



June 19, 2012

The Honorable Sean Connaughton
Secretary of Transportation
Patrick Henry Building, Third Floor
1111 East Broad Street
Richmond, VA 23219

Dear Secretary Connaughton:

We are writing to explain to you and the Commonwealth Transportation Board (CTB) why the Northern Virginia Transportation Commission (NVTC) and its member jurisdictions strenuously object to the new process that the Department of Rail and Public Transportation (DRPT) has described for transmitting state transit financial assistance to WMATA and other Northern Virginia transit systems.

On May 15, 2012, DRPT Director Drake informed NVTC, its member jurisdictions, and the Washington Metropolitan Area Transit Authority (WMATA) that DRPT would no longer provide funding to WMATA and NVTC's jurisdictions through NVTC. Unless all of the entities agreed within ten days, transit funding allocated to our region by the Commonwealth Transportation Board (CTB) in the draft FY 2013 Six Year Improvement Program (SYIP) would be removed from the final SYIP to be presented to CTB on June 20, 2012. DRPT subsequently extended the deadline to June 8, 2012.

While NVTC and its member jurisdictions appreciate the importance of DRPT funding and value the role DRPT plays in delivering these services, we are concerned that DRPT's policy change could well undermine those services, require additional administrative expense, introduce other inefficiencies that would waste precious transit funding and potentially violate state law.

While taking into account these adverse consequences, we ask you to consider that Northern Virginia has by far the greatest transit ridership in the Commonwealth. We strongly believe that a collective focus on transit and continued collaboration is vital to the economic success in this region. Our concerns are outlined below.

1. Statutory Requirements Prohibit DRPT's Approach

Section 58.1-638.A.5 of the Virginia Code compels that DRPT's transit assistance for WMATA must be allocated in accordance with NVTC's Subsidy Allocation Model (SAM). Failure to do so would be a violation of state law. (Attachments explain the use of NVTC's SAM which shares state and regional transit financial resources to sustain the regional WMATA partnership).

2. Lack of Notice

NVTC has used its SAM in various forms since FY 1974 and no state representative to NVTC has ever voted against it. DRPT Director Drake voted for it as recently as June 2, 2011. This formula allows NVTC's jurisdictions to cushion the impact of abrupt changes in state aid and protects especially NVTC's smaller jurisdictions, as codified in state code Section 58.638.A.5.b. It is not reasonable to change NVTC's successful and long-standing process with only ten days notice after FY 2013 local budgets have been adopted and after NVTC had completed applications for the state aid documented in CTB's draft SYIP. NVTC's current formula is the result of significant regional negotiations and collaboration to develop effective transit operations that does not stop at jurisdictional boundaries. Unfortunately, this unexpected DRPT action occurred without any consultation, which would have quickly identified some serious concerns. The new policy will create local winners and losers with no time to identify other workable solutions to achieve DRPT's objectives. NVTC is not aware of any factor that necessitates this rush to action.

3. Failure to Understand WMATA's Role

While WMATA operates transit service, it is not the entity financially responsible for that service. NVTC's jurisdictions must pay WMATA's bills at the beginning of each quarter or lose access to that service. NVTC's WMATA-related collaborative application for state aid is submitted on behalf of NVTC's WMATA jurisdictions collectively and reflects the combined shares of the total WMATA subsidy eligible for DRPT funding. State aid now received through NVTC covers only a portion of each bill and each jurisdiction must assemble sufficient funds from a variety of sources (e.g. regional gas tax received by NVTC, other Trust Funds at NVTC, General Funds, General Obligation Bonds and credits at WMATA).

Since DRPT's capital assistance is provided on a reimbursement basis, if DRPT provides reimbursement directly to WMATA, WMATA will actually be paid twice for the same bill. Trying to track and correct this would be complicated, and less transparent than the current SAM. Similarly, DRPT's operating assistance is also not available for jurisdictions to use to pay WMATA's first quarterly billing each year.

