THE OBAMA ADMINISTRATION: NEW FLEXIBILITY FOR STATE AND LOCAL GOVERNMENTS

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Introduction

"Part of the genius of our Founders was the establishment of a Federal system in which each of our States serves as a laboratory for our democracy. Through this process, some of the best State ideas became some of America's best ideas. So whether it's through Race to the Top, or improving the Affordable Care Act, or reforming the way that we approach social programs by ensuring that spending is tied to success, our approach has been to give you the flexibility that you need to find your own innovative ways forward."

– President Obama, February 28, 2011

President Obama recognizes that, when we act together in common purpose and common effort, there is nothing America cannot achieve. The same is true for government. To achieve the best results for the American people, the Obama Administration is partnering across all levels of government and working in new ways with States, Territories, tribes and localities to improve outcomes for the American people while lowering costs for government at all levels.

In 2011, the National Governors Association called on the Federal government to work collaboratively with States to make government more efficient and productive and to modernize and integrate program delivery.

President Obama had already begun this effort through Executive Order 13563, *Improving Regulation and Regulatory Review*, which he signed into law in January 2011. The Executive Order specifically highlights the importance of obtaining the views of State and local governments in the course of making and revising Federal regulations. In response to State concerns, the President emphasized his commitment to cross-government partnership by issuing a Presidential Memorandum, "Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments," in February 2011. This Memorandum instructed Federal agencies to work closely with State, local, and tribal governments to identify administrative, regulatory, and legislative barriers in federally funded programs that prevent efficient use of taxpayer dollars to achieve the best results. In addition, the Partnership Fund for Program Integrity, which was established in 2010 by the Obama Administration with support from Congress, brings together stakeholders from across all levels of government to engage in collaborative forums with Federal agencies and provide constructive feedback and ideas for improved program administration.

These new cross-government partnerships are leading to real relief from unnecessary administrative burden and enabling better, more cost-effective results for the American people. This report highlights examples where the Obama Administration and States, tribes, and localities are partnering to achieve collective impact.

New Ways to Spur Job Growth
in Local Communities

The Problem

States and localities need more flexibility and support to implement workforce development strategies that fit their own environments and meet the needs of their community members.

Action by the Obama Administration to Solve the Problem

President Obama has implemented initiatives that spur job creation, encourage innovative approaches to job training, and help unemployed veterans—who numbered approximately 850,000 as of December 2011—get back to work in their communities.

The $37 million Jobs and Innovation Accelerator Challenge coordinated resources from 16 Federal agencies into a single grant competition—allowing States and regions to more easily leverage Federal funds to promote economic development in high-growth industries. In February 2012, President Obama announced $15 million for the Rural Jobs Accelerator, which will support rural jobs development and economic growth. These are just a few examples of how the Obama Administration is collaborating with States and Territories to foster innovation in support of sustainable economic prosperity.

> The Department of Labor has also taken steps to ensure that States can avail themselves of waivers and has granted nearly 400 waivers from statutory or regulatory requirements for job training. States can get more information about pursuing waivers and use a searchable database to see how other States are using waivers at www.doleta.gov/waivers/.

- The Workforce Innovation Fund (WIF), which has made available $98 million and will make available another $20 million in April 2012, supports innovative approaches to employment and training services that improve job-seeker and employer outcomes and the cost-effectiveness of the public workforce system. The WIF offers unprecedented flexibility to foster innovation, drive better outcomes and lower costs. The 2013 Budget proposes pairing WIF with broad waiver authority to give States and localities maximum flexibility to test bold reforms. As we await Congressional action on broader authority, the Administration encourages States to consider using existing waiver authority.

- Communities that recruit and hire post-9/11 veterans will receive preference for $166 million that will be made available under 2012 Community Oriented Policing Services (COPS) Hiring grants and Staffing for Adequate Fire and Emergency Response (SAFER) grants; the President also proposed $5 billion more for these programs in the American Jobs Act. In his 2013 Budget, the President proposes a Veterans Job Corps of $1 billion over five years to match veterans with local employment needs to restore America's land and resources, as well as the Small Business Administration's National Veterans Entrepreneurship Training program, a $7 million initiative that would reach up to 260,000 veterans annually.

