percent to 55 percent.

### Broad FAST Act Overview

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

That said, there are some important policy changes in the bill.

- **It includes an intercity passenger rail title** - the first time that 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. Unlike most highway and transit programs, which are funded from the Highway Trust Fund and thus receive guaranteed funding each year, the funding levels for Amtrak and intercity passenger rail grants are subject to annual appropriations.
- 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. The fact that the House and Senate both overwhelmingly passed the bill and General Fund transfers to the Highway Trust Fund have become routine over the past five years signals that there is not too much heartburn on Capitol Hill about paying for highway and transit programs



from non-user fee sources. (Or at least less heartburn about it than there is about raising the gas tax.)

In terms of opportunities for local governments: although the bill is a status quo bill, **it has good news for local governments and there are some provisions in its 1,300 pages that could provide cities and metropolitan areas with some opportunities.**

### Transit

The FAST Act provides \$11.5 billion for transit in FY 2016, growing to \$12.5 billion in FY 2020.

Most transit funds will continue to be allocated by formula to transit agencies (urbanized areas over 200,000 population, with the MPO generally acting as the fiscal agent for the funds) and the states (urbanized areas under 200,000 population and rural areas).

- **Section 5307 Urbanized Area Formula Grants** are allocated by formula to transit agencies in urbanized areas for use on capital projects and, in urbanized areas under 200,00 population, operating expenses (\$4.5 billion in FY 2016).
- **Section 5310 Senior and Persons with Disabilities Grants** are allocated to the states (small urban and rural) and transit agencies (large urban) for transit service targeted to seniors and persons with disabilities. (\$262 million in FY 2016)
- **Section 5311 Rural Area Formula Grants** are allocated by formula to the states for the capital projects and operating costs of rural transit. (\$620 million in FY 2016)
- **Section 5337 State of Good Repair Grants** are allocated to transit agencies to maintain and modernize rail transit systems and large city bus fleets; the program used to be called Rail Modernization. (\$2.5 billion in FY 2016)
- **Section 5339 Bus & Bus Facilities Formula Grants** are allocated by formula to transit agencies in urbanized areas for bus and bus facility capital costs (\$428 million in FY 2016).

The FAST Act 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. All transit agencies can apply for these funds.
- Authorizes \$2.3 billion for the Section 5309 Capital Investment Grants Program (New Starts). New Starts would be the primary source of federal funding for a rail or bus rapid transit project.
  - Note that New Starts is one of the few highway or transit programs that is not funded from the Highway Trust Fund, which means that final funding each year is up to the Appropriations Committees and may fall short of \$2.3 billion in any given year.
  - The bill allows New Starts funds to be used for construction of the transit portion of a joint intercity passenger rail/transit facility with the 5309 funds covering the net capital costs of the transit portion of the project.
- Makes investment in Transit-Oriented Development eligible for TIFIA financing.

## Highways

The FAST Act provides \$43.1 billion for highways in FY 2016, growing to \$47.1 billion in FY 2020.

The bulk of highway funding will continue to be allocated to the states by formula through two large programs.

- The **National Highway Performance Program** (\$22.3 billion in FY 2016) is allocated to the states for the construction and maintenance of the National Highway System (NHS).
- The **Surface Transportation Block Grant** (\$11.1 billion in FY 2016) is allocated to the states for use on non-NHS routes.
  - In FY 2016, 51% of STP funds are sub-allocated to urbanized areas over 200,000 population, with the sub-allocated amount increasing incrementally to 55%
  - Metropolitan planning organizations decide how to spend sub-allocated funds.

Remaining federal highway funds (\$9.7 billion in FY 2016) are allocated to the states through five formula programs and a handful of competitive grants programs.

