The Commonwealth of Virginia



Public-Private Transportation Act of 1995 (as Amended)

Implementation Manual and Guidelines (Draft)

September 22, 2010



COMMONWEALTH of VIRGINIA

Office of the Governor

Sean T. Connaughton Secretary of Transportation

MEMORANDUM

Date: September 22, 2010

To: Commonwealth Transportation Public and Private Sector Stakeholders

From: Sean T. Connaughton

Secretary of Transportation Commonwealth of Virginia

Re: Public Private Transportation Act 1995 (PPTA) Implementation Guidelines

The Office of the Secretary of Transportation is committed to delivering much needed infrastructure improvements in the Commonwealth of Virginia across modes in a safe, efficient and cost effective manner. The PPTA process is an important tool for delivering infrastructure in this era of fiscal responsibility. It was with this in mind, that a review of the Commonwealth's PPTA process was commissioned in March of this year. A key recommendation of the review was to prepare updated PPTA guidelines.

The objective of the updated guidelines is to introduce new roles and responsibilities for a PPTA Office and is intended to provide guidance for project development and implementation processes for both solicited (i.e., planned) and unsolicited PPTA projects across all transportation modes. A further objective is to pro-actively identify, assess and deliver the Commonwealth's priority transportation projects in a consistent, transparent, timely and cost effective manner.

A number of steps were taken to solicit input from the Commonwealth's stakeholders during the development of the draft PPTA guidelines including several workshops with representatives from each of the Commonwealth's transportation Departments – namely the Virginia Department of Transportation, Department of Rail and Public Transport, Virginia Port Authority, the Department of Motor Vehicles and representatives from the Office of General Counsel and external legal advisors.

We are pleased to introduce the attached draft Implementation Manual to you. Over the next month, we invite you, our stakeholders, to provide your comments and suggestions on the draft Implementation Manual via e-mail to PPTAcomments@virginia.gov. We will take a professional view of all inputs and contributions made in order to create the most effective and useful guidance.

We look forward to working in partnership with you to address the Commonwealth's transportation needs in a timely and efficient manner.

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DISCLAIMER:

This is a working draft version of the PPTA Implementation Manual and Guidelines. The draft version has not been approved or adopted by the Office of the Secretary of Transportation. As such, the processes and procedures for streamlining the PPTA process - as outlined in this draft document - are NOT applicable to any existing and/or on-going PPTA project.

The Commonwealth may seek input about this draft and the contents herein from certain transportation stakeholders. Because of its draft status, this document is not suited for any purpose other than to assist the Office of the Secretary in soliciting input from transportation stakeholders on the proposed processes and procedures outlined within. If you are asked to provide comments on this draft document, you are requested to keep its contents confidential.

1. INTRODUCTION

The Public-Private Transportation Act of 1995, as amended ("PPTA") is the legislative framework enabling the Commonwealth of Virginia ("Commonwealth"), local governments, and certain other public entities as defined in the PPTA, to enter into agreements authorizing private entities to develop and/or operate qualifying transportation facilities. This chapter describes the purpose of this PPTA Implementation Manual and outlines its organization, summarizes the Commonwealth's objectives for the PPTA Program, presents the PPTA Project Delivery Framework within which the policies and procedures of the PPTA Program will be followed, presents the commercial and legal framework within which the PPTA Program operates and addresses the funding mechanism for the PPTA Office.

Appendix A provides definitions for defined terms used herein. Appendix B presents certain rights and disclosures of the PPTA Office.

1.1 Purpose of the Implementation Manual

In March 2010, the Secretary of Transportation conducted a programmatic review of the Commonwealth's PPTA Program. The review identified several opportunities for program improvement, including revising the existing PPTA Implementation Guidelines. This PPTA Implementation Manual replaces the existing PPTA Implementation Guidelines (dated October 31, 2005) and shall constitute the guidelines required by the PPTA as set forth in § 56-560 of the Code of Virginia.

The Implementation Manual provides guidance regarding PPTA project development and implementation for both solicited and unsolicited PPTA projects across all modes of transportation, including multimodal and intermodal projects. The Implementation Manual outlines PPTA processes that are consistent, transparent, and stable, while encouraging private sector innovation and investment to address transportation needs of the Commonwealth. The Implementation Manual is intended for use by the Commonwealth's transportation agencies, including the Department of Transportation, the Virginia Port Authority, the Department of Rail and Public Transportation, the Department of Aviation, and the Department of Motor Vehicles (each referred to generally herein as the "Department" and considered the Responsible Public Entity as such term is defined in the PPTA), as well as for private entities that are interested in submitting proposals for PPTA projects. The processes included in this Implementation Manual may be used by other Responsible Public Entities, including local governments and transportation authorities, if adopted in accordance with pertinent laws and regulations of the authority having jurisdiction.

The Secretary of Transportation recognizes that each PPTA project is unique and that certain processes set forth in this Implementation Manual may not apply in all circumstances. Therefore, it is intended that the Department Administrator retain the necessary flexibility to tailor procurement and implementation processes to address specific needs of a particular PPTA project. Any failure by the Secretary of Transportation, the PPTA Office or the Department Administrator to follow the processes set forth in this Implementation Manual does not give recourse to any individual or entity for such dispute. The Implementation Manual may be periodically revised or updated in order to meet the mission of the Secretary of Transportation and objectives of the PPTA Program. Revisions can be made at the direction of the PPTA Program Director, in consultation with the PPTA Steering Committee, and as approved by the Secretary of Transportation.

The Implementation Manual does not modify or override requirements of the PPTA legislation, and the PPTA shall govern in the event of any conflicts between the PPTA and this Implementation Manual.

1.2 PPTA PROGRAM OBJECTIVES

The PPTA Framework reflects the objectives of the PPTA Program. The primary objective of the PPTA Program is to address the Commonwealth's transportation needs identified within state, regional and local transportation plans in a consistent, transparent, cost-effective and timely manner, while protecting the public interest and securing benefits from partnerships with private entities. These benefits include access to additional project financing, private sector expertise, improved efficiency and enhanced timeliness of project delivery.

To ensure that PPTA projects are consistent with the Commonwealth's transportation goals of achieving safety and security; system maintenance and preservation; mobility, connectivity, and accessibility; environmental stewardship; economic vitality; coordination of transportation and land use and program delivery, the Secretary of Transportation has established the following objectives for the PPTA Program:

- Facilitate timely delivery of PPTA projects, within established laws and regulations;
- Develop multimodal and intermodal solutions that are consistent with state, regional and local transportation policies and plans;
- Encourage competition for innovation and private sector investment to create value for the Commonwealth;
- Promote transparency and accountability coupled with informed and timely decision making;
- Establish reliable and uniform processes and procedures to encourage private sector investment;
- Seek efficiencies by standardizing processes;
- Foster efficient management of Commonwealth resources, both financial and organizational;
- Achieve cost efficiencies through the whole–life costs basis; and
- Promote economic growth and job creation.

