



NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

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January 29, 2018

Chairman Rob Bishop
Speaker's Task Force on Intergovernmental Affairs
123 Cannon Building
Washington, DC 20515

Dear Chairman Bishop:

This letter responds to your letter of November 6, 2017 informing the National Academy of Public Administration of our formal recognition as a member of the Speaker's Task Force on Intergovernmental Affairs Advisory Council. You also asked the Academy to provide recommendations for the substantive areas that the Task Force will address this year.

Since receipt of your letter the Intergovernmental Systems Panel, a Standing Panel of the Academy, has held two meetings to outline key issues, construct a framework for analysis, and develop a work plan to provide ongoing feedback to the Task Force.

A central theme of our framework addresses how government at every level, working together in new ways can address critical issues facing the nation. Among those issues spelled out in the attachments are: increasing our global competitiveness; providing for the domestic service and security needs of the nation despite growing fiscal constraints facing all governments, and regaining the confidence and trust of our citizens.

Most domestic policies and programs are implemented through the Intergovernmental System. Working together as partners, we have the best chance of success. The nation is at an inflection point in how government provides for public needs. Improving the policies, processes, and procedures of the Intergovernmental system and thinking differently about how we operate among the sectors in our society are the foundational strategies for meeting our challenges. It will enable the governmental entities to work together effectively and to use resources in a more integrated and efficient way. It will also give our government the best chance to reliably and responsively deliver services and rebuild trust with our people. Finally, by creating flexible vehicles with appropriate data-based reporting, the variations within the country can be accommodated and the tension between national goals and scarce resources resolved.

We look forward to working with the Task Force to fulfill our Congressional charter, "providing Congress and the nation" with governance suggestions that meet the challenges we face. We are providing the attached information and suggestions at the Task Force's request, and look forward to discussing all of these in more detail with you as you develop the Task Force's agenda and focus areas for the coming year. Should you have any immediate questions, you can reach me at tgerton@napawash.org or 202-204-3615.

Sincerely,

Teresa W. Gerton
President and CEO

Attachments (2)

Attachment 1: Specific Policy Topics and Supporting Recommendations from the National Academy of Public Administration

Introduction

The National Academy of Public Administration is honored to be among the organizations serving on the Advisory Council to the Speaker's Task Force on Intergovernmental Affairs. The Academy was founded 50 years ago and chartered by Congress in 1984. Congress intended that the Academy be the vehicle by which the most distinguished professionals in public administration would provide expert and non-partisan advice to members of Congress and the nation on a wide range of issues facing government. The Academy's 850 Fellows come from federal, state, regional and local government as well as the military, academia, and the private and non-profit sectors. Collectively, they have extensive experience and background to provide uniquely balanced insights on a broad range of issues, many with intergovernmental implications.

The Fellows on the Academy's Intergovernmental Systems Standing Panel have served in and through the intergovernmental system over long and illustrious careers. Based on their experiences, they are ready to provide new ideas and recommendations to the Task Force on best practices in intergovernmental relations to address many of the challenges faced by our various levels of government today.

Background

In the United States, most domestic policies and programs are implemented through the intergovernmental system, involving the federal, state, and local governments. Today, all sectors face an unsustainable fiscal situation that is unlikely to change in the near term. For programs or policies that are federally funded, the overarching dilemma is to provide sufficient flexibility for state and local goals while preserving appropriate accountability for the use of federal funds.

The relationships among our levels of government have become more horizontal and intersectoral and, at the same time, increasingly fractious and contentious. Given these challenges, examining ways to improve the operations of our intergovernmental system is a timely undertaking. A wide range of issues must be addressed if our intergovernmental system is to function more efficiently and effectively:

- Increasing global competitiveness requires that all levels of government work in partnership if we are to meet the needs of the nation.
- Growing fiscal constraints facing Federal, state and local governments require that we sort out what each level can do to become more efficient in solving problems and delivering services to citizens.
- Federal efforts to devolve responsibilities or to impose additional responsibilities must recognize the limits on the fiscal capacity of other levels of government and the need to provide appropriate federal financial support.
- Maintaining the existing program and stovepipe approach of federal, state and local problem solving preempts goal- and outcome-based solutions.

The demise of organizations that monitored intergovernmental trends and issues, conducted research and analysis on intergovernmental policies and programs, analyzed the impacts of proposed federal actions, and convened meetings of intergovernmental partners has left a void that impacts the development of effective intergovernmental solutions.

Fellows on the Intergovernmental Systems Standing panel have faced these and similar challenges throughout their careers. Based on their experiences, they are ready to provide new ideas and recommendations to the Task Force on best practices in intergovernmental relations. To obtain their input, NAPA will convene several special meetings of the Panel starting in February of 2018. Selected NAPA Fellows with experience working with the Advisory Commission on Intergovernmental Relations (ACIR) and/or organizations of state and local officials, and Fellows with administrative or legislative experience at all levels of government will be asked to provide input to explore answers to a series of questions, including, but not limited to, the following:

- What are the key intergovernmental challenges that need to be addressed?
- What data are needed to support an informed discussion of the impact of proposed federal initiatives on states, regions and local governments and Native American tribes? What mechanisms might be most appropriate for the collection, analysis and sharing of such data?
- Who are the state(s), regional and local stakeholders with an interest in interacting with the federal government and how do they individually and collectively develop and present their views on intergovernmental issues?
- What are the current barriers to effective consultation and collaboration at both the enterprise and program levels within and across levels of government? What policy, procedural or institutional changes might best reduce those barriers?
- How might the Academy facilitate momentum and support the work of the Speaker's Task Force on Intergovernmental Affairs?

