

**AMERICAN PUBLIC TRANSPORTATION ASSOCIATION (APTA)
SUBMITTED TO
THE SENATE APPROPRIATIONS SUBCOMMITTEE ON HOMELAND SECURITY
On Fiscal Year 2013 Appropriations for the Federal Emergency Management Agency
April 30, 2012**

INTRODUCTION

Madam Chairman and members of the Subcommittee, thank you for this opportunity to submit written testimony on the Fiscal Year (FY) 2013 funding needs for public transportation security programs within the Department of Homeland Security. APTA urges Congress to significantly increase appropriations for transportation security programs. Past appropriations have not come close to the levels authorized under the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53). In 2011, Americans took 10.4 billion trips on public transportation which was the second highest annual ridership since 1957. Only ridership in 2008, when gas rose to more than \$4 a gallon, surpassed last year's rider totals. As transit ridership continues to grow, its security needs do also.

ABOUT APTA

The American Public Transportation Association (APTA) is a nonprofit, international association of nearly 1,500 public and private member organizations, including transit systems and commuter, intercity and high-speed rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA members serve the public interest by providing safe, efficient, and economical public transportation services and products. More than ninety percent of the people using public transportation in the United States and Canada are served by APTA member systems. Additionally, in accordance with the National Infrastructure Protection Plan, APTA has been tasked by Department of Homeland Security to administer the on-going activities of the Mass Transit Sector Coordinating Council.

GREATER INVESTMENTS IN TRANSIT SECURITY ARE REQUIRED

In 2010, an APTA survey of its transit agency members found security investment needs in excess of \$6.4 billion nationwide. These are funds that our agencies simply do not have, as overall funding constraints have led to service cuts, personnel layoffs and fare increases. This stated need contrasts the recent trend in cuts to transit security grant programs. We are very concerned about the recent decline in transit security funding where, in FY 2012, we see an allocation of \$87 million for transit security. This level is woefully short of the industry's capital security needs. As recently as FY2009, federal funding for transit security was set at nearly \$400 million. I urge Congress to acknowledge the risk that our citizens and transit systems continue to face, and restore appropriations for the Transit Security Grant Program (TSGP) in this and subsequent appropriation bills. Historically, Congress has permitted the Department of Homeland Security to allocate appropriated grant funding without specific directive. We recommend that this subcommittee, in its appropriating capacity, guide DHS regarding particular program funding allocations to ensure that public transportation security program needs

adequately addressed. Our systems need the certainty of adequate funding to properly plan and implement large capital, surveillance and other security projects to protect our systems. While there is no indication that our collective security concerns have diminished and the backlog of needed projects continues to grow, federal security grant funds have declined precipitously.

TRANSIT SECURITY NEEDS ARE REAL AND REQUIRE ATTENTION

As we and others have stated many times before, and as the members of this subcommittee well know, authoritative sources have acknowledged that the risk to public transportation systems is real, and it has not diminished:

- ❑ The GAO released a 2002 report stating *“about one-third of terrorist attacks worldwide target transportation systems, and transit systems are the mode most commonly attacked.”*
- ❑ In 2007, the GAO reported to Congress that *“the characteristics of some passenger rail systems—high ridership, expensive infrastructure, economic importance, and location (e.g., large metropolitan areas or tourist destinations)—make them attractive targets for terrorists because of the potential for mass casualties and economic damage and disruption.”*
- ❑ On February 29, 2008, the Office of Intelligence of the Transportation Security Administration (TSA) released a report concluding that public transportation in America remains vulnerable to terrorist attack. The report states: *“The volume of previous attacks and recent plotting against mass transit systems overseas demonstrates continued strong terrorist interest in targeting this sector.”* The report further states that: *“Previous rail attacks in Madrid, London, and Mumbai could inspire terrorists to conduct similar attacks in the United States.”*
- ❑ On September 30, 2009, the Honorable Michael E. Leiter, Director, National Counterterrorism Center (NCTC) testified in the Senate that *“al-Qa‘ida continues to pursue plans for Homeland attacks and is likely focusing on prominent political, economic, and infrastructure targets designed to produce mass casualties, visually dramatic destruction, significant economic aftershocks, and/or fear among the population. The group also likely remains interested in targeting mass transit systems, and other public venues, viewed as relatively soft targets as evidenced by past al-Qa‘ida attacks in London.”*
- ❑ The Federally funded and chartered, independent Mineta Transportation Institute (MTI) has collected data on worldwide terror incidents and found more than 2,000 separate attacks on surface transportation – 1,223 involving bombs and incendiaries – since 1970. These attacks caused 6,190 deaths and approximately 19,000 injuries.

This history calls for continued vigilance and continued investments in surface transportation security.