1.3 ORGANIZATION OF THE IMPLEMENTATION MANUAL

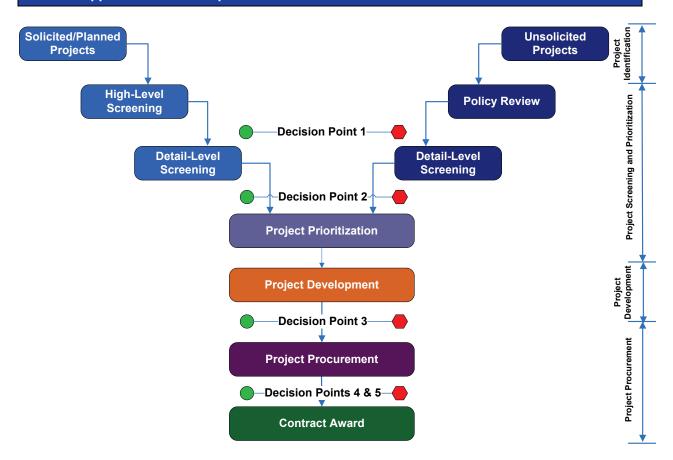
This Implementation Manual is organized into the following six chapters that specifically address the roles and responsibilities of the PPTA Office and each element of the PPTA Project Delivery Framework. These chapters include: organizational structure and reporting, project identification, project screening, project development, project procurement and timelines and milestones.

From Chapter 3 (Project Identification) onwards, each chapter includes both a description of the process and, in some instances, guidance to assist the Commonwealth transportation Departments and the private sector with implementing the process. The blue boxes in the body of the document provide high-level guidance and appendices provide detailed guidance. Finally, at the end of chapters 3-6 is a summary of key action items and the list of entities responsible for each item.

1.4 PPTA PROJECT DELIVERY FRAMEWORK

The PPTA Project Delivery Framework ("PPTA Framework") is intended to streamline and standardize the PPTA Program in order to enhance the delivery of transportation infrastructure projects within the Commonwealth. It was developed to capture the processes and decision points inherent in a PPTA project development lifecycle for both solicited (i.e., planned) and unsolicited projects; namely, project identification, project screening, project prioritization, project development and project procurement.

Guidance: A detailed map of each action and decision point within the PPTA Framework can be found in Appendix C of this Implementation Manual.



Information about suggested timelines for key processes included within the PPTA Framework can be found in Chapter 7 (Timelines and Milestones).

1.5 LEGAL FRAMEWORK - PPTA OF 1995 (AS AMENDED)

The Public Private Transportation Act of 1995 (§§ 56-556 to 573 of the Code of Virginia), as amended, is the legislative framework enabling the Commonwealth, local governments, and other Responsible Public Entities to enter into agreements authorizing private entities to develop and/or operate qualifying transportation facilities. The PPTA is intended, among other things, to encourage investment in the Commonwealth by private entities in order to facilitate the development and/or operation of qualifying transportation facilities.

The PPTA provides flexibility in contracting to public and private entities for the provision of public services, which includes developing financing methods, including user fees and service payment mechanisms, combining private financing with public funds/financing, and issuing debt, equity or other financial securities.

The PPTA allows both solicited and unsolicited project proposals. A Responsible Public Entity may solicit proposals from private entities for the development and/or operation of transportation facilities. Alternatively, for unsolicited proposals, any private entity seeking authorization to develop and/or operate a qualifying transportation facility may request approval of the Responsible Public Entity as more specifically described in Chapter 3 (Project Identification).

Furthermore, the PPTA requires that the Responsible Public Entity develop guidelines that establish the process for the acceptance and review of both solicited and unsolicited proposals from a private entity. The PPTA requires that the guidelines establish a specific schedule for review of a proposal by the Responsible Public Entity, a process for alteration of that schedule by the Responsible Public Entity if it deems that changes are necessary because of the scope or complexity of proposals it receives and the type and amount of information that is necessary for adequate review of proposals in each stage of review. For qualifying transportation facilities that have approved or pending state and federal environmental clearances, secured significant right of way, have previously allocated significant state or federal funding, or exhibit other circumstances that could reasonably reduce the amount of time to develop and/or operate the qualifying transportation facility in accordance with the purpose of the PPTA, the PPTA Office will coordinate a prioritized documentation, review, and selection process.

1.5.1. CONTRACTUAL FRAMEWORK

Pursuant to the PPTA, a comprehensive agreement between the private entity and the Responsible Public Entity governs the delivery and operation of the qualifying transportation project. Pursuant to § 56-566 of the Code of Virginia, the comprehensive agreement establishes the duties of the private entity and may contain such other terms and conditions that the Responsible Public Entity determines serve the public purpose of the PPTA. The comprehensive agreement requires, as appropriate, that the private entity provide for certain performance and payment security, project insurance and reimbursement to the Responsible Public Entity for its services. In addition, the comprehensive agreement provides for, as appropriate, the establishment of user fees in respect of the project, contributions of public funding to the project, terms of distribution of earnings of the private entity, certain rights of review, inspection and audit in favor of the Responsible Public Entity, and provisions concerning notice of default and cure rights for the benefit of other private entities, such as lenders, that are providing financing for the qualifying transportation facility. The comprehensive agreement may also contain such other lawful terms and conditions to which the private entity and the Responsible Public Entity mutually agree.

The Department recognizes that the negotiation of contracts is a fluid, bi-lateral process governed by considerations of public policy and market terms. While maintaining flexibility in structuring comprehensive agreements, the Department will generally seek to follow and benefit from national and international precedents, including prior PPTA projects.

Guidance: Appendix D summarizes an approach to developing commercial terms based on the principles adopted by the Commonwealth for entering into the comprehensive agreements with private entities to develop and/or operate qualifying transportation facilities.

1.5.2. CONFLICT OF INTEREST AND OTHER CONSIDERATIONS

The Office of the Secretary of Transportation realizes that conflicts of interest may be encountered during PPTA project delivery. It is the intent of the Secretary of Transportation that each agency assume a proactive stance with regard to actual, potential or perceived conflicts. To assure transparency, accountability, and objectivity, any proposal submitted to the PPTA Office pursuant to the PPTA will follow the state and federal laws, regulations and guidelines regarding potential organizational conflicts of interest. Such requirement will extend to external advisors, consultants and staff. Examples of such federal laws, regulations and guidelines are 23 CFR § 636.116, 23 CFR 771, 48 CFR § 9.5, the Committee on Foreign Investment in the United States (CFIUS) processes, and § 2.2-4373 of the Code of Virginia.

To protect the integrity, fairness and competitive spirit of the procurement process for PPTA projects each Proposer is required to agree to limit all communications within the Executive Branch regarding their proposals, including all advocacy efforts to the individuals or entities designated by the PPTA Program Director. Any requirements and restrictions related to communications will be specified in the procurement documents for a particular PPTA project.

The PPTA Program Director, in consultation with the Office of the Attorney General, the Department Administrator and other state, local and federal agencies as appropriate, will determine on a case-by-case basis whether organizational conflicts of interest exist and what actions may be appropriate to avoid or mitigate any actual, potential or perceived conflict.

1.5.3. VIRGINIA FREEDOM OF INFORMATION ACT

All proposals submitted by private entities to the PPTA Office pursuant to the PPTA become the property of the PPTA Office and are subject to disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia) (the "VFOIA"). Private entities either proposing projects or responding to solicitation requests issued by the PPTA Office or a Responsible Public Entity are advised to familiarize themselves with the VFOIA provisions to ensure that they are taking the necessary steps to protect documents identified as confidential or proprietary from disclosure pursuant to the VFOIA.

