
WMATA Annual Reporting Requirements

July 16, 2019

Commonwealth Transportation Board

Jennifer Mitchell, Director



Virginia Department of Rail and Public Transportation

WMATA

- **Established by interstate compact – identical legislation passed by VA, MD, and DC, ratified by Congress**
- **Compact members – responsible for funding**
 - » *Virginia Local Jurisdictions – Arlington and Fairfax Counties, Cities of Alexandria, Fairfax, and Falls Church (Loudoun to be added upon completion of Silver Line)*
 - » *Maryland*
 - » *District of Columbia*
- **2017 LaHood Study – Lead by Virginia, confirmed need for additional dedicated capital funding to address state of good repair needs (\$500M year)**
- **2018 Legislation – Dedicated Capital Funding (proportional share)**
 - » *Virginia adopted legislation first and established measures for reporting and accountability as a condition for funding*

Capital Fund Agreement – Dedicated Funding

- **Agreement between DRPT and WMATA**
- **Executed May 1, 2019**
 - » *Effective immediately*
 - » *Automatically renews each July 1 unless either party gives 90 day notice of request to amend*
 - » *Agreement may be terminated by either party if dispute resolution process fails*
- **Funding subject to annual appropriation and allocation**
- **Commonwealth does not guarantee the debt of WMATA or any obligation of WMATA by the Agreement**

Capital Fund Agreement - WMATA

Responsibilities

- **WMATA shall apply the Commonwealth's contribution under the Agreement to items identified in the approved CIP**
- **WMATA shall provide information to NVTC as required by Sections 33.2-3402 & 33.2-3403 of the Code of Virginia**
- **WMATA shall provide information to the CTB to meet its obligations under Section 33.2-3400 et seq. of the Code of Virginia and the CTB Policy approved on 9/18/18**
- **Within 45 days of the end of every quarter WMATA shall submit to the Commonwealth a report on WMATA financials of the preceding quarter in the same form as submitted to the WMATA Board of Directors**

WMATA Reporting Requirements - CTB

CTB Resolution on Policy and Guidelines for Implementation of Governance and Funding Reforms for the Washington Metropolitan Area Transit Authority (WMATA) – Approved September 18, 2018

- **WMATA shall submit the documents required to demonstrate compliance to DRPT by the deadlines specified. DRPT will analyze the information received from WMATA and present to the CTB, in September of each year (beginning in 2019), a recommendation on enforcement actions, if any, that are required to be taken by this policy.**
 - » **Received from WMATA on June 28, under review by DRPT and OAG**

WMATA Board Governance

Legislative Requirement:

- Board shall withhold 20% of dedicated state funds for WMATA for non-compliance (\$31.8M in FY20)

CTB Guidelines:

- Alternates shall not participate in Executive Session of Full Board or Executive Session of Committees unless they are serving in absence of a primary member
- Alternates may not serve as Chair of a Committee
- In Committee meetings, alternates may be invited to make presentations or participate in discussion

Status:

- **WMATA Board approved bylaw changes on June 28, 2018**
- **Certification from the WMATA Board Secretary provided on June 28, 2019**

3% Cap on Growth in Operating Assistance

Legislative Requirement:

- Board shall withhold 35% of dedicated state funds for WMATA (\$55.7M in FY20)
- Operating costs related to the following are excluded from this calculation:
 - » *Any service, equipment, or facility that is required by any applicable law, rule or regulation*
 - » *Any capital project approved by the WMATA Board before or after effective date*
 - » *Any payment/obligation resulting from a legal dispute or proceeding*

CTB Guidelines:

- Provided additional clarity on definitions and calculations

Status:

- **WMATA Board approved FY20 budget on March 28, 2019**
- **Certification provided on June 28, 2019**

WMATA Strategic Plan

Legislative Requirements

- Board shall withhold 20% of dedicated state funding for WMATA for non-compliance (\$31.8M in FY20)
- WMATA must adopt or update within the preceding 36 months a strategic plan and hold a public hearing on the strategic plan in Northern Virginia
- First strategic plan must address the key recommendations in the report submitted pursuant to Item 436 R of Chapter 836 of the Acts of Assembly of 2017

CTB Guidelines

- First strategic plan shall address recommendations in LaHood report
- Every 3 years thereafter WMATA must adopt or update a strategic plan

Status:

- **Strategic Plan was approved by WMATA Board on March 28, 2019**
- **Certification provided on June 28, 2019**



WMATA Capital Improvement Program

Legislative Requirements

- Board shall withhold 20% of dedicated state funding for WMATA for non-compliance (\$31.8M in FY20)
- WMATA must adopt by July 1, 2019 a capital improvement program that covers a 6-year period, and hold a public hearing in Northern Virginia
- Annually thereafter WMATA must update the 6-year program, similar to CTB policy

