

TO: City of San Antonio  
Intergovernmental Relations Committee

FROM: Kevin Kelly and Lauren Lipin, Clark Hill

DATE: September 3, 2020

SUBJECT: Update on 116<sup>th</sup> Congress Federal Legislative Program

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### **I. Purpose of Memo**

The purpose of this memo is to provide an update on the federal priorities and legislative and agency issues outlined in the City of San Antonio's 116<sup>th</sup> United States Congress Federal Legislative Program.

### **II. Federal Priorities**

The federal legislative program laid out five main priorities for the 116<sup>th</sup> Congress:

- **Military Protection:** Sustain and enhance Joint Base San Antonio's (JBSA) mission readiness, and ensure the long term protection of the region's military bases by helping to preserve, protect and grow military missions and installations in the San Antonio region.
- **Domestic Violence:** Support policies and programs to prevent domestic violence.
- **Aviation:** Support Federal Aviation Administration plans to develop alternative funding sources to improve our nation's airport infrastructure and the passenger experience.
- **Transportation Infrastructure:** Support the city's multimodal transportation plan to help meet the community's transportation goals by identifying new funding sources and advocating for funding increases in key programs, such as reauthorization of the Fixing America's Surface Transportation (FAST) Act and other key transit and surface transportation grant programs, such as INFRA, TIGER and FASTLANE.
- **Housing:** Support the enhancement and expansion of San Antonio's affordable housing programs and services by identifying any new funding sources and advocating for funding increases to programs such as the Home Investment Partnership Program (HOME), the Community Development Block Grant (CDBG) and other federal programs.

The updates for these priorities are below and the Normandy Group will provide an in-depth update on the aviation priority. Any updates related to appropriations are only for the House as the

Senate has not yet marked up any of its bills. It is unclear at this point if the Senate Appropriations Committee will mark up in September or wait until after the election.

### **State and Local Government Coronavirus Relief Fund**

While not an issue outlined in the legislative program, increased State and Local COVID response funds has become a key priority for the City as it continues to deal with the pandemic. The CARES Act created the \$150 billion Coronavirus Relief Fund within the Department of the Treasury to provide for payments to State, Local, and Tribal governments navigating the impact of the COVID-19 outbreak. Of this funding, the total allocation received in Texas was over \$11 billion and the City of San Antonio received almost \$270 million. San Antonio expended \$96.2 million from March to July and an additional \$135.8 million will be spent between August and September. The remaining \$38 million will be spent by December 31, 2020, as this is the deadline included in the legislation. These funds cannot be used to replace lost revenue.

San Antonio, in coordination with other major cities across the country, has been advocating to ensure that additional funds for State and Local COVID response will be included in the next response package negotiated by Congress. In May, the House passed the HEROES Act, a \$3 trillion pandemic response bill that included \$500 billion in direct, flexible aid for state governments and an additional \$357 billion for local governments and counties. The Senate refused to take up this bill and instead released its own bill, the HEAL Act, later in June. This version is much smaller at around \$1 trillion and does not include any direct aid for state and local governments. There have been off-and-on negotiations taking place since then. Speaker Pelosi and White House negotiators, Chief of Staff Meadows and Secretary Mnuchin, have not been able to agree on a top-line spending level for the package. State and local aid is a must-have item for Democrats but the amount will depend on the overall size of the package. Many think an agreement could occur toward the end of September or shortly after as the bill would also include a continuing resolution to fund the government as the fiscal year comes to an end.

### **Military Protection**

The FY19 National Defense Authorization Act (NDAA) created the Defense Community Infrastructure Program (DCIP) which would assist state and local governments to address deficiencies in community infrastructure supportive of a military installation. While the program was not funded in FY19, it did receive \$50 million in the FY20 Defense Appropriations bill as part of the Office of Economic Adjustment (OEA). OEA assists the military services in developing relationships with states and communities, creating compatible land use procedures in partnership with local communities, and engaging local leaders to ensure services are available to military personnel and their families. As part of the annual appropriations process, San Antonio requested that the program again be funded at \$50 million and this level was included in the FY21 House Defense appropriations bill.