More Accountability and Better Performance for Federal Grants

The Problem

As the amount and scope of Federal dollars awarded to different types of recipients has increased, some of the rules that used to work well have become outdated, burdensome, and hard to navigate. States cannot afford to spend valuable resources tracking down paperwork that is not truly necessary for accountable oversight of programs.

> *"Eliminating [the review of] certain compliance requirements would definitely streamline our audits and allow auditors to focus on documenting important matters rather than spending blocks of time documenting ... compliance over areas that pose little risk."*
>
> – State of Tennessee Auditor's Office

Action by the Obama Administration to Solve the Problem

Last year, President Obama instructed executive departments and Federal agencies to reduce unnecessary regulatory and administrative burdens in order to focus resources on achieving better outcomes at lower cost. The most important rules for Federal grants should be simple and straightforward: paperwork requirements should not be too burdensome, money should be spent appropriately on the project it's granted for, and audits should be targeted based on risk.

The Office of Management and Budget (OMB) has spent the past few months collecting feedback from stakeholders and working with Federal agencies to develop a streamlined set of rules that would focus resources on targeting high-risk areas to improve performance and target waste, fraud, and abuse. OMB will publish these suggestions at the end of February to highlight the ideas for reform and seek public comment, to be followed with a proposal for the streamlined guidelines themselves later this spring.

> **Less Accounting and More Performance Oversight.**
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> People who work on Federal grants must periodically report the "percentage of their effort" spent on sponsored activities. The resulting data is widely viewed as burdensome to collect and of little oversight value. OMB is evaluating three pilots that would allow alternative reporting–thereby eliminating thousands of unnecessary reports per recipient per year, and focusing on better indicators of accountability for Federal grants.

Innovations to Get Better Outcomes

The Problem

State and local communities are often unable to achieve optimal results for underserved populations.

Action by the Obama Administration to Solve the Problem

In addition to efforts to reduce regulatory burdens, the Obama Administration is introducing two key initiatives: Pay for Success and Performance Partnerships. These initiatives let States and localities deliver services in new and better ways that maximize resources and shared investment, leverage assets, and break down silos.

- Pay for Success is a new way to deliver services in which the government only pays upon demonstrated results. At a time when all levels of government are facing cutbacks, Pay for Success offers a new way to invest in critical services for vulnerable populations by leveraging private sector investment and by targeting dollars to programs that achieve positive, measurable impact. In 2012, the Department of Justice and the Department of Labor are each offering grant opportunities for Pay for Success pilot projects. These respective opportunities will focus on reducing recidivism and improving workforce development.

> ### Supporting State and Local Priorities
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> Last October, over 90 leaders from State and local governments, Federal agencies, philanthropies, and other stakeholder organizations gathered at the White House to explore Pay for Success.
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> Building on State and local interest, the Department of Justice plans to give priority funding consideration in 2012 Second Chance Act grant solicitations to highly qualified applicants who incorporate a Pay for Success model in their program design. The Department of Labor will also launch Pay for Success funding opportunities through the Workforce Innovation Fund by early spring, making up to $20 million available for programs that focus on employment and training outcomes.

- Building on a successful strategy implemented by the Environmental Protection Agency, Performance Partnerships provide new flexibility in how States and local communities apply funds across a set of programs to better serve disconnected youth and promote neighborhood revitalization. Combining dollars and administration across multiple funding streams can facilitate better allocation of resources while still achieving defined program objectives. In his 2013 Budget, the President proposes launching up to 20 projects in 2013 that better address these critical needs.

Flexibility to Encourage Education Reform

The Problem

No Child Left Behind (NCLB) is more than five years overdue for a rewrite by Congress and is stifling the kind of reforms we need to really improve student achievement, teacher effectiveness, and school accountability. State and local officials have requested more flexibility to design and implement education reforms that meet the needs of their own students and work in their communities. Our students cannot wait any longer for Congress to Act.

Action by the Obama Administration to Solve the Problem

President Obama offered every State a deal: If you're willing to set higher, more honest standards based on a clear goal that every student can graduate ready for college or a career, we'll give you the flexibility to meet those standards. Waivers provide the opportunity to start fixing NCLB under existing law.

