



## COMMONWEALTH of VIRGINIA

### Commonwealth Transportation Board

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*Agenda item # 2*

### RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

July 18, 2023

#### MOTION

**Made By:** Mr. Yates, **Seconded By:** Ms. Hynes

**Action:** Motion Carried, Unanimously

#### **Title: Transportation Alternatives Program Policy - 2023**

**WHEREAS**, the federal Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), provides for a statewide Transportation Alternatives Program, using federal transportation funds and state or local matching funds; and,

**WHEREAS**, the current Commonwealth Transportation Board policy entitled “Policy for Selection of Transportation Alternatives Projects and Process for Transportation Enhancement/Transportation Alternatives Program De-allocation, Project Transfer, and Inactive Projects” (hereinafter referred to as the 2013 Transportation Alternatives Program Policy) was approved on July 17, 2013; and,

**WHEREAS**, the 2013 Transportation Alternatives Program Policy was based on provisions in the federal Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21); and,

**WHEREAS**, the Department has evaluated the 2013 Transportation Alternatives Program Policy to determine if revisions are needed due to the IIJA/BIL, and based on that evaluation has developed recommended revisions to the 2013 Transportation Alternatives Program Policy (see attachment “Action Item Decision Brief Transportation Alternatives Summary”); and,

**WHEREAS**, the Department’s recommended revisions to the 2013 Transportation Alternatives Policy have been assessed by a Commonwealth Transportation Board subcommittee established by the Secretary of Transportation (Secretary), it is the sense of the Board that the

existing 2013 Transportation Alternatives Policy should be revised to ensure compliance with federal requirements, ensure more efficient and effective utilization of Program allocations, and to ensure Commonwealth Transportation Board Policy is consistent with and supports Program needs.

**NOW, THEREFORE BE IT RESOLVED**, the Commonwealth Transportation Board hereby adopts the following revised Transportation Alternatives Program Policy to govern the use of Transportation Alternatives Program funds:

1. Applications for Transportation Alternatives Program allocations shall be accepted on a biennial cycle, with project allocation approval being made by the Commonwealth Transportation Board on even numbered years. Applicants are limited to eight (8) preapplications and five (5) final applications.
2. As required by IIJA/BIL, the MPOs representing Transportation Management Areas (TMAs) will select Transportation Alternatives projects in their areas up to the amount of funding provided them in IIJA/BIL, using a competitive application process in consultation with the Department. Allocations made available to members of the Commonwealth Transportation Board may also be provided to projects within those TMAs.
3. Allocations available to the State for population areas, other than those allocations available to TMAs, shall be equally distributed to the members of the Commonwealth Transportation Board District and At-large members, including the Secretary of Transportation, for project selection. Each Commonwealth Transportation Board District Member will select eligible projects up to the amount available to the member. The Secretary and the Commonwealth Transportation Board At-large members shall select projects as a block with the primary goal of ensuring all population distribution and other allocation requirements of IIJA/BIL and Virginia Code are met. Projects selected by Commonwealth Transportation Board members but cancelled within the first year of allocation may have allocations re-assigned to another project from that year's application pool.
4. All projects selected by the members of the Commonwealth Transportation Board shall receive not less than 100% of the amount of Transportation Alternatives Program funds requested in the application. No project shall receive more than \$2.5 million in Commonwealth Transportation Board allocations, including project allocation transfers. MPOs making project selections are encouraged to adhere to this policy but are not required to do so.
5. Once project selections have been made in accordance with the foregoing process, the project list will be presented to the full Board for its consideration and approval. Locally Administered projects may be deallocated if a project administration agreement has not been executed by the locality within six (6) months after transmittal to the locality.

6. All projects selected and provided Transportation Alternatives Program allocations either from members of the Commonwealth Transportation Board or MPOs must be under construction within four (4) years of the project's initial allocation, unless a time extension has been granted by the Department for a documented reason. The Department shall establish administrative procedures to ensure that any recipient of Transportation Alternatives Program allocations advance diligently toward the goal of four (4) years to construction. When no or minimal efforts have been made, requests for time extensions may be denied and the project may be deallocated of funding.
7. Allocations no longer necessary for the completion of the project for which the funding has been applied (surplus Transportation Alternatives Program allocations) shall be made available statewide to support projects in deficit, within the allocation limits established by the Board, and to supplement the biennial project selection and allocation process. Surplus Transportation Alternatives Program allocations may be redistributed to existing Transportation Alternatives projects in accordance with the most current Six Year Improvement Program (SYIP) transfer process and in accordance with administrative procedures established by the Department. Competing requests will be prioritized with deficit projects at award having highest priority, deficit projects at advertisement being next priority, and next, deficit projects in or having completed construction, and then all other requests. The Department shall establish review procedures to ensure appropriate actions are taken to reduce costs and ensure the project is appropriately advancing before undertaking any such transfers.
8. A balance entry account shall be established to ensure appropriate reserves are available to support deficit Transportation Alternative project advancement to construction and to complete construction. A minimum of \$2M shall be retained in the account but may be adjusted to account for the needs of the program and after notification to the Commonwealth Transportation Board.