Policy Proposals and Outcomes

We recognize that providing more flexibility to states is a frequent recommendation. We also recognize that such action would be very difficult to accomplish, requiring a rewrite of many pieces of authorizing legislation. Nonetheless, we believe that positive action to improve intergovernmental functions is possible. To that end, the Academy proposes four areas of focus for the Task Force that could provide a framework for improving US intergovernmental relations. They are:

The Need for Comprehensive National Solutions

- Description of the Issue and Likely Outcomes

Increasingly it is clear that resolving the most pressing domestic challenges will require the combined efforts of all three levels of government. However, federal policies and

programs are too often developed without a thorough understanding of the critical roles that must be played by state and local governments and non-governmental players.

A more comprehensive approach to policy-making that involves all the potential players will maximize the impact of government expenditures.

- Procedures and Structures
 - Creation of a forum for development of national policy regarding issues with intergovernmental implications;
 - Strengthening of the capacity of intergovernmental affairs staff in the White House and departments/agencies.
 - Appointment of a committee, consisting of a point person from each department/agency to coordinate efforts.
- Hearing Topics
 - The history of federal efforts to collaborate with states and localities to address issues such as the sorting out of intergovernmental roles, block grants, welfare reform, and environmental regulation;
 - Examples of successful comprehensive solutions, including the blending and braiding of federal funding streams to support integrated service delivery strategies that address local/regional priority goals consistent with national purposes.
 -
- Possible Witnesses
 - Participants in former collaborative efforts;
 - White House and agency intergovernmental affairs staff;
 - Organizations representing state and local officials;
 - NAPA Fellows.

The Need for Cross Government and Cross Sector Collaboration

- Description of the Issue and Likely Outcomes

Too often, federal legislation, regulation and administrative procedures assume a “one size fits all” solution and do not provide the flexibility needed to tailor responses to local conditions or to effectively integrate service delivery. Enhanced flexibility can allow federal officials to partner more easily with state and local officials in developing more comprehensive solutions that increase public confidence in government.

- Procedures and Structures
 - Legislative changes, including administrative waiver authority, that allow for more flexibility in tailoring federal programs to state and local conditions;
 - Empowerment of regional government officials to better resolve intergovernmental issues and conflicts;
 - Creation of structures to facilitate cross-agency cooperation and collaboration.

- Hearing Topics
 - Barriers to flexibility and collaboration;
 - Examples of sub-state and regional models for cross jurisdictional, regional and interstate cooperation and collaboration.
- Possible Witnesses
 - State/local officials who have been involved in successful collaborative efforts;
 - NAPA Fellows.

The Need for Administrative Simplification and Accountability

- Description of the Issue and Likely Outcomes

Like the federal government, states and localities are complex organizations with a myriad of interconnected roles and responsibilities. And like the federal government, their administrative structures and procedures need to be addressed on an enterprise level. Too often, this is made difficult by the proliferation of federal categorical programs and the failure to coordinate administrative requirements across programs and agencies.

Moreover, while state and local governments are critical partners with the federal government in the implementation of federal programs, the process of developing implementation rules and regulations often treats them merely as another interest group and fails to address significant administrative barriers to effective program implementation.

While there is a growing consensus about the need for outcome based accountability, program managers frequently develop performance measures in isolation and may not recognize the need for flexibility to address state and local priorities or allow for the integration with ongoing performance management systems.

- Procedures and Structures
 - Broader and less restrictive opportunities to communicate state and local concerns during the development of legislation and rule-making;
 - More opportunities for federal officials to engage in the development of solutions tailored to meet specific problems at the state and local level;
 - Requirements for federal agencies to collaborate in the development of regulations that impose administrative requirements that might best be addressed on an enterprise basis;
 - Legislative and/or regulatory changes that allow for more intense consultation with state and local officials during the development of regulations affecting the administration of programs with intergovernmental implications;
 - More opportunities to communicate best practices that have proven effective in a state or local government, so that the practice can be replicated in other states or local jurisdictions.
- Hearing Topics
 - Barriers to more open consultation and collaboration with state and local officials during the rule making process;

- The impact of uncoordinated administrative requirements on the capacity of states and localities to manage on an enterprise basis;
- Current approaches to results based accountability and examples of successful collaborative approaches.
- Possible Witnesses
 - NGA, NCSL, NLC, NACO, Conference of Mayors;
 - Program-based Executive Branch Organizations
 - OMB's Office of Information and Regulatory Affairs

The Need for Data-driven Decision Making

- Description of the Issue and Likely Outcomes

The processes of legislative and regulatory development generally take place within the structure of individual committees and agencies. As a result, decisions can easily be made without an understanding of their potential interaction or their collective impact on the capacity of state and local governments to meet resulting financial and/or administrative burdens or to continue to meet their own obligations to their citizens.

