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MEMORANDUM

To: MAP-21 Subcommittee

From: CMAP staff

Date: February 15, 2013

Re: CMAP Analysis of MAP-21

On July 6, 2012, President Obama signed into law Moving Ahead for Progress in the 21st Century (MAP-21), a two-year transportation reauthorization bill. More than two years ago, CMAP published five transportation reauthorization principles that now provide a framework to analyze MAP-21. These principles are reflected throughout the GO TO 2040 comprehensive regional plan that was adopted unanimously in October 2010 by leaders from across the seven counties of metropolitan Chicago. In 2009, CMAP urged leaders in Washington to give highest priority to the following policy objectives when crafting and implementing a new federal transportation bill:

- Provide transportation investments based on regional priorities using performance-driven criteria that lead to decisions that are transparent, outcome-based, and mode-agnostic.
- Evaluate and prioritize infrastructure investments in a comprehensive way that looks beyond transportation benefits to include land use, economy, environment, and other quality-of-life factors.
- Provide adequate federal investments in the nation's transportation systems.
- Reform the transportation funding system by placing a new emphasis on sustainable revenue sources.
- Establish a national transportation vision that includes the movement of goods and the development of a national high-speed rail network.

MAP-21 provides many positive reforms that should provide expedited project delivery, greater flexibility for states and metropolitan planning organizations (MPOs) through the consolidation of federal programs, and strategic planning for freight movement. Further, several of the law's reforms to federal transit policy are advantageous to regions that have large, established transit systems. Chiefly, MAP-21 broadens the eligibility for New Starts funding to include capacity-expanding projects on existing transit lines (rather than only the construction of new transit systems or extensions to existing systems) and replaces the former discretionary bus program with a formula-based program focused on population, population density, bus vehicle revenue-miles, and bus passenger-miles.

Missed Opportunity

Despite these positive reforms, MAP-21 still represents a missed opportunity for federal transportation policy. Perhaps the law's greatest failing is that it lacks meaningful reforms of how the federal transportation program is financed. It does not provide new sustainable resources based on transportation user fees, nor does it substantially expand state and local governments' ability to raise revenues through tolling. MAP-21 does not increase funding levels beyond a modest inflation adjustment, relying on a number of totally unrelated revenue sources to patch together sufficient funding to keep the Highway Trust Fund solvent. MAP-21 does increase innovative financing opportunities, primarily through an expanded Transportation Infrastructure Finance and Innovation Act (TIFIA) federal credit assistance program. While lower financing costs can catalyze state and local investment, increased federal funding for TIFIA crowds out resources for the traditional core programs.

CMAP is also concerned that MAP-21 fails to include a comprehensive freight program. Rather than providing a robust, multimodal national program, MAP-21 is overly highway-focused and provides no support for high-speed rail. Though it encourages state freight plans and advisory councils, the legislation does not provide for MPOs to have a meaningful voice in those state venues.

Further, CMAP is concerned with some changes to the metropolitan planning process. While MPOs will be responsible for programming a slightly larger share of federal transportation funds, MAP-21's consolidation of programs expands the projects eligible for this funding. As such, metropolitan regions may find it difficult to maintain adequate levels of support for core program areas while meeting emerging transportation needs.

Additionally, MAP-21's emphasis on performance measurement falls short of the new direction envisioned in CMAP's reauthorization principles. It appears that performance targets will be somewhat narrow in scope and will not be tied to funding allocations. MAP-21 should improve the transparency of federal transportation spending through reporting requirements, but it is unclear whether the bill will meaningfully affect transportation outcomes.

Grading MAP-21 Performance Regarding CMAP Reauthorization Principles

The remainder of this Policy Update grades the performance of MAP-21 relative to each of the five CMAP principles for transportation reauthorization.

Provide transportation investments based on regional priorities using performance-driven criteria that lead to decisions that are transparent, outcome-based, and mode-agnostic.
Grade: Limited implementation of CMAP principles. MAP-21 makes limited progress toward implementing this recommendation, primarily through its emphasis on performance measurement. Under MAP-21, the U.S. Department of Transportation (USDOT) will establish performance measures, and state departments of transportation will develop performance

targets in consultation with MPOs and others. MPOs are also required to describe how their Transportation Improvement Program (TIPs) and Long Range Transportation Plans (LRTPs) will make progress toward meeting those targets.