SECURITY GRANT PROGRAM STRUCTURE

In FY2012, program changes were made in the Transit Security Grant Program and additional, significant, changes are proposed in FY2013. APTA acknowledges that there are some sound goals and positive policy provisions represented by these changes, including:

- Peer Review: APTA and its members already have a system in place for conducting peer reviews – we look forward to working with the Federal Emergency Management Agency (FEMA) to develop such a program.
- Multi-year Grant Guidance: APTA supports the approach of a multi-year grant guidance – previously, the TSGP guidance changed nearly every year, and APTA believes this to be one of the reasons that have contributed to delays in grant performance and drawdown.

Notwithstanding these improvements to the current program, there are several other program changes that cause us concern and which we believe could thwart the progress many grantee agencies have made to improve the security of their systems in recent years.

Program Consolidation

The “National Preparedness Grant Program (NPGP)” proposes to consolidate all grant programs previously categorized as preparedness grants into one comprehensive grant program. This is a drastic change that eliminates the standalone TSGP – the exclusive pool of funding for our nation’s public transportation systems. While this new program may be designed to meet the needs of the emergency management community and to more closely align with policy represented in the National Preparedness Goal, emergency preparedness and core capabilities are only subsets of the policy that the Transit Security Grant Program was intended to advance. As previously stated, transit systems and their assets remain high-risk terrorist targets, and investments in hardening and other capital security improvements specific to transit agencies do not appropriately fall within this broader emergency preparedness policy. APTA calls on Congress to authorize and preserve a sufficiently-funded, segregated grant program for public transportation security as envisioned in the 9/11 Commission Act. We applaud the work of the this subcommittee, as it recommended a separate *Public Transportation Security Assistance* grant program within the Department of Homeland Security FY 2012 Appropriations Committee Report; we hope that the Subcommittee will recommend the same in FY 2013.

Reduced Grant Performance Period

Of additional concern is the new 24-month period of grant performance for all projects proposed in the FY 2012 TSGP Guidance, which is further contained in the proposal for the FY 2013 NPGP. This is a reduction from the previous 3-5 year allowable expenditure period. APTA certainly appreciates the concerns regarding unexpended security grant dollars and is committed to working with transit agencies to carry out important security projects in a timely fashion. However, it is important to recognize that capital projects (security-related or otherwise) require multiple years to complete, and a reduction in the time allotted to expend funding would preclude many much needed capital infrastructure security projects from being pursued and instead compel most grant recipients to apply for equipment and operational grants.

This is not in the best interest of fortifying our systems against attacks, as the majority of the security needs identified in the 2010 APTA member survey relate to capital projects. APTA recommends maintaining the 3-year expenditure window with the opportunity to receive 6-month extensions up to a maximum of 5 years.

Emphasis on Operational Projects and the TTAL

Similarly, the FY 2012 TSGP and FY 2013 NPGP place a high emphasis on operational activities and Operational Packages (OPacks). Congress has previously set a clear priority for transit security capital investments when enacting the “National Transit Systems Security Act of 2007” (Title 14 of the 9/11 Commission Act). Additionally, the FY 2012 grant guidance states that this year’s funding priorities will be based on a pre-designated “Top Transit Asset List” or TTAL. APTA has testified previously that security investment decisions should be risk-based, which is the underlying approach of the TTAL. However, across the entire transit industry, thousands of assets are not listed on the TTAL and, thus, would not be eligible to receive funding. While this narrower funding approach is based on tighter fiscal circumstances and the total federal dollars available for security grants, it is also indicative of the inadequacy of current funding levels. The proposed approach will preclude important security improvements from receiving funding consideration. APTA recommends reauthorizing the public transportation security assistance provisions of the 9/11 Commission Act, and urges Congress to work to make adequate funding available for the program to meet national needs.

Inability to Directly Apply for Funding

Finally, under the proposal, while transit agencies would be eligible for security funding, they would be required to apply for funding through their State Administrative Agency (SAA), and compete in this process with other state security priorities. This is a shift from the current program, where transit agencies are authorized to be direct applicants for and direct recipients of grant funds. We believe that under this new proposal sufficient funding would not consistently get to transit agencies, and in many cases the involvement of the SAA has the potential to slow the already lengthy grant performance process. Congress has repeatedly endorsed the position that transit agencies should be direct federal grant recipients, as they have been through the Federal Transit Administration, and we urge Congress to continue this policy.

CONCLUSION

Madam Chairman, I thank the Subcommittee for this opportunity to share our views on these critical homeland security issues. There is no greater priority for public transportation systems than the safety and security of our passengers and workers. I urge you not to wait for the “wake-up” call of an attack on our systems to provide transit agencies the support they need. Transit systems across the country continue to stand ready, committed and vigilant in utilizing available resources efficiently to protect our systems and our riders. We urge you to sustain the critical partnership between transit agencies, Congress and the Department of Homeland Security that helps to keep our nation safe and moving toward economic prosperity.