The PPTA Program Director, in consultation with the Office of the Attorney General, the Department Administrator and other state, local and federal agencies as appropriate, will determine whether the requested materials are exempt from disclosure under applicable law and, if appropriate, the scope of such protection. In the event the PPTA Office elects to disclose the requested materials, it will provide the Proposer notice of its intent to disclose. In no event shall the Commonwealth, the Secretary of Transportation, the PPTA Program Director or the Department Administrator be liable to a Proposer for the disclosure of all or a portion of a proposal submitted to the PPTA Office pursuant to the PPTA and guidelines included in this Implementation Manual.

In order to prevent the release of any confidential and proprietary information that otherwise could be held in confidence by the PPTA Office, a private entity may wish to consider the following options prior to submission of their proposal:

- 1. Submit a written request to the PPTA Program Director identifying the data or other materials for which protection from disclosure is sought and the reasons why such protection is necessary;
- Upon request by the PPTA Program Director, make oral presentation to the PPTA Office and legal counsel;

- 3. Receive written notification from the PPTA Program Director accepting or rejecting a confidentiality request; and
- 4. Conduct similar processes with affected jurisdictions.

Failure to take such precautions prior to submission of a proposal may subject all information to disclosure under the VFOIA.

Sections 2.2-3705.6 and 56-573.1:1 of the Code of Virginia outline the application of the Freedom of Information Act to the PPTA process:

- Once a comprehensive agreement has been entered into, and the process of negotiating all phases or aspects of the comprehensive agreement is complete, the PPTA Office, in coordination with the Department Administrator, will make available procurement records in accordance with § 2.2-4342 of the Code of Virginia;
- Procurement records shall not be interpreted to include proprietary, commercial or financial information, balance sheets, financial statements or trade secrets that may be provided by the private entity as evidence of its qualifications; and
- Certain confidential and proprietary information, and related records, may remain confidential if the financial interest of the Commonwealth, the Department or the private entity would be adversely affected.

Where interpretation of these statutes is required, the policy goals of transparency and accountability in this Implementation Manual shall prevail. Additional information regarding the VFOIA can be found in § 2.2-3700 of the Code of Virginia (http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-3700).

1.5.4. APPLICABILITY OF LAWS

The Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia) (the "VPPA") does not apply to the PPTA except to the extent specified in § 56-573.1 of the Code of Virginia. Additionally, in soliciting or reviewing project proposals under the PPTA, the Commonwealth's transportation agencies and offices, including the PPTA Office, shall comply with applicable federal, state and local laws. Likewise, in submitting proposals and in developing or operating qualifying transportation facilities pursuant to the PPTA, private entities shall comply with applicable federal, state and local laws. Such laws may include, but not necessarily be limited to, requirements for workers compensation insurance coverage, compliance with prompt payment, compliance with ethics in public contracting and compliance with environmental laws, workplace safety laws, and state or local laws governing contractor or trade licensing, codes and permit requirements.

1.5.5. PLEDGE OF CONFIDENTIALITY

Each member of the PPTA Office and the Department that is associated with developing, reviewing or selecting the submitted project proposal has access to proprietary and confidential information. Any misuse by employees or representatives of the Department of such information or other materials, information and data provided to the Department by a Proposer is strictly prohibited.

The PPTA Office will institute proper safeguards concerning proposal security for each PPTA project, including where materials will be stored, who can have access to them and under what circumstances.

Anyone assisting in the evaluation of the proposals is required to execute confidentiality/non-disclosure and conflict of interest agreements which provide for the agreement of the person to keep the evaluation and procurement materials confidential and requires disclosure of potential or actual conflicts of interest with Proposers (e.g., financial interest, etc.). These agreements may be executed at the commencement of procurement as well as during the proposal evaluation period.

1.6 PPTA OFFICE FUNDING

As a general guide, the work to advance potential PPTA projects to the end of the Project Screening and Prioritization phase will be funded by the PPTA Office. Once a decision is made that a project will be delivered within the PPTA Program and the project moves into the Project Development phase, the relevant Department will then be responsible for identifying and securing the funding necessary to support the project development and procurement phase activities, as well as any public funding contribution a given project may require. The PPTA Program Director will coordinate with the Department Administrator to ensure that the Department identify and plan for funding needs well in advance to allow qualifying transportation projects to move efficiently through the PPTA Project Delivery Framework.

2. ORGANIZATIONAL STRUCTURE AND REPORTING

The PPTA Office is responsible for managing the PPTA Program and executing the processes and procedures included in this Implementation Manual. This chapter briefly describes the PPTA Office's organizational structure, reporting relationships, roles and responsibilities.

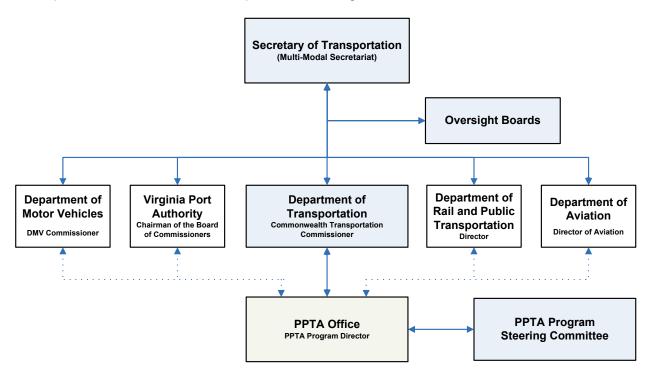
2.1 PPTA OFFICE

The PPTA Office, established under the guidance of the Secretary of Transportation, is responsible for developing, implementing and administering PPTA projects across all modes of transportation to address the Commonwealth's transportation needs. The primary objective of the PPTA Office is to accomplish the timely delivery of PPTA projects that address priority transportation needs.

The PPTA Office is empowered by the Secretary of Transportation to drive the PPTA agenda, which includes serving as the champion to bring PPTA projects to fruition, to be the primary point of contact for PPTA projects serving all modes of transportation and a resource to public sector agencies, private entities and other stakeholders working to advance PPTA projects.

2.1.1. ORGANIZATIONAL STRUCTURE

The multimodal PPTA Office is housed in the Virginia Department of Transportation for administrative ease and functional continuity. The organizational structure provides the flexibility to leverage resources and expertise across all modes of transportation, including multimodal and intermodal solutions.



The PPTA Program Director leads the PPTA Office. The PPTA Program Director is supported by a commercially focused team with skill sets in project planning, project financing, technical, project procurement, and contract management, together with external advisors on an as-needed basis. Any

member of this team may serve as the project lead for delivering and managing the PPTA projects. By having a single point of contact with full responsibility and accountability for the PPTA Program, the Commonwealth aims to ensure the greatest degree of transparency possible throughout the PPTA process.

The PPTA Program Director reports to the Commissioner of the Virginia Department of Transportation. The PPTA Office has the decision-making authority and flexibility to manage multiple PPTA projects concurrently through working collaboratively with the Department Administrator and other disciplines within the Department. Additionally, the organizational structure allows flexibility in leveraging resources and expertise from other disciplines within the Department (e.g., planning, right-of-way acquisition, environmental, utilities, etc.) at various stages of the project identification, screening and prioritization, development, procurement, construction and maintenance phases.

