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New Bureau Consolidates Transportation Finance Programs

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Many proposals to create a national infrastructure bank have failed to win approval in recent sessions of Congress. A national infrastructure bank is often conceived as an independent federal agency with financing and project expertise that would provide low-cost long-term loans to infrastructure projects on flexible terms. A reorganization at the U.S. Department of Transportation (DOT), announced on July 20, appears to achieve some of the objectives of national infrastructure bank proponents, at least with respect to transportation projects.

The reorganization, mandated in the Fixing America's Surface Transportation (FAST) Act (P.L. 114-94), creates the Build America Bureau (49 U.S.C. §116). Housed in the Office of the Secretary, the Bureau will

- administer several DOT lending programs, including Transportation Infrastructure Finance and Innovation Act (TIFIA) loans for highway and transit projects, Railroad Rehabilitation and Improvement Financing (RRIF) loans for passenger and freight rail projects, the state infrastructure bank program, and the allocation of private activity bonds for "qualified highway or surface freight transfer facilities" (26 U.S.C. §142(m));
- administer the Nationally Significant Freight and Highway Projects Program (23 U.S.C. §117), dubbed the FASTLANE Grants program, which is authorized to provide competitive grants of between $800 million and $1 billion per year through FY2020;
- provide help to project sponsors with other DOT grant programs;
- establish and disseminate best practices and provide technical assistance with innovative financing and public-private partnerships (P3s);
- work with project sponsors to navigate environmental reviews and permitting to reduce uncertainty and delays.

The existing TIGER Discretionary Grant program, a competitive program for surface transportation project funding funded in appropriations bills and not addressed in the FAST Act, is also administered by the Office of the Secretary, but it is not a responsibility of the Build America Bureau. The Bureau does absorb the Build America Transportation Investment Center (the "BATIC") previously established administratively in the Secretary's office to be a "one-stop shop" for project sponsors to get help with transportation projects, particularly those using federal financing and P3s.

The FAST Act did not specifically authorize funding for the Build America Bureau, but the law allows the Secretary to transfer resources from any DOT office that is consolidated or eliminated in the creation of the Bureau. Initially, the staff will include 10 project development leads, half of whom will be regionally assigned and half of whom will have specialized expertise in a mode of transportation, and a 15-person best practices team with expertise in such issues as P3s, permitting and environmental review, transit-oriented development, and commercial real estate.

In offering credit assistance and expertise in developing and promoting innovative financing, the Build America Bureau resembles a national infrastructure bank such as proposed in H.R. 413, H.R. 3337, and S. 1589. However, a national infrastructure bank in most formulations would provide loans and other types of credit assistance for water, sewer, or other infrastructure in addition to transportation projects. Moreover, a national infrastructure bank would not typically have the responsibility to administer federal grants or navigate the federal environmental review and permitting process, as the Build America Bureau will do.

In many formulations, a national infrastructure bank would be independent of existing executive branch agencies, possibly insulating project selection from political influence. The Bureau consolidates control of DOT's major credit assistance programs and some grant-making authority in the Secretary's office, but with a requirement for establishing and communicating its criteria for awarding grants and loans. The FAST Act requires the Government Accountability Office to evaluate these procedures no later than December 2018.