



# How government agencies can prepare for IIJA spending and compliance

Forensic & Integrity Services

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The Infrastructure Investment and Jobs Act (IIJA) includes \$550 billion in new federal spending for roads and bridges, rail and transit, ports and airports, water infrastructure, resilience, broadband, and the electric grid – projects that will shape communities.

With once-in-a-generation funding, state governments are poised to receive billions of dollars from the federal government for the opportunity to make their communities more equitable and more modern. Many infrastructure projects are overdue, and others are required for future growth. State officials want to maximize the taxpayer investment in these projects without overcommitting administrative resources or adding long-term costs. However, they are also challenged with meeting strict regulations and documentation requirements relevant to the IIJA.





Establishing procedures and protocols and working with trusted advisors will help government officials mitigate risk and maximize their use of taxpayer investment.

## Understanding IIJA compliance

As with any federal funding, it is critical that recipients of IIJA funds spend those dollars appropriately. Failure to understand the obligations and comply with applicable laws and regulations can result in funding clawbacks, reputational risk and increased scrutiny by oversight organizations.

Projects funded through the IIJA are subject to administrative requirements, cost principles and audit requirements under The Code of Federal Regulations, within 2 CFR Part 200. The Buy American Act will also be a strong element of the IIJA. On April 29, 2022, the Office of Management and Budget published guidance M-22-12 directing agencies to designate a senior accountable official and an implementation coordinator to oversee a cross-functional team and processes needed to implement the IIJA. Additional guidance may be issued as agencies, the Office of Management and Budget, the Infrastructure Implementation Task Force, and the White House Infrastructure Implementation Team identify topics that require further direction or clarification. Funding recipients should be prepared to comply with relevant procurement and documentation requirements, along with funding program reporting requirements.

The responsibility to meet these compliance obligations belongs to the direct funding recipient, even if that agency later distributes the funding to another entity. This means that oversight controls must be in place as part of the planning process. Working with an advisor that is experienced in government regulations and audit procedures can help officials understand project eligibility requirements, perform risk assessments and manage the funding. In addition, advisors can help organizations understand the interplay of IIJA funds and other funding sources, including funding made available through the Coronavirus Aid, Relief, and Economic Security (CARES) Act and American Rescue Plan Act. Understanding these sources can maximize the recovery investment and protect organizations from the risk of duplicating benefits.

## Items to consider when receiving federal funding

### Now

In preparation of receiving these federal funds, state governments should begin by developing processes to promote compliance with associated regulation.

- ▶ Develop unique project numbers, activity codes, descriptions and accounting units or cost centers for tracking costs.
- ▶ Develop processes, policies and procedures, if lacking, to conduct compliant procurements (including fair and open competition, relevant flow-down requirements and cost reasonableness assessments).
- ▶ Train employees on the protocols and processes, particularly those related to procurement.

### Next

Establish reporting dashboards and tracking mechanisms.

- ▶ Document the methodology to align funding sources against costs to reduce the risk of duplicating benefits.
  - ▶ Maintain relevant documentation, including a comprehensive procurement file that includes existing procurement policies, request-for-proposal (RFP) documents, internal independent cost estimates, evaluation criteria and scoring records, correspondence, award memos, pricing, contracts, change orders, and any other supporting documentation.
  - ▶ Track ongoing costs along with supporting information.

### Beyond

Regularly monitor for supplemental governmental guidance.

## Key takeaway

States will receive an unprecedented amount of funding from the federal government to repair infrastructure, protect resources and develop new programs for resiliency and sustainability. To make the best use of taxpayer funding, states and local governments must understand their obligations, IIJA eligibility, and compliance with federal and awarding agency requirements. By taking time now to look at their processes, policies and procedures, governments will be able to capture their costs correctly and demonstrate that the projects for which they are being reimbursed are compliant and can withstand government audit.

# Key contacts

Forensic & Integrity Services  
Insurance & Federal Claims Services  
Ernst & Young LLP



**Reena Panchal**  
Partner  
[reena.panchal@ey.com](mailto:reena.panchal@ey.com)



**Matt Jadacki**  
Managing Director  
[matt.jadacki@ey.com](mailto:matt.jadacki@ey.com)



**Carlos Zapata**  
Senior Manager  
[carlos.zapata@ey.com](mailto:carlos.zapata@ey.com)

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