ACEC

American Council of Engineering Companies

Overturn the 3% Withholding Mandate

FACT SHEET

ISSUE

Section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 (P.L. 109-222) is a sweeping new requirement mandating that federal, state, and local governments withhold three percent from payments for goods and services. The law, which takes effect in 2011, will cover all such payments made by the federal government and state governments, as well as local governments that have annual expenditures that exceed $100 million.

ACEC is deeply concerned about the impact and unintended consequences of this new requirement on all companies that receive contracts or other forms of government payments. The withholding mandate will apply to the total cost of the contract, not to the net revenue generated or the size of the company. As a consequence, government agencies may see the cost for goods and services increase as firms seek to offset the impact of the three percent tax withholding mandate.

In addition, because the profit margin for engineering and construction services on public projects is often less than three percent, the new mandate creates very serious cash flow problems for companies providing vital services to government agencies and the public. The law will also impose significant administrative costs and information reporting requirements on governments and businesses. This will be a serious concern for subchapter S corporations and other pass-through entities because these withholdings will have to be reported to each partner in the partnership and will affect their tax liability. For state and local governments, the withholding requirement represents an unfunded mandate at a time when budgets are stretched to the limit.

KEY POINTS

- *The provision was designed to deter tax evasion, but it will primarily penalize honest taxpayers.*
- *Many engineering companies realize a profit margin of less than three percent on a contract*, and withholding three percent up front for tax purposes will force them to divert funds needed to complete the contract, creating cash flow problems.
- *The new mandate will have an adverse effect on smaller firms*, as prime contractors may be compelled to pass the costs associated with the three percent withholding requirement to their subcontractors, or possibly shift from subcontracting work out to performing it internally.

ACTION REQUESTED

- **Cosponsor legislation introduced in the House by Representatives Kendrick Meek (D-FL) and Wally Herger (R-CA) and its Senate counterpart – H.R. 1023 and S. 777 – to repeal Section 511.**
- **Oppose efforts to broaden the withholding requirement or speed up its implementation**.

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES

FACT SHEET

Averting the Transportation Funding Shortfall

ISSUE

Government projections show that Highway Trust Fund revenues will not meet the spending levels specified in SAFETEA LU. Revenue projections show that the Highway Trust Fund could have a negative balance of $3.7 billion by FY 2009, which would require a $13.7 billion cut in the highway program due to the pay-out rate for obligations. The situation grows worse in 2010, as funding to the states for highway projects would be cut by 50% under current budget forecasts.

Enacting an immediate short-term solution to keep the Highway Trust Fund solvent in 2009 is critical. Options identified to preserve the Fund include crediting it for emergency expenditures paid out since 1998; this would recapture $3.4 billion. In addition, current exemptions from Highway Trust Fund excise taxes – such as private intercity buses, and vehicles operated by state and local governments and nonprofits – cost the account approximately $745 million per year. These exemptions should be restructured to be General Fund supported activities. Finally, fuel tax fraud costs the Trust Fund an estimated $900 million per year; so greater focus should be placed on tax enforcement.

Another key priority is preserving Revenue Aligned Budget Authority (RABA), which ensures that transportation funding follows actual revenue from gas taxes and vehicle taxes. If more revenue flows into the Trust Fund than originally predicted, RABA ensures that the additional funds are provided to the states.

KEY POINTS

- *Congress needs to act now to address the 2009 deficit in the Highway Trust Fund.* Without corrective action, state transportation programs would suffer a significant cut, and the problem would become more severe in 2010.
- *Even funding levels authorized under SAFETEA LU fall short of the Nation's transportation needs.* According to the National Surface Transportation Policy and Revenue Study Commission, "we need to invest at least $225 billion annually from all sources for the next 50 years to upgrade our existing system to a state of good repair and create a more advanced surface transportation system to sustain and ensure strong economic growth for our families. We are spending less than 40 percent of this amount today."
- *Transportation investment creates short and long term economic growth.* Federal investment in transportation creates 42,500 jobs for every $1 billion spent and will help make immediate improvements in safety and congestion relief. Improving our highway and transit infrastructure will also ensure long term economic growth and strengthen our ability to compete in a growing international marketplace.

