

NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

MEMORANDUM

FOR: Chair Phyllis J. Randall and Members
Northern Virginia Transportation Authority

FROM: Mayor Jeanette Rishell, Finance Committee Chair

DATE: March 2, 2023

SUBJECT: Approval of Policy 29 – Project Activation, Monitoring and De-Appropriation Changes

-
1. **Purpose:** To seek the Northern Virginia Transportation Authority (NVTA) approval of the attached proposed changes to Policy 29 – Project Activation, Monitoring and De-Appropriation as recommended by the Finance Committee.
 2. **Suggested Motion:** *I move the Authority approval of the changes to Policy 29 – Project Activation, Monitoring and De-Appropriation, with a delayed implementation until June 9, 2023, identified in the attached draft.*
 3. **Background:**
 - a. At the September 8, 2022, Finance Committee meeting, the Committee discussed the FY2022 project reimbursement levels noted in the table below.

Fiscal Year	Reimbursed
FY2022	\$57.3M
FY2021	\$123.0M
FY2020	\$147.8M
FY2019	\$64.5M
FY2018	\$86.8M
FY2017	\$99.7M
FY2016	\$69.3M
FY2015	\$4.1M
FY2014	\$.0M
Total	\$652.6M

- b. The receipt of requests for reimbursement containing invoices as old as five years has significant implications for internal controls, financial statement accuracy and the annual independent audit.
- c. Staff recommended placing an 18-month deadline for project sponsors to submit invoices for reimbursement. The Committee endorsed this recommendation on September 8, 2022, and requested staff return with a policy update to implement the recommendation with an adequate notice period to project sponsors.

- d. This proposed policy change has been discussed at the monthly Regional Jurisdiction and Agency Coordinating Committee (RJACC) meetings since September 2022.
- e. The 18-month timeline discussion at the RJACC meetings has had a positive impact on project reimbursements. As of this report, \$40 million in reimbursement requests have been received. This represents 70% of the total received in FY2022 in four accrual months. Many of these reimbursement requests have contained invoices that are several years old.

4. Summary of Policy Changes:

- a. The proposed policy change includes an opportunity to document why an exception to the 18-month limit is warranted.
- b. The proposed change does not reduce the amount of funding approved by the Authority for a project.
- c. There is a proposed three-month delay in the implementation of the policy change until June 9, 2023, to allow project sponsors to continue to address older invoices.

Attachment: Draft Policy 29 – Project Activation, Monitoring and De-Appropriation Changes

NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

Policy Number 29 – Project Activation, Monitoring and De-Appropriation

- I. **Purpose** The purpose of this policy is to provide a mechanism for the Authority to monitor project activation, progress, and appropriation in accordance with project descriptions and Standard Project Agreements (SPA). The monitoring activities in the policy are designed to set benchmarks and guidelines for the evaluation of de-appropriation (cancellation) of project funding, and identify duplicate reimbursement requests, and set parameters for the timely presentment of project expenses for reimbursement.

Expenditure reimbursement requests presented later than the existing cash flow schedule (as documented on the SPA Appendix B form), result in disruption of the Authority's cash management, liquidityliquidity, and investment programs. Presentment of project expenses for reimbursement which are older than 18 months results in restricted project transparency and a distortion of the Authority's financial statements.

Expending tax exempt financing through bonds issued by the Authority later than originally projected, may present Internal Revenue Service arbitrage compliance issues.

Undertaking any form of debt to meet project sponsor expenditure projections that do not materialize will result in unnecessary debt service expenses, reducing PayGo funds for other projects.

Project Sponsors are responsible for having an established system of internal controls for the prevention of duplicate project reimbursement requests and timely presentment of invoices for reimbursement.

II. Key Definitions

- A. **Adopted Project** – A project which has been approved by the Authority for inclusion in the Six Year Program, and updates, but for which an appropriation has not been made.
- B. **Appropriation** - The formal approval for the expenditure of public funds by the governing body of a governmental jurisdiction. Appropriations are made for the full amount of a project in the first fiscal year the project is approved for funding, by the Authority.
- C. **Appropriated Project** - A project which was approved for inclusion in the Six Year Program, and which has received an appropriation for the project amount.
- D. **De-appropriate** – Removal of an appropriation resulting in the cancellation of the project.
- E. **Project Sponsor** – Jurisdiction, Agency or representative submitting a project request to the Authority which was subsequently adopted.
- F. **Six Year Program** - The Six Year Program (SYP) is a short-term constrained funding program which has been formally adopted for the development or acquisition of a series of regionally significant transportation improvement

projects. The SYP has specific planned projects, each of which is identified for specific amounts of funding, starting in specific fiscal years.

