

A photograph of two construction workers on a site. One worker in the foreground is wearing a yellow hard hat, an orange long-sleeved shirt, a red safety vest with reflective yellow stripes, and green gloves. He is crouching and using a black shovel to mix concrete in a bucket. Another worker in the background is wearing an orange shirt and light-colored pants, using a long-handled tool. A power trowel is visible on the right side of the frame. The background shows a construction site with a blurred truck and orange safety barriers.

ACCELERATOR FOR AMERICA

EMPOWER LOCALITIES
WITH EFFECTIVE TOOLS &
PROCESSES

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SUMMARY

The sharp contraction in economic output as a result of the COVID-19 crisis necessitates an equally sharp stimulus response to accelerate recovery efforts. While there is broad bipartisan agreement that economic stimulus is required to accelerate recovery, regulatory improvements must accompany stimulus funding for cities. This way they can quickly invest these dollars and get their communities back to work. The NPI recommends that Congress: **1) Require federal stimulus grant applicants to identify project procurement efficiencies and direct executive branch agencies to partner with recipients in re-engineering processes to achieve these efficiencies. 2) Reduce the burden of environmental review processes without compromising environmental stewardship. 3) Provide a federal fast-track process for public-private partnerships (P3s) and expand the use of subsidized debt. 4) Incentivize voluntary state-local road transfer programs. 5) Clear regulatory hurdles that restrict the ability of cities to install fiber. 6) Empower local jurisdictions to access federal funds for betterments. 7) Establish an outcome-based National Pollutant Discharge Elimination System (NPDES) permitting process by adopting an adaptive management regulatory approach.** These policy recommendations will accelerate project delivery and stimulate local economies. If adopted, they will:

- » Reduce project pre-development schedules to advance projects to construction faster.
- » Accelerate the environmental approval process for the majority of surface transportation projects.
- » Allow local decision-makers to prioritize environmental review of critical projects.
- » Support local investments in resilient infrastructure.
- » Enable local decision-makers to adopt innovative water quality management practices.
- » Provide local government with tools and processes to expedite project delivery, ultimately allowing local, state, and federal dollars to be maximized.

THE PROBLEM

The economic recovery will require large scale public investments to help businesses restart and get Americans back to work. Infrastructure and public works projects can provide the foundation for recovery. While cities and states have an established pipeline of infrastructure projects, local decision-makers nationwide named regulatory requirements as a principal barrier to faster project delivery. Expedited project delivery and environmental protection are not mutually exclusive. In fact, they can be symbiotic. Economic recovery will necessitate the acceleration of infrastructure projects to get Americans back to work and addressing regulatory and procurement inefficiencies will be key to this effort.

“We need a federal grant and regulatory system that prioritizes action over compliance when it comes to building and maintaining our infrastructure.”

Mayor Nan Whaley
Dayton, OH



POLICY RECOMMENDATIONS

RECOMMENDATION #5:

Require federal stimulus grant applicants to identify project procurement efficiencies and direct executive branch agencies to partner with recipients in re-engineering processes to achieve these efficiencies.

Outcome(s): Reduce pre-development procurement schedules and accelerate project delivery.

Local Innovation: Albuquerque, New Mexico

Mayor Tim Keller significantly advanced municipal project delivery schedules by revising city rules and regulations in the wake of the COVID-19 crisis. Through an emergency order, Albuquerque:

1. Raised the dollar threshold of on-call contractors to double the capacity available to the city;
2. Reduced bid timelines by 50%; and
3. Accelerated the City Council review process by requiring the body veto rather than approve projects.

These innovative changes effectively reduced project pre-construction schedules by three to nine months.

Public works construction provides local governments with a tool to promote jobs and economic activity, particularly in the context of the current economic downturn. Simplifying and accelerating federal, state, and local procurement processes while still ensuring transparency and competitiveness will enable essential community-serving projects to move from the development phase to construction delivery faster. To promote the adoption of accelerated local procurement processes, NPI recommends that federal agencies like USDOT, which may be dispersing stimulus funding through emergency response grants, require grant applicants to identify ways to make procurement processes more efficient for their respective projects. Simultaneously, they must direct executive branch agencies to provide grant recipients with the technical support necessary to make these local ideas and new processes a reality.