In order to qualify for waivers, States must demonstrate how they will meet three important goals: (1) college and career-ready expectations for all students, (2) new accountability systems developed to address achievement gaps and focus on the most struggling schools, and (3) improved systems for teacher and principal evaluation to improve instruction and support student learning. The NCLB provision that 100 percent of students must be proficient by 2014 is waived, so States can design their own ambitious annual targets for student learning. States are also given more flexibility in Federally-mandated "one-size-fits-all" labels and interventions and more flexibility to use specific funds now diverted by NCLB sanctions.

This is not a competition, and the Department of Education works with applicant States to help make sure that their application meets any questions and concerns raised during a peer review process. Eleven States requested the flexibility to implement reforms through the initial round of waivers and all have been approved: Colorado, Florida, Georgia, Indiana, Kentucky, Massachusetts, Minnesota, New Jersey, New Mexico, Oklahoma, and Tennessee. Another 29 States along with Puerto Rico and the District of Columbia have also expressed interest in receiving waivers.

Applying for ESEA Flexibility

- Colorado has launched a website that will allow teachers and parents to see exactly how much progress students are making, and how different schools are measuring up–increasing transparency and accountability.

- New Jersey is developing an early warning system to reduce the number of dropouts, utilizing individual education data to help educators identify struggling students who are not on-track for college-and-career readiness.

- Massachusetts and Florida have set ambitious goals for reform that align with plans tailored to their individual needs: Massachusetts has set a goal to cut the number of underperforming students in half over the next six years; Florida has set a goal to have their test scores rank among the top five States in the country, and among the top 10 countries in the world.

Advancing Public Safety and Well-being through Successful Reentry

The Problem

The cost of maintaining correction facilities is very challenging for many State and municipal budgets.

- In the past 20 years, State spending on corrections has grown at a faster rate than nearly any other State budget item.

- The U.S. now spends more than $68 billion on Federal, State and local corrections.

- Each year, more than 700,000 individuals are released from State and Federal prisons. Another 9 million cycle through local jails.

- Statistics indicate that more than two-thirds of State prisoners are rearrested within 3 years of their release and half are reincarcerated.

Action by the Obama Administration to Solve the Problem

Since January 2011, 18 Federal agencies have been working together and with States, Territories, tribes, and localities to more effectively channel reentry resources by leveraging existing resources, removing barriers to improving outcomes, and dispelling myths that impede progress. As Attorney General Holder has noted, smart reentry strategies present a major opportunity to reduce recidivism, save taxpayer dollars, and make communities safer by assisting individuals returning from jail or prison to become productive, taxpaying citizens and lowering the direct and collateral costs of incarceration.

The Interagency Reentry Council is promoting Federal statutory, policy, and practice changes that focus on reducing crime and recidivism by supporting initiatives in education, employment, health, housing, faith, drug treatment, and family and community well-being. As a result, communities can leverage resources across agencies that support this population in becoming productive citizens while reducing recidivism and victimization.

> **Reentry MythBusters**
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> As a first product, the Federal Interagency Reentry Council produced a set of Reentry MythBusters, or fact sheets to clarify Federal policies that affect formerly incarcerated individuals and their families.
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> Some Federal laws and policies are narrower than commonly perceived. In several policy areas, States and localities have broad discretion to determine how to apply policies and/or have various opt-out provisions. In some cases, statutory barriers do not exist at all or are very limited, as is the case with Federal hiring.

Partnering with States to Expand Access to Health Care

The Problem

Before passage of the Affordable Care Act, 50 million Americans were uninsured and heath care costs were rising faster than inflation.

Action by the Obama Administration to Solve the Problem

President Obama signed into law the Affordable Care Act to provide Americans with more afforable access to health insurance that meets their health care needs. The law gives States flexibility in helping build a health care system that works best for patients and consumers—including in creating new Affordable Insurance Exchanges.

Affordable Insurance Exchanges are one-stop marketplaces where consumers can choose a private health insurance plan that fits their health needs and have the same kinds of insurance choices as members of Congress.

Proposed rules provide States with many options and flexibilities in designing their Exchanges, from how they are governed to how eligibility is determined. States can partner with the Federal government in providing some Exchange services such as consumer assistance or plan management, and States have options when it comes to determining eligibility for tax credits and Medicaid. States will have the flexibility to select the set of essential health benefits that plans in the Exchange must cover which best meet the needs of their citizens. Forty-nine States and the District of Columbia have already received planning grants, and States are eligible to apply for establishment grants on a rolling basis as meets their needs.

