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White House Unveils Infrastructure Plan: Funding Questions Remain.

The American Infrastructure Initiative (infrastructure plan) released by the White House last week aims to stimulate more than $1.5 trillion in new investment over the next decade, shorten the process for approving projects, and address unmet rural infrastructure needs. But the plan offers little insight into how the government will come up with the initial $200 billion in federal funding, particularly in light of the president's proposed budget for 2019, which cuts spending on existing infrastructure programs.

The 53-page plan, released on February 12—expands on President Trump's initial infrastructure vision released early last year and calls upon Congress to move quickly to enact a law that will enable builders to construct new, modern, and efficient infrastructure across the country.

The plan is divided into four main parts: (1) funding and financing infrastructure improvements; (2) additional provisions for infrastructure improvements; (3) infrastructure permitting improvement; and (4) workforce development.

Infrastructure Incentives Program. The plan outlines various funding and financing mechanisms for infrastructure improvements, including establishment of a $100 billion infrastructure incentives program to encourage increased state, local, and private investment in infrastructure. Incentives include targeted federal investments in the form of grants to states and municipalities that would maximize investment in infrastructure, leverage federal investment, ensure long-term performance of capital infrastructure investment, modernize project delivery practices, increase economic growth, and attract new, non-federal revenue streams. Federal funds would be divided in specific amounts to be administered by the U.S. Department of Transportation, U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency. Eligible projects include surface and air transportation, passenger rail, ports and waterways, flood control, water supply and resources, hydropower, drinking water and wastewater facilities, storm water facilities, and brownfield and Superfund sites. Each lead federal agency would solicit applications upon enactment of the incentives program and every six months thereafter.

Rural Infrastructure Program. The plan would establish a $50 billion rural infrastructure program aimed at enhancing regional connectivity through public and private interregional and interstate rural projects that reduce costs for sustaining safe, quality rural communities and increase economic growth and competitiveness in rural areas by closing the gaps in local infrastructure. The legislation would create a "rural formula," calculated based on rural lane miles and population-adjusted to reflect policy objectives. The rural infrastructure program also would dedicate a portion of the funding to tribal and U.S. territory infrastructure.

Other Programs. Additional programs under the funding and financing section of the plan include a $20 billion transformative projects program aimed at significantly improving availability, safety, reliability, frequency, and service speed while reducing user costs and introducing new types of services. It also dedicates $20 billion to expanding existing credit programs like those under the

Transportation Infrastructure Finance and Innovation Act (TIFIA), Water Infrastructure Finance and Innovation Act (WIFIA), and Railroad Rehabilitation & Improvement Financing (RRIF), and to the expansion of private activity bonds. In addition, it would create a federal revolving capital financing fund, as well as various public land and federal real property asset disposal programs.

Streamlining of Permitting. The infrastructure plan also includes provisions for streamlining and facilitating various authorization and approval processes, and expanding some financing mechanisms. The plan would increase flexibility and reduce barriers for certain state-run infrastructure and project delivery for highways, rail, airport, and water systems. It also would expand funding eligibility and projects for land revitalization for brownfield/Superfund reform, including creation of a Superfund revolving loan fund and grant program.

Worth noting is the mandate to eliminate constraints on the use of public-private and public-public partnerships in transit projects. The National Environmental Policy Act (NEPA) approval process would be streamlined and a "One Agency, One Decision" environmental review structure would be established. Inefficiencies and redundancies in environmental reviews would be reduced further by allowing in some cases for the acquisition and preservation of rail rights-of-way before the completion of the NEPA review process and by delegating some review and permitting decisions to states.

Workforce Development. The fourth and final focus of the plan includes the implementation of policies that will help Americans secure stable, well-paying jobs by expanding access to education and development programs, expanding grant programs, reforming career and technical education, and revamping the Federal Work-Study program.

While the infrastructure plan does expand on President Trump's focus on infrastructure investment, it does not outline any sources for the initial $200 billion in federal funding. The President's proposed budget for the 2019 fiscal year incorporates as much as $275 billion in cuts to existing infrastructure programs, including cuts to Transportation Investment Generating Economic Recovery (TIGER) grants. The plan also does not address the underfunding of the Highway Trust Fund or a potential increase in motor fuel taxes. Additionally, there is no timeline for when Congress expects to address the plan and it remains to be seen how the plan will be received by lawmakers on both sides of the aisle.

Attorneys in Ballard Spahr's Public Finance Group have extensive experience with the rules and regulations set by the IRS and U.S. Treasury. Working closely with attorneys in Ballard Spahr's P3/Infrastructure Group, they routinely monitor and report on new developments that impact federal and state infrastructure programs.

by the Public Finance Group

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