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PRESIDENT BIDEN'S $2 TRILLION INFRASTRUCTURE PLAN
AN ANALYSIS FOR THE CONSTRUCTION INDUSTRY

On March 31, 2021, President Biden unveiled some details of his $2 trillion "physical" infrastructure plan, **found here**. The plan would provide significant construction investment in a wide variety of infrastructure, including but not limited to transportation, drinking water and wastewater, broadband, energy, housing, schools and childcare centers, broadband, and more.

With these investments, however, President Biden proposes attaching a wide variety of labor policies of concern to the construction industry, including:

- **The PRO Act**—the greatest threat to both union and open-shop construction in decades (for more information on the PRO Act, **click here**, and to register for a free webinar on the PRO Act's impact on the construction industry, **click here**);
- Requirements for the use of project labor agreements;
- Local (geographical) hiring mandates; and
- Registered apprenticeship requirements, among others.

To finance the new investments, at least in large part, President Biden's plan would **increase the corporate tax rate**, which **could limit the ability of many businesses to invest in capital construction** improvements. **Increased taxes on pass-through businesses, individual tax rates, estate taxes, capital gains taxes, and payroll taxes, are expected** in the next "human infrastructure" package to be released in the near future.

The plan would also **prioritize workforce investments with a historic $100 billion in dedicated funding**. The combining of workforce investments and infrastructure investments has long been an AGC of America priority.

The plan additionally promises to attach **Buy America requirements** that mandate the purchase of domestic goods and materials for incorporation in construction projects. Such a requirement would come as the nation is facing severe domestic and global supply chain issues and a broad range of **construction materials face significant price increases and shortages.** (**Click here** for AGC's recent construction inflation alert.)

President Biden would **advance his campaign promises to address climate change, racial equity, and environmental justice** in a host of ways. The president puts forth details for the nation reach 100 percent carbon-free electricity by 2035 and realize net-zero emissions by 2050. The plan would also provide funds to redress historic infrastructure investments, invest in resilient infrastructure in disadvantaged communities, and prioritize stakeholder engagement in federal permitting decisions.

This AGC document provides a broad, non-exhaustive analysis of the information released on the Biden infrastructure plan and categorizes information in the plan as follows:

- **One-page breakdown of construction investment by infrastructure market**
- **Policies impacting public and private construction markets;**
- **Tax and fiscal policies impacting construction firms; and**
- **Policies impacting the construction workforce.**

It is important to note that the information put forth by the Administration is in a "Fact Sheet" form that provides limited insight into the plan. It does not present a level of detail that legislative text would provide. Readers, consequently, must understand that the information in the plan and this analysis are subject to change and may make assumptions (for which AGC staff tries to explicitly identify in this document). AGC staff will provide further updates as more details and/or legislation are revealed.

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Construction Markets Investment in Biden Infrastructure Plan

Transportation Construction Markets Investment	
Roads & Bridges	$115B
Roadway Safety	$20B
Electric Vehicle Manufacturing	$174B
Public Transit	$85B
Passenger & Freight Rail	$80B
Airports	$25B
Waterways & Ports	$17B
Transportation Equity	$20B
Regionally/Nationally Significant Projects	$25B
Infrastructure Resilience	$50B
Utility Infrastructure Construction Markets Investment	
EPA Drinking Water State Revolving Fund and Water Infrastructure Improvements for the Nation Act (WIIN) grants	$45B
Drinking water, Wastewater, and Stormwater systems	$56B
PFAS remediation, rural small water systems, household well and wastewater systems	$10B
Broadband	$100B
Energy	$100B
Building Construction Markets Investment	
Affordable & Sustainable Housing	$213B
Public Schools	$100B
Community Colleges	$12B
Child Care Facilities	$25B
Veterans' Medical Hospitals and Clinics	$18B
Laboratories	$40B
Federal Buildings	$10B

NOTE: It is unclear if several of the tax incentives put forth for infrastructure construction investment are included in some of these dollar figures or not.

