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SAN BERNARDINO**

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Federal Activity Alert March 25, 2013

Congress has set to recess for two weeks, reconvening April 9, 2013. Below you will find updates on recent federal activities and reports coming out of Washington that are of special interest to the County.

[CONTINUING RESOLUTION FY 2013 -1](#)
[FY 2014 BUDGET - 2](#)
[CONGRESSIONAL BUDGETS - 2](#)
[ECONOMIC DEVELOPMENT - 3](#)
[FLOOD CONTROL - 3](#)
[HEALTH AND HUMAN SERVICES - 4](#)
[PUBLIC LANDS - 5](#)
[PUBLIC SAFETY - 5](#)
[TRANSPORTATION - 5](#)

CONTINUING RESOLUTION FY 2013

The Senate and House agreed to a Continuing Resolution (CR) to fund the government through Sept. 30, which is the end of the 2013 federal fiscal year. Senators voted 73 to 26 on March 20 to approve the bipartisan legislation. The House quickly passed the CR with no changes on March 21 by a vote of 318-109 and President Obama has indicated he will sign the bill.

The fiscal 2013 spending package (H.R. 933) maintains an overall spending level of \$984 billion which locks in the \$85 billion in sequester cuts. The bill does not contain wider reprogramming authority which would have given agencies more latitude to implement sequestration.

Ordinarily a CR continues funding for federal departments and agencies at the prior year's level, but this CR locks in the \$85 billion in sequestration or automatic, across-the-board cuts of 5.1 percent for domestic discretionary programs. A small restoration was given to Head Start and the Child Care and Development Block Grant, and WIC was fully restored. Other programs, such as CSBG, SSBG, Older Americans Act programs and WIA continue to be subject to sequester, but exactly how the cut will be administered remains uncertain.

The funding measure includes detailed appropriation language for five of the 12 FY 2013 spending bills — Agriculture, Commerce-Justice-Science, Homeland Security, Military Construction-Veterans Affairs and Defense — and added exceptions to other appropriation bills sought by lawmakers. The five spending bills attached to the CR are entirely new versions based on negotiated compromises between House and Senate appropriators and represent three-quarters of the federal operating budget. For the most part, all domestic discretionary programs and agencies funded through these bills would receive an across the board cut of 5 percent and will still likely implement furlough programs in the coming months. However, some programs were maintained at current levels with wider across the board cuts to other programs used to make up the difference. The remaining seven bills would continue funding at current levels minus the across the board cuts for the final six months of fiscal 2013 with some spending changes (known as anomalies) inserted.

Because Congress was able to enact a CR to fund the government until October, the next pressure point facing Congress is sometime this summer when a new debt-ceiling bill will be required.

The mission of the government of the County of San Bernardino is to satisfy its customers by providing service that promotes the health, safety, well being, and quality of life of its residents according to the County Charter, general laws, and the will of the people it serves.

FY 2014 BUDGET

PRESIDENT'S FY 2014 BUDGET

The President's detailed spending plan for the fiscal year that begins Oct. 1, due the first Monday in February, has not been released. By law, the president's budget is supposed to be issued on the first Monday in February, which fell Feb. 4 this year. The longest delay in release of the budget since Congress mandated the first Monday of February as the deadline starting in 1991 was in 2009, when Obama was in the first year of his presidency and released the budget 98 days after the deadline. President Bill Clinton was 66 days late in 1993, and President George W. Bush was 63 days late in 2001.

CONGRESSIONAL BUDGETS

House and Senate leaders are forging ahead with the budget process. The House passed its budget resolution ([H. Con. Res. 25](#)) on March 21 and the Senate passed its version early Saturday morning, March 24 ([S. Con. Res. 8](#)). This is the first time since 2009 that the Senate has considered a budget resolution. Congress is required by law to complete a budget resolution by April 15, but given the distance between the parties on fiscal policy, many lawmakers doubt that agreement on a single budget resolution is possible. Budget resolutions serve as the blueprint for the spending and tax policy goals for both chambers and are intended to guide the consideration of budget-related legislation for the rest of the year.

