

October 31, 2016

The Honorable Penny Pritzker Secretary of Commerce U.S. Department of Commerce 1401 Constitution Avenue, NW Washington, DC 20230

Dear Madam Secretary:

The Department of Commerce has undertaken a number of initiatives to increase foreign direct investment (FDI) into the United States. As a key stakeholder in this area, the Department is exploring ways to increase FDI across many sectors including infrastructure investment. The Infrastructure Investment Subcommittee to the U.S. Investment Advisory Council seeks to assist the Department in providing research into this area and as part of this undertaking, subcommittee members were provided with briefings from staff at both the Treasury and Transportation to augment independent research.

Increasing private capital (foreign and domestic) in public infrastructure projects provides multiple benefits. In addition to providing alternate financing capabilities, private capital brings with it expertise that may be lacking at the state and local government level. The private sector brings knowledge, efficiency, and an "on-time/on-budget" mentality. Private capital can propel projects to be realized earlier, resulting in accelerated job creation and economic development opportunities. As has been recognized by the Department, there exists a benefit to generally reducing barriers and increasing FDI in the United States across the economy. An American economy that is "open for business"—including for foreign investors— has residual benefit across sectors.

There is analysis to support the idea that there is sufficient private capital (foreign and domestic) available to support the current supply of infrastructure projects. However, there is still clear reason to increase FDI in this area. Not only does FDI participation bring expertise as outlined above, educating government entities (especially around public-private partnerships), reducing barriers to entry and so forth over time may help increase the pipeline and hence benefit the overall economy by propelling important infrastructure initiatives.

To this end, an important note should be made on urban planning and infrastructure spending: comprehensive regional, state and federal planning provides the roadmap for infrastructure programs. States are in a position to drive this planning both down at the local level and up to the federal one. There is a need for undertaking this basic work and then the need to ensure the

states have the knowledge and tools they require. Moreover, consider infrastructure projects where FDI can be readily deployed—e.g. in categories of infrastructure that in the U.S. are not readily available for full tax-exempt financing structures and therefore more prime for Public-Private Partnerships (railroads, investor-owned utilities, renewable power projects, many hospitals, etc.), or have some commercial risk and are in private hands and therefore require an equity component as part of the project financing to assume critical risks.

Finally, it should be understood that the federal government's BUILD AMERICA program has undertaken a number of initiatives to streamline processes and to create a one-stop resource for state and local government as well as (potentially) for prospective investors, contractors, service providers, and advisors. This working group understands the complexity of accessing information needed to move projects forward. Congressional legislation in December 2015 has expanded BUILD AMERICA's staffing and capabilities. Growing awareness of the capacity of BUILD AMERICA to help facilitate projects will play a key role in the future as the likeliest opportunity to create increase FDI lies within expanding Public-Private Partnerships (PPPs).

Recommendations:

Create an information register that identifies priority projects. Prioritization and Communication of these projects is a clear need in order to increase private sector involvement. The Commerce Department should request that states and municipalities create a priority list of 4 to 6 infrastructure projects each that are viewed as priority projects and share these with BUILD AMERICA, other appropriate agencies, and working groups. These projects should span the infrastructure spectrum from roads and railroads to schools and public buildings and everything in between. The key is that they be prioritized by the states. While BUILD AMERICA currently has capacity to analyze and fund projects on a first come, first served basis the day is not far off where demand will out-weigh capacity. At that point, prioritization of projects will become important to the agency and there is the potential for FDI to help serve as part of the financing solution. This Infrastructure Register of Priority Projects should be published by Commerce and available to the private sector with updates to be included on an ongoing basis. This process could be begun in the coming months with the goal to have this register available before the end of calendar year 2017.

Promote a Symposium on Public-Private Partnerships. Currently 33 states having enabling legislation that allows for public-private partnerships (PPPs) in some capacity. However, the level of expertise in administering these types of projects varies from state to state. While some states have offices and staff to work through these agreements, many do not. Taking inventory of where the states are in their PPP process would be a good first step to understanding ability in this area. Further, in terms of ground transportation projects, BUILD AMERICA itself does not yet have a sizable staff in place to help educate state and local governments with PPPs however this is an area of focus for BUILD AMERICA and the working group is in the process of hiring a staff person. However, BUILD AMERICA would benefit from additional support because while PPPs tend to be complex, they also offer great opportunity to deliver projects faster, at a lower cost and with particular technical expertise found in the private sector. It is also clearly a financing mechanism that is not typically taken advantage of. Short of offering a small grant to those states without staff to manage PPPs (also a worthy undertaking), the Commerce

Department should consider holding a symposium (perhaps as part of SelectUSA), sponsored jointly by private sector companies with expertise in this area for both public and private sector interested parties. While the NGA offered a conference, doing so on the federal level might raise greater awareness. The purpose would be educational and to allow the public sectors officials to hear examples of successful PPP projects, ask questions and meet some of the key players in this field. Private sector sponsorship would ease the budgetary burden from Commerce. Planning for such a symposium could be undertaken immediately with the goal to host such an event within the calendar year 2017.

Long Term Recommendations:

The subcommittee has developed several longer term suggestions that could serve to help increase FDI in infrastructure and perhaps help increase the infrastructure pipeline in the United States. The Department of Commerce has already undertaken any number of initiatives including SelectUSA to make the country more accessible to foreign investors. The Department and the Secretary are not only undertaking action in this area, but are thought leaders and incubators of ideas for the Administration and should consider sharing some of this thinking with the new Administration in 2017. These suggestions range from clarifying FIRPTA taxes on foreign investors' investment in revenue producing projects (which would require guidance from Treasury), to streamlining processes, to a more vigorous education process to supporting tax reform provisions. We would be pleased to more vigorously debate and discuss the merits of any of these at a future date.

We are honored to have had the opportunity to participate in helping to frame the discussion around increasing foreign direct investment in to U.S. infrastructure projects. We appreciate the Administration's commitment to increasing FDI as a means of continuing to grow our economy and creating meaningful employment for Americans. We look forward to continuing to work together and to assist this process.

Respectfully submitted,

Jane Garvey

Chair

Catherine Smith

Vice Chair

Peter Lowy

Chair, Infrastructure Investment Subcommittee