POLICIES IMPACTING PUBLIC & PRIVATE CONSTRUCTION MARKETS

Transportation Construction Markets ($621 Billion)

President Biden is proposing $621 billion in "additional" investment in transportation infrastructure. It is worth noting the dollar amounts included below can vary, as some investment would come in the form of dedicated federal funding explicitly noted while other investments rely on tax credits without specifying the dollar value of those credits. While it is unclear in the plan, **AGC is assuming after follow-up conversations, that this is "additional" investment meant to represent an increase in spending over current levels of funding where there are existing federal transportation programs**, such as the federal-aid highway and public transit programs.

The proposal does not clearly specify when various portions of the investments would be allocated (e.g., one-time, immediately or over multiple years) **and it does not specify what the federal share of funding would be** (e.g., 80% federal and 20% non-federal, 90% federal and 10% non-federal, or 100% federal). In addition, AGC staff has learned that this plan makes the assumption that there is a 5-year surface transportation reauthorization at current funding levels (as in the FAST Act). AGC will continue to track this and provide updates as necessary.

- Highways, Roads and Bridges ($115 billion):
  - These funds would be used to "modernize" 20,000 miles of highways, roads, and main streets, "fix or reconstruct" the most economically significant large bridges in the country and "repair" the worst 10,000 smaller bridges. The focus would be on "fixing them first" **which implies they are trying to limit the addition of new highway, road or bridge capacity.**
  - This language appears to be in line with House Democrats' 2020 federal-aid highway and transit reauthorization bill—the INVEST Act—that will likely be the starting point for congressional negotiations on a reauthorization bill this year. The INVEST Act focuses on **fixing existing roadways while placing restrictions on or excluding eligibilities for expanding roadway capacity**. Click the following links for an AGC **overview** and **full analysis** of the INVEST Act.
  - At the initial glance this appears to be a huge increase of 46% for the overall highway program but it pales in comparison to the increase of 186% for transit programs and 584% for passenger rail programs. As part of COVID relief, Congress has already provided nearly $70 billion to transit agencies compared to $10 billion to state department of transportation for highways.
  - According to the ***Washington Post***: "Many economic experts agree that significant investments in roads, bridges, and other infrastructure is necessary for the country's long-term health, and spending when interest rates are this low is a wise idea. But **some were surprised to see that only about 5 percent of the bill is directed toward roads and bridges**, and they question why the administration is mixing other types of policies into a bill designed to upgrade the nation's infrastructure."
  - The plan states that this will "improve air quality, limit greenhouse gas emissions, and reduce congestion," which implies that the money will be targeted towards the Congestion Mitigation and Air Quality Improvement program.

- Roadway Safety ($20 billion):
  - These funds will be used to improve road safety for all users, including increases to existing safety programs and a new Safe Streets for All program to fund state and local "**vision zero**" plans and other improvements to reduce crashes and fatalities, especially for cyclists and pedestrians.
  - The Safe Streets for All program could be largely based off of the initiatives put forth by the **National Complete Streets Coalition**—a program of Smart Growth America—in which the **City of South Bend**, Indiana—home to former mayor now U.S. Department of Transportation Secretary Pete Buttigieg—participates.

- Electric Vehicle Manufacturing ($174 billion):
  - Though **mostly geared towards the manufacturing—not construction—sector**, these funds would go, in part, towards **grant and incentive programs to build a national network of 500,000 electric vehicle charging stations** by 2030.

- Public Transit ($85 billion):
  - These funds would **provide investment in buses, rail cars, stations and track in need of replacement as well as expanding transit capacity** to meet rider demand. While the relation to current funding levels for federal transit programs is also unclear, the proposal notes that it would "double" current funding levels for these projects.
  - The plan is explicitly allowing transit systems to expand capacity while stressing ""fix it first"" for roads and bridges. House Democrats' INVEST Act (referenced above) not only significantly increases funding for transit, but also creates eligibilities within the federal-aid highway program for public transit and multimodal projects and creates new eligibilities for intercity passenger rail (e.g., Amtrak). While the Biden Plan does not specifically reference such new eligibilities, it remains possible for Congress to consider a similar approach that may come at the expense of meeting the core mission of the federal-aid highway program.