While funded projects shall still be subject to the requirements of U.S. Code,¹ mandating competitive procurements and selection processes will help to encourage procurement innovation. In addition, while varied procurement efficiencies may be identified, NPI strongly urges continued adherence to existing goals and requirements with respect to engagement with historically underutilized businesses. To support local capacity, federal agencies will partner with grant recipients to collaboratively re-engineer procurement processes based on best-practices. Local officials like Mayor Keller in Albuquerque have already begun to lay the groundwork for such innovations and the federal government should encourage similar innovations in cities across the U.S. to quickly get public works projects to construction and Americans back to work.

In addition to encouraging Albuquerque-like local procurement innovation, NPI recognizes local governments are eager to procure large fleets of battery electric buses (BEBs) but lack the tools to do so confidently and meet emission mandates. We recommend that the federal government support and scale cooperative procurement solutions such as the Climate Mayors Electric Vehicle Purchasing Collaborative, to enable local and state governments to bid together on the purchase of electric vehicles in large quantities, thereby reducing the cost and removing friction from the purchasing process.



POLICY RECOMMENDATIONS

RECOMMENDATION #6:

Reduce the burden of environmental review processes without compromising environmental stewardship.

Outcome(s): Accelerate the environmental review process, reduce the pre-development timeline to start construction sooner, and uphold environmental stewardship.

A critical component of recovery is that local decision-makers have opportunities to accelerate regulatory reviews and approvals for infrastructure projects to expedite delivery and get Americans back to work. The federal government should further reduce the burden of environmental analysis for low-impact projects and empower states to conduct accelerated environmental review processes through existing regulatory frameworks, while still upholding essential stewardship responsibilities. USDOT should expand the use of Special Experimental Project Number 15 (SEP-15) for projects funded by stimulus dollars. By leveraging SEP-15, the Secretary of Transportation may allow states, and by extension, local authorities, to innovate through abbreviated environmental reviews of minor environmental impacts through desktop surveys and a simple checklist for certain transportation projects.² While expanding the application of SEP-15 would accelerate existing approval procedures for routine projects, empower states and local authorities to prioritize and accelerate critical infrastructure projects, and more quickly break ground to create jobs, it should not be misconstrued as an abdication of environmental compliance and responsibility. Further, this recommendation does not deviate from the foundational principles of the National Environmental Policy Act (NEPA), which requires significant community participation in the project development process to adequately consider the impacts of the project on communities and the environment.



POLICY RECOMMENDATIONS

RECOMMENDATION #7:

Provide technical assistance to project sponsors, a federal fast-track process for P3s, and expand the use of subsidized debt.

Outcome(s): Reduced political risk, faster delivery, and higher assurance of completion of P3 projects.



AFA

By leveraging private capital, P3 projects present a unique financing opportunity for municipalities to creatively deliver community-serving infrastructure and create local jobs amidst the current economic crisis. However, when pursuing P3 projects, local officials face hurdles that include capacity constraints and uncertainty, political risk and the absence of a standardized process for P3 projects. The federal government can help local officials overcome these challenges by 1) Providing a bench of on-call technical support secured by the Build America Bureau for small under-resourced project sponsors, and 2) Creating an elective fast-track program for local project sponsors using federal financing programs, like the Transportation Infrastructure Finance and Innovation Act (TIFIA), the Railroad Rehabilitation and Improvement Financing (RRIF), and the Water Infrastructure Finance and Innovation Act (WIFIA) credit assistance programs. By providing a bench of on-call technical support, the Build America Bureau would effectively eliminate the procurement process for small and medium-sized cities to access needed technical assistance and target assistance to the project sponsors that require the most capacity support. Local project sponsors who participate in the fast-track program would follow a standardized process and meet certain eligibility criteria. Interested project sponsors would need to demonstrate that the project will provide access to jobs and services in their communities and not adversely impact minority communities. While remaining somewhat flexible to accommodate state-by-state regulatory variances, this federal fast-track program would provide project sponsors with a clear template for the P3 project process, including clearly defined expectations for public input, political approval and involvement, and a guaranteed project timeline. Importantly, this template would include milestones for public input and political approval, shielding the project from political turnover and safeguarding its completion. This elective federal program would ultimately help local projects clear public and political challenges and capacity constraints of P3 infrastructure development to deliver a benefit to the community.