States now have more resources and tools than ever to help improve access to care for their citizens—particularly in Medicaid and the Children's Health Insurance Program (CHIP). For example:

- The Affordable Care Act provided new flexibility and resources for State Medicaid programs to provide new health home services for people with chronic conditions.

Early Innovators

HHS has established cooperative agreements to help a group of "Early Innovator" States design and implement the Information Technology (IT) infrastructure needed to operate Affordable Insurance Exchanges. Early Innovator States have committed to assuring that the technology they develop is reusable and transferable so that other States will have options in developing their IT infrastructure.

For example, Oregon is using commercially available, off-the-shelf software to create a modular, reusable IT solution that will provide the Exchange's customers with seamless access to information, financial assistance and easy health insurance enrollment, with no gaps in coverage or assistance cliffs for anyone up to 400% of the Federal poverty level. The Oregon Health Authority estimates that 516,000 Medicaid clients and 277,000 commercial insurance consumers will use the Affordable Insurance Exchange to shop for and enroll in health coverage.

- The Affordable Care Act limits payments to health care providers for costs that result from certain preventable healthcare acquired illnesses or injuries, building on successful initiatives in States and Medicare. The new rule gives States the flexibility to expand the list of preventable conditions the program would no longer pay for.

- Individuals who qualify for both Medicare and Medicaid often have complicated and serious medical needs. New demonstration programs give States new options to help improve care for this population, and to share in cost savings.

- Under the 2009 Children's Health Insurance Program (CHIP) Reauthorization Act, States have new flexibilities and resources to expand children's access to coverage and in FY 2011 used those tools to enroll an additional 1.5 million children. Eight States expanded eligibility for the program, and many others took steps to simplify enrollment and renewal procedures. Also in 2011, 23 States qualified for nearly $300 million in performance bonuses.

- Some of the business processes and technical services that the Medicaid, CHIP, and Exchange programs need for determining program eligibility and for enrolling clients into health care coverage may be useful to other Federally-funded human services programs. The Federal government has provided a one-time exception to cost rules to support States in developing shared eligibility services across all health and human service programs, which will reduce the number of costly "siloed" systems performing the same function for different programs.

Under the Affordable Care Act, States have access to other new options and flexibilities. Beginning in 2017, the law allows States the flexibility to receive a State Innovation Waiver so they may pursue their own innovative strategies to ensure their residents have access to high quality, affordable health insurance. These strategies—which must provide affordable insurance coverage to at least as many residents as the Affordable Care Act and must not increase the Federal deficit—could include allowing large employers to purchase coverage through State Exchanges or increasing the number of benefit levels to provide more choices for individuals and small businesses.

Aligning Federal Rental Programs

The Problem

Management of affordable rental housing is spread out over a number of different agencies. Conflicting rules from different agencies for the same properties sometimes place unnecessary costs and administrative burdens on States where the affordable rental housing is located.

Action by the Obama Administration to Solve the Problem

In 2011, the Obama Administration released the report "Federal Rental Alignment: Administrative Proposals," which lays out a broad vision for improving the delivery and operation of affordable housing across the country. The initiatives in this report—many of which are already being implemented—will streamline Federal housing requirements to support more efficient delivery of affordable housing and help State and Federal agencies' staff better serve low-income families who rent their homes. The Administration's goal is to make government work better by reducing the unintended consequences associated with the reality of housing finance today—multiple overlapping public investments on a given rental property.

The report includes 10 initiatives proposed by the Rental Policy Working Group that will more efficiently align rental program requirements across government agencies, including standards for inspections, financial reporting, appraisals, energy efficiency, and fair housing compliance, among others. Every one of these improvements will be implemented at no cost through a combination of education, outreach, agency guidance, and rule changes.

