

# Policy Analysis

No. 361

November 24, 1999

## ***Smart Growth at the Federal Trough EPA's Financing of the Anti-Sprawl Movement***

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### **Executive Summary**

In January 1999, Vice President Al Gore declared war on sprawl. Like many wars, this one has in fact been going on undeclared for some time, with the government covertly supplying funds and technical support to supposed grassroots organizations.

Leading the charge in the war on sprawl is the Environmental Protection Agency. EPA's legal authority over urban land-use planning is tenuous at best. Yet under two grant-making programs—the Transportation Partners program and the Smart Growth Network—the agency has laid the groundwork for a major power grab by giving millions of dollars to nonprofit lobbying groups to build public sup-

port for the war on sprawl. With the support of these organizations, Vice President Gore and EPA hope to use federal funding and regulatory authority to dramatically change the lifestyles of most Americans.

The federal government should not subsidize one side of a public policy debate; doing so undermines the very essence of democracy. Nor should government agencies fund nonprofit organizations that exist primarily to lobby other government agencies. Congress should shut down the federal government's anti-sprawl lobbying activities and resist the temptation to engage in centralized social engineering.

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## **The War on the Suburbs**

The 20th century has seen a massive migration of Americans from the central cities, where most Americans lived in 1900, to the suburbs, where two-thirds of urban Americans and nearly half of all Americans live today. This migration was initially cheered by urban elites, who viewed the cities as crowded, dirty, and responsible for the cycle of poverty that kept many people uneducated and hungry.<sup>1</sup>

As more people left the cities, especially following World War II, interest groups threatened by this migration began to coalesce around claims that suburbs were vacuous and insipid. Suburban residential areas were derided as “ticky tacky,”<sup>2</sup> supermarkets and other suburban shopping areas were termed “strip developments,” and the suburbs themselves were referred to as areas of “blight” and “sprawl.” The automobile, which brought the suburbs within reach of most people, received its share of abuse. The demands of the automobile were paving over America,<sup>3</sup> people said, and the open road was being replaced by gridlock and four-hour commutes.<sup>4</sup>

Many of the people making these claims viewed the suburbs as threats to their economic futures.

- Central city officials considered every new suburban resident to be a subtraction from their city’s population and tax base;
- Transit agency officials realized that people living in low-density suburbs were less likely to support transit than people living in dense urban areas.
- Downtown businesses and property owners considered suburban shopping malls to be unfair competition with their businesses.

These groups readily joined with environmentalists worried about the loss of prime farmland to try to curb urban sprawl.<sup>5</sup> The cities sought control over the suburbs

through annexation, city-county consolidations, and most recently regional governments. But except for a few places such as Portland, Oregon, the suburbs have stubbornly remained outside the political reach of city governments and downtown business interests.

Enter EPA, which hopes to use its authority over federal spending and pollution regulation to transform the suburbs. Ostensibly, EPA’s goal is to reduce air pollution by reducing the amount of driving that people do. To reach that goal, EPA has endorsed the planning fad known as the “New Urbanism,” and more recently popularized as “smart growth.” Smart growth proposes to accomplish several goals:

- stop the spread of low-density suburban development through the use of urban-growth boundaries;
- redevelop existing suburbs to higher population densities, emphasizing multifamily dwellings and row houses instead of single-family detached homes;
- promote mixed-use developments and pedestrian-friendly design so that people can walk rather than drive to markets;
- promote transit-oriented developments so that people can take transit rather than drive to work;
- slow the construction of highways and spend more highway money on “traffic calming,” meaning measures that reduce road speeds and capacities; and
- accelerate the construction of rail transit systems.

While the merits (or lack thereof) of smart growth are beyond the scope of this study, it should be noted that all of the above policy proposals are contentious matters of debate within the urban planning, environmental, and economic professions.

- Dr. Randall Crane, planning professor at the University of California-Irvine,

says that smart-growth policies could actually lead to an increase, not a decrease, in automobile driving. “There is no convincing evidence that these designs influence travel behavior at the margin,” says Crane.<sup>6</sup>

- Genevieve Giuliano, planning professor at the University of Southern California, says that attempts to change people’s travel behavior through land-use policies are likely to fail. According to available evidence, she says, “land use policies appear to have little impact on travel outcomes.”<sup>7</sup>
- Charles Lave, economist at the University of California-Irvine, notes that smart-growth-like policies were instituted by most European countries after World War II. Today, however, those countries are rapidly suburbanizing, and car ownership is increasing three times as fast as in the United States. “The desire for personal mobility seems to be unstoppable,” says Lave.<sup>8</sup>

It be denied that the debate is hotly political and of growing importance to state and local governments. Thanks in part to EPA grant making, however, smart-growth supporters are well organized, while potential smart-growth opponents are not.