POLICY RECOMMENDATIONS

RECOMMENDATION #8:

Incentivize voluntary state-local road transfer programs.

Outcome(s): Empower local governments to take control over their transportation assets through technical guidance and special funding for “orphan highways.”

“Cities and states have to ask themselves who is best positioned to manage a road to make it resilient, sustainable, and function effectively for residents. A readiness scan and criteria for making that coordinated decision is critical.”

Lynn Peterson, President
Oregon Metro

The United States has over 4.1 million miles of public roads that account for more than 80% of all personal travel and freight.³ Historically, road networks were built and maintained for interstate trade. However, as cities have grown, those same roads have become an increasingly important part of local transportation networks. Therefore, mayors seek control to create complete streets that facilitate modern multi-modal systems and better serve their residents. State governments control about 19% of the roads in their borders nationally, though it can exceed 60% in some states.⁴

Very often, these state-controlled “orphan highways” fall within local boundaries and lack proper maintenance. Additionally, they do not reflect the right balance of local versus state use of the right-of-way. These roads should address modern transportation, safety and economic development needs through investments such as dedicated transit lanes, active transportation alternatives, and fiber installation. This can be a complicated process, particularly where questions of funding and applicable standards are concerned. Best practices, however, do exist and include the development of a clear process and “readiness scan” for identifying roads eligible for transfer. State funds for ongoing maintenance must be included with the transfer coupled with local funds and clear guidelines on how much flexibility the city has to change designs and other regulations related to speed, capacity, dedicated transit routes, etc..⁵ The federal government can incentivize this through technical guidance on the potential terms, special funding, and the opportunity for cities to buy back their roads from the federal government in exchange for greater control over their use and design. When done properly, state-to-local transfers can improve road networks more efficiently and rebalance the right-of-way to meet today’s needs.



POLICY RECOMMENDATIONS

RECOMMENDATION #9:

Clear regulatory hurdles that restrict the ability of cities to install fiber.

Outcome(s): Increase availability and quality of broadband internet in communities across the U.S.

Local Innovation: Chattanooga, Tennessee

In a city of 180,000, Mayor Andy Berke has been able to leverage one of the most robust municipally-owned fiber networks in the country, which offers every resident and business access to ten-gigabit per second broadband internet service for \$70 per month (including TV service). The network is owned and operated by Chattanooga's power utility, the Electric Power Board, and was first built in 2010 to attract a new, high-tech auto plant.⁶ In the process, it created 2,800 to 5,200 new jobs and \$1 billion in economic activity, despite significant push back from the state legislature and lawsuits from private competitors.⁷

With millions of people relying on telemedicine and working and studying remotely, the response to COVID-19 has heightened the already great need for fast, reliable broadband. The United States ranks 20th in the world for internet speeds,⁸ and the digital divide is felt most heavily by minority families, 30% of whom don't have access to computers and broadband in their homes.^{9,10} Since building out America's fiber network presents a unique opportunity to create jobs that will sustain our next generation economy, cities and towns should be granted the chance to build fiber networks as they are undertaking other work in public rights-of-way.

Currently, more than 50 cities are offering fiber-to-the-home connections. Nineteen states have banned such connections.¹¹ The Federal Communications Commission, which supported Chattanooga's efforts, has a range of programs to expand broadband connectivity. Congress can facilitate even greater expansion by preempting state laws that block local governments from building out their own networks. At a minimum, the federal government can promote broadband deployments at the local level by disseminating model regulations for states to adopt voluntarily, particularly if paired with funding incentives. Whether through publicly-owned broadband or P3 solutions, cities need regulatory flexibility to address this important challenge.



