

Client Alert

February 13, 2018

President Trump Releases Infrastructure Plan

The White House released its long-awaited **infrastructure plan** on Monday, February 12. The plan would spend \$200 billion over 10 years to leverage \$1.5 trillion in total spending, give greater control and authority to state and local governments regarding the types of infrastructure projects in which they invest, incentivize private investment and expedite project permitting. While there is bipartisan support for infrastructure investment, Congress must settle on the amount of federal funds to devote to infrastructure, identify new revenues to pay for increased federal spending, reach agreement on how to distribute federal funds, and determine whether to change the laws that govern infrastructure programs.

The plan relies heavily on leverage from state and local governments and the private sector. While it may be challenging for state and local governments to raise additional revenues, it is possible to incentivize the private sector to invest in infrastructure if investors can borrow money at the same cost as the public sector, manage construction and operational risk, achieve a reasonable rate of return on their investment, and be guaranteed a streamlined permitting process. The plan would incentivize public private partnerships, but it remains to be seen whether Congress will react positively to the bold proposals in the plan.

The plan provides funding for a broad range of infrastructure classes and would distribute funds as follows:

- \$100 billion for an incentives program that would fund projects that leverage substantial (at least 80 percent) investment from states, localities and/or the private sector
- \$20 billion for transformative projects that are commercially viable, but cannot secure financing through the private sector because of unique technical and risk characteristics
- \$50 billion for rural infrastructure, including roads, bridges, public transit, rail, airports, and maritime and inland waterway ports; broadband (and other high-speed data and communications conduits); water and waste; drinking water, wastewater, stormwater, land revitalization and brownfields; power and electric (government generation, transmission and distribution facilities); and water resources (flood risk management, water supply and waterways)
- \$20 billion for low-cost federal financing:
 - The plan would broaden the types of infrastructure projects that could receive low cost loans and loan guarantees from the Department of Transportation, the Environmental Protection Agency and the Department of Agriculture.
 - The plan would eliminate the Alternative Minimum Tax preference for Private Activity Bonds and the state and transportation volume caps and broaden eligibility.

- The plan would change current law to protect the tax-exempt status of debt obligations on infrastructure that is either purchased by or leased to the private sector.
- \$10 billion for a new Federal Capital Revolving Fund that will allow the federal government to borrow money to purchase federal buildings and repay the fund with annual appropriations providing the potential to attract private sector investment.

The plan includes recommendations to incentivize private investment in infrastructure and remove federal requirements that add costs and delays to projects through comprehensive recommendations to streamline the environmental review and permitting process, including requiring federal and state agencies to coordinate environmental reviews and permitting and meet strict deadlines, delegating federal permitting obligations to states and shortening (to 150 days) the time in which a lawsuit can be brought to challenge an infrastructure project.

Finally, the plan identifies specific ways to increase private sector involvement in infrastructure development beyond low cost financing, including:

- removing restrictions on states tolling interstates
- allowing states to commercialize rest areas on interstates
- eliminating barriers to airport privatization
- allowing private applicants for federal approvals to provide funding for federal resource agency staff to expedite environmental reviews and permitting.

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