CMAP is concerned that performance measurement in MAP-21 is overly driven by USDOT and state departments of transportation, and as such does not provide sufficient voice to regional priorities. MPOs must demonstrate that their TIPs and LRTPs are consistent with performance measures and targets, not that plans and investments are achieving national, state, and regional goals.

Further, the law's language on performance measures appears to focus more on reporting requirements rather than meaningful outcomes. The achievement of performance targets is not linked to funding allocations, failing to provide state departments of transportation and MPOs with meaningful incentives to make performance-driven investment decisions. Additionally, the performance measures emerging from MAP-21 are unlikely to be mode-agnostic; in fact, MAP-21 requires U.S. DOT to develop performance measures for mode-specific variables such as transit safety or condition of the National Highway System.

MAP-21 does suballocate a slightly larger share of funds to MPOs compared to SAFETEA-LU. In addition to directly programming the local Surface Transportation Program and Congestion Mitigation and Air Quality Improvement (CMAQ) funds, MPOs will also receive 50 percent of the new Transportation Alternatives program. With direct control over these funds, MPOs can directly apply some federal transportation investments to meet regional priorities. However, this suballocation applies to a wider range of improvements and could ultimately dilute the amount of funding to meet regional and local needs.

Evaluate and prioritize infrastructure investments in a comprehensive way that looks beyond transportation benefits to include land use, economy, environment, and other quality-of-life factors.
Grade: Limited implementation of CMAP principles. MAP-21 does not require state departments of transportation and MPOs to consider factors such as land use, economic impact, comprehensive planning, and other quality-of-life issues when making investment decisions. Rather, the performance topics specifically mentioned in MAP-21 include more traditional transportation criteria such as the performance and condition of the National Highway System, highway and transit safety, air quality, and freight movements. Additionally, MAP-21 removes the current use of evaluation criteria for project selection in the TIFIA program. Under SAFETEA-LU, TIFIA employed a robust set of evaluation criteria, including measures of environmental impact, use of new technology, and innovative project organization and delivery. To replace this selection process, MAP-21 transforms TIFIA into a first-come, first-served program.

More generally, MAP-21 substantially consolidates federal transportation programs. To the extent that greater flexibility allows states to choose projects in a more comprehensive manner, MAP-21 could thus further implement this CMAP recommendation. However, this consolidation occurs within modes, not across them, reducing state departments' of transportation and MPOs' ability to plan comprehensively for broader mobility and accessibility needs.

Provide adequate federal investments in the nation's transportation systems.
Grade: Fails to implement CMAP principles. MAP-21 maintains current funding levels adjusted for inflation. More specifically, the law authorizes federal transportation funding through September 2014, at an annual level of $52.6 billion. This represents a **total increase** of close to 5 percent over the SAFETEA-LU annual average from FY 2006-09.

While the total authorization level has increased, MAP-21 fails to address the continuing structural gap between Highway Trust Fund revenues and expenditures. To keep the Highway Trust Fund solvent, the law makes a one-time transfer of $2.4 billion of gasoline and diesel taxes already collected but deposited to a different fund, as well as an $18.8 billion transfer from the General Fund to the Highway Trust Fund. Post 2014, additional bailouts of the Highway Trust Fund will be necessary if current policy regarding the federal motor fuel tax remains unchanged.

While current funding levels with a modest inflation adjustment is preferable to the substantial funding cuts considered by the U.S. House of Representatives in 2012, many studies have determined that current funding levels are not nearly enough to bring the nation's transportation systems to a state of good repair. To illustrate, the National Surface Transportation Policy and Revenue Study Commission estimated an annual investment of at least $225 billion would be needed over the next 50 years, more than twice the rate of current transportation spending. And the National Surface Transportation Infrastructure Financing Commission estimated a $2.3 trillion cumulative funding gap between 2010 and 2035. Given the magnitude of need, MAP-21 fails to provide adequate investment levels.

