How Trump's infrastructure plan incentivizes privatization

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While the Trump administration claims that its infrastructure plan will spur huge investment in America's roads, bridges, and other public assets, the president's FY2019 budget reveals the cold, hard truth: Trump aims to cut federal support for infrastructure by $280 billion, while his plan calls for spending $200 billion. This works out to a cut of $1.40 for every $1 of proposed expenditure.

But there's more: Trump's plan encourages state and local governments to turn over critical public assets, including highways, airports, and water systems to Wall Street and global corporations. These investors would then seek to extract high profits by charging tolls, taxes, and other user fees that would fall disproportionately on working and middle class families. This fact sheet explains how Trump's infrastructure plan incentives the privatization of America's infrastructure.

1. The plan would establish the Infrastructure Incentives Program

Trump's infrastructure plan would establish an Infrastructure Incentives Program to "encourage increased State, local, and private investment in infrastructure." This program would allocate $100 billion over a 10-year period, which represents half of the entire $200 billion plan. A key element of this program is that these federal dollars cannot comprise more than 20% of a project's cost. The program would also require states and localities to secure new, non-federal revenue for construction, operations, and maintenance of new infrastructure.

This approach represents a significant cost shift onto cities and states, which would be required to fund at least 80% of a given project. Many cities and states will be unable to generate sufficient new revenues to meet infrastructure needs, especially as the new tax law increases the tax burden on many families. Instead, local and state governments may be forced to turn to private financing or engage in privatization schemes.

Moreover, there are struggling communities where raising new revenues is simply not an option, and projects in these communities won't be attractive to private investors seeking high returns. The Infrastructure Incentives Program, the centerpiece of Trump's plan, would leave millions of Americans who live in places like Flint, Michigan, and Puerto Rico completely behind.

2. The plan would expand of funding and eligibility of federal loan programs

The plan would expand funding for the Transportation Infrastructure Finance and Innovation Act (TIFIA) and the Water Infrastructure Finance and Innovation Act (WIFIA). While these low-cost loan programs can provide flexible financing to build much-needed publicly operated infrastructure projects, they can also be used for public-private partnerships by providing low-cost subordinate debt to enhance a project's financial structure and attract greater private investment.

The plan would also broaden eligibility for these programs:

- TIFIA: While TIFIA is currently available for surface transportation projects, the plan would expand this loan program to non-federal waterways, ports, and airport projects. As the plan explains, port and airport projects are not currently eligible for TIFIA loans, "making it more difficult for project sponsors to pursue alternative project delivery…"
- WIFIA: The plan would expand WIFIA authorization to include non-federal flood mitigation, navigation, and water supply projects and water system acquisitions and restructurings (which would "enable WIFIA as a mechanism for consolidation in the water industry.")

3. The plan would expand the use of Private Activity Bonds, an essential financing tool in public-private partnerships

Private Activity Bonds (PABs) are an important tool in public-private partnerships, allowing a private sector project developer to access tax-exempt financing. Currently there are limitations on which types of projects can access PABs, alongside volume caps for PABs both nationwide and for a given infrastructure sector.

- The plan would expand the use to PABs by treating a project "as governmentally owned when a State or local governmental unit leases the project to a private business" while meeting specified criteria, such as the lease term can be no longer than 95% project's expected life. This means that PABs could be used for a greater number of privately developed projects.
- The plan would broaden eligibility of PABs for hydroelectric power generating facilities, flood control and stormwater facilities, rural broadband service facilities, and environmental remediation costs on Brownfield and Superfund sites.
- The plan would remove state and transportation volume caps on PABs.
- The plan would eliminate the Alternative Minimum Tax preference on PABs to ensure PABs are on equal footing with traditional municipal bonds with regard to borrowing costs and ultimately increase the use of PABs.
- The plan would allow PABs to retain their tax-exempt status when a public project is purchased by a private entity and the private use limits are exceeded. The current restriction "creates to structural barrier to the private sector acquiring projects because that cost premium must be funded at closing." The plan floats several change-of-use options to ensure projects that change from public to private hands would continue to qualify for tax-exempt debt.

4. The plan would allow for privatization of existing federal infrastructure

As the plan states, "The Federal Government owns and operates certain infrastructure that would be more appropriately owned by State, local, or private entities." It goes on to suggest that the federal government sell off assets including the Ronald Regan Washington National Airport, the Dulles International Airport, the George Washington and Baltimore Washington Parkways, the Tennessee Valley Authority transmission assets, the Southwestern Power Administration's transmission assets, and others. The plan would make it easier to privatize existing federal assets by allowing the federal government to take assets directly to market, instead of allowing state and local governments to buy the property at discounted rates, as it has traditionally done, suggesting that the administration really intends for these assets to be sold off to private investors.