The first section of this study considers EPA’s legal authority to regulate sprawl and promote smart growth. The 1970 Clean Air Act as amended over the years and the 1998 Transportation Efficiency Act are the agency’s primary justifications for weighing in on the debate regarding urban sprawl.

The second section examines the agency’s “Transportation Partners” program, a multi-million-dollar annual grant program to fund anti-automobile activism at the local level. While EPA has promised to reform this controversial program, the agency’s pledges fail to fully address the fundamental objections to the program.

The third section examines the agency’s “Smart Growth Network,” an initiative to fund activism to promote what is popularly

referred to as “new urbanism.” Like the Transportation Partners program, however, the Smart Growth Network is little more than a front for agency attempts to promote its agenda on autonomous state and local governments.

The fourth section considers how those two programs distort democratic decision-making at the local level, while the fifth section examines how EPA is inappropriately using the 1998 Transportation Efficiency Act to kill state highway expansion and divert construction funds to mass transit alternatives whether effective or not. The final section considers how Congress might go about remedying the problem of EPA activism where it doesn’t belong.

## **EPA’s Legal Authority over Sprawl**

EPA traces its authority over urban planning to the Clean Air Act, which requires that state and metropolitan transportation plans be designed to bring polluted areas into compliance with federal air pollution standards. EPA has oversight over those plans and can impose sanctions on urban areas that it classifies as polluted and that have failed to implement plans to clean up that pollution.

In 1991 Congress specifically tied federal transportation dollars—nearly all of which are generated by gasoline taxes and other highway user fees—to clean air. Under the law, EPA must deny federal highway funds to polluted cities unless those cities have plans to clean up their air. A recent court case brought by the Sierra Club against Atlanta, Georgia, affirmed that cities may not spend highway dollars, even for preapproved projects, unless they have an EPA-approved plan.

More than 113 million people live in “nonattainment areas,” that is, cities that EPA classifies as having air pollution problems. That includes 19 of the nation’s 20 largest urban areas (Minneapolis-St. Paul is the exception), but it also includes such smaller cities as Baton Rouge, Louisiana;

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Nashville, Tennessee; and Boise, Idaho. New ozone standards recently issued by EPA will significantly increase the number of nonattainment areas.

In 1998, Congress passed the Transportation Efficiency Act for the 21st Century (TEA-21). By stopping the diversion of federal highway user fees to nontransportation projects, the act authorized a large increase in federal highway funding. Highway officials and contractors in the nation's increasingly congested cities are salivating over the possibility of using those increased funds to expand highways and reduce congestion.

But if the cities are in EPA nonattainment areas, they will get those funds only if they adopt plans approved by EPA. EPA wants to use this power not to clean up the air but to reduce people's mobility, and in particular their automobility.

Shortly after Vice President Gore announced his war on sprawl, for instance, the administrator of EPA's Northeast Region, John DeVillars, told a Boston audience that the agency would aggressively use its statutory authority to oppose sprawl. "Poorly planned suburban growth," claimed DeVillars, is "degrading our environment, it's fiscally inefficient, and it's undermining our social fabric. . . . Action to curb it is long overdue."<sup>9</sup> He promised to treat the problem with smart growth.

### **EPA's Transportation Partners Program**

EPA justifies its campaign against the automobile, saying: "By relying on cars to get around, our roadways become congested, adding stress to our lives. Building bigger roads seems like the obvious answer, but it's an expensive, short-term fix. Increasing capacity encourages driving, adds pollution to the air, creates congestion, and puts pressure on officials to build even bigger roads at taxpayer expense. Adding lanes of traffic subtracts from our quality of life."<sup>10</sup> One of the means by which EPA pursues this anti-auto

agenda is by funding grassroots opposition to highway expansion.

EPA grants to anti-automobile, anti-suburb groups fall into two major categories. First, the agency's Transportation Partners program gives millions of dollars to at least six major organizations with the goal of helping those organizations reduce vehicle travel. Second, EPA has given large grants to a number of national and state organizations to promote smart growth.

EPA says that "the mission of the Transportation Partners program is to reduce the growth in Vehicle Miles Traveled (VMT) throughout the U.S."<sup>11</sup> Note that the emphasis has transmogrified from reducing pollution to reducing travel. EPA traces the program's history to Vice President Gore's *Climate Change Action Plan*.<sup>12</sup> This plan calls for reducing U.S. greenhouse gas emissions to 1990 levels by the year 2000.

