



U.S. Department
of Transportation
**Federal Transit
Administration**

Administrator

1200 New Jersey Ave., S.E.
Washington, DC 20590

The Honorable Tim Kaine
Governor
Commonwealth of Virginia
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219

JAN 24 2008

Dear Governor Kaine:

The Federal Transit Administration (FTA) has reviewed the Metropolitan Washington Airports Authority's (MWAA) September 21, 2007 request to advance the Dulles Corridor Metrorail Project—Extension to Wiehle Avenue (the Dulles Project or the Project) into Final Design. FTA has evaluated the Project under the New Starts criteria and has also considered the full range of risks associated with the Project. Unfortunately, the project in its current form faces the following challenges to meeting the statutory criteria.

Under the New Starts evaluation process, the Project in its current form would receive an overall New Starts rating of Medium-Low, which would render it ineligible to advance into Final Design. This rating, described in more detail below, is based on the information currently available. Even if MWAA were able to improve the New Starts rating, however, other factors have led FTA to doubt that there is a “reasonable likelihood” that the Project in its current form would continue to meet the statutory New Starts evaluation criteria in the future, as is required by 49 U.S.C. § 5309(d)(5). These factors are: (1) the management arrangements under which the Project would be implemented; (2) MWAA's limited experience with transit projects and with exceptionally large design-build contracts; and (3) the uncertainties of the Washington Metropolitan Area Transit Authority's (WMATA) ability to finance its ongoing capital needs systemwide in order to maintain service levels and a state of good repair.

Based on extensive experience with over \$80 billion of investments in New Starts projects, FTA is concerned that the cumulative risks and uncertainties that characterize the Dulles Project in its current form are extremely likely to result in further cost escalation and schedule delays. Thus, the current Dulles Project does not appear to be a prudent investment under the New Starts Program. The New Starts rating process and considerations of Project risks and uncertainties are discussed in greater detail below.

New Starts Rating

Based on FTA regulations at 49 CFR Part 611 on major transit investment projects and the *FY 2009 New Starts and Small Starts Evaluation and Rating Process* guidance, a project must receive a "Medium" rating or higher for both the Project Justification and Local Financial Commitment criteria to obtain a "Medium" overall rating and advance into Final Design. The Dulles Project in its current form would receive a "Medium-Low" rating for Project Justification, based on a "Medium" rating for Transit Supportive Land Use and a "Low" rating for Cost Effectiveness." The Project also would receive a "Medium-Low" rating for Local Financial Commitment. Hence, the Project's Overall Summary Rating would be "Medium-Low." The two primary elements leading to the Project's Summary Rating are the Cost Effectiveness Rating and the Capital Financial Plan Rating.

Cost Effectiveness. In an October 4, 2007 response to MWAA's application to enter the Project into Final Design, FTA stated that its acceptance of approximately \$250 million in cost reductions to achieve a \$2.96 billion Project budget was dependent on "commitments" for these cost reductions being in place before FTA could make a decision on Final Design approval. Orally, MWAA informed FTA that proof of these commitments would be forthcoming by mid-December 2007. On January 17, 2008, FTA received MWAA's letter indicating that change orders would be signed for \$16.5 million in the Firm Fixed Price portion of the MWAA-Dulles Transit Partners contract and that Dulles Transit Partners had committed to work towards a target of an additional \$67.1 million worth of savings under the Allowances portion of the contract. FTA was expecting verification of the cost reductions in the form of copies of change orders processed as required by Article 19 of the MWAA-Dulles Transit Partners contract. Specifically, FTA was anticipating receipt of copies of negotiated change orders to the Firm Fixed Price portion of the contract, directed change orders to the Allowances portion of the contract, and documentation of WMATA and MWAA "owner" changes.

Because FTA has not yet received satisfactory confirmation of the proposed cost reductions, the Cost Effectiveness index value of the project would be computed without consideration of the proposed cost reductions. The exceptions were the Route 7 and Spring Hill Road improvements, which were reduced from the budget because they are clearly not integral parts of the Dulles Project. Consequently, the resulting Cost Effectiveness index value would exceed \$31.00 and would merit a "Low" rating. As indicated in FTA's *FY 2009 New Starts and Small Starts Evaluation and Rating Process* guidance, a "breakpoint" of \$30.00 and over equates to a "Low" Cost Effectiveness rating. A "Low" Cost Effectiveness rating combined with a "Medium" Land Use Rating would result in a "Medium-Low" Project Justification rating.