- Procedures and Structures
 - Creation of an institution or institutions charged with the collection, analysis and dissemination of data on the intergovernmental system;
 - Expansion of the capacity in Congress and the Administration to assess the impact of legislative and regulatory action on state and local governments as enterprises and to facilitate cross-committee and cross-agency activities to simplify governmental operations;
 - Delineation of a Congressional committee or staff capacity that can assess the impact of proposed federal actions on the fiscal and administrative capacity of state and local governments and identify opportunities for simplification across committee jurisdictions.
- Hearing Topics
 - An overview of the current intergovernmental system addressing issues such as:
 - A comprehensive picture of how the intergovernmental system currently assigns responsibilities for funding and administering critical functions;
 - The fiscal capacity of state and local governments;
 - The scope and scale of federal aid to states, localities and tribes; and
 - The impact of potential federal mandates and/or devolution on the availability of funding to state and local governments for their own priorities.
 - Data Resources
 - Available data sets;
 - The capacity of existing organizations such as OMB, CRS, CBO, and the Bureau of the Census.
 - Data gaps and potential solutions.

- Possible Witnesses
 - Representatives of OMB, CRS, CBO, Census.
 - Representatives from organizations such as NASBO and GFOA

Attachment 2: Interim Reports for Task Force Consideration

In recent months, members of NAPA's Intergovernmental Systems Panel have prepared papers on intergovernmental issues as a starting effort to make recommendations for the structural and procedural issues the Task Force is considering.

Enclosure 1: "Managing Across Boundaries" addresses many of the structural and procedural issues the Task Force is considering.

Enclosure 2: "Creating a Financial Marketplace for Infrastructure and Economic Development" contains suggestions for changing the governance approach to address issues relating to the built and natural environment of the nation.

Enclosure 3: "The U.S. Emergency Management System: The Need for Intergovernmental Cooperation" looks at the intergovernmental implications of natural and human-made disasters. These papers are attached for your consideration.

If you have question or would like to discuss any of these suggestions in more detail, we would be pleased to meet with you or your staff. Again, thank you for the opportunity to work with the Taskforce on improving intergovernmental relations.

MEMO #13

MANAGING ACROSS BOUNDARIES:

Strengthening Partnerships with State and Local Governments

Barry L. Van Lare

The new President and Congress need to forge a new partnership with state and local governments in order to restore public trust in the federal government and to mobilize the resources needed to address critical domestic issues in a comprehensive and coordinated manner. For much of its history the federal system could be seen as a layer cake with each level of government responsible for a relatively clearly defined set of responsibilities. As the federal government began to expand its role in domestic policy the system became more of a marble cake with roles and responsibilities becoming more intermixed. Most recently the federal system has come to resemble more a crumb cake as the lines between federal, state and local governments have been blurred even further. Such a fragmented system is ill suited to address a wide range of domestic issues

The Goals of a Stronger Intergovernmental Partnership

Policy makers and administrators tend to view the government's proper role from the perspective of their own positions in the federal system. However, addressing pressing public priorities requires coordinated action by all levels of government. Challenges such as affordable health care, quality education, climate change, income inequality, homeland security, civil rights, deteriorating infrastructure, etc. will require a strong federal role, but a federal role alone will be insufficient. Significant progress will require the coordinated actions of state and local governments as well. It is critical that a new administration and a new Congress work together to establish a new paradigm that substitutes collaboration and cooperation for command and control. Such a paradigm allows states and localities to participate in policy development and implementation as full partners and facilitates and supports a robust and comprehensive approach to the development of national policy within an intergovernmental framework. The new paradigm:

- • Recognizes the importance of a coordinated intergovernmental response to critical issues;
- • Provides ready access to the data and analysis needed to develop that response;
- • Supports open consultation and involvement of state and local governments in both policy development and rulemaking; and
- • Recognizes state and local governments as enterprises rather than solely as silos for federal funding.

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Recommended Actions

Addressing the pressing challenges and opportunities confronting the nation requires more than a collection of crumbs. We must create the culture, tools, and resources that will enable the three levels of government to work collaboratively to address those problems and opportunities in a more comprehensive and coordinated manner.

1. Consider Saying No – Focus on National Issues

Not every problem requires a federal solution. The Congress and the new administration should focus their attention on issues that are truly national in scope and avoid the tendency to further complicate an overly complex intergovernmental system with a growing number of small and often uncoordinated or duplicative new programs.

2. Make Intergovernmental Collaboration a Priority

Collaboration is an unnatural act performed by unconsenting adults. Developing and maintaining a collaborative intergovernmental capacity to address critical issues requires a significant shift in organizational culture as well as changes in structures and processes to support that collaboration. Both the President and Congressional leadership should move quickly to signal that a renewed focus on intergovernmental collaboration is a clear priority. A strong, early, and public commitment to strengthening intergovernmental collaboration provides vital guidance on a variety of issues such as the need for the state and local involvement in the policy making process, the selection of key personnel, and the roles and responsibilities of intergovernmental staff.

3. Recognize State and Local Governments as Partners – Not Constituents

State and local officials have become viewed as merely another constituent group. Their participation in the development of rules and regulations is often constrained. The new administration should give priority to a review of the Administrative Procedures Act in order to identify changes that would facilitate the collaboration and consultation needed to identify and address issues critical to the effective implementation of its priorities.

