



Equity and Environmental Justice

Infrastructure Investment and Jobs Act Advisory Services Policy Brief #5

The Infrastructure Investment and Jobs Act (IIJA) is more than a \$1.2 trillion investment in infrastructure. The IIJA also incorporates significant policies that affect our most vulnerable and underserved communities and the systems used for mobility and access to employment, healthcare and other daily needs. The IIJA supports safe drinking water, clean water in the environment, and broadband connections for those without reliable internet. It promotes minority businesses and pushes the consideration of minority, low-income, and disadvantaged populations and communities to the front of agency planning decisions. Equity and environmental justice policy objectives are advanced across IIJA programs through new or expanded funding authorizations, broader program considerations, and specific eligibility criteria.

The IIJA contains specific equity and inclusion language, program criteria and funding to implement the policy direction established by President Biden through various executive orders (EO). Familiarity with the EOs provides important context to the equity elements included in the IIJA. This policy brief summarizes the ongoing efforts by the Biden administration and discusses portions of the IIJA that address environmental justice and equity considerations, providing a holistic evaluation of the current policy landscape and how the renewed national conversation in this area informs federal funding decisions.

About HDR's Advisory Services

The Advisory Services team has over 250 management consultants with premium, strategic advice that is rooted in the practical, solid-state service that our infrastructure clients around the world have come to expect. We have expertise in funding and finance, economics and decision analysis, strategic planning and policy, sustainability and resiliency, strategic communications and business improvement.

HDR's Advisory Services professionals review infrastructure policy developments and prepare summaries of key provisions to help keep our clients informed of the changing landscape in Washington, D.C.

Background

In 1994, President Clinton issued [EO 12898 - "Federal Actions to Address Environmental Justice in Minority and Low-Income Populations,"](#) directing federal agencies to consider how their actions may disproportionately and adversely affect low-income and minority populations. Since the EO, federal agencies have made environmental justice considerations a foundational part of their planning processes, but more can be done.

Biden Administration Initiatives

Since his inauguration, President Biden has also emphasized Equity and Environmental Justice, signing [EO 13985 - Advancing Racial Equity and Support for Underserved Communities through Federal Government](#), and [EO 14008 - Tackling the Climate Crisis at Home and Abroad](#). EO 14008 establishes the government-wide *Justice40* Initiative.

Executive Order 13985

President Biden commits the federal government to pursuing a comprehensive approach to advancing equity for all, including "people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality." EO 13985 does the following:

- Directs federal agencies to conduct equity assessments to evaluate whether their policies "produce racially inequitable results when implemented, and to make the necessary changes to ensure underserved communities are properly supported."
- Creates the Equitable Data Working Group, recognizing that good data and access to it is fundamental to informing forward action. The administration recognizes that "many [f]ederal datasets are not disaggregated by race, ethnicity, gender, disability, income, veteran status, or other key demographic variables." The working group will support agency efforts to expand and refine available data to better measure and advance equity.

Executive Order 14008

Through EO 14008, President Biden further commits the federal government to equity and environmental justice by:

- Directing federal agencies to develop programs, policies, and activities to address the disproportionate health, environmental, economic, and climate impacts on disadvantaged communities.
- Creating a White House Environmental Justice Interagency Council and a White House Environmental Justice Advisory Council to prioritize environmental justice and ensure a comprehensive governmental approach to addressing current and historical environmental injustices.

- Creating the **Justice40 Initiative** with the goal of delivering 40 percent of the overall benefits of relevant federal investments to disadvantaged communities and establishing the Environmental Justice Scorecard to track agency performance toward the 40 percent goal.
- Initiating the development of a Climate and Environmental Justice Screening Tool, building off [EPA's EJSCREEN](#), to identify disadvantaged communities, support the Justice40 Initiative, and inform equitable decision making across the federal government.

These EOs and the related **Justice40** Initiative create a framework for evaluation and consideration of equity, environmental justice benefits and impacts to disadvantaged communities. The IJA activates the policy commitments established in the EOs through legislatively authorized programs and expressed congressional intent.

Justice40 Initiative (established in EO 14008)

In order to deliver 40 percent of the overall benefits of federal investment in climate and sustainability programs to disadvantaged communities, agencies are working to better define what is a "benefit" and what constitutes a "disadvantaged community." The Justice40 Initiative provides guidance and serves to help further define the breadth and depth of these terms. Interim guidance from the Office of Management and Budget is available [here](#).

