Northern Virginia Transportation Commission

August 21, 2013

The Honorable John McGlennon
Chairman, Transit Service Advisory Committee
c/o DRPT
600 East Main Street, Suite #2102
Richmond, VA 23219

Dear Chairman McGlennon:

As the Transit Service Delivery Advisory Committee continues its consideration of proposed changes to the calculation of state contribution of state capital, I ask that that TSDAC take into consideration the following as it considers the recommendation of whether to retain a net cost of federal share as the basis for calculating state capital contributions. NVTC staff along with the local transit systems have reviewed the set of proposals made by the Virginia Department of Rail and Public Transportation and considered at your last meeting. The principal elements of that proposal are a three tier allocation scheme, a provision that treats major projects in a separate discretionary manner, and a shift from calculating the state share from net cost to gross cost of federal share. We have observations on each; we wish to highlight our concerns that a shift from gross cost to net cost will result in the following:

- The use of gross cost will dramatically increase the local contributions required of those jurisdictions that do not have federal funds while effectively eliminating the requirement that other jurisdictions outside of NVTC and Hampton Roads make any local contribution at all. There has been a suggestion that localities would be required to make a minimum match of 1%.
- A shift to gross cost penalizes jurisdictions that do not have sufficient federal funds to meet their capital needs for state of good repair or increased capacity.
- Spreading where federal dollars are spent --- especially at WMATA or from WMATA --- will not only drive up costs but will be constrained by FTA funding limitations and by agreements among the District, Maryland and Virginia.
- Arguably, federalizing systems such as the Fairfax Connector and others will result in higher operating costs. If this is the way things play out, these increased operating costs would impact the rest of the state.
- Based on historical data and only the shift from net to gross costs, the increase in local contributions for NVTC jurisdictions would be $6 million and the increase to Hampton Roads would be $3.4 million. NVTC jurisdictions now make the largest local contributions. In 2012 these local contributions amount to 9 times more per capita in NVTC than in jurisdictions outside of NVTC.s boundaries, and over 12 times if including operating revenue in the calculations.

These conclusions are based on available data. A short staff paper is attached that further explains these concerns and provides the comparison of the effects of using net cost versus gross.

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Suggestions that these impacts would be mitigated by changes in capital needs, shifts in the use of federal funds outside of NVTC and Hampton Roads, or by changes in federal funding should be viewed cautiously. The impacts should be assessed based on common understanding of the full set of conditions for use of the funds and grounded in evidence of these changes, not speculation no matter how well informed.

Before making any capital allocation recommendations, time should be taken to assess and to seek input on alternatives. Data needed to validate different approaches should be identified, gathered, and run through different scenarios. Data required includes capital needs, future federal funding levels and priorities, and actual changes in state priorities with respect to its priorities for federal funds subject to its discretion.

In addition to opposing a net to gross change, we encourage TSDAC to take a close look at these open questions with respect to its recommendation of three-tier capital allocation model.

- How is each tier to be defined? The recommendations are conceptual and do not speak in detail as to what would be included in each tier. Also where do major capital projects noted in the DRPT's white paper fit within the proposed tiers?
- What should the participation rates be for each tier? Is it practicable to have fixed rates or should the first tier be fixed and the other two float? Can the Commonwealth achieve its desired predictability with this scheme?
- Taking into account the answers to these questions, what is gained by shifting to a three-tiered approach?

A vital issue tied to the consideration of the three-tiered approach is the question of where "Major projects" should be included. <u>Calling them out for discretionary approval and unknown participation rates would undermine the ability of any major project in the Commonwealth to meet threshold requests for federal funding under New Start or Small Start programs.</u> The proposed approach is essentially a fourth tier. We are encouraged through discussions with DRPT staff that they are working on alternatives discretionary funding of major capital projects and will work closely with DRPT to find an appropriate approach.

These observations are preliminary and based on the initial information provided by DRPT. These comments have neither been reviewed nor approved by the Board of the Northern Virginia Transportation Commission. The Board will have its first opportunity to review these proposals at its September Commission meeting. I have included a short paper elaborating on concerns about a fundamental shift in the way state share is calculated.

We look forward to review of the operating allocation model and data and will be glad to continue to work with you as you determine the best way to proceed with respect to capital allocation proposals.

Sincerely,

Kelley Coyner

Kelley Coyner

NVTC STAFF OBSERVATIONS ON IMPACT OF CHANGE FROM NET COST TO GROSS COST IN CALCULATING STATE SHARE

This paper elaborates on the observations made in the NVTC staff's letter to the Transit Service Delivery Advisory Committee. To recap, shifting from gross to net costs as the basis for calculating state share will drive up local costs for jurisdictions that do not have federal funding and will eliminate local contribution for many who do. In addition, accommodating increased state share by spreading federal funds to new assets poses significant institutional issues and will drive up the costs of capital for WMATA. In order for local jurisdictions to retain their federal share the regional funding agreements may have to be renegotiated and the operating and capital costs of local systems will be increased. The cost of WMATA capital projects would increase if forced to spread federal funds across additional assets.

Please refer to the attached tables prepared by NVTC which illustrates the impact on local funding by changing the allocation method from net to gross

By way of illustration of the challenges, consider capital funding for a bus at WMATA. We offer the typical example of a WMATA capital project—a bus (replacement) at a hypothetical cost of $1 million of which 80 percent qualifies for federal funding. Under net costs, the state participation would be 55% of $200,000 or $110,000. If gross costs are employed, the bus purchase qualifies for $800,000 in federal funds and $450,000 in state funds. In sum, the purchase would technically qualify for federal and state funds in excess of the cost of the bus.