4. Foster a Continuing Intergovernmental Dialogue

Finding comprehensive solutions to critical problems will begin with consultation among the three levels of government. In the past, federal, state, and local policy makers have had collaborative discussions to address major policy such as block grants, welfare reform, new federalism and education. While results have varied, the process has almost always led to a better understanding of both the problem and potential solutions. In many cases it has also led to broad-based, non-partisan support for an intergovernmental action agenda. The new administration should begin this process by articulating key policy challenges, identifying the key intergovernmental players and by inviting those players to actively engage in **92 Memos to National Leaders © 2016**

the policy making process. Congress can continue that process by assuring states and localities an opportunity to actively engage with members and staff as legislation is considered.

5. Strengthen and Reorient the President's Office of Intergovernmental Affairs and its Department Counterparts

The vast majority of intergovernmental communications takes place at the program level with state and local program administrators talking to their federal counterparts. At times, however, there are issues that require attention on a cross program basis or the involvement of a higher-level decision-maker.

The new administration should create strong intergovernmental affairs staffs in the Office of the President and at the Department level that are actively involved in the policy process and that can play a vital role in keeping intergovernmental issues and concerns before key decision makers. Their focus should be on policy and implementation rather than politics and constituent services. These offices might also be tasked with coordinating cross agency efforts to work collaboratively with states and localities.

6. Build and Maintain an Intergovernmental Database

Better intergovernmental data will help all three levels of government better understand the scope and scale of the issues to be addressed and the resources available at each level of government. Policy makers need a big picture view of the fiscal demands on state and local governments and the variances in fiscal capacity from jurisdiction to jurisdiction. They also need to more clearly understand the fiscal impact of federal policies on the capacity of state and local governments to meet their own responsibilities. In the past much of this information was collected and analyzed by the Advisory Commission on Intergovernmental Relations. While OMB and GAO have attempted to fill some of the gaps left by the demise of that organization, the new administration should undertake, in consultation with state and local officials, a comprehensive review of critical information needs and develop a plan for collecting and disseminating relevant data on a timely basis.

In addition, there is a growing body of empirical research available to support decision making. However, efforts to identify and evaluate effective programs is widely dispersed among the three levels of government and the foundation and academic community. Similarly, the administrative data that could help inform the decision making currently exists in silos and is not readily shared. The new administration should establish a cross agency initiative to facilitate the collection and dissemination of timely research and identify the steps needed to make meta data more readily available.

7. Consider States and Localities as Government Enterprises – Not Silos for Federal Funding

The federal government has begun to recognize that many of its administrative challenges can no longer be addressed within agency silos and is increasingly looking to enterprise level solutions. States and localities face many of the same challenges and also need to address them on an enterprise level. Unfortunately, doing so is made difficult, if not impossible, by the proliferation **93 Memos to National Leaders © 2016**

of uncoordinated administrative requirements imposed by the myriad of federal programs. The new administration should examine how closer coordination among the programs, agencies and departments at the federal level might allow states and localities to produce a more integrated and efficient delivery system.

8. Support Accountability and Transparency

Performance data is playing an increasingly important role in the management of programs at all levels of government. At the Federal level, the Government Performance and Accountability Act plays an important role in focusing agency and cross-agency attention on the administration's priorities and in holding responsible agencies and officials accountable for achieving them. A new administration should build on this experience consider how a similar approach might be applied to high priority intergovernmental initiatives. In addition, a new administration might consider convening federal, state and local officials to explore the potential for the better integration of cross-cutting state systems and individual program level performance measurement systems so as to better serve all three levels of government.

9. Provide Flexibility and Encourage Innovation

States and localities have long been seen as the laboratories of democracy. As such they are constantly testing new policies and innovative administrative practices. While the federal government will of necessity set program objectives and define target populations, a number of federal agencies have experimented with mechanisms to couple increased flexibility with clear accountability for result. The new administration should continue and expand federal efforts to allow states both to test new policies and more effective and efficient delivery



NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

Creating a Financial Market for Infrastructure and Economic Development “Partnership for Investing in America”

Mark Pisano

NAPA Fellow

January 2018

Introduction

There is political consensus around the need to renew and rebuild America’s infrastructure, and President Trump has identified this as a goal. But America lacks both the funding and the governance mechanisms to meet the challenges. This paper focuses on improving governance mechanisms, which will in turn promote enhanced funding. The new approach of creating urban and rural Public Finance Authorities (PFAs) provides a path to creating a market with sustained “deal flow” for large-scale private-sector funding of infrastructure and economic development that can assist this effort. It creates a national program by relying on public and private stakeholders at the local, regional, state and interstate levels to fund financially and politically viable projects made possible by governance structures and funding streams that bring organizations together in partnerships. Federal resources, programs and assets are used to incentivize and create these partnerships for infrastructure and economic investments to assist in meeting the needs of the nation. New partnership and funding streams (developed by the proposal in this paper) among federal, state and local governments and businesses create the marketplace. Even more important, the increase in economic activity and the improvements in the nation’s competitive advantage gained by reinvigorating and enhancing the supply chain regions (a combination of rural and urban states explained below) could regenerate the nation’s economy and alter the growth rate of the country.

