



Northern Virginia Transportation Authority
The Authority for Transportation in Northern Virginia

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, VA

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 NVTA 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 NVTA's 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 NVTA 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 NVTA to do this work.
 - Mr. Ciccarelli emphasized that the capacity necessary for such work to be done quickly and accurately is beyond what NVTA 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. NFTA 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 NFTA 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 NFTA 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 NFTA 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 NVTAs 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 NVTAs 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 NVTAs to adopt such a policy with these concerns in mind.
 - Mr. Spielberg agreed, expressing that NVTAs 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 NVTAs'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 30th 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.