The Justice40 Initiative has already held multiple sessions in June and November of 2021 to help develop a methodology to identify disadvantaged communities and benefits for Justice40-covered programs. The work of the Justice40 initiative will assist members of impacted communities and guide federal funding recipients such as state, regional, and local government agencies, tribal nations, and practitioners including academic institutions, community-based, nonprofit, and private-sector organizations. You can read more about the White House efforts to advance the Justice40 initiative [here](#).

Equity in the IIJA

The IIJA creates programs with the expressed purpose of promoting more equitable outcomes and emphasizing environmental justice considerations. It also directs agencies to seek and consider input from disadvantaged communities as well as the impacts and benefits of federal investments to those communities. Funding decisions for many programs established or modified by the IIJA require agencies to prioritize investments in low-income, historically underserved, economically disadvantaged areas, including rural communities and tribal lands.

Funding Focused on Equity and Environmental Justice

The IIJA creates several new programs that specifically target equitable outcomes by prioritizing funding for disadvantaged or low-income populations.

Broadband Equity, Access and Deployment Program

Department of Commerce

The divide between those with and without access to fast internet has been amplified during the COVID-19 pandemic. As Americans quarantined or adhered to state and local “lockdown” requirements, the need for a reliable connection to work, learn, and communicate was more pronounced than ever. The IIJA creates a \$42.45 billion grant program to help bridge the digital divide. Funds are available to states for projects that increase access to reliable broadband internet with speeds of at least 100 megabyte/second downloads and 20 megabyte/second uploads. As the name implies, this program is focused on increasing access to internet with speeds that enable users to participate in the modern economy and eliminate barriers to employment, healthcare, education, and other services.

Digital Equity Grant Programs

Department of Commerce

In addition to promoting greater access to reliable fast internet, the IIJA also emphasizes “digital equity” by providing \$2.75 billion for programs that provide users with the information technology necessary to fully participate in modern society. There is \$1.5 billion available to states that develop “Digital Equity Plans” that identify barriers to digital equity and solutions to overcome those barriers. An additional \$1.25 billion is available to fund digital inclusion activities at the state and local level.

Reconnecting Communities Pilot Program

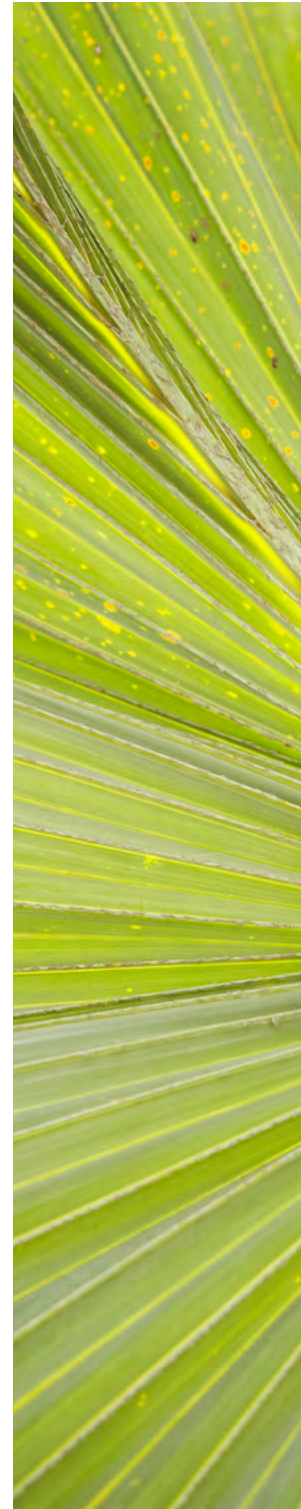
Department of Transportation

This program provides \$1 billion for planning studies and capital projects to remove, retrofit, or mitigate existing transportation facilities that create barriers to community connectivity, including barriers to mobility and economic development. With these investments, the U.S. Department of Transportation (USDOT) will attempt to promote “restorative justice” projects that address historic federal investments that contributed to racial and social inequities and disproportionately displaced and isolated people living in minority neighborhoods.¹


Healthy Streets Program

Department of Transportation

There is \$100 million available each year to mitigate urban heat islands, improve air quality and reduce the extent of impervious surfaces, stormwater runoff and flood risks; and reduce heat impacts to infrastructure and road users. In establishing the program, Congress emphasizes **“improving the safety, health outcomes, natural environment and quality of life in low-income communities and disadvantaged communities.”** This program is the first to recognize and attempt to address the concept of “heat equity” described in detail by the Environmental Protection Agency (EPA) [here](#).