Capital Financial Plan. FTA's primary concerns with MWAA's capital financial plan for the Project in its current form are that it includes: (1) optimistic assumptions on the number of toll transactions and the growth in toll revenues, which are not consistent with

historical experience; (2) an aggressive financing structure, including significant backloading of debt; and (3) significant growth in capital rehabilitation and replacement costs for the WMATA system, assumed to be covered by a near doubling of local and Federal funding, the reasonableness of which has not been substantiated. Consequently, the resulting rating for the Capital Financial Plan would be "Medium-Low." FTA's guidance for the *FY 2009 New Starts and Small Starts Evaluation and Rating Process* explains that if either the capital or operating finance plan receives a "Medium-Low" or "Low" rating, FTA will give a summary rating for Local Financial Commitment no higher than "Medium-Low."

Project Risks and Uncertainties

Apart from the New Starts rating, other factors would contribute to FTA's assessment of the Project in its current form. FTA is concerned that the project is vulnerable to cost escalations and schedule delays - thus, jeopardizing the Project's ability to meet the New Starts criteria in the future. The Project is dependent on many and complicated inter-organizational management arrangements for Project design and implementation. MWAA is a first-time New Starts applicant that lacks experience with heavy rail construction and has limited experience with design-build contracts, raising serious questions about its ability to control project costs and schedule. The Dulles Transit Partners contract for this Project is valued at \$1.6 billion - making it the single largest design-build contract in the history of FTA's New Starts program.

In addition, FTA is concerned about potential conflicts between MWAA, as the sponsor and constructor, and WMATA, as the ultimate owner/operator and the authority on technical standards for the Project. In FTA's experience, without comprehensive agency integration, including owner/operator staff reporting to the project manager during design, risks of cost escalation and schedule delays are increased. Early indications of potential inter-agency conflicts are already apparent in the Dulles Project.

FTA also is deeply concerned that, because WMATA faces significant, unresolved capital funding needs for maintaining the current system, the proposed extension to Metrorail may pose serious financial and operational challenges, and further strain the system as a whole.

Conclusion

FTA has worked diligently over the last decade with local stakeholders to advance a major capital transit project in the Dulles Corridor. FTA recognizes that this corridor is in need of viable public transportation options to relieve regional highway congestion. FTA also recognizes that any large public infrastructure project will face challenges. The Dulles Project, however, has encountered an extraordinarily large set of challenges including changes in mode and sponsorship, a revised termination point, a dramatically escalating budget, delays in the development of the public-private contract, local dissent about the design of the project, and lawsuits.

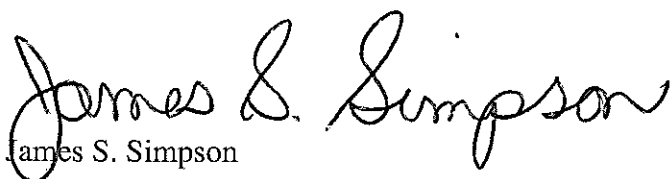
In July 2007, the Department of Transportation's Office of Inspector General (OIG) issued a baseline assessment of this mega-project, corroborating many of the same issues about which FTA was concerned and urging FTA to exercise "extra vigilance" with this Project. The OIG recommended that FTA re-compute the transportation benefits of the Project, using current FTA standards, which would mean a reduction of over 40 percent of the travel-time benefits forecast for the Project. FTA elected not to recalculate these benefits; such action is normally limited to situations when a project undergoes significant scope changes that affect service plans. But FTA has been extra vigilant, including arranging an additional independent budget review beyond FTA's normal rigorous assessment of a proposed project. Through this due diligence FTA believes that the Dulles Project in its current form would be unlikely to be completed on-time and within budget.

MWAA may in time be able to overcome some of the concerns FTA describes in this letter. However, the sheer number and magnitude of the current Project's technical, financial, and institutional risks and uncertainties are unprecedented for a candidate New Starts project - particularly one seeking nearly \$1.5 billion in Federal participation (i.e., \$900 million in New Starts funds and \$580.4 million in a loan under the Department of Transportation's Transportation Infrastructure Finance and Innovation Act) and lacking transportation benefits commensurate with the cost.

For all of the reasons discussed in this letter, I have serious concerns whether it would be appropriate to continue further investment of Federal New Starts funds in this Project, except for reimbursement of FTA-approved activities. I have enclosed a copy of the recommendation memorandum by FTA staff on this subject for your information.

As always, I am available to discuss this matter further if you have any questions. Please do not hesitate to call me at (202) 366-4040.

Sincerely,


James S. Simpson

Enclosure