This would then require WMATA to spread its federal funds, assuming it could, to other capital projects or for the local jurisdiction to retain their share. Both options will drive up the costs of capital and in the case of shifting federal share to local jurisdictions will drive up operating costs. There are also tremendous practical problems with moving federal share among projects and from WMATA to local governments.

<u>Increased Costs of Capital Projects</u>

Spreading federal funds would have the effect of federalizing more capital projects -- as would happen if the capital participation rate became a percentage of gross – and would have unintended, adverse consequences for the entire Commonwealth. That's because projects with federal participation cost more, since they have to abide by federal rules (e.g. Buy America requirements; longer procurements and review processes; limited competition because some contractors are not equipped to deal with federal contracting requirements; etc.). Better to consolidate federal funds and limit the number of federally participating projects so the higher cost exposure is contained, as WMATA and Maryland currently do so that the NOVA Compact Members and Montgomery County's Ride-On bus system can undertake their capital projects at lesser cost.

Federal Limits on Spreading Federal Funds at WMATA

MAP-21 and the FTA inhibit WMATA from “shifting” FTA funds from one project to another. Under MAP-21, FTA priorities encourage funding for certain types of assets, and WMATA and FTA partner together to determine which projects should be federally funded. WMATA may not have enough eligible projects to which federal dollars can be “shifted.”

Region Constrained in Shifting Federal Share from WMATA

Longstanding regional agreements limit the ability to shift federal funds from WMATA to the localities. The region has in place a long-standing agreement concerning the distribution of federal formula funds through the National Capital Region Transportation Planning Board (TPB), the region’s designated MPO, to WMATA, MTA, Virginia Railway Express (VRE), and Potomac and Rappahannock Transportation Commission (PRTC). A reconsideration of this long-standing agreement would involve at best difficult and time consuming negotiations, and is likely not practicable.

Increased Operating Costs from Shift Federal Share

Northern Virginia transit agencies that do not receive federal formula funds cost less to operate. On the operating side they have greater flexibility and are able to achieve greater efficiency in key inputs and on the margin as well. NVTC transit agencies cost efficiencies that, by means of DRPT, are to be passed along to the remainder of the state by decreasing the draw on state operating funds. It would not make sense for NOVA jurisdictions to federalize either from the perspective of the Commonwealth as a whole or for individual jurisdictions.

Illustration of the Impact on Local Funds by Changing Formula Base from Net to Gross

Purpose of the table is to show how changing the base from net to gross impacts the amount of local funds required and the assistance a system will receive relative to other systems. The cost, federal funding and total state-wide funding are taken from data provide by DRPT on the FY14 program. Amount shown in millions of dollars.

	Cost	Federal	Non-fed	State %	State Funds	Local
Assistance on Net						
NVTC Jurisdictions	48.4	0.3	48.1	56.6%	27.2	20.9
NVTC WMATA	153.0	81.2	71.8	56.6%	40.6	31.2
Total NVTC	201.4	81.5	119.9		67.8	52.1
VRE	39.2	23.7	15.5	56.6%	8.8	6.7
PRTC	7.3	4.2	3.1	56.6%	1.8	1.4
Total NOVA	248.0	109.4	138.6		78.4	60.2
Hampton Roads	27.1	6.4	20.7	56.6%	11.7	9.0
Rest of State	29.6	23.4	6.1	56.6%	3.5	2.7
Total Other Than NOVA	56.6	29.9	26.8	56.6%	15.1	11.6
State-Wide	304.6	139.3	165.3		93.5	71.8
Assistance on Gross						
NVTC Jurisdictions	48.4	0.3	48.1	30.7%	14.8	33.2
NVTC WMATA	153.0	81.2	71.8	30.7%	47.0	24.9
Total NVTC	201.4	81.5	119.9		61.8	58.1
VRE	39.2	23.7	15.5	30.7%	12.0	3.5
PRTC	7.3	4.2	3.1	30.7%	2.3	0.9
Total NOVA	248.0	109.4	138.6		76.1	62.4
Hampton Roads	27.1	6.4	20.7	30.7%	8.3	12.3
Rest of State	29.6	23.4	6.1	30.7%	9.1	(3.0)
Total Other Than NOVA	56.6	29.9	26.8	30.7%	17.4	9.4
State-Wide	304.6	139.3	165.3		93.5	71.8
Increase (Decrease) in Local Funds						
NVTC Jurisdictions						12.3
NVTC WMATA						(6.4)
Total NVTC						6.0
VRE						(3.3)
PRTC						(0.5)
Total NOVA						2.2
Hampton Roads						3.4
Rest of State						(5.6)
Total Other Than NOVA						(2.2)
State-Wide						0.0

Following shows the percentage of local funds under each tier with federal participation assumed at 80%. Besides fully funding tier 1 and tier 2 assets for systems with 80% federal participation, the proposed formula provides an additional 25% beyond the asset cost for tier 1 assets and 15% for tier 2 assets.

<u>Local Funds Required For Assets with Federal Participation:</u>	
DRPT Current Allocation Formula:	
Replacement Vehicles	4%
All Other Assets	9%
DRPT Proposed Allocation Formula:	
Vehicles (Tier 1)	0%
Infrastructure/Facilities (Tier 2)	0%
Other Assets (Tier 3)	5%
<u>Local Funds Required For Assets With No Federal Participation:</u>	
DRPT Current Allocation Formula:	
Replacement Vehicles (limited)	45%
All Other Assets	45%
DRPT Proposed Allocation Formula:	
Vehicles (Tier 1)	55%
Infrastructure/Facilities (Tier 2)	75%
Other Assets (Tier 3)	85%