

Working Group on Infrastructure finance

PHOTOCOPY
PRESERVATION

NEC Repatriates Mtg on Infrast. 10-21

- Budgeting Process -- Analysis up front -
bad projects not in budget

- Question - what about when bad projects
put in by Congress

ISTEA - gives lots of local & state decision-
making -- how does it relate
to this document

This doc. run thru local planning
regulations

Its our leg proposals and do they
get cleared

Environmental Clean-up - (DOD & DOE)
- applies ~~to~~ cost-effectiveness
measur.

-
- Highway
 - Water Resources Rev Act Summer 87
 - Superfund

① Must Comply with Existing laws
② Definitions Sect.

Infrastructure Finance 6-28

Mondays - Rm 472 - 8-11

addition - Creation of Taxable Bond

EO 12803 - Reduces recap rate to deprec. value
A 102 - sets contrib

↳ Too heavily tilted toward privatization?

- What matters is how we present option
up much as what it is - AFSMG
doesn't like 12803 - but like our
EO on Inf. Cost/Benefit.

- recap, use of proceeds, assets ^{not} subject
to sale? Discretion

- Want to give Sec. discretion to approve
a package -- now, EO says Sec shall
approve.

↳ But a narrow scope to deny -- why
get into politics of issue

What was law prior to EO? What problems did
it cause? What reasons -- why is more
Sec Discretion needed.

LA X Contra very -- LA wants to use
airport proceeds to put cop on street. Do we oppose?

Summary Material on Substitution

A new Federal infrastructure financing program is likely to substitute, in part, for spending that States would undertake without this new program. Factors affecting the amount of incremental infrastructure investment include the inertia in States' funding of their own infrastructure programs and the extent to which the new program reduces the cost to States of pursuing their marginal investments.

A likely program design -- i.e., a small to modest-sized addition to Federal aid, targeted at areas such as highways and wastewater treatment -- may in the near term stimulate additions in infrastructure investment close to the size of the new Federal program. However, as States have time to adjust their fiscal systems, the effect is expected to diminish. After a period of time, most of the Federal funds are likely to substitute for spending that States would otherwise undertake on their own. States may first move funds to related areas (e.g., highway construction outside the Federal-aid system or operation and maintenance of infrastructure investments); over time, the increased State fiscal capacity will be increasingly likely to be used to meet other needs. Targeting the new program at activities not currently undertaken could promote its incremental effect and provide a useful demonstration of innovative uses of incentives or technologies.

Background

The extent of substitution of new Federal financing for spending that States would otherwise undertake is affected by the following factors:

- (1) The extent of new Federal aid relative to current State efforts: In the case of highways and treatment plants, for instance, States already over-match Federal funding, meaning that they undertake significant investments without Federal aid. If the new Federal aid is modest, it will not affect most States' marginal projects, as these projects will still have to be attractive without Federal assistance. Thus, the Federal aid will largely function as an inframarginal subsidy.
- (2) The length of time considered: The longer the time period considered, the greater the likelihood that Federal spending will substitute for State spending. In the short run, inertia may keep State infrastructure contributions constant. In this case each new dollar of Federal assistance will tend to yield close to a dollar of new infrastructure. Over time, however, States will have more opportunity to reprogram their own infrastructure spending. Initially, spending may stay in related areas, such as operation and maintenance of infrastructure. In the longer run, there will be less pressure to raise gasoline taxes and other user fees. A maintenance-of-effort constraint could sustain State spending in the short run; ultimately, though, such rules will tend to have a diminished effect, as growth would be expected in State spending in the absence of a new Federal program.
- (3) The ease of reprogramming State infrastructure spending: Where State infrastructure spending is funded by dedicated taxes or user charges (e.g., gasoline taxes or sewer fees), there may be inertia in State infrastructure outlays. This will tend to work against substitution of Federal funding for existing State funding, or keep State funds in related areas, such as operations and maintenance. Over time, though, the new Federal funds will reduce the incentive to raise the State taxes or fees.
- (4) The types of projects covered by the new program: If the new program is targeted at activities not currently undertaken, this could promote its incremental effect and provide a useful demonstration of innovative uses of incentives or technologies. A new program targeted at toll-assessment systems, public-private partnerships, or nonpoint-source pollution controls, for instance, would increase the use of such approaches. Some of these approaches, however, might have been adopted in the absence of the program or have lower returns than alternative investments.
- (5) The extent of Federal constraints: A new Federal program may increase or decrease constraints on States and localities that raise costs. New constraints, such as expanded application of Davis-Bacon rules, could significantly diminish the subsidy value of the new Federal aid. Reducing constraints, in contrast, would increase the amount of infrastructure produced with or without new Federal funds, boost employment, and decrease inflation.

THE WHITE HOUSE
WASHINGTON

June 17, 1994

MEMORANDUM FOR DISTRIBUTION

FROM: Michael Deich MD

SUBJECT: Meeting Reminder

We will meet 9-11am, Monday, June 20, in room 472 OEOB. If your name is listed below, you have been cleared. If not, please call Sandy Mancini at 456-2801.

The agenda for Monday includes:

- effect of added federal subsidies on state and local infrastructure spending;
- changing EO 12803 (privatization)
- new Bank proposals
- next steps

FYI, please see the attached note from Olena on the role that pension funds might play in infrastructure finance.

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MEMORANDUM

COMPLETED
DRAFT
6/13/94

FOR: Sarah Taslik, Esq.
Council of Institutional Investors

JUNE 13, 1994

FROM: Eugene W. Harper, Jr.

This memorandum outlines four general categories of investment by pension funds in "infrastructure." The term "infrastructure" is hard to define with precision, but it is used here to mean virtually every type of public project -- roads and highways; bridges and tunnels; rail and mass transportation; port and airport facilities; public and private power projects; schools, colleges and universities; single- and multi-family housing; hospitals, nursing homes and other health-care facilities; water, sewer, solid-waste, sludge-treatment, and other environmental facilities, etc.; and possibly R&D.

One point about infrastructure development should be noted first: it is generally supported by either taxes or user charges, and whether or not a revenue stream will be made available for construction or maintenance is generally a governmental decision, an exercise of "political will." Providing a capitalizable stream of revenue is fundamental to financing infrastructure development; providing new sources of investment, designing new financing structures, or creating new investment vehicles -- without providing new or improved sources of revenue -- may enhance infrastructure development, but only at the margin.

Tried 2 yrs ago -- no interest, no advantage in it.

2. Credit-enhancement and liquidity. Most infrastructure financing is done in the tax-exempt municipal-bond market. Because pension funds are tax-exempt organizations, they have no need for tax-exempt interest income and therefore do not invest in the principal market (roughly \$100 billion issued annually) through which infrastructure development is financed.

One way for pension funds to participate in that market would be to provide credit-enhancement for municipal bonds; liquidity for variable-rate municipal bonds or commercial paper; or both. "Credit-enhancement" means to guarantee the payment of debt service on municipal bonds; "liquidity" means to provide back-up

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lines of credit for variable-rate bonds, which may be "put" back to the issuer on a short-term basis to be re-marketed, or for commercial paper, which may be "rolled over" on a short-term basis by a dealer. In the current market, credit-enhancement is generally provided by monoline insurers such as AMAC, FICO and MIRA; and liquidity is generally provided by commercial banks.

Pension funds could provide credit enhancement and/or liquidity on an individual basis or through a common enterprise. Proceeding on an individual basis could subject the funds to inordinate local pressure, make risk-pooling more difficult, and create staffing problems. Acting through a common enterprise, a consortium of pension funds could form, purchase, or invest in a municipal bond insurance company that would provide financial guarantees for municipal bond issues, similar to the guarantees currently provided by the monoline insurers. That company could itself also organize a subsidiary to provide liquidity for municipal-bond transactions, and the necessary back-up lines of credit could be provided by consortium members.

The (new) company could compete in the "no loss" municipal bond insurance market, i.e., insuring mainly credits with their own investment-grade credit ratings, but in a separate market niche, e.g., concentrating on credits avoided by the monoline insurers—not for credit reasons alone but for other reasons (such as transaction costs). The (new) subsidiary could also provide liquidity, perhaps on a long-term basis not currently available from commercial banks, for the variable-rate bonds and commercial-paper programs of state and local government units. The objective, in both instances, would be to obtain a risk-adjusted market rate of return.

More passive methods of participating in this category would be to provide reinsurance, to take participations in liquidity facilities or back-up lines of other entities, or to cooperate with current market participants (the monoline insurers, Fannie Mae, and perhaps others) in designing vehicles for credit enhancement and/or liquidity.

Taxi
3. The Taxable Bond Option (TBO). If municipal-bond interest were taxable, pension funds would purchase highly-rated municipal bonds, the proceeds of which would be used for investment in infrastructure.

The U.S. Treasury has generally criticized the use of the interest-exemption to subsidize capital outlays both because it is inequitable (in that taxpayers receive different tax benefits depending upon marginal rates) and inefficient (in that the loss in revenue to the Treasury is greater than the reduction in interest costs to the state or local borrower). In 1978, the U.S. Treasury proposed the TBO, an election in the Internal Revenue Code for

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State and local government units to issue bonds bearing interest subject to Federal income taxation, with the Federal government paying a fixed portion of the actual dollar amount of the issuer's interest cost. For obligations issued during 1979 and 1980, the Federal government proposed to pay 35 percent of the interest cost. For obligations issued thereafter, the Federal government proposed to pay 40 percent.

Under the 1979 proposal, there would have been no Federal control over the purposes for which the taxable bonds eligible for the subsidy could be issued, as long as they would otherwise have qualified for the tax exemption under the Internal Revenue Code. However, obligations held by "related" entities (such as related pension funds) would have been eligible for the election only if the obligations were issued through a "public underwriting." This requirement was intended to prevent issuance of taxable bonds at an inflated rate to take advantage of the Federal subsidy, particularly under circumstances where a State or local government may be making payments to related entities in any event so that its share of an inflated interest rate may not have been a real cost. When these obligations were distributed through a "public underwriting," however, the Federal government could be assured that the interest rate on any obligation held by related entities was not overstated. A "public underwriting" meant one in which the obligations were purchased by independent underwriters for resale to the general public, i.e., when at least 40 percent of the face amount of the obligations issued at each separate interest rate had been acquired for investment purposes by persons who were not related entities. Related entities included any trust or plan for the benefit of the employees of a state or political subdivision. A municipality's pension fund, *e.g.*, would have been considered a "related" entity of the municipality, of all other municipalities of the state, and of the state.

Since the 1979 proposal -- which was generally opposed by state and local issuers and the municipal bond industry, basically on the grounds that the Federal government could not be trusted to pay the subsidy without adding conditions in the future -- many things have changed in the municipal bond market. In 1977, commercial banks, nonlife insurance companies and other institutions accounted for roughly 70% of the market, with households at 30%. Today commercial banks and insurers, for various tax reasons, are no longer major purchasers of municipal bonds, and individuals, directly and through tax-exempt funds, comprise roughly 75% of the market. Also, the municipal-bond interest exemption is no longer considered to be required by the U.S. Constitution; the Internal Revenue Code of 1986 significantly restricted the use of tax-exempt financing; and issuers have become more accustomed to issuing unsubsidized taxable debt. Finally, the pension system's assets have grown exponentially since the mid-1970's and would provide an attractive new institutional market for

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state and local issuers. States, localities, and the industry say not be as opposed to the TAC as they were in 1977.

3. The Government sponsored Enterprise (GSE). The GSE has had successful precedents in certain markets: Fannie Mae and Freddie Mac in the secondary market for mortgages; Sallie Mae in the secondary market for student loans; and Connie Lee as a credit-enhancer for educational institutions (a major stockholder of Connie Lee is the teachers' retirement system in Pennsylvania).

Infrastructure
BANK

Recently, GSE's for infrastructure financing have been proposed, although no proposal appears to have achieved sufficient support. There appear to be two basic ideas.

Under the first, a GSE, variously referred to as a National Infrastructure Corporation (NIC), would be capitalized by U.S. Treasury subscriptions and would issue highly-rated taxable debt to be purchased by the pension funds, with proceeds used to provide loans, guarantees, insurance, reinsurance and other forms of aid for targeted infrastructure projects meeting certain criteria (Keynihan/Flanagan). The NIC proposal would essentially create a GSE to provide credit-enhancement, insurance or reinsurance for generally-approved but largely self-supporting tax-exempt and taxable infrastructure projects, along the lines described in Section 1 above; to a certain degree, it follows the Connie Lee model.

The second basic idea is that a GSE, called an American Infrastructure Bank (AIB), would issue highly-rated taxable debt backed by a dedicated Federal gas tax, to be purchased by pension funds, with proceeds used to finance specific infrastructure projects as part of an adapted infrastructure investment plan, mainly through match-grant, formula-based distributions to states and localities, with some funds managed by the GSE itself for major "national" projects (O'Clairmain/Mahayts). The AIB proposal actually seeks to dedicate a new credit-worthy revenue stream to infrastructure development, to capitalize that revenue stream, and to on-lend proceeds mainly through state revolving funds for projects that fit into an overall infrastructure plan.