- The **Transportation Alternatives Program** (TAP) is allocated to the states by formula for pedestrian, bicycle, safe routes to school, recreational trail and similar projects, with 50% of each state's funds sub-allocated to urbanized areas over 200,000 population; metropolitan planning organizations must make the funds available to constituent governments through a competitive grants process (the state must do the same with its half of TAP funds).
- The **Congestion Mitigation and Air Quality Program** (CMAQ) is allocated to the states by formula for projects that reduce pollution Clean Air Act nonattainment areas.
- The **Metropolitan Planning Program** allocates funds by formula to metropolitan planning organizations to help meet federally-mandated planning requirements.
- The **Safety Program** allocates funds to the states by formula for highway safety projects.
- The **National Highway Freight Program** is a new program that allocates funds to the state by formula for highway freight improvement projects.
- The **Nationally Significant Freight & Highway Projects Program** is a discretionary grant program funded at \$800 million per year; MPOs are eligible to apply.

In addition to increased STP funding for MPOs, the bill **maintains the Transportation Alternatives Program**, which funds bicycle, pedestrian, trail and safe routes to school projects (albeit 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).
- Note that the bill gives MPOs the authority to transfer half of its TAP allocation to the regular STP Program.
- It also gives the Governor the authority to redirect the portion of TAP reserved for Recreational Trails to the regular STP Program, **a move he will likely make absent pressure from recreational trails advocates.**

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. Rail-Highway Grade Crossing funds go by formula to state DOTs, including TXDOT.
- Makes bridges that are not on the National Highway System eligible for National Highway Performance Program funds. The bulk of the highway program, \$23 billion per year, is allocated to the state DOTs by formula under NHPP to maintain and improve roads on the National Highway System. TXDOT will continue to exercise complete control over these funds, **but if there are bridges in a city that are in desperate need of repair or replacement**, cities will at least be able to make a case to TXDOT to access these funds.
- Provides \$100 million per years for **Intelligent Transportation Systems** grants.
- Makes some policy changes regarding design that will help the cities better accommodate bicyclists and pedestrians on major streets. Specifically, the bill **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. The bill also makes bicycle and pedestrian safety projects specifically eligible for the National Highway Traffic Safety Administration Section 405 National Priority Safety Program, which is funded at \$280 million per year.
- Creates a new formula **National Highway Freight Program** funded at \$1.03 billion in FY 2016 growing to \$1.4 billion in FY 2020. As its names implies, the program focuses on highway freight movement at the expense of rail, ports, etc. (FY 2016 applications are due April 14.)
- Creates a discretionary **Nationally Significant Freight & Highway Projects Grant** program, which DOT is calling FASTLane, funded at \$800 million in FY 2016 and growing to \$1 billion in FY 2020; MPOs and local governments are eligible to apply. Unlike the formula freight program, a broad array of freight projects are eligible for funding.

#### Intercity Passenger Rail

The FAST Act authorizes \$1.6 billion for intercity passenger rail grants in FY 2016, growing to \$2.4 billion in FY 2020.

- Unlike most highway and transit programs, which are funded from the Highway Trust Fund and thus essentially receive guaranteed funding each year, the funding levels for Amtrak are authorizations of expenditures from the General Fund subject to appropriations, which means that the Appropriations Committees will determine the actual level of funding for each year.

The bill separates federal funding for Amtrak into separate accounts for the Northeast Corridor (owned by Amtrak) and the National Network.

- It generally maintains the requirement that states provide operating support for non-long distance corridor service.

It authorizes:

- \$2.591 billion over five years for the Northeast Corridor Improvement Fund, for capital improvements to the Northeast Corridor,

- \$5.454 billion over five years for the National Network, for capital and operating costs of state-supported and long distance service,
- \$1.103 billion over five years for Consolidated Rail Safety & Infrastructure Grants, for capital costs to improve rail safety and infrastructure, including quiet zones (state and local governments eligible to apply) and
- \$997 million over five years for State of Good Repair Grants, for intercity passenger rail capital projects (state and local governments eligible to apply).

