



**Wednesday, November 20, 2024, 7:00 p.m.**

The meeting will be livestreamed on [NVTAs YouTube Channel](#)<sup>1</sup>

<b>I. Call to Order/Welcome</b>	Chair Boice
---------------------------------	-------------

II.	<b>Summary Notes of June 20, 2024, Meeting</b> <i>Recommended action: Approve meeting notes</i>	Chair Boice
-----	--	-------------

III.	<b>Summary Notes of October 16, 2024, Meeting</b> <i>Recommended action: Approve meeting notes</i>	Chair Boice
------	---	-------------

#### IV. Projects with Cost Underestimates/Overruns Mr. Longhi, CFO

**V. NVTa Update (Verbal Update)** Ms. Backmon, CEO

## VI. Adjournment

**Next Meeting: December 18, 2024, 7:00 p.m.**

<sup>1</sup> *If technical difficulties arise, the meeting may be audio or video recorded. Any recordings will be made available on the [Technical Advisory Committee Meetings](#)' webpage.*



## Northern Virginia Transportation Authority

*The Authority for Transportation in Northern Virginia*

### TECHNICAL ADVISORY COMMITTEE

Wednesday, June 20, 2024, 7:00 p.m.

Northern Virginia Transportation Authority

In-Person Meeting at NVTA Offices, 2600 Park Tower Drive, Vienna, VA

Live-streamed on [YouTube](#)

### MEETING SUMMARY

#### I. Call to Order/Welcome

- The meeting was conducted in-person. Chairman Boice called the meeting to order at 7:18 p.m.
- **Attendees:**
  - **TAC Members:** Randy Boice; Karen Campblin; Michelle Cavucci; Armand Ciccarelli; Kerianne Masters; Frank Spielberg; Dr. Zhu.
  - **NVTA Staff:** Monica Backmon, CEO; Keith Jasper, Principal, Transportation Planning and Programming; Sree Nampoothiri, Senior Manager; Ian Newman, Regional Transportation Planner.
  - **Others:** None.

#### II. Summary Notes of March 20, 2024, Meeting

- Approval of the summary notes of the March 20, 2024, meeting was approved unanimously.

#### III. Summary Notes of May 15, 2024, Meeting

- The summary notes of the May 15, 2024, meeting was approved unanimously.

#### IV. FY2024-2029 Six Year Program Staff Recommendations

- Mr. Jasper, Principal, Transportation Planning and Programming at NVTA, presented an overview of NVTA staff recommendations on the FY2024-2029 Six Year Program (SYP). Staff has recommended 22 out of 24 candidate projects for funding with three of those projects receiving only the partial amount of requested funding. He added that the recommendations continue NVTA's emphasis on multimodal/corridor focus with the technology projects ranking high. It is also noted that the recommended projects are geographically and modally balanced.
- Mr. Jasper gave an overview of previous funding programs. A comparison shows that this SYP has the highest level of funding recommended (\$696,335,252) relative to funding requests with the ratio standing at 74 percent.

- Mr. Jasper noted that a high level of effort went into the public engagement activities and provided a trend of public engagement over all the seven funding programs.
- Mr. Jasper provided a summary of public comments received, including projects receiving high and low levels of support or opposition. A total of 731 comments were received from 178 commenters.
- With one exception, all projects ranked by Congestion Reduction Relative to Cost (CRRC) project rating from 1 to 19 (except #10) and 22 are recommended for full funding. Projects ranked by CRRC project rating 20, 21 and 23 are recommend for partial funding.
- The two projects that are not being recommended for funding are the Blenheim Boulevard (formerly, Old Lee Highway) Multimodal Improvements (CRRC 10) and CC2DCA Multimodal Connection (formerly known as CC2DCA Intermodal Connector) (CRRC 24). Mr. Jasper noted that the reason for this recommendation is that both projects had received previous SYP funding and were understood to be fully funded. The new applications did not include any scope changes. In addition, the CC2DCA project was ranked 24 out of 24 in CRRC project rating.
- The three projects recommended for partial funding are Braddock Road Multimodal Improvements Phase II (Humphries Drive to Southampton Drive), Frontier Drive Extension and Intersection Improvements, and Route 7 Multimodal Improvements (I-495 to I-66). These projects are recommended for partial funding due to their low CRRC ranking, limited available funding, and certain phases of the projects understood to be fully funded as per previous NVTa funding approvals.
- In response to Chairman Boice's question on projects that would have received funding if only CRRC was strictly followed, Mr. Jasper mentioned that the available funds would have run out by the 21<sup>st</sup> ranked project, which wouldn't have received its full request.
- In response to Mr. Ciccarelli's question on how public comments are considered in developing the recommendations, Mr. Jasper noted that public comment is an important factor but legally, CRRC ranking has the priority. He added that when all quantitative and qualitative measures being equal and a decision has to be made between two projects, the project with more public support may be recommended. On further inquiry about the type of comments, Mr. Jasper noted that several comments were similar in nature and some of them had the same language.
- In response to Dr. Zhu's question on feedback to the applicants about the public comments, Mr. Jasper commented that the full list of comments is published on the NVTa website and NVTa staff encourage applicants to review the comments.