The PPTA Office may seek participation from local, regional, state and federal stakeholders at various stages of the project development lifecycle. Such participants may also assist the PPTA Office in identifying candidate projects and project objectives, and implementation strategies to ensure the greatest degree of stakeholder input from those most directly impacted by a PPTA project's implementation.

2.1.2. OVERSIGHT BOARDS

For the PPTA projects, the Commonwealth Transportation Board serves as the oversight board for the Virginia Department of Transportation and the Department of Rail and Public Transportation. For the Department of Aviation, the Aviation Board serves as the oversight board and for the Virginia Port Authority, the Board of Commissioners serves as the oversight board.

The Governor appoints members of the Commonwealth Transportation Board ("CTB"). The CTB establishes the administrative policies for the Commonwealth's transportation system, allocates highway funding to specific projects, locates routes and provides funding for airports, seaports and public transportation. The Secretary of Transportation serves as Chairman of the CTB, and the Commonwealth Transportation Commissioner acts as Vice-Chairman.

The Governor appoints members of the Virginia Aviation Board ("VAB") to represent defined geographic areas of the Commonwealth. The VAB provides a means of citizen access to the Department of Aviation. Functions of the VAB include publicizing and monitoring policies and programs of the Department of Aviation, promulgating regulations necessary to promote and develop safe aviation practices, and allocating funds to localities for aviation development.

The Governor appoints 11 citizens to form the Virginia Port Authority Board of Commissioners. The state treasurer serves an ex-officio member of the Board. The Board of Commissioners appoints the executive director of the Virginia Port Authority, who is responsible for overseeing the daily execution of the agency's policies.

2.1.3. COMMONWEALTH TRANSPORTATION COMMISSIONER

The Commonwealth Transportation Commissioner acts as a champion for the PPTA Program and holds the PPTA Office responsible for achieving PPTA program objectives. In the context of the PPTA Office, the Commissioner is tasked with providing leadership and monitoring accountability for the PPTA Program. Additionally, the Commissioner has the legal authority to make decisions on commercial and contractual issues related to the PPTA projects within his Department.

While the Commonwealth Transportation Commissioner serves as a champion for the PPTA Program, decisions on commercial and contractual issues on PPTA projects related to other transportation agencies rest with the Department Administrator of that agency.

The Commissioner reports to the Secretary of Transportation on PPTA matters and provides regular updates on the progress and activities of the PPTA Program, including any issues requiring action or decision from the Secretary of Transportation and/or the CTB. As Chairman of the PPTA Steering Committee, the Commonwealth Transportation Commissioner also provides oversight, guidance and direction with respect to the PPTA activities of the Steering Committee.

2.1.4. PPTA PROGRAM DIRECTOR

The PPTA Program Director is responsible for overseeing all aspects of the PPTA Program from identifying, screening and prioritizing candidate PPTA projects to their timely development and procurement and contract management. This includes PPTA Program outreach and stakeholder coordination and reporting all program and project activities to the Commonwealth Transportation Commissioner, the Deputy Secretary of Transportation and the Chief Deputy Commonwealth Transportation Commissioner. Additionally, the Program Director is responsible for working collaboratively with other public agencies and industry regarding the PPTA Program and PPTA projects, complying with applicable statutes, regulations, and policies as well as ensuring that external stakeholders such as impacted transportation mode, local stakeholders, the Federal Highway Administration ("FHWA"), the Federal Transit Administration ("FTA"), the Federal Aviation Administration ("FAA"), the Federal Railroad Administration ("FRA"), the Federal Maritime Commission ("FMC") and Office of the Attorney General ("OAG") are adequately represented during the various stages of project identification, screening, development, procurement and implementation processes, as and when appropriate. After consultation with the Department Administrator and executive-level staff, the Program Director is empowered to represent the Commonwealth and negotiate procurement and commercial issues with private entities.

KEY WORK STREAMS

- PPTA Project Screening
- Developing PPTA Projects
- PPTA Contract Management

The Program Director, supported by a multidisciplinary program staff, is responsible for delivering key work streams, including PPTA project screening, developing and delivering PPTA projects across all modes and contract management for existing PPTA projects. The Program Director will work closely with the Public Relations Officer of the Commonwealth's transportation agencies and local jurisdictions, as appropriate, to facilitate public understanding and support for the PPTA projects.

Additionally, the Program Director will collaborate with private entities, the Commonwealth's transportation agencies, metropolitan planning organizations and other groups for developing appropriate communication strategies for the PPTA Program.

PPTA Project Screening

The PPTA Program Director leads the PPTA project screening effort. The project screening work stream includes coordination with the relevant Department planning division, evaluation of short- and long-term transportation plans and applying detailed screening criteria to a specific project or group of candidate PPTA projects and making a recommendation to the PPTA Program Steering Committee about whether to move forward with a particular project by utilizing the PPTA delivery method. Refer to Chapter 4 (Project Screening and Prioritization) for more detailed information.

Developing PPTA Projects

The second key work stream is PPTA project management. The PPTA Program Director appoints a Project Manager for each project selected for development through the PPTA Program. The Project Manager serves under the direction of the PPTA Program Director. The Project Manager will be a person with strong commercial expertise and public policy and infrastructure industry knowledge. Working closely with other disciplines within the Department, the Project Manager has overall responsibility for addressing the needs of a specific PPTA project, including overseeing its development, procurement, contract execution and reaching of financial close.

The Project Manager is responsible for leveraging the appropriate finance, commercial, procurement and technical expertise within the team that is required for administering a specific PPTA project. The Project Manager ensures that appropriate coordination with other agencies and stakeholders occurs throughout the project development lifecycle. The Project Manager reports project information, such as project budget, scope, schedule, resource requirements and technical, financial or legal issues, to the PPTA Program Director. The Project Manager and those responsible for contract management will be available to assist the Department if key commercial or contractual issues arise during the construction and/or operations phases. Because more than one PPTA project may be considered for procurement at a given time, there may be more than one Project Manager under the direction of the PPTA Program Director, each assigned to a specific PPTA project.

PPTA Contract Management

The third key work stream is contract management. Once a comprehensive agreement is executed and financial close has occurred, there will be a requirement for assistance from the PPTA Office with contract management through the construction and operations phases. The PPTA Office will serve as a resource for the Department for any commercial issues related to a PPTA project that may arise during construction and/or operations phases. The PPTA Office's role also includes certain contract compliance responsibilities such as reviewing the periodic updates to the financial model, evaluating revenue sharing provisions, monitoring refinancing activities, reviewing the audited financial statements for the project and other activities as defined in the applicable comprehensive agreement.

2.1.5. PPTA PROGRAM STEERING COMMITTEE

The PPTA Program Steering Committee ("Steering Committee") is comprised of the Commonwealth Transportation Commissioner, the Deputy Transportation Commissioner, the Deputy Secretary of Transportation, the Chief Engineer of the Virginia Department of Transportation, the Chief Financial Officer of the Virginia Department of Transportation, the Chief of Planning and Programming of the Virginia Department of Transportation, and one representative each from the Virginia Port Authority, the Department of Rail and Public Transportation, the Department of Aviation, and the Department of Motor Vehicles. The Steering Committee is chaired by the Commonwealth Transportation Commissioner.