CTB Guidelines

- Beginning July 1, 2019, WMATA must adopt a detailed capital improvement program covering the current fiscal year and the next five fiscal years; and have held at least one public hearing on such capital improvement program in NVTC jurisdiction

Status:

- **CIP was adopted by the WMATA Board on March 28, 2019**
- **Certification provided on June 28, 2019**

WMATA Reporting Requirements - NVTC

Section 33.2-3402 of the Code of Virginia, pursuant to Chapter 854 of the 2018 Virginia Acts of Assembly

- Each year the Northern Virginia Transportation Commission (NVTC) shall request certain documents and reports from WMATA to confirm the benefits of the WMATA system to persons living, traveling, commuting, and working in the localities that the NVTC comprises. Such documents and reports shall include:
 - » *WMATA's Annual Capital Budget*
 - » *WMATA's Annual Independent Financial Audit*
 - » *WMATA's National Transit Database Annual Profile*
 - » *Single Audit Reports issued in accordance with the Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards (2 C.F.R. Part 200).*
- NVTC shall provide annual certification to the Comptroller that such documents and reports have been received.
 - » **NVTC provided the required certification to the Comptroller on June 27, 2019**

Passenger Rail Investment and Improvement Act of 2008 (PRIIA)

- **PRIIA was passed by Congress and authorized \$1.5 billion over ten years to WMATA for capital and safety improvements.**
- **\$150 million a year in federal capital funding, with a \$50 million annual match from Virginia, DC, and Maryland for a total of \$300 million per year.**
- **In Virginia, the Commonwealth funds the \$50 million match through the CPR Bonds. DRPT makes PRIIA payments directly to WMATA.**
- **State funds from Virginia were first appropriated in FY 2011 with the final year of appropriation being FY 2020.**
- **Current state funding agreement (between DRPT and WMATA) became effective on 7/1/16 and expires 6/30/20**

PRIIA - Reauthorization

- **Reauthorizes PRIIA funding for WMATA at \$2 billion over 10 years (House version) or \$1.5 billion (Senate version) beginning in FFY2020.**
 - » *\$150 million/year for capital expenses*
 - » *\$50 million/year in new capital (no match required)*
 - » *House Bill also includes \$50 million/year for operating, \$10 million of which will be dedicated to the WMATA Inspector General*
- **Requires continued local match for capital funding (\$50 million/year for Virginia)**
- **Requires implementation of Inspector General Reforms (Both versions)**
- **Senate version also requires implementation of safety task forces, new capital planning processes, enhanced transit asset management, reinforces restrictions on alternate board members, and prioritizes implementation of cyber security measures.**
- **In 2018, the Virginia General Assembly provided a contingent appropriation of \$50 million for FY2021 (CPR Bonds), to support continued funding upon Congressional appropriation.**

Other WMATA Funding Agreements

Capital Funding Agreement (Compact Jurisdictions Only)

- Agreement between compact jurisdictions and WMATA for capital projects – expired 6/30/2019
- Currently being updated to acknowledge dedicated funding and for consistency in terminology/requirements with the dedicated funding agreement
- Commonwealth is not a party to the current agreement

Commonwealth Mass Transit Fund (CMTF) allocation for WMATA - § 33.2-1526.1

- Annual DRPT Agreement with NVTC for WMATA capital and operating assistance
- 53.5% of CMTF each year; FY 20 amount is \$159,017,605

Local Payments to WMATA Capital Fund - § 33.2-3404

- DRPT Agreements with five local governments who are members of WMATA for payment of their required local share of capital funding for WMATA
- Annual local proportionate share of \$27.12 million (determined by NVTC) to DRPT, which DRPT then provides to WMATA under the dedicated funding agreement
- Agreements effective upon execution and remain so until terminated or superseded

MDOT Letter to WMATA

- **Dated July 1, 2019**
- **Notification to WMATA that Maryland is withholding \$55,590,425 in capital funds due July 1, 2019**
 - » *Operating funds from Maryland not impacted*
- **Reasons for withholding of capital funds**
 - » *Ongoing non-cooperation by WMATA on resolution of outstanding MDOT compliance audits from FY 2016 and 2017*
 - » *No legal agreement(s) for Maryland state funding beginning in FY 2020*
 - Existing Capital Funding Agreement (CFA) expired on June 30, 2019 and was not replaced or extended

Next Steps

- **July/August - DRPT will review WMATA's submittal, in coordination with the Office of the Attorney General and NVTC**
- **September – DRPT will report findings to the CTB and make a recommendation on compliance**
- **October – DRPT will present resolution to the CTB for action on compliance recommendations**
- **November – NVTC will submit their Annual Report to the CTB and present on their findings**

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