HOUSE BUDGET FY 2014

The House Budget Resolution, authored by Budget Committee Chairman Paul Ryan (R-Wis.), passed 221-201, passed with 10 Republicans voting alongside the Democrats against the measure. The House plan for the fiscal year beginning Oct. 1 reportedly aims to balance the budget in 10 years. In addition to repealing the sequester, the Ryan plan would erase the deficit in 10 years by cutting spending by more than \$4.6 trillion and overhauling the tax code, but keeping revenues at current estimated levels. And like last year, it would make Medicare into a voucher-like system, reduce the federal contribution to Medicaid, reduce spending on the Supplemental Nutrition Assistance Program (SNAP), and turn SNAP into a block grant. It also recommends repealing the Affordable Care Act.

SENATE BUDGET FY 2014

The Senate Budget Resolution, authored by Budget Committee Chair Patty Murray (D-WA) was passed by the narrow margin of 50-49. The Senate plan agrees with the House blueprint adopted earlier in the week, that the government should spend more money in each of the next 10 years than it will spend this year: Senate Democrats would boost spending at an annual rate of about 5 percent and House Republicans at the smaller rate of 3.4 percent a year. But beyond that, the plans diverge. The Senate budget calls for replacing the spending sequester with a combination of tax increases and spending cuts, cutting mandatory health care programs without making major structural changes to entitlements and cutting farm programs while increasing spending on infrastructure and worker-training programs by \$100 billion over 10 years. The Senate budget would direct the Finance Committee to write legislation that would increase tax revenue by \$975 billion over a decade. The Senate budget resolution includes language that could lead to changes in the tax-exempt status of municipal bonds and emphasizing their importance to infrastructure and economic activity. To view a copy of the National Association of Counties (NACo) position letter, click [here](#).

On March 22, during debate over the FY 2014 Senate Budget Resolution, the Senate, in a major show of bipartisan support, approved an amendment on the Marketplace Fairness Act with 75 Senators voting in favor. The amendment would give state and local governments the authority to collect already existing sales and use taxes on remote or online sales. This is not a new tax, but rather a more efficient way of collecting the sales tax already owed to state and local governments, and will finally put local business owners and retailers on an equal footing with their online counterparts.

ECONOMIC DEVELOPMENT

H.R. 803 - House Passes SKILLS Act to Reauthorize Workforce Programs

On March 15, the House passed the Supporting Knowledge and Investing in Lifelong Learning (SKILLS) Act (H.R. 803). The bill reauthorizes the Workforce Investment Act of 1998 (WIA) by consolidating 35 existing federal employment and training programs into a single \$6 billion Workforce Investment Fund. The SKILLS Act is not expected to be taken up in the Senate. The Senate Health, Education, and Labor and Pensions Committee is in the process of developing its own legislation.

President Announces Thomas Perez for Secretary of Labor

On March 18, President Obama announced the nomination of Thomas E. Perez to be the next secretary of labor. Perez currently serves as the assistant attorney general for the Justice Department's Civil Rights Division. Perez, the president said, "understands that our economy works best when the middle class and those working to get into the middle class have the security they need on the job, a democratic voice in the workplace, everybody playing by the same set of rules." Perez will replace former Secretary, Hilda Solis.