> **Reducing the Burden of Multiple Inspections**
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> The Administration's proposed inspection protocol will result in cost savings at the government level generally by a reduction in the number of inspections. These savings will be realized in the reduction of staff time out of the office and savings in travel expenses.
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> In 2007, an estimated 22,546 separate inspections took place on 10,485 properties.
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> Based on the estimated Federal cost of approximately $400 per inspection, the cost of duplicative inspections required on properties with multiple Federal funding sources is approximately $9 million per year. Alignment of these inspections so that one inspection is performed on each combined funding property per year would result in approximate savings of $4.8 million in one year.

One example of these efforts on the ground can be found in Michigan: the Michigan State Housing Development Authority, USDA, and HUD entered into a memorandum of understanding to align underwriting standards for all jointly funded affordable housing in the State. Ohio signed a similar agreement in November. These agreements serve as a model for other States and will reduce the cost and complexity of administering Federal programs by creating a single, simpler standard for evaluating the quality of rental housing.

Building a Model of Collaboration

The Problem

Communities across America are struggling to create jobs and spur economic growth. Local leaders have requested help making more effective use of Federal resources and assistance.

Action by the Obama Administration to Solve the Problem

President Obama launched Strong Cities, Strong Communities (SC2), a new and customized pilot initiative to strengthen local capacity and spark economic growth in local communities. By integrating government investments and partnering with local communities, SC2 channels the resources of the Federal government to empower cities as they develop and implement their vision for economic growth. SC2 uses a new approach to Federal-local collaboration, with a focus on:

1. Breaking down Federal silos to help deal with the overlapping maze of agencies, regulations and program requirements;

2. Providing on the ground technical assistance and planning resources tailored to a city's needs and helping it use the Federal funds it already receive more efficiently and effectively; and

3. Developing critical partnerships with key local and regional stakeholders that encompass not only municipal and State governments, but also new partnerships with the business community, non-profits, anchor institutions, community development corporations, faith-based institutions, and other public, private, and philanthropic leaders.

SC2 is being piloted in six cities across the country: Chester, PA, Cleveland/Youngstown, OH, Detroit, MI, Fresno, CA, Memphis, TN, and New Orleans, LA. The pilot will examine the differences and the similarities among cities to see how Federal assistance can best be provided.

> **Collaborating on Public Safety Initiatives**
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> SC2 members helped the City of New Orleans design and launch the Mayor's Strategic Command to Reduce Murders (Strategic Command). The Strategic Command utilizes a multi-disciplinary, data-driven, evidence-based approach to review each murder, nonfatal shooting, and near-fatal domestic violence incident, in select high-incident neighborhoods, to generate recommendations for both short-term tactical responses and longer term systemic change needs. These responses and changes include policy and community service delivery adaptations that will decrease the likelihood of homicides occurring in the future.

Economic Growth in Indian Country

The Problem

Native Americans are experiencing disproportionately high unemployment and poverty rates on many reservations.

Action by the Obama Administration to Solve the Problem

The Obama Administration has partnered with tribal leaders and taken decisive action to support infrastructure and workforce development to drive economic growth. These actions include expanding access to broadband under the Recovery Act; providing Federal loan guarantees; investing millions of dollars in businesses in Indian Country; building the capacity of Native Community Development Financial Institutions; implementing an Executive Order to Expand Educational Opportunities and Improve Educational Outcomes for American Indian and Alaska Native Students; and supporting the Small Business Administration's 8(a) Business Development Program for American Indians and Alaska Natives, which channels contracts through tribal corporations to qualified businesses, to help them gain greater access to Federal and private procurement markets.

These actions are spurring entrepreneurship in Indian Country by increasing business infrastructure such as broadband, making resources such as business loans more accessible and improving community and economic development. Moreover, they are helping prepare Native American youth to compete for the high-skilled, good jobs of tomorrow by investing in tribal colleges and universities and improving educational outcomes.

The Administration is committed to closing these gaps in Indian Country by making investments today and preparing the next generation to face the challenges of their time.

Creating Opportunity for Economic Innovation

Ho-Chunk, Inc. was launched with one employee on the Winnebago Indian reservation in northeast Nebraska at a time when the reservation was suffering nearly 70 percent unemployment. Today, unemployment on the reservation has dropped below 10 percent, and Ho-Chunk Inc. operates 26 subsidiaries with over 1,400 employees. Much of the company's growth has resulted from their ability to participate in the Small Business Administration 8(a) program.