4. Private Infrastructure Investment. Private infrastructure investment here means investment in infrastructure projects, or portions of public-private infrastructure projects, that do not qualify for the interest exemption available on municipal bonds, mainly because the projects are owned or used by private firms and are not specified as "exempt facilities" under the interest-exemption sections of the Internal Revenue Code. In particular, independent power projects, such as cogeneration facilities, and those that blend tax-exempt and taxable financing, such as recycling, waste-to-energy and resource-recovery projects, as well as pollution-abatement and wastewater treatment

Infra.
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facilities, comprise this segment of the targeted infrastructure market. These labor- and capital-intensive projects are thought to provide market rates of return, supported by user-contracts with creditworthy entities using proven technology.

Credit analysis in this market is not simple. It requires scrutinizing contracts and permits during development (output, supply and operation contracts; financing commitments), construction (cost-overruns, construction quality), and operations (technology, contract integration, O&M, fuel supply, interest rate risk, intercreditor agreements), as well as the creditworthiness of purchasers, suppliers, operators and contractors. The idea here is for pension funds to invest in infrastructure development by investing in one or more project-finance pools. This could provide the pension funds with a risk-adjusted, market return on infrastructure investment, in a diverse portfolio with credit-worthy project participants.

* * *

One final point about infrastructure investment: pension funds are currently not major investors in state and local obligations, as they are in corporate securities. Just as pension funds have recently become more active in protecting their corporate investments, they might become "active" in infrastructure financing as institutional investors in or guarantors of municipal bonds, insisting on covenants, e.g., to avoid costly deferred maintenance, to maintain secure pledges of revenues, to receive continuing disclosure and financial reporting, to encourage capital planning, and the like. Also, the public funds may be in a position to encourage standardization in the market, which may in turn lead to enhanced liquidity.

N.W.H.



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Draft of June 15, 1994
M. Rapaport (622-0871)

TAX-EXEMPT BOND PROPOSALS

Background

During the past few years, a number of proposals have been made to modify the federal tax law limitations on the issuance of tax-exempt bonds. Supporters of these proposals claim that changes to the tax-exempt bond limitations would result in an increase in infrastructure investment.

Tax-exempt bonds as a subsidy.

There are a number of arguments in favor of using tax-exempt bonds as a method of increasing infrastructure investment. First, given budgetary constraints, changes to these rules would provide widespread benefits at a lower cost than many of the other proposals. Changes to the tax-exempt bond rules would be greeted extremely favorably by State and local governments as well as by the members of Congress interested in changing these rules. Tax-exempt bonds have always been viewed as a productive subsidy by State and local government officials because it can be accessed without the involvement of the federal government. The proposals would facilitate greater private investment in infrastructure. In addition, many believe that the changes made by the Tax Reform Act of 1986 (the "1986 Act") have too severely limited the ability of State and local governments to borrow for their needs. The simplification of existing limitations that would be accomplished by the proposals would, at a minimum, reduce the borrowing costs of State and local governments and thereby enhance the efficiency of the subsidy; these simplifications have significant merit even the idea of making changes to the tax-exempt bond rules if as a means of stimulating infrastructure investment is rejected.

The strongest argument against the use of tax-exempt bonds to benefit infrastructure investment is that tax-exempt bonds are an inefficient method of providing a subsidy; the value of the subsidy provided to the borrower is less than its cost in lost federal tax revenues. More direct federal subsidies do not have this inefficiency. Second, many of the changes that have been suggested are not well targeted to infrastructure. Further, as with any proposal to reduce the cost of capital, it is unclear the extent to which the savings from reduced borrowing costs would be used to increase infrastructure investment. All of these factors may result in high costs relative to the benefits to infrastructure. Finally, in contrast to the annual budgetary review process for grants and other forms of direct expenditures, subsidies that are included in the Internal Revenue Code, once enacted, tend not to be revisited.

Proposals

Private activity bonds.

Current law. The private activity bond ("PAB") rules attempt to prevent the subsidy provided by tax-exempt bonds from being used to benefit private persons. In general, interest on PABs is not tax-exempt. Generally, bonds are taxable PABs if more than 10 percent of the bond proceeds are used for a "private business use" (e.g., a loan of bond proceeds to a private person or a lease of a bond-financed facility to a private person). The PAB limit was reduced from 25 percent to 10 percent as part of the 1986 Act. Bonds are also PABs if: (1) private use that is unrelated or disproportionate to the governmental use of the issue exceeds 5 percent; (2) private use exceeds \$15 million unless PAB volume cap is allocated to that excess private use; (3) for financings of power plants and other output facilities, the amount of private use exceeds \$15 million; or (4) more than \$5 million or 5 percent of the bond proceeds (whichever is less) are used to make private loans.

Certain PABs qualify for tax-exempt treatment, including bonds for: (1) governmentally owned airports, docks and wharves, mass commuting facilities, (2) sewage, solid waste, and hazardous waste disposal facilities, and (3) residential rental projects ("exempt facilities"). The PAB "volume cap" limits the amount of PABs that may be issued in each State during a calendar year to the greater of \$150 million or the product of \$50 and the State population. The volume cap does not apply to bonds for airports, docks and wharves, and mass commuting facilities, and bonds for governmentally owned solid waste disposal and high-speed rail facilities. PABs cannot be advance refunded.

Arguments in favor of changes to the PAB rules. The PAB rules restrict investment in infrastructure by limiting the types of facilities for which tax-exempt bonds may be issued and the manner in which bond-financed facilities may be operated. Changes to the PAB rules would make lower-cost, subsidized financing available to a larger class of infrastructure projects, would provide more favorable treatment under the volume cap, and would provide relief from other restrictions. Further, each proposal would assist efforts to increase privatization and create more public-private partnerships.

Arguments against changes to the PAB rules. Based on the inherent inefficiencies and cost of tax-exempt PABs, the 1986 Act dramatically reformed the rules for these bonds by limiting the types of bonds eligible for tax-exemption and imposing a volume cap that, over time, would significantly limit the availability of tax-exempt financing for private persons. The proposals are directly contrary to these goals.

(1) Increasing the private use limitation. Many have suggested that the 10 percent private use limitation should be increased, perhaps to 25 percent as it was before the 1986 Act.

Pro: The 10 percent limitation may well be unnecessarily strict, especially given the 5 percent limit on private loans, and may encourage inefficient behavior (e.g., renting facilities for less than fair market value to avoid PAB status). Increasing the 10 percent limit would also provide significant simplification. Even if a return to a 25 percent limit is not justified, some increase in the limit, perhaps to 15 percent, provide similar benefits with

more limited opportunity for abuse.

Con: The PAB definition is the principal mechanism to limit the use of tax-exempt bonds to benefit private persons. Increasing the 10 percent limit to 25 percent would be a relatively expensive, poorly targeted means of benefiting infrastructure and could lead to significant abuse. Further, this change would reverse a major reform made by the 1986 Act and provide an opportunity for abuse.

Revenue estimate:

(2) Liberalizing the definition of private use. Suggestions have been made to change the definition of private use. These include proposals to disregard private use of governmentally owned or controlled facilities if the private user pays an arm's length price or otherwise passes on the benefit of the subsidy to the public and liberalizing the current 5 year restriction on managements contracts.

Pro: Liberalizing the definition of private use would, like other changes, provide relief from the PAB restrictions and would permit greater private involvement in infrastructure. Because these changes would be limited to specified arrangements with private persons, these proposals would result in less of revenue loss than more general PAB changes.

Con: Proposals to ignore private use where the private user does not obtain the benefit of tax-exempt rates would be nearly impossible to administer. A strong argument can be made that these changes would eliminate the PAB test as a meaningful limitation on the use of tax-exempt bonds to benefit private businesses and, therefore, would be very expensive. This proposal also is poorly targeted to infrastructure.

Revenue estimate:

(3) Treat certain PABs as governmental bonds. Another type of proposal is to either treat certain PABs as governmental bonds or provide that certain PABs are exempt from the volume cap, AMT, and advance refunding limitations. This special treatment could, for example, apply to all governmentally owned infrastructure facilities, facilities necessitated by federal mandates, or facilities in distressed areas.

Pro: Each of these proposals would permit tax-exempt financing for those facilities with few limitations under the tax-exempt bond rules (i.e., no volume cap or governmental ownership requirements, ability to advance refund, inapplicability of AMT). In particular, the volume cap is a significant limitation on financing privately used infrastructure. Further, if the qualifying facilities are specifically identified, these benefits would be better targeted than more general changes to the PAB limitations and are a more direct method of encouraging infrastructure financing and increasing private investment in infrastructure.

Con: The inapplicability of the volume cap and the broad coverage of these rules, would lead to a relatively large revenue loss and subsidization of projects having little to do with infrastructure. As a tax policy matter, bonds used to finance private facilities should not receive the same treatment as borrowings for governmental facilities. These proposals would also set a bad precedent and could lead to an inappropriate expansion of these special rules to other types of bonds. Bonds to benefit "distressed communities" would primarily benefit private business, rather than infrastructure. With respect to federal mandates, it would be more appropriate for Congress to consider the need for subsidization at the time the mandate is imposed, rather than by providing a subsidy of universal applicability. Treating bonds for federally mandated facilities more favorably is a poorly targeted and expensive mechanism of dealing with the problem of such mandates.

Revenue estimate:

(4) Expand qualifying PABs. Several changes to the rules limiting the types of PABs that qualify for tax-exemption have been suggested. First, permissible PABs could include all infrastructure facilities and the existing definitional limitations could be liberalized. Second, governmental ownership should not be required for these facilities.

Pro: The list of permissible exempt facilities, the requirement that certain exempt facilities be governmentally owned to be eligible for tax-exempt financing (or to qualify for a volume cap exception), and the definitional limitations applicable to the exempt facilities are inconsistent, arbitrary, narrow, and discourage privatization. For example, because property with value, even value solely as waste, is not solid "waste", facilities to dispose of such materials (e.g., paper and glass recycling facilities) cannot be financed. More importantly, if infrastructure is to be encouraged, all such "infrastructure" should receive the subsidy provided by tax-exempt PABs. For example, a privately owned or operated toll road should be eligible for tax-exempt financing. Requirements that facilities be governmentally owned discourage privatization.

Con: Tax-exempt financing should, as much as possible, be limited to governmental financings. The existing limitations on qualifying PABs represents Congress' best efforts to provide such limits. While these limitations may not be perfect, liberalization of these rules is not the correct approach. Governmental ownership is the best indication that a facility that is privately used is, in fact, a "governmental" facility that should be eligible for the subsidy.

Revenue estimate:

(5) Increase volume cap. Suggested changes to the volume cap include increasing the volume cap to make it less restrictive, indexing the volume cap for inflation, and excluding PABs for infrastructure from the volume cap.

Pro: Increasing the volume cap is a relatively simple way of increasing infrastructure spending since the volume cap limits the issuance of PABs, including bonds for infrastructure. PABs for infrastructure facilities have difficulty competing for volume cap

5

with mortgage revenue bonds. In addition, the volume cap fails to provide parallel treatment for similar types of facilities. For example, solid waste facilities are not subject to the volume cap if governmentally owned while sewage facilities are always subject to the volume cap. This structure often discourages privatization. Finally, inflation has adversely impacted States and local governments by reducing the value of the volume cap (although inflation since 1986 may have been less than what Congress would have expected). Even if complete exclusions are too expensive or otherwise inappropriate, a combination of partial and complete exclusions could be developed (e.g., complete exclusion for governmentally owned facilities and 50 percent exclusion for other infrastructure facilities).

Con: The volume cap acts as a significant limitation on the volume of PABs. The volume cap forces States and local governments to finance only those projects that are most important to the States. From a tax policy perspective, all PABs should be subject to the volume cap. A recent GAO report (although flawed) generally concluded that the volume cap may not be a significant barrier. Excluding more bonds from the cap could effectively eliminate the volume cap as a limitation on PABs. Finally, even if it makes sense to index the volume cap for inflation, it is important to first determine the "right" level for the cap.

Revenue estimate:

(6) Repeal special PAB definitions. Eliminate the special unrelated use, output facility, \$15 million volume cap, and \$5 million private loan rules.¹

Pro: These special PAB definitions and the \$5 million private loan limitation are very difficult for both the IRS and municipalities to apply. Further, while these rules greatly increase complexity, they provide relatively minor policy benefits. The cost of these changes is relatively small.

Con: These rules were adopted because Congress believed that the general 10 percent private activity bond definition was, in certain cases, insufficient to prevent abuse. Nothing has happened since 1986 to justify a change in this belief. These changes would have little impact on infrastructure.

Preliminary revenue estimate: Less than \$50 million over 5 years.

Arbitrage.