The Steering Committee will meet on a regular basis, and may be assisted by a working group to address specific issues and tasks. Additionally, the PPTA Program Director may consult the PPTA Steering Committee on an as-needed basis to resolve critical procurement and commercial issues that may arise during the procurement phase of PPTA project delivery.

The Steering Committee has the following primary functions:

- 1. Evaluate the results of the PPTA Office's analysis to confirm the feasibility of PPTA project delivery (i.e., non-traditional project delivery method) and rank candidate PPTA projects into short, medium and long-term priorities;
- 2. Review unsolicited proposals submitted in accordance with the PPTA, study any comments received from affected jurisdictions and/or the general public, and evaluate the results of the policy review and high-level screening performed by the PPTA Office to determine if the unsolicited proposal meets all legal and policy requirements for further evaluation, as set out in §§ 56-558 and 56-560 of the Code of Virginia and this Implementation Manual;
- 3. Provide a recommendation to the Secretary of Transportation to either advance or reject the unsolicited proposal for competitive procurement;
- 4. Review the recommendation of the PPTA Office for evaluation of the Statements of Qualification and/or Proposals associated with a particular PPTA project procurement; and
- 5. Provide high-level policy and procurement guidance to the PPTA Office.

The Steering Committee may consult with resident experts and external advisors, on an as-needed basis, with respect to technical, financial or legal aspects of a candidate PPTA project or proposal.

3. PROJECT IDENTIFICATION



Project identification is the first phase of the PPTA Framework. As mentioned in Chapter 2 (Organizational Structure and Reporting), the PPTA Office and the Department's relevant planning division are responsible for managing the project identification process.

There are two primary sources from which transportation projects can be identified for consideration as PPTA candidate projects:

Solicited Projects:

The planning staffs across all transportation Departments, agencies and metropolitan planning organizations are encouraged to identify planned projects for PPTA consideration. Planning staffs should review the High-Level Screening Criteria discussed in Chapter 4 (Project Screening and Prioritization) as they consider suitable PPTA candidate projects.

Unsolicited Projects:

Projects proposed by private entities will be considered as unsolicited projects.

The specific steps to be followed for each of the two sources are outlined below.

3.1 SOLICITED PROJECTS

Comprehensive transportation planning is carried out at the state, regional, local and municipal levels throughout the year by the Commonwealth's transportation agencies and offices that have the legal authority to develop and/or operate qualifying transportation facilities. Examples of suitable sources for candidate PPTA projects may include the various planning documents and entities listed below:

Guidance: Potential Sources of Solicited Candidate PPTA Projects

PPTA Priority of the Governor – priority transportation projects critical to safeguarding the Commonwealth's long-term economic competitiveness, environment, safety, and security and to improving mobility and the overall quality of life for Virginians.

Six-Year Improvement Program ("SYIP") – a program managed by the Commonwealth Transportation Board for allocating funding for rail, public transportation, commuter assistance, bicycle, pedestrian, interstate and primary highway transportation projects in future years.

Legislative Mandate – any legislation passed by the General Assembly requiring the PPTA Office to consider improvements to a transportation facility under the PPTA Program.

Virginia Multimodal Long Range Transportation Plan (VTrans2035) – provides an overall framework and facilitates development of policy for identifying and integrating transportation needs, allowing the Commonwealth's investments to be prioritized based on defined state goals.

Guidance: Potential Sources of Solicited Candidate PPTA Projects

Virginia Surface Transportation Plan – provides information for potential long-term transportation project development and investment based on the goals identified in Virginia's statewide multimodal transportation policy plan.

Virginia Port Authority Master Plan – focuses on the capital projects and investments needed to develop terminal capacity in order to continue to generate and increase economic benefits for Virginia.

Six-Year Airport Capital Improvement Plan – identifies and prioritizes planning and engineering projects that focus on airport facility development over a six-year period and provides cost estimates, anticipated sources of funding, and justifications for project implementation.

The transportation agencies and offices that are interested in submitting candidates for PPTA consideration should carefully select projects that: (1) advance the Commonwealth's transportation goals of improving safety, reducing congestion, increasing capacity and/or enhancing economic efficiency; and (2) meet PPTA suitability criteria as outlined in Chapter 4 (Project Screening and Prioritization). The PPTA Office will maintain a portfolio of current candidate PPTA projects and periodically perform the high-level screening to determine their feasibility.

3.1.1 PPTA CANDIDATE PROJECT FORM

The Commonwealth's transportation agencies and offices that have identified PPTA candidate projects should submit a completed PPTA Candidate Project Form to the PPTA Office for each candidate project. This form can be submitted at any time pursuant to the process outlined in this Implementation Manual.

Guidance: An example of the Candidate Project Form can be found in Appendix E of this Implementation Manual.

Information requested in the Candidate Project Form allows the PPTA Office to perform a high-level screening of the candidate project to determine whether the project should be advanced to the detail-level screening process. The transportation agencies and office are encouraged to provide relevant supporting information/documentation for the candidate project to allow the PPTA Office to conduct the high-level screening and evaluation in a timely manner.

3.2 Unsolicited Projects

The PPTA permits Responsible Public Entities to receive, evaluate and select for negotiations, unsolicited project proposals from private entities to develop and/or operate qualifying transportation facilities under their jurisdiction. Private entities may submit unsolicited project proposals for all transportation modes to the PPTA Office at any time pursuant to the PPTA and this Implementation Manual. All unsolicited project proposals should be submitted to the attention of the PPTA Program Director at the following address:

PPTA Office
Virginia Department of Transportation
1401 E. Broad Street
Richmond, VA 23219

Attn: PPTA Program Director

Guidance: Requirements for unsolicited proposal preparation can be found in Appendix F of this Implementation Manual.

3.2.1 PROPOSAL REVIEW FEE

Private entities interested in submitting an unsolicited project proposal are required to pay a non-refundable, non-negotiable Proposal Review Fee of [\$50,000] at the time of submitting the unsolicited project proposal to the PPTA Office. The proposal review fee shall be submitted in the form of a cashier's check made payable to the Treasurer of Virginia. Proposers submitting multiple proposals affecting unrelated qualifying transportation facilities will be required to submit a proposal review fee for each unsolicited proposal submission. The fee will partially offset the cost of processing, reviewing and evaluating the unsolicited project proposal.

3.3 KEY ACTION ITEMS

Project Identification Activity	Responsible Entity
Submit PPTA Candidate Project Form	Commonwealth's Transportation Agencies/Offices
Submit Unsolicited project proposal	Private Entity
Review solicited and unsolicited candidate projects	PPTA Office

4. PROJECT SCREENING AND PRIORITIZATION



The project screening phase within the PPTA Framework is designed to assist the PPTA Office in determining the suitability of delivering projects under the PPTA. The PPTA project screening methodology is a means of systematically and consistently applying evaluation criteria to solicited and unsolicited projects submitted as candidates for PPTA consideration.

Project screening is organized into two phases: (1) an initial high-level review for solicited projects and a policy review for unsolicited projects and (2) a more detailed screening review for both solicited and unsolicited projects which pass the respective initial review.

