



TECHNICAL ADVISORY COMMITTEE
Wednesday, January 15, 2025, 7:00 p.m.
Meeting will be held in the 6th Floor Conference Room
The meeting will be livestreamed on [NVTA's YouTube Channel](#)¹

AGENDA

I. Call to Order/Welcome Chair Boice

Action

II. Summary Notes of November 20, 2024, Meeting Chair Boice
Recommended action: Approve meeting note

III. 2025 Meeting Calendar Chair Boice
Recommended action: Approve meeting calendar

IV. Policy 30 Update and Recommendation Mr. Longhi, CFO
Recommended action: I move TAC/PCAC recommend adoption of proposed Policy 30 – Funding Cost Underestimates, Overruns and Transfers as presented in the attached draft.

Discussion/Information

V. CY 2025 Transportation Planning and Programming Activities (Verbal Update) Mr. Jasper, Principal

VI. NVTA Update (Verbal Update) Ms. Backmon, CEO

Adjournment

VII. Adjournment

Next Meeting: TBD

¹ 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.



TECHNICAL ADVISORY COMMITTEE
Wednesday, November 20, 2024, 7:00 p.m.
Northern Virginia Transportation Authority
Virtual Meeting Via Zoom
Live-streamed on [YouTube](#)

MEETING SUMMARY

I. Call to Order/Welcome

- The meeting was conducted virtually. Chair Boice called the meeting to order at 7:00 p.m.
- **Attendees:**
 - **TAC Members:** Randy Boice; Karen Campblin; Michelle Cavucci; Armand Ciccarelli; Amy Morris; Frank Spielberg.
 - **NVTA Staff:** Monica Backmon, CEO; Keith Jasper, Principal, Transportation Planning and Programming; Sree Nampoothiri, Senior Manager, Transportation Planning and Programming; Michael Longhi, CFO; Alyssa Beyer, Regional Transportation Planner.
 - **Others:** None.

II. Summary Notes of June 20, 2024, Meeting

- Motion to approve the summary notes of the June 20, 2024, meeting, pending a revision to include Amy Morris on the list of attendees, was made by Ms. Cavucci. Seconded by Mr. Spielberg. The motion passed unanimously.

III. Summary Notes of October 16, 2024, Meeting

- Motion to approve the summary notes of the October 16, 2024, was made by Mr. Spielberg. Seconded by Mr. Ciccarelli. The motion passed with an abstention from Ms. Cavucci.

IV. Projects with Cost Underestimates/Overruns

- Mr. Longhi reviewed last month's TAC discussion regarding cost underestimates/overruns, referencing the staff memo in the packet. He also shared that the staff brought this matter to the November 14, 2024, Authority Meeting for direction on how to proceed with the development of the related Policy 30. Staff had brought forth three options on how to proceed.

- The first option would be to adopt a blanket statement that NVTA would not fund cost underestimates/overruns.
- The second option would be for NVTA to not fund cost underestimates/overruns with the provision that a project sponsor could “submit a petition for additional funding under unique and extraordinary circumstances which could not have been anticipated”. The staff memo outlined some considerations for what that petition process should entail, including the restriction of only reviewing petitions in the context of an update to the Six Year Program (SYP). This would allow for a lawful evaluation of the request in context of Congestion Reduction Relative to Cost (CRRC) ratings, taking into account the individuals involved in the review process, ensuring the completion of the requirements from the project sponsor submitting the petition, allowing the use of independent external consultants, with services paid for by the project sponsor, and outlining the recommendation process.
 - Mr. Spielberg asked for an example of the types of circumstances that might reach the bar for petition approval. Mr. Longhi highlighted the two examples discussed at the Authority meeting, which are the discovery of previously undocumented burial grounds or the loss of previously awarded federal funding for a project through no fault of the project itself. He stated that the policy would intentionally avoid referencing circumstances and scenarios, and all petitions would go through an extensive evaluation process.
 - Chair Boice asked if the petitions would be reviewed at the Authority level. Mr. Longhi clarified that they would be subject to the same recommendation process as other project applications in the SYP process, with the additional step of going through the Finance Committee.
 - Mr. Ciccarelli asked if NVTA will start recommending a contingency level, particularly given the likelihood of additional tariffs impacting project costs. Mr. Longhi stated that the Authority will continue to let project sponsors decide the best contingency levels for their projects due to their level of expertise on the matter, and the expansion of NVTA staff workload and assumption of risk that would be connected to such a recommendation or requirement. Mr. Ciccarelli also acknowledged that an event leading to higher tariffs would not have impacts unique to any project.