- G. SYP Updates** - Updates to the Six Year Program are expected to occur approximately every two years, on a schedule approved by the Authority. SYP updates will add additional adopted projects approximately four to five years ahead of the expected appropriation.
- H. Substantive Drawdown** – A request for reimbursement which through the incurrence of directly relevant project costs clearly demonstrates project start up and/or progress. The Chief Executive Officer (CEO) may accept the documented expenditure of funds from other sources, directly appropriated to the project, as a substitute for the expenditure of Authority funds.
- I. Duplicate Reimbursement Request** – A request for reimbursement, which contains either in whole or in part, an expense which has previously been submitted for reimbursement.
- J. Duplicate Reimbursement Audit Cost** – The direct cost incurred by NVTA for the Agreed Upon Procedures audit which detected the duplicate reimbursement. Such cost will be prorated based on the dollar amount of the duplicate reimbursements detected, based on the following examples.
 - a. Example 1. – Audit cost is \$20,000. Audit discovered one duplicate of \$1,000. The Project Sponsor pays \$1,000 toward the cost of the audit, for a total reimbursement of \$2,000 setting a limit that Project Sponsors will pay no more than they are reimbursing toward the audit cost. Any balance of the audit cost will be retained by NVTA as an expense of its internal controls.
 - b. Example 2. – Audit cost is \$20,000. Audit discovered four duplicates comprised of: Project Sponsor A, two duplicates one of \$50,000 the other of \$80,000. Project Sponsor B had one duplicate of \$15,000. Project Sponsor C, one duplicate of \$3,000. Total recovery is \$148,000 of which Project Sponsor A is 88%, Project Sponsor B is 10% and Project Sponsor C is 2%. Project Sponsor A is required to pay \$17,600 of the \$20,000 audit cost, Project Sponsor B is required to pay \$2,000 of the \$20,000 audit cost and Project Sponsor C pays \$400 of the \$20,000 audit cost.
 - c. Example 3. – Audit cost \$20,000. No duplicates are found. NVTA retains the entire cost of the audit as an expense of its internal controls.

III. General

- A.** This policy will be in effect for all Regional Revenue Fund projects approved by the Authority and supersedes Policy 24 and Policy 25.
- B.** There are three milestones which the Authority will use to assess project progress:
 - 1. Standard Project Agreement (SPA) approval by the Authority for a project within three months of the appropriation of Regional Revenue Funds.¹

¹ For example, a project approved in year four of the Six Year Program, must have its SPA approved within three months of the Authority's appropriation action for year four as opposed to within three months of the adoption of the Six Year Program.

2. Project activation/progression documented through monthly updates submitted to NVTA and reported in the Chief Executive Officer's monthly report to the Authority for appropriated projects.
 3. Project sponsor's submission of an initial substantive drawdown on appropriated funds within 18 months of the initial appropriation of Regional Revenue Funds, demonstrating meaningful project progress.
- C. For any project at risk of missing one of these three milestones, the project's sponsor may request an extension of time from the Chief Executive Officer.
- D. The Chief Executive Officer may request additional information from the project sponsor in making a decision on an extension recommendation.
- E. Agreement on project status will be sought with the implementing jurisdiction or agency.
- F. If agreement is not reached, the Chief Executive Officer may take a project de-appropriation recommendation to the Finance Committee prior to referral to the Authority for action.
- G. Project sponsors must keep their SPA-Appendix A and B forms up to date. Appendix B's can be updated in accordance with Policy 20. III B. 2.
- H. All funds de-appropriated from actions taken under this policy will remain in the Regional Revenue Fund for future appropriation by the Authority.
- I. Projects which had funds de-appropriated may reapply for funding during the next call for projects. Such applications will need to meet the application requirements of that SYP update cycle.
- J. The Chief Executive Officer may extend SPA deadlines for adopted projects in proportion to the number of months no meetings were held by the Authority within the next three months after project appropriations.
- K.** The direct external audit cost related to the discovery of duplicate reimbursements will be assessed proportionally, based on the dollar amount of the duplicate(s) to the Project Sponsor submitting the duplicate requests as detailed in Section II. J. above.
- L.** Project Sponsors are required to submit all expenses for reimbursement to NVTA within 18 months of the invoice date.
- K.M.** Project expenses submitted with invoice dates older than 18 months from the date of submission to the NVTA will not be reimbursed.

