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Public Finance: Adjusting to New Transportation and Infrastructure Priorities

In uncertain times, it is best to focus on what is known. We are going to see significant changes in the way in which the Trump administration and U.S. Transportation Secretary Sean P. Duffy want to define, build and maintain our nation's infrastructure. Existing funding programs are frozen by way of the initial executive orders, and there is a possibility that funding for projects that were already awarded, though not yet codified by a signed grant agreement, could be drawn back to the U.S. Department of Transportation (DOT) and either be reshuffled with new priorities or rescinded altogether. What's clear is that things are very unclear.

What Has Transpired

- 1/20 – Inauguration of President Trump and signing of executive orders (EO).
- 1/21 – Office of Budget Management (OBM) attempted to clarify the EOs.
- 1/27 – OBM pauses all federal disbursements.
- 1/29 – DOT Secretary Duffy is confirmed.
- 1/31 – Judge issues a temporary restraining order, while Trump administration continues freezing funds.
- 2/18 – Deadline for elimination of U.S. DOT funding that is out of line with the Trump administration's executive orders (didn't really occur).
- 3/10 – Secretary Duffy releases a memo rolling back some of the social equity and environmental policies of the Biden Whitehouse.
- 3/14 – Internal U.S. DOT communication asked department heads to review already awarded discretionary grants that include green infrastructure and bike lanes.

What Happened to the Biden-era Historic Spending?

The bipartisan Infrastructure Investment and Jobs Act (IIJA) in November 2021 was set to be a \$1.2 trillion boon for transportation projects. Despite efforts to push funding out after the election, much of the funding had not been awarded or obligated. As an example, \$7.6 billion was announced under the RAISE/BUILD program for federal fiscal years 2022 through 2025. However, only \$1.25 billion, or less, of funding has been secured and obligated, leaving the rest of the announced funds, representing potentially hundreds of projects, stuck once again in the grant review process.

This was supposed to be an infrastructure spending boon. What happened? There were three major factors, as described below, that slowed the distribution of this historic amount of infrastructure spending. But it started with a volume problem in a post-pandemic environment that saw many local governments short-staffed. The sheer volume of the resources in the IIJA was just too much to disburse for federal departments.

- **Indecision.** From the beginning, the distribution of the funds into specific programs took way too long. So much energy was put into arguing over passing the bill, it was as though the administration was left flat-footed on exactly what programs to spend it on. Much time was spent creating new programs, which left applicants and communities searching for answers as to whether they would be suitable applicants. Remember, these are transportation infrastructure projects that are not conducive to being innovative. The planning of them, rightly or wrongly, is a decades-long process. Shifting transportation priorities during the course of a few years does not allow for new policy adoption at the local level. The historic cadence of transportation investment should have been taken into consideration when establishing the new programs.
- **Solving for all.** Historically, infrastructure projects have caused neighborhoods and cities to change, but moving forward new projects simply needed to avoid the mistakes of

the past. New tools and standards were released by way of historically disadvantaged communities data and the decarbonization papers. The programs were attempting to solve too many social and environmental issues while trying to get things built.

- **Lost in translation.** The Biden administration was talking past most of the country with greenhouse gas emissions language and executive orders that produced a white paper like the U.S. National Blueprint for Transportation Decarbonization. That well-known blueprint even acknowledged, “Success would require unprecedented coordination among every level of government, private industry, community-based organizations, stakeholder groups and all Americans.” New beefed-up directions are great, but considering the contentiousness of the 2020 elections, this seemed tone deaf to the attitude of the country.

Let's Think About the Future

We are waiting for decisions on existing U.S. DOT programs and how they may be impacted by the new administration. Republicans prefer formula and not discretionary grants, and there are pros and cons to both. Some discretionary programs, like Better Utilizing Investments to Leverage Development (BUILD) grants, have been around since 2009 and still accepted FY 2025 Round 2 applications as late as January 30, 2025, two days after the executive order to freeze spending, but the decision on that \$150M of spending is likely to be delayed.

Per recent internal communication, a portion of the \$1.3B of BUILD grants (Round 1) that were hastily announced January 10 by the Biden administration will be reviewed or modified for any green infrastructure. The Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) discretionary program accepted applications in February but is on hold temporarily. The Safe Streets and Roads for All program released a substantial notice of funding opportunity in March with new priorities.

What about the big infrastructure projects that were awarded U.S. DOT funding during the Biden administration, like the Bridge Investment Program? All funding is at risk but even more so for projects that are awarded but not yet under contract. The largest projects not awarded through discretionary grants are more than likely to stay in place given the size of their political will power. Yet it is possible that projects will be asked to remove any aspect of green infrastructure that was included.

If you think your infrastructure project won't appeal to the current administration, think again. Undoubtedly, the new policies under Secretary Duffy will show preference for projects that dovetail with the Trump administration's agenda. When applying for funding, it would be well-advised to emphasize these aspects of your project:

- **Beef up your economic impacts.** Most capital projects already require a formulaic economic benefit-costs analysis (BCA) to demonstrate that the cost of development is worth the expense essentially. The U.S. DOT attempts to make that analysis easy to perform by anyone by providing training and templates. Most big projects use professional economists to do their calculations. Smaller projects should consider using a professional firm for BCA computations.
- **Broaden your description of the population served.** Transportation projects are meant to improve the movement of people—of any socioeconomic background. Additionally, language should be added to your project description that describes all types of populations served.
- **Appeal to the movement of goods and services.** Transportation is designed to move goods and services. Instead of focusing on the movement of people, consider including a better description of how the project will improve the movement of goods. Describe how the effort may lessen traffic and improve safety.
- **This is rural's movement.** Finally, this is a rural moment for transportation. With the current administration's focus on nearshoring or onshoring by bringing transportation back home, this is the heartland's time to shine with great projects that will facilitate commerce in a whole new focus.

For help with transportation infrastructure projects, please contact the author or any attorney in Frost Brown Todd's [Public Finance](#) practice group.

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