The Transportation Partners program is supposed to bring about nearly half of the transportation portion of that reduction. That means reducing people's driving by 20 billion miles per year, or slightly less than 1 percent of total miles driven.

How is EPA working to accomplish that goal? It is giving millions of dollars in grants to a consortium of anti-automobile lobby groups. Since 1995, EPA has given various organizations more than \$6 million:

- International Council for Local Environmental Initiatives (\$2,034,216);
- Surface Transportation Policy Project (\$855,000);
- Center for Clean Air Policy (\$678,939);
- Environmental Defense Fund (\$650,000);
- Local Government Commission (\$500,000);
- Bicycle Federation of America (\$465,000);
- Association of Commuter Transportation (\$315,000);
- Renew America (\$215,000); and
- Public Technology Incorporated (\$154,765).

Those figures may be low. For example, EPA's database shows the agency granting

\$625,000 to the Surface Transportation Policy Project before 1999. But documents obtained from EPA in a freedom of information request indicate that EPA paid \$775,000 to the project. A more recent grant to the project, \$230,000 awarded on April 9, 1999, is not included in either of those figures.

A few of the grants went for what might be considered legitimate work to solve congestion and air pollution problems. For example, the Association of Commuter Transportation promotes alternatives to commuting in single-occupancy vehicles. The organization focuses on “transportation demand management,” meaning that it works with large businesses to promote employee vanpooling and transit ridership.<sup>15</sup> The grant to the Environmental Defense Fund was aimed at market-based transportation reforms in California and New York. The organization employs Michael Replogle, who popularized the term “smart growth” when he worked for the state of Maryland. Replogle supports market tools such as congestion pricing of roads but also endorses smart-growth plans such as those being adopted in Maryland and Oregon.

Most of the EPA grants went to organizations whose sole purpose is to lobby federal, state, or local governments or to provide assistance to other groups doing such lobbying. Four of the groups claim to be associations of state or local governments or government officials.

- The Center for Clean Air Policy is an association formed by state governors to promote innovative approaches to pollution. EPA funding supports the organization’s “Collaboration to Improve Transportation, Land Use, and Air Quality,” meaning smart growth.
- The International Council for Local Government Initiatives describes itself as “an association of local governments dedicated to the prevention and solution of local, regional, and global environmental problems through local action.”<sup>16</sup> EPA funding is directed to its “Cities for Climate Protection” pro-

gram, which encourages cities to adopt smart-growth policies and plans.

- The Local Government Commission is a nonprofit association of “forward-thinking public officials.”<sup>17</sup> EPA funding goes to the commission’s “livable communities” program to promote smart growth in local transportation planning.
- Despite its name, Public Technology, Inc., is a nonprofit group affiliated with the National League of Cities and the National Association of Counties.<sup>18</sup> EPA funding is used to promote smart-growth planning at the local level.

Three other recipients are strictly nonprofit lobby groups:

- The Bicycle Federation of America helps cyclists work on local transportation planning to promote bicycle and pedestrian facilities.<sup>19</sup> Often this means reducing road capacities even though many roads are already at capacity and bicycling and walking typically make up a tiny percentage of all commuting.
- Renew America’s main purpose is to present awards to groups for their sustainability projects.<sup>20</sup> EPA funding supports about eight awards per year to groups working on sustainable transportation—meaning nonautomotive transportation. One 1998 award, for example, lauded Metro, the regional planning agency for Portland, Oregon, for “developing innovative street design policies intended to reduce auto usage.”
- The Surface Transportation Policy Project was created in 1989 to promote diversions of federal highway user fees to nonhighway transportation. The group was largely responsible for passage of the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1991 that increased EPA’s authority over transportation planning. According to an EPA memo supporting this grant, “STPP has nurtured a network

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of local transportation activists, its 'grass-roots Network,' and provided Network members and the public at large with the TransAct electronic information service."<sup>21</sup>

Although not the largest recipient of grants, the Surface Transportation Policy Project is in many ways the super-principal Transportation Partner. The group has a Transportation Action Network Web site that strongly promotes smart growth and claims that the Network is "sponsored in part by USEPA's Transportation Partners Program."<sup>22</sup> Transcripts of EPA's monthly telephone conference calls with transportation partners are at least 50 percent conversations with Surface Transportation Policy Project staff.

STPP is one of the most vigorous and consistent critics of new roads and recently announced that it is opening regional offices in the West and Southwest to oppose highway projects in those regions. The STPP Web site includes a "Directory of Transportation Reform Resources" that lists the Transportation Partners and the highway projects that each partner is working to block.<sup>23</sup> This and other project publications and Web pages focus on and exaggerate the costs of cars and roads, and almost entirely neglect the benefits.