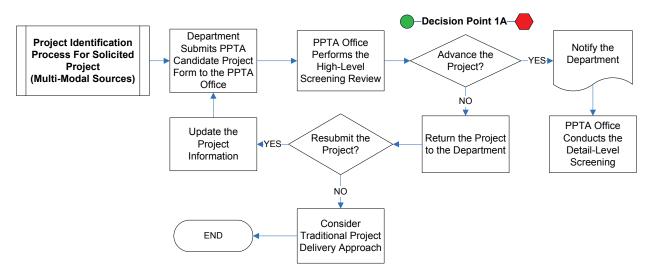
4.1 HIGH-LEVEL PROJECT SCREENING/POLICY REVIEW

The high-level project screening and policy review represents the first phase of a two-step screening process for solicited and unsolicited projects respectively. The steps outlined below are designed to help the PPTA Office vet candidate PPTA projects.

4.1.1 SOLICITED PROJECTS - HIGH LEVEL SCREENING

On a periodic basis, the PPTA Office will commence the high-level screening of solicited projects submitted as candidates for PPTA delivery by the Commonwealth's transportation agencies or offices.

The following diagram presents the steps during the high-level screening review:



The PPTA Office will review information provided in the PPTA Candidate Project Form and any supplemental information submitted for each candidate project against the high-level screening criteria to determine the feasibility of delivering a proposed project via the PPTA delivery method.

The table below summarizes guidance with respect to high-level screening criteria. The PPTA Office reserves the right to revise the guidance on screening criteria as and when these goals or policies change.

Guidance: High-Level Project Screening Criteria		
Project Complexity	How complex is the project in terms of technical and/or financial requirements?	
	Is the project consistent with federal requirements and potential agreements for federal funding and/or approval, including federal financial constraint requirements for PPTA projects?	
Accelerating Project Development	If the required public funding is not currently available for the project, could using a PPTA delivery method accelerate the delivery of the project?	
Transportation Priorities	Is the project consistent with priorities identified by the appropriate transportation plans and/or programs?	
	Does the project adequately address transportation needs?	
Project Efficiencies	Would the PPTA delivery method help foster efficiencies either through cost savings, value engineering or lifecycle cost considerations?	
	Is there an opportunity to bundle projects?	
Ability to Transfer Risk	Would the PPTA delivery method help transfer project risks and potential future responsibilities to the private sector on a long-term basis?	
Funding Requirement Does the project have revenue generation potential to partially offset public funding requirement if necessary?		
	Could a public agency pay for the project over time, such as through an availability payment, as opposed to paying for its entire costs up front?	
Ability to Raise Capital	Would the project help raise capital for other transportation priorities for the Commonwealth?	

The PPTA Office will rely on these high-level screening criteria to initially assess the suitability of candidate projects for PPTA delivery and to determine which projects should be advanced to a detail-level screening. The PPTA Office, in consultation with the Department Administrator, may amend these high-level screening criteria to address unique aspects of each candidate project, such as mode of transportation, greenfield vs. brownfield project, and volume risk vs. non-volume risk.



Within 10 calendar days of completing the review, the PPTA Office will submit a recommendation to the PPTA Program Director as to whether a given candidate project should advance to the detail-level project screening process. The PPTA Program Director, in consultation with the

Department Administrator, will then make the final determination.

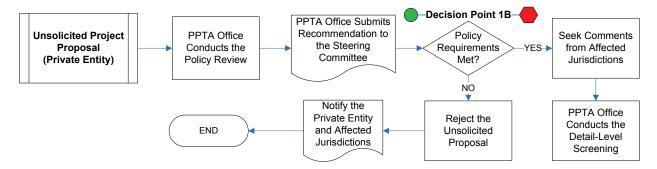
If the candidate project is returned, the Commonwealth's transportation agency or office may resubmit a similar project at a later date, so long as the project characteristics have changed or more information is available to demonstrate that the project is more closely aligned with the above criteria.

4.1.2 UNSOLICITED PROJECTS: POLICY REVIEW

Private entities may submit unsolicited project proposals at any time pursuant to this Implementation Manual. Private entities should note the updated requirements with respect to submission of unsolicited project proposals.

Within 30 calendar days of receiving an unsolicited proposal from a private entity, the PPTA Office will perform a policy review and brief evaluation of concept and benefits to ensure that the proposal is in accordance with the Code of Virginia, this Implementation Manual and that the proposal is consistent with the Commonwealth's transportation goals.

The following diagram presents the steps during the policy review process:



The PPTA Office will conduct the policy review to pursuant to the PPTA and the guidance outlined in this Implementation Manual, including the criteria listed below:

Guidance: Policy Review Criteria

- The project conforms to the Commonwealth's transportation goals and policy objectives of the Administration
- The project satisfies a public need for timely development and/or operation of transportation facility
- The project addresses a demonstrated need as indentified in a state, regional, and/or local transportation plan
- The project interfaces with the existing and planned transportation systems
- The project is at a sufficient level of development that a procurement process can be run that includes an element of price competition
- The project allows the availability of the transportation facility to the public in a more efficient or less costly fashion as compared to the traditional procurement method
- The project is consistent with federal requirements and potential agreements for federal funding and/or approval, including federal financial constraint requirements for PPTA projects

Within 10 calendar days of completing the policy review, the PPTA Office will submit a recommendation to the PPTA Program Director as to whether the proposal meets the policy requirements and is compliant with the applicable laws and this Implementation Manual.

Decision Point 1B

The PPTA Program Director, in consultation with the Office of the Secretary and the Department Administrator, will then make the final determination whether the proposal should be advanced to the detail-level screening review or returned to the private entity that submitted it. If the PPTA

Program Director determines that the unsolicited proposal does not meet the requirements of the PPTA and policy review criteria outlined in this Implementation Manual or if the unsolicited proposal pertains to a project for which the PPTA Office or the Department plans to issue a Request for Qualifications, the PPTA Office will return the unsolicited proposal to the private entity that submitted it.

The unsolicited proposal will be advanced to a detail-level screening review if it passes the policy review. At such time, the PPTA Program Director will send a written request for comments to each affected jurisdiction identified in the proposal. The affected jurisdictions will have 60 calendar days from the date of such notification to submit any comments in writing regarding the proposed project to the PPTA Office indicating whether the project will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, and/or enhancing economic efficiency.

4.2 DETAIL-LEVEL PROJECT SCREENING PROCESS

The detail-level project screening process shall consider the desirability and feasibility of the candidate PPTA project. The detail-level project screening criteria form the basis upon which the PPTA Office determines the feasibility of delivering transportation projects utilizing the PPTA delivery method. The PPTA Office intends to evaluate solicited and unsolicited projects against the same criteria where possible; however due to project differences and characteristics across transportation modes, it may be necessary to add or remove certain screening criteria depending on the project.

Guidance: The specific detail-level project screening criteria can be found in Appendix G of this Implementation Manual.

The steps to be taken for both solicited and unsolicited projects through the detail-level screening phase are summarized in the discussion below.