4. Interference with General Assembly Delegation's Request

Elected officials and staff of Northern Virginia's transportation and planning agencies and its member jurisdictions are in the midst of an ambitious study to respond to a

written request signed by every member of Northern Virginia's General Assembly delegation. The mandate is to identify efficiency improvements to four Northern Virginia planning and transportation agencies as well as consider any benefits of possible consolidation of two or more of those agencies. The delegation has asked for a response to this request by this fall, and the agencies and member jurisdictions are acting vigilantly on the study and response. Regardless of DRPT's intent, the result of its new policy makes the task of completing the study on time even more difficult by suddenly shifting NVTC's role significantly and it doesn't allow the task force sufficient time to assess any unintended consequences that could negatively impact the potential recommendations.

5. Administrative Costs

DRPT's policy change creates financial burdens for NVTC and its jurisdictions, because NVTC currently prepares grant applications, submits invoices and assures compliance with DRPT's complex rules. If DRPT requires WMATA and NVTC's member jurisdictions to separately accomplish these activities, additional administrative burdens would be created with no recourse within already approved local FY 2013 budgets for staffing as well as time consuming council/supervisor budget amendment to authorize localities to receive and expend this revenue. This will be even more of a strain on smaller jurisdictions like the cities of Fairfax and Falls Church. This approach causes unnecessary redundancy in administrative functions and reduces transparency, it may also be contradictory to the McDonnell Administration's ongoing efforts to improve government efficiency. Additionally, this proposal could be considered an unfunded mandate as localities must increase staffing and training to offset the efficient expertise currently provided by NVTC, and such action is also contradictory to the McDonnell Administration's unfunded mandates taskforce.

Additionally localities have learned that this policy change only applies to the funding in the SYIP and not to grant funding. Therefore DRPT's new policy will result in the establishment of two administrative processing methodologies, and make tracking the transit funds for the Northern Virginia region even more complex.

NVTC's SAM also provides for shared funding of NVTC's administrative budget and of several other regional projects including electronic transit schedules and data collection resulting in an additional \$6 million of federal funding for WMATA. Interference with these vital projects should have been considered and discussed, before DRPT took its recent action.

6. Consistency

At the NVTC meeting on June 7, 2012 Director Drake indicated that DRPT is simply ensuring that every transit system in the Commonwealth is treated equally. DRPT indicated that they send funds directly to all other jurisdictions. However, in the case of WMATA, they are in fact choosing to send funds to the operator instead of the jurisdictions who own the system and who pay for the service. Therefore, the budget language that DRPT is using to justify its funding policy change is in fact in direct

opposition to their stated policy of ensuring that every transit system in the Commonwealth receives their funding in the exact same manner.

7. Better Ways to Directly Achieve DRPT Objectives

In discussions with DRPT Director Drake, transparency has been cited as the motivation for the sudden policy shift. NVTC takes great pride in its stellar record of fiscal management, as reflected in a long history of clean annual external audits and DRPT audits. Because NVTC and its jurisdictions value DRPT's funding, it would be more productive to collaborate on mutually beneficial ways to increase transparency, without changing a highly efficient process that has been very effective and regionally supported since 1974.

8. Conclusion


NVTC's WMATA jurisdictions have for decades utilized NVTC as their agent for grant purposes and their fiduciary for all grant funds received. This approach is embedded in the Virginia Code and has been consistently supported by DRPT Directors in the past. This approach is consistent with regional cooperation and has helped coordinate Northern Virginia's successful transit network. CTB should not alter its SYIP without a full understanding of the legal and other unintended consequences of DRPT's policy change. NVTC requests that all parties collaborate to develop a solution which will address DRPT's concerns regarding the transparency of transit funds provided to Northern Virginia.

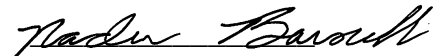
As stated at the June 7, 2012 NVTC meeting, NVTC is prepared to enhance communication efforts to acknowledge any funding that DRPT does provide.