The above EPA grant totals include only those grants dedicated explicitly for transportation programs. Many of the above groups get additional EPA funding for a variety of other issues.

In addition to these large grants, EPA promises technical assistance to hundreds of other Transportation Partners. Any group that wants to discourage automobile travel can become a Transportation Partner, and EPA has so far recruited more than 300 such groups located in 44 states and the District of Columbia. About a third of the partners are local governments; some are corporations such as the Bank of America; but most are nonprofits with names like Alliance for a Paving Moratorium, Citizens for Balanced Transportation, and Sensible Transportation Options for People. Also included are various chapters of the Sierra Club and other major

environmental groups.

Most of the organizations do not get any direct funding from EPA, but some do. For example, the Greenbelt Alliance promotes urban-growth boundaries around cities in Contra Costa County, California. EPA gave it a \$60,000 grant "for a forum on transportation choices."

### **The Failed Promise of Planned Congestion**

If EPA's goal is to reduce automobile travel, there is little evidence that it is succeeding. The 1997 Transportation Partners annual report claims that the program led Americans to drive 1.25 billion fewer miles in 1997 than they might have driven without it.<sup>24</sup> That claim is difficult to believe. With the possible exception of the Association of Commuter Transportation, it is hard to find anything that the funded Transportation Partners did after September 1996 (when most funds were first granted) that would have caused people to drive less in 1997.

The largest grant, to the Local Environmental Initiatives Council, was spent encouraging cities to resolve to reduce their greenhouse gas emissions by 10 to 20 percent by the year 2010. A resolution is far different from an actual reduction, and what may happen in 2010 is far different from what did happen in 1997.

The 1.25-billion-mile estimate seems to be based more on what the unfunded partners did. Here EPA made several dubious estimates:

- Installing a bicycle facility would reduce driving by 75,000 to 275,000 miles per year. In fact, bicycling, which accounts for less than 0.4 percent of all commuting, is mainly recreational, not a substitute for driving.<sup>25</sup>
- Improving a transit system would reduce driving by 2.5 to 20.0 million miles per year. Yet America's transit systems are steadily losing market share to automobiles despite billions of dollars of government spending.<sup>26</sup>

- Getting a metropolitan area to endorse vanpooling (as 18 metro regions did) or telecommuting (as 5 did) would reduce driving by 1 to 17 million miles per year.

Despite all of EPA's fine calculations, in reality Americans drove 3 percent more in 1997 than they did in 1996, the largest increase in five years.<sup>27</sup> That suggests that EPA's programs probably had little effect on driving. Although EPA's claimed 1.25 billion miles sounds like a lot, it is in fact only 0.05 percent of the total miles driven by Americans in 1997, according to the Federal Highway Administration.<sup>28</sup> In fact, 1.25 billion miles is only 1.7 percent of 1997's annual growth in driving.

### **EPA's Promises of Reform**

In response to congressional criticism of the Transportation Partners program, EPA Administrator Carol Browner sent a letter to Sen. Robert Byrd (D-W.Va.) promising "changes that will substantially improve the program's accountability and balance." Some of the changes are these:

- "EPA will no longer fund the nine Principal Partners to maintain a network" of 340 other organizations.
- EPA funds will no longer support the TransAct Web site, an STPP site that says it was funded by EPA.
- EPA is replacing the noncompetitive grant process used to fund the nine Principal Partners with a competitive bidding (RfP) process "open to all transportation and environmental organizations."
- EPA "will initiate a dialogue" with a new group "called the Transportation and Environmental Network." This network will review projects funded under the RfP process. Highway groups will be invited to be a part of the network, which will also "provide an opportunity to discuss and undertake cooperative activities to help reduce

pollution from vehicles."<sup>29</sup>

While a step in the right direction, these procedural changes do not guarantee any substantive changes in the program. EPA did not promise to stop funding the nine organizations that have received the bulk of the program's money to date, only to stop funding the "network." The TransAct Web site is already in place and maintenance costs can be far lower than start-up costs. And changing the grant-making process does not necessarily change who gets the money. For example, a nonprofit organization whose goal is to reduce air pollution by reducing congestion through highway capacity increases probably will not be funded since the goal of the Transportation Partners program is to reduce driving, not pollution.

The authors expect to closely monitor the program to see if these procedural changes translate into any substantive changes. Meanwhile, Browner's letter says nothing at all about EPA's other grant-making program to urban nonprofits: the Smart Growth Network program.

