

THE BOND BUYER

Why the Gateway rail project has another federal approval problem

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WASHINGTON – U.S. Transportation Secretary Elaine Chao was challenged Wednesday at a Senate hearing by two Democrats who asked why the administration hasn't given final approval for one piece of the Gateway rail project that's ready to begin construction.

The \$1.5 billion North Portal Bridge over the Hackensack River, which would have a higher elevation than the existing revolving bridge that sometimes gets stuck, only needs final approval of the financing, an Amtrak spokesman said earlier this week.

But the 50% local financing plan includes a \$284 million federal Transportation Infrastructure Finance and Innovation Act loan that Chao said she doesn't consider as a local commitment. Loan payments made in the past under the TIFIA were considered part of a local commitment.

Sen. Chris Murphy, D-Conn., defended the proposal as “a creative way to make investments in the corridor” in what he described as “a very cash-strapped environment for states.”

“In this case I don't think there is a question of whether the states will repay the TIFIA loan,” Murphy said.

Chao, however, defended her position as similar to the way a bank treats a mortgage when it lends money to a homeowner.

The local financing commitment for the North Portal Bridge is only 21%, Chao told Sen. Jack Reed, D-R.I.

“I would ask you to look again,” Reed said, explaining that it has implications throughout Amtrak's Northeast corridor. “It affects my constituents if they can't get into New York or out of New York,” he said.

Another key piece of the Gateway project – the \$12.7 billion Hudson Tunnels – can't get an estimate from the Trump administration when an environmental impact statement will get final approval.

The proposed dual-track rail tunnel connecting New Jersey and Manhattan is opposed by President Trump even though the White House says it is expediting permitting and approval of major infrastructure projects.

A one-year delay could add an additional \$1.6 billion to the cost of the new tunnel, according to the nonpartisan watchdog group Common Good, based in New York City.

“My belief is, that it's being held for political reasons,” Philip Howard, the group's chairman, said in an interview. “The documentation is all ready for a decision. There are no complications that I am aware of. They worked hard to get the review complete and respond to all the questions. And it's sitting on someone's desk at the Department of Transportation.”

Howard said the “political tug of war” over Gateway “may have trumped the goal of expediting the permit.”

The uncertainty of the next step toward making the long-stalled Gateway tunnel a reality comes on the heels of President Trump blocking \$900 million in a 2018 omnibus spending bill that had been targeted for the major transportation initiative.

Instead, the omnibus has the potential to provide \$541 million for Gateway if Amtrak, New York and New Jersey funnel some of their federal transportation funding into the project.

Gov. Andrew Cuomo of New York recently described that \$541 million as “nothing” during an Association for Better New York event.

The governor, a Democrat, theorized that President Trump is holding up providing full federal funding for Gateway that was promised during the Obama administration in hope of forcing New York Sen. Schumer, the Senate Democratic minority leader, to approve one of his national security proposals.

“This is literally a vital transportation infrastructure need and this was so irresponsible to play politics with this issue,” Cuomo said. “Gateway is probably the most important infrastructure connection on the Eastern Seaboard.”

Amtrak is evaluating how the \$541 million might be used to “determine the most impactful/efficient way to deploy the additional resources,” a spokesman said.

Trump signed a presidential executive order announced Monday that calls for cabinet level departments to “establish a cooperative relationship for the timely processing of environmental reviews and authorization decisions for proposed major infrastructure projects under the One Federal Decision (OFD) policy.”

But the Federal Railroad Administration recently missed a March 31 target date for completing an environmental review of the Gateway Hudson Tunnels project.

That target date had been self-imposed by the Gateway Development Corp., which hopes to begin construction of the new tunnel in mid-2019.

Sen. Cory Booker, D-N.J., last month was unable to get an answer from Chao that the Gateway Hudson Tunnels project was on track for approval by that date.

“I will take a look at that,” Chao responded to Booker at a Senate hearing.

On Monday an FRA spokesman said the Transportation Department “is diligently reviewing the final EIS” and will release it “once the process is complete.”

“The draft EIS produced significant public comment,” the FRA spokesman said. “A project of this size and scope has many complexities and requires a thorough review by multiple DOT agencies, all of whom are currently examining documents, resolving legal requirements under NEPA [the National Environmental Policy Act] and addressing concerns posed by impacted communities.”

The new rail tunnel connecting northern New Jersey and Manhattan would replace the North River Tunnel, which is more than 100 years old and suffered damage from flooding during Hurricane Sandy.

The tunnels serve an estimated 189,700 daily riders on Amtrak and New Jersey Transit Path trains.

The \$12.7 billion Gateway Hudson Tunnels project includes \$11.1 billion for a new two-track tunnel and \$1.6 billion for the eventual rehabilitation of the existing North River Tunnel.

Cuomo and former New Jersey Gov. Chris Christie announced a combined \$5.5 billion commitment for the Gateway project in mid-December based on a financing framework they agreed on with the Obama administration.

New York agreed to make annual payments over a 35-year period to pay debt service on a \$1.75 billion fixed-interest loan under the U.S. Department of Transportation’s Railroad Rehabilitation & Improvement Financing program. The

plan also involved New Jersey Transit and the Port Authority of New York and New Jersey each contributing \$1.9 billion.

The Port Authority pledged a total of \$2.7 billion in its 10-year capital plan.

But the Trump administration rejected that agreement and Chao dismissed those local financial commitments as representing only 5% of the project's cost because she doesn't consider federal loan repayments to be equity.

Neither New York nor New Jersey has come up with any additional funds to address those concerns.

The recently enacted \$168.3 billion New York State 2019 budget does not include any funding for Gateway. Morris Peters, a spokesman for Gov. Cuomo's budget office, said when a full financing plan is approved by federal partners, the state will advance the necessary appropriation authority outlined under the agreement with New Jersey and the Port Authority.

New Jersey Gov. Phil Murphy did not mention the Gateway project in his March 13 budget address.

Murphy issued a statement March 21 that he was pleased the 2018 federal omnibus spending bill includes "hundreds of millions of dollars" of funding for the Gateway tunnel and a replacement for the 110-year old two-track Portal swing bridge over the Hackensack River.

NJ Transit and the USDOT provided funding for early construction work on replacing the Portal North Bridge that commenced last October with major construction slated to proceed once additional funding is received.

John D. Porcari, interim executive director of the Gateway Development Corp., issued a statement that the agency is working closely with the USDOT and other federal partners on completing the environmental review.

"We must act without delay to eliminate this single point of failure that would ripple throughout the national economy," Porcari said. "We continue to work closely with the U.S. Department of Transportation and other stakeholders to complete environmental review on the Hudson Tunnel Project as quickly as possible so that critical next steps toward construction can be taken on this important project of national significance."

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