

March 10, 2023

publiccomments@oipi.virginia.gov

*via email*

**Re: SMART SCALE Review**

Thank you for the opportunity to provide input regarding the SMART SCALE project prioritization process. These comments are submitted on behalf of the Southern Environmental Law Center (SELC) and the 18 organizations listed below.

We appreciate your initiating a review of SMART SCALE. It is important that processes such as this be reviewed and evaluated as lessons are learned and experience is gained. Transparent and data-driven reviews can help identify areas for improvement and we look forward to reviewing the results of the SMART SCALE survey being conducted by the CTB and Office of Intermodal Planning and Investment, and to participating further in the review of this important process.

Overall, it is clear the SMART SCALE process delivers results for Virginians. Prior to its implementation, the transportation funding process in Virginia was opaque at best, and often appeared to be politically motivated with dramatic shifts in priorities occurring between administrations. A number of bipartisan reforms designed to improve Virginia's transportation program have been implemented since 2013, including SMART SCALE. SMART SCALE was championed by then-Speaker Howell and Delegate Stolle, unanimously approved by the General Assembly, and embraced by the administration, including then-Secretary of Transportation Layne. These efforts were undertaken because of broad concerns that there had been significant missteps under the structure of the previous transportation funding program, including projects like the proposed new Route 460 and the Downtown-Midtown Tunnel toll deal.

Contrary to the largely subjective and political decision-making process that existed before it, SMART SCALE provides a more objective and data-driven framework to help identify the most cost-effective uses of the Commonwealth's limited transportation dollars. While project sponsors may not always be happy with the results under SMART SCALE, there is now an established transparent process that demonstrates why one project was picked over another. This is a major improvement from the past and SMART SCALE has become a nationally recognized model for selecting transportation projects to be funded. In many cases, the criticisms we hear about SMART SCALE appear to be based on the amount of funding available rather than the process itself. For example, we often hear officials wish a \$50 million project was funded over a \$5 million project—but without additional funding such a trade is not possible.

We hope this review will build upon and be informed by previous in-depth reviews of SMART SCALE. In 2017, the CTB and Office of Intermodal Planning and Investment undertook a detailed review of the first two rounds of SMART SCALE and held a special day-

long meeting to discuss the findings.<sup>1</sup> This review examined whether there was a bias based on project size, a bias based on mode of transportation, and the weighting of the factor areas, ultimately finding that the size of projects funded under SMART SCALE was similar to the size of projects funded under the former formula.<sup>2</sup>

In 2021, the Joint Legislative Audit and Review Commission (JLARC) conducted a review of Virginia’s Transportation Infrastructure and Funding.<sup>3</sup> JLARC’s work is based on a strong commitment to four principles: (i) integrity; (ii) rigor; (iii) objectivity; and (iv) non-partisanship. The JLARC report states the following about SMART SCALE:

The state’s primary process to select projects to address transportation needs, Smart Scale, is an objective way to select transportation construction and other improvement projects . . . Despite local concerns, analysis of Smart Scale decisions over time concluded that selection decisions are generally equitable across regions and types of projects.<sup>4</sup>

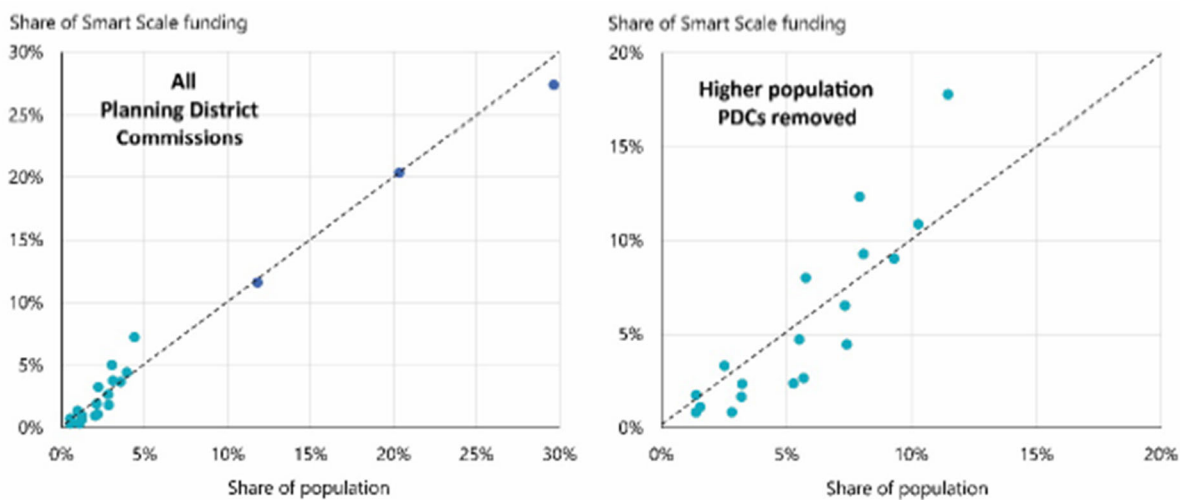


Figure 5-4: Funding for all Smart Scale rounds is well aligned with region population<sup>5</sup>

The JLARC review also found that “while many large project requests are not funded, . . . [l]arge projects make up a smaller *number* of funded projects, but account for a substantial proportion of funding award.”<sup>6</sup> Funding awards were distributed in the first four rounds roughly

<sup>1</sup> See e.g., Nick Donohue, Deputy Sec’y of Transp., *Staff Recommendations for Improving the Process for Round 3* (June 21, 2017), [https://www.ctb.virginia.gov/resources/2017/june/ctb\\_retreat\\_recommendations\\_for\\_improving\\_smart\\_scale2.pdf](https://www.ctb.virginia.gov/resources/2017/june/ctb_retreat_recommendations_for_improving_smart_scale2.pdf).