### **EPA's Smart Growth Network Program**

If the main goal of the Transportation Partners program is to reduce automobile driving, the goal of smart growth is more particularly to redesign cities and suburbs to discourage driving and force people to consume less land. Smart growth itself is a popularization of ideas that planners call the "New Urbanism." These ideas include compact urban development; mixtures of residential, commercial, and retail development; heavy reliance on mass transit and pedestrianism; and traffic "calming" to discourage automobile usage. These policies were pioneered in Portland, Oregon, but the term "smart growth" was first used in Maryland.

EPA has endorsed smart growth by forming a Smart Growth Network partners program that parallels the Transportation

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Partners program in many ways. A smart-growth Web site, [www.smartgrowth.org](http://www.smartgrowth.org), lists about 20 partners. According to the Web site, the Smart Growth Network partners program consists of “outreach programs, technical assistance, research, publications, and other collaborative projects.”

The Smart Growth Network partners are the American Farmland Trust, American Planning Association Center for Neighborhood Technology, Congress for New Urbanism, Conservation Fund, International City/County Management Association, Joint Center for Sustainable Communities, Local Government Commission, National Association of Counties, National Association of Local Government Environmental Professionals, National Growth Management Leadership Project, National Neighborhood Coalition, National Trust for Historic Preservation, Natural Resources Defense Council, Northeast-Midwest Institute, Scenic America, State of Maryland, Surface Transportation Policy Project, Sustainable Communities Network, Trust for Public Land, and Urban Land Institute.

Normally a Web site with an address of “.org” would be run by a nonprofit, while a government Web address would end “.gov.” The [smartgrowth.org](http://smartgrowth.org) Web site claims to be run by one of the partners, the Sustainable Communities Network. In reality, it is a front for EPA. On one page, the site says, “For more information, please contact the UEDD at (202) 260-2750.” UEDD is the Urban and Economic Development Division of EPA.

The site also invites inquiries to [info@smartgrowth.org](mailto:info@smartgrowth.org). When asked, “Who controls the content of this Web site?” the e-mail response on September 8, 1998, came from [Branagan.Michael@epamail.epa.gov](mailto:Branagan.Michael@epamail.epa.gov), an EPA employee. Branagan’s response affirmed that the Smart Growth Network “is an EPA initiative” and that the [smartgrowth.org](http://smartgrowth.org) “Web page is written and funded by EPA.” Branagan admitted that the information was not placed on EPA’s Web site ([www.epa.gov](http://www.epa.gov)) because “the association with EPA may have discouraged/alienated potential users from even entertaining any ideas, articles, etc. that

were posted on the site from the start.”

Branagan states that “the idea was to neutrally encourage dialog in the ideas on the site,” but the site is far from neutral. A large portion is devoted to pushing the “Clinton-Gore Livability Agenda,” and the site includes many speeches by Vice President Gore and EPA officials. A typical quotation from the site states that “Advertisers have been saying for years that automobiles signify freedom and social acceptability. Many Americans are discovering that automobiles also mean pollution, congestion, increased commuting time, frustration and road rage.” In other words, people drive only because they have been manipulated by advertisers.

The director of EPA’s Urban and Economic Development Division, Helen Tregoning, has an article posted on the Web page that carries that theme further. People only live in low-density suburbs, she says, because the federal government has subsidized highways—ignoring the fact that those “subsidies” have come entirely from gas taxes and other highway user fees.

The smart-growth Web site is managed by the Sustainable Communities Network, while other partners take on other responsibilities:

- The American Planning Association publishes a legislative guidebook on smart growth.
- The Congress for New Urbanism provides (with EPA funding) “technical assistance to local governments.”
- The International City/County Management Association runs (with EPA funding) the Smart Growth Network and publishes a smart-growth newsletter.
- The National Association of Counties “publishes a primer on sprawl.”
- The National Association of Local Government Environmental Professionals is finding ways to use “existing and potential federal regulatory incentives to encourage smart growth.”
- The National Trust for Historic Preservation promotes “main streets” as



alternatives to conventional shopping malls as well as infill development.

- The Urban Land Institute holds (with EPA funding) a national Partners for Smart Growth conference.