A New Intergovernmental Approach: Creating Urban and Rural Public Finance Authorities

The essence of this program is funding streams, generated by those who benefit from these investments, that are bundled and coupled with existing federal programs by using availability payments structures (streams from existing programs) to pay the financiers of these investments (private and public) through innovative financing and procurement programs.

The economic benefits of creating urban and rural PFAs will emerge by engaging the key commercial interests at the local, regional, and state levels in choosing projects linked to business and employment in their region. Setting priorities through a more open, locally-driven process will reduce the project approval and implementation times by identifying key issues and finding solutions across the communities early in the process. Finally, the locally driven process provides a path in which there is more civic engagement tailored to the needs of communities rather than a reliance on the Federal level to drive the design and funding of projects.

- PFAs are authorities created by state or local agencies--including cities, counties, and special purpose districts--that create unified funding structures.
- PFAs, if implemented throughout the nation, can assist in funding the needed infrastructure and economic development investments that have a public purpose and the environmental mitigation needed to support the economic growth in both urban and rural regions of the nation.
- PFAs will create business plans with return on investment (ROI) calculations that show that benefits and increased value generated by the investments will generate the financial resources to cover the costs of achieving publicly established goals.
- They will access available capital, subject to a full risk analysis of the nature of this long term debt, by issuing securities in capital markets that are attractive assets for pension funds, insurance companies and private equity investors.
- Rather than the pay-as-you-go grant programs of the past intergovernmental system, this new partnership would call for federal participation as an investment participant with PFAs to increase the financial viability of the investment programs to accomplish desired public goals. Many critical federal assets are currently precluded from being part of intergovernmental partners.
- A unified infrastructure financing market enables the federal government to work in a new partnership with state, regional and local authorities. This change will assist, enhance and encourage investment programs to come forth and create a pipeline of investment opportunities.
- Attracting new funding sources on a large scale requires a broader approach to infrastructure investment, considering the full economic benefits to the community including the value created by the investments.
- Infrastructure investments and economic development also increase wealth within our communities, which can be utilized to fund these investments through value capture provisions. Forty-nine states currently have some form of value capture funding authority. The size of the value capture funding streams is surprisingly large and could significantly assist in meeting our national funding shortfall.

- By using funding streams and debt financing, time delays created by incremental grant and appropriation actions of legislative bodies can be eliminated.
- Planning methodologies need to be altered to include all beneficial use revenues, including capturing value from development and infrastructure improvements, and by forming business plans that align investment decisions with state, regional and local priorities.
- To mobilize and accelerate these partnerships, the federal government would incentivize the local, regional, state and inter-state agencies in the country to attract funding streams. Over the past decade, all states have created parts of the legal authority to do this, and California and New York are examples of using this approach.
- PFAs have the authority to enter into partnerships with the private sector to procure and implement these investment programs. This proposal takes what the innovators in our state experiments are doing and transforms them into a national effort.
- New technology and innovation which can reduce costs and solve existing problems can be more easily introduced with the goal/outcome approach of investment strategies that are supported by business plans.
- To be eligible for federal credit enhancement and financial assistance, the investment partners will be required to participate in two concurrent processes: environmental streamlining efforts that eliminate duplication between state and federal requirements, and use of performance criteria in their decision-making processes. The performance criteria include: transparency and consistency in value for money analysis, life cycle assessment of project risks and cost (including environmental and other impacts), asset management and maintenance schedules, multi-modal and multiple problem solving investments, multiple revenue streams including value capture, and maintenance funding (rainy day) set asides.
- Federal financial assistance spelled out in this proposal needs to be evaluated against other forms of federal debt issuances based on the greatest contribution to national interests and goals.

