

THE BOND BUYER

Infrastructure funds inches through red tape toward cities and states

By

[Caitlin Devitt](#)

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As the Biden administration this week kicks off a national tour promoting its nearly two-year-old infrastructure law, the work to dispatch the funds into state and local coffers has just begun.

A recent exchange between Federal Highway Administrator Shailen Bhatt and Sen. Shelley Moore Capito, R-W. Va., at a June 14 Senate committee hearing on the implementation of the 2021 Infrastructure Investment and Jobs Act highlighted just one of the difficulties of getting federal infrastructure dollars out the door.

After Bhatt noted that the agency has so far made more than 900 awards from the law, Capito questioned him on whether that meant the money had been sent to winning applicants.



Federal Highway Administrator Shailen Bhatt said that getting infrastructure dollars obligated and sent to local recipients is a top priority.

"How many actually have project grant agreements in place?" asked Capito, who helped write the bipartisan infrastructure law. "Are we getting to the end point here? We understand you have a lot going on, but are the awards being made in a timely fashion? Because we're hearing some blowback on that."

Bhatt said the FHWA is working "closely" with grant winners to speed approval of project grant agreements, which are necessary to obligate the money and send it to the recipient.

"One of the things that I have been very focused on is turning awards into projects," said Bhatt, who took the helm in January. "Since I have been coming here, I know that [Transportation] Secretary [Pete] Buttigieg is also very focused on this," Bhatt said. "The FHWA, since this law was enacted, has been working around the clock to get all these programs stood up. We will continue to work like that, but it is a balance – we want to move swiftly but also thoughtfully to get to successful outcomes."

In a country that's often dogged by infrastructure delays and cost overruns, efficient execution of the \$1.2 trillion allocated in the IIJA was always going to be the key to success. The [bipartisan law features roughly 375 programs](#), including existing ones that were expanded or revised and nearly 130 first-time programs, with new reporting and regulatory requirements. The law allocates funding to 45 federal bureaus and 16 federal agencies and commissions for the hundreds of programs, [according to Deloitte Insights](#).

As the November two-year anniversary of the high-profile law nears, most of the programs have posted Notice of Funding Opportunities, some for a second round, and [the administration announced billions in support](#) for local cities and states.

But it remains slow going for much of the funding, particularly on the competitive grant side. Local governments are struggling to successfully track and apply for the grants, especially smaller, under-resourced and rural communities. Guidance is proving to be a thorny issue. Many cities and states continue to prioritize the spending of remaining pandemic funds, which represent cash in the bank, over the harder-to-reach infrastructure dollars. Macroeconomic challenges persist, with [record inflation](#), rising interest rates and a tight labor market pushing up costs and slowing delivery.

And, as Capito's comments at the Senate hearing showed, even when the money is awarded, difficulties in nailing down a project grant agreement can mean more delays.

"Post-award, it can take a while to get the grant agreement in place, so that's the phase of delivery that's causing a lot of concern for recipients – the amount of time from when we got the award to getting the grant agreement ready so the project can actually move forward," said Susan Howard, the director of policy and government relations for the American Association of State Highway and Transportation Officials.

Advocates like AASHTO and the National League of Cities are urging federal agencies, especially the U.S. Department of Transportation to publish regular updates on all the new programs and funding opportunities.



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"It's one thing for us at the organization level – we're keeping track of it all, and it's hard to keep up," said Carolyn Berndt, legislative director of sustainability for the National League of Cities. "We know our local leaders are struggling to keep up too."

Berndt and others said that the U.S. Department of Transportation, which oversees many of the programs, has been the fastest agency at unlocking new and existing program funding opportunities.

"Where we saw the funding going to existing programs, federal agencies were fairly quick in getting that funding out the door," Berndt said. "The DOT had the largest number of programs, new and existing, and my experience on the whole for NLC is that DOT was really moving the fastest in terms of getting the programs out."

Biden has made infrastructure a cornerstone of his reelection campaign. This week the White House launched its Investing in America tour, sending officials to more than 20 states to promote projects and policies. The administration has announced more than \$220 billion for more than 30,000 projects, Transportation Secretary Pete Buttigieg said Tuesday during a press call announcing \$2.2 billion in funding for the popular RAISE grant program.

"And there's more every month," Buttigieg said. "As much as we've accomplished, we're still in many ways at the outset of this infrastructure decade."

The IIJA allocates \$550 billion for reauthorization of surface transportation infrastructure spending, including \$351 billion for highways over five years, with \$307 billion of that allocated as formula funding to states. It includes another \$550 billion for assets ranging from bridges, drinking water, public transit, broadband, rail, electric vehicle chargers, ports and airports.

The formula funding that makes up annual allocations to states through 2026 [began to flow to states in March 2022 as part of the fiscal 2022 budget](#). Formula funding made up 92% of the IIJA's first-year awards from federal agencies, [according to Brookings](#). By October of 2022, only 7% of competitive grant money had been awarded, Brookings said.

The cost of developing one grant application can cost \$100,000 in Texas and more than \$200,000 in other places, [said](#) Marc Williams, head of Texas Department of Transportation and a board member of the AASHTO during a March 28 House committee hearing on the law.

"If awarded, it can take 15 to 18 months for the grant agreement to be finalized and funds obligated," Williams said. "U.S. DOT continues to face challenges in managing the large volume of grant programs that they are expected to stand-up and deliver."

TxDOT and others are pushing for improved grant debriefing processes, with the DOT providing feedback to losing applicants to help improve their applications, Williams said.

The DOT has stepped up such debriefs, said Christopher Coes, DOT's assistant secretary for transportation policy, during Tuesday's press call with Buttigieg.

The DOT conducted 564 debriefs last year, a record number, Coes said. "We anticipate we will be doing that again for those applicants who were not successful moving forward," he said. For successful applicants, the DOT is starting to publish draft grant agreements to speed that process, Coes added.

Another obstacle is the IIJA's expansion of the [Buy America Build America](#) provision to require that all iron, steel, manufactured products and construction materials used in covered infrastructure projects are produced in the United States. The broadened provision cuts across all programs and federal agencies and has sparked opposition from the construction industry, road groups, local governments and others.

While AASHTO is supportive of the concept of Buy America, Howard said the expansion means that projects could be delayed if even one product is not made in the U.S.

"I've lost count of how many comment letters we've submitted," Howard said, adding that the process for obtaining waivers remains unclear.

"That will cause delays with executing projects if the holdup is either having a waiver or having to figure out how to source this," she said.

Many water departments and other non-transportation entities are also concerned about meeting BABA requirements, said Emily Brock, federal liaison for the Government Finance Officers Association.

"It's unclear whether domestic procurement will or will not be waived and that can make or break a project," Brock said, adding that water utilities are urging the Environmental Protection Agency to release more guidance on domestic procurement requirements. "We're constantly pressing the administration for more information on how and where it applies."

Frustration over BABA requirements and other struggles to keep up with IIJA programs has prompted some local governments to tap any remaining pandemic funds before trying to win some IIJA funds, Brock said.

The IIJA was the third tranche of major federal support that rolled out since the pandemic, following CARES and the American Rescue Plan Act, which featured \$350 billion in state and local flexible funds, Brock noted.

"ARPA is not in the past – it's still very current; people are still trying to spend the last of what they have to the point where IIJA may not yet have received as many eyes on it," she said.

"It is in no one's best interest to leave this money on the table," Brock said. "We are motivated to make sure the administration can effectively deploy this money to the jurisdictions and part of that is urging people to finish up with ARPA – put it to good use, spend it, and then let's really concentrate on the IIJA."

