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ACTION ALERT

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Provision in Omnibus Bill Threatens to Cut Funds for Cleaner Transit and Air Quality Programs

The Issue:

On January 25, 2005, the Federal Highway Administration (FHWA) issued a directive requiring states to return a portion of their previously allocated highway program dollars, a process known as a “rescission” of program balances. The FHWA Notice is important because each state has the latitude to decide which program funds – Transportation Enhancements, Congestion Mitigation and Air Quality (CMAQ), Bridge, as examples – will be rescinded. FHWA is acting pursuant to a Congressional directive set forth in the Consolidated Appropriations Act, 2005 (P.L. 108-447), enacted December 8, 2004.

By February 24, 2005, each state must surrender their share of this **\$1.26 billion rescission** (FHWA Notice of 1/25/05, with rescission amount for each state, is attached).

The rescission is being applied proportionately to states, based upon the FY 2005 apportionments for five core apportioned programs including Interstate Maintenance (IM), National Highway System (NHS), Bridge, Surface Transportation Program (STP) and Congestion Mitigation and Air Quality Improvement (CMAQ).

What is the threat?

Programs like CMAQ have often been underfunded by the states. During prior rescissions in FY’03 and ’04, **millions of dollars in CMAQ money was rescinded** by states, particularly those with significant air quality problems. CMAQ money is used to fund cleaner transit projects like alternatively- fueled buses, advanced technologies like hybrid electric and fuel cell vehicles, and related infrastructure. Also, once a dollar in spending authority for CMAQ is lost to a rescission, you don’t get it back. As such, depending upon the choices made by your state, could harm your efforts to secure funding for certain types of projects in the future.

To illustrate this issue further, here is one example from Texas showing why the rescission process, absent public involvement, is of concern. In FY’03, when FHWA directed states to rescind \$250 million – the first year Congress allowed states to decide where to allocate the rescissions – Texas withdrew 100 percent of its rescission amount (\$19.7 million) from the CMAQ program. This occurred in a state where its largest metropolitan areas struggle with non-attainment problems under the Clean Air Act (for both old and new standards), challenges which have been extensively documented in national and local news stories.

Additionally, about **20 percent of the total rescissions in FY ’03 and ’04 from states** came from CMAQ balances, even though the program represents slightly more than **five percent of apportioned funds** to the states. Importantly, these rescissions of CMAQ balances are occurring just as new, more rigorous standards for ozone (8-hour) and particulate matter (PM2.5) are being implemented.

What You Can Do

As mentioned earlier, your state DOT is probably just starting to review its program accounts to assess what unobligated balances are available to meet the FHWA rescission directive. Below is a link from the Surface Transportation Policy Project (STPP) to a series of tables showing state-by-state unobligated program balances as well as program obligations and program apportionments for FY’04. This data will help you see how program

funds are being apportioned to your state, what your state is currently obligating to specific programs and the unobligated balances for each of the program areas.

www.transact.org/km (Please note: This is preliminary data for your use and not for broad circulation)

Here are some initial steps to get started. First, **contact your state transportation department** to:

- Ask about the process, and the public's role, in making decisions on program funds to be rescinded, including notification to affected parties.
- Urge your state to embrace the principle that any rescission of core program funds (e.g. note your interest in CMAQ, Enhancements, Bridge repair, etc.), should be the last resort, urging that non-core program balances be taken first, such as unprogrammed Minimum Guarantee funds.
- *If there is a need to rescind funds from the core program categories*, urge the state to withdraw funds in proportion to each program's share of the original apportionments to the state.

Please consider these steps as well –

- **Contact your Governor's office** and advise them of your interest in seeing a fair and balanced treatment of the various programs in meeting the FY'05 rescission directive, indicating the importance of having them engaged in this issue.
- **Contact your state legislators**, particularly those serving in leadership positions, to advise them of the rescission, urging them to make inquiries about the rescission process and suggest that they hold a hearing on the issue or ask for a briefing by state DOT officials.
- **Contact officials with your Metropolitan Planning Organization and your transit provider**, consulting them about the rescission package and discuss how to work together to ensure that funds destined for local projects are protected.
- **Contact local officials**, particularly those seeking new transit investments, concerned about compliance with clean air standards or seeking commitments to enhancement projects to make sure they are briefed and explore with them how they can exercise their political clout with the Governor and state legislators.
- **Contact other transportation reform partners in your state** to brief them on the issue and organize them to contact state transportation officials on your priorities. (Consider reaching out to state chapters of the AARP, American Lung Association and American Heart Association to engage them in helping deliver the message on protecting selected program accounts, particularly CMAQ.)

It is important for you to get engaged and press for a satisfactory resolution of these issues given the amounts of spending authority involved with this rescission.

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