Current law. For issuers of tax-exempt bonds, arbitrage is the ability to borrow at tax-exempt rates and invest the amounts borrowed in higher-rate, taxable investments. Arbitrage provides an incentive to increase the volume of outstanding tax-exempt bonds,

¹ Other simplifying changes have also been suggested, such as repeal of the public approval requirement and the 2 percent cost of issuance limitation.

resulting in a federal revenue loss and the potential for arbitrage motivated transactions to crowd the tax-exempt market leading to higher municipal bond interest rates. The arbitrage rebate rules require that issuers pay to the United States any arbitrage that is earned. Exceptions to the rebate requirement apply to issuers that issue less than \$5 million of bonds per year, issues where all the proceeds are spent within 6 months of issuance, and certain construction issues if all the proceeds are spent within 2 years.

(1) Repeal the rebate requirement. One suggestion is the outright repeal of the rebate requirement together with a requirement that arbitrage earnings be used for governmental purposes of the issuer.

Pro: Permitting issuers to avoid the complexity of the rebate requirement and retain any arbitrage earnings would provide a significant subsidy to municipalities that would reduce the costs of financing capital projects. The rebate requirement is extremely burdensome for issuers to comply with. There are other ways that the IRS could police arbitrage abuses short of imposing this requirement on every issuer.

Con: The arbitrage rebate requirement was enacted because of, and remains necessary in order to prevent, significant abuse and revenue loss. Arbitrage should not be used as a subsidy both for tax policy reasons and because it is an extremely indirect method of subsidizing infrastructure.

Revenue estimate:

(2) Increase the small issuer exception. Expand the small issuer exception to rebate by increasing the size of issuers qualifying for the small issuer exception to \$25 million.

Pro: The rebate rules fail to properly balance the significant costs imposed on issuers and the goals of the arbitrage rules to reduce significant arbitrage incentives and prevent abuse. The current small issuer exception is set at too low a level. A \$25 million exception would remove a large number of issuers from the rebate rules without affecting larger transactions having a significant arbitrage potential. While 85 percent of the aggregate volume of bonds would remain subject to the rebate requirement, a \$25 million exception would remove 83 percent of the issuers from having to comply with these rules.

Con: Expanding this exception to rebate would increase the opportunities for abuse. The current small issuer rule is properly limited to very small issuers who issue so few bonds that the amount of arbitrage is economically insignificant; this would not be the case with a \$25 million exception.

Preliminary revenue estimate: \$90-\$125 million over 5 years.

(3) Liberalize the spending exceptions. Create a new, simple spending exception to the rebate requirement (and repeal the 2 year exception) under which rebate would not apply

if one-third of the proceeds are spent within one year, seventy-five percent within two years, and all proceeds (other than a de minimis amount) within 3 years, but only if arbitrage earnings are used for the purpose of the issue (or for other capital costs).²

Pro: The rebate rules fail to properly balance the significant costs imposed on issuers and the goals of the arbitrage rules to reduce significant arbitrage incentives and prevent abuse. Workable exceptions to the rebate requirement should also apply when issuers spend bond proceeds quickly since there is reduced opportunity for arbitrage abuse. Although well intentioned, the numerous technical requirements have made the 2 year spending exception almost unusable. Further, most infrastructure projects require more than 2 years to complete. Accordingly, there remains a need for a workable spending exception to rebate.

Con: Expanding this exception to rebate would increase the opportunities for abuse. A 3 year spending exception significantly expands the opportunities to earn arbitrage and could lead to more bonds being issued earlier than necessary to earn arbitrage.

Preliminary revenue estimate: \$50-\$100 million over 5 years.

Advance refundings.

Current law. Primarily to take advantage of lower interest rates, municipalities issue new debt to "refund" outstanding debt. Because most bonds may not be retired for at least 10 years after being issued, issuers usually cannot immediately retire their outstanding debt. By issuing new refunding bonds and without retiring the outstanding debt until the first call date for that debt (an "advance refunding"), an issuer can lock in lower interest rates and immediately obtain the benefit of this interest rate savings. As a result of the 1986 Act, bonds issued after 1985 can only be advance refunded once, while bonds issued before 1986 can be advance refunded twice.

Proposal. Some have suggested a return to the rules applicable prior to 1986 so that issuers could advance refund their bonds an unlimited number of times. In order to provide a temporary stimulus or a stimulus for infrastructure, this proposal could be adopted for one or two years or could be limited to infrastructure financings.

Pro: Once an issuer has used up its permissible advance refundings, it cannot take

² Several other simplifications have been suggested, including: (1) exemption of bona fide debt service funds from rebate if the issue is eligible for the 2 year exception; (2) repeal of the 150 percent limitation on reasonably required reserve funds; (3) increase the scope of the various de minimis rules; (4) repeal the loss of temporary period rule in section 149(d); and (5) conform and simplify the technical requirements of the small issuer rebate and bank deductibility rules. Certain of these changes would be unnecessary if other changes described herein are made.

advantage of further decreases in interest rates. Although an issuer can always wait and refund bonds at their call date, interest rates may be higher at that point and it is difficult for issuers to gamble on rates remaining low. While interest rates have increased recently, rates remain relatively low and there is great interest in liberalizing these rules. Most importantly, the savings from an advance refunding represents additional funds that are, for the issuer, produced with no new taxes or revenues. Concerns about this proposal could be addressed by imposing certain limitations on advance refundings. For example, unlimited advance refundings could be permitted only if there are significant savings (e.g., in excess of 5 percent) or only where the original bonds have been retired (i.e., no more than two sets of bonds outstanding at any time).

Con: Advance refundings double the amount of tax-exempt bonds outstanding for a single project and, therefore, liberalizing these restrictions could cost billions of dollars. The savings to municipalities from advance refundings are often less than the federal government's cost from these transactions. In recent years, alternatives to tax-exempt advance refundings have been developed to capture a significant portion of the available savings. Although permitting additional advance refundings when there are significant savings or after the original bonds are retired reduces the relative revenue loss, the loss would still be significant. Proposals to temporarily change the advance refunding rules or to change these rules for infrastructure bonds would be difficult to limit.

Preliminary revenue estimate: \$1-\$2 billion over 5 years.

Bank deductibility rules.

Current law. Deductions that are generally permitted to taxpayers for interest paid on borrowings are denied if the borrowed amounts are used to acquire tax-exempt bonds. This prevents a double benefit to the taxpayer: interest deductions and tax-exempt interest. In 1986 this rule was extended to bonds held by banks (except for bonds of small issuers that issue less than \$10 million of bonds in a calendar year).

Proposals. With respect to the bank deductibility restrictions commentators have suggested either a repeal the changes to the bank deductibility rules made in 1986 or an increase the small issuer bank deductibility exception.

Pro: The bank deductibility rules reduce the demand for tax-exempt bonds and increase the volatility of the market. Banks have reduced their holdings in tax-exempt bonds from \$232 billion in 1985 to \$98 billion in 1992. This reduced demand translates into higher borrowing costs for municipalities (estimated by some to be as much as 10 to 40 basis points per borrowing). Increasing the small issuer exception to \$25 million would benefit 83 percent of all issuers for a relatively low cost. Smaller issuers are disproportionately affected by the bank deductibility rules because these borrowers issue bonds in amounts that are too small for public distribution. As a test for "small", \$10 million per year is too low.

Con: Demand for municipal bonds continues to be very strong and recent increases in tax rates will further increase demand. There are strong tax policy reasons to continue to prohibit banks from "double-dipping". In particular, a complete repeal of the 1986 Act changes would be expensive and poorly targeted.

Preliminary revenue estimate: \$90-\$125 million over 5 years.

Alternative minimum tax.

Current law. The alternative minimum tax ("AMT") is designed to ensure that individuals and corporations do not completely avoid income tax by applying a specified tax rate to a broader concept of income that includes various tax preference items. Interest on most PABs is a preference item.

Proposal. Interest on PABs should not be treated as a preference item for AMT purposes.

Pro: The AMT rules reduce the demand for tax-exempt bonds and increase the volatility of the market. AMT bonds pay interest rates that are up to one-quarter of one percent higher than on other tax-exempt bonds. Subjecting interest on specified PABs to the individual AMT seems not to work as intended: these bonds are avoided by those who expect to have an AMT liability, while those who will not have an AMT liability purchase these bonds to obtain higher interest rates. Thus, little federal revenue is produced while significant costs are imposed on these financings.

Con: Demand for municipal bonds continues to be very strong and recent increases in tax rates will further increase demand.

Revenue estimate:

Impact of the proposals

State and local governments are the primary providers of infrastructure and finance nearly all of their capital spending through the issuance of tax-exempt debt. The proposals would reduce the costs of these borrowings, by easing administrative burdens, allowing investment earnings to be retained, and reducing interest costs. Reducing borrowing costs will enable State and local governments to spend more on infrastructure, for example, by freeing up revenues to use for additional projects. In addition, since State and local governments have limited resources to use for infrastructure, privatization of infrastructure could be an important method of increasing infrastructure investment. Liberalizing the rules for private involvement in tax-exempt bond financed projects should, by making the tax-exempt bond subsidy available to private entities, result in an increased amount of private investment in infrastructure.

Comprehensive proposal

In order to synthesize the various overlapping proposals, the following suggestions arguably represent the best combination of these proposals: (1) increase the private use limit to 15 percent; (2) include "infrastructure facilities" as exempt facilities; (3) provide a complete volume cap exemption for bonds for governmentally owned infrastructure and a 50 percent exemption for other infrastructure bonds; (4) provide consistent rules for other exempt facilities; (5) revise and index the volume cap to take into account these changes; (6) repeal the special PAB definitions (e.g., the \$15 million output facility rule) and the \$5 million private loan rule and make other simplifications; (7) increase the small issuer exception to rebate to \$25 million and provide a 3 year spending exception; and (8) increase the small issuer bank deductibility exception to \$25 million and eliminate interest on PABs as an AMT preference item.

THE WHITE HOUSE

WASHINGTON

October 19, 1993

MEMORANDUM FOR MORT DOWNEY
SHERRI GOODMAN
KATIE MCGINTY
ALICIA MUNNELL
BRUCE REED
ALICE RIVLIN
GREG SIMON
ROBERT SUSSMAN
JOE STIGLITZ
SUE TIERNEY

FROM: *Bo* Bowman Cutter
SUBJECT: Proposed Executive Order on Infrastructure
Investment Planning

The NEC Deputies will meet on Thursday, October 21, to discuss the executive order described in this memo, which would require agencies to develop infrastructure investment plans. The meeting will take place at 4:30 p.m. in room 476 OEOB.

BACKGROUND

The President's commitment to increase public investment while simultaneously reducing the budget deficit creates two related challenges for infrastructure policy. First, outlays must be targeted carefully to insure that infrastructure spending is in fact investment that provides long-run benefits to society. Second, the Administration must overcome significant doubts, both in Congress and among the public, about the need for greater infrastructure outlays. The dimensions of the political challenge can be seen in the fate of last spring's stimulus package, which was defeated in large part because opponents were able to characterize much of the Administration's investment program as "pork" that would detract from, not add to, the nation's long-term economic potential.

If approved, the attached executive order would instruct federal agencies to develop and implement infrastructure investment plans designed to confront both the economic and political challenges raised by the President's desire to increase infrastructure spending. The investment plans would address the economic challenge directly. Under the plans, agencies would:

- make greater use of cost-benefit analysis to justify infrastructure-related budget requests;
- consider carefully the use of nonstructural alternatives to new construction;
- seek greater private sector participation in the provision of infrastructure services;
- encourage more effective investments by State and local governments.

As these plans lead to new, credible evidence that federal funds are directed towards projects with attractive returns, they should also generate new political support for the President's spending proposals. The rationale for each of the executive order's main requirements is laid out below:

Cost benefit analysis. Despite a broad and longstanding consensus that properly done cost-benefit analysis can improve our ability to focus spending on those infrastructure projects which offer the greatest social returns, federal agencies rarely use these techniques to inform their budget decisions. At present only the water resource programs--principally those of the Corps of Engineers--routinely conduct cost-benefit analyses for all of the infrastructure projects that they fund. Other agencies and programs use cost-benefit analysis only sporadically, if at all (though some agencies, notably the Federal Highway Administration, are working to make greater use of such analysis).

Absent hard information on the return from different types of infrastructure spending, agencies instead base spending requests on estimates of "need." At best, these needs estimates show the cost of meeting some engineering standard, such as secondary treatment standards for wastewater, or the road capacity needed to accommodate expected traffic growth. At worst, needs studies are wish lists. In every case, needs studies measure only the costs, but not the benefits, of public infrastructure spending.

The executive order would require agencies to develop the data and analytic capabilities needed to assess both the costs and the benefits of their infrastructure programs. The main body of the executive order spells out several specific criteria that these cost-benefit studies should fulfill. These criteria essentially instruct agencies to avoid the most commonly made errors in cost-benefit analysis. In addition, agencies will continue to be bound by OMB Circular A-94, which details the methods that agencies must employ when conducting cost-benefit studies.

Manage Infrastructure Efficiently. Properly done cost-benefit analysis should always consider explicitly various nonstructural alternatives to new construction (such as pricing infrastructure efficiently). This principle therefore could have been listed above as one of the criteria that agencies' cost-benefit analyses

are to meet. Since this principle is most often honored in the breach, however, the working group considers it worth articulating as an independent idea. Doing so will signal agencies about the standard practice that is expected, while signalling those outside the federal government that the Administration will consider a broad set of alternatives to meeting the demand for infrastructure services. Articulating this idea as a separate principle also reinforces one of the themes raised by the National Performance Review: that public services can be increased not only by spending more, but also by spending better.