However, when the OEA released the applications for the DCIP, it has largely changed the types of projects that would be prioritized for funding. The City did not have any projects ready

for application. Many municipalities were disappointed in OEA's revisions in the program and the House Defense appropriations report include this language:

*The Committee recommendation includes \$50,000,000 for the Defense Community Infrastructure Program. The Committee is disappointed that the Secretary of Defense did not swiftly allocate funds to specific projects with the \$50,000,000 provided in the Department of Defense Appropriations Act, 2020, waiting until mid- May, or over five months from date of enactment, to provide direction to the Office of Economic Adjustment for execution. The Committee is also dismayed about the parameters the Secretary of Defense has instituted for execution of this program in fiscal year 2020, particularly the distinct lack of interaction with military communities, the exact group this program was created to assist. The parameters determined for use of the Defense Community Infrastructure Program seem to fund activities not funded in other sections of the bill, for example, daycare facilities and hospitals. The Committee is also disappointed to learn that the Department does not expect to include funding for this program in its fiscal year 2022 budget request. Given this divergence from congressional intent, the Committee directs that, prior to the obligation of funds, yet not later than 30 days after the enactment of this Act, the Secretary of Defense provide a spend plan to the congressional defense committees on the use of the fiscal year 2021 funding.*

As part of the appropriations process, the City also requested funding for multiple military construction projects of importance to JBSA. The House Military Construction appropriations bill included the budget request for a ground based training system simulator for the T-7As (\$19.5 million), a basic military training recruit dormitory (\$36 million), and a F-16 mission training center for the Air National Guard (\$10.8 million). The City also requested that Congress restore the funding that was rescinded for the Camp Bullis dining hall. There are ongoing lawsuits related to the use of the funds. Previously, the Senate failed to pass legislation that would have overturned the President's decision.

### **Domestic Violence**

The Violence Against Women Reauthorization Act of 2019 passed the House in April 2019 by a vote of 263-158, but the Senate has not taken any action on it. Multiple Senators have taken issue very various provisions in the House-passed bill particularly those that related to gun rights. There was talk of Senators drafting their own version but there has been little movement and any bill in the Senate would have to be bipartisan. The House-passed bill modifies and reauthorizes programs and activities through FY24 that aim to prevent and respond to domestic violence, sexual assault, dating violence, and stalking. It also authorizes new programs, establishes new protections, and modifies federal firearms laws. Additionally, the FY21 House HHS appropriations bill (H.R. 7617) included \$2 million for the Domestic Violence Prevention Enhancements and Leadership Through Alliances (DELTA) program, as well as language encouraging CDC to work with State and local governments for the collection and reporting of domestic violence data.

On the appropriations front, the City requested that the Congress include report language that would call for greater coordination between the CDC and state and local governments and nonprofit organizations on intimate and domestic violence data. This will ensure State and local nonprofits that focus on domestic violence issues have access to quality data when they are applying for federal grants to support their missions as this has been a problem for some of the San Antonio nonprofits when applying for grants. The House Labor-HHS-Education appropriations bill included report language similar to what the City requested:

*Domestic Violence and Sexual Violence. The Committee encourages CDC to prioritize the collection and reporting of data on domestic violence and sexual violence. The Committee also encourages CDC to work with State and local governments, as well as nonprofit organizations, to implement the necessary mechanism for sharing data as well as provide technical assistance when needed to ensure that the data is properly understood and utilized correctly.*

### **Transportation Infrastructure**

Surface transportation programs are currently authorized through FY2020 by the Fixing America's Surface Transportation Act (FAST Act; P.L. 114-94), which is set to expire on September 30, 2020.

The House passed the Moving Forward Act (H.R. 2) in July 2020 by a vote of 233-188. H.R. 2 provides over \$1.5 trillion in federal spending across a range of infrastructure areas including surface transportation, water, aviation, broadband, healthcare, and energy. Earlier in June the House Transportation and Infrastructure had passed the *INVEST in America Act*, which reauthorized the Fixing America's Surface Transportation (FAST) Act. House Democrats combined this legislation with additional provisions to create H.R. 2.

The Senate took a step toward FAST Act Reauthorization at the end of July 2019, when the Senate Environment and Public Works (EPW) Committee advanced their surface transportation bill, the America's Transportation Infrastructure Act of 2019 (ATIA, S. 2302). The bill includes the highway elements of surface transportation reauthorization under EPW's jurisdiction. In the Senate, other elements of reauthorization, such as public transportation, highway safety agencies, rail, and tax revenues, are under the jurisdiction of other committees.

While Senate EPW Chairman John Barrasso (R-WY) said he opposes the House Democratic bill and described it as "a road to nowhere," the Senate has not made any progress on its surface transportation bill since it was marked up almost a year ago. Though Senate EPW unanimously approved S. 2302 nearly a year ago, the other three committees with partial jurisdiction – Banking, Finance and Commerce – have yet to even produce a draft. For its part, Finance says it can't proceed until the other committees produce something, so it's clear exactly how much the bill costs. According to Politico, a GOP Banking Committee aide said earlier this summer that the majority is "still working with our counterparts" but had "no updates to report," and the Commerce Committee did not provide any updates. With only a few weeks left until the

current surface transportation programs expire, it is almost certain that Congress will have to pass a short-term extension.