- Ms. Cavucci noted that the project costs are increasing due to inflation and other factors and asked how NVTa accounts for this. Mr. Jasper responded that applicants are expected to build inflation/contingency into cost estimates and NVTa staff do not have a mechanism to address this issue in the current SYP process. He noted that there was at least one potential applicant who decided not to submit an application due to cost increase as it understood the process. He added that staff must be fair and cannot change the rules in the middle of the process.
- In response to Ms. Cavucci's question on balancing funding among jurisdictions, Mr. Jasper noted that balancing Long Term Benefit (LTB) will take multiple cycles and will require jurisdictions that are low on LTB to submit more applications and/or larger requests to help balance LTB. In response to Chairman Boice's comment on projects in one jurisdiction benefitting other jurisdictions, Mr. Jasper noted that the model-based LTB evaluation takes it into account. Ms. Backmon added that the Authority had discussed a contingency fund in the past but decided against this approach due to (a) the potential for it leading to applicants lowballing project costs to make their applications appear stronger and (b) the difficulty to decide which of the approved projects is more deserving to receive any reserve funds.
- In response to Mr. Ciccarelli's question on why some projects are partially funded when one of them (Frontier Drive Extension and Multimodal Improvements) could have been fully funded, Mr. Jasper noted that the project had received previous NVTa funding and at that time, the earlier phases (preliminary engineering and right of way) of the projects were understood to be fully funded. Therefore, only the request for later phase (construction) was recommended for funding.
- Motion to endorse the staff recommendations, moved by Ms. Cavucci and seconded by Ms. Campbell, was unanimously approved.

#### **V. Preliminary Deployment Plan for Regional BRT System (PDP-BRT)**

- Mr. Jasper, informed the Committee that part one of a two-part Work Session with the Authority members was held at the June 13<sup>th</sup> Authority meeting. Lessons learned from the best practices and part of public engagement were provided. Part two is anticipated to be held at the July 11<sup>th</sup> Authority meeting.
- Mr. Spielberg noted that he observed the pop-up event held at the Eden Center in Falls Church.

**VI. NVTa Update**

- Ms. Backmon noted that the Annual ITS-VA Transportation Roundtable, hosted by NVTa, will be held on October 9, 2024, and a State of the Region's Transportation Network, will be held on October 30, 2024, both at the new NVTa offices.

**VII. Adjourn**

- The meeting was adjourned at 8:03 p.m. The next meeting is scheduled for July 17, 2024, at 7:00 p.m.

DRAFT

**TECHNICAL ADVISORY COMMITTEE**  
**Wednesday, October 16, 2024, 7:00 p.m.**  
**Northern Virginia Transportation Authority**

**In-Person Meeting at NVTa Offices**  
**2600 Park Tower Drive, Suite 601**  
**Vienna, Virginia 22180**  
**Live-streamed on [YouTube](#)**

**MEETING SUMMARY**

**I. Call to Order/Welcome**

- The meeting was conducted in-person. Substitute Chairman Ciccarelli called the meeting to order at 7:03 p.m.
- **Attendees:**
  - **TAC Members:** Armand Ciccarelli; Kerianne Masters (virtual); Frank Spielberg; Dr. Zhu.
  - **NVTa Staff:** Monica Backmon (virtual), CEO; Keith Jasper, Principal, Transportation Planning and Programming; Michael Longhi, CFO; Alyssa Beyer, Regional Transportation Planner.
  - **Others:** None.

