

Administration's Infrastructure Program Emphasizes New Nonfederal Revenue

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The Trump Administration's legislative [outline](#) for infrastructure, released on February 12, 2018, proposes a new "Infrastructure Incentives Program" to make grants to state and local governments. This would be the largest single piece of the Administration plan in terms of dedicated federal funding, with an allotment of half of the \$200 billion the Administration proposes to spend on infrastructure over 10 years. The grants could be used for transportation, water resources, drinking water, and wastewater, as well as for cleanup of Superfund sites. This Insight focuses on the potential of the program for projects submitted to the Department of Transportation (DOT), one of the agencies that would be charged with administering the program in addition to the Corps of Engineers and the Environmental Protection Agency. The proposal does not break out the funds that would be directed to specific agencies or types of infrastructure.

The Infrastructure Incentives Program would depart from previous federal grant programs for infrastructure in two important ways. First, project sponsors would have to prove that they will generate new nonfederal revenue to build and maintain the project. Applications for funding would be evaluated by a set of criteria laid out in the proposal. Of these, the most important, accounting for half the total score, would be the creation of new, nonfederal revenue for capital investments. The second most important criterion, weighted at 20%, is the creation of nonfederal revenue sources to pay for operations, maintenance, and rehabilitation over the life of the project. Other factors, such as project cost (10%), innovative approaches to procurement, project delivery, and operations (10%), use of new technologies (5%), and economic and social returns on investment (5%), would matter much less in the government's

evaluation of whether to fund the project. According to the proposal, the weighted score would then be weighted again by the percentage of nonfederal revenue proposed for the project. Thus, a project that would be funded mainly by nonfederal revenue from new sources would rank significantly higher than projects drawing on existing revenue streams or relying to a greater extent on federal funding.

The amount of an incentive grant would be capped at 20% of the new revenue. Although the specifics are vague, this appears to mean that a proposed \$500 million project whose funding includes \$200 million of revenue from new sources would be eligible for an incentive grant of no more than \$40 million. Some credit would be given to sponsors that raised new revenue before enactment of the program.

Separately, federal funding would be contingent on the project achieving "express progress milestones." These milestones would be negotiated between the federal government and the project sponsor.

This proposed new program appears to have three main risks for project sponsors. First is the risk that they would be unable to tap new, nonfederal revenue sources. This new revenue probably would be a new or increased tax, such as a fuel tax, or a new or increased user fee, such as a toll or fare. It is not clear whether new revenue would include tax revenue redirected from other uses or funds generated by municipal bonds. Some potential project sponsors, such as state departments of transportation, may not directly control the ability to raise taxes or tolls, and others, such as municipal governments, are normally able to tap only revenue sources specifically authorized by state legislatures. Transit agencies may have the ability to raise fares, but typically not the ability to raise a tax without voter or legislative approval. In the best of circumstances, implementing new taxes and user fees can be a time-consuming, politically challenging process.

The second risk arises from the need to spend time and resources to obtain Infrastructure Incentives Program grants when the reward is relatively low. If the vast majority of project funding is to come from nonfederal sources, it may not be worth the effort and uncertainty of applying and then having to comply with federal law and regulation in accomplishing the project. The [Government Accountability Office](#) has found that while it is difficult to quantify the costs and benefits of federal regulations associated with highway projects, such as [Buy America](#) procurement rules and prevailing wages required under the Davis-Bacon Act, many states have avoided using federal funds for eligible projects to circumvent these requirements. Some large transportation projects, especially those being developed by public-private partnerships (P3s), might be more viable if an Infrastructure Incentives grant could be combined with federal loans and federally subsidized private activity bonds. A small reduction in the debt financing and private equity needed for such projects via an Infrastructure Incentives grant could make them easier to accomplish. It is unclear, however, how this other federal support might affect a project's weighted score.

The requirement to meet project milestones represents a third risk for project sponsors. After a project sponsor receives a grant award, actual payment of federal funds would be contingent upon achieving agreed-upon milestones that may be aggressive. These milestones would include realizing the promised new revenue and might include project construction progress. Some projects, such as new toll roads, would be ruled out from consideration if the new

revenue has to be generated before a project can be awarded funding. Milestones based on construction progress could jeopardize payments to large, complex projects that are completed over several years. Projects can be delayed for all sorts of reasons, some of which are not within the control of the project sponsor. For example, groundbreaking for a [light rail line](#) in Maryland was delayed when a judge vacated the project's federal environmental approval at the last minute because of a failure to study the effects of declining ridership on the separate Metrorail system. It took more than a year for an [appeals court](#) to rule that a supplemental environmental impact statement was not needed.