ACTION REQUESTED

- **Fully fund highway and transit spending levels authorized by SAFETEA LU at $43.2 billion and $10.3 billion respectively in FY'09.**
- **For the next surface transportation program, fully consider the recommendations of the National Surface Transportation Policy and Revenue Study Commission, including indexing the gas tax to inflation and greater utilization of new sources of private capital.**

Key Congressional Committees

HOUSE
Committee on Transportation and Infrastructure

Democrats

James Oberstar (MN), *Chair*
Nick Rahall (WV)
Peter DeFazio (OR)
Jerry Costello (IL)
Eleanor Norton (DC)
Jerrold Nadler (NY)
Corrine Brown (FL)
Bob Filner (CA)
Eddie Johnson (TX)
Gene Taylor (MS)
Elijah Cummings (MD)
Ellen Tauscher (CA)
Leonard Boswell (IA)
Tim Holden (PA)
Brian Baird (WA)
Rick Larsen (WA)
Michael Capuano (MA)
Timothy Bishop (NY)
Michael Michaud (ME)
Brian Higgins (NY)
Russ Carnahan (MO)
John Salazar (CO)
Grace Napolitano (CA)
Daniel Lipinski (IL)
Doris Matsui (CA)
Nick Lampson (TX)
Zachary Space (OH)
Mazie Hirono (HI)
Bruce Braley (IA)
Jason Altmire (PA)
Timothy Walz (MN)
Heath Shuler (NC)
Michael Arcuri (NY)
Harry Mitchell (AZ)
Christopher Carney (PA)
John Hall (NY)
Steve Kagen (WI)
Stephen Cohen (TN)
Jerry McNerney (CA)
Laura Richardson (CA)
Albio Sires (NJ)

Republicans

John Mica (FL)
Donald Young (AK)
Thomas Petri (WI)
Howard Coble (NC)
John Duncan Jr.(TN)
Wayne Gilchrest (MD)
Vernon Ehlers (MI)
Steven LaTourette (OH)
Richard Baker (LA)
Frank LoBiondo (NJ)
Jerry Moran (KS)
Gary Miller (CA)
Robin Hayes (NC)
Henry Brown Jr. (SC)
Timothy Johnson (IL)
Todd Platts (PA)
Samuel Graves Jr. (MO)
William Shuster (PA)
John Boozman (AR)
Shelley Capito (WV)
James Gerlach (PA)
Mario Diaz-Balart (FL)
Charles Dent (PA)
Ted Poe (TX)
David Reichert (WA)
Connie Mack (FL)
John Kuhl Jr. (NY)
Lynn Westmoreland (GA)
Charles Boustany Jr. (LA)
Jean Schmidt (OH)
Candice Miller (MI)
Thelma Drake (VA)
Mary Fallin (OK)
Vern Buchanan (FL)
Robert Latta (OH)

COMMITTEE ON WAYS AND MEANS

Democrats

Charles Rangel (NY), *Chair*
Fortney Stark (CA)
Sander Levin (MI)
Jim McDermott (WA)
John Lewis (GA)
Richard Neal (MA)
Michael McNulty (NY)
John Tanner (TN)
Xavier Becerra (CA)
Lloyd Doggett (TX)
Earl Pomeroy (ND)
Stephanie Tubbs Jones (OH)
Michael Thompson (CA)
John Larson (CT)
Rahm Emanuel (IL)
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Ron Kind (WI)
William Pascrell Jr. (NJ)
Shelley Berkley (NV)
Joseph Crowley (NY)
Chris Van Hollen (MD)
Kendrick Meek (FL)
Allyson Schwartz (PA)
Artur Davis (AL)

Republicans

Jim McCrery (LA)
Wally Herger (CA)
David Camp (MI)
Jim Ramstad (MN)
Samuel Johnson (TX)
Phil English (PA)
Gerald Weller (IL)
Kenny Hulshof (MO)
Ron Lewis (KY)
Kevin Brady (TX)
Thomas Reynolds (NY)
Paul Ryan (WI)
Eric Cantor (VA)
John Linder (GA)
Devin Nunes (CA)
Patrick Tiberi (OH)
Jon Porter (NV)