- Passenger and Freight Rail Service ($80 billion):
  - These funds would be used to address Amtrak's repair backlog; modernize the high traffic Northeast Corridor; improve existing corridors and connect new city pairs; and enhance grant and loan programs that support passenger and freight rail safety, efficiency, and electrification.

- Airports ($25 billion):
  - These funds would be used for the **Airport Improvement Program**, upgrades to FAA assets that ensure safe and efficient air travel, and a new program to support terminal renovations and multimodal connections for car-free access to air travel.

- Inland Waterways, Coastal Ports, Land Ports of Entry, & Ferries ($17 billion):
  - The plan does not clearly specify how these funds would be utilized, with one exception: a Healthy Ports program to mitigate the cumulative impacts of air pollution on neighborhoods near ports, often communities of color.

- Transportation Equity ($20 billion):
  - These funds would be used towards "a new program that will reconnect neighborhoods cut off by historic investments and ensure new projects increase opportunity, advance racial equity and environmental justice, and promote affordable access."

- Regionally or Nationally Significant Projects ($25 billion):
  - These funds would be dedicated to support "ambitious projects that have tangible benefits to the regional or national economy but are too large or complex for existing funding programs"
  - This proposal sounds similar to the 2018 Trump administration infrastructure plan's "**Transformative Projects Program**."

- Infrastructure Resilience ($50 billion):
  - These funds would be used for FEMA's **Building Resilient Infrastructure and Communities** program, HUD's **Community Development Block Grant** program, new initiatives at the Department of Transportation, a **bipartisan tax credit** to provide incentives to low- and middle-income families and to small businesses to invest in disaster resilience, among other things. These investments would also be used to build back above existing codes and standards.

<u>Utility Infrastructure Construction Markets ($310 Billion)</u>

The Biden Infrastructure Plan proposes investing $110 billion to upgrade and modernize drinking water, wastewater and stormwater systems; $100 billion to install and build high-speed broadband infrastructure to reach 100 percent coverage; and $100 billion to improve energy infrastructure. How those funds would be invested are outlined below.

- <u>Drinking Water, Wastewater and Stormwater Systems ($110 billion):</u>
  - These funds would be invested as follows: **$45 billion** in the Environmental Protection Agency's **Drinking Water State Revolving Fund** and in **Water Infrastructure Improvements for the Nation Act (WIIN) grants** to replace 100 percent of the nation's lead pipes and service lines; $**56 billion** in grants and low-cost flexible loans to states, Tribes, territories, and disadvantaged communities to modernize these systems by scaling up existing, successful programs; and **$10 billion** in funding to monitor and remediate PFAS (per- and polyfluoroalkyl substances) in drinking water and to invest in rural small water systems and household well and wastewater systems, including drainage fields.

- <u>Broadband ($100 billion):</u>
  - There are no details in the plan that would inform how these funds would be broken down, as it contemplates funds for **100 percent high-speed broadband coverage** and reducing the cost of broadband internet service, among other things.

- <u>Energy ($100 billion):</u>
  - *Tax Credits and Federal Procurement*
    - Includes the creation of a targeted investment tax credit that incentivizes the buildout of at least 20 gigawatts of high-voltage capacity **power lines and mobilizes tens of billions in private capital** off the sidelines – right away. There is no indication of how much this could cost.
    - Calls for a **ten-year extension and phase down of an expanded direct-pay investment tax credit and production tax credit for clean energy generation and storage**. There is no indication of how much this could cost.
    - Includes **clean energy block grants** that can be used to support clean energy, worker empowerment, and environmental justice. There is no indication as to how much funding would be dedicated to these grants.
    - Promises to **use the federal government's incredible purchasing power to drive clean energy deployment** across the market by purchasing 24/7 clean power for federal buildings. There is no indication of how much this could cost.
  - *Plugging Orphan Oil and Gas Wells and Cleaning Abandoned Mines*
    - President Biden's plan includes an immediate up-front investment of **$16 billion plugging oil and gas wells** and **restoring and reclaiming abandoned coal, hardrock, and uranium mines**. This is likely a carrot to entice moderate Democrats—like Sen. Joe Manchin (W.Va.)—and Republicans—like Sen. Lisa Murkowski (Alaska)—among others.
  - *Brownfield and Superfund Remediation*
    - **$5 billion** investment in the **remediation and redevelopment of Brownfield and Superfund sites.**
    - After those sites are clean, the plan promises to bring those impacted communities new critical physical, social, and civic infrastructure. This means investing in the Economic Development Agency's Public Works program (while lifting the cap of $3 million on projects) and in "Main Street" revitalization efforts through HUD and USDA. How much would be dedicated toward these efforts is not clear.
    - The plan also proposes targeted sustainable, economic development efforts through the **Appalachian Regional Commission's POWER grant program**, Department of Energy retooling grants for idled factories (through the Section 132 program), and dedicated funding to support community-driven environmental justice efforts. How much would be dedicated toward these efforts is not clear.