Seek private sector participation. During the campaign, the President endorsed the idea that the federal government should seek to provide infrastructure services through collaborations with the private sector. The executive order reaffirms this goal, and instructs federal agencies to develop ideas for translating this ambition into reality.

Encourage more efficient State and local investments. Most federal infrastructure spending takes the form of grants to states and localities. In general, these funds are allocated according to statutory formula, rather than in response to any explicit Administration measure of local need. With a few exceptions, specific infrastructure projects are chosen by grants recipients, not by the federal government.

During the drafting process, some agencies voiced concern that the first two principles in the executive order might be interpreted as requiring the agencies to estimate the return from specific infrastructure projects that had been chosen by grant recipients. The executive order therefore includes this fourth principle to make clear that--for programs in which grant recipients are responsible for choosing the specific projects to be funded--federal agencies will only be responsible for estimating the return from specific classes of projects, not the return from individual projects. In addition, agencies are instructed to consider ways to encourage grant recipients to develop management systems consistent with the other principles laid out in the executive order.

Implementation Issues. Agencies would be required to submit initial implementation plans by January 15, 1994. Those plans would specify: current agency practice; any additional data the agency needs in order to comply with the order; how the agency plans to acquire the needed data; an analysis plan for any data that will be collected. OMB would chair an interagency group to assess agency implementation plans, both to ensure that plans are consistent across agencies, and to encourage timely compliance with the executive order.

Beginning with the FY 1996 Budget submission, each

agency would need to demonstrate how their infrastructure investment and grant programs comply with the principles outlined in the executive order.

EXECUTIVE ORDER

- - - - -

PRINCIPLES FOR FEDERAL INFRASTRUCTURE INVESTMENTS

A well-functioning infrastructure is vital to sustained economic growth, to the quality of life in our communities, and to the protection of our environment and natural resources. To develop and maintain its infrastructure facilities, our Nation relies heavily on investments by the Federal Government.

Our Nation will achieve the greatest net benefits from its infrastructure facilities if it invests wisely, and continually improves the quality and performance of its infrastructure programs. Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Scope. The principles and plans referred to in this order shall apply to Federal infrastructure grant, investment, and management programs in transportation, water resources, energy, and environmental protection.

Sec. 2. Principles of Federal Infrastructure Investment.

Each Executive Department and Agency with infrastructure responsibilities (hereinafter referred collectively as "agencies") shall develop and implement plans for infrastructure investment and management consistent with the following principles.

(a) Systematic Analysis of Expected Benefits and Costs.

Infrastructure investments shall be based on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures, in accordance with the following:

1. Benefits and Costs should be quantified and monetized to the maximum extent possible. All types of benefits and costs, both market and nonmarket, should be considered. To the extent that they can be quantified, environmental and other nonmarket

benefits and costs should be given the same weight as market benefits and costs.

2. Benefits and costs should be measured over the full life-cycle of each project. Such analysis will allow informed tradeoffs between capital outlays, operating and maintenance costs, and nonmonetary costs borne by the public.

3. When the amount and timing of important benefits and costs are uncertain, analyses should recognize the uncertainty, and address it through appropriate quantitative and qualitative assessments.

4. Analyses should compare a comprehensive set of options that includes, among other things, managing demand, repairing facilities, and expanding facilities by different amounts.

5. Analyses should consider not only on quantifiable measures of benefits and costs, but also qualitative measures reflecting values that are not readily quantified.

(b) Efficient Management. Infrastructure shall be managed efficiently in accordance with the following:

1. The efficient use of infrastructure depends not only on physical design features, but also on operational practices. To improve these practices, agencies should conduct periodic reviews of the operation and maintenance of existing facilities.

2. Agencies should use these reviews to consider a variety of management practices that can improve the return from infrastructure investments. Examples include contacting practices that reward quality and innovation, and design standards that incorporate new technologies and construction techniques.

3. Agencies should also use these reviews to identify the demand for different levels of infrastructure services. Since efficient levels of service can often best be achieved by properly pricing infrastructure, the Federal Government -- through its direct investments, grants, and regulations -- should promote consideration of market-based mechanisms for managing infrastructure.

(c) Private Sector Participation. Agencies shall seek private sector participation in infrastructure investment and management. Innovative public-private initiatives can bring about greater private sector participation in the ownership, financing, construction, and operation of a broad range of transportation and environmental projects. Consistent with the public interest, agencies should work with States and localities to minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

(d) Encouragement of More Effective State and Local Programs. Most Federal infrastructure spending takes the form of grants to states and localities. In general, these funds are allocated according to statutory formula. With a few exceptions, specific infrastructure projects are chosen by grant recipients, not by the Federal Government. To promote the efficient use of Federal infrastructure funds, agencies should encourage the recipients of Federal grants to implement planning and information management systems that support the goals of these principles. In turn, the Federal Government should use the information from these management systems to conduct the system-level reviews of its infrastructure programs that are required by this order.

Sec. 3. Submission of Plans. Agencies will submit initial plans to implement these principles to the Director of the Office of Management and Budget by January 15, 1994. Agency plans shall list the actions that will be taken to provide the data and analysis necessary for supporting infrastructure-related proposals in future budget submissions. Agency implementation plans should be consistent with OMB Circular A-94, which outlines the analytical methods required under these principles.

Sec. 4. Application to Budget Submissions. Beginning with the fiscal year 1996 budget submission to OMB, each agency should use these principles to justify major infrastructure investment and grant programs. Major programs are defined as those programs

with annual budgetary costs in excess of \$100 million or ten percent of the total budget of the department or agency.

Sec. 5. Application to Legislative Proposals. Beginning with the legislative agenda due to OMB ^{for} ~~in~~ FY 1996, Federal departments and agencies will include information about the application of these principles to support proposals for the authorization or reauthorization of infrastructure investment programs.

any leg submitted to OMB
after June 1 1994
must include.

THE WHITE HOUSE,

DATE: October 20, 1993
TO: Bruce Reed
FROM: Mike Schmidt
RE: Draft Executive Order on Infrastructure Management and Investment

Just wanted to give you a brief summary of the Executive Order on Principles for Federal Infrastructure Investments (which I have attached). This draft order arose from the work done by the NEC Working Group on Infrastructure Investment. This group includes representatives from the NEC, DPC (myself), CEA, OMB, Transportation, Treasury, EPA, and Energy. It has been working for the past few months on drafting a set of Administration principles on infrastructure management and investment. These principles are now ready to officially become part of an executive order.

I have also attached a draft memo from the Working Group to the NEC Deputies that does a good job explaining the intent behind the draft Executive Order. Some important points about the principles contained in the draft order:

- The main reason for these principles is to try and get agencies to use basic financial cost-benefit analysis when making major infrastructure investment decisions.
- The principles will apply to Federal infrastructure grant and investment programs in the areas of transportation, water resources, energy, and environmental protection.
- The principles are written fairly broadly, to allow us (and agencies) to be flexible in implementing them.
- The principles seek greater private sector participation in the provision of infrastructure services.

These principles seem to me to be long overdue. Given the current (and future) budget situation, it is the government's obligation to try and get the most out of the limited infrastructure investments we are able to make. These principles are a step in that direction. Reaction in the agencies that have seen drafts of the principles has been very positive.

THE WHITE HOUSE
WASHINGTON

October 13, 1993

MEMORANDUM FOR DISTRIBUTION

FROM: Michael Deich ^{MD}

SUBJECT: OMB Clearance for Executive Order on Infrastructure Investment

HEADS UP! The attached executive order is being circulated for clearance through OMB. A deputies meeting will be scheduled for next week.

DISTRIBUTION

Dan Corbett, OMB	395-4797
Barry Gale, DOE	586-4025
Anne Grambsch, EPA	260-6405
John Greenlees, Treas	622-1294
Randy Lyon, OMB	395-1151
George MacDonald, DOT	366-9654
Al McGartland, EPA	260-5732
Mark Mazur, CEA	395-6947
Mike Schmidt, DPC	456-7028
Norm Starler, OMB	395-4652
Bob Stearns, OSA(CW)	504-4389

EXECUTIVE ORDER

- - - - -

PRINCIPLES FOR FEDERAL
INFRASTRUCTURE INVESTMENTS

A well-functioning infrastructure is vital to sustained economic growth, to the quality of life in our communities, and to the protection of our environment and natural resources. To develop and maintain its infrastructure facilities, our Nation relies heavily on investments by the Federal government.

Our Nation will achieve the greatest net benefits from its infrastructure facilities if it invests wisely, and continually improves the quality and performance of its infrastructure programs. Therefore, by the authority vested in me by the Constitution and the laws of the United States, I hereby direct as follows:

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Section 2. Principles of Federal Infrastructure Investment.

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(a) Systematic Analysis of Expected Benefits and Costs. Infrastructure investments shall be based on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures, in accordance with the following:

1. Benefits and costs should be quantified and monetized to the maximum extent possible. All types of benefits and costs, both market and nonmarket, should be considered. To the extent that they can be quantified, environmental and other nonmarket benefits and costs should be given the same weight as market benefits and costs.

2. Benefits and costs should be measured over the full life-cycle of each project. Such analysis will allow informed tradeoffs between capital outlays, operating and maintenance costs, and nonmonetary costs borne by the public.

3. When the amount and timing of important benefits and costs are uncertain, analyses should recognize the uncertainty, and address it through appropriate quantitative and qualitative assessments.

4. Analyses should compare a comprehensive set of options that includes, among other things, managing demand, repairing facilities, and expanding facilities by different amounts.

5. Analyses should consider not only on quantifiable measures of benefits and costs, but also qualitative measures reflecting values that are not readily quantified.

(b) Efficient Management. Infrastructure shall be managed efficiently in accordance with the following:

1. The efficient use of infrastructure depends not only on physical design features, but also on operational practices. To improve these practices, agencies should conduct periodic reviews of the operation and maintenance of existing facilities.

2. Agencies should use these reviews to consider a variety of management practices that can improve the return from infrastructure investments. Examples include contracting practices that reward quality and innovation, and design standards that incorporate new technologies and construction techniques.

3. Agencies should also use these reviews to identify the demand for different levels of infrastructure services. Since efficient levels of service can often best be achieved by properly pricing infrastructure, the Federal government--through its direct investments, grants, and regulations--should promote consideration of market-based mechanisms for managing infrastructure.

(c) Private Sector Participation. Agencies shall seek private sector participation in infrastructure investment and management. Innovative public-private initiatives can bring about greater private sector participation in the ownership, financing, construction, and operation of a broad range of transportation and environmental projects. Consistent with the public interest, agencies should work with States and localities to minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

(d) Encouragement of More Effective State and Local Programs. Most federal infrastructure spending takes the form of grants to states and localities. In general, these funds are allocated according to statutory formula. With a few exceptions, specific infrastructure projects are chosen by grant recipients, not by the Federal government. To promote the efficient use of Federal infrastructure funds, agencies should encourage the recipients of Federal grants to implement planning and information management systems that support the goals of these principles. In turn, the Federal government should use the information from these management systems to conduct the system-level reviews of its infrastructure programs that are required by this Order.

Section 3. Submission of Plans. Agencies will submit initial plans to implement these principles to the Director of the Office of Management and Budget by January 15, 1994. Agency plans shall list the actions that will be taken to provide the data and analysis necessary for supporting infrastructure-related proposals in future budget submissions. Agency implementation plans should be consistent with OMB Circular A-94, which outlines the analytical methods required under these principles.

Section 4. Application to Budget Submissions. Beginning with the fiscal year 1996 budget submission to OMB, each agency should use these principles to justify major infrastructure investment and grant programs. Major programs are defined as those programs with annual budgetary costs in excess of \$100 million or ten percent of the total budget of the department or agency.

Section 5. Application to Legislative Proposals. Beginning with the legislative agenda due to OMB in FY 1994, Federal departments and agencies will include information about the application of these principles to support proposals for the authorization or reauthorization of infrastructure investment programs.

THE WHITE HOUSE,

October 15, 1993

MEMORANDUM FOR NEC DEPUTIES

DRAFT

FROM:

SUBJECT: Proposed Executive Order on Infrastructure Investment Planning

The NEC Deputies will meet on Thursday, October 21, to discuss the attached executive order, which would require agencies to develop infrastructure investment plans. The meeting will take place in room xxx OEOB at 4:30 p.m. (TENTATIVE TIME/DAY)_

BACKGROUND

The President's commitment to increase public investment while simultaneously reducing the budget deficit creates two related challenges for infrastructure policy. First, outlays must be targeted carefully to insure that infrastructure spending is in fact *investment* that provides long-run benefits to society. Second, the Administration must overcome significant doubts, both in Congress and among the public, about the need for greater infrastructure outlays. The dimensions of the political challenge can be seen in the fate of last spring's stimulus package, which was defeated in large part because opponents were able to characterize much of the Administration's investment program as "pork" that would detract from, not add to, the nation's long-term economic potential.

