

public transit

Comprehensive transit industry commitment – for procurement and contracting, grant funding guidance, capital project development, disputes, regulatory

Change, challenge, and opportunity define America's public transit industry. Still recovering from the pandemic, transit agencies face constant pressure to secure funding, develop critical capital infrastructure, manage labor and transit workforce concerns, and promote state of good repair and sustainability.

Transit suppliers contend with increased demand – fueled by historic levels of transportation funding and complicated by supply chain disruptions and regulatory compliance in a post-Build America, Buy America world. Thompson Coburn helps our clients navigate these realities with legal and regulatory guidance designed to drive strategic, informed decision-making and leverage opportunities to provide better, safer, more efficient transit across the nation.

Our team assists transit clients with funding and grants, appropriations, procurement, contracting for services, contracting for vehicle purchases (including alternative technology), major capital projects, and project development and delivery. We advise on program compliance for FTA's Capital Investment Grants, Buy America, the Americans with Disabilities Act, the U.S. Department of Transportation Disadvantaged Business Enterprise program, and Title VI.

Our transit clients also look to Thompson Coburn for guidance on all manner of labor and workforce matters, including issues associated with restructuring of service delivery and compliance with Section 13(c) labor protection. We understand the U.S. Department of Transportation's funding programs and the federal statutory and regularly requirements attached to the receipt of the federal transit and other transportation funds, including those imposed by the Infrastructure Investment and Jobs Act, prior authorization acts, and appropriations measures.

so much more than regulatory response

We do not just help transit agencies navigate federal requirements; we assist them with legal issues in nearly all aspects of transit agency operations. We negotiate contracts for the operation, maintenance and management of transit services; help clients plan for, purchase and appropriately retire vehicles, real estate and other assets; and procure construction contractors and assist in the development of major construction projects delivered by a variety of methods, including Design-Build, Design-Bid-Build, Design-Build-Operate-Maintain, and Construction Manager At Risk.

After a project or contract has been implemented, we represent clients in claims, disputes, and other contract administration issues. We also handle any needed restructuring of services, transitions in contractors, and associated workforce issues. We understand that rapidly evolving technologies, the push for low- to no-emission vehicles, and historic federal investment in the transportation sector have created exciting opportunities for transit and transportation infrastructure growth. Thompson Coburn stands at the ready with sage counsel intended to help our transit clients leverage these opportunities and achieve their goals.

unparalleled experience handling transit labor issues

Transit labor issues often involve consideration of Section 13(c) labor protection requirements, which are a condition of federal transit funding. Our team assists in the development of 13(c) labor protection agreements and issues arising out of 13(c) agreements and certification disputes at the U.S. Department of Labor. We regularly advise on restructuring of services, fact finding, interest arbitration, subcontracting, successorship, new services, and paratransit operations. We provide legal counsel in negotiation of 13(c) protective terms, impasse resolution, and brief submittals to the Department of Labor and in state court proceedings.

Our practice also includes handling claims for 13(c) protective benefits that are adjudicated both before the Department of Labor and in private arbitration proceedings. Our labor attorneys provide counsel on a variety of issues, including collective bargaining and representation disputes, strikes, pension issues, public employment, and National Labor Relations Act issues.



industry veterans at heart

Our industry experience runs deep. Thompson Coburn's lawyers have represented public transit clients in nine of the nation's 10 largest metropolitan areas and 18 of the top 20. Our attorneys have held positions within the U.S. Department of Transportation, as committee counsel in the U.S. House of Representatives, and in-house at a major metropolitan transit agency. Our insight into the perspectives of the federal government and the transit agency enable us to provide meaningful counsel on a range of federal transportation issues before federal agencies, Congress, in state and federal courts, and in arbitration.

experience

Capital Investment Grant (CIG) Program Guidance

Over the years, Thompson Coburn has provided extensive assistance to Los Angeles County Metropolitan Transportation Authority in the development of its Capital Investment Grant (CIG) projects and in addressing and satisfying the substantive and procedural requirements of the Federal Transit Administration's (FTA) CIG program. We assisted Los Angeles Metro in the Regional Connector project, a 1.9-mile underground light rail line in downtown Los Angeles. We provided advice on FTA requirements for entering the various states of project development; coordination with FTA CIG and regional office staff; assisted with the annual CIG submittals to FTA; helped resolve Project Management Oversight Contractor (PMOC) issues; advised on overall federal grant and Letter of No Prejudice issues; assisted in the development and implementation of project schedules, including the coordination of procurement schedules with the FTA CIG process; and supported the development and review of capital funding strategies and plans. Los Angeles Metro ultimately executed a Full Funding Grant Agreement (FFGA) with FTA for CIG funding of \$670 million. Our work on Regional Connector also included developing design-build terms and conditions and related construction documents and assisting in the implementation of the design-build procurement process. We also assisted Los Angeles Metro in the FTA CIG project development process for the Westside Purple Line Extension Section 1 Project. The work led to the agency's successful negotiation of an FFGA with the FTA for CIG funding of \$1.25 billion.

Thompson Coburn also supported the Regional Transportation Commission of Washoe County (RTC) in the development of two Bus Rapid Transit (BRT) small starts projects under the CIG program, including the proposed purchase of electric buses. We helped develop the necessary materials for FTA to enter into the project development phase. Our attorneys provided guidance on project budget and funding issues, compliance with CIG program requirements, FTA rating issues, associated FTA appropriations issues, Buy America hurdles, project definition and scope issues, vehicle purchases, and securement of Letters of No Prejudice. Our work also included meetings with FTA personnel in the Region and at Headquarters, meetings with the PMOC, and participation in FTA reviews and congressional meetings. We worked on the solicitation and contracting process for the construction contractors for both BRT projects, one of which utilized a Construction Manager at Risk (CMAR) project delivery method.

Design-Build Procurement for Los Angeles Metro Westside Project

We assisted Los Angeles Metro in the development and implementation of the design-build procurement for the Westside Purple Line Extension Section 1 Project, a 3.9-mile heavy rail subway project below Wilshire Boulevard in Los Angeles. We provided guidance in the development of procurement documents and contract terms and conditions and assisted the agency during the procurement question-and-answer process and with the technical/responsiveness review of proposals.

Collaborating on Chicago's Fare Collection System

We served as special counsel in connection with the design-build-finance-operate-and-maintain procurement, contracting, and implementation of the Ventra fare collection system for the Chicago Transit Authority (CTA), Metra, and Pace. Our work included drafting the request for proposals and structuring the procurement process, developing a model contract, negotiating with various proposal teams, assisting with award and closing of contract documents, and providing ongoing legal advice and contract supplements relating to contract implementation. We addressed many legal issues throughout the project involving federal funding and regulatory compliance, service level agreements, intellectual property, bank regulatory matters regarding open standard fare cards, and state regulatory compliance. The Ventra fare collection system was the first of its kind in the United States, and the coordinated implementation of the system among CTA, Pace, and Metra was the first cooperative partnership for a regional fare program in the Chicago region.



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