- The third option would be to fund cost underestimates/overruns, bearing in mind the substantial concerns and considerations already raised at previous meetings.
- Mr. Longhi stated that staff are on schedule to present a draft policy to the Authority in February, with the feedback that the Authority would like to move forward with an approach somewhere in between the first and second options. He shared that NVTA staff would like to bring the topic to the TAC one more time before that meeting if possible.
- Ms. Cavucci asked if there were any compelling arguments to the contrary since she had not attended the October TAC meeting. Mr. Longhi provided some additional context of what had been discussed in the previous meeting regarding the concerns with funding cost underestimates/overruns, and that there had not been arguments for the adoption of a policy to support them.
- Ms. Morris asked how common cost overruns are. Mr. Longhi shared that NVTA does not have a quantifiable response to that, as project sponsors often turn to other funding sources if they experience cost underestimates/overruns. In addition, NVTA does not have the same flexibility to reallocate project funding as other funding sources are able to, which limits how often projects return for additional funding.
- Chair Boice asked if the Authority needs to adopt this policy since NVTA does not engage in project delivery and mentioned that it should be the project sponsor's responsibility to ensure adequate funding. Mr. Longhi confirmed that according to the Standard Project Agreement (SPA), project sponsors agree to complete projects for which they receive funding, even if they have to bring in external funding. If project sponsors attempt to downsize a project due to insufficient funding, NVTA must evaluate if the project would still result in the same level of benefit / congestion reduction.

V. NVTA Update

- Ms. Backmon did not have any updates to share.

VI. Adjourn

- The meeting was adjourned at 7:27 p.m. The next meeting is scheduled for December 18, 2024, at 7:00 p.m. in person at the NVTA Offices.

2025

Technical Advisory Committee Proposed Meeting Schedule

January						
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NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

MEMORANDUM

FOR: Chair Boice and Members
Technical Advisory Committee

FROM: Michael Longhi, Chief Financial Officer

DATE: January 15, 2025

SUBJECT: Recommendation to Approve Policy 30 – Funding Cost Underestimates, Overruns and Transfers

- 1. Purpose:** To seek the Technical Advisory Committee (TAC) approval to endorse the policy to address resubmitted projects that have experienced a cost underestimate, overrun and/or is requesting a transfer.
- 2. Suggested Motion:** I move TAC/PCAC recommend adoption of proposed Policy 30 – Funding Cost Underestimates, Overruns and Transfers as presented in the attached draft.
- 3. Background:**
 - a.** At the July 11, 2024, Authority meeting, a directive was made for Authority staff to return with a policy to deal with resubmitted projects that have experienced a cost underestimate, overrun and or requesting a transfer between projects, by the end of the calendar year.
 - b.** The fundamental aspects of this directive (funding cost underestimates and 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 2016 staff report was presented to and discussed with:
 - I.** The Authority on October 17th.
 - II.** The Technical Advisory Committee (TAC) on October 16th.
 - III.** The Planning Coordination Advisory Committee (PCAC) on October 23rd.
 - IV.** The Planning and Programming Committee (PPC) on November 18th
 - V.** The Regional Jurisdiction Coordinating Committee (RJACC) on September 26th, October 24, November 21 and December 19th.

- e. The TAC and PCAC did not have meeting quorums and were therefore unable to take official action.
- f. At the November 14, 2024 Authority meeting, staff were directed to develop the policy to not fund cost underestimates, overruns or transfers between projects. This direction included the development of a petition process for unique and extraordinary circumstances that could not have been anticipated. The direction provided is to set the bar for such petitions very high. Additionally, petitions are to be examined within the context of a two-year update to the Authority's Six Year Program. The timeframe for the policy delivery was extended until the February 2025 Authority meeting.
- g. A draft policy is attached for Authority review, discussion and feedback, prior to the February 2025 Authority meeting.

4. 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/transfers or not.

a. Funding Cost Underestimates/Overruns/Transfers.

- 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/Transfers.