CDBG Report

On March 21, the U.S. Government Accountability Office (GAO) released a report on Community Development Block (CDBG) grantees' use of planning, management and administration funding referred to as administration. CDBG grantees are allowed to use up to 20 percent of their CDBG program funds for administration. Such activities include general management and oversight, coordination and fair housing activities. The U.S. Department of Housing and Urban Development (HUD) collects data on CDBG, including administrative cost spending through their own accounting system. According to the GAO report, entitled Reporting on Compliance with Limit on Funds Used for Administration Can Be Improved, the amount available to grantees for administrative costs has decreased over 11 years by 47 percent (\$532 million) as the overall CDBG funding level declined. Grantees interviewed by GAO reported taking various steps to address this decline, such as reducing CDBG staffing, and/or changing the types of projects administered. While the vast majority of grantees interviewed told GAO that reducing the statutory limit on administrative funds would negatively impact their ability to oversee CDBG funded projects, GAO's analysis of financial summary reports for program year 2010, the most recent year available showed that 60 percent of entitlement community-eligible cities and counties obligated between 15 percent and 20 percent of their funds for administration.

Make It America Challenge

On March 18, the Economic Development Administration (EDA) announced the availability of funds for the Make it in America Challenge intended to encourage foreign and domestic businesses to build and/or expand their operations in the United States. Up to 15 awards will be made to accelerate job creation by encouraging re-shoring of productive activity by U.S. firms, fostering increased foreign direct investment, encouraging U.S. companies to keep or expand their businesses—and jobs—here at home, and training local workers to meet the needs of those businesses. Click [here](#) for additional current funding opportunities.

FLOOD CONTROL

WRDA

S. 601 - Water Resources Development Act (WRDA) of 2013 - On March 20, the Senate EPW committee approved the Boxer/Vitter WRDA Bill, by unanimous consent. WRDA authorizes the U.S. Army Corps of Engineers' local projects for flood control, navigation, ecosystem restoration, water supply and emergency management. These projects are funded through the annual appropriations process but cannot begin without WRDA authorization. The 284-page bill authorizes 18 new Corps projects nationally. It reforms the Corps processes to streamline projects and sets up a pilot program that would allow state and local governments to oversee Corps authorized projects. After the committee approved the bill, Members had the opportunity to make comments. Senator Cardin suggested that the bill should be allowed to include member directed projects, and that the earmark moratorium was not meant for WRDA type legislation. There has been discussion in the House of bringing back member directed projects for transportation authorizations including WRDA. Additionally, the bill includes the "Water Infrastructure Finance and Innovation Act (WIFIA) of 2013." The WIFIA provision establishes a pilot program to assess the ability of innovative financing tools, such as user fees or other dedicated funding sources to leverage

private money to fund water infrastructure projects. Committee staff expects the timeline for moving the bill to be late April or early May. The House has not released language at this point. The reauthorization of WRDA that creates long-term funding for flood control, environmental restoration, water resource navigation and funding to mitigate impacts from unmaintained federal lands is a priority policy position.

HEALTH AND HUMAN SERVICES

Continuing Resolution

Through the Continuing Resolution (CR), Temporary Assistance for Needy Families (TANF) law is extended through the end of the current fiscal year, September 30. The current TANF extension expires March 27. A small restoration was given to Head Start and the Child Care and Development Block Grant, and WIC was fully restored. Other programs, such as Older Americans Act programs continue to be subject to sequester, but exactly how the cut will be administered remains uncertain. Additionally, the CR does make a few funding adjustments in the human services area; one reduces the funding cut for the Child Care and Development Block Grant by \$50 million and the cut for Head Start by \$33.5 million.

April is National Child Abuse Prevention Month

The federal government has launched a [2013 National Child Abuse Prevention Month website](#). Resources include: *Preventing Child Maltreatment and Promoting Well Being: Network for Action 2013 Resource Guide*, a guide to help service providers strengthen families using the six protective factors; tip sheets that can be distributed to parents and caregivers and address concerns including stress management, raising grandchildren, connecting with teens, and more; and, new prevention video gallery featuring videos from national child abuse prevention partners.

CMS Releases Guidance on Oversight of Medicaid Expenditures

On March 18, the Centers for Medicare and Medicaid Services (CMS) released a State Medicaid Directors letter (SMD) addressing mutual federal and state obligations for program integrity and the upper payment limit. The SMD notes that CMS and the National Association of Medicaid Directors (NAMd) are launching an executive workgroup to focus on strengthening financial management and program integrity within the Medicaid program. The letter, "Federal and State Oversight of Medicaid Expenditures," is available [here](#).