**II. Summary Notes of June 20, 2024, Meeting**

- Approval of the summary notes of the June 20, 2024, meeting was tabled due to lack of a quorum. This action item will be considered at the November meeting.

**III. Resubmitted Projects with Cost Overruns - Policy Development Update**

- Mr. Jasper reviewed staff recommendations for the previous Six Year Program (SYP), which was recommended for approval by the TAC in June, including the recommendation to abstain from funding two projects that were previously indicated to be fully funded to NVTa. Mr. Jasper explained that, at its meeting on July 11, the Authority funded those projects through transfers from other NVTa recommended projects. After approving the SYP, the Authority directed NVTa staff to create a policy to deal with resubmitted projects that have experienced a cost increase, by the end of the calendar year.
- Mr. Spielberg asked how the TAC could best use their expertise in providing thoughts on this policy, and Mr. Jasper responded that NVTa would value their thoughts on how a cost overrun policy may impact on both project eligibility and the method for developing future recommendations.

- Mr. Ciccarelli stated that the recent staff recommendation not to fund projects that were previously indicated to be fully funded was based on historical precedent, even if there is not a formal policy regarding this stance.
  - Mr. Jasper pointed out that the only other time funding was transferred between projects was in 2018. Now that it has happened again, there is a push for a more set process to avoid jurisdictions using the SYP as a source for funding cost overruns, which would transfer the risk of cost overruns to NVTa.
  - In addition, Mr. Jasper specified that the Virginia Code directs NVTa to give priority to projects that have the greatest level of Congestion Reduction Relative to Cost (CRRC), and moving funds could result in NVTa being out of alignment with the law.
- Mr. Ciccarelli asked if the project funds were shifted within or between jurisdictions. Mr. Jasper confirmed that donor and recipient projects were both within the same jurisdiction for each transfer. However, the transfers were complex because they involved transferring funds between funding cycles and created a funding shortage in a donor project.
- Mr. Longhi provided background on the 2015/2016 Advisory Panel. This panel was convened and collaborated with the Finance Committee to research the impacts of offering funding contingencies and to determine both if and how to use a funding reserve. The panel's final recommendation was for the Authority not to fund cost overruns. While the Authority agreed to hold neither a contingency reserve nor to fund cost overruns, this decision was not made into a formal policy. The contingency reserve which the Authority had accrued at the time was re-absorbed into general funding sources (PayGo).
- In July 2024, the Authority directed NVTa staff to create a policy on funding contingencies for projects resubmitted due to cost overruns. They have not, however, indicated what that policy should be. Mr. Longhi stated his professional opinion that the Authority should continue not funding cost overruns. He then turned to reviewing the research completed on the matter so far.
- The current Standard Project Agreements (SPAs) address cost overruns through several clauses.
  - NVTa's CEO must be notified of any additional project costs due to unanticipated circumstances.
  - Supplemental requests included in the SPA are analyzed and result in a recommendation by the Finance Committee.
    - Mr. Longhi emphasized that without hearing about cost overruns, NVTa is unable to provide this review and action.
  - NVTa makes guidelines available to the project sponsors to assist them in carrying out the SPA.

- NVTA does not need to commit or obligate project funds beyond what is already authorized and appropriated. If a project is stopped due to a funding shortfall, NVTA asks for their funding to be returned. In this way, the risk falls on the project applicant, not NVTA.
- Mr. Ciccarelli asked if there was a mechanism for making funding decisions in addition to the current language and processes for addressing cost overruns. Mr. Longhi clarified that the mechanism for making funding decisions is the reporting of cost overruns to NVTA in advance of project sponsors changing project characteristics or requesting additional funding through the SYP. However, there is no clear timeline for when this reporting should take place.
- Mr. Spielberg pointed out that CRRC ratings encourage project sponsors to keep contingency funds low for a higher chance of receiving funding. He asked if NVTA has a policy that requires an adequate contingency to be included at the time of project submission. When Mr. Longhi responded that there is not such a policy, Mr. Spielberg mentioned the possibility of having a standard contingency percentage included by project sponsors.
- Mr. Longhi referred to the packet again, detailing the 2015/2016 Finance Committee and Advisory Panel conclusions. He acknowledged that the policy currently requested by the Authority is limited to addressing cost overruns and will not include funding a contingency reserve. These cost overruns can be triggered by factors both within and external to a jurisdiction's control. The Advisory Panel outlined policy considerations of funding cost overruns.
  - The Advisory Panel recognized that few if any external project grants included an expectation concerning the availability of a contingency fund.
  - In addition, project sponsors agree to provide a complete project through SPAs, and thus should already have agreed to and planned for contingencies.
  - Funding cost overruns can shift risk from the project sponsor to NVTA, who does not own and operate the projects.
  - If NVTA were to fund cost overruns, staff would need access to significant project information for evaluation, which would be expensive, time consuming, and add little value.
    - Mr. Longhi stated that NVTA does not currently have the staff to perform this overview and analysis, and adding this capacity would contribute to a complex bureaucracy.
    - Currently NVTA neither asks about nor determines contingency levels, as doing so would increase NVTA's liability and risk.