- 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 Principle, 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.

5. Attachments:

- a. Draft Policy 30 – Funding Cost Underestimates, Overruns and Transfers
- b. Recommendation to Eliminate Contingency Reserve – October 5, 2016

NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

Policy Number 30 – Funding of Cost Underestimates/Overruns and Transfers

- I. **Purpose.** The purpose of this policy is to establish that project risks due to cost underestimates and/or cost overruns, will not be absorbed by the Northern Virginia Transportation Authority (Authority/NVTA). Upon the adoption of this policy the Authority will not allow the transfer of Authority Regional Revenue Fund project funding between projects.
- II. **General.**
- A. The funding of cost underestimates/overruns/transfers shifts project risks to the NVTA from the Project Sponsor.
 - B. Any shift of risks by individual Project Sponsors is incompatible with the regional role of the Authority to increase transportation capacity and reduce congestion.
 - C. Project Sponsors are expected to use appropriate, competent professional practices in estimating costs, scheduling and the establishment of contingencies.
 - D. The Authority does not set guidelines for cost estimation, contingency levels, scheduling, preliminary engineering, or any project phases/characteristics, recognizing that Project Sponsors, directly and with their expert consultants, are best positioned to make those decisions and determinations.
 - E. The Authority deploys all available PayGo funds in two-year updates to the Six Year Program. Therefore, the funding of cost underestimates/overruns will reduce the capacity for new and continuing projects.
 - F. Project funding decisions by the Authority are the culmination of a comprehensive evaluation process that is applied consistently across all project funding applications using quantitative and qualitative measures, combined with a formal public comment process. This evaluation process is compliant with NVTA's statutory responsibilities including a requirement that NVTA's funding decisions give priority to projects that achieve the greatest congestion reduction relative to cost.
 - G. The funding of cost underestimates/overruns/transfers will bring into question prior funding decisions of the Authority, which were completed within the parameters required in the Code of Virginia at the time of those decisions.
- III. **Petition for Policy Exemption.**
- A. Project Sponsor petitions for policy exemptions are not encouraged.
 - B. Project Sponsor petitions for policy exemptions will be examined rigorously.
 - C. Project Sponsors are encouraged to discuss project difficulties with the NVTA Principal, Transportation Planning and Programming (P,TPP) and Chief Financial Officer (CFO) as soon as practical for all parties to attempt to find alternative solutions.
 - D. It is the responsibility of the Project Sponsor to only submit a petition for which the Project Sponsor believes it can proficiently demonstrate factual circumstances supported in currently available and detailed records demonstrating project conditions that are unique, extraordinary in circumstance and could not have been anticipated.

- E. The Authority has the sole right and responsibility to determine the use of Regional Revenue Funds within the parameters and processes required in the Code of Virginia.
- F. All petitions for exemption under this policy will be presented to the Authority for final determination.
- G. Petitions must be presented and considered as part of and within the project selection process of the next available update to the Six Year Program's Call for Regional Transportation Projects (CfRTP).
- H. Petitions received after the current CfRTP deadline will not be reviewed until the next CfRTP.
- I. Petitions must be submitted to NVTA's CFO and P,TPP to provide for an orderly examination and comprehensive NVTA staff review facilitating thorough and comprehensive professional recommendations for NVTA's Chief Executive Officer (CEO) to assess.
- J. The P,TPP will provide requirements for the submission of petitions within the Six Year Program Update CfRTP.
- K. At its sole determination, NVTA may use the services of independent outside consultants, of its choosing, on an on-call basis, to fully examine the petition and to form recommendations. The cost of any on-call consultants used for the petition review will be paid by the Project Sponsor.
- L. 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.
- M. Delays in the receipt of requested Project Sponsor material and responses will result in a recommendation of No Finding. Authority acceptance of a No Finding recommendation will result in the petition, if not withdrawn by the Project Sponsor, being reviewed as part of the next two-year update to the Six Year Program.
- N. The CEO will make recommendations to the Authority's Finance Committee, Program Coordination Advisory Committee (PCAC), Technical Advisory Committee (TAC) and Planning and Programming Committee (PPC).
- O. The PPC will make recommendations to the Authority as part of a Six Year Program update cycle.
- P. Authority petition decisions are final and non-appealable.

**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.