

November 16, 2013

The Honorable Thelma Drake
Director
Department of Rail & Public Transportation
600 East Main Street, Suite 2102
Richmond, VA 23219

Dear Director Drake:

As you know, Virginia Transit Association (VTA) members have been carefully following the Transit Service Delivery Advisory Committee's (TSDAC) discussion. As TSDAC continues its work on the capital issues, as directed by SB 1140, we are seeking to better understand several of the DRPT capital proposals. We are hopeful DRPT can provide these answers well in advance of the next TSDAC meeting so that stakeholders will have time to review and evaluate the proposals and prepare comment for the next TSDAC meeting.

The Executive Committee met at the VTA offices immediately after the September 9 TSDAC meeting. Discussion centered on the capital proposals. Executive Committee members had a clear understanding of most of the capital issues with the exception of: 1) the issue of whether state participation rates should be based on percentages of gross or net; 2) multi-year funding agreements. On behalf of the Executive Committee, I write to ask for additional clarification and specifics for these proposals.

The VTA Executive Committee understands that the "Capital Asset Tier Categories and Definitions" white paper DRPT presented at the September 9 meeting expresses a preference for the "gross" option, because the department sees this as a solution to grantees receiving different percentages of state assistance for the same capital investment depending on whether they do or do not have federal funds to pay for a portion of the investment. Based on the comments made at the last couple of TSDAC meetings, there are different opinions among transit providers on the "gross vs. net" issue. We also noted that even grantees who expressed a preference for gross rather than net are in some cases seemingly disadvantaged by a change to gross (based on spread sheets provided by DRPT that show how grantees would have fared in prior years if gross had been used rather than net and in future years comparing gross vs. net). This raised questions and led the Executive Committee members to think there may not be a common understanding of exactly what the "gross" option entails.

The white paper acknowledges that the "gross" option could result in state overmatch for projects that are federally participating and suggests that the overmatched amount in such cases could be used on other projects in a "program of capital projects" that the grantee and DRPT would agree upon in order to leave the federal participation rates at their customary shares. The flexibility to redeploy the state overmatch clearly appeals to those expressing a preference for the "gross" option, but we are uncertain about the mechanics of the "gross" option. Adding to that uncertainty were observations DRPT staff made at the September 9 TSDAC meeting in referring to awards rural and small urban grantees receive

(where the state is the source of both federal and state capital), suggesting that there wouldn't be any overmatch in such situations.

I'm asking on behalf of all the VTA Executive Committee for a more complete written description of the "gross" option mechanics accompanied by specific examples. If DRPT would address the following questions it will help each system better understand and evaluate the proposal:

1. Is DRPT proposing to allow redeployment of the overmatch in all cases?
2. Can the overmatch be used for as much as 99% of the cost of the project(s) it is redeployed for?
3. Would there be a "maintenance of effort" (MOE) requirement such that the redeployed overmatch does not lead to a lessening of local support?
4. What happens if the project(s) receiving the overmatched funds end up costing less than expected; does the grantee have to forfeit the unexpended funding or can the unexpended amount be redeployed a second time?
5. What happens if the project(s) receiving the overmatched funds end up costing more than expected? Can the grantee seek additional state assistance either as an off-cycle grant or an ensuing year grant?
6. What happens in the event that project(s) receiving the overmatched funds don't get completed; what pay-back obligations does the grantee have (if any)?
7. Is preventative maintenance a permissible use for capital funds (as it is for FTA Section 5307 funds) and more particularly redeployed overmatch?
8. How does the use of state capital for preventative maintenance affect state operating assistance?
9. What form would the project (or program) agreement take providing for the redeployment of overmatched funds? Does an agreement of this sort already exist?

In addition to answers to these questions, the VTA Executive Committee also requests an alternate set of capital comparative spread sheets that assume grantees use their Section 5307 funds for capital purposes rather than preventative maintenance. The capital comparative spread sheets distributed at the last TSDAC meeting assume that all grantees with their own Section 5307 grant funding will use it as a source of funding for preventative maintenance as some systems are now doing. The spread sheets we are requesting would help us understand how a change to that assumption alters outcomes.

The VTA Executive Committee also has questions about the proposal to pledge project funding spanning multiple years. TSDAC discussed this as a way to smooth the peaks and valleys of yearly capital requests so large projects don't usurp too much funding in a particular year. While this idea was well received by the VTA Executive Committee members, again they were uncertain about the mechanics of this idea.

Mr. Page has referenced multi-year pledges in the rail enhancement program as a precedent. The VTA Executive Committee would like a better understanding of how DRPT envisions this working. Specifically:

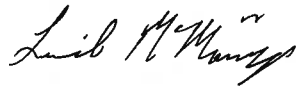
1. We would like to see illustrations of multi-year pledge agreements.
2. Would an agreement of this sort be a commitment to out-year funding being awarded as shown in the pledge, subject only to appropriation?
3. Reflecting on the September 9 TSDAC meeting discussion, what are DRPT's views on the criteria for singling out projects for multi-year pledges? Absolute dollar thresholds? Relative dollar thresholds where the size of a grantee's asset base would shape the absolute dollar threshold? And what periods of time does DRPT envision a multi-year pledge to cover (e.g., limited to six years because that's the duration of each year's program or longer)?

4. Would this be permissible without a Code change and, if not, what Code change would be required?

We hope DRPT can respond to these questions well in advance of the next TSDAC meeting so transit providers and stakeholders can better understand and evaluate how these proposals would affect them.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda McMinimy". The signature is written in a cursive style with a prominent loop at the end.

Linda McMinimy
Executive Director