- It was unclear how contingency amounts should be determined, especially given regular project delays. Determinations also raised equity concerns for project sponsors such as jurisdictions who can contribute 30% Local Distribution Funds to a project, versus agencies who do not receive NVTAs 30% Local Distribution Funds. Mr. Ciccarelli pointed out that during the most recent adoption of the SYP, one jurisdiction did not ask for additional funds in accordance with NVTAs process and possibly missed out on additional project support.
- The Advisory Panel also recognized that project evaluation and selection processes can be impacted through the appropriation of additional funding.
  - Additional funding would impact CRRC rating and have changed initial funding decisions, may influence jurisdictions to reduce their own contingency or cost factors, and overall cause a broader risk shift.
  - Mr. Spielberg asked if a jurisdiction facing cost overruns could submit just a cost overrun for the current funding cycle evaluation. Mr. Jasper responded that it would be difficult to attribute the cost overruns to a specific aspect of the original SPA if the scope remains the same. For example, the projects from this last funding cycle had no scope changes. Mr. Spielberg commented that this seems like an easy technical solution but a difficult political one.
  - Mr. Longhi reiterated that this is an issue of managing risk. A multi-phase project has an opportunity to absorb cost increases through future funding requests, but these cost increases would then be part of the next project description, evaluation, and CRRC rating.
  - Should NVTAs include a new contingency policy, past performance would need to be included as a formal part of the request and potentially future project evaluations. In addition, project contingency assumptions would need to be disclosed and included in project assessment.
  - Preserving a contingency fund (or equivalently reserving additional PayGo) has been referred to as a last resort and would be incredibly difficult to maintain at previous and current staffing levels. It would require additional funding by the region for NVTAs to do this work.
    - Mr. Ciccarelli emphasized that the capacity necessary for such work to be done quickly and accurately is beyond what NVTAs can provide with current staffing.
    - Mr. Longhi agreed that it would take a large increase in engineering staff to complete that work in-house. Contracting the work out would impose delays and increase costs.

- Mr. Longhi expanded that in 2016, \$24 million dollars were estimated in cost overruns. The current estimates for cost overruns, give or take \$100-200 million, is \$1 billion.
- Based on recent experience, a formal policy on cost overruns should consider additional policy considerations.
  - Accurate cost estimates are critical in upholding the integrity of CRRC, and applicants are currently responsible for including sufficient contingency in their funding requests.
  - NVTa recognizes that the pandemic impacted supply chains and cost escalations. However, project delivery was already lagging in many cases, leading to cost inflation.
  - There is a question of how NVTa should determine what projects receive additional funding.
  - Many parameters would also have to be addressed, such as: if the policy would be retroactive, the extent of additional information needed from project sponsors, the extent to which NVTa would provide additional funding, if there should be a limit on project phases that should be funded based on design progress, and a potential limit on Regional Revenue transfers to help avoid abuse of the contingency system.
- Mr. Spielberg asked for clarification on what would happen if there was a cost underrun, as opposed to an overrun.
  - Mr. Longhi responded that while cost underruns are uncommon, they have happened before. Usually, it is noticeable when a project is leaning toward a cost underrun, because additional expenses are included for reimbursement. Typically, the amount of a cost underrun is not significant, and the funds are simply returned from the appropriation to NVTa's Regional Revenue Fund.
  - Mr. Longhi described Forward Appropriations as a tool for reducing costs. After passing a capacity analysis, funds can be made available before the planned appropriation to help continue progress and reduce cost escalation due to inflation.
- Mr. Spielberg asked if jurisdictions are provided with the opportunity to use the money saved from cost underruns in other projects. Mr. Longhi explained that that is not an option, because these are Regional Revenue Funds and not Local Distribution Funds. Mr. Jasper explained that the returned funds are rolled into the next funding program.
- Dr. Zhu asked what happens if a project is cancelled or withdrawn after partial spending. Mr. Longhi shared the projects that withdraw typically do so early in the project. NVTa has recovered funds that were used in withdrawn projects.