¹ <https://www.nationalacademies.org/news/2021/07/transportations-role-in-equity-and-justice-restoring-and-revitalizing-neighborhoods-and-communities>



“It is a top priority for the EPA to ensure communities that have historically struggled to access SRF funding are prioritized. ... Throughout the implementation of the Bipartisan Infrastructure Law, as the EPA evaluates and approves states’ intended use plans, the agency strongly urges states to maximize the potential to remove barriers and prioritize the distribution of grant funds to disadvantaged communities.”

— EPA Administrator Michael S. Regan


Drinking Water and Clean Water State Revolving Loan Funds

Environmental Protection Agency

The IIJA increases the funding levels for these two programs substantially and provides \$23.5 billion to improve water infrastructure across the country. In EPA Administrator Michael S. Regan’s December 2, 2021 [letter to Governors](#), he emphasizes the importance of targeting resources to disadvantaged communities. The State Revolving Funds (SRF) are capitalized by EPA grants that provide funds for low-interest loans administered by states under a broad federal framework. States are required to individually define the criteria for a disadvantaged community. This new emphasis may lead states to reconsider the definition of disadvantaged. That is, states have focused primarily on cities, counties and towns as a whole to meet the definition; however, states may now also include underserved communities within a town or city as well. States may also require additional information in funding applications to better delineate funding that benefits a disadvantaged community.

Lead Service Line Replacement


Environmental Protection Agency



The issues identified with the water service in Flint, Michigan, are present throughout the United States. As the Flint crisis highlighted, many of those most acutely affected by the presence of lead in our drinking water systems reside in low-income, historically disadvantaged communities. The IIJA provides \$15 billion over five years to support the replacement of lead service lines. Additional changes are made to existing laws to provide support for testing, compliance monitoring or remediation of lead contamination in drinking water at schools and childcare programs.

Rural and Low-Income Water Assistance

Environmental Protection Agency



Access to safe, affordable drinking water and sanitation services is essential – a human right. Congress recognized this and directed the Administrator of the EPA to conduct a study to determine the availability of affordable water service nationwide. From that study, the EPA will establish a pilot program to assist “qualifying households with need in maintaining access to drinking water and wastewater treatment.” The pilot program is initially capped at 40 grants – meaning up to 40 cities nationwide may qualify for federal assistance to support water and sanitation service to low-income or disadvantaged households.



Equity Considerations in Funding Programs

Active Transportation Infrastructure Investment Program

Department of Transportation

This program, which funds active transportation projects that connect people with transit, businesses, employers, schools and other destinations, **allows for 100% federal funding (eliminating the local match requirement) for projects in areas with a high poverty rate.**

Congestion Relief Program

Department of Transportation

Discretionary funds are available to support innovative solutions to congestion relief, provided that applicants proposing a toll project **must consider the potential effects on low-income drivers and may include mitigation measures to deal with any adverse financial effects to such drivers.**

National Infrastructure Project Assistance

Department of Transportation

The new \$15 billion “MEGA Projects” program directs the Secretary of Transportation to **consider whether a project will “benefit a historically disadvantaged community or population or an area of persistent poverty”** when making grant awards.

Local and Regional Project Assistance

Department of Transportation

This \$15 billion program, otherwise known as RAISE, specifies that not less than 1% of the total amount available for grants within a given year must be **“awarded for projects in historically disadvantaged communities or areas of persistent poverty”** and authorizes lower local match requirements (i.e., less than 20% of total project costs) for projects carried out in rural, historically disadvantaged communities, or areas of persistent poverty.

Rural Ferry Program and Rural Surface Transportation Grant Program

Department of Transportation

These programs, with \$2 billion for each, **make significant investments in rural America**, ensuring that rural areas remain connected with safe and reliable transportation options.

Strengthening Mobility and Revolutionizing Transportation (SMART) Grant Program

Department of Transportation

The SMART grant program includes evaluation criteria to **connect or expand access for underserved or disadvantaged populations** and reduce transportation costs. Evaluation criteria further prioritize projects that **promote a skilled workforce that includes minority and disadvantaged groups.**

Additional Programs with Equity Considerations

- **Airport Terminal Development Program** includes criteria to consider access improvements for historically disadvantaged populations
- **Electric Vehicle Charging Infrastructure** must include publicly available electric charging stations in rural, underserved and disadvantaged communities
- **Natural Gas Distribution Infrastructure Safety and Modernization** considers benefits to disadvantaged rural and urban communities
- **Inland Flood Risk Management** funding prioritizes multipurpose projects that directly benefit economically disadvantaged communities



Equity Considerations in Planning

In addition to capital programs to fund infrastructure projects that benefit disadvantaged communities, the IIJA also incorporates equity considerations into planning in several important ways.

