Construction Industry Round Table

A force for positive change in the design / construction industry

Legislative News

12/08/2017 – Tax Reform Impacts Infrastructure Initiative

As the year draws to a close, virtually all the focus has been on the tax reform measure as it moves through the process in Congress. Notwithstanding, the legislative agenda has a number of other pressing matters including: keeping the government funded with a "continuing resolution" (CR); disaster relief offsets; DACA and related immigration issues; as well as other assorted matters not to mention infrastructure. While it is clear the infrastructure initiative won't be addressed until next year, some key elements related to funding, financial alternatives, and methods are being impacted by the debates surrounding the tax reform package.

Republicans, for the most part, have remained tied-to and accept the archaic and notoriously inaccurate/flawed Congressional Budget Office (CBO) "scoring" method to price bills being considered. Even when pressed to add a "dynamic" aspect to the CBO's calculations, these factors are merely guesses that can be thrown-off substantially by even minor variations in GDP or other factors, especially when it comes to revenue in the face of a fairly major tax reform package like that being considered by Congress. Nonetheless, CBO scoring is driving much of the proposed tax changes (or lack thereof) causing funds to be earmarked from one reduction to another, in vain attempt to "pay for" the tax proposal. This has resulted in displacements and some potentially negative impacts on the future of a comprehensive infrastructure package, most directly as to funding methods and sources.

Even though infrastructure is high on the President's "to do list" the tax bill appears to be a missed opportunity to address this matter. As currently configured and being considered, these elements present a challenge to the future infrastructure initiative (legislation):

(1) Use of the one-time tax on repatriated offshore corporate funds (estimated in the two house versions as between $293-298 billion dollars in tax revenue) have been earmarked to off-set the "cost" of the corporate tax rate reduction and other tax changes (driven by CBO scoring) instead of applying it to infrastructure needs or the Highway Trust Fund as has been proposed by CIRT and those in the design/construction industry, as well as the general business community, as a means to create jobs, expand the economy, and improve our global competitiveness;

(2) The Tax Policy Center notes: "The House-passed bill also would eliminate tax-exempt private activity bonds (PABs) issued by state and local governments on behalf of private investors who participate in projects such as airports, hospitals, toll roads, and multi-family housing. And it would repeal the tax exemption for so-called advance refunding bonds used to refinance outstanding state and local government bonds when interest rates decline." These changes do not prevent the bonding activities from occurring, but by removing favorable tax treatment they clearly will impact the amount and attractiveness of such methods to fund infrastructure needs. Again, we see the hand of the CBO scoring with some of these minor changes to "save" revenue to off-set other tax provisions desired by Congress.

If enacted as currently configured in the Congressional tax bills, these changes would further exacerbate the negative implications of the Administration's proposed FY2018 budget that contemplates elimination of the successful TIGER (Transportation Investment Generating Economic Recovery) program, which allocates funds to localities on a competitive basis. The liberal-leaning TPC states in part: "the Trump Administration had taken an ecumenical approach to infrastructure funding – voicing support at various times for repatriated foreign earnings as well as tax credits, a national infrastructure bank, and even a federal gas tax hike. It has also called for streamlining regulatory approvals, privatizing air traffic control, and promoting public-private partnerships (P3s). But enhancing private development of infrastructure is at odds with ending PABs, which have been involved in three-quarters of all P3s since 2005."

Infrastructure is likely to be the next "big" agenda item on the President's schedule. . . but, beyond fast tracking projects and eliminating regulatory burdens, funding is by far the most critically vexing matter that needs to be addressed.