As noted, many of these programs are partly or entirely funded by EPA. EPA smart-growth grants include

- \$700,000 to the Growth Management Institute for “workshops, focus group meetings, and other activities” aimed to be an “antidote to sprawl”;
- \$363,395 to the International City/County Management Association to create a smart-growth network;
- \$237,250 to Grow Smart Rhode Island to promote “sustainable development” in the Ocean State;
- \$175,000 to 1000 Friends of Oregon to create a National Growth Management Leadership Project (a Smart Growth Network partner) to promote smart-growth in other parts of the country;
- \$165,000 to the Congress on New Urbanism for workshops and conferences on smart growth; and
- \$155,000 to the Urban Land Institute for a national conference on smart growth;
- \$50,000 to the National Governors’ Association to “help states develop smart-growth strategies”;
- \$35,000 to the Center for Watershed Protection to develop smart-growth zoning codes;
- \$30,000 to the Coalition for Utah’s Future to support Envision Utah’s community workshops and to promote similar initiatives in “communities across the country”;
- \$20,000 to the Local Governments Council for a conference on smart growth; and
- \$10,000 to the Urban Land Institute to promote smart growth in a portion of Washington, D.C.

As with the Transportation Partners grants, some of the grants may be larger than indicated here. For example, EPA’s grants database reports a \$512,000 grant to the Growth Management Institute, while that organization’s Web site says that the grant was \$700,000.<sup>30</sup>

There may also be additional grants not found in the database. For example, EPA gave National Association of Counties \$429,312 for the Joint Center for Sustainable Development. That organization is a part of the Smart Growth Network, but the term “smart growth” does not appear in the grant description. Other smart-growth-related grants may lack that or similar terms and so were not found by searches of the database.

Even if all of these programs are not directly funded by EPA, many of the partner organizations have received EPA funds for other projects. Some partners, such as the American Farmland Trust, Conservation Fund, Natural Resources Defense Council, and Trust for Public Lands, have only a passing interest in smart growth. Since they have collectively received more than \$2 million in grants from EPA for other work in the past three years, they may have joined the network in part to stay in EPA’s good graces and possibly to be eligible to get EPA grants to expand into smart growth. Likewise, the National Association of Counties represents officials whose suburban and rural constituents tend to oppose smart growth. The association gets over \$550,000 per year in grants from EPA, which could easily motivate it to overlook the views of its constituents.

## **EPA Grants Distort Planning**

EPA’s combination of funding and support to state governments, local governments, and nonprofits has had a powerful effect in many places. For example, Envision Utah is a smart-growth program promoted

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by Utah’s governor—no doubt influenced by the EPA smart-growth grant to the National Governors’ Association. The EPA grant to the Coalition for Utah’s Future will help spread this program to other states.

EPA’s transportation and smart-growth funding is only a small share of all EPA grants to nonprofit organizations. According to *Phony Philanthropy*, a report by Citizens Against Government Waste, in 1995 and 1996 EPA gave \$236 million in 839 grants to nonprofits. As the report dryly comments, “Many of these organizations are promoting agendas that many Americans might not agree with.”<sup>31</sup> “When an organization receives government funding, it frees up funding obtained through membership or other nongovernment sources to be used for more controversial activities, such as lobbying or promoting a particular philosophy,” notes the report. “Some organizations even use government money directly to promote their political and lobbying activities.” While this is illegal, the report found several instances of EPA funds being spent directly on lobbying.

The approximately \$8 million identified here as grants to transportation and smart growth is a tiny share of EPA’s total budget. But the individual grants represent a significant share of the budgets of the nonprofits receiving them and also give those nonprofits a major boost over opponents to smart growth, most of whom are poorly funded and have no support network like EPA’s Transportation Partners or Smart Growth Network.

This severely distorts the supposedly local planning process that Congress created in ISTEA and TEA-21. Bicyclists, for example, make up just 0.4 percent of all commuters in America, yet EPA’s \$465,000 grant to the Bicycle Federation of America makes sure that transportation planners in cities across the country pay close attention to the demands of cyclists. Close to 90 percent of all commuters drive automobiles to work, but EPA gave no grant to any automobile groups and the views of automobile drivers are often unheard in local transportation planning.

Congress created the local planning

process on the pretext that, while state and local governments should make final transportation decisions, Congress wanted to ensure that those governments considered public input and a full range of alternatives. Yet EPA funding subverts local public input by allowing minority or outside views to dominate. As shown in the next section, EPA is also trying to prevent local planning agencies from considering a full range of alternatives if those alternatives involve highway building.

EPA grants have many other disturbing qualities. Naturally, the groups receiving EPA funding will be at the witness stand at budget time to endorse increases in EPA’s budgets. EPA funding creates the appearance of a grassroots movement against sprawl when in fact much of the “movement” is supported by a federal agency seeking increased funding and power over local governments.