- Mr. Spielberg drew a comparison to the Federal Transit Administration (FTA)'s full funding grants, and how the FTA does not provide additional funding to the original agreement.
  - Mr. Longhi pointed out that the original 2015/2016 Advisory Panel was unable to identify a funding source that would guarantee a contingency.
  - Mr. Spielberg and Mr. Longhi discussed how other agencies complete projects which run out of funding through delaying or transferring monies allocated to other projects. NVTa cannot do such delays or transfers due to the structure of funding individual projects across the region, instead of managing a malleable funding program.
- Mr. Spielberg asked what drove the need for this discussion.
  - Mr. Longhi described how the current wording in the SPAs and the unofficial approach taken by NVTa regarding cost overruns was deemed insufficient by the Authority.
  - Ms. Backmon added that the lack of policy was raised by a project sponsor, which is why NVTa was directed to create one by the end of the year.
- Mr. Ciccarelli pointed out that the current process has worked well so far and expressed concerns that providing a policy to support cost overruns would be too complex and too costly, and with too much risk for unintended consequences.
- Mr. Spielberg shared that the FTA only funds projects that have reached a certain point in planning and design, which creates controls that reduce the breadth of potential cost overruns. He recommended creating a similar process for mitigating the possibility of large cost overruns, even if NVTa decides to adopt a policy against providing contingencies.
- Mr. Longhi mentioned that project sponsors can take such an approach now by only requesting funding for specific project phases. Mr. Spielberg acknowledged that although this is possible, many project sponsors are probably more worried about securing funding for a whole project rather than reducing risk with an incremental funding approach. Mr. Ciccarelli agreed that seeking funding for the entire project during one funding cycle, does not adequately account for typical project delays and subsequent inflation.
- Mr. Longhi pointed out the complication of project rankings changing over funding programs. Since project CRRC ratings are only compared with other candidate projects in that SYP update cycle, a project that receives a high ranking in one SYP may not remain highly ranked if compared with candidate projects in another funding cycle.
- Mr. Spielberg asked for clarification on how project cost is calculated for projects that only request funding for certain phases. Mr. Jasper shared that the jurisdictions need to estimate the total full project cost for fair CRRC comparison,

even if they have not completed project design and, as such, are not sure what the total cost will be.

- Mr. Spielberg expressed concerns about having jurisdictions estimate total project costs without completing design, and Mr. Jasper acknowledged that this is not ideal and may be up to adjustment going forward.
  - Ms. Backmon expressed that it is also preferred that a project not be fully reliant on NVTa for funding, but the total project cost is still used even if a project draws from other funding sources.
- Ms. Backmon discussed further the question of whether NVTa should not fund the project until Preliminary Engineering has reached a certain degree of completion, to avoid project delays and cost overruns due to changing project scope. Mr. Longhi agreed that such an approach would shift risk back to the applicant and may encourage more cost-effective design since project sponsors would have more concrete estimates available when seeking funding.
- Dr. Zhu recognized that this topic has come up multiple times, and the decision has always been not to fund cost overruns and expressed that he thinks this decision is still the best choice today.
- Mr. Ciccarelli asked for the next steps for the committee, and Mr. Longhi responded that a general response to a contingency policy by TAC members would be helpful in moving forward.
  - Mr. Ciccarelli again expressed concerns regarding the unintended consequences of a policy supporting covering cost overruns and the complications of applying the policy retroactively to be fair to project applicants. He said that he did not think it is appropriate for NVTa to adopt such a policy with these concerns in mind.
  - Mr. Spielberg agreed, expressing that NVTa should not be on the hook for the project sponsor's cost overruns, but that it would be wise to adopt policies and procedures to help them avoid cost overruns. He voiced support for limiting funding until there is a degree of certainty to the project cost (such as a project completing a certain level of design) or requiring a certain level of contingency included in project cost estimates.
  - Dr. Zhu also noted that funding a contingency for cost overruns is not in NVTa's best interests.
- Mr. Ciccarelli clarified that this is not an official position because the committee did not reach a quorum during this meeting and the Chair is not present.
  - Mr. Longhi summarized that the TAC members are generally not supportive of a policy for funding contingencies for cost overruns but are supportive of placing some guidelines for project sponsors.