- *Clean Industrial Pilot Projects*
    - Proposes **15 decarbonized hydrogen demonstration projects** in distressed communities with a new production tax credit. How much would be dedicated toward these projects is not clear.
    - Would establish **ten pioneer facilities** that demonstrate carbon capture retrofits for large steel, cement, and chemical production facilities. How much would be dedicated toward these projects is not clear.
    - The plan proposed reforms and expands the **Section 45Q tax credit**, making it direct pay and easier to use for hard-to-decarbonize industrial applications, direct air capture, and retrofits of existing power plants.

Building Construction Markets ($418 Billion)

The Biden Infrastructure Plan proposes investing $213 billion in housing, $100 billion in public schools, $12 billion in community colleges, $25 billion in child care facilities, $18 billion in Department of Veterans Affairs hospitals and medical clinics, $40 billion in laboratories and $10 billion in federal buildings.

- Affordable and Sustainable Housing ($213 billion):
    - Proposes to produce, preserve, and retrofit more than **a million** affordable, resilient, accessible, energy efficient, and electrified **housing units** through targeted tax credits, formula funding, grants, and project-based rental assistance. How much would be dedicated toward these efforts is not clear.
    - Proposes to **build and rehabilitate more than 500,000 homes** for low- and middle-income homebuyers. President Biden is calling on Congress to take immediate steps to spur the construction and rehabilitation of homes for via the enactment of the **Neighborhood Homes Investment Act (NHIA)**, which offers $20 billion worth of NHIA tax credits over the next five years.
    - Proposes to upgrade homes through block grant programs, the Weatherization Assistance Program, and by extending and expanding home and commercial efficiency tax credits. How much would be dedicated toward these efforts is not clear.
    - Proposes **$40 billion** to improve the infrastructure of the **public housing system**.
    - Proposes to establish a **$27 billion clean energy and sustainability accelerator to mobilize private investment** into distributed energy resources, **retrofits of residential, commercial and municipal buildings and clean transportation.**

- Public Schools ($100 billion):
    - The plan would invest $100 billion to upgrade and build new public schools, through **$50 billion in direct grants and an additional $50 billion leveraged through bonds**.
    - These funds will first go toward making schools are safe and healthy places of learning, for example by improving indoor air quality and ventilation. The funds would also be used to invest in, energy-efficient and electrified, resilient, and innovative school buildings with technology and labs.
    - Interestingly, the plan proposes **$30 billion less than a bill** introduced in Congress and included in the $1.5 trillion infrastructure bill House Democrats passed in July 2020.

- Community Colleges ($12 billion):
    - States will be responsible for using the dollars to **address both existing physical and technological infrastructure needs** at community colleges and identifying strategies to address access to community college in education deserts.

- Child Care Facilities ($25 billion):
    - The plan would provide **$25 billion to help upgrade child care facilities and increase the supply of child care** in areas that need it most. Funding would be provided through a Child Care Growth and Innovation Fund for states to build a supply of infant and toddler care in high-need areas.
    - The plan also calls for an **expanded tax credit** to encourage businesses to build child care facilities at places of work. **Employers would receive 50 percent of the first $1 million of construction costs per facility**.