Reform the transportation funding system by placing a new emphasis on sustainable revenue sources.
Grade: Fails to implement CMAP principles. While MAP-21 is fully-funded, receipts from the Highway Trust Fund will prove insufficient to meet the law's $52 billion annual cost. As described above, MAP-21 provides for $18.8 billion in transfers from the General Fund to the Highway Trust fund over the course of the law. Additionally, MAP-21 draws on General Funds to finance key discretionary program areas such the New Starts capital improvement grants for transit and the Projects of National and Regional Significance program for freight and other complex mega-projects.

To offset these General Fund transfers, MAP-21 relies on seven different revenue sources, six of which are entirely unrelated to transportation. Four of these changes are related to pensions and retirement savings, one to disaster recovery federal medical assistance, one to the taxation of roll-your-own cigarette machines, and one to the Leaking Underground Storage Tank (LUST) Trust Fund. For more information on the financing of MAP-21, please consult this press release from the U.S. Senate Finance Committee.

This reliance on non-transportation revenue sources represents a departure from the longstanding user-fees approach to federal transportation finance. User fees such as the gas tax charge businesses and consumers based on their use of transportation system, and they have been the centerpiece of federal transportation policy for decades. These fees, however, are not indexed to inflation and have failed to keep pace with costs. Additionally, they have been further eroded by the increasing fuel efficiency of vehicles. MAP-21 fails to increase the various user fees accruing to the Highway Trust Fund, fails to index current rates to future inflation, and fails to implement innovative long-term replacements to the gas tax.

Further, MAP-21 does not provide states with much opportunity to develop new sustainable revenue sources through tolling. The law maintains past policy prohibiting the tolling of existing free Interstate capacity. As in the past, states are allowed to toll new Interstate capacity so long as the number of non-tolled lanes exceeds the number of tolled lanes. States are also allowed to reconstruct and convert non-Interstate facilities to toll facilities. MAP-21 does not continue the various pricing pilot programs under SAFEETA-LU, some of which date back to the early 1990s.

MAP-21 at best indirectly encourages sustainable transportation revenues through its increased commitment to the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. The TIFIA program supplies low-interest, flexible financing options to major transportation projects via direct loans, loan guarantees, and stand-by lines of credit. This assistance must be repaid through a dedicated revenue source such as tolls, sales taxes, or tax increment finance revenues. To the extent that states use tolling, parking pricing, congestion pricing, and value capture to repay TIFIA assistance, MAP-21 could support the implementation of other sustainable, efficient forms of revenue. While CMAP supports innovative financing of transportation projects, our concern is that the substantial increase in TIFIA funding reduces contract authority to the states through the core formula highway programs.

Establish a national transportation vision that includes the movement of goods and the development of a national high-speed rail network.
Grade: Partially implements CMAP principles. MAP-21 somewhat implements the first half of this reauthorization principle, but it does not make progress on the development of a national high-speed rail network. Although CMAP is disappointed the law does not include a stand-alone freight program, our agency generally supports MAP-21's other freight provisions. MAP-21 establishes the need for a National Freight Policy and the designation of a Primary Freight Network of up to 27,000 centerline miles of key Interstate corridors, recommends the creation of state freight advisory boards and state freight plans, and prioritizes freight projects by allowing a larger federal share for eligible freight projects. More specifically, MAP-21 raises the federal share for eligible projects to 95 percent for projects on the Interstate system, and 90 percent for other eligible projects. The law also authorizes $500 million for the Projects of National and Regional Significance (PNRS) program in FY 2013. PNRS has been applied to freight-related projects in the past, such as Chicago's CREATE rail program.

That being said, CMAP is concerned that MAP-21 is overly focused on highway freight and does not establish the multimodal freight program envisioned in CMAP's reauthorization principles. Further, MAP-21 does not provide for a formal role of MPOs in the recommended state freight plans and advisory boards, and -- as mentioned above -- it is silent on high-speed rail. While MAP-21 pays more attention to freight compared to past federal authorizations, it still paints an incomplete picture of the nation's freight systems.