4.2.1 SOLICITED PROJECTS

At least once every two years, the PPTA Office will conduct the detail-level screening review for candidate solicited projects that have successfully passed through the high-level screening phase. The PPTA Office will apply appropriate detail-level project screening criteria to solicited projects to assess their feasibility as PPTA projects, examine in greater detail the current status of each project under review, and identify potential risk elements. The PPTA Office will capture the output of the detail-level screening review and summarize the results in a standardized report format for each project evaluated.

Guidance: An example of the standardized Project Screening Report is provided in Appendix H of this Implementation Manual.

Decision Point 2A Submit Add the Project to PPTA Office **PPTA Steering** Recommendation Conducts the Is the Project **PPTA Projects** Committee to the Steering Priority List Feasible? Determines the Detail-Level Committee Screening **Project Priority** NO Notify the Return the Project Department and **END** to the Department Affected Jurisdictions

The following diagram presents the steps during the detail-screening process for solicited projects:

Within 15 calendar days of completing the detail-level screening review, the PPTA Office will submit its findings and recommendations to the Steering Committee for review and consideration. The Steering Committee will make the final determination of the project's feasibility based upon whether a project conforms to the Commonwealth's transportation goals, appropriate evaluation criteria, the PPTA Program's objectives and whether a project warrants continued investment as a PPTA project.

Within 15 calendar days of issuing the Project Screening Reports, the PPTA Program Director will convene a meeting of the Steering Committee to review and discuss the Project Screening Report.



Based on the review of the information presented in the report, the Steering Committee can either approve the candidate PPTA project in the manner recommended by the Project Screening Report or it can reject the project. If the Steering Committee rejectes the project, it moves back to the

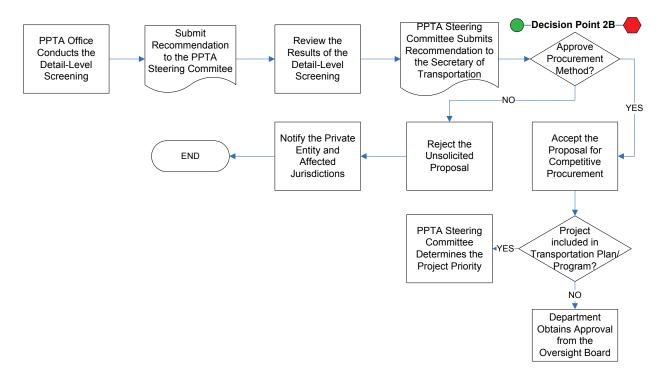
Commonwealth transportation agency or office that submitted it for potential re-submission for consideration as a PPTA project at a later date or implementation through traditional planning and procurement.

4.2.2 UNSOLICITED PROJECTS

Within 15 calendar days of the PPTA Program Director's decision to advance an unsolicited project proposal to a detail-level screening review, the PPTA Office will initiate the detail-level screening. The PPTA Office will apply the appropriate detail-level project screening criteria based on the guidance listed in Appendix G, as well as any other screening criteria that may be necessary, to the proposed project.

Within 15 calendar days of completing the detail-level screening review, the PPTA Office will submit its findings and recommendations on the Project Screening reports to the Steering Committee for review and consideration.

Within 15 calendar days of issuing the Project Screening Reports, the PPTA Program Director will convene a meeting of the Steering Committee to review and discuss the Project Screening Report. Based on the review of the Project Screening Report, the Steering Committee, in coordination with the PPTA Program Director, will make a recommendation to the Secretary of Transportation whether an unsolicited project proposal should be accepted for procurement through a competitive procurement process as defined in §§ 2.2-4301 and 2.2-4310(B) of the Code of Virginia or returned to the private entity.



The following diagram presents the steps during the detail-screening process for unsolicited projects:

Decision Point 2B

The Secretary of Transportation, in consultation with the Department's Oversight Board, will determine whether to accept the Steering Committee's recommendation or request additional review within 15 calendar days from receiving a recommendation.

Upon receiving an approval from the Secretary of Transportation for the unsolicited proposal, the PPTA Office, in consultation with the Department Administrator, will notify the private entity and each affected jurisdiction identified in the proposal of the decision to accept the unsolicited proposal for a competitive procurement process. If the Secretary of Transportation does not approve the procurement method, the unsolicited proposal will be returned to the private entity that submitted it.

If an approved unsolicited project was not originally in the Commonwealth's transportation agency's approved transportation plan and/or program (e.g., Surface Transportation Plan and Six-Year Improvement Program ("SYIP") for the Virginia Department of Transportation), the PPTA Office will seek approval from the appropriate Oversight Board to add the candidate project to the agency's transportation plan and/or program. Additionally, if the project is located in a metropolitan area, coordination with the metropolitan planning organization could be required.

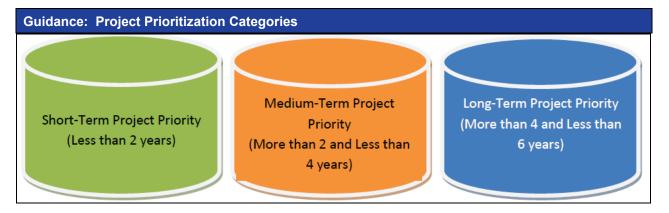
4.3 PROJECT PRIORITIZATION PROCESS

As the next step in the PPTA Framework, the PPTA Office will pool all projects (both solicited and unsolicited) that pass the detail-level screening and were selected to advance pursuant to the PPTA, into a list for presentation to the Steering Committee. The Steering Committee is responsible for organizing the list of candidate PPTA projects into short-term, medium-term and long-term priorities.

The Steering Committee may use the following guidance to help determine the suitable category for each PPTA candidate:

G	Guidance: Project Prioritization Criteria	
•	Commonwealth policy priorities and objectives	PPTA Office recommendations
•	Public funding requirement	Availability of human resources
•	Market timing	 Level of project development that has already occurred

The target will be to reach commercial and financial close within the timeframes set forth below for each respective priority category.



This approach to project prioritization is a way for the Steering Committee to help the PPTA Office manage a robust long-term pipeline of PPTA projects while meeting the Commonwealth's most immediate transportation goals. Upon completion of the prioritization process, the PPTA Office will issue a prioritized list of candidate PPTA projects.

The PPTA Office recognizes that it may be necessary to revise the priority list as the detail-level screening process for solicited projects takes place at least every two (2) years and the priorities of the Administration and the Departments change. As such, the PPTA Office will regularly monitor and update the priority list, as necessary. The PPTA Office should ensure that future candidate projects are regularly analyzed for consideration in the PPTA Program. The PPTA Program Director is responsible for maintaining regular dialogue with the private sector as well as monitoring market conditions as these assumptions can directly impact a project's priority.