**For FY 2016, appropriators ignored this new structure and instead provided funding for the traditional Amtrak capital and operating subsidies.**

The FAST Act also:

- Makes changes to the Railroad Infrastructure Financing loan program (RRIF) designed to make it easier to access loans,
- Makes “improving rail station and increasing transit-oriented development” eligible for Railroad Rehabilitation & Improvement Financing (RRIF) assistance and
- Provides \$199 million for Positive Train Control (PTC) implementation in FY 2017 and authorizes additional funding subject to appropriations in future years.

### Planning

The FAST Act generally maintains the state and metropolitan planning processes, including the performance and asset management measures instituted by MAP-21.

Important changes include:

- Adds resiliency and reliability and enhancing travel and tourism as required planning issues and
- Adds freight to the scope of the state planning process.

### Freight

Freight is a major focus of the FAST Act. As outlined above, it creates two new freight programs:

- The **National Highway Freight Program** is a new program that allocates funds to the state by formula for highway freight improvement projects.
  - Focused on freight project on the National Highway Freight Network.
- The **Nationally Significant Freight & Highway Projects Program** is a discretionary grant program funded at \$800 million per year; MPOs are eligible to apply.

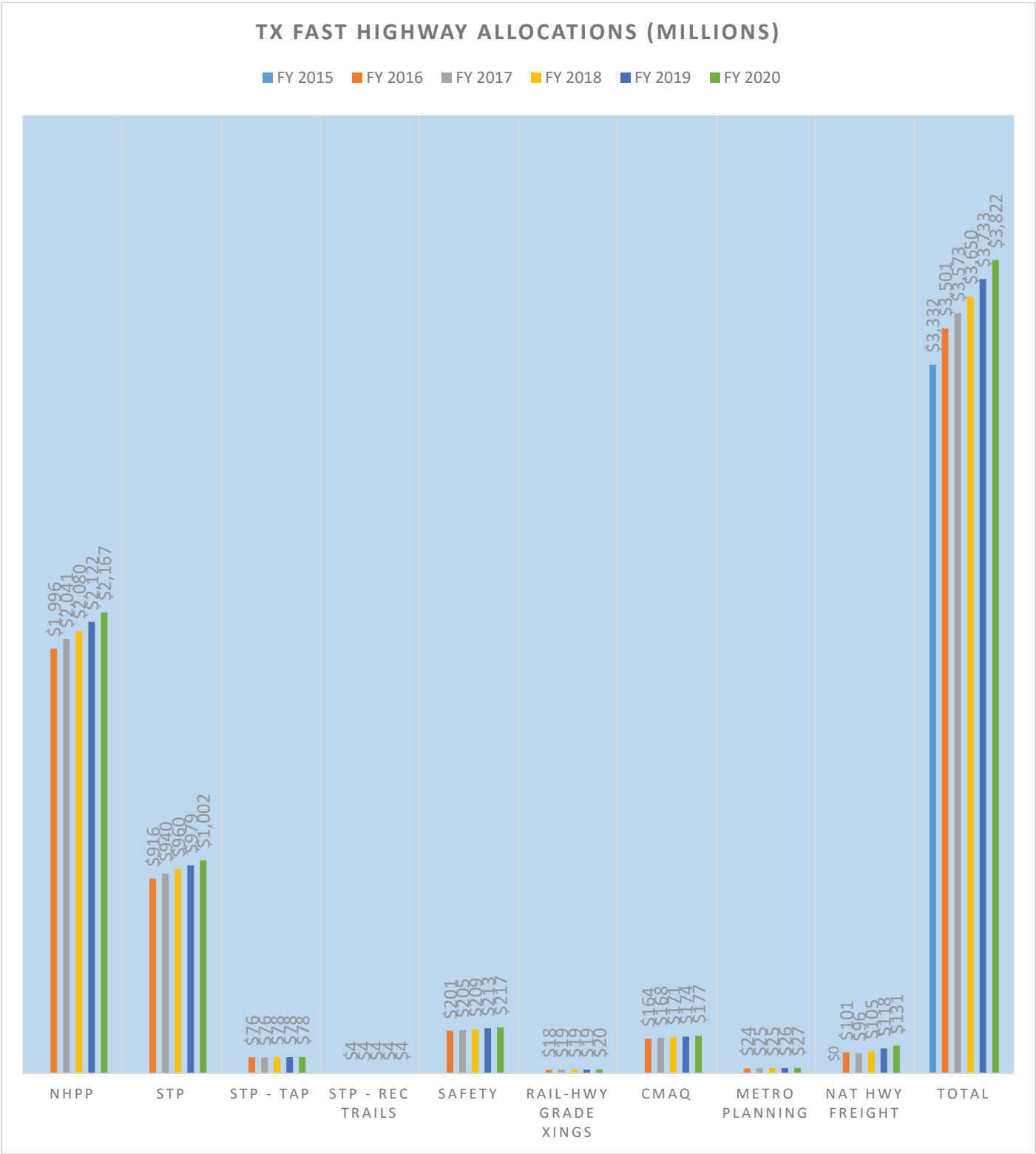
MAP-21 established the **National Highway Freight Network (NHFN)**:

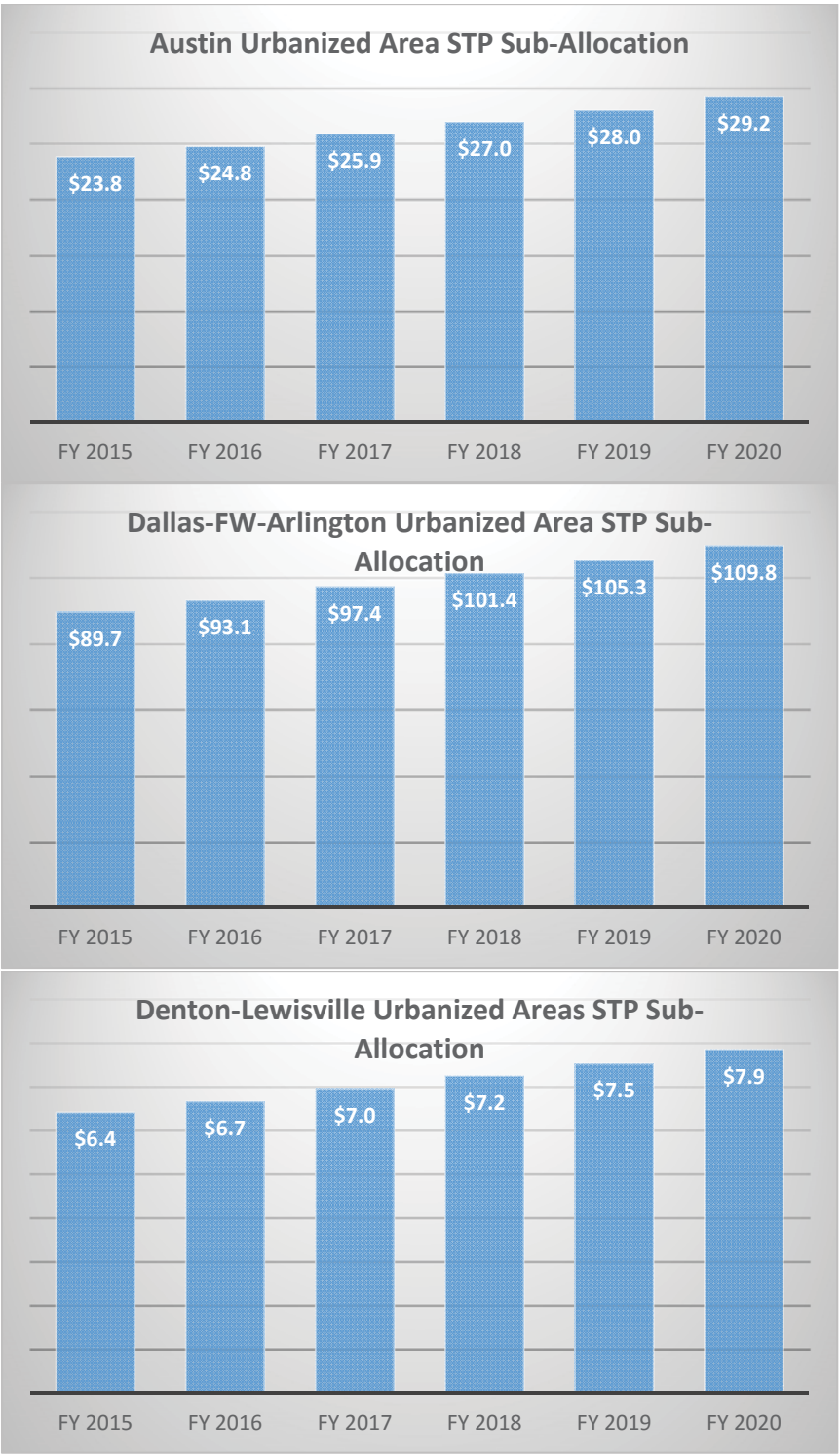
- NHFN is 41,518 miles of highways identified by USDOT, state DOTs and MPOs.