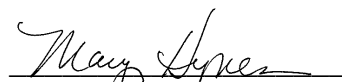
Furthermore, we respectfully request that you and the CTB continue the current process of distributing state funds for Northern Virginia's transit systems through NVTC. At the very least, the legal ramifications of changing NVTC's financial role should be fully understood before any action is taken to change the current process.

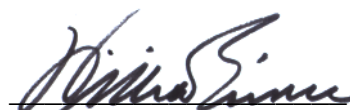
Sincerely,

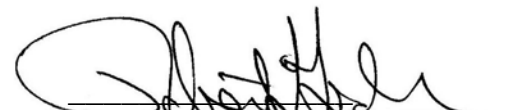

Jay Fisetle,
NVTC Chairman


Sharon Bulova,
Fairfax County


Nader Baroukh,
City of Falls Church


Mary Hynes,
Arlington County


Bill Euille,
City of Alexandria


Robert Lederer,
City of Fairfax

Attachments Included

cc: The Honorable Robert F. McDonnell, Governor of Virginia
Members, The Commonwealth Transportation Board
Ms. Thelma Drake, Director of Virginia Department of Rail and Public
Transportation
The Honorable George Barker
The Honorable Richard Black
The Honorable Charles Colgan
The Honorable Adam Ebbin
The Honorable Barbara Favola
The Honorable Mark Herring
The Honorable Janet Howell
The Honorable David Marsden
The Honorable Chap Petersen
The Honorable Toddy Puller
The Honorable Richard Saslaw
The Honorable David Albo
The Honorable Richard Anderson
The Honorable Robert Brink
The Honorable David Bulova
The Honorable Barbara Comstock
The Honorable David Englin
The Honorable Eileen Filler-Corn
The Honorable Thomas Greason
The Honorable Charniele Herring
The Honorable Patrick Hope
The Honorable Timothy Hugo
The Honorable Mark L. Keam
The Honorable Kaye Kory
The Honorable James M. LeMunyon
The Honorable Scott Lingamfelter
The Honorable Alfonso Lopez
The Honorable Robert Marshall
The Honorable Joe May
The Honorable J. Randall Minchew
The Honorable Jackson Miller
The Honorable Ken Plum
The Honorable David Ramadan
The Honorable Thomas Davis Rust
The Honorable Jim Scott
The Honorable Mark Sickles
The Honorable Scott A. Surovell
The Honorable Luke E. Torian
The Honorable Vivian Watts



NVTC SUBSIDY ALLOCATION MODEL (SAM)

The data inputs of the SAM formula include:

- The budgeted operating subsidies for WMATA by jurisdiction
- The budgeted capital subsidies for WMATA by jurisdiction
- The budgeted local operating deficit for each system
- The budgeted local capital system needs

Those inputs are totaled for each jurisdiction, with the local capital system needs amortized over a 5 year period. The total for each jurisdiction is compared to the total for NVTC to arrive at a percentage, which is applied to the total state operating and capital assistance reimbursements actually received during the fiscal year.

Gas tax revenue is allocated among the jurisdictions using the previous year's collections on a point of sale basis compared to the NVTC total. That percentage is used to allocate the gas tax received during the fiscal year among the jurisdictions.

95% of WMATA debt service is taken off the top of capital assistance reimbursements as it is received. 5% of the WMATA debt service is taken off the top of the motor fuels tax. These funds are required to be withheld and remitted directly to WMATA by NVTC.

Revenue is taken off the top of the state assistance and gas tax revenue before allocating among the jurisdictions for certain expenses. These include a portion of NVTC's G&A budget, as reflected in the annual approved budget, the NTD bus data collection, and electronic schedule program.

The SAM formula includes several hold harmless mechanisms as explained in the "summary of the resolution #756..." document.

Allocated revenue is held in trust for each jurisdiction for their restricted use for transit purposes. Disbursements from the trust are made by written request by the jurisdiction. These disbursements include payments to WMATA and the local systems for operating and capital needs.



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