- Mr. Ciccarelli agreed that it is good to increase consistency in project proposals, so long as the burden for doing so is not too great for the NVTa.
- Dr. Zhu asked if NVTa has enforced the inclusion of past performance as a criterion in project selection, indicating that doing so may also discourage delays and cost overruns.
  - Mr. Longhi stated that staff are empirically aware of which jurisdictions are staying on top of projects, and which are experiencing delays. However, NVTa is not regularly kept abreast of challenges, solutions, and project status.
- Mr. Spielberg recommended reviewing peer organizations to identify how they handle cost overruns.
  - Dr. Zhu mentioned that SMART SCALE has also discussed ways to address inconsistent project proposals.
  - Mr. Jasper pointed out NVTa's unique status and goals, which make decisions like this more complicated. Mr. Longhi reiterated that NVTa does not manage projects and cannot implement cost containment strategies that are often used by other organizations.
- Mr. Longhi covered the next steps on the establishment of such a policy, including discussion with various committees.

#### **IV. Six Year Program Application Evaluation Process**

- Mr. Jasper provided a reminder that the next Call for Projects is anticipated for May of next year, and that any changes to the project application process, namely alignment with NVTa's Core Values, will need to be instated soon.

#### **V. NVTa Update**

- Ms. Backmon highlighted NVTa's upcoming and inaugural State of the Region's Transportation Network event on October 30<sup>th</sup> to be held at the NVTa office and invited TAC members to attend.

#### **VI. Adjourn**

- The meeting was adjourned at 8:22 p.m. The next meeting is scheduled for November 20, 2024, at 7:00 p.m.

# NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

## MEMORANDUM

**FOR:** Chair Randy Boice and Members of the  
Northern Virginia Transportation Authority Technical Advisory Committee

**FROM:** Michael Longhi, Chief Financial Officer

**DATE:** November 15, 2024

**SUBJECT:** Projects with Cost Underestimates/Overruns

---

**1. Purpose:** To inform the Northern Virginia Transportation Authority (NVTA) Technical Advisory Committee (TAC) of efforts to develop a policy by the end of the calendar year, to address resubmitted projects that have experienced a cost overrun.

**2. Background:**

- a. At the July 11, 2024, Authority meeting, a directive was made for Authority staff to return with a proposal to develop a policy to deal with resubmitted projects that have experienced a cost increase, by the end of the calendar year.
- b. The fundamental aspects of this directive (funding cost overruns) were reviewed by the Authority's Finance Committee in 2015 and 2016. Additionally, a regional Advisory Panel was established by the Chief Executive Officer, to collect key insights from regional jurisdiction staff regarding the composition of a policy to fund project cost overruns through the establishment of a Contingency Reserve.
- c. At the October 5, 2016, meeting the Authority acted, based on the Finance Committee and Advisory Panel recommendations, to eliminate the funding of project cost overruns and no longer pursue the development of a related policy. The associated 2016 staff report for this Authority action is attached.
- d. The attached material was presented to the Authority on October 17, 2024. And, presented to the Technical Advisory Committee (TAC) on October 16<sup>th</sup>, the Planning Coordination Advisory Committee (PCAC) on October 23<sup>rd</sup>. Additionally, this material was shared with the Regional Jurisdiction and Agency Coordinating Committee (RJACC) on September 26<sup>th</sup> with an opportunity for further discussion on October 24. RJACC will receive an update on November 21<sup>st</sup> with a further opportunity for regional discussion.
- e. The TAC and PCAC did not have meeting quorums and were therefore unable to take official action.
- f. A presentation and discussion opportunity for the Planning and Programming Committee (PPC) is scheduled for November 18<sup>th</sup>.