SENATE
Committee on Environment and Public Works

Democrats

Barbara Boxer (CA), *Chair*
Max Baucus (MT)
Thomas Carper (DE)
Hillary Clinton (NY)
Frank Lautenberg (NJ)
Benjamin Cardin (MD)
Amy Klobuchar (MN)
Sheldon Whitehouse (RI)

Republicans

James Inhofe (OK)
John Warner (VA)
George Voinovich (OH)
Johnny Isakson (GA)
David Vitter (LA)
Lamar Alexander (TN)
Larry Craig (ID)
John Barrasso (WY)
Christopher Bond (MO)

Independents

Joseph Lieberman (CT)
Bernie Sanders (VT)

COMMITTEE ON FINANCE

Democrats

Max Baucus (MT), *Chair*
John Rockefeller (WV)
Kent Conrad (ND)
Jeff Bingaman (NM)
John Kerry (MA)
Blanche Lincoln (AR)
Ron Wyden (OR)
Charles Schumer (NY)
Debbie Stabenow (MI)
Maria Cantwell (WA)
Ken Salazar (CO)

Republicans

Charles Grassley (IA)
Orrin Hatch (UT)
Olympia Snowe (ME)
Jon Kyl (AZ)
Gordon Smith (OR)
Jim Bunning (KY)
Mike Crapo (ID)
Pat Roberts (KS)
John Sununu (NH)

**As of 4/13/08*

ACEC

American Council of Engineering Companies

Addressing the Water Infrastructure Crisis

FACT SHEET

ISSUE

The nation's water and wastewater systems are urgently in need of repair, replacement and upgrade. Studies by the U.S. Environmental Protection Agency (EPA), the Government Accountability Office (GAO), and the Water Infrastructure Network (WIN) indicate a significant funding gap of between $300 and $500 billion over the next 20 years between current anticipated investments in water infrastructure and what is needed to repair aging systems and comply with federal mandates.

Federal appropriations for EPA's water programs have also fallen substantially in recent years. For example, the Clean Water State Revolving Fund (SRF) program, funded for several years at $1.35 billion annually, was reduced to $887 million in FY 2006, $1 billion in FY 2007, and $689 million in FY 2008. For FY 2009, the President has proposed only $555 million for the program. This is a significant retreat from the nation's long-standing federal-state-local partnership to maintain our water infrastructure, and falls far short of what is needed to protect the quality, safety and security of our water resources.

Legislation is now moving in Congress that takes an important step in addressing the looming water infrastructure crisis. The House of Representatives last year adopted H.R. 720, the Water Quality Financing Act, which reauthorizes and expands the Clean Water SRF program to $14 billion over four years. The measure also includes language to require the use of Qualifications-Based Selection (QBS) in the procurement of engineering services for SRF-funded projects to ensure that tax dollars are well spent for water projects. It also includes language requiring a GAO study on creating a dedicated, long-term funding source such as a clean water trust fund. A similar Senate bill is expected to be introduced shortly.

KEY POINTS

Increased investment in water infrastructure projects will…

- *Protect the environment and the water quality of the nation's rivers, lakes, and streams* through improvements to wastewater treatment and pollution control systems to meet permit requirements and address capacity issues.
- *Protect public health* through enhancements to water and wastewater systems. As the first line of defense in keeping harmful pollutants out of our water supplies, treatment plants will require increased federal investment.
- *Stimulate the economy* in the near term through job creation and economic activity, and provide the enhanced public infrastructure necessary to sustain long-term economic growth. For every billion dollars invested in water and wastewater construction, over 40,000 jobs are created.