Resources for transportation programs are being provided through the usual appropriations process but there has also been funding included in the coronavirus response bills. The House THUD appropriations bill (H.R. 7617) included \$1 billion for BUILD grant (the same as the FY20 enacted), \$1 billion for INFRA grants (the same as the FY20 enacted) and \$2.2 billion for Capital Investment Grants (CIG) (an increase over the FY20 enacted level of \$1.98 billion). San Antonio requested increased funding for both the BUILD and CIG programs as part of the annual appropriations process. The House THUD bill also had a separate title to have supplemental funding for certain programs to address the pandemic. In this title, BUILD received an additional \$3 billion and CIG received an additional \$5 billion. This supplemental funding is unlikely to be included in the Senate's version of the THUD bill.

The *CARES Act* also included over \$110 billion in grants, loans, and other relief for the transportation sector. The San Antonio region received \$93 million from the FTA to assist with losses associated with reduced ridership on VIA and other increased costs associated with the pandemic. Negotiations are continuing on the next response package.

### Housing

The FY21 House THUD appropriations bill (H.R. 7617) included \$3.52 billion in funding for Community Development Block Grants (an increase over the FY20 enacted level of \$3.43 billion), \$1.7 billion for HOME Investment Partnerships (an increase over the FY20 enacted level of \$1.35 billion), \$25.74 billion in Housing Choice Vouchers for tenant-based rental assistance (an increase over the FY20 enacted level of \$23.9 billion), and \$3.42 billion for Homeless Assistance grants (an increase over the FY20 enacted level of \$2.78 billion). The City advocated for funding for these programs during the annual appropriations process.

The House also included housing programs in the supplemental appropriations title to address the pandemic. In it, the CDBG program received an additional \$4 billion and the HOME program received \$17.5 billion. As with the transportation programs, it is unlikely that this funding would be included in the Senate's version of the bill.

The *CARES Act* also included an eviction moratorium and \$17.4 billion for HUD, with funding for public housing, rental assistance, the Community Development Block Grant, the Emergency Solutions Grant, and the Housing Opportunities for Persons with AIDS program. San Antonio received \$7.7 million from CDBG, almost \$17 million from Emergency Solutions Grant program and almost \$297,500 from the Housing Opportunities for Persons with AIDS program.

Additionally, the *Emergency Housing Protections and Relief Act of 2020* (H.R. 7301) passed the House in June 2020 by a vote of 232-180, which includes almost \$200 billion in funding for housing and homelessness programs that help address the needs of low-income renters, homeowners, and people experiencing homelessness.

### III. Legislative and Agency Issues

Below are brief updates on the some of the other legislative and agency issues included in the 116<sup>th</sup> Federal Legislative Program.

**Public Safety Enhancements.** The FY21 House Commerce, Justice, and Science Appropriations (H.R. 7617) includes \$525 million for the Byrne Justice Assistance Grant program, with an addition \$20 million for a Byrne Memorial criminal justice innovation program. There is also \$343 million included for the Community Oriented Policing Services (COPS) program. The *CARES Act* allocated \$850 million to the Department of Justice for state and local government justice assistance of which the City of San Antonio was awarded \$2.3 million.

**Emergency Preparedness/Homeland Security.** While the House has not passed its Homeland Security appropriations bill, the mark includes \$795 million for the Urban Area Security Initiative, an increase over the FY20 enacted level of \$665 million. San Antonio's allocation has varied greatly in recent years and the threat assessment changes and the City has in some years received a smaller allocation than other similarly sized cities. During SA to DC, the City had a meeting with FEMA officials to discuss its historically low UASI allocation. For FY20, the City received an allocation of \$3.5 million which is an increase over the FY19 allocation of \$3.25 million.

**Work Opportunity Tax Credits.** The FY20 Department of Labor Appropriations (H.R. 1865) extended the authorization of the WOTC by one year until December 31, 2020. The FY21 House Labor Appropriations (H.R. 7617) includes \$24.8 million for the Employment Service, of which some funds can be used to administer the WOTC.