Vice President Gore was able to confidently propose a war on the lifestyle of most Americans because he knew he would be supported by numerous “citizens’ groups” that have received funding and support from EPA. After Gore’s January 11 announcement, the January 12 edition of the *Land Letter*, a newsletter for natural resource professionals, ran a lead article headlined, “Amidst great applause, Gore announces plan to curb urban sprawl.”<sup>32</sup> The groups cited as “applauding” the plan, including the Surface Transportation Policy Project and the Environmental Defense Fund, were nearly all EPA transportation or smart-growth partners.

From a legal standpoint, the EPA grants and its other support for smart growth may go beyond its authority, which is to enforce federal emissions standards and to oversee state implementation plans designed to achieve federal air quality goals. Reducing people’s mobility by creating traffic jams and forcing them to live in congested cities may slightly reduce total vehicle-miles driven. But it is likely to increase the production of those pollutants that EPA is supposed to control.

## **EPA and TEA-21**

Congress passed the 1998 transportation bill, the Transportation Equity Act for the 21st Century (TEA-21), with the expectation that it would significantly boost funding for highways. But EPA is mounting a major effort to divert gas taxes and other highway user fees away from highways to mass transit, transportation demand management, sprawl prevention, and other dubious programs. The Transportation Partners and Smart Growth Network play a major role in that effort.

Traditionally, the federal government has provided funds for transportation but let cities and states decide how to spend those funds. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) expanded on that tradition by allowing cities and states to spend more money earned from federal highway user fees on transit or other nonhighway construction—but the ultimate decision was still left up to the states.

EPA plans to overturn that tradition, both by demanding that cities with air quality problems spend transportation dollars according to its whims and by encouraging local EPA officials and partners to intervene in local transportation planning. Some sense of EPA's goals can be obtained from an internal EPA TEA-21 Workgroup Report that was approved by the agency's Office of Policy last September.

The report, titled "New Approaches to Integrate Environmental and Transportation Policy through TEA-21 Implementation," describes EPA's current role in local transportation decisions as "marginal" and proposes new interventions to give pro-environment officials, environmental activists, and regulators—many of whom are EPA partners—more power in transportation planning at the local and regional levels. The "new approach" will be to kill projects that increase highway capacity early on rather than to allow municipal officials the right of having the final say.

The report states, "Current strategies are leading to very rapid increases in driving and sprawl with escalating environmental damage."<sup>33</sup> In fact, the number of miles Americans drive has increased at about 2 to 3

percent per year since the 1920s, which was well before any federal involvement in highways.<sup>34</sup> Meanwhile, EPA's own data show that the environmental damage caused by this driving is steadily declining as cleaner cars and fuels replace older ones. The report erroneously claims that "vehicle-caused pollution doubles periodically in most metropolitan areas." In fact it is declining in most areas.

On the basis of that premise, however, the report calls for EPA's "involvement in the early stages of transportation plan development." Within each EPA region, says the report, EPA will "work with MPOs [Metropolitan Planning Organizations] and other stakeholders to promote demand management [i.e., reduced automobile use] and other innovative alternatives" to highways. The report also calls for EPA to aggressively oppose "auto dependency and urban sprawl."

TEA-21 provisions to streamline environmental clearance—intended by Congress to reduce the power of environmental regulators to block road projects—are seen by EPA as "an opportunity to change the transportation planning process by building on our involvement in plan development to ensure that demand management strategies with broad multimedia benefits are addressed at key points in the planning process." ("Multimedia" is EPA jargon referring to air, water, and land.) In other words, a "streamlined process" will have EPA and its allies killing highway projects before anyone knows they are being considered, thus "reducing the need for stakeholder involvement at later stages."

The report applauds a number of local plans that meet EPA's approval:

- In northwest Indiana, several highway projects were eliminated "before project selection," meaning before they could be fairly compared with EPA-preferred alternatives.
- In Philadelphia, environmental indicators were established that bias the analysis against roads.
- In San Francisco, a Regional Alliance for

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Transit has produced a "significant increase in public [i.e., activist] involvement in the regional planning process."

EPA's Region III (mid-Atlantic) has also been getting involved in transportation planning "before key political decisions are made." The report notes that this prevents the formation of a political constituency for highway projects: "Currently most environmental reviews occur after projects have a political constituency behind them, making change very difficult."

One important fund created by ISTEA and continued in TEA-21 is the \$1 billion annual Congestion Mitigation/Air Quality (CMAQ) fund. The administration has proposed increasing the size of the fund to \$1.6 billion annually, arguing that the new money should be spent on "air quality" (i.e., reducing automobile use) and not "congestion mitigation." For example, improved traffic signals can reduce congestion, but the paper suggests that such improvements should be ineligible for CMAQ funds because the reduced congestion can "induce more overall travel."