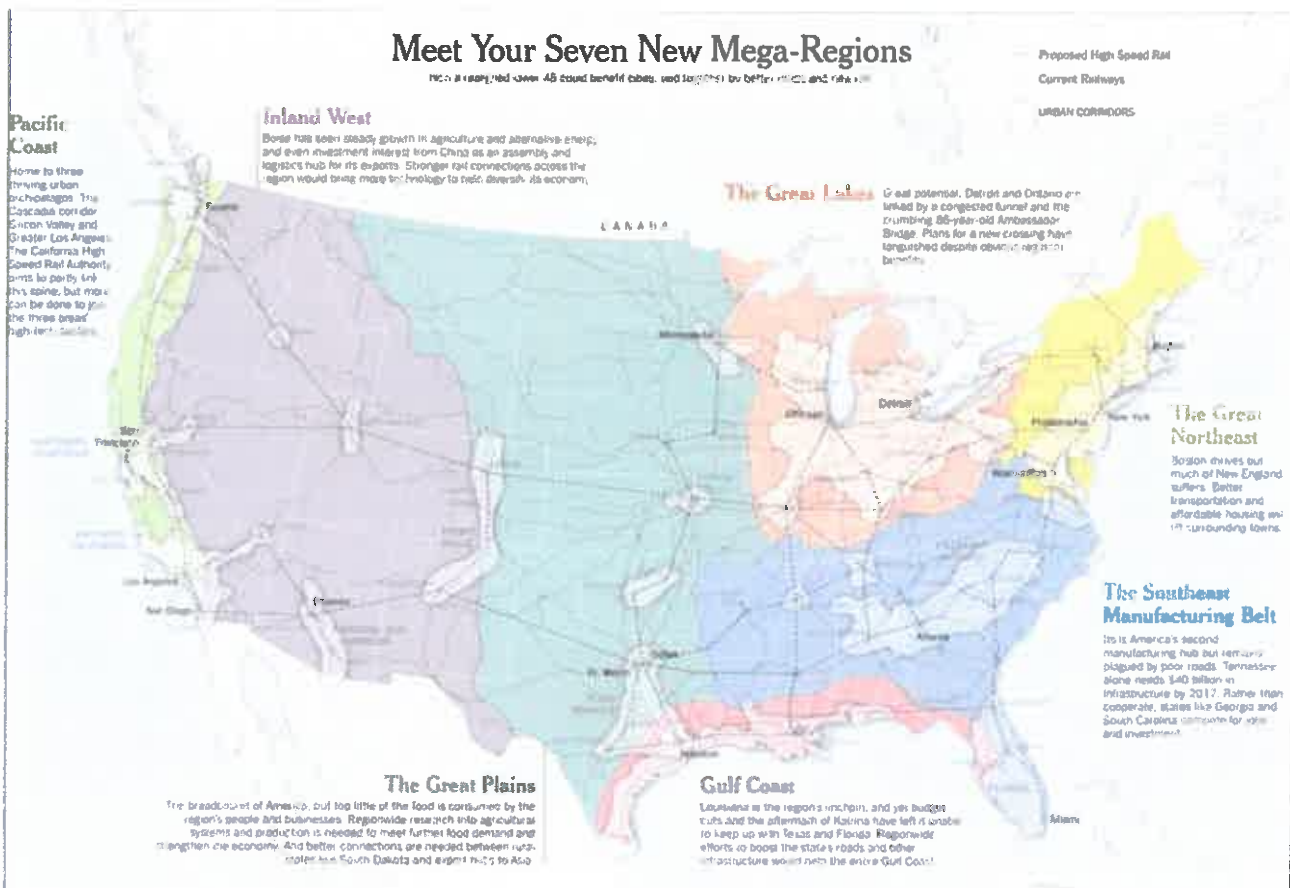
Supply Chain Focus to Spur Growth and Improve National Competitiveness

A critical issue in economic competitiveness is simply moving products and sales from one place to another over various types of infrastructure that supports the innovation of “just in time” production and marketing. Supply chain operations are central to modern business strategy for production and marketing. When companies are making long-term decisions about where to invest and hire, the quality of supply chain infrastructure plays a role in that decision. It can determine whether a U.S. firm can meet global prices and compete in the market. Driven by considerations of supply chain speed and reliability, company decision makers are working in an area where defects in infrastructure cannot be easily or quickly corrected.

Similarly, for governments interested in long-term planning to attract industry, the quality of supply chain infrastructure plays a critical role. As a general matter, the local companies and their suppliers in an area know well where the problems in infrastructure occur, and they need to be engaged early in setting the priorities for infrastructure investment. By bringing these kinds of decisions and expertise into settings like PFAs, particularly inter-state supply chain regions, it is possible to make decisions that maximize the infrastructure investment’s commercial benefits and ensure as well that the full range of

community, development, quality of life, environment, and other interests in the community and region are included early in the process. The PFA concept enhances the value of the chosen investments by providing a path to secure broad public support for a project, backed by a business plan for the investment that links to commercially viable business plans focused on building a community's place in global supply chains

- Federal Legislation which enables states to establish interstate PFAs if they bring forward investment programs and business plans that fund the investments would provide a framework to address this national problem. California's PFA legislation could be used as a template for this legislation.



Advantages of This Governance Approach:

- Attracts capital on a larger scale from investors: pension plans both public and private, insurance, private equity and debt, and international funding sources that are interested in long-term, yield oriented, low-inflation risk or performance based assets.
- Effectively links the much-needed funding with project deal flow, efficiently generated at the local, regional and state(s) level.

- Establishes a unified national infrastructure market place linking 78% of infrastructure projects that are currently planned, permitted and financed at the sub-national level with federally financed programs, assets and lands.
- Standardizes and pools projects across sectors and currently separated programs, and creates larger, recurring, predictable deal flow.
- Lowers financing costs.
- Balances federal involvement with new technology, competition, regional innovation, and priorities using a bottom-up approach.
- Requires a performance based evaluation process to determine priorities and the optimum financing methodology.

A New Relationship with the Federal Government

Existing federal programs require state, regional and local entities to prepare plans and programs for use of federal and state funds. These programs and capacity will be complemented by this new initiative, as it alters the planning and decision-making of the existing processes by introducing business plans where benefits are calculated as revenue streams that will amortize life cycle costs. Adopting this approach will enable financially viable procurements to be developed.