Homeless Funding Update

U.S. Department of Housing and Urban Development (HUD) Secretary Shaun Donovan announced \$1.5 billion in *Continuum of Care* grants for 7,000 local homeless housing and service programs across the U.S. *Continuum of Care* grants support a wide range of programs including street outreach, client assessment and direct housing assistance, such as permanent and transitional housing. These grants also support job training, health care, mental health counseling, substance abuse treatment and childcare services. *Continuum of Care* grants are awarded competitively to local projects to meet the needs of their homeless clients. These FY 2012 grants are not impacted by the automatic across-the-board budget cuts under sequestration. Later this year, HUD will award additional grants to support hundreds of other local homeless assistance programs. [View](#) a complete list of all the state and local homeless projects awarded funding. San Bernardino County's Tier 1 Programs were fully funded at \$4.1 million dollars.

Hospitals To Gain New Revenues Under ACA

This Urban Institute [brief](#) reports that under the Affordable Care Act (ACA) implementation, hospitals will likely gain \$2.59 in new revenue from Medicaid participants for every dollar lost from private health insurance revenue. It also finds that even with a Medicaid expansion, hospitals will continue to provide uncompensated care, 46 percent of which, according to this study, will go to patients with incomes at or below 138 percent of the federal poverty line. State-by-state charts are included in the report.

Inspector General Reports on HHS Management Challenges

HHS Inspector General Daniel R. Levinson testified before the House Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies. His testimony focused on HHS management challenges related to grant and contract administration, data security, improper payments, emergency preparedness, and management of public health programs. Levinson identified vulnerabilities and provided examples of deficiencies with HHS grantees that could be mitigated by improved HHS oversight. While Levinson's testimony emphasized that effective oversight and management of public health resources is essential to ensure vulnerable populations receive the full benefit of public health

programs, he further indicated that HHS is integral to preventing, preparing for, and responding to public health emergencies resulting from a wide spectrum of natural and manmade disasters. He concluded with a commitment that OIG will continue vigilant "oversight of HHS' management of these challenges, including increased responsibilities to oversee new programs created by the Affordable Care Act and the growing complexity and importance of existing HHS programs."

Uninsured Populations Remain Post ACA

[This brief](#) from the State Health Access Data Assistance Center provides state-specific estimates of the percent of low-income uninsured nonelderly adults who will be ineligible for the ACA Medicaid expansion as a result of their immigration status-i.e., unauthorized immigrants and legal resident immigrants who have not yet completed five years of permanent U.S. residency. The report emphasizes that unauthorized immigrants and recent legal residents are much more likely than average to be low-income and uninsured. Because of this issue, the data in this report have significant implications for safety-net planning and capacity assessment.

PUBLIC LANDS

Brownfields

[S. 491](#) - the Brownfields Utilization, Investment, and Local Development Act of 2013," also known as the "BUILD Act" was introduced in the Senate March 7th. The BUILD Act is a bipartisan bill that would make more community groups and local governments eligible for the brownfields program. Brownfields are previously used industrial or commercial sites that may be contaminated by lower levels of hazardous waste or pollution and have the potential for reuse.

PILT

Testifying before the U.S. Senate Energy and Natural Resources Committee, NACo Associate Legislative Director Ryan Yates urged Congress to extend mandatory funding provisions for the Payment in Lieu of Taxes (PILT) program. For more than 30 years, the PILT program has provided payments to counties and other local governments to offset losses in tax revenues due to the presence of substantial acreage of federal land in their jurisdictions. The preservation and full funding of PILT is a County adopted priority policy position.