**BE IT FURTHER RESOLVED**, the Commonwealth Transportation Board hereby rescinds its 2013 Transportation Alternatives Program Policy, provided however, that nothing herein is intended to invalidate any actions previously taken pursuant to the 2013 Transportation Alternatives Program Policy.

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## Commonwealth Transportation Board (CTB) Decision Brief

### Transportation Alternatives Program Policy (2023)

**Issue:** The federal Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), provides for a statewide Transportation Alternatives Program using federal transportation funds and state or local matching funds. The Commonwealth Transportation Board (CTB) has established a Transportation Alternatives Program Policy, in accordance with §33.2-215 of the *Code of Virginia*. The previous CTB Transportation Alternatives Program policy was approved in 2013 and the changes in federal law pursuant to the IIJA/BIL, as well as changes to Virginia Department of Transportation (Department) processes, necessitate changes to the Transportation Alternatives Program Policy to ensure compliance with the IIJA/BIL and to support the efficient implementation of the Program.

**Facts:** The Secretary of Transportation (Secretary) established a CTB subcommittee to evaluate changes to the CTB's 2013 Transportation Alternatives Program Policy that have been recommended by Department staff. The subcommittee met on four separate occasions and each session was open to the general public. After a thorough evaluation, the subcommittee recommended certain modifications to the Transportation Alternatives Program Policy, and those modifications were presented to the CTB on June 20, 2023. A summary of those recommendations is found on the attachment to this decision brief entitled "Action Item Decision Brief Transportation Alternatives Summary."

**Recommendations:** VDOT recommends that the CTB approve and enact the Transportation Alternatives Program Policy (2023).

**Action Required by CTB:** The *Code of Virginia* §33.2-215, requires the majority vote of the CTB to approve Department policies and transportation objectives.

**Result, if Approved:** The revised Transportation Alternatives Program Policy will become effective immediately.

**Options:** Approve, Deny, or Defer

**Public Comments/ Reaction:** During the process outreach meetings were held with Department District staff and with local government stakeholders, and a survey to gauge local government support for the recommended policy was published. The survey reflected general support for the proposed revisions and changes to several of the proposed policy revisions were made as a result of public input. A total of 42 respondents provided feedback through the survey, representing 41 localities across the state and one planning district commission.

<b>TRANSPORTATION ALTERNATIVES POLICY RECOMMENDATIONS</b>			
	<b>Issues Identified/Opportunities for Improvement</b>	<b>Proposed Policy</b>	<b>Anticipated Outcomes</b>
1	Current Application process policy is not reflective of the biennial practice	Align policy for application cycle with existing biennial application intake process	Aligns policy with current practice
2	Surplus funding not available to projects with highest needs for funding Surplus funding not distributed in a timely manner Current process is not consistent with other funding programs Current practice of project transfers within a locality is not reflective of the project-specific nature of allocations	Surplus funds from completed or canceled projects return to statewide balance entry for redistribution based on standardized prioritization/tiered process. Retain \$2M in statewide balance entry to account for unanticipated needs - replenish as necessary during application cycles.  Tier 1 – Localities with a deficit at Construction award Tier 2 – Projects that exhibit a deficit at advertisement Tier 3 – Projects with a deficit during Construction Tier 4 – Projects with a deficit after Construction completion  Projects selected by CTB but cancelled within the first year of allocation may have allocations re-assigned to another project from that year's application pool.  Eliminate all individual transfer requests within localities. Any redistribution or increased allocation to projects will be addressed on a statewide basis using a uniformed reallocation process.	Allows available funding to immediately support projects in deficit. Minimizes idle allocations while reducing impacts of inflation / other project delivery cost increases Redistribution of available funds using a tiered process to reflect the urgency and time sensitive need for funds on existing projects. Aligns with premise that allocations are made to projects through application process rather than generally to localities Ensures appropriate distribution of population-based allocations
3	Projects are delayed when not fully funded due to uncertainty of available funding to complete project Partially funding application requests is inconsistent with other funding programs	Fully fund project application requests, with limited opportunity to request additional funding (see tiering in recommendation #2)	Provides incentive to initiate project promptly with confidence of funding availability Encourages better project planning and estimates Consistency with other funding programs
4	Current process of distributing allocations for CTB Member selections does not account for fluctuations in available funding	Adjust District Member and At-large/Secretary CTB Member allocations so that allocations are equally distributed	Provides equitable distribution of funding for CTB Member allocations
5	Program funding not suitable for large projects Larger projects often do not meet requirement to reach construction phase in four years	Establish a maximum lifetime award amount of \$2.5 million per project	Ensures allocations are available for broader range of applicants Encourages smaller, more focused projects which can be completed quickly Aligns projects' size with intent and scale of the Transportation Alternatives Program
6	Localities submit many project applications that are not viable application or have not been thoroughly vetted internally, resulting in unnecessary effort during application reviews	Establish application caps of 8 Pre-Applications and 5 Full Applications for each jurisdiction	Encourages localities to prioritize and submit ready and suitable projects rather than submitting multiple applications in the hopes of securing an award Allows VDOT to focus review efforts on most viable project applications
7	Project initiations are being delayed waiting on execution of project administration agreements	Require that project administration agreements be executed within six months of agreement transmittal to locality or risk project deallocation	Encourages expeditious start to projects Minimizes delays of expenditures