If approved, the attached executive order would instruct federal agencies to develop and implement infrastructure investment plans designed to confront both the economic and political challenges raised by the President's desire to increase infrastructure spending. The investment plans would address the economic challenge directly. Under the plans, agencies would:

- make greater use of cost-benefit analysis to justify infrastructure-related budget requests;
- consider carefully the use of nonstructural alternatives to new construction;
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- encourage more effective investments by State and local governments.

As these plans lead to new, credible evidence that federal funds are directed towards projects with attractive returns, they should also generate new political support for the President's spending proposals. The rationale for each of the executive order's main requirements is laid out below:

Draft ----- Background for E.O. on Infra. Inv. Planning p.2

Cost benefit analysis. Despite a broad and longstanding consensus that properly done cost-benefit analysis can improve our ability to focus spending on those infrastructure projects which offer the greatest social returns, federal agencies rarely use these techniques to inform their budget decisions. At present only the water resource programs—principally those of the Corps of Engineers—routinely conduct cost-benefit analyses for all of the infrastructure projects that they fund. Other agencies and programs use cost-benefit analysis only sporadically, if at all (though some agencies, notably the Federal Highway Administration, are working to make greater use of such analysis).

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Seek private sector participation. During the campaign, the President endorsed the idea that the federal government should seek to provide infrastructure services through collaborations with the private sector. The executive order reaffirms this goal, and instructs federal agencies to develop ideas for translating this ambition into reality.

Encourage more efficient State and local investments. Most federal infrastructure spending takes the form of grants to states and localities. In general, these funds are allocated according to statutory formula, rather than in response to any explicit Administration measure of local need. With a few exceptions, specific infrastructure projects are chosen by grants recipients, not by the federal government.

Draft ---- Background for E.O. on Infra. Inv. Planning p.3

During the drafting process, some agencies voiced concern that the first two principles in the executive order might be interpreted as requiring the agencies to estimate the return from specific infrastructure projects that had been chosen by grant recipients. The executive order therefore includes this fourth principle to make clear that--for programs in which grant recipients are responsible for choosing the specific projects to be funded--federal agencies will only be responsible for estimating the return from specific *classes* of projects, not the return from *individual* projects. In addition, agencies are instructed to consider ways to encourage grant recipients to develop management systems consistent with the other principles laid out in the executive order.

Implementation Issues. Agencies would be required to submit initial implementation plans by January 15, 1994. Those plans would specify: current agency practice; any additional data the agency needs in order to comply with the order; how the agency plans to acquire the needed data; an analysis plan for any data that will be collected. OMB would chair an interagency group to assess agency implementation plans, both to ensure that plans are consistent across agencies, and to encourage timely compliance with the executive order.

Beginning with the FY 1996 Budget submission, each agency would need to demonstrate how their infrastructure investment and grant programs comply with the principles outlined in the executive order.

THE WHITE HOUSE

WASHINGTON

October 19, 1993

MEMORANDUM FOR ALICE RIVLIN

SUE TIERNEY
ROBERT SUSSMAN
ALICIA MUNNELL
MORT DOWNEY
JOE STIGLITZ
BRUCE REED
SHERRI GOODMAN
ED DICKEY

FROM:  Bowman Cutter

SUBJECT: Proposed Executive Order on Infrastructure Investment Planning

The NEC Deputies will meet on Thursday, October 21, to discuss the executive order described in this memo, which would require agencies to develop infrastructure investment plans. The meeting will take place at 4:30 p.m. in room 476 OEOB.

BACKGROUND

The President's commitment to increase public investment while simultaneously reducing the budget deficit creates two related challenges for infrastructure policy. First, outlays must be targeted carefully to insure that infrastructure spending is in fact *investment* that provides long-run benefits to society. Second, the Administration must overcome significant doubts, both in Congress and among the public, about the need for greater infrastructure outlays. The dimensions of the political challenge can be seen in the fate of last spring's stimulus package, which was defeated in large part because opponents were able to characterize much of the Administration's investment program as "pork" that would detract from, not add to, the nation's long-term economic potential.

If approved, the attached executive order would instruct federal agencies to develop and implement infrastructure investment plans designed to confront both the economic and political challenges raised by the President's desire to increase infrastructure spending. The investment plans would address the economic challenge directly. Under the plans, agencies would:

- make greater use of cost-benefit analysis to justify infrastructure-related budget requests;
- consider carefully the use of nonstructural alternatives to new construction;
- seek greater private sector participation in the provision of infrastructure services;

- encourage more effective investments by State and local governments.

As these plans lead to new, credible evidence that federal funds are directed towards projects with attractive returns, they should also generate new political support for the President's spending proposals. The rationale for each of the executive order's main requirements is laid out below:

Cost benefit analysis. Despite a broad and longstanding consensus that properly done cost-benefit analysis can improve our ability to focus spending on those infrastructure projects which offer the greatest social returns, federal agencies rarely use these techniques to inform their budget decisions. At present only the water resource programs--principally those of the Corps of Engineers--routinely conduct cost-benefit analyses for all of the infrastructure projects that they fund. Other agencies and programs use cost-benefit analysis only sporadically, if at all (though some agencies, notably the Federal Highway Administration, are working to make greater use of such analysis).

Absent hard information on the return from different types of infrastructure spending, agencies instead base spending requests on estimates of "need." At best, these needs estimates show the cost of meeting some engineering standard, such as secondary treatment standards for wastewater, or the road capacity needed to accommodate expected traffic growth. At worst, needs studies are wish lists. In every case, needs studies measure only the costs, but not the benefits, of public infrastructure spending.

The executive order would require agencies to develop the data and analytic capabilities needed to assess both the costs and the benefits of their infrastructure programs. The main body of the executive order spells out several specific criteria that these cost-benefit studies should fulfill. These criteria essentially instruct agencies to avoid the most commonly made errors in cost-benefit analysis. In addition, agencies will continue to be bound by OMB Circular A-94, which details the methods that agencies must employ when conducting cost-benefit studies.

Manage Infrastructure Efficiently. Properly done cost-benefit analysis should always consider explicitly various nonstructural alternatives to new construction (such as pricing infrastructure efficiently). This principle therefore could have been listed above as one of the criteria that agencies' cost-benefit analyses are to meet. Since this principle is most often honored in the breach, however, the working group considers it worth articulating as an independent idea. Doing so will signal agencies about the standard practice that is expected, while signalling those outside the federal government that the Administration will consider a broad set of alternatives to meeting the demand for infrastructure services. Articulating this idea as a separate principle also reinforces one of the themes raised by the National Performance Review: that public services can be increased not only by spending more, but also by spending better.

Seek private sector participation. During the campaign, the President endorsed the idea that the federal government should seek to provide infrastructure services through collaborations with the private sector. The executive order reaffirms this goal, and instructs federal agencies to develop

ideas for translating this ambition into reality.

Encourage more efficient State and local investments. Most federal infrastructure spending takes the form of grants to states and localities. In general, these funds are allocated according to statutory formula, rather than in response to any explicit Administration measure of local need. With a few exceptions, specific infrastructure projects are chosen by grants recipients, not by the federal government.

During the drafting process, some agencies voiced concern that the first two principles in the executive order might be interpreted as requiring the agencies to estimate the return from specific infrastructure projects that had been chosen by grant recipients. The executive order therefore includes this fourth principle to make clear that--for programs in which grant recipients are responsible for choosing the specific projects to be funded--federal agencies will only be responsible for estimating the return from specific *classes* of projects, not the return from *individual* projects. In addition, agencies are instructed to consider ways to encourage grant recipients to develop management systems consistent with the other principles laid out in the executive order.

Implementation Issues. Agencies would be required to submit initial implementation plans by January 15, 1994. Those plans would specify: current agency practice; any additional data the agency needs in order to comply with the order; how the agency plans to acquire the needed data; an analysis plan for any data that will be collected. OMB would chair an interagency group to assess agency implementation plans, both to ensure that plans are consistent across agencies, and to encourage timely compliance with the executive order.

Beginning with the FY 1996 Budget submission, each agency would need to demonstrate how their infrastructure investment and grant programs comply with the principles outlined in the executive order.

THE WHITE HOUSE

WASHINGTON

October 13, 1993

MEMORANDUM FOR DISTRIBUTION

FROM: Michael Deich ^{MD}

SUBJECT: OMB Clearance for Executive Order on Infrastructure Investment

HEADS UP! The attached executive order is being circulated for clearance through OMB. A deputies meeting will be scheduled for next week.

DISTRIBUTION

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Mark Mazur, CEA	395-6947
Mike Schmidt, DPC	456-7028
Norm Starler, OMB	395-4652
Bob Stearns, OSA(CW)	504-4389

EXECUTIVE ORDER

- - - - -

PRINCIPLES FOR FEDERAL
INFRASTRUCTURE INVESTMENTS

A well-functioning infrastructure is vital to sustained economic growth, to the quality of life in our communities, and to the protection of our environment and natural resources. To develop and maintain its infrastructure facilities, our Nation relies heavily on investments by the Federal government.

Our Nation will achieve the greatest net benefits from its infrastructure facilities if it invests wisely, and continually improves the quality and performance of its infrastructure programs. Therefore, by the authority vested in me by the Constitution and the laws of the United States, I hereby direct as follows:

Section 1. Scope. The principles and plans referred to in this Order shall apply to Federal infrastructure grant, investment, and management programs in transportation, water resources, energy, and environmental protection.

Section 2. Principles of Federal Infrastructure Investment.

Each Executive Department and Agency with infrastructure responsibilities (hereinafter referred collectively as "agencies") shall develop and implement plans for infrastructure investment and management consistent with the following principles.

(a) Systematic Analysis of Expected Benefits and Costs. Infrastructure investments shall be based on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures, in accordance with the following:

1. Benefits and costs should be quantified and monetized to the maximum extent possible. All types of benefits and costs, both market and nonmarket, should be considered. To the extent that they can be quantified, environmental and other nonmarket benefits and costs should be given the same weight as market benefits and costs.

2. Benefits and costs should be measured over the full life-cycle of each project. Such analysis will allow informed tradeoffs between capital outlays, operating and maintenance costs, and nonmonetary costs borne by the public.

3. When the amount and timing of important benefits and costs are uncertain, analyses should recognize the uncertainty, and address it through appropriate quantitative and qualitative assessments.

4. Analyses should compare a comprehensive set of options that includes, among other things, managing demand, repairing facilities, and expanding facilities by different amounts.

5. Analyses should consider not only on quantifiable measures of benefits and costs, but also qualitative measures reflecting values that are not readily quantified.

(b) Efficient Management. Infrastructure shall be managed efficiently in accordance with the following:

1. The efficient use of infrastructure depends not only on physical design features, but also on operational practices. To improve these practices, agencies should conduct periodic reviews of the operation and maintenance of existing facilities.

2. Agencies should use these reviews to consider a variety of management practices that can improve the return from infrastructure investments. Examples include contracting practices that reward quality and innovation, and design standards that incorporate new technologies and construction techniques.

3. Agencies should also use these reviews to identify the demand for different levels of infrastructure services. Since efficient levels of service can often best be achieved by properly pricing infrastructure, the Federal government--through its direct investments, grants, and regulations--should promote consideration of market-based mechanisms for managing infrastructure.

(c) Private Sector Participation. Agencies shall seek private sector participation in infrastructure investment and management. Innovative public-private initiatives can bring about greater private sector participation in the ownership, financing, construction, and operation of a broad range of transportation and environmental projects. Consistent with the public interest, agencies should work with States and localities to minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

(d) Encouragement of More Effective State and Local Programs. Most federal infrastructure spending takes the form of grants to states and localities. In general, these funds are allocated according to statutory formula. With a few exceptions, specific infrastructure projects are chosen by grant recipients, not by the Federal government. To promote the efficient use of Federal infrastructure funds, agencies should encourage the recipients of Federal grants to implement planning and information management systems that support the goals of these principles. In turn, the Federal government should use the information from these management systems to conduct the system-level reviews of its infrastructure programs that are required by this Order.

Section 3. Submission of Plans. Agencies will submit initial plans to implement these principles to the Director of the Office of Management and Budget by January 15, 1994. Agency plans shall list the actions that will be taken to provide the data and analysis necessary for supporting infrastructure-related proposals in future budget submissions. Agency implementation plans should be consistent with OMB Circular A-94, which outlines the analytical methods required under these principles.

Section 4. Application to Budget Submissions. Beginning with the fiscal year 1996 budget submission to OMB, each agency should use these principles to justify major infrastructure investment and grant programs. Major programs are defined as those programs with annual budgetary costs in excess of \$100 million or ten percent of the total budget of the department or agency.

Section 5. Application to Legislative Proposals. Beginning with the legislative agenda due to OMB in FY 1994, Federal departments and agencies will include information about the application of these principles to support proposals for the authorization or reauthorization of infrastructure investment programs.