Passenger Rail Planning

Department of Transportation

When planning intercity rail corridors, the IIJA directs the Secretary of Transportation to consider **“whether the corridor services historically unserved or underserved and low-income communities or areas of persistent poverty.”**

Updates to the National Freight Plan

Department of Transportation

The National Freight Plan will now **consider potentially unique impacts of the national freight system on rural, underserved, and historically disadvantaged communities.**

Rural Opportunities to Use Transportation for Economic Success (ROUTES) Office

Department of Transportation

The IIJA creates the ROUTES Office to help **improve transportation project funding applications and provide technical assistance to rural communities, American Indian Tribes and historically disadvantaged communities in rural areas** in obtaining and utilizing federal funding.

Small and Disadvantaged Community Analysis

Environmental Protection Agency

The EPA Administrator will perform an analysis to identify historical distributions of funds to small and disadvantaged communities and **new opportunities and methods to improve on the distribution of funds under those programs to low-income communities, rural communities, minority communities, and communities of indigenous peoples** consistent with EO 12898.

Minority Business Development

The IIJA includes multiple provisions focused on supporting minority businesses through the Minority Business Development Act of 2021 (Division K of the IIJA). Of note within this portion of the act:

- Defines a socially or economically disadvantaged individual as one “who has been subjected to racial or ethnic prejudice or cultural bias (or the ability of whom to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area) because of the identity of the individual as a member of a group without regard to any individual quality of the individual that is unrelated to that identity.”
- Directs the Undersecretary of Commerce to work with the private and public sector to provide federal assistance to minority business enterprises by making resources available to support management, technology and technological assistance, financial, legal and marketing services, and workforce development.
- Establishes the Minority Business Development Agency Business Center Program to create a national network of public-private partnerships that assist minority business enterprises in accessing capital, contracts, and grants, and creating and maintaining jobs, providing counseling and mentoring to minority business enterprises, and facilitating the growth of minority business enterprises by promoting trade.

What This Means and How We Can Help

As we continue to reckon with past decisions that disproportionately affect low-income and disadvantaged communities, greater consideration of how future investments can support and empower these groups is necessary. The IIJA weaves equity and environmental justice considerations into many of its largest programs, reflecting the importance of ensuring that all Americans benefit from this substantial investment in our nation's infrastructure. To compete for discretionary programs, applicants will need to ensure that equity and environmental justice considerations are addressed and will be better positioned if projects produce measurable benefits for those communities. This is not to say that all projects must have an equity focus, but all projects must be viewed through an equity lens.

HDR is prepared to support your programs and projects as you journey through the revised equity and environmental justice opportunities. Below are just a few areas where our experienced team of professionals are prepared to step up:

- **Project Planning and Policy Development** — HDR can provide advisory and strategy services to state, regional, and local agencies to advance equity in their organizations and develop policy frameworks that position them for funding opportunities.
- **Project Delivery** — The provision of enhanced and legally defensible environmental justice program/project review and consideration is a cornerstone of HDR's planning program. HDR can offer NEPA and environmental planning analysis that considers environmental justice issues, incorporating meaningful engagement, through every phase of project decision making.
- **Data Analytics** — HDR can develop scalable and customized tools to obtain, analyze and present data that help to define baseline conditions, inform outreach efforts, and identify potential impacts, inequities, and benefits with potential actions.
- **Sustainability and Resiliency** — HDR can evaluate project opportunities to build strong and resilient systems to support sustainable systems for communities.
- **Strategic Communications** — Crucial to the consideration of equitable solutions, strategic communications, including meaningful community engagement, provides a better understanding of communities' needs, concerns, and opportunities. HDR is an industry leader in providing scalable and focused strategic communication services across all types of communities and for projects in every stage of development.
- **Funding/Finance Options and Grant Applications** — Many of the new opportunities for funding come in the form of competitive grant programs. Our team can assist in identifying the funding options most conducive to your project needs and support your grant application efforts.
- **Project Design** — HDR has the full breadth of technical professionals to develop projects/systems that appreciate the diverse needs of the populations your project is intended to serve. Through our multidisciplinary teamwork, we ensure that access, safety, and affordability are considered throughout the planning, design, and construction phases of your project.



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