Storm-Water Run Off Court Ruling

On March 20, the U.S. Supreme Court issued its opinion on *Decker v. Northwest Environmental Defense Center (NEDC)*. Written by Justice Kennedy, the Supreme Court ruled in a 7-1 decision that logging companies and forestry officials were not required to obtain permits from the Environmental Protection Agency (EPA) for storm-water runoff from logging roads. The decision is a mixed bag for counties. While the court reaffirmed EPA's 1990 storm water rule that logging is not an industrial activity, the court did not answer whether forest roads are point sources under the Clean Water Act. This point is important for counties since two of the roads in *Decker* were, in fact, county-owned multi-purpose roads. It is likely that legislation will be introduced in Congress to clarify that forest roads are not "point sources" under CWA.

PUBLIC SAFETY

9-1-1 Reliability

On March 20, the Federal Communications Commission (FCC) held an [open meeting](#) where it adopted a [Notice of Proposed Rulemaking](#) (NPRM) that seeks comment on effective ways to improve the reliability and resiliency of 9-1-1 systems. Comments are due 30 days after publication in the Federal Register. Though the FCC has provided several means of implementing the Public Safety and Homeland Security Bureau's recommendations, the Commission also posed questions about which 9-1-1 service providers have already implemented existing best practices, incentives that ensure compliance in the future and the cost and benefits of ensuring that best practices are implemented.

TRANSPORTATION

Continuing Resolution

Through the Continuing Resolution (CR), the House passed a bill to provide Federal funding through FY 2013. The bill is the version passed by the Senate, which funds most transportation programs at MAP-21 levels. It also includes MAP-21 structural language critical to funding transit programs that was not in the

most recent CR. Although the bill does not reverse the approximately 5% sequester cuts to the \$1.95 billion New Starts transit program, it does provide \$39.7 billion for the highway programs, and \$8.5 billion for transit programs – levels authorized by MAP-21. A group of Senators from both parties supported an amendment to fully fund the tower operations, reversing the sequester cuts; the amendment did not get a vote.

FAA Federal Contract Towers

March 22, the Department of Transportation's Federal Aviation Administration (FAA) reached the decision that 149 federal contract towers will close beginning April 7 as part of the agency's sequestration implementation plan. The link to the complete list is included [here](#); Southern California Logistics Tower in Victorville is on the closure list. In response to the closure announcement, Shuster and Thune drafted a [letter](#) to Secretary LaHood expressing that this is a public safety concern and FAA is to provide T&I and Commerce, Science and Transportation Committee a report on the safety analysis that ensures closing each tower as well as closing so many at the same time does not compromise aviation safety and a detailed justification and explanation for how the FAA determined each contract tower would be closed and with what information was relied upon for which towers to appear on the final closure list.

Xpress West

On March 20, the National Association of Railroad Passengers, the US High Speed Rail Association and other bullet train backers wrote a [letter](#) to DOT Secretary Ray LaHood to support the proposed XpressWest high speed rail project between Las Vegas and the Los Angeles areas. They said the expensive construction plan is "worthy" of a big loan from the DOT's Railroad Rehabilitation & Improvement Financing program. XpressWest — once called DesertXpress — reportedly wants a \$5.5 billion low-interest RRIF loan, which would be by far the largest RRIF has ever awarded but still just a fraction of a \$35 billion lending pool the DOT rarely taps. Conservatives have mobilized to head it off and warned that it could put taxpayers on the hook in case the rail project fails like some high-profile energy companies that drew federal aid. But NARP and its allies say "XpressWest will be a convenient, energy-efficient alternative to the heavily traveled Interstate 15," which they call "a congested and dangerous highway" where "mid-desert traffic backups are fairly common." This letter is consistent with the High Desert Corridor JPA (HDC JPA) position. The (HDC JPA) is a two County JPA is authorized under state law to have the powers of both counties. The JPA Board of Directors consists of each High Desert representative of the LA and SB Board of Supervisors, Metro and SANBAG, and an elected official from cities along the right-of-way: Apple Valley, Victorville, Adelanto, Lancaster and Palmdale.