December 5, 2008

Dear Representative:

We, the undersigned, are writing to urge you to protect metropolitan transportation planning funding from a misinterpretation of budget rescission provisions in recently enacted energy legislation. President Bush signed into law the Energy Independence and Security Act of 2007 (“EISA”), Pub. L. 110-140, on December 19, 2007. Included in EISA are provisions that require any rescission of federal budget authority to be spread across all core programs. This was enacted to prevent budget rescission from being solely applied to Congestion Mitigation Air Quality (CMAQ) funds, as is the practice by some states.

Current interpretations by some state departments of transportation and the Federal Highway Administration (FHWA) include planning as a separate “program” subject to funding rescissions. Since planning funds are derived as a percentage set aside from core programs, this position threatens to undermine the ability of many metropolitan areas to meet federal requirements for transportation planning. Some MPOs are now facing the hard reality of staff reductions. Prior to enactment of EISA, states had not rescinded planning funds. We believe that alongside critical programs like safety, the practice until recently pointed to the importance of planning in the very nature that the funds were not repealed.

AMPO has asked FHWA to issue guidance to the States acknowledging the statutory standing of planning under Title 23 as a funding set aside and not as a separate program subject to additional rescissions over and above reductions to core programs. FHWA reiterated its interpretation that rescissions apply to core programs and planning apportionments. However, FHWA noted that State Planning and Research (SPR) funds are not subject to rescission. SPR and planning funds support similar activities although one is at the state level and the other at the metropolitan level.

We urge Congress to clarify the fact that metropolitan planning should be excluded from the programmatic rescissions required under the Energy Independence and Security Act of 2007 by amending the last sentence of Section 1132(a) of the Energy Independence and Security Act of 2007, Pub. L. 110-140, to read as follows.

"Planning funds distributed under chapter 1 of title 23 shall not be considered a program for which funds are apportioned for purposes of this paragraph and shall not be subject to rescission under this section or other rescission of apportioned funds."

We urge Congress to take timely action on this issue. We look forward to working with you.
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