IV. Responsibilities

- A. Project sponsoring jurisdiction or agency primary responsibilities:**
1. Completion of SPAs within three months of Authority appropriation of Regional Revenue Funds to the project.
 2. Document project activation/progression on appropriated projects through monthly updates submitted to NVTA for inclusion in the Chief Executive Officer's monthly report to the Authority.

3. Submittal of initial substantive drawdown on appropriated projects within 18 months of the Authority's appropriation of Regional Revenue Funds for the project.
4. Proactively inform the Chief Executive Officer of material circumstances which may delay or otherwise impede the prospects for successful start, draw down of project funds or completion of adopted and appropriated projects included in the SYP.
5. Proactively inform the Chief Executive Officer of appropriated project scheduling issues, providing a revised timeline to be submitted on SPA Appendix A forms with action steps required for timely completion of the project.
6. Proactively inform the Chief Executive Officer of adopted project scheduling issues, providing information as to a revised timeline to be submitted with action steps required to timely project completion.
7. Proactively request cancellation of an appropriated or adopted project if the project sponsor determines the project is no longer necessary or executable.
8. Provide additional project information upon request.
9. Provide continued updates as necessary to the project SPA – Appendix A and B forms (Tables B-2 and B-3) reimbursement timing/schedule for appropriated projects.
10. Through a system of internal controls, prevent the submission of duplicate requests of project expenses.
11. Reimburse duplicated project reimbursements which have been paid by NVTA, inclusive of the prorated costs of the independent external audit.
12. Submit invoices for reimbursement within 18 months of the invoice date, or in the case of internal expenses; within 18 months of the incurrence of the internal expense.

B. NVTA Chief Executive Officer

1. Monitor project progress through requests for reimbursements and submission of project activation/progress reports by project sponsors.
2. Include a report of appropriated project status in the Chief Executive Officer's monthly report to the Authority. Status reports will be consistent with project progress documented by project sponsors, unless otherwise noted.
3. Receive notice from project sponsors of possible delays in submitting drawdown requests or activating/progressing the project by the deadline.
4. Request information, when required, to evaluate project sponsor notice of delay or to request information on delay.
5. Receive and evaluate notices from project sponsors of adopted projects included in the SYP which are facing schedule or other risks which may impede their successful completion.
6. Accept requests for appropriated or adopted project cancellations from project sponsors and forward with a recommendation to the Finance

Committee in advance of submission to the Authority with a recommendation to accept or reject the request.

7. Evaluate requests for extension of time or other accommodations requested by project sponsor.
 8. Make recommendations to the Finance Committee on project de-appropriations to be referred to the Authority.
 9. Direct the NVTA Chief Financial Officer to:
 1. Establish an outsourced Agreed Upon Procedure audit process designed to evaluate duplicate reimbursement risks to inform audit sampling.
 2. Provide Project Sponsors information on identified potential duplicated reimbursement requests, providing an opportunity for confirmation, explanation, or dispute.
 3. Recover any duplicate reimbursement payments and prorated audit costs from Project Sponsor(s).
 4. Provide reports of duplicate reimbursements to the Authority Finance Committee.
- 4.10. Evaluate requests for an exemption of III. L, M (expense reimbursements older than 18 months) from a project sponsor that can document the delay in submitting expenses for reimbursement was out of their control.

Approval by the Finance Committee: March 21, 2019

Approved by Northern Virginia Transportation Authority: April 11, 2019

Amendment Approval by the Finance Committee: October 13, 2022

Amended by the Northern Virginia Transportation Authority: October 13, 2022