THE WHITE HOUSE,

October 15, 1993

MEMORANDUM FOR NEC DEPUTIES

DRAFT

FROM:

SUBJECT: Proposed Executive Order on Infrastructure Investment Planning

The NEC Deputies will meet on Thursday, October 21, to discuss the attached executive order, which would require agencies to develop infrastructure investment plans. The meeting will take place in room xxx OEOB at 4:30 p.m. (TENTATIVE TIME/DAY)_

BACKGROUND

The President's commitment to increase public investment while simultaneously reducing the budget deficit creates two related challenges for infrastructure policy. First, outlays must be targeted carefully to insure that infrastructure spending is in fact *investment* that provides long-run benefits to society. Second, the Administration must overcome significant doubts, both in Congress and among the public, about the need for greater infrastructure outlays. The dimensions of the political challenge can be seen in the fate of last spring's stimulus package, which was defeated in large part because opponents were able to characterize much of the Administration's investment program as "pork" that would detract from, not add to, the nation's long-term economic potential.

If approved, the attached executive order would instruct federal agencies to develop and implement infrastructure investment plans designed to confront both the economic and political challenges raised by the President's desire to increase infrastructure spending. The investment plans would address the economic challenge directly. Under the plans, agencies would:

- make greater use of cost-benefit analysis to justify infrastructure-related budget requests;
- consider carefully the use of nonstructural alternatives to new construction;
- seek greater private sector participation in the provision of infrastructure services;
- encourage more effective investments by State and local governments.

As these plans lead to new, credible evidence that federal funds are directed towards projects with attractive returns, they should also generate new political support for the President's spending proposals. The rationale for each of the executive order's main requirements is laid out below:

Draft ----- Background for E.O. on Infra. Inv. Planning p.2

Cost benefit analysis. Despite a broad and longstanding consensus that properly done cost-benefit analysis can improve our ability to focus spending on those infrastructure projects which offer the greatest social returns, federal agencies rarely use these techniques to inform their budget decisions. At present only the water resource programs--principally those of the Corps of Engineers--routinely conduct cost-benefit analyses for all of the infrastructure projects that they fund. Other agencies and programs use cost-benefit analysis only sporadically, if at all (though some agencies, notably the Federal Highway Administration, are working to make greater use of such analysis).

Absent hard information on the return from different types of infrastructure spending, agencies instead base spending requests on estimates of "need." At best, these needs estimates show the cost of meeting some engineering standard, such as secondary treatment standards for wastewater, or the road capacity needed to accomodate expected traffic growth. At worst, needs studies are wish lists. In every case, needs studies measure only the costs, but not the benefits, of public infrastructure spending.

The executive order would require agencies to develop the data and analytic capabilities needed to assess both the costs and the benefits of their infrastructure programs. The main body of the executive order spells out several specific criteria that these cost-benefit studies should fulfill. These criteria essentially instruct agencies to avoid the most commonly made errors in cost-benefit analysis. In addition, agencies will continue to be bound by OMB Circular A-94, which details the methods that agencies must employ when conducting cost-benefit studies.

Manage Infrastructure Efficiently. Properly done cost-benefit analysis should always consider explicitly various nonstructural alternatives to new construction (such as pricing infrastructure efficiently). This principle therefore could have been listed above as one of the criteria that agencies' cost-benefit analyses are to meet. Since this principle is most often honored in the breach, however, the working group considers it worth articulating as an independent idea. Doing so will signal agencies about the standard practice that is expected, while signalling those outside the federal government that the Administration will consider a broad set of alternatives to meeting the demand for infrastructure services. Articulating this idea as a separate principle also reinforces one of the themes raised by the National Performance Review: that public services can be increased not only by spending more, but also by spending better.

Seek private sector participation. During the campaign, the President endorsed the idea that the federal government should seek to provide infrastructure services through collaborations with the private sector. The executive order reaffirms this goal, and instructs federal agencies to develop ideas for translating this ambition into reality.

Encourage more efficient State and local investments. Most federal infrastructure spending takes the form of grants to states and localities. In general, these funds are allocated according to statutory formula, rather than in response to any explicit Administration measure of local need. With a few exceptions, specific infrastructure projects are chosen by grants recipients, not by the federal government.

Draft ---- Background for E.O. on Infra. Inv. Planning p. 3

During the drafting process, some agencies voiced concern that the first two principles in the executive order might be interpreted as requiring the agencies to estimate the return from specific infrastructure projects that had been chosen by grant recipients. The executive order therefore includes this fourth principle to make clear that--for programs in which grant recipients are responsible for choosing the specific projects to be funded--federal agencies will only be responsible for estimating the return from specific *classes* of projects, not the return from *individual* projects. In addition, agencies are instructed to consider ways to encourage grant recipients to develop management systems consistent with the other principles laid out in the executive order.

Implementation Issues. Agencies would be required to submit initial implementation plans by January 15, 1994. Those plans would specify: current agency practice; any additional data the agency needs in order to comply with the order; how the agency plans to acquire the needed data; an analysis plan for any data that will be collected. OMB would chair an interagency group to assess agency implementation plans, both to ensure that plans are consistent across agencies, and to encourage timely compliance with the executive order.

Beginning with the FY 1996 Budget submission, each agency would need to demonstrate how their infrastructure investment and grant programs comply with the principles outlined in the executive order.

THE WHITE HOUSE
WASHINGTON

September 21, 1993

MEMORANDUM FOR DISTRIBUTION

FROM: Michael Deich MD

SUBJECT: Draft Executive Order on Infrastructure Planning

The draft executive order is attached. In its present form, it requires *all* agencies to develop investment plans. Can we specify a shorter list? Please fax to me your list of candidates for the honor.

In addition, you might want to look carefully at the latest incarnation of the implementation section. Please provide comments by COB 9/22. Many thanks.

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Mark Mazur, CEA	395-6947
Mike Schmidt, DPC	456-7028
Norm Starler, OMB	395-4652
Bob Stearns, OSA(CW)	504-4389

EXECUTIVE ORDER

- - - - -

INCREASING THE RETURN FROM FEDERAL
INFRASTRUCTURE INVESTMENTS

A well-functioning infrastructure is vital to sustained economic growth, to the quality of life in our communities, and to the protection of our environment and natural resources. Towards these ends, the fiscal year 1994 Budget proposed significantly greater investment in our Nation's infrastructure. These investments will occur at a time of severe fiscal constraints, making it more important than ever that the Federal Government invest wisely, and improve the quality and performance of its infrastructure investments.

The Nation will achieve the greatest net benefits from its infrastructure facilities if it chooses its investments wisely and manages existing facilities efficiently. Therefore, by the authority vested in me by the Constitution and the laws of the United States, I hereby direct as follows:

Section 1. Principles of Federal Infrastructure Investment.

Each Executive Department and Agency (hereinafter referred collectively as "agencies") shall develop and implement plans for infrastructure investment and management consistent with the following principles.

(a) Systematic Analysis of Expected Benefits and Costs. Infrastructure investments shall be based on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures, in accordance with the following:

1. Benefits and costs should be quantified to the maximum extent possible. All types of benefits and costs, both market and nonmarket, should be considered. To the extent that they can be quantified, environmental and other nonmarket benefits and costs should be given the same weight as quantifiable market benefits and costs.

2. Benefits and costs should be measured over the full life-cycle of each project. Such analysis will allow informed tradeoffs between capital outlays, operating and maintenance costs, and nonmonetary costs borne by the public.

3. When the amount and timing of important benefits and costs are uncertain, analyses should recognize the

uncertainty, and address it through appropriate quantitative and qualitative assessments.

4. Analyses should compare a comprehensive set of options that includes, among other things, managing demand, repairing facilities, and expanding facilities by different amounts.

5. Analyses should be based not only on quantifiable measures of benefits and costs, but also on qualitative measures reflecting values that are not readily quantified.

(b) Efficient Management. Infrastructure shall be managed efficiently in accordance with the following:

1. The efficient use of infrastructure depends not only on physical design features, but also on operational practices. To improve these practices, agencies should conduct periodic reviews of the operation and maintenance of existing facilities.

2. Agencies should use these reviews to consider a variety of management practices that can improve the return from infrastructure investments. Examples include contracting practices that reward quality and innovation, design standards that incorporate new technologies and construction techniques, and the application of demand management techniques.

3. Agencies should also use these reviews to identify the demand for different levels of infrastructure services. Since efficient levels of service can best be achieved by properly pricing infrastructure, the Federal Government--through its direct investments, grants, and regulations--should promote consideration of market-based mechanisms for managing infrastructure.

(c) Private Sector Participation. Agencies shall seek private sector participation in infrastructure investment and management. Innovative public-private initiatives can bring about greater private sector participation in the ownership, financing, construction, and operation of a broad range of transportation and environmental projects. Consistent with the public interest, agencies should work with States and localities to minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

(d) Special Knowledge. Federal infrastructure programs shall be structured to take advantage of the special knowledge and abilities of Federal, State and local government. To promote the efficient use of Federal infrastructure investment funds, agencies should encourage the recipients of Federal grants to implement planning and information management systems that support the goals of these principles. The Federal government

should use the information from these management systems to conduct system-level reviews of its infrastructure programs.

Section 2. Scope. The plans and principles referred to in Section 1 shall apply to Federal infrastructure grant and investment programs in transportation, water resources, energy, and environmental protection.

Section 3. Submission of Plans. Agencies will submit initial plans to implement these principles to the Director of the Office of Management and Budget by December 15, 1993. Agency plans shall list the actions that will be taken to provide the data and analysis necessary for supporting infrastructure-related proposals in future budget submissions. Agency implementation plans should be consistent with OMB Circular A-94, which outlines the analytical methods required under these principles.

Section 4. Application to Budget Submissions. Beginning with the fiscal year 1996 budget submission to OMB, each agency should use these principles to justify major infrastructure investment and grant programs. Major programs are defined as those programs with budgetary costs in excess of \$100 million or ten percent of the total budget of the department or agency.

Section 5. Application to Legislative Proposals. Beginning with the legislative agenda due to OMB in FY 1994, Federal departments and agencies will include information about the application of these principles to support proposals for the authorization or reauthorization of infrastructure investment programs.

THE WHITE HOUSE,

Mike Schmidt

THE WHITE HOUSE
WASHINGTON

September 20, 1993

MEMORANDUM FOR DISTRIBUTION

FROM: Michael Deich

SUBJECT: Background memorandum for NEC Deputies Meeting on Infrastructure Planning

Attached is a background memorandum explaining to the Deputies the Executive Order that they will be asked to recommend to the President. "What Executive Order?" you ask. The attached draft shows the principles in the form of a Presidential memorandum. Getting them in this form required a few changes to make the language more directive (see especially Principle #4). The OMB Counsel will draft an Executive within the next few days. I will send a copy to you as soon as it becomes available.

In the meantime, please contact me by COB Tuesday, September 21, with any comments you may have about the background memo. Many thanks.

DISTRIBUTION

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Randy Lyon, OMB	395-1151
• George MacDonald, DOT	366-9654
Al McGartland, EPA	260-5732
Mark Mazur, CEA	395-6947
Mike Schmidt, DPC	456-7028
Norm Starler, OMB	395-4652
Bob Stearns, OSA(CW)	504-4389

September 20, 1993

MEMORANDUM FOR NEC DEPUTIES

DRAFT

FROM:

DRAFT

SUBJECT: Proposed Executive Order on Infrastructure Investment Planning

The NEC Deputies will meet on xxx, September x, to discuss the attached executive order, which would require agencies to develop infrastructure investment plans. The meeting will take place in room xxx OEOB at x pm.

BACKGROUND

The President's commitment to increase public investment while simultaneously reducing the budget deficit creates two related challenges for infrastructure policy. First, federal infrastructure outlays must be targeted carefully to insure that the additional spending is in fact investment that provides long-run benefits to society. Second, the Administration must overcome significant doubts, both in Congress and among the public, about the need for greater infrastructure outlays. The dimensions of the political challenge can be seen in the fate of last spring's stimulus package, which was defeated in large part because opponents were able to characterize much of the Administration's investment program as "pork" that would detract from, not add to, the nation's long-term economic potential.

If approved, the attached executive order would instruct federal agencies to develop and implement infrastructure investment plans designed to confront both the economic and political challenges raised by the President's desire to increase infrastructure spending. The investment plans would address the economic challenge directly. Under the plans, agencies would:

- make greater use of cost-benefit analysis to justify infrastructure-related budget requests;
- consider carefully the use of nonstructural alternatives to new construction;
- seek greater private sector participation in the provision of infrastructure services;
- structure programs to take advantage of the special knowledge and abilities of Federal, State and local governments.

As these plans lead to new, credible evidence that federal funds are directed towards projects with attractive returns, they should also generate new political support for the President's spending proposals. The rationale for each of the executive order's main requirements is laid out below:

Cost benefit analysis. Despite a broad and longstanding consensus that properly done cost-benefit analysis can improve our ability to focus spending on those infrastructure projects which offer the greatest social returns, federal agencies rarely use these techniques to inform their budget decisions. At present only the Corps of Engineers routinely conducts cost-benefit analyses of the infrastructure projects that it funds. No other agency bases its spending decisions on evidence from cost-benefit studies (although the Federal Highway Administration is close to completing model that will estimate the rate of return to different classes of highway spending).