ACTION REQUESTED

- **Seek Senate passage of companion legislation to H.R. 720, to reauthorize and expand funding for the Clean Water Act SRF program.**
- **Make it a priority *this year* to send a final bill to the White House.**

ACEC
American Council of Engineering Companies

Addressing the Water Infrastructure Crisis

House of Representatives Vote on H.R. 720, The Water Quality Financing Act of 2007

Yea: 303 Members
(alphabetical by state)

Donald Young (R-AK)
Robert Cramer Jr. (D-AL)
Artur Davis (D-AL)
Marion Berry (D-AR)
Michael Ross (D-AR)
Vic Snyder (D-AR)
Gabrielle Giffords (D-AZ)
Raul Greave (D-AZ)
Harry Mitchell (D-AZ)
Ed Pastor (D-AZ)
Rick Renzi (R-AZ)
Joseph Baca (D-CA)
Xavier Becerra (D-CA)
Brian Bilbray (R-CA)
Lois Capps (D-CA)
Dennis Cardoza (D-CA)
James Costa (D-CA)
Susan Davis (D-CA)
John Doolittle (R-CA)
Sam Farr (D-CA)
Bob Filner (D-CA)
Elton Gallegly (R-CA)
Jane Harman (D-CA)
Michael Honda (D-CA)
Tom Lantos (D-CA)
Barbara Lee (D-CA)
Jerry Lewis (R-CA)
Zoe Lofgren (D-CA)
Doris Matsui (D-CA)
Jerry McNerney (D-CA)
George Miller (D-CA)
Grace Napolitano (D-CA)
Dana Rohrabacher (R-CA)
Lucille Roybal-Allard (D-CA)
Linda Sanchez (D-CA)
Loretta Sanchez (D-CA)
Adam Schiff (D-CA)
Brad Sherman (D-CA)
Hilda Solis (D-CA)
Fortney Stark (D-CA)
Ellen Tauscher (D-CA)
Michael Thompson (D-CA)
Maxine Waters (D-CA)
Diane Watson (D-CA)
Henry Waxman (D-CA)
Lynn Woolsey (D-CA)
Diana DeGette (D-CO)
Edwin Perlmutter (D-CO)
John Salazar (D-CO)
Mark Udall (D-CO)
Joseph Courtney (D-CT)
Rosa DeLauro (D-CT)
Christopher Murphy (D-CT)
Christopher Shays (R-CT)
Michael Castle (R-DE)
Allen Boyd (D-FL)
Corrine Brown (D-FL)
Virginia Brown-Waite (R-FL)
Katherine Castor (D-FL)
Lincoln Diaz-Balart (R-FL)
Mario Diaz-Balart (R-FL)
Alcee Hastings (D-FL)
Ronald Klein (D-FL)
Timothy Mahoney (D-FL)
Kendrick Meek (D-FL)
Ileana Ros-Lehtinen (R-FL)
Debbie Wasserman-Schultz (D-FL)
Robert Wexler (D-FL)
C.W. Young (R-FL)
John Barrow (D-GA)
Sanford Bishop Jr. (D-GA)
Henry Johnson Jr. (D-GA)
John Lewis (D-GA)
Jim Marshall (D-GA)
David Scott (D-GA)
Neil Abercrombie (D-HI)
Mazie Hirono (D-HI)
Leonard Boswell (D-IA)
Bruce Braley (D-IA)
Dave Loebsack (D-IA)
Melissa Bean (D-IL)
Judy Biggert (R-IL)
Jerry Costello (D-IL)
Danny Davis (D-IL)
Luis Gutierrez (D-IL)
Phil Hare (D-IL)
J. Dennis Hastert (R-IL)
Jesse Jackson Jr. (D-IL)
Timothy Johnson (R-IL)
Mark Kirk (R-IL)
Ray LaHood (R-IL)
Daniel Lipinski (D-IL)
Peter Roskam (R-IL)
Bobby Rush (D-IL)
Janice Schakowsky (D-IL)
John Shimkus (R-IL)
Gerald Weller (R-IL)
Dan Burton (R-IN)
Steve Buyer (R-IN)
Julia Carson (D-IN)
Joseph Donnelly (D-IN)
Brad Ellsworth (D-IN)
Baron Hill (D-IN)
Peter Visclosky (D-IN)
Nancy Boyda (D-KS)
Dennis Moore (D-KS)
Benjamin Chandler (D-KY)
Harold Rogers (R-KY)
Edward Whitfield (R-KY)
John Yarmuth (D-KY)
Rodney Alexander (R-LA)
Richard Baker (R-LA)
William Jefferson (D-LA)
Charles Melancon (D-LA)
Michael Capuano (D-MA)
William Delahunt (D-MA)
Barney Frank (D-MA)
Stephen Lynch (D-MA)
Edward Markey (D-MA)
James McGovern (D-MA)
Martin Meehan (D-MA)
Richard Neal (D-MA)
John Olver (D-MA)
John Tierney (D-MA)
Elijah Cummings (D-MD)
Wayne Gilchrest (R-MD)
Steny Hoyer (D-MD)
C.A. Ruppersberger (D-MD)
John Sarbanes (D-MD)
Chris Van Hollen (D-MD)
Albert Wynn (D-MD)
Thomas Allen (D-ME)
Michael Michaud (D-ME)
John Conyers Jr. (D-MI)
John Dingell (D-MI)
Vernon Ehlers (R-MI)
Dale Kildee (D-MI)
Carolyn Kilpatrick (D-MI)
Sander Levin (D-MI)
Thaddeus McCotter (R-MI)