To carry out these schemes, the report concludes by recommending that an additional 31.5 full-time equivalent staff, and \$3.15 million in support funds, be allocated to EPA's TEA-21 campaign.

On top of this, section 1221 of TEA-21 authorizes the Department of Transportation to distribute \$20 million per year to local transportation agencies for studies of local transportation problems.<sup>35</sup> The law specifically directs the department to consider agencies that have "involvement with non-traditional partners [i.e., nonprofit organizations] in the project." The department is also to give priority to projects in areas that have adopted urban-growth boundaries and other smart-growth policies.

A recent newsletter of the Surface Transportation Policy Project urged local groups to take advantage of this provision to fund their anti-highway campaigns.<sup>36</sup> Section 1221 "was sponsored by [Oregon]

Senator Ron Wyden" and was inspired by "the LUTRAQ project" launched by 1000 Friends of Oregon. In LUTRAQ (which stands for "Land Use Transportation Air Quality"), 1000 Friends felt that Portland would be better off with less highway construction because the resulting congestion might lead some people to drive a little less.<sup>37</sup> It appears likely that at least some section 1221 dollars will find their way to groups that lobby against highways.

## **Fixing the Problem**

In 1995, House bill H.R. 1130, the "Integrity in Government Act," would have forbidden any "recipient of an award, grant, or contract from the Federal Government" from lobbying or hiring others to lobby for the funding of any program with the department or agency giving the grant. The bill did not make it out of committee.

Other efforts to limit EPA grant making to nonprofits have similarly failed. In 1996 one of the cosponsors of H.R. 1130, Rep. Ernest Istook Jr. (R-Okla.), introduced a floor amendment to the major appropriations bills that would "require any private organizations that receive a Federal grant to disclose their lobbying activities to the Agency or Agencies which awarded the grant." As mild as this measure was, it passed the floor of the House by only two votes (211 to 209). Since EPA has no reason to oppose any lobbying done by its dependent groups, the measure has little effect.

Congressional investigations of "smart growth" should examine the role of EPA in promoting this anti-automobile, anti-suburb agenda. Ultimately, Congress should forbid EPA and the Department of Transportation from making grants to any organization that uses any of its resources to lobby Congress, state or local legislatures, or federal, state, or local agencies.

Americans have a constitutional right to choose where they live, where they go, and how they get there. They also have a constitu-

tional right to make their own choices regarding local governance. The EPA anti-automobile campaign is implicitly founded on the idea that “the locals” cannot be trusted to determine their own fate and that the federal government itself should not only directly lobby municipal governments but should indirectly subvert local decisionmaking. Simply put, EPA’s campaign fundamentally subverts not only the Tenth Amendment (in that it interferes with the right of state and local governments to reach their own decisions regarding issues not within the purview of the federal government) but the very concept of democracy itself. EPA appears to see itself not as the people’s servant, but the people’s master—or at least the people’s guide. Accordingly, with the support of local branches of those EPA-backed groups, many American cities are adopting policies with little public debate that could prove enormously harmful to those cities and the freedom of their residents.

American cities do have problems with congestion, air pollution, housing affordability, and disappearing open space. Most Americans genuinely want to solve those problems. To do so, we need an open debate on policy alternatives, not a bureaucratic power grab by a federal agency hiding behind federally funded nonprofit organizations.

## Notes

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9. Martha Kessler, “EPA to Take On Problem of Sprawl Using Legal Authority, Regional Chief Says,” *Daily Report to Executives* (Washington: Bureau of National Affairs, February 4, 1999).
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11. *Transportation Partners 1997 Annual Report* (Washington: Environmental Protection Agency, 1998), Executive Summary, p. 1.
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13. *Ibid.*
14. Financial information on these grants comes from EPA’s Grants Information and Control System database, [http://www.epa.gov/envirofw/html/gics/gics\\_query.html](http://www.epa.gov/envirofw/html/gics/gics_query.html).
15. <http://tmi.cob.fsu.edu/act/act.html>.
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17. <http://www.lgc.org/clc/lgcdesc.html>.
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24. *Transportation Partners 1997 Annual Report*, p. 4-1.

**Simply put, EPA’s campaign fundamentally subverts not only the Tenth Amendment but the very concept of democracy itself.**

25. Federal Highway Administration, *Nationwide Personal Transportation Survey, Urban Travel Patterns* (Washington: Department of Transportation, 1994), Table 4-2.
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