Absent hard information on the return to different types of infrastructure spending, agencies instead base spending requests on estimates of "need." At best, these needs estimates show the cost of meeting some engineering standard, such as secondary treatment standards for wastewater, or the road capacity needed to accomodate expected traffic growth. At worst, needs studies are wish lists. In every case, needs studies measure only the costs, but not the benefits, of public infrastructure spending.

The executive order would require agencies to develop the data and analytic capabilities needed to assess both the costs and the benefits of their infrastructure programs. The main body of the executive order spells out several specific criteria that these cost-benefit studies should fulfill. These criteria essentially instruct agencies to avoid the most commonly made errors in cost-benefit analysis. In addition, agencies will continue to be bound by OMB Circular A-94, which details the methods that agencies must employ when conducting cost-benefit studies.

Manage Infrastructure Efficiently. Properly done cost-benefit analysis should always consider explicitly various nonstructural alternatives to new construction (such as pricing infrastructure efficiently). This principle therefore could have been listed above as one of the criteria that agencies' cost-benefit analyses are to meet. Since this principle is most often honored in the breach, however, the working group considers it worth articulating as an independent idea. Doing so will signal agencies about the standard practice that is expected, while signalling those outside the federal government that the Administration will consider an broad set of alternatives to meeting the demand for infrastructure services. Articulating this idea as a separate principle also reinforces one of the themes raised by the National Performance Review: that public services can be increased not only by spending more, but also by spending better.

Seek private sector participation. During the campaign, the President endorsed the idea that the federal government should seek to provide infrastructure services through collaborations with the private sector. The executive order reaffirms this goal, and instructs federal agencies to develop ideas for translating this ambition into reality.

Structure federal infrastructure programs to take advantage of the special knowledge and abilities of Federal, State and local governments. Most federal infrastructure spending takes the form of grants to states and localities. In general, these funds are allocated according to statutory formula, rather than in response to any explicit Administration measure of local need. With a few exceptions, specific infrastructure projects are chosen by grants recipients, not by the federal government.

During the drafting process, some agencies voiced concern that the first two principles in the executive order might be interpreted as requiring the agencies to estimate the return to specific infrastructure projects that had been chosen by grant recipients. The executive order therefore includes this fourth principle to make clear that--for programs in which grant recipients are responsible for choosing the specific projects to be funded--federal agencies will only be responsible for estimating the return to specific *classes* of projects, not the return to *individual* projects (much as the Federal Highway Administration is now attempting to estimate the return to urban versus rural roads, and maintenance versus new construction). Agencies are instructed to consider ways to encourage grant recipients to develop management systems consistent with the other principles laid out in the executive order.

Implementation Issues. Agencies would be required to submit initial implementation plans by December 15, 1993. Those plans would specify: current agency practice; the additional data the agency needed in order to comply with the order; how the agency planned to acquire the needed data; an analysis plan for any data that would be collected. OMB would chair an interagency group to assess agency implementation plans, both to ensure that plans are consistent across agencies, and to encourage timely compliance with the executive order.

Beginning with the FY 1996 Budget submission, each agency would need to demonstrate how their infrastructure investment and grant programs complied with the principles outlined in the executive order.

September x, 1993

MEMORANDUM FOR DESIGNATED DEPARTMENTS AND AGENCIES

SUBJECT: Increasing the Return from Federal Infrastructure Investments

A well-functioning infrastructure is vital to sustained economic growth, to the quality of life in our communities, and to the protection of our environment and natural resources. Towards these ends, the fiscal year 1994 Budget proposed significantly greater investment in our Nation's infrastructure. These investments will occur at a time of severe fiscal constraints, making it more important than ever that the Federal government invest wisely, and improve the quality and performance of its infrastructure investments.

The nation will achieve the greatest net benefits from its infrastructure facilities if it chooses its investments wisely and manages existing facilities efficiently. Therefore, I hereby direct Executive Agencies and Departments (hereinafter referred collectively as "agencies") to develop and implement plans for infrastructure investment and management consistent with the following principles.

A. PRINCIPLES OF FEDERAL INFRASTRUCTURE INVESTMENT

1. Select infrastructure investments based on systematic analyses of expected benefits and costs, including both quantitative and qualitative measures.

Benefits and costs should be quantified to the maximum extent possible. All types of benefits and costs, both market and nonmarket, should be considered. To the extent that they can be quantified, environmental and other nonmarket benefits and costs should be given the same weight as quantifiable market benefits and costs.

Benefits and costs should be measured over the full life-cycle of each project. Such analysis will allow informed tradeoffs between capital outlays, operating and maintenance costs, and nonmonetary costs borne by the public.

When the amount and timing of important benefits and costs are uncertain, analyses should recognize the uncertainty, and address it through appropriate quantitative and qualitative assessments.

Analyses should compare a comprehensive set of options that includes, among other things, managing demand, repairing facilities, and expanding facilities by different amounts.

Project selection should be based not only on quantifiable measures of benefits and costs, but also on qualitative measures reflecting values that are not readily quantified.

2. Manage infrastructure efficiently.

The efficient use of infrastructure depends not only on physical design features, but also on operational practices. To improve these practices, agencies should conduct periodic reviews of the operation and maintenance of existing facilities.

Agencies should use these reviews to consider a variety of management practices that can improve the return from infrastructure investments. Examples include contracting practices that reward quality and innovation, design standards that incorporate new technologies and construction techniques, and the application of demand management techniques.

Agencies should also use these reviews to identify the demand for different levels of infrastructure services. Since efficient levels of service can best be achieved by properly pricing infrastructure, the Federal government--through its direct investments, grants, and regulations--should promote consideration of market-based mechanisms for managing infrastructure.

3. Seek private sector participation in infrastructure investment and management.

Innovative public-private initiatives can bring about greater private sector participation in the ownership, financing, construction, and operation of a broad range of transportation and environmental projects. Consistent with the public interest, agencies should work with States and localities to minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

4. Federal infrastructure programs should be structured to take advantage of the special knowledge and abilities of Federal, State and local governments.

To promote the efficient use of Federal infrastructure investment funds, agencies should encourage the recipients of Federal grants to implement planning and information management systems that support the goals of these principles. The Federal government should use the information from these management systems to conduct system-level reviews of its infrastructure programs.

B. IMPLEMENTATION

1. These plans will apply to Federal infrastructure grant and investment programs in transportation, water resources, energy, and environmental protection.
2. Agencies will submit plans to implement these principles to OMB by December 15, 1993. Agency plans should include a comprehensive list of planned actions, including regulatory and legislative actions required for implementation. Agency implementation plans should be

consistent with OMB Circular A-94, which outlines the analytical methods required under these principles.

3. Beginning with the FY 1996 budget submission to OMB, each agency should use these principles to justify major infrastructure investment and grant programs. Major programs are defined as those programs with budgetary costs in excess of \$100 million or ten percent of the total budget of the department or agency.
4. Beginning with the legislative agenda due to OMB in FY 199X, Federal departments and agencies will include information about the application of these principles to support proposals for the authorization or reauthorization of infrastructure investment programs.

William J. Clinton

DATE: July 31, 1993
TO: Carol Rasco
FROM: Mike Schmidt
RE: Administration Principles on Infrastructure Management and Investment

On Friday, I attended a meeting of the NEC Working Group on Infrastructure Investment. The group includes representatives from the NEC, CEA, OMB, Transportation, Treasury, EPA, and Energy. This group has been working for the past few months on drafting a set of Administration principles on infrastructure management and investment. I have attached a copy of the most recent draft (just ignore my notes in the margins), which the group hopes to send to the Deputies sometime in the next few weeks.

Some important points about the principles:

- The main reason for these principles is to try and get agencies to use basic financial cost-benefit analysis when making major infrastructure investment decisions (major investments are defined as programs with budget authorities in excess of \$100 million or ten percent of the total budget of the agency).
- The principles will apply to Federal infrastructure grant and investment programs in the areas of transportation, water resources, energy, and environmental protection.
- The principles are written fairly broadly, to allow us (and agencies) to be flexible in implementing them.
- The principles break new (and important) ground in suggesting that environmental benefits and costs should be given the same weight as market (financial) benefits and costs.
- The principles would take full effect beginning with the FY 1996 budget submission to OMB. Agencies would have to submit plans to implement these principles to OMB by November 1, 1993.

These principles seem to me to be long overdue. Given the current (and future) budget situation, it is the government's obligation to try and get the most out of the limited infrastructure investments we are able to make. These principles are a step in that direction. Reaction in the agencies that have seen drafts of the principles has been very positive.

There is still one important question that the group has decided to send up to the Deputies for their decision: Whether or not these principles should take the form of an Executive Order or a Memorandum from the President. An Executive Order has the benefit of lasting beyond the Clinton Administration, but it will take longer to craft and get out. A Memorandum from the President to the agencies is much easier to get out, but will probably be forgotten once a new Administration takes office. Members of the Working Group felt that the Executive Order route is the way to go -- we can give the agencies an informal heads-up about the Order to allow them to start working on implementation plans in the interim while the Order is being written and signed.

If you have any questions about any of this, let me know and I can give you more information.

Infrastructure WK Grp. 7-30-93

- what is meant by investment?
 - repair costs?
 - ~~operating~~ maintenance of stock?
- Will OMB issue guidance on what cost-benefit analysis means? yes
- Stay as general as possible to be Flexible
 - ↓
 - there are guiding principles - not regulations
- ↓ Mike to write ^{memo to deputies} ~~Sections~~ or law principles should be used - just principles - not regs - not asking agencies to ~~break~~ break the law

How does this relate to NPR?

^{implementation}
Executive order or Memorandum to President?

has a life beyond
life of administration

outreach

⊗ - Compromise -- after Deputies OK. - give heads up to agencies to get moving while exec. order being crafted.

Interest Groups? - agencies outreach to interest groups

ACIR, Rebuild America, NGA

- ① conduct outreach, while
- ② crafting exec orders, and
- ③ talk about implementation

First Step in Administration's Infrastructure Strategy

Outreach - bring groups together to announce
to in meeting

infrastructure = capital

How does this relate
to NPR

draft as of 7/21/93

DRAFT STATEMENT OF ADMINISTRATION PRINCIPLES ON INFRASTRUCTURE MANAGEMENT AND INVESTMENT

PREAMBLE:

Define infrastructure or leave it flexible

A well-functioning infrastructure is vital to sustained economic growth, to the quality of life in our communities, and to the protection of our environment and natural resources. Towards these ends, the President has proposed significantly greater investment in our Nation's infrastructure. These investments would occur at a time of severe fiscal constraints, making it more important than ever that the Federal government invest wisely, and improve the quality and performance of its infrastructure investments.

GOAL:

The goal of these principles is to ensure that the Nation achieves the greatest net benefits from its infrastructure facilities, both through well chosen investments and through the efficient management of existing facilities.

SCOPE:

These principles apply to Federal infrastructure grant and investment programs in transportation, water resources, energy, and environmental protection.

PRINCIPLES:

1. Select infrastructure investments based on systematic analyses of expected benefits and costs, including both quantitative and qualitative measures.

Benefits and costs should be quantified to the maximum extent possible. All types of benefits and costs, both market and nonmarket, should be considered. To the extent that they can be quantified, environmental and other nonmarket benefits and costs should be given the same weight as quantifiable market benefits and costs.

Benefits and costs should be measured over the full life-cycle of each project. Such analysis will allow informed tradeoffs between capital outlays, operating and maintenance costs, and nonmonetary costs borne by the public (such as congestion delays during road reconstruction).

When the amount and timing of important benefits and costs are uncertain, analyses should recognize this uncertainty, and address it through appropriate quantitative and qualitative assessments, *including sensitivity analysis.*

Analyses should compare a comprehensive set of options that includes, among other things, managing demand, repairing existing facilities, and expanding facilities by different amounts.

Project selection should be based not only on quantifiable measures of benefits and costs, but also on qualitative measures reflecting values that are not readily quantified.

2. Manage infrastructure efficiently.

what do you do with quantifiable measures?

The efficient use of infrastructure depends not only on physical design features, but also on operational practices. To improve these practices, Departments and agencies should conduct periodic reviews of the operation and maintenance of existing facilities.

Agencies should use these reviews to consider a variety of management practices that can significantly improve the return from (?) to infrastructure investments. Examples include contracting practices that reward quality and innovation, design standards that incorporate new technologies and construction techniques, and the application of demand management techniques.

Agencies should use these reviews to identify the demand for different levels of infrastructure services. Since efficient levels of service can best be achieved by properly pricing infrastructure, the Federal government--through its direct investments, grants, and regulations--should promote consideration of market-based mechanisms for managing infrastructure.

3. Seek private sector participation in infrastructure investment and management.

Innovative public-private initiatives can bring about greater private sector participation in the ownership, financing, construction, and operation of a broad range of transportation and environmental projects. Consistent with the public interest, Federal agencies should work with States and localities to minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

4. Make infrastructure investment and management decisions at the appropriate governmental level, consistent with our Federal system of government.

