Bond Case Briefs

Municipal Finance Law Since 1971

Execution over Allocation: Closing the Delivery Gap - Orrick / Bond Buyer Op-Ed

Joshua Bonney shares insights in an op-ed in The Bond Buyer addressing three interconnected challenges to project delivery that municipal and infrastructure markets now face—escalating costs, regulatory bottlenecks, and imminent federal funding deadlines. To navigate these pressures, market participants should prioritize delivery-model flexibility, regulatory compliance management, and targeted risk allocation. As 2026 arrives, a new narrative is emerging, shifting the focus from securing funding allocations to securing project completion.

Key takeaways below:

1. Time-cost asymmetry creates a leverage trap. Projects scoped and budgeted in the early-cycle cost curve of an assumed transitory inflation period are experiencing budgetary shortfalls. Construction costs have not mean-reverted; they have reset at levels well above historical baselines. The resulting funding gap forces owners to incur additional debt, weakening credit fundamentals, widening credit spreads, and reducing leverage capacity. Each new layer of debt amplifies these adverse effects, forming a self-reinforcing leverage trap that raises the cost of capital, compresses project margins, and limits the value generated from each dollar of investment.

2. Regulatory compliance is a critical path constraint. Regulatory compliance—including Build America, Buy America (BABA)—is already contributing to delays, inflating costs, and disrupting supply chains for construction projects. For manufactured products, BABA requires that the product is manufactured in the United States and that the cost of components mined, produced, or manufactured in the United States exceeds 55 percent of the total cost of all components—a threshold that forces earlier sourcing decisions and sharper pricing discipline. Proactive owners are prequalifying domestic suppliers and pricing BABA compliance into procurement plans. Those that don’t risk losing time, margin, and funding eligibility.

3. Statutory deadlines create both urgency and contingent liability risk. Absent successor legislation, the Infrastructure Investment and Jobs Act authorizations expire on September 30, 2026. While valid obligations preserve these authorized funds beyond the statutory sunset, strict deadlines apply to obligation—the point at which a legal commitment creates an enforceable liability against available appropriated funds. Unobligated balances risk becoming stranded—and investors may increasingly view these awards as contingent liabilities rather than assets.

4. Bid shock forces a pivot to alternative delivery models. Throughout 2025, many owners experienced bids that exceeded allocated funding, and this trend is expected to persist in 2026. Owners may need to pivot toward alternative delivery models—such as progressive design-build—that allow early contractor engagement to optimize design and cost within funding constraints.

5. Winners will be decided on their ability to execute. The market will divide into winners and losers based on execution capability. The winners will proactively engage stakeholders, innovate in

procurement to secure superior pricing, attract tier one counterparties, and maintain cost-effective access to capital markets. Their success will come down not to grants secured, but to infrastructure delivered.

Read the full article. (Subscription required.)

February.11.2026

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com