<sup>2</sup> *Id.* at slide 10-11.

<sup>3</sup> Joint Legis. Audit & Rev. Comm’n, *Transportation Infrastructure and Funding 2021*, JLARC Report 556 (Nov. 8, 2021), <http://jlarc.virginia.gov/pdfs/reports/Rpt556-1.pdf>.

<sup>4</sup> *Id.* at iii.

<sup>5</sup> *Id.* at 58.

<sup>6</sup> *Id.* at 60 (emphasis original).

as follows: one-third for projects \$50 million or larger; one-third for projects between \$10 million and \$49 million; and one-third for projects less than \$10 million.<sup>7</sup>

While there are many beneficial aspects of SMART SCALE, we believe three key areas are responsible for its long-term success:

- Award of funds based on benefits relative to costs: The CTB does not have an unlimited budget and allocation decisions have opportunity costs. It is therefore important to award funds based on the benefits per dollar rather than aggregate benefits. For example, one project may have a higher safety score (the aggregate benefit) but another project with a lower safety score may deliver significantly more safety benefits for the investment when considering the safety benefits per dollar of requested funding.
- Data-based evaluation of project benefits: Different parts of the state have different transportation needs, and even different communities within the same region can have different needs. By using a variety of factors to evaluate the benefits of potential projects, SMART SCALE uses a balanced, data-driven approach that assesses the costs and benefits of a project in a more objective way.
- Transparency and accountability: As discussed above, CTB has adopted a process that establishes the parameters for how projects will be evaluated. If the CTB deviates from funding the projects with the highest benefits relative to costs, they must vote in public to do so.

We recognize that no process is perfect and expect the SMART SCALE review may identify areas for potential improvement. As has been done in the past, it is appropriate to review the results of the fifth round of SMART SCALE funding—as well as earlier rounds—to determine whether the measures and overall process is working as intended. However, we urge you to be cautious in making significant changes to the SMART SCALE process unless serious flaws are identified by a data-driven analysis of the results from the most recent round of funding.

There are, however, several areas we would encourage the review to examine:

- Opportunities for additional transparency: Although SMART SCALE has significantly increased the transparency of the transportation funding process, there are opportunities to improve public understanding and involvement in the process. For example, SMART SCALE applications could be made available to the public sooner. This letter is being sent two months after the release of the scores for the fifth funding round and project applications are still not available for public review. This lag will impact the ability to provide meaningful public comment during hearings on the Six-Year Improvement Program in the spring.

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<sup>7</sup> *Id.*

- Modifications to the methodology to better encompass all modes of transportation: The SMART SCALE process funds a wide variety of projects, but some elements of the process seem geared to highway projects and may not apply as well to other modes of transportation. Any revisions should be carefully crafted to encompass all modes of transportation.
- Consideration of greenhouse gas (GHG) emissions: Transportation is largest source of GHG emissions in Virginia. We would like to see a greater emphasis on the quantification and reduction of GHG emissions in the evaluation of projects.
- Consideration of equity: The CTB should assess ways to better account for equity considerations in the SMART SCALE process.
- Increased weight for the environmental quality component: As noted above, transportation is the largest source of GHG emissions in Virginia and a significant source of other harmful pollutants. The weight of the environmental quality component needs to be increased since transportation pollution harms public health and the environment. Priority should be given the projects that reduce, rather than increase, transportation emissions.
- Refinement of the multimodal accessibility measure: This measure is intended to reward projects that increase access to non-single occupant vehicle travel options but there are some shortcomings of the current scoring approach.

Thank you again for the opportunity to provide feedback on the SMART SCALE process, and we request that this review be conducted in a transparent and accountable manner with any relevant information and analysis being made available to the public.

Sincerely,



Trip Pollard  
Senior Attorney



Carroll Courtenay  
Staff Attorney

On behalf of:

ALLIANCE FOR THE SHENANDOAH VALLEY  
CENTER FOR SUSTAINABLE COMMUNITIES  
CHESAPEAKE CLIMATE ACTION NETWORK

COALITION FOR SMARTER GROWTH  
FAITH ALLIANCE FOR CLIMATE SOLUTIONS  
LYNNHAVEN RIVER NOW  
PIEDMONT ENVIRONMENTAL COUNCIL  
PARTNERSHIP FOR SMARTER GROWTH  
ROCKBRIDGE AREA CONSERVATION COUNCIL  
SIERRA CLUB, VIRGINIA CHAPTER  
SUSTAINABLE MOBILITY FOR ARLINGTON COUNTY  
THE NATURE CONSERVANCY, VIRGINIA CHAPTER  
VIRGINIA CONSERVATION NETWORK  
VIRGINIA LEAGUE OF CONSERVATION VOTERS  
VIRGINIA TRANSIT ASSOCIATION  
WASHINGTON AREA BICYCLIST ASSOCIATION  
YIMBY'S OF NORTHERN VIRGINIA

cc: The Honorable W. Sheppard Miller, III, Virginia Secretary of Transportation  
The Honorable Members of the Commonwealth Transportation Board