**3. Discussion Items:** The policy development process, informed by prior Authority action, must be guided by whether the Authority is willing to fund cost underestimates/overruns or not.

**a. Funding Cost Underestimates/Overruns.**

- I. A policy based on this direction will need to address the issues noted in the earlier 2015/2016 work of the Advisory Panel and Finance Committee as well incorporate lessons learned over the last eleven years.
- II. Prior efforts to form a policy identified 47 issues which will need to be addressed within the policy. The 47 issues cannot address all possible circumstances which will grow exponentially as experiences broaden.
- III. Addressing the issues involved in the implementation of such a policy will necessitate the expansion of Authority staff and the use of independent external consultants.
- IV. Implementation of such a policy must occur within the two-year update to the Six Year Program (SYP) call for projects, evaluation and ranking processes to maintain compliance with the Authority's legal requirements.

**b. Not Funding Cost Underestimates/Overruns.**

- I. A policy to not fund cost underestimates/overruns will be relatively easy to draft.
- II. If the Authority chooses to direct the development of a policy to not fund cost underestimates/overruns, it can choose to leave an avenue open for project sponsors to submit a petition for additional funding under extraordinary circumstances which could not have been anticipated.
- III. Such a petition process would need to include, but not be limited to:
  1. Provisions to ensure the petitions are only reviewed in the context of an update to the SYP.
  2. Petitions should be submitted to the Chief Financial Officer (CFO) and Principal, Transportation Planning and Programming (P,TPP) to provide for an orderly examination and comprehensive NVTa staff review facilitating comprehensive professional recommendations for NVTa's Chief Executive Officer (CEO) to assess.
  3. The progress of petition reviews will be dependent on the promptness, completeness and clarity of project sponsor responses to NVTa inquiries. Such inquiries must be expected to be in-depth and thorough.
  4. NVTa must have provisions to use the services of independent outside consultants on an on-call basis, to fully examine the petition and form recommendations. (Cost to be paid by project sponsors.)
  5. The on-call services will limit the need to preemptively hire full-time NVTa staff.
  6. The CEO will make recommendations to the Authority's Finance Committee, PCAC and PPC.

7. The PPC will make recommendations to the Authority as part of a SYP update suite of projects for new funding.
8. Any recommendations will be made within the context of a two-year update to the SYP.

**IV. Authority Staff Recommendation.**

1. NVTa staff recommends the development of a policy to not fund cost underestimates/overruns. A draft of this policy can be ready for the December 2024 Authority meeting.
2. If the Authority accepts the recommendation to not fund cost underestimates/overruns, but desires to include a petition process, staff requests a policy delivery extension to the February 2025 Authority meeting.
3. If the Authority desires a policy to fund cost underestimates/overruns staff request an extension of 10 months to September 2025 and a moratorium on such funding until the policy is in place.

**Attachment:** Recommendation to Eliminate Contingency Reserve – October 5, 2016



## NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

MEMORANDUM

**FOR:** Chairman Martin E. Nohe and Members  
Northern Virginia Transportation Authority

**FROM:** Mayor Parrish, Chairman, Finance Committee

**DATE:** October 5, 2016

**SUBJECT:** Recommendation to Eliminate Contingency Reserve

---

1. **Purpose:** Present Advisory Panel Contingency Reserve Recommendations.
2. **Suggested Motion:** *I move the Authority approval of the elimination of the Contingency Reserve in the Regional Revenue Fund as recommended by the NVTa Advisory Panel and reviewed by the NVTa Finance Committee.*
3. **Background:** The Finance Committee requested staff research and report on the establishment of two reserve funds. One reserve for project contingency (Contingency Reserve) and the other to set aside funds for future large scale projects (Transportation Project Reserve). The Executive Director established an Advisory Panel to examine and make recommendations on both reserves. Participation on the Advisory Panel was open to representatives of all member jurisdictions. Participation of jurisdiction transportation and finance representatives was especially welcomed.

After several meetings the Advisory Panel prepared this recommendation for the Contingency Reserve. The Advisory Panel also formulated a recommendation on the Transportation Project Reserve which is presented in a separate report.

4. **Comments:** The Finance Committee expressed an interest in establishing a Contingency Reserve within the Regional Revenue Fund to provide funding to achieve completion of approved Authority projects encountering cost overruns.