Congressional Actions:

- Alter existing planning and programs to include **performance incentive grants** to prepare business plans that demonstrate how existing programs and new beneficial use funding streams can be used, including pricing and value capture from development activities.
- Alter procurement approaches for **federal assets (e.g., FAA NextGen Air Traffic Control; Army Corps Water Resource Projects, GSA Buildings)**, enabling them to become partners in the investment strategies instead of separate and, at times, disjointed activities. Additionally, the budgeting and scoring provision would be altered to allow them to be part of financing structures.
- Certain projects with large spillover effects in both rural and urban areas will need additional federal support. Existing authorized qualified tax credit bonds that are strategically utilized will enable business plans with large spillover effects to become viable.
- Similarly, some investment programs have high capital costs but are necessary investment programs that lower risk profiles or need to be combined with investments that receive preferential treatment under existing IRS rules. To level the playing field an **enhanced activity bond program** is suggested.
- Experience to date has shown that without **federal participation in financing**, take-out financing on large projects will have low market interest and the cost of capital becomes very high. Given the size of the investment portfolios that could be developed, this element of the program is essential. A **strengthened format for federal credit enhancement** is suggested that would enable the eight existing programs to be coordinated, allowing integration and streamlined administrative process.
- States should be empowered by Congress to be able to **establish multi-state regional PFAs** that are authorized to receive federal incentive/planning grants and federal long term credit enhancement loans, matched with private capital, for regional investment grade rated projects. The pre-approval provision for a multi-state projects contained in the State Infrastructure Bank

legislation, if expanded and including the multi-state environmental streamlining of the FAST Act, could be a point of departure for Congress.

Executive Actions:

- Federal departments and agencies would continue to make **planning/seed grants** and provide project assistance under their existing programs. Additionally, they would utilize the suggested tools to incentivize states, regions and localities to create PFAs. Governors and legislatures should be encouraged to pass legislation in those states that do not have Public-Private Partnership laws and PFA legislation (New York and California could be used as templates for PFAs), so that all states and localities can take advantage of these provisions.
- The **Department of the Treasury would be the credit enhancement/lending platform** (Fund or Authority) wholesaler and take the lead in creating “real deal flow” for infrastructure financing. Treasury would create “loans to funders” for the PFAs like the “loans to lender” format for housing. Congressional authorization and Executive Order clarification will be needed for existing programs.

By creating public authorities that can leverage beneficiaries’ contributions to (i.e., payments for) infrastructure financing, this proposal would help bring local, state, regional, and private funds to complement federal funding streams devoted to infrastructure. Beneficiary financing could include user fees and tax increment financing as well as other forms of revenue, such as the sales, gasoline or general revenues that states and localities have used to support infrastructure programs. These financing structures should be evaluated against several criteria that address impact on national debt, existing capital markets where a hybrid instrument might drive investor uncertainty, the Treasury bond/bill market issuance requirements and an assessment of the best approach to align use of federal instruments with achieving national goals and objectives.

**The U.S. Emergency Management System:
The Need for Intergovernmental Cooperation**

Kay C. Goss, CEM
Gregory C. Devereaux, CEM

January 2018

The number, diversity, and magnitude of disasters in the U.S., both natural and human-made, are increasing. For natural disasters, alone, there was more than \$305 billion in damage in the United States in 2017, making it the most expensive year on record for natural disasters in the nation. Because each disaster, by its very nature, is unique, different protocols, responders, and funding methods cause some significant challenges during all phases of emergency management. Yet, all disasters have commonalities with respect to intergovernmental relations. With natural disasters, the role of the Federal government in preparedness and recovery, and how it interacts with state and local governments, is relatively well developed, but still needs improvement. With human-made disasters, such as terrorist attacks or acts of mass violence, the intergovernmental path is bifurcated and disjointed, making it difficult, if not impossible, for local governments to navigate. The interacting network of institutions at national, state and local levels of government must be improved to enable government to act in a more coherent manner to mitigate the impact of all types of disasters.

Natural and Human-made disasters: The Intergovernmental Path

The locus of all disasters is local. If a local government is unable to handle a disaster on its own, it notifies the state that it needs state and/or federal assistance. For natural disasters, the Governor's Office, in conjunction with the State Emergency Management Department or Homeland Security Department, notifies the President and FEMA of the need for Federal assistance. The President, with advice from FEMA, decides whether to provide or deny federal assistance. When a decision is made to provide assistance, the President declares the disaster site to be a "federal disaster area." This declaration enables FEMA to provide individual assistance and aid to public entities from the National Disaster Relief Fund, as authorized by the Stafford Act. This Act provides the statutory authority for most Federal disaster response activities pertaining to FEMA assistance programs.

If the disaster is a human-induced event, the disaster site is declared a crime scene by the Federal Bureau of Investigation and then handled by the Department of Justice and the Department of Homeland Security. The Federal government's role in recovery from human-made disasters has been primarily situational, leaving traumatized local communities to figure out which agency is in charge, what assistance might be available, and whom to contact for help, unless the incident is of sufficient magnitude to warrant either a Presidential Declaration of Disaster or an Emergency Declaration. The following two incidents illustrate the nature of some of the gaps that exist in the current intergovernmental system for both natural and human-made disasters.

