

United States Senate

WASHINGTON, DC 20510

November 2, 2020

The Honorable Elaine L. Chao
U.S. Department of Transportation
1200 New Jersey Ave. SE
Washington, DC 20590

Madame Secretary:

On October 8, 2020, the Department of Transportation's (DOT) Federal Transit Administration (FTA) issued a Notice of Funding Opportunity (NOFO) alerting local governments and transit agencies of the availability of the Public Transportation COVID-19 Research Demonstration Grant Program. We write in strong opposition to the inclusion in the NOFO of language stating that "the Department will review and consider applications for funding pursuant to this notice in accordance with the President's September 2, 2020 memorandum, entitled *Memorandum on Reviewing Funding to State and Local Government Recipients of Federal Funds that Are Permitting Anarchy, Violence, and Destruction in American Cities*.¹"

President Trump announced this policy on September 2, 2020 "to ensure that Federal funds are neither unduly wasted nor spent in a manner that directly violates our Government's promise to protect life, liberty, and property." The policy further stated that "it is imperative that the Federal Government review the use of Federal funds by jurisdictions that permit anarchy, violence, and destruction in America's cities." In a September 21, 2020 memorandum, the White House directed the Office of Management and Budget (OMB) and the United States Department of Justice to review federal funding to state and local governments. This memorandum specifically targets Portland, OR; New York, NY; and Seattle, WA. The October 8 NOFO notes that FTA "will review and consider applications for funding pursuant" to the White House memorandum.

Tying federal funds for local transit agencies to an arbitrary definition of "anarchist jurisdictions" is of questionable legality and an appalling abuse of power, particularly in the midst of a deadly pandemic and economic recession. The COVID-19 pandemic has hit transit agencies particularly hard, and many face dire financial circumstances. We are disturbed by the DOT's decision to potentially disqualify major American cities, including the home of the nation's largest transit agency, from federal funding during this unprecedented time.

We fear that this NOFO is simply the first public announcement of DOT's implementation of President Trump's politically-motivated memorandum. As such, we respectfully request the following information from your agency:

1. Will the President's September 2, 2020 memorandum influence any DOT decisions regarding the granting or withholding of FTA funds to the above-named cities?

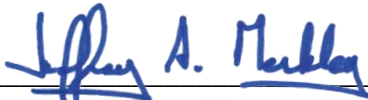
¹ <https://www.govinfo.gov/content/pkg/FR-2020-10-08/pdf/2020-22316.pdf>

2. How does DOT plan to implement the President's memorandum?

Additionally, we respectfully request any internal memoranda, e-mails, directives, or communications explaining how DOT offices should implement the President's September 2, 2020 memorandum and subsequent OMB guidance, as well as a list of all DOT funding opportunities that will be affected by this policy.

Thank you for your consideration of this matter. We look forward to your prompt response.

Sincerely,



Jeffrey A. Merkley
U.S. Senator, Oregon



Kirsten Gillibrand
U.S. Senator, New York



Ron Wyden
U.S. Senator, Oregon



Patty Murray
U.S. Senator, Washington



Maria Cantwell
U.S. Senator, Washington