Initial funding of the reserve occurred with the FY2016 budget adoption with the provision that the reserve could not be utilized until a policy covering its use was adopted by the Authority. In FY2017, the reserve level was funded at \$8,573,894 in keeping with an objective of maintaining the reserve at 3.8% of Regional Revenue Fund annual revenues. The Advisory Panel, through policy development meetings made the following observations related to the reserve:

- a. A contingency reserve has the potential to shift project risk in some measure from the project sponsor to the NVTa. The Advisory Panel believes the NVTa should not absorb this risk.

- b. Past project performance would need to be made a formal part of the contingency request and possibly future project evaluation processes.
- c. The Contingency Reserve had been referred to as a 'last resort' option. The Advisory Panel questioned how the NVTa, at current staffing levels would be able to ensure other options are exhausted.
- d. If a Contingency Reserve were to be offered, the Advisory Panel recommended localities be required to commit their 30% funds as part of the 'other options' noted above prior to making a contingency request. However this raised additional questions:
  - 1. What if the locality 30% funds are already committed by contract or other governing body action?
  - 2. Are there equity issues with Agencies since they do not receive 30% funds?
  - 3. Should and how will project sponsors be required to affirm they have no other financial options other than to request contingency use? (Given the complexity and scope of the various fund structures and budgeting as well as accounting methods, this could be extraordinarily complex, intrusive and staff time consuming.)
- e. Having a contingency reserve and thus a portion of project risk being transferred to the NVTa would necessitate the requirement for project contingency assumptions to be disclosed as part of the project descriptions. This disclosure would then become part of the project assessment process.
- f. The Advisory Panel questioned if contingency costs could be meaningfully disclosed without the additional disclosure of all cost components. Such disclosure would be expensive, time consuming, while potentially adding little value to the actual project.
- g. The Advisory Panel cautioned that in an environment of broad economic changes such as inflationary labor, raw and finished material cost increases, a significant number of projects could face escalating costs at the same time for the same reasons. This potential raised questions as to:
  - 1. The sufficiency of the funding level of the Contingency Reserve.
  - 2. How will NVTa staff recommendations be formulated?
  - 3. Is there an equity issue when some project sponsors may have committed additional local funds to the project contingency while others are depending on the NVTa contingency reserve?
- h. The Advisory Panel recognized NVTa project evaluation and selection processes could be impacted through the application of Contingency Reserve funds:
  - 1. Cost is a consideration in the NVTa project selection decision, additional costs would impact the score and may have changed the initial funding decisions.
  - 2. The existence of a NVTa contingency reserve may induce project submitters to reduce their project contingency or other cost factors in their project estimates. Therefore, the existence of a contingency reserve with a stated purpose of reducing the risk of not achieving completion of a project, may unintentionally cause a broader risk shift.

3. Multi-phase projects have an opportunity to absorb cost increases through future requests for sequential phase funding. Those costs would then be part of the next project description, evaluation and rating.
    - i. The Advisory Panel recognized that few if any project grants from other sources came with the expectation that a contingency fund would be available to a project sponsor.
    - j. The Advisory panel noted that under the terms of the NVTa Standard Project Agreement (SPA) the project sponsor agrees to provide a complete project as described in the SPA and therefore has already agreed to and conceivably planned for contingencies.
    - k. While no formal requests for use of the Contingency Reserve has been received by the NVTa, project status discussions have indicated there is approximately \$24 million in potential project cost overruns, which is almost 3 times the current targeted contingency level.
    - l. Increasing the contingency level to \$24 million would have reduced FY2017 PayGo by almost 10% and increased the need for debt financing.
    - m. Replenishing a contingency reserve on an annual basis will make a significant reduction in PayGo resources, thereby delaying future NVTa project awards or forcing a greater reliance on debt financing.
5. **Advisory Panel Recommendation:** After careful consideration of the benefits and drawbacks related to a NVTa Contingency Reserve and in light of the above considerations, the Advisory Panel recommended to the NVTa Finance Committee that a Contingency Reserve not be established.
6. **Next Steps:** If the Authority eliminates the Contingency Reserve, the reserve funding designation of \$8,573,893.78 will become fund balance in the Regional Revenue Fund. These funds will then be available for future FY2018 Project Program decisions by the Authority.