Policy Brief:

Challenges to Increasing Non-Federal Investment in Private Infrastructure:

How Can the U.S. Turn $200B into $1.5T?

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Policy Brief: Infrastructure Investment Challenges

Introduction

President Trump's Infrastructure Initiative proposes bold changes to how we should think about national infrastructure and how to attract more non-federal dollars to assist in funding a wide range of infrastructure projects. By defining infrastructure broadly, including roads, bridges, ports, harbors, water systems, telecommunications assets, utility assets, pipelines, and more, the President's vision creates the foundation for a more dynamic economic future. The traditional roadblocks to this future are well know – an overwhelmed Highway Trust Fund and limited federal dollars to support other non-highway infrastructure. Attracting more non-federal dollars to share the burden is critical for the expansion President Trump envisions.

The Infrastructure Initiative proposes a number of ideas to help solve the impasse, but critical questions remain. This brief examines some of the challenges to broader Public-Private Partnership (P3) deployment, and ultimately turning $200B in $1.5T in infrastructure spending.

Current Funding Mechanism Is Out of Money and Narrowly Focused

Since America's founding, the federal government has had a great interest in the nation's infrastructure.[1] Historically, federal infrastructure investment was by and large focused on the interstate highway system. To push the country forward, the federal government covered 80% or more of qualifying public works projects using funds collected through an excise tax on gasoline and diesel fuel – these funds were deposited in the Highway Trust Fund (HTF).[2] In recent decades, HTF spending diversions, increasing fiscal restraints, and an inability to achieve bipartisan agreement on how to make the HTF solvent have left policymakers in a bind. Further, changing technologies and a more advanced economy require additional infrastructure unrelated to transportation.

It makes sense then that the President is looking to alternatives to rebuild and expand America's infrastructure.[3] This is where P3s come in.

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[1] Grayson, W. (2013, May 15). A history of American infrastructure funding and how to go about establishing new financing tools. Retrieved February 19, 2018, from https://www.equipmentworld.com/a-history-of- infrastructure-funding-and-how-to-go-about-establishing-new-financing-tools/.

[2] Ibid.

[3] Ibid.

What is P3?

A public-private partnership, or P3, is a contractual arrangement between a public entity at the federal, state, or local level and a private entity whereby each brings its skills and funds to deliver a service or facility to the public.[4] These contracts often include detailed descriptions of the allocation of responsibility, risks, and benefits to each side.[5] In P3 arrangements, the private entity usually offers funding and skills, while the public entity offers opportunity and access.[6]

Curiously, even though the P3 funding model seems to fill a void created by governmental inefficiencies, its implementation in the U.S. has been largely stunted.

Why are P3s less than prevalent?

P3s struggle in the U.S. because of constraints place upon them on both the public and private sides.

Public Side: What do politicians need before getting on board?

Some industry leaders attribute the lack of P3 projects to the fact that the average American is suspicious of the privatization of public assets.[7] The public is nervous that handing vital infrastructure, like roads, over to private entities will result in greater cost to the public. Think of the annoyance of having to pay $2 every time you need to run to the store. But many in the industry believe this suspicion is misguided. Industry leaders argue that the public does not understand that these P3 projects are ultimately in their best interest.[8] To counter this ignorance, industry leaders are pushing for greater educational outreach and hope that current P3 projects demonstrate the success and value of the P3 model.[9] Industry leaders believe that, without public awareness of the value of the P3 model, local political support will always be lacking.

Similarly, some Industry leaders attribute the lack of P3 projects to the fact that few politicians truly understand how P3 projects

[4] "7 Keys to Success." *NCPPP*, www.ncppp.org/ppp-basics/7-keys/.

[5] Ibid.

[6] Ibid.

[7] *The Council of State Governments*, www.csg.org/pubs/capitolideas/enews/issue72_2.aspx.

[8] Ibid.

[9] Ibid.

work (according to one survey, 61% of politicians don't understand how they work).[10] This lack of understanding makes P3 projects appear risky, and accordingly, scares politicians away.

Private Side: What do investors want before investing?