4.4 KEY ACTION ITEMS

Project Screening Activity for Solicited Projects	Responsible Entity
Conduct a high-level screening of solicited projects	PPTA Office
Determine initial feasibility of solicited projects	PPTA Program Director
Conduct a detail-level screening of solicited projects	PPTA Office
Determine feasibility of solicited projects under PPTA	PPTA Office

Project Screening Activity for Solicited Projects	Responsible Entity
Determine procurement priorities for PPTA projects	PPTA Steering Committee
Notify Project Sponsors and affected jurisdictions	PPTA Office

Project Screening Activity for Unsolicited Projects	Responsible Entity
Conduct a policy review of unsolicited proposals	PPTA Office
Determine compliance with applicable laws and policy requirements	PPTA Steering Committee
Conduct a detail-level screening of unsolicited proposals	PPTA Office
Submit a recommendation to the Secretary of Transportation for unsolicited proposal	PPTA Steering Committee
Approve the procurement method for unsolicited proposal	Secretary of Transportation
Determine procurement priorities for PPTA projects	PPTA Steering Committee
Notify Project Sponsors and affected jurisdictions	PPTA Office

5. PROJECT DEVELOPMENT



This chapter describes the project development process and related activities for projects that are selected for implementation under the PPTA Program.

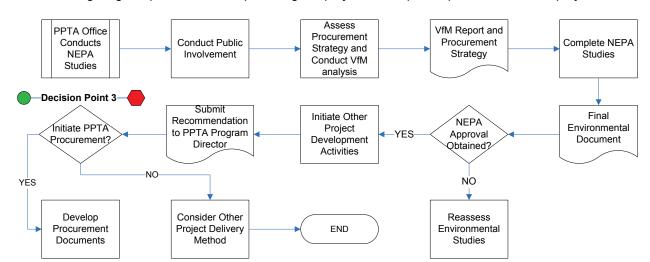
5.1 PROJECT DEVELOPMENT PROCESS

The PPTA Office will advance the project into the development phase in accordance with the procurement priority assigned to it by the Steering Committee. The PPTA Program Director appoints a Project Manager for each project selected for development under the PPTA Program. The Project Manager is responsible for preparing the project for procurement with assistance from relevant disciplines within the Department and external advisors as necessary. The Project Manager assembles and manages resources required to administer the specific PPTA project through the development and procurement phases. The Project Manager is responsible for maintaining appropriate coordination with other agencies and stakeholders through the project development lifecycle and report project information, such as project budget, scope, and schedule to the PPTA Program Director.

Guidance: During the project development phase a number of key tasks could take place to prepare the project for procurement depending on the characteristics of the project. These include, but are not limited to:

- Defining project scope, design concept and phase-schedule
- Performing analysis of compliance with environmental and transportation planning requirements
- Conducting analysis of technical feasibility and operations and maintenance evaluations
- Securing the necessary right-of-way
- Refining project cost and revenue estimates
- Submitting funding and grant applications as required
- Performing outreach and garnering stakeholder support
- Defining an approach to risk allocation
- Performing a Value-for-Money analysis
- Determining the optimal procurement method

For those PPTA projects for which a federal action may be required, the PPTA Office will ensure that decisions relating to mode, location, user fees, capacity, etc. are made after adequate consideration of potential alternatives to address needs and assess impacts of the project. Once the project development has reached a sufficient level, the PPTA Office will complete a Value-for-Money analysis to determine whether the PPTA delivery method offers more value to the Commonwealth than a traditional delivery method.



The following diagram presents the steps during the project development process for PPTA projects:

The PPTA Office, in coordination with the Department Administrator and other state, local and federal agencies as appropriate, may modify the project scope to meet the Commonwealth's transportation goals and the priorities of the Administration.

5.1.1 INTERIM AGREEMENT

Pursuant to § 56-566.1. of the Code of Virginia, the Department Administrator, in consultation with the PPTA Program Director, may enter into an interim agreement with the private entities proposing the development and/or operation of the proposed qualifying transportation facility or facilities prior to or in connection with the negotiation of the comprehensive agreement for those unsolicited project proposals that were accepted by the Secretary of Transportation. A responsible public entity may enter in to an interim agreement with multiple private entities if the responsible public entity determines in writing that it is in the public interest to do so.

Such interim agreement may (1) permit the private entity to commence activities for which it may be compensated relating to the proposed qualifying transportation facility, including project planning and development, advance right-of-way acquisition, design and engineering, environmental analysis and mitigation, survey, conducting transportation and revenue studies, and ascertaining the availability of financing for the proposed facility or facilities; (2) establish the process and timing of the negotiation of the comprehensive agreement; and (3) contain any other provisions related to any aspect of the development and/or operation of a qualifying transportation facility that the parties may deem appropriate. Additionally, 30 calendar days prior to entering into an interim agreement with the private entity, the PPTA Office will issue a public notice to provide an opportunity for public comment. The public comment period may include a public hearing in the sole discretion of the PPTA Office.

5.2 VALUE-FOR-MONEY ANALYSIS ("VFM")- PART I

As part of the project development phase, the PPTA office will conduct a Value-for-Money ("VfM") analysis to determine whether a project provides benefits to its users and to the Commonwealth when deliver through the PPTA process. This analysis tests the value of a project delivered as a PPTA in comparison to the most likely alternative delivery method. This information is a useful decision making tool for the PPTA Office and the Steering Committee as to whether it is worth continuing to invest in a project as a

PPTA project. The VfM analysis will also support the Steering Committee's decision regarding which procurement method is optimal. The PPTA Office will update this preliminary VfM study with inputs that accompany the submission of Proposals by private entities during the competitive procurement process to ensure that the project continues to provide VfM throughout the procurement process.



If the VfM analysis shows that a project delivers more value as a PPTA project in comparison to the most likely alternative delivery method, the PPTA Steering Committee, in consultation with the PPTA Program Director, can decide to advance the PPTA procurement process as further

discussed in Chapter 6 (Project Procurement).

The appropriate VfM methodology will vary across modes and across payment mechanisms (e.g., concessions will be different from availability payment deals), but the VfM analysis should be applied to all PPTA projects in the project development phase to ensure that the PPTA delivery method continues to be the optimal delivery method.

5.3 KEY ACTION ITEMS

Project Development Activity	Responsible Entity
Perform project development activities (e.g., geotech, survey, engineering, etc.)	The Department with assistance from the PPTA Office
Conduct initial VfM analysis	PPTA Office
Notify Project Sponsors and affected jurisdictions	PPTA Office

6. PROJECT PROCUREMENT

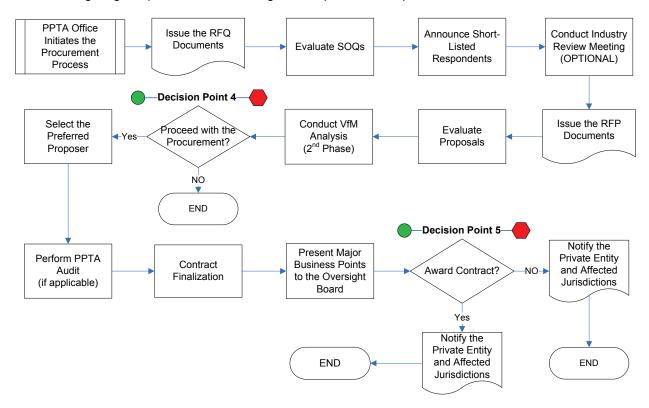


This chapter describes the two-stage, competitive procurement process and provides guidance on related activities for all projects that have been selected for procurement under the PPTA Program. The PPTA Office is responsible for managing the procurement process for all PPTA projects.

6.1 Two-Stage PPTA Procurement Process

The PPTA procurement process consists of (1) issuing a Request for Qualifications ("RFQ") and (2) issuing a Request for Proposals ("RFP