5. The plan would further pave the way for increased privatization in specific sectors

Interstate rest areas: Interstate rest areas have long been safe places for motorists to stop and rest or for families on road trips to eat their picnic lunches. The plan would remove the current prohibition against commercial activity at interstate rest areas.

Transportation: A five-page summary of the plan released by the administration summarizes Trump's overall intentions in the transportation sector, signaling that privatization schemes are a major component: "President Trump's legislative plan encourages alternative project delivery in transportation, including State, local and private investment, and removes barriers and unnecessary Federal oversight in the development and improvement of transportation infrastructure to facilitate timely project delivery."

Transit: The plan specifically states that it would eliminate constraints for using public-private partnerships in transit. It would codify and make permanent the Federal Transit Administration's framework for public-private partnerships, which is currently a pilot program with limits on how many projects can participate. Additionally, the plan would increase the federal funding share from 25% to 50% to attract more private investment in transit projects, and eliminate the program requirement that participants utilize existing union staff.

Airports: The current airport privatization program only allows ten airports, including one large hub airport, to be privatized. The plan would remove these requirements on the number and size of airports, and would further incentivize the privatization of airports by removing current law that requires 65% of airport carriers to approve an airport privatization. It is also important to note that while not included in Trump's infrastructure plan, a proposal to privatize the nation's air traffic control operations is included in his FY2019 budget proposal.

Water: Privatization of water-related infrastructure would be incentivized in a number of ways:

- The plan would allow the Clean Water State Revolving Funds to provide financial assistance to privately owned treatment works, in addition to publicly owned treatment works.
- The plan would modify important regulatory requirements for privately owned treatment works, including the Clean Water Act, making it easier to privatize by reducing standards for private companies.
- The plan would provide the Environmental Protection Agency (EPA) with the authority to "explore alternative and innovation approaches to the overall project development process and to develop more effective approaches to project planning, project development, finance, design, construction, maintenance, and operations." This is all language indicating that the EPA will be directed to consider and use more public-private partnerships in its infrastructure programs.
- Currently, only the U.S. Army Corps of Engineers is authorized to perform construction and operations work on a project that utilizes funds appropriated from the Inland Waterways Trust Fund (IWTF) or the General Fund (GF). The plan would authorize the Secretary of the Army to enter into contracts with private entities to use IWTF or GF fund for construction, maintenance, and operations work. As the plan explains, "...the ability to enter into third party contracts,

concessions, and operation agreements, would enable greater innovations and efficiency by allowing non-Federal entities a greater role in performing work on these projects." Moreover, the plan would also eliminate the law that limits to the length of contracts for which the U.S. Army Corps of Engineers can enter, and expands the allowable contract period to 50 years, clearing the way for long-term privatization contracts. The plan would also set up a pilot program to allow the federal government and private contractors to impose and retain user fees on U.S. Army Corps of Engineers-managed water projects. This dedicated revenue source would "enable effective infrastructure partnerships," meaning public-private partnerships.

- The plan would explicitly authorize privatization of operation and maintenance activities at U.S. Army Corps of Engineers-managed hydropower facilities, which have long been restricted and deemed inherently governmental.

Veterans Affairs facilities: The plan would create a pilot program that would allow the Department of Veterans Affairs (VA) to exchange existing VA land or facilities for a lease of space in a new private facility that would be built on VA land. This essentially allows private corporations to take control of both public land, and build and operate privatized VA facilities.

Public lands: The plan suggests that it would fund capital and maintenance needs of public lands from new revenues derived from energy development on public lands. The approach sets up a dynamic where the Department of Interior becomes more dependent on resource extraction as a major source of funding.

6. The plan sets up revenue streams from our national highway system that would be ripe for private investors

The plan would allow states to toll existing interstate highways in order to generate revenues for additional infrastructure investment. While on its face, this provision doesn't explicitly call for privatization, it is important to note that the potential creation of revenue streams from segments of our national highway system could make for an attractive target for private investors. Private investors may be more than willing to give states upfront payments for the long-term ability to operate and collect tolls from a highway segment, especially if a centerpiece of Trump's plan, the Infrastructure Incentives Program, is implemented, which require states to come up with new dedicated revenues in order to receive federal infrastructure dollars.

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