Candice Miller (R-MI)
Bart Stupak (D-MI)
Fred Upton (R-MI)
Keith Ellison (D-MN)
Betty McCollum (D-MN)
James Oberstar (D-MN)
Collin Peterson (D-MN)
Jim Ramstad (R-MN)
Timothy Walz (D-MN)
Russ Carnahan (D-MO)
William Clay Jr. (D-MO)
Emanuel Cleaver II (D-MO)
Jo Ann Emerson (R-MO)
Samuel Graves Jr. (R-MO)
Kenny Hulshof (R-MO)
Ike Skelton (D-MO)
Charles Pickering Jr. (R-MS)
Gene Taylor (D-MS)
Bennie Thompson (D-MS)
Roger Wicker (R-MS)
Dennis Rehberg (R-MT)
George Butterfield (D-NC)
Bob Etheridge (D-NC)
Walter Jones Jr. (R-NC)
Mike McIntyre (D-NC)
Bradley Miller (D-NC)
David Price (D-NC)
Heath Shuler (D-NC)
Melvin Watt (D-NC)
Earl Pomeroy (D-ND)
Jeffrey Fortenberry (R-NE)
Adrian Smith (R-NE)
Lee Terry (R-NE)
Paul Hodes (D-NH)
Carol Shea-Porter (D-NH)
Robert Andrews (D-NJ)
Mike Ferguson (R-NJ)
Rush Holt (D-NJ)
Frank LoBiondo (R-NJ)
Frank Pallone Jr. (D-NJ)
William Pascrell Jr. (D-NJ)
Donald Payne (D-NJ)
Steven Rothman (D-NJ)
James Saxton (R-NJ)
Albio Sires (D-NJ)
Christopher Smith (R-NJ)
Tom Udall (D-NM)
Heather Wilson (R-NM)
Shelley Berkley (D-NV)
Jon Porter (R-NV)
Gary Ackerman (D-NY)
Michael Arcuri (D-NY)
Timothy Bishop (D-NY)
Yvette Clarke (D-NY)
Joseph Crowley (D-NY)
Eliot Engel (D-NY)
Vito Fossella (R-NY)
Kirsten Gillibrand (D-NY)
John Hall (D-NY)
Brian Higgins (D-NY)
Maurice Hinchey (D-NY)
Steve Israel (D-NY)
Peter King (R-NY)
John Kuhl Jr. (R-NY)
Nita Lowey (D-NY)
Carolyn Maloney (D-NY)
Carolyn McCarthy (D-NY)
John McHugh (R-NY)
Michael McNulty (D-NY)
Gregory Meeks (D-NY)
Jerrold Nadler (D-NY)
Charles Rangel (D-NY)
Thomas Reynolds (R-NY)
Jose Serrano (D-NY)
Louise Slaughter (D-NY)
Edolphus Towns (D-NY)
Nydia Velazquez (D-NY)
James Walsh (R-NY)
Anthony Weiner (D-NY)
Paul Gillmor (R-OH)
David Hobson (R-OH)
Marcy Kaptur (D-OH)
Dennis Kucinich (D-OH)
Steven LaTourette (R-OH)
Ralph Regula (R-OH)
Timothy Ryan (D-OH)
Jean Schmidt (R-OH)
Zachary Space (D-OH)
Betty Sutton (D-OH)
Stephanie Tubbs Jones (D-OH)
Michael Turner (R-OH)
Charles Wilson (D-OH)
Earl Blumenauer (D-OR)
Peter DeFazio (D-OR)
Darlene Hooley (D-OR)
Greg Walden (R-OR)
David Wu (D-OR)
Jason Altmire (D-PA)
Robert Brady (D-PA)
Christopher Carney (D-PA)
Charles Dent (R-PA)
Michael Doyle (D-PA)
Phil English (R-PA)
Chaka Fattah (D-PA)
James Gerlach (R-PA)
Tim Holden (D-PA)
Paul Kanjorski (D-PA)
Patrick Murphy (D-PA)
Tim Murphy (R-PA)
John Murtha (D-PA)
John Peterson (R-PA)
Todd Platts (R-PA)
Allyson Schwartz (D-PA)
Joe Sestak (D-PA)
William Shuster (R-PA)
Patrick Kennedy (D-RI)
James Langevin (D-RI)
James Clyburn (D-SC)
John Spratt Jr. (D-SC)
Stephanie Herseth Sandlin (D-SD)
Stephen Cohen (D-TN)
Jim Cooper (D-TN)
Lincoln Davis (D-TN)
Bart Gordon (D-TN)
John Tanner (D-TN)
Zach Wamp (R-TN)
Henry Cuellar (D-TX)
Chet Edwards (D-TX)
Charles Gonzalez (D-TX)
Al Green (D-TX)
Gene Green (D-TX)
Ruben Hinojosa (D-TX)
Sheila Jackson Lee (D-TX)
Eddie Johnson (D-TX)
Nicholas Lampson (D-TX)
Michael McCaul (R-TX)
Solomon Ortiz (D-TX)
Silvestre Reyes (D-TX)
Ciro Rodriguez (D-TX)
James Matheson (D-UT)
Rick Boucher (D-VA)
Thelma Drake (R-VA)
James Moran (D-VA)
Robert Scott (D-VA)
Frank Wolf (R-VA)
Peter Welch (D-VT)
Brian Baird (D-WA)
Norman Dicks (D-WA)
Richard Hastings (R-WA)
Jay Inslee (D-WA)
Rick Larsen (D-WA)
Jim McDermott (D-WA)
Cathy McMorris Rodgers (R-WA)
David Reichert (R-WA)
Adam Smith (D-WA)
Tammy Baldwin (D-WI)
Steve Kagen (D-WI)
Ron Kind (D-WI)
David Obey (D-WI)
Thomas Petri (R-WI)
Shelley Capito (R-WV)
Alan Mollohan (D-WV)
Nick Rahall II (D-WV)

