



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

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Agenda Item #9

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

May 15, 2013

MOTION

Made By: Mr. Miller Seconded By: Mr. Sterling

Action: Motion Carried, Unanimously

Title: Industrial Access Railroad Track Repayment Policy

Location: Commonwealth of Virginia

WHEREAS, § 33.1-221.1:1 establishes the fund for construction of industrial access railroad tracks; and

WHEREAS, in § 33.1-221.1:1 the General Assembly declared it to be in the public interest that access railroad tracks and facilities be constructed to certain industrial commercial sites; and

WHEREAS, pursuant to § 33.1-221.1:1, the Industrial Access Railroad Track fund is intended to be comparable to the fund for access roads to economic development sites, administered by VDOT; and

WHEREAS, the Department of Rail and Public Transportation (“the Department”) administers the Rail Industrial Access Program (“RIA”) which is subject to the approval of the Commonwealth Transportation Board (“CTB”); and

WHEREAS, revenue rail carloads provide a public benefit by diverting truck traffic from Virginia’s highways; and

WHEREAS, the Department requires in its grant agreements that Grantees report performance data as a condition of the grant funding, which includes revenue rail carloads run over the track funded through the RIA Program; and

WHEREAS, during the recession and the slow economic recovery, some Grantees have been unable to meet the performance requirements, and the Department has notified them that the grant agreement requires repayment of grant funds if Grantees fail to meet performance requirements of the grant agreement; and

WHEREAS, Grantees have missed their target carload performance requirements by varying margins, in large part due to the recession and slow economic recovery; and

WHEREAS, the current RIA program process and funding agreements require full repayment if performance targets are not achieved; and

WHEREAS, because some Grantees have nearly achieved their performance requirements despite economic conditions that were not foreseeable at the time of the entry into the grant agreement, the Department, in fairness, wishes to modify its repayment process to allow recognition of the public benefit achieved by each Grantee; and

WHEREAS, the Department proposes a repayment policy which provides proportionate credit of the public benefit achieved per the performance requirements of the grant agreement with the Grantee.

NOW THEREFORE, BE IT RESOLVED, that the Commonwealth Transportation Board hereby approves a repayment policy of the Rail Industrial Access Program whereby repayment of grant funds provides a proportionate credit for the partial public benefit achieved by RIA Grantees. This policy shall apply to all projects whose performance period began after January 1, 2006.

Partial public benefit achieved shall be defined as the highest actual number of revenue rail carloads run over the RIA grant funded tracks divided by the target performance stated in the grant agreement between the Department and the Grantee.

Repayment shall be calculated as follows:

1. Calculate the percentage of public benefit achieved by the Grantee by dividing the highest carload count of the first five years of performance by the target performance for revenue rail carloads specified in the grant agreement.
2. Determine the public benefit not achieved by the Grantee by subtracting the percentage of the public benefit achieved from 100 percent.
3. Determine the repayment based on the percentage of public benefit not achieved by multiplying the amount of grant funds paid to the Grantee by the percentage of public benefit not achieved.

Repayment schedules shall be as specified in the grant agreement between the Department and the Grantee. Any interest will be applied as per the terms of the grant agreement. The Director of the Department of Rail and Public Transportation is authorized to implement this policy and enter into repayment agreements satisfactory to the Director.

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