**Historic Tax Credit (HTC) Enhancements.** The House-passed infrastructure bill, H.R. 2, *Moving Forward Act*, included temporary changes as well as permanent enhancements to the HTC. The bill increases the HTC percentage to 30 percent for 2020 through 2024. The credit percentage is reduced to 26 percent in 2025, 23 percent in 2026, and back to the pre-bill 20 percent rate in 2027 and thereafter. It also permanently expands the credit for small projects, and eliminates rules that prevent access for non-profits, including public schools.

**Deferred Action for Childhood Arrivals (DACA).** In June 2019 the House passed the *American Dream and Promise Act of 2019* (H.R. 6) by a vote of 237-187. The bill would provide a pathway to U.S. citizenship for DACA recipients. In June 2020, the Supreme Court upheld DACA, which protects 700,000 DREAMers from deportation. The Supreme Court decision led to Senate Democrats renewing their call for passage of the House bill.

**Workforce & Training.** The FY21 House Labor appropriations bill (H.R. 7617) includes \$3.7 billion for the Workforce Innovation and Opportunity Act, of which \$2.9 billion is for grants to states for adult employment and training activities, youth activities, and dislocated worker employment and training activities. The *CARES Act* also included \$345 million for the Department of Labor's training and employment services.



**Public Charge Rule.** On July 29, 2020, the U.S. District Court for the Southern District of New York (SDNY) ruled that for the period during which there is a declared national health emergency in response to the COVID-19 pandemic, the public charge rule is suspended. USCIS announced they will use the 1999 public charge rule for the time being. The public charge rule was finalized in February 2020, but there were a variety of exemptions, including CHIP, State, local, or tribal public health care services that are not funded by federal Medicaid, and Medicaid benefits received by pregnant women. The House Homeland Security Appropriations report includes report language asking that DHS reconsider the rule, but this bill has not been passed and the language does not force a reversal.

**Anti-trafficking/smuggling.** The FY21 House Department of Justice appropriations bill (H.R. 7617) includes language to focus on anti-human trafficking/smuggling efforts. The *Abolish Human Trafficking Act* is funded along with other violence against women prevention and prosecution programs at a level of \$525 million in the bill.

**Firearms Safety.** The House passed two bills related to gun reform: *Bipartisan Background Checks Act of 2019* (H.R. 8) and *Enhanced Background Checks Act of 2019* (H.R. 1112). The bills revise background check requirements applicable to proposed firearm transfers between unlicensed individuals or between a licensed and unlicensed person. While some Senators were working on their own legislation, the negotiations fell apart after President Trump continued to change his mind on what would be acceptable to him.

The FY21 House Department of Justice appropriations bill (H.R. 7617) includes language and funding for efforts to reduce and prevent gun violence. The bill includes \$88 million for grants to States to upgrade criminal and mental health records for the National Instant Criminal Background Check System (NICS) and \$1.55 billion for the Bureau of Alcohol, Tobacco, Firearms, and Explosives with a focus on expanding the National Integrated Ballistic Information Network (NIBIN) to reduce gun violence.

**Substance Abuse Prevention & Services.** The FY21 House HHS appropriations bill (H.R. 7617) included \$1.7 billion for mental health, \$3.76 billion for substance abuse treatment, \$209 million for substance abuse prevention, and \$129 million for health surveillance and program support. The *CARES Act* included \$425 million for the Substance Abuse and Mental Health Services Administration (SAMHSA), with funding for Certified Community Behavioral Health Clinics (CCBHCs), suicide prevention programs, and emergency-response spending that can target support where it is most needed.

**Homeless Prevention & Services.** The FY21 House THUD appropriations bill (H.R. 7617) included \$3.42 billion in Homeless Assistance Grants. Additionally, of the funding included for HUD in the *CARES Act*, \$4 billion was dedicated to support homeless citizens through the Emergency Solutions Grants program.

**San Antonio Missions National Park.** The *Great American Outdoors Act* (H.R. 1957) was signed into law in August 2020. This bill establishes the National Parks and Public Land Legacy Restoration Fund to support deferred maintenance projects on federal lands. It also authorizes funding for the Land and Water Conservation Fund at \$900 million annually.

**Air Quality.** The FY21 House Interior-Environment appropriations bill (H.R. 7608) included \$56.3 million for targeted airshed grants, \$300 million for the EPA's Environmental Programs and Management clean air programs, \$123 million for the EPA's Science and Technology clean air programs, and \$90 million for Diesel Emissions Reductions Grants (DERA).

**Brownfields.** The FY21 House Interior-Environment appropriations bill (H.R. 7608) included \$350 million for the EPA's Brownfields Grants and \$90 million for Brownfields cleanups. During SA to DC, a meeting occurred with EPA to discuss Brownfields funding and grants for the City of San Antonio's projects.