Some attribute the lack of P3 projects to the fact that few states have dedicated P3 government offices.[11] These offices give the governments the capacity to handle the P3 proposals that come their way, that is, analyzing them, looking into the financials, scheduling, reviewing contracts, etc.[12] Without these offices, the process can be piecemeal and complicated, confusing and overwhelming investors. Plus, investors say that having the offices helps give them confidence that the public entity is truly willing to hold up its end of the deal.[13] To investors, having these offices reduces their risk.[14]

Some investors say that P3 projects don't thrive in the U.S. because we don't have the construction resources and workforce to handle it.[15] Investors are skeptical that the construction industry can accommodate an investment surge.[16] This skepticism turns investors off because it they anticipate that finding labor will be more challenging and ultimately raise their costs.[17]

Probably most problematic, is that many states don't even have the legislation in place to allow P3 projects to work in their states.[18] Only thirty-five states, along with the District of Columbia and Puerto Rico, have legislation

[10] Ibid; "Why Isn't the U.S. Better at Public-Private Partnerships?" *Governing Magazine: State and Local Government News for America's Leaders*, www.governing.com/topics/finance/gov-public-private- partnerships-in-america.html; Gabriel, Bruce. "Market Update: A Review of the US Public Private Partnership (P3) Sector in 2014," p. 6. *Practical Law US (New Platform) Signon*, content.next.westlaw.com/6-593- 7425?transitionType=Default&contextData=%28sc.Default%29&__lrTS=20180220024447346&firstPage=tru e&bhcp=1.

[11] "Why Isn't the U.S. Better at Public-Private Partnerships?"

[12] "Why Isn't the U.S. Better at Public-Private Partnerships?"; Gabriel, p. 6.

[13] Gabriel, p. 7.

[14] "Why Isn't the U.S. Better at Public-Private Partnerships?"; Gabriel, p. 7.

[15] "Public-Private Partnership Market Sags Under Trump." *Public Works Financing Newsletter*, pwfinance.net/public-private-partnership-market-sags-under-trump/.

[16] Ibid.

[17] Ibid.

[18] McNichol, Dan. "The United States: The World's Largest Emerging P3 Market," p. 11; Gabriel, p. 6.

enabling P3s.[19] The legal and political landscape of a state can also post obstacles to P3s. The South tends to be a little more accepting of P3 projects while northern states have been less accommodating, at least initially.[20] At first, the labor unions in northern states resisted private participation in public services, but many are now seeing P3s as a legitimate way to move forward with public infrastructure projects.[21]

What does Trump propose?

In his recent Legislative Outline for Rebuilding Infrastructure in America, President Trump proposed some fixes to how infrastructure is funded in America and asked Congress to pass a bill that would include the following parts:

Part One of Trump's plan would use $200 billion in Federal funds to spur $1.5 trillion in new infrastructure investments.[22] Of the $200 billion, $100 billion will be used to create an Incentives Program to spur additional dedicated funds from States, localities, and the private sector.[23] The idea is that Federal infrastructure spending will encourage State, local, and private investments and help to stretch the effect of every taxpayer dollar.[24]

Part Two of the Trump's plan does many things, but important here, it eliminates constraints on the use of public-private and public-public partnerships in transit. The plan asks Congress to eliminate the constraints imposed by current law, 49 U.S.C. Chapter 53 and its implementing regulations, which impede the greater use of public-private and public-public partnerships in transit capital projects.[25]

Part Three of Trump's plan addresses infrastructure permitting. Improvements here would create a new expedited structure for environmental reviews, put more decision making in the hands of each state, and enhance coordination between state and federal proposal reviews.[26] Additionally, a fixed and predictable permitting timeline would increase investor confidence and could attract more private dollars from private sector actors who don't want to risk investing in what may soon become blocked projects or partially built stranded assets.

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[19] Gabriel, p. 6.

[20] McNichol, p. 11.

[21] Ibid.

[22] President of the United States. "Legislative Outline for Rebuilding Infrastructure in America," Foreword, p. 3. *Legislative Outline for Rebuilding Infrastructure in America*. www.whitehouse.gov/briefings- statements/building-stronger-america-president-donald-j-trumps-american-infrastructure-initiative/.

[23] Ibid, p. 3.

[24] Ibid, p. 3.

[25] Ibid, p. 24-25.

[26] Ibid, p. 35-37.

Conclusion

While Trump's plan is about as close as we can get to funding national infrastructure projects with non-federal dollars, it still does not address the concerns outlined by industry leaders and investors. At the very least, the states need to adopt legislation that will enable P3 endeavors and ideally established P3 offices to process such projects. The problem is that, if the states do this alone, it will always be a decentralized, patchwork system. To truly overcome these obstacles, the federal government needs to use its preemptory authority and holistically change the way infrastructure is funded in America.

The Alliance for Innovation and Infrastructure (Aii) *consists of two non-profit organizations, The National Infrastructure Safety Foundation (NISF) a 501(c)(4), and the Public Institute for Facility Safety (PIFS) a 501(c)(3). The Foundation and the Institute focus on non-partisan policy issues and are governed by separate volunteer boards working in conjunction with the Alliance's own volunteer Advisory Council.*