Did Not Vote

Spencer Bachus III (R-AL)
Howard Berman (D-CA)
Mary Bono (R-CA)
Ken Calvert (R-CA)
Anna Eshoo (D-CA)
Duncan Hunter (R-CA)
Juanita Millender-McDonald (D-CA)
Devin Nunes (R-CA)
Thomas Tancredo (R-CO)
John Larson (D-CT)
Tom Feeney (R-FL)
Rahm Emanuel (D-IL)
David Camp (R-MI)
Robin Hayes (R-NC)
John Boehner (R-OH)
Daniel Boren (D-OK)
David Davis (R-TN)
Lloyd Doggett (D-TX)
Kenneth Marchant (R-TX)
Robert Neugebauer (R-TX)
Jo Ann Davis (R-VA)
Gwen Moore (D-WI)

SENATE

Committee on Environment and Public Works

Democrats

Barbara Boxer (CA), *Chair*
Max Baucus (MT)
Thomas Carper (DE)
Hillary Clinton (NY)
Frank Lautenberg (NJ)
Benjamin Cardin (MD)
Amy Klobuchar (MN)
Sheldon Whitehouse (RI)

Republicans

James Inhofe (OK)
John Warner (VA)
George Voinovich (OH)
Johnny Isakson (GA)
David Vitter (LA)
Lamar Alexander (TN)
Larry Craig (ID)
John Barrasso (WY)
Christopher Bond (MO)

Independents

Joseph Lieberman (CT)
Bernie Sanders (VT)

**As of 4/13/08*