Federal infrastructure programs should be structured to take advantage of the special knowledge and abilities of Federal, State and local governments. Many infrastructure investment decisions are best made at the State or local level of government. For example, State and local governments are generally better positioned than the Federal government to determine which transportation and environmental projects best address intraregional needs.

In contrast, the Federal government has a special role to play where infrastructure investments provide National or interregional benefits. For instance, since the benefits of research and development flow to the entire Nation, the Federal government is best positioned to support research and development in technologies that lower costs and improve the performance of infrastructure facilities.

alone #45 To promote the efficient use of Federal infrastructure investment funds, recipients of Federal grants should implement planning and information management systems that support the goals of these principles. The Federal government should use the information from these management systems to conduct system-level reviews of its infrastructure programs.

IMPLEMENTATION:

1. To enable consideration of these principles in the FY 1995 budget, Federal departments and agencies will submit plans to implement these principles to OMB by November 1, 1993. Agency implementation plans should include a comprehensive list of planned actions, including regulatory and legislative actions required for implementation. Agency implementation plans should be consistent with OMB Circular A-94, which outlines the analytical methods required under these principles. OMB will convene an interagency work group to review the plans.
2. Beginning with the FY 1996 budget submission to OMB, each Federal department and agency should use these principles to justify major infrastructure investment and grant programs. Major programs are defined as those programs with budgetary costs in excess of \$100 million or ten percent of the total budget of the department or agency. *not just new programs →*
3. Beginning with the legislative agenda due to OMB in FY 1994, Federal departments and agencies will include information about the application of these principles to support proposals for the authorization or reauthorization of infrastructure investment programs. *the Budget authorities*

THE WHITE HOUSE

WASHINGTON

July 12, 1993

MEMORANDUM FOR DISTRIBUTION

FROM: Michael Deich

SUBJECT: Meeting of the Infrastructure Finance Group

The President's interest in seeing greater infrastructure outlays has run directly into the deficit buzzsaw. This difficulty makes "innovative financing" more attractive. I would like to meet with you briefly at 11:45 a.m. on Friday, July 16, in room 476 OEOB to consider approaches the Administration might adopt to increase the provision of infrastructure services in the current budget environment. Our task will be to agree on specific work products, agency assignments, and deadlines.

I expect that our efforts will begin with the usual suspects:

- *Changes to tax-exempt bond law*, such as broadening the definition of "public purpose" bonds (perhaps to allow equal treatment of all forms of infrastructure), creating a "public benefit bond", easing restrictions on advanced refunding, and increasing the volume caps on private activity infrastructure issues. Evaluation of these proposals would consider their effect on state and local borrowing costs; federal budgetary cost, transparency, and controllability; the efficiency of this subsidy compared to other forms of subsidy; and the extent to which federal funds would "leverage" state and local funds.
- *Allow Connie Lee to expand* its coverage to include bonds for infrastructure. Evaluation would consider the type and amount of infrastructure that would result; expected federal losses and changes to Connie Lee's charter (including privatization) that would minimize those losses; and the affect on private bond insurance companies.
- *Create a government corporation*, or fund an SRF, to provide short-term bond insurance for revenue generating public or private infrastructure projects (these guarantees could be modelled on those offered to the San Joaquin Toll Road).
- *Encourage privatization* of state and local facilities. Does the federal government have any leverage here? In what types of infrastructure? Would privatization lead to a greater quantity or quality of service provision for any type of infrastructure?
- *Encourage pricing* of infrastructure services. Again, what leverage does the federal

government have? Perhaps bond insurance, even grants, could be conditioned on adopting some form of pricing.

- *Encourage "economically targeted investments" in infrastructure.* Could any form of governmental or quasi-governmental financial participation, perhaps through bond insurance or guarantees, get pension or other private participation while limiting federal contingent liability? The model here might be HUD's collaboration with the AFL-CIO pensions.
- *Capital budgeting.*

I recognize that each of these approaches has limitations. Given current budget limitation, however, I think it would be well worth looking again at each one, with an eye for any kind of half measure that would allow greater infrastructure services while avoiding some of the more egregious drawbacks of "innovation."

Please let Sandy Mancini (456-2801) know if you will attend the meeting. I look forward to seeing you.

THE WHITE HOUSE

WASHINGTON

July 20, 1993

MEMORANDUM FOR INFRASTRUCTURE WORKING GROUP

FROM: Michael Deich MD

SUBJECT: Draft Principles on Infrastructure Mgmt.

Changes to Draft Principles. Attached is another draft of the Administration's Principles on Infrastructure Investment. The document has been shortened in an effort make it a little more accessible to those who will read it without the benefit of our deliberations. The larger changes include:

● Principle #1:

- Dropped paragraph on evaluating equally both environmental and other benefits. I think that this is covered by the statement that analyses should include both market and nonmarket costs/benefits.
- dropped statement about the need for consistency across agencies. Such consistency will follow naturally as agencies implement the principles.
- dropped statement on need for retrospective analysis, on the grounds that this is a second-order problem compared with the others noted in the Principles.

● Principle #2:

- dropped paragraph on measuring and pricing the social costs of infrastructure ("agency reviews should seek to identify social costs that are caused or mitigated by infrastructure use, and whenever feasible, address these costs through market-based mechanisms"). I think this is implicit in our more general call for market-based mechanisms to price infrastructure efficiently.

● Principle #3:

- dropped last two paragraphs since I couldn't figure out what programmatic changes we envisioned would follow adopting those statements.

- Principle #4:
 - dropped statement on cost-sharing. I think that our statement was so general that readers could not know what specific programmatic changes we envisioned. I think that it would be better to take up cost sharing later, either in the context of some specific reauthorization or in the context of general infrastructure financing issues.
- Principle #5 has been incorporated into Principle #1.

I hope that I've cut fat, not bone. If you think that something should be restored, or if you have any suggestions for improving the text that remains, please call/fax me by noon tomorrow. By COB tomorrow I will send out a version for you to circulate within your agency for comments.

Next Steps. I will circulate shortly a draft cover memo from our Group to the NEC Deputies. The memo will outline the political and policy problems that prompted these Principles; describe how the Principles would address the problems; and outline a plan to gain support for the Principles from interest groups and the Hill. After we agree on a draft cover memo, we'll ask the Deputies' to approve the Principles.

DISTRIBUTION:

Kevin Berner, CEA	(914) 938-4563
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Barry Gale, DOE	586-4025
Anne Grambsch, EPA	260-6405
John Greenlees, Treas	622-1294
Randy Lyon, OMB	395-1151
George MacDonald, DOT	366-9654
Al McGartland, EPA	260-5732
Norm Starler, OMB	395-4652
Bob Stearns, OSA(CW)	504-4389

DRAFT STATEMENT OF ADMINISTRATION PRINCIPLES
ON INFRASTRUCTURE MANAGEMENT AND INVESTMENT

PREAMBLE:

A well-functioning infrastructure is vital to sustained economic growth, to the quality of life in our communities, and to the protection of our environment and natural resources. Towards these ends, the President has proposed significantly greater investment in our Nation's infrastructure. These investments would occur at a time of severe fiscal constraints, making it more important than ever that the Federal government invest wisely, and improve the quality and performance of its infrastructure investments.

GOAL:

The goal of these principles is to ensure that the Nation achieves the greatest net benefits from its infrastructure facilities, both through well chosen investments in new infrastructure and through the efficient management of existing facilities.

SCOPE:

These principles apply to Federal infrastructure grant and investment programs in transportation, water resources, energy, and environmental protection.

PRINCIPLES:

1. Select infrastructure investments based on systematic analyses of expected benefits and costs, including both quantitative and qualitative measures.

Benefits and costs should be quantified to the maximum extent possible. All types of benefits and costs, both market and nonmarket, should be considered. Nonmarket benefits and costs often will take the form of environmental benefits or degradation.

Benefits and costs should be measured over the full life-cycle of each project. Such analysis will allow informed tradeoffs between capital outlays, operating and maintenance costs, and nonmonetary costs borne by the public (such as congestion delays during road reconstruction).

When the amount and timing of important benefits and costs are uncertain, analyses should recognize this uncertainty, and address it through appropriate quantitative and qualitative assessments.

Analyses should compare a comprehensive set of options that includes, among other things, managing demand, repairing existing facilities, and expanding facilities by different amounts.

Project selection should be based not only on quantifiable measures of benefits and costs, but also on qualitative measures reflecting values that are not readily quantified, such as concerns about equity.

2. Manage infrastructure efficiently.

The efficient use of infrastructure depends not only on physical design features, but also on operational practices. To improve these practices, Departments and agencies should conduct periodic reviews of the operation and maintenance of existing facilities.

Agencies should use these reviews to consider a variety of management practices that can significantly improve the return to infrastructure investments. Examples include contracting practices that reward quality and innovation, design standards that incorporate new technologies and construction techniques, and the application of demand management techniques.

Agencies should use these reviews to identify the demand for different levels of infrastructure services. Since efficient levels of service can best be achieved by properly pricing infrastructure, the Federal government--through its direct investments, grants, and regulations--should promote consideration of market-based mechanisms for managing infrastructure.

3. Seek private sector participation in infrastructure investment and management.

Innovative public-private initiatives can bring about greater private sector participation in the ownership, financing, construction, and operation of a broad range of transportation and environmental projects. Consistent with the public interest, agencies should minimize legal and regulatory barriers to private sector participation in the provision of infrastructure facilities and services.

4. Make infrastructure investment and management decisions at the appropriate governmental level, consistent with our Federal system of government.

Federal infrastructure programs should be structured to take advantage of the special knowledge and abilities of Federal, State and local governments. Many infrastructure investment decisions are best made at the State or local level of government. For example, State and local governments are generally better positioned than the Federal government to

determine which transportation and environmental projects best address intraregional needs. In contrast, the Federal government has a special role to play where infrastructure investments provide National or interregional benefits. For instance, since the benefits of research and development flow to the entire Nation, the Federal government is best positioned to support research and development in technologies that lower costs and improve the performance of infrastructure facilities.

To promote the efficient use of Federal infrastructure investment funds, the Federal government may require grantees to implement planning and information management systems that support the goals of these principles. The Federal government should use the information from these management systems to conduct system-level reviews of its infrastructure programs.

IMPLEMENTATION:

1. To enable consideration of these principles in the FY 1995 budget, Federal departments and agencies will submit plans to implement these principles to OMB by November 1, 1993. Agency implementation plans should include a comprehensive list of planned actions, including regulatory and legislative actions required for implementation. Agency implementation plans should be consistent with OMB Circular A-94, which outlines the analytical methods required under these principles. OMB will convene an interagency work group to review the plans.
2. Beginning with the FY 1996 budget submission to OMB, each Federal department and agency should use these principles to justify major infrastructure investment and grant programs. Major programs are defined as those programs with budgetary costs in excess of \$100 million or ten percent of the total budget of the department or agency.
3. Beginning with the legislative agenda due to OMB in FY 1996, Federal departments and agencies will include information about the application of these principles to support proposals for the authorization or reauthorization of infrastructure investment programs.

Infrastructure Mtg 7-16-83

<u>NAME</u>	<u>Agency</u>	<u>Phone</u>	<u>Fax</u>
LARRY JACOBSON	OMB	395-3940	395-1151
Justine Rodriguez	OMB	395-3423	395-1198
Bob Stearns	ASA(CW)	212-0126	504-4389
Ab. R. R. R. R. R.	OMB	395-7211	395-1292
Olena Beng	DOL-PWBA	219-8233	219-5524
Alan Leibowitz	DOL/PWBA	219-9048	219- ~~5531~~
John Greenlee	Treasury	622-2020	622-1294
Chris Parker	OMB	395-7211	395-1292
Maynard Conner	Treas.	622-2310	~~622~~ 622-1294
RICHARD WALSH	DOT	366-4416	366-3393
Bill Trautman	Treasury	622-1314	622-1772
Drew Lyon	CEA	395-5147	395-6947
Mike Rappaport	Treasury	622-0871	622-1772
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Preston Atkins	Treas	622-2450	622-
KIRAN DUWADI	OMB	395-3388	395-7238
Joe CANNY	DOT	366-9590	366-7127
MICHAEL DEICHT	NEC	4562801	4562223

- 1 Changes to tax-exempt bond law Treasury
- 2 Connie Lee - Paula Farrell, Alan Rhineworth
- 3 Capital budgeting - Phil Dams

4 Privatization - DOT/EPA
5 Pricing

- 6 Find revenue source (increased fuel tax?) to fund some kind of corporation, or SRFs, for:

- GSE
- a. repayments of bonds that finance direct grants
 - b. a reserve fund for revenue bonds to be paid back from project fees
 - c. short-term bond insurance for revenue generating public or private infrastructure projects (these guarantees could be modelled on those offered to the San Joaquin Toll Road).

John Greenlee - Treas.

~~7 Encourage "economically targeted investments" in infrastructure~~