FAST builds on the NHFN and establishes the **National Multimodal Freight Network (NMFN)** to be established by USDOT and state DOTs over the coming year. It will include:

- The NHFN,

- Class I freight railroads,
- Ports,
- Inland and intracoastal waterways,
- Great Lakes and the Saint Lawrence Seaway,
- Marine highways,
- 50 airports with highest annual landed weight, and
- Other assets identified by USDOT and the states.







Austin Urbanized Area Transit Allocations				
	5307 Urbanized Area	5310 Seniors & Disabled	5338 Bus & Bus Facilities	Total
<b>FY 2015</b>	\$28,219,376	\$786,909	\$2,083,713	<b>\$31,089,998</b>
<b>FY 2016</b>	\$28,750,201	\$848,593	\$1,920,917	<b>\$31,519,711</b>

Dallas-FW-Arlington Urbanized Area Transit Allocations					
	5307 Urbanized Area	5310 Seniors & Disabled	5337 State of Good Repair	5338 Bus & Bus Facilities	Total
<b>FY 2015</b>	\$75,147,275	\$3,218,853	\$20,383,784	\$6,361,080	<b>\$105,110,992</b>
<b>FY 2016</b>	\$76,226,856	\$3,355,413	\$23,602,700	\$5,813,822	<b>\$108,998,791</b>

Denton-Lewisville Urbanized Area Transit Allocations				
	5307 Urbanized Area	5310 Seniors & Disabled	5338 Bus & Bus Facilities	Total
<b>FY 2015</b>	\$5,612,341	\$190,806	\$418,016	<b>\$6,221,163</b>
<b>FY 2016</b>	\$5,685,427	\$204,799	\$377,955	<b>\$6,268,181</b>



## **Affirmatively Furthering Fair Housing Summary – Final Rule**

### **Overview**

At the broadest level, the rule would replace the Analysis of Impediments to fair housing (AI) that every HUD grantee must produce with a standardized Assessment of Fair Housing (AFH), a much more comprehensive document that calls for using socioeconomic and geographic data provided by HUD to identify barriers to fair housing and outline a plan and take “meaningful actions” to address them.

The rule defines “affirmatively furthering fair housing” as:

“Taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant’s activities relating to housing and urban development.”

The rule defines “meaningful actions” as:

“Significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity.”

In addition to the replacement of the AI with the AFH, the other components of the new fair housing compliance regime include:

- Providing grantees with nationally uniform data and a uniform assessment tool to serve as the basis of assessing grantee fair housing barriers and strategies for overcoming those barriers;
- A concrete link between the AFH and consolidated plans (five year plans in the case of public housing authorities);
- An emphasis on requiring grantees to “take meaningful action” and proactively address

fair housing issues, and

- A focus on regionalism, with strong encouragement for neighboring jurisdictions to cooperate on a joint AFH and for local government grantees to cooperate with public housing authorities on a joint AFH.

