STRATEGICS

Memo

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Navigating New Federal Transportation Funding Requirements for Local Governments

On January 29, 2025, the U.S. Department of Transportation (DOT) issued the "Ensuring Reliance Upon Sound Economic Analysis in Department of Transportation Policies, Programs, and Activities" Order and the "Implementation of Executive Orders Addressing Energy, Climate Change, Diversity, and Gender" Memorandum. Local governments should proceed under the assumption that these new requirements will be enforced until further developments or court decisions clarify any legal challenges to the policy or related Executive Orders.

The USDOT Order includes five new priorities for all DOT projects and goals:

- Utilize **user-payer models** (e.g., toll roads, congestion pricing).
- Direct funding to local economic **Opportunity Zones**.
- Benefit communities with higher-than-average **birth and marriage rates**.[1]
- Ensure local compliance with **federal immigration enforcement** policies.
- Prohibit vaccine requirements or mask mandates as a condition for funding.

These priorities cover all DOT funds, including grants, loans, contracts, and DOT-supported or -assisted state contracts. The order also establishes new economic evaluation criteria for all DOT funding, emphasizing cost-benefit analysis, economic efficiency, and alignment with federal interests. For local governments, this means new conditions and data requirements for grant and loan applications, while eliminating local priorities related to climate justice, social equity, and other previous considerations.

Mandatory Cost-Benefit Analysis for Federal Funding – In a significant shift, local governments must now demonstrate that their projects provide quantifiable economic benefits. The order directs that "all DOT policymaking, grantmaking, and rulemaking activities must be supported by a positive cost-benefit analysis." Previously, federal agencies were required to conduct a cost-benefit analysis for rules that have an annual effect of $200 million or more on the economy. DOT is extending this heightened "cost-benefit standard" to all programs, requiring economic justification and performance criteria calculations for all DOT-related grants and loans, regardless of their size. Local governments must focus on Net Present Value (NPV) calculations, Internal Rate of Return (IRR) assessments, Benefit-Cost Ratios (BCRs), and other metrics to determine eligibility and compatibility with funding opportunities.

Changes to Existing Assistance Agreements – Recipients of previous DOT funding may see changes to the terms under which their projects were originally approved. Agreements initially made under previous regulatory frameworks may now be subject to new economic evaluation criteria, which could impact ongoing projects that relied on prior commitments, particularly those with diversity, equity, and inclusion (DEI) and climate/economic justice objectives.

[1] "To mitigate the unique impacts of USDOT programs, policies, and activities on families and family-specific difficulties, such as the accessibility of transportation to families with young children, and give preference to communities with marriage and birth rates higher than the national average." *USDOT Jan. 29 Order, p. 3.*

User-Payer, Local Match, and Domestic Procurement – DOT establishes a strong preference for projects that implement user-payer models, such as toll roads and congestion pricing. Projects will be assessed using Revenue Forecasting Models that incorporate data on anticipated toll collections, ridership projections, and fare elasticity. Federal funding will prioritize initiatives demonstrating a minimum 50% cost recovery rate through user fees. Further, DOT requires "demonstration of significant local financial commitment" (i.e., matching funds, cost share), and "Buy America" domestic procurement for receipt of federal funds.

Restricting Local Political Initiatives and Removing Social Cost of Carbon – Local governments must align transportation projects with federal economic and infrastructure priorities, projects advancing purely local political objectives without clear federal interest will be found ineligible. This directive will likely reduce funding for projects with diversity, equity, and inclusion (DEI), climate/economic justice, and other locally-driven social objectives. Similarly, DOT funding decisions will no longer consider the Social Cost of Carbon (SCC) or other environmental cost calculations.

Preference for Opportunity Zones – The Order revives local Opportunity Zones as a key criterion for federal funding eligibility. Moving forward, local governments should closely consider any projects aligning with this location-specific preference. Proposals for projects in these areas should provide employment growth forecasts, median household income impact projections, and real estate valuation appreciation metrics to demonstrate their economic benefit.

Family and Community Impacts – DOT introduces new community impact considerations, specifying that DOT funding must avoid disruptions to family stability and safe child-rearing environments, but support family cohesion, economic vitality, and public safety. Specifically, "adverse impacts on families and communities" include "noise, water pollution, soil contamination, denial/reduction in transportation services, increased difficulty in raising children in a safe and stable environment, and destruction or disruption of community cohesion, safety, or economic vitality." Local governments should incorporate household displacement analysis, crime rate projections, and economic impact models to ensure compliance with these criteria.

Prioritization for Areas with Higher-than-Average Birth and Marriage Rates – Similarly, DOT also creates a priority for "communities with marriage and birth rates higher than the national average." This provision shifts local government projects toward family-oriented infrastructure investments, which should be demonstrated through demographic and population growth projections in their applications.

Compliance with Federal Immigration Enforcement – Local governments and "communities are required to cooperate with federal immigration enforcement in order to qualify for DOT funding." This provision could affect funding eligibility for sanctuary cities and jurisdictions with policies limiting cooperation with federal immigration authorities.

Implementation and Compliance Considerations:

- **Grant and Loan Application Adjustments** – Local governments must revise project proposals to meet new economic justification requirements, incorporating data-driven cost-benefit analyses, including expected travel time reductions, commercial activity impact, and estimated employment growth.
- **Potential Review of Existing Agreements** – USDOT may amend the terms of existing funding agreements where legally permissible, affecting ongoing projects.
- **Revised Notices of Funding Opportunity (NOFOs)** – Future NOFOs will reflect new cost-benefit and economic efficiency criteria, necessitating adjustments in local project planning.
- **Challenges to Climate and Equity-Based Projects** – Programs previously designed around climate resilience, environmental justice, and social equity goals may face funding challenges or require re-framing to emphasize economic benefits.

Conclusion:

The USDOT order shifts transportation funding priorities, requiring local governments to adapt their projects to align with federal economic and infrastructure objectives. Local governments must now focus on economic return, user-payer models, and compliance with federal directives to secure funding, while projects based on environmental, equity, or social policy goals may face reduced support. Local governments should reevaluate funding strategies, explore new financing mechanisms, and ensure compliance with the economic efficiency standards set by the USDOT. Successful applicants must provide precise financial modeling, detailed benefit-cost projections, and robust revenue sustainability assessments to meet federal funding requirements.

For more information, contact Kyle Leopard, kyle@strategics.consulting; or Ryan Murphy, ryan@strategics.consulting.