POLICY RECOMMENDATIONS

RECOMMENDATION #10:

Empower local jurisdictions to access federal emergency relief funds for betterments.

Outcome(s): Fortify communities with resilient reliable infrastructure and reduce future costs by strengthening infrastructure and using federal funds efficiently.



Cities are faced with growing financial constraints that reduce their current capacity to resiliently rebuild damaged infrastructure. Local officials also acknowledge the increasing risks of climate change, which are evidenced by an emerging pattern of costly damaged infrastructure. When infrastructure is damaged, many repair funding vehicles only allow infrastructure to be built back to how it was, creating a cycle of continued damage and repair, along with cascading impacts across the community during loss of service, which are disproportionately felt by low income and minority communities.¹² “Betterments” are repairs that improve infrastructure resilience, such as increasing culvert sizes to withstand future flooding events or implementing sustainable design principles. Following severe flooding events in 2013, the Colorado Department of Transportation received emergency relief (ER) funds from the Federal Highway Administration (FHWA) and, for the first time, was able to apply these funds to not only repair to prior conditions, but to also implement cost-effective betterments to improve the resilience of highway infrastructure to withstand future flooding events. The ability for local and state governments to pay for cost-effective resilience-related betterments for all types of infrastructure projects should be expanded to all federal emergency relief dollars administered by agencies like USDOT and the Federal Emergency Management Agency (FEMA). This would provide necessary funding for climate resilience efforts, and investments should prioritize infrastructure in minority and low-income communities, when relevant. Developing resilient transportation, communication, water and energy infrastructure is first and foremost cost-effective and limits the need for repeat maintenance and repair. Further, resilient infrastructure reduces the consequences of infrastructure loss that impact communities and thereby provides a reliable network that can effectively support our communities, economies, and future generations.

POLICY RECOMMENDATIONS

RECOMMENDATION #1:

Establish an outcome-based NPDES permitting process by adopting an adaptive management regulatory approach.

Outcome(s): Provide flexibility to water utilities to comply with permits, encourage cost-effective and collaborate water management solutions.



Water management is a priority for cities and local governments. Water quality standards are regularly updated, requiring cities to continue investing in water systems to achieve full compliance and maintain necessary permits. Such compliance is possible through a range of measures, such as advanced treatment processes and collaborative and comprehensive watershed management strategies similar to the adaptive management regulatory approach adopted by the Madison Metropolitan Sewerage District (MMSD) in Madison, Wisconsin. The regulatory approach adopted by MMSD allowed the agency to use a non-traditional and innovative watershed strategy in 2012 to reduce phosphorus pollution in the Yahara River Watershed by targeting nonpoint pollution sources. MMSD's strategy—the Yahara Watershed Improvement Network—successfully fostered collaboration among multiple local and regional partners and focused water quality improvement efforts on in-stream water quality rather than end of pipe measurements. The Network implemented a mix of low-cost phosphorus reducing practices across the watershed through 24 municipal separate sewer systems (MS4s), three county conservation departments, three wastewater treatment plants, more than 300 participating farmers, and several agencies and environmental organizations. The result was more than 29,000 pounds of phosphorus kept from surface waters in 2016 alone.¹³ Fresh water continues to become an ever more important natural resource and in every different region its management inherently requires a diverse set of stakeholders across the watershed. Therefore, the National Pollutant Discharge Elimination System (NPDES) permitting processes must support local innovation and look beyond end-of-pipe water quality measurements. The federal government should establish an adaptive management regulatory approach similar to the MMSD to provide flexibility to local utilities and enable “outcomes-based permitting” practices. Adjusting how NPDES permits are evaluated and attained will improve water quality and encourage adoption of local innovative, collaborative, and cost-effective water management solutions.