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LePatner: Local Politics Shouldn't Sway Transportation Bill

By Barry B. LePatner
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Several important infrastructure projects proposed across the nation have brought much-needed attention to why now is the time to reform the way we have been maintaining and funding the nation's failing roads and bridges.

In New Jersey, Gov. Chris Christie canceled plans to build an $8.7 billion second rail tunnel under the Hudson River. Immediately following the recent midterm elections, the governors-elect of Wisconsin and Ohio announced they would reject federal funding for high-speed rail projects in their states. And in a separate announcement last week, New York state officials noted they are close to a consensus that will fund a new $18 billion Tappan Zee Bridge, which will include a commuter rail line along the bridge's three-mile span.

What will this mean when Congress begins to address the proposed $500 billion transportation bill in the months ahead? First and foremost, Congress must not allow itself to be swayed by local politics. Yes, it is true that a number of new governors and newly-elected Members campaigned on the premise that we must gain control over burgeoning deficits at the state and federal levels. But it is important to have a true accounting of the pros and cons of what our nation's infrastructure and transportation needs mean to our nation, and to dispassionately study that information.

Consider the cost of laying off thousands of construction workers who will go on unemployment rolls and add to those that have already hit the construction industry, which faces an unemployment level of 17.2 percent, nearly double the national rate. It is also critical to note that most independent studies show that for every $1 billion investment in an infrastructure project, at least 30,000 jobs are created.

The new Congress should also be concerned about how massive cost overruns on transportation projects have the potential to raise the initial cost of a project by many billions of dollars. Studies have shown that 92 percent of all transportation projects are over budget because of the way our nation contracts with the construction industry.

And yet, despite worries over these massive cost overruns, there has been no plan from public officials on a state or federal level for how to eliminate these damaging costs from public projects. This is exactly why neither of the New York-area projects should go forward — yet. Projects that face the prospect of large, unfunded construction cost overruns should remain on hold until a firm, unbreakable commitment is secured that taxpayers will not be held hostage to the unwarranted overruns that plague almost every megaproject in our nation.

This is not to say that we do not need to address the serious condition of our nation's poorly maintained roads, bridges, dams and levees. We do, and urgently so.

Decades of government failure to provide funding to maintain these facilities has left our nation in a perilous situation. For example, one out of four bridges in the United States has been given poor marks for structural integrity. Even more significantly, there are more than 18,000 "fracture critical" bridges — meaning the failure of one structural member would trigger the collapse of the bridge — and 7,980 of these bridges are rated as being in poor condition. That seems an almost unfathomable rate, and yet is absolutely real. To give you an idea of the danger associated with these kinds of bridges, The Interstate 35 bridge in Minneapolis, which collapsed in August 2007, was both fracture critical and structurally deficient.

The good news, though it hasn't been widely discussed, is that there are ways to end the cost overruns that have become the norm on construction megaprojects. Rather than halt projects that can provide jobs and an economic boost to the areas where they are needed, it is time for Congress to take a close look at solutions that will bring needed changes to our construction industry and to the way we build and repair the nation's infrastructure. It is time for Congress to restructure the contracts that federal and state governments sign. It is time to use true fixed-price contracts with contractors and end costly overruns forever.

While there is no way to eliminate the construction exigencies that inevitably occur on large-scale projects, they can be identified and quantified during project negotiations. Doing so would require bidding contractors to secure a true fixed-price contract to mitigate the uncontrollable cost overruns that are too often passed on to the unsuspecting public.

For decades, government agencies have allowed contractors to avoid the risks associated with large-scale projects by permitting them to start construction based on incomplete drawings. The contractors then submit a host of otherwise avoidable change orders based on either project uncertainties or errors and omissions in the plans prepared by the architect/engineering team. The firms that provide construction services for large-scale infrastructure projects are fully capable of assessing the risks and reaching a negotiated fixed price with specified contingencies for any unknown conditions.

Allowing contractors to run up the cost of every project in need of repair highlighted by the American Society of Civil Engineers in their 2009 Report Card for America's Infrastructure — which gave our national infrastructure a D grade — would cause project costs to far surpass the estimated $2.2 trillion needed to bring these facilities up to acceptable standards.

Every government official, every federal and state transportation agency and the relevant construction managers on future infrastructure projects should be encouraged to sit down and identify — and quantify in defined costs — the risks that commonly trigger change orders on large-scale projects. This process should be required before any project begins. And when there are risks that are simply too hard to predict or accurately quantify, public officials, and when possible the taxpayers themselves, should assess whether the benefits outweigh the risks.

With such a process in place, Gov. Christie, federal officials and the Port Authority of New York and New Jersey can make an informed decision whether to keep the tunnel project alive or if the project is another Big Dig, and should be avoided. And New Yorkers can learn whether the proposed new Tappan Zee Bridge project might lead them to enter into a bargain with the devil that will move the state one step closer to bankruptcy.

Barry B. LePatner is the author of the newly published “Too Big to Fall: America’s Failing Infrastructure and the Way Forward,” and is the founding partner of LePatner & Associates. He can be contacted at blepatner@lepatner.com.