## Changes from Proposed Rule to Final Rule

### Place-Based and Mobility-Based Strategies

A major change from the proposed rule to the final rule is a clarification that the regulations call for a balanced approach to affirmatively furthering fair housing that includes mobility-based *and* place-based efforts to address fair housing issues.

- The clarification is in response to comments, mostly from HUD grantees, that the proposed rule overemphasized mobility-based solutions to fair housing to the extent that it devalued or could be construed to prohibit investments in low-income neighborhoods and in neighborhoods with racially or ethnically concentrated areas of poverty.
- Some commenters also expressed concern that it could be construed in a manner that constrained efforts to maintain and preserve existing units of affordable housing located in such neighborhoods.

In its preamble to the final rule, HUD writes:

“HUD’s rule recognizes the role of place-based strategies, including economic development, to improve conditions in high poverty neighborhoods, as well as preservation of the existing stock of affordable housing, including HUD-assisted housing, to help respond to the overwhelming need for affordable housing.”

### Other Changes from Proposed Rule to Final Rule

- A definition of “housing programs serving specified populations” to clarify that participation in HUD and federal housing programs serving specified populations (i.e. the elderly or the disabled) does not present a fair housing issue of segregation;
- Clarification that HUD acceptance of an AFH does not mean that a grantee has complied with its obligation to affirmatively further fair housing or has complied with the Fair Housing Act or other civil rights laws, and
- New AFH submission deadlines to help small grantees comply with the new process and to accommodate any delays in HUD’s finalization of the assessment tool. (HUD issued a proposed assessment tool last September and expects to finalize it later this year.)

## Assessment of Fair Housing

The first AFH will be due no later than 270 days before the beginning of the program year for which the first consolidated plan is due.

- Subsequent AFHs will be due 195 days before the beginning of the next consolidated plan period (at least every five years for collaborative AFHs).

HUD grantees will use the AFH to assess four fair housing issues:

1. Patterns of integration and segregation;
2. Racially and ethnically concentrated areas of poverty;
3. Disparities in access to opportunity; and
4. Disproportionate housing needs.

Program participants are required to set goals to overcome fair housing issues and related contributing factors.

- Those goals must inform subsequent housing and community development planning processes.

Part	Description
<b>Part One: Provision of Data and AFH Assessment Tool</b>	HUD provides each program participant with data and an AFH assessment tool to use in assessing fair housing issues in its community. In addition, HUD will provide technical assistance to aid program participants in submitting its AFH.
<b>Part Two: Analysis</b>	Using the HUD data, local data and knowledge, the required community participation process, and the assessment tool, each program participant prepares and submits a complete AFH to HUD, including fair housing goals.
<b>Part Three: Review and Response</b>	HUD reviews each AFH within 60 days after receipt to determine whether the program participant has met the requirements for providing its analysis, assessment, and goal setting. HUD either accepts the AFH or provides the program participant written notification of why the AFH was not accepted and guidance on how the AFH should be revised in order to be accepted. HUD will not accept an AFH if HUD finds that an AFH or a portion of the AFH is inconsistent with fair housing or civil rights requirements or is substantially incomplete.
<b>Part Four: Incorporation into Subsequent Planning Processes and Action</b>	The goals identified in the AFH must inform the strategies and actions of the Consolidated Plan, the Annual Action Plan, the PHA Plan, and the Capital Fund Plan.

The AFH must include, at a minimum, 7 elements.