A Natural Disaster: Louisiana Flooding

In August 2016, devastating floods hit 20 Louisiana parishes, dumping up to 6.9 trillion gallons of water over the area during a course of 48 hours. Thirteen people died in the flooding

and 30,000 people were rescued – by firefighters, law enforcement officers, the Coast Guard and National Guard, search and rescue teams, and neighbors equipped with personal boats. This disaster caught people off guard, many without flood insurance since their homes were not located in a flood zone. Flood insurance is provided through the U.S. Flood Insurance Program and administered by the Mitigation Directorate of FEMA.

FEMA could not deploy its traditional strategies on rental assistance for re-housing because the disaster left no habitable homes available for rent, much like the ongoing recovery efforts in Puerto Rico and the Virgin Islands. In Louisiana, FEMA helped homeowners to clean out and repair their premises, offering grants of up to \$33,000. These grants came after the local governments declared to the State that the disaster was beyond their capability to respond and recover. The State, in turn, notified FEMA and the President that it was beyond its capability to handle response and recovery, as well. FEMA Recovery Centers were established in each of the 22 parishes suffering devastating losses.

Although assistance for natural disasters has been evolving rapidly at all levels of government, the emphasis has primarily been on preparedness, mitigation, prevention, and response. Assistance during the recovery phase has received less emphasis although, in most cases, expenditures in any phase of emergency management helps in the other phases. For example, every dollar invested in mitigation eventually saves up to five dollars or more in disaster response costs and even more in recovery costs. The same is true for time and funding invested in preparedness activities, such as planning, training, exercises, technology upgrades, standards, certifications, and accreditations.

A Human-made Disaster: The San Bernardino County Terrorist Attack

On Wednesday December 2, 2015 in San Bernardino County, CA, a Public Health Department Environmental Health Services worker opened fire on his fellow employees killing 14 people, injuring 24 and traumatizing another 35. His wife was his accomplice. The FBI determined that this was an act of terrorism. Over the next few months, it became clear that state and federal emergency relief programs did not meet the needs of local government agencies for incidents such as this. For instance, forms from the California Office of Emergency Services (OES) for reporting damage estimates and reimbursement do not have categories for many of the types of expenses associated with such an incident. Nor does FEMA have a mechanism for post terrorism reimbursement.

Of the more than \$24 million in expenses related to the San Bernardino attack less than \$5 million will have been reimbursed. Costs that may not be covered include those associated with closure of non-essential facilities for safety reasons, relocation of traumatized EHS employees to other work locations, remodeling existing Environmental and Health Services (EHS) workspace to remove emotional triggers, and heightened security upon the reopening of County offices. Other costs that may not be covered include those associated with organizational

liaisons who provided single points of contact for the families of the deceased, and management and administrative time devoted to the incident and its aftermath.

There is a need for a more highly defined structure and clearer commitment of federal resources to reimburse local response costs for recovery expenses, unique to terrorist attacks and other acts of mass violence, deaths, and destruction. The lack of clearly defined programs and sources of assistance and the difficulty in identifying and accessing them, when coupled with the prescriptive manner by which most funds are provided, leads to a situation in which local jurisdictions are left fending for themselves and feeling unsupported.

Recommendations

- The intergovernmental emergency management system should be clear, seamless and work equally well in all phases of a disaster, whether it is natural or human-made. The necessary preparedness, mitigation, response, and recovery should be a rigorous and coordinated intergovernmental, interagency, and interdisciplinary effort with regards to planning, training, exercising, technology, and standards.
- With few exceptions, disaster response and recovery, regardless of the nature of the emergency, should be built on FEMA's all-hazard approach on an intergovernmental, interagency, and interdisciplinary basis encompassing in-depth planning, training, exercises, standards, accreditations, and certifications.
 1. The federal government should identify an agency that would be authorized and funded to create a single point of contact for information about grants and assistance, with staff acting as “navigators” for jurisdictions impacted by acts of mass violence or terrorism.
 2. That agency should be authorized and funded to conduct a series of tabletop exercises with responsible federal departments and agencies and representatives from state and local jurisdictions that have experienced terrorist attacks or cases of mass violence.
 3. That agency should be authorized and funded to develop a “Go Team” available for immediate deployment in the event of a local terrorist attack or case of mass violence, responsive in the same way that FEMA historically has been for natural disasters and, similar to the National Transportation Safety Board (NTSB) accident investigation teams. One of the Go Team's tasks would be to help local jurisdictions with the documentation necessary for cost recovery. Although this approach should also be examined for natural disasters, it may not be necessary since local jurisdictions are much more familiar with how and from whom to access resources.
 4. A federal government interdepartmental task force should be formed to determine whether there are existing programs or new programs that should be developed, with support and funding from DHS, to ensure that communities experiencing terrorist attacks emerge economically whole.

5. In response to human-made disasters, FBI Victim specialists should work and coordinate more closely with local jurisdictions that are caring for the victims in their states or communities, so that it becomes a seamless process.
- For both human-induced and natural disasters, the recovery phase must be better funded by Congress and DHS, for FEMA, states, tribes, and local governments. At the federal level, Congress and DHS should ensure that FEMA has the necessary support/funding to drive robust recoveries after mega-disasters, as well as other more frequent disasters.
 1. The federal government should expand awareness of best practices at state and local levels that mitigate the burdens of response and recovery by promoting well-coordinated outcomes of increased resiliency, enhanced risk management, and improved stewardship of financial resources.