- Veterans Hospitals and Medical Clinics ($18 billion):
  - The funds would be used to modernize these Department of Veterans Affairs facilities. The plan notes that such new construction investments would come with federal requirements to utilize low carbon construction materials and clean power.

- Laboratories ($40 billion):
  - This funding would be used for upgrading research infrastructure in laboratories, **including brick-and-mortar facilities** and computing capabilities and networks.

- Federal Buildings ($10 billion):
  - This funding would invest in the modernization, sustainability and resilience of federal buildings, including through a **Federal Capital Revolving Fund** to support investment in major purchase, construction or renovation of federal facilities. The plan notes that such new construction investments would come with federal requirements to utilize low carbon construction materials and clean power.
  - The Trump administration also **proposed this** in its 2018 infrastructure plan.

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TAX & FISCAL POLICIES IMPACTING CONSTRUCTION FIRMS

The infrastructure investment included in the plan would be funded through a **variety of broad tax increases**, primarily aimed at multinational corporations, but that would also **impact domestic C-corporations, including some construction firms. Increased taxes on pass-through businesses, individual tax rates, estate taxes, capital gains taxes, and payroll taxes, are expected** in the next "human infrastructure" package to be released in the near future.

The primary funding mechanism would be to **increase the corporate tax rate from the current 21 percent rate to 28 percent**. This is in line with **President Biden's campaign tax plan**, as well as a proposal from the Treasury Department under the Obama administration. Additionally, the proposal would significantly tighten a number of international tax enforcement provisions created as part of the 2017 Trump tax cuts law (the Tax Cuts and Jobs Act), such as taxes on **Global Intangible Low-Taxed Income** (GILTI), and **a significantly expanded budget for tax enforcement through the Internal Revenue Service (IRS).**

While user-fee based systems can provide long-term infrastructure investment sustainability, many of the spending provisions contained in the Biden Infrastructure Plan go much further than traditional "infrastructure" spending. While it would be appropriate for some of this spending to be funded through general revenue, **it is unclear what the reaction from broader business community will be to these proposed tax increases**. The Tax Cuts and Jobs Act reduced the corporate tax rate from 35 percent to 21 percent, but the reduction in rates was largely "paid for" by eliminating tax preferences applicable to all businesses. Indeed, **the proposed increase in the corporate tax rate will impact many construction firms, likely resulting in a higher effective tax rate than they paid prior to 2017.**

Additional tax provisions mentioned (but not specified in detail) in the Biden Infrastructure Plan are tax incentives for affordable housing, financing school construction, and domestic manufacturing. We expect that further detail on these incentives will be revealed as further information about the plan is released.

POLICIES IMPACTING THE CONSTRUCTION WORKFORCE

The intent of the Biden Infrastructure Plan is to prioritize that construction investments are made with strong labor standards and prevailing wages built by union workers. The inclusion of the PRO Act, which upends decades of federal labor law policy in favor of unions, makes the preference for union workers clear. However, the scope and extent of these provisions are generally unclear from the materials publicly available.

If the legislation tracks closely to the $1.5 trillion infrastructure bill passed by House Democrats in July 2020, some programs could see specific labor standards and provisions while other programs could be silent on new requirements. But, **the inclusion of the PRO Act would impact all construction markets and employers regardless of their affiliation with unions or markets by creating an environment of labor instability that no employers have seen since the 1930s.** Expected labor provisions include but are not limited to:

- Dozens of harmful policies within the PRO Act, requirements for project labor agreements, local hire mandates, and registered apprenticeships requirements;
- New clean energy markets facing the greatest number of new labor provisions;
- Affordable housing programs including new labor protections, including PLAs requirements;
- Requirements that employers have a union neutrality policy on organizing; and
- Providing new funding for enforcement agencies to increase penalties and enforce wage, discrimination and safety rules and laws.
- $100 billion commitment to workforce development programs targeting newly dislocated workers, vulnerable populations with emphasis on registered apprenticeship and pre-apprenticeship programs. Plan makes new investments and partnerships with community colleges to deliver job training.