1. A summary of fair housing issues and capacity, including any findings, lawsuits, enforcement actions, settlements, or judgements related to fair housing or other civil rights laws, an assessment of compliance with fair housing laws and regulations, and an assessment of the grantee's fair housing enforcement and fair housing outreach capacity.
2. An analysis of data using HUD-provided data, local data and local knowledge that is informative of the following:
  - Identification of integration and segregation patterns and trends based on race, color, religion, sex, familial status and disability,
  - Identification of racially or ethnically concentrated areas of poverty,
  - Identification of significant disparities in access to opportunity for protected any protected class of people, and
  - Identification of disproportionate housing needs for any protected class of people.
3. An assessment of fair housing issues that, using the assessment tool provided by HUD, identifies the contributing factors for segregation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity and disproportionate housing needs.
4. Identification of fair housing priorities and goals consistent with elements 1, 2 and 3 and including:
  - Identification and discussion of fair housing issues arising from the assessment,
  - Identification of significant factors, prioritization of those factors and justification of that prioritization that the grantee will address in its fair housing goals, and
  - Setting goals for overcoming the effects of priority contributing factors.
5. Strategies and actions to implement goals and priorities in the grantees consolidated plan and annual plan (five year plans for public housing authorities). Strategies and actions may include, but are not limited to:
  - Enhancing mobility,
  - Encouraging the development of new affordable housing in areas of opportunity, and
  - Place-based strategies to encourage community revitalization, including preservation of existing affordable housing.
6. A summary of community participation; the final rule includes a detailed outline that grantees must follow to maximize community and public participation in the AFH.
7. A review of the progress achieved since the submission of the previous AFH.

### Data/Proposed Assessment Tool

Based on a review of the final rule and its accompanying background materials, the data will

perhaps be the keystone of the new AFH process; HUD will provide grantees and the general public with data in the form of maps and tables covering a large array of fair housing factors, including:

- Integration and segregation,
- Racially and ethnically concentrated areas of poverty,
- Access to assets in education, employment, transportation, and environmental health,
- Disproportionate housing needs, and
- The location of public housing and the geographic distribution of Section 8 voucher units and Low-Income Housing Tax Credit projects.

The HUD fair housing website has information about the proposed assessment tool and details about the data and mapping tool that HUD will provide grantees:

[http://www.huduser.org/portal/affht\\_pt.html](http://www.huduser.org/portal/affht_pt.html).

Given the emphasis on data, a major change from the proposed rule to the final rule is the inclusion of a definition of “data” that references both HUD-provided data and local data.

- The final rule also includes a definition of “local knowledge.”
- In the preamble to the final rule, HUD recognizes that local data and local knowledge can provide important background and context.
- However, HUD makes clear that it will be final arbiter of whether local data and local knowledge are relevant and appropriate.
- HUD provided data will be posted on HUD’s website and the final rule outlines that HUD expects local data to be similarly accessible to the general public.

## Citizen Participation & Consultation

The final rule includes significant changes to citizen participation, both in the development of the AFH and the Consolidated Plan.

- Grantees must develop a citizen participation plan.
- Grantees must actively consult with the housing authority, neighboring jurisdictions and representatives of protected populations.
- Grantees must actively consult with public and private agencies that serve protected populations, including community-based and regionally-based organizations.

The proposed rule suggested that grantees create a Fair Housing Advisory Council to meet the citizen participation requirements, but withdrew this suggestion in response to comments that the suggestion could lead to grantees engaging a hand-picked group of people and avoiding broader stakeholder and citizen participation.

- Instead, HUD intends to provide guidance to grantees on models for meeting citizen participation and consultation requirements.



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<p>Jane Richardson</p> <p>jane.richardson@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>		
<p>Robin Fox</p> <p>Robin.fox@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>		
<p>Jennifer Bridges</p> <p>jennifer.bridges@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>		
<p>Jane Richardson</p> <p>jane.richardson@cityofdenton.com</p> <p>Security Level: Email, Account Authentication (Optional)</p> <p><b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign</p>		

Carbon Copy Events	Status	Timestamp
Charles Rosendahl		
Charles.Rosendahl@cityofdenton.com		
Security Level: Email, Account Authentication (Optional)		
<b>Electronic Record and Signature Disclosure:</b>		
Not Offered via DocuSign		

Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	11/2/2017 4:19:19 PM

Payment Events	Status	Timestamps
<b>Electronic Record and Signature Disclosure</b>		

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**Required hardware and software**

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none"><li>•Allow per session cookies</li><li>•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection</li></ul>

\*\* These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

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