Ho-Chunk, Inc. started a non-profit corporation called the Ho-Chunk Community Development Corporation to help make their community a better place and to provide supplemental capital to build community infrastructure. The result is the Ho-Chunk Village—a new 40 acre community where residents can own a home, shop, and work all in the same place. The development has created over 100 new jobs.

Participation in SBA's 8(a) program has made it possible for the Winnebago Tribe to allocate $1 million in dividends from Ho-Chunk, Inc. to boost funding in a down payment assistance fund for tribal members. Now a tribal member who wants to build a new home on the Winnebago reservation can receive up to $65,000 in down payment assistance.

Partnering with States to Break Down Silos

The Problem

Even as the economy improves, States are still faced with challenges of meeting increased demands for service with constrained resources. Antiquated technology, outdated business processes, and sometimes burdensome regulatory and administrative processes compound the problem. We need new ways of doing business that reduce waste, improve service, and save money.

Action by the Obama Administration to Solve the Problem

In FY 2010, the Administration established the Partnership Fund for Program Integrity Innovation to identify and pilot new approaches to service in partnership with States in order to save money, strengthen program integrity, streamline administration, and improve program results. Working with the Collaborative Forum of Federal, State, and other stakeholders, the Partnership Fund develops potential pilots through work groups and facilitates consideration of the most promising proposals for funding.

> **Shared Tools to Identify High-Risk Medicaid Providers.**
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> This pilot is testing how integrating data from State Medicaid programs and the Federal Medicare program can help combat provider fraud by informing how provider data can be standardized and cross-checked across Medicaid programs and Medicare. The current inability to share data among these programs hinders fraud detection. The Centers for Medicare and Medicaid Services received $2.9 million to implement this pilot with four States.

Drawing on the Collaborative Forum's expertise from nine Federal agencies, all 50 States, Territories, and numerous other public, not-for-profit, and private-sector stakeholders, six pilots are being implemented by lead Federal agencies in cooperation with State partners. These projects, which represent an $11.15 million investment, are expected to produce total savings in excess of $200 million annually if the pilots are taken to scale. Pilots involve programs including Unemployment Insurance, the Supplemental Nutrition Assistance Program, Medicaid, the Treasury Offset Program, and the Earned Income Tax Credit. In addition to shared Federal-State savings, these pilots are testing more efficient ways to administer programs that alleviate burden on State staff. And perhaps most importantly, the collaborative process is an effective new tool in our efforts to improve stewardship of taxpayer dollars to achieve better results for the American public.

Improving Federal Permitting and Review of Infrastructure Projects

The Problem

To maintain our nation's competitive edge and ensure an economy built to last, the United States must have fast, reliable means of moving people, goods, energy, and information. Unnecessary red tape can get in the way of decisions about critical investments in the nation's infrastructure that provide economic benefits and better environmental outcomes for local communities and for the nation as a whole.

Action by the Obama Administration to Solve the Problem

The Administration is taking bold, decisive steps to cut red tape and modernize processes. In August 2011, President Obama issued a Presidential Memorandum on Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review. Under the Presidential Memorandum, agencies identified 14 high-priority projects for expedited review and created a new public dashboard to track the status of the projects, which is available at http://permits.performance.gov. The reviews for three of the projects have already been completed.

> The White House Council on Environmental Quality has launched a series of five National Environmental Policy Act (NEPA) Pilot Projects demonstrating innovative IT solutions and other approaches to delivering a sound NEPA process while expediting environmental reviews and permitting processes.

Building on this Memorandum, President Obama announced in his State of the Union Address that he would sign an Executive Order to clear away the red tape that can slow down the construction of infrastructure projects. This Executive Order on improving the performance of Federal permitting and review of infrastructure projects will produce measurably better outcomes, including more timely decisions on infrastructure projects that promote economic growth, along with healthier communities and a cleaner environment. In addition, the Administration has launched three sector-specific "rapid response teams" on renewables, transmission, and transportation to bring relevant Federal Agencies together to elevate and resolve issues for better outcomes and faster results.

The Administration is taking further steps to expedite regionally and nationally significant infrastructure projects through early and active coordination with State, local, and tribal governments to eliminate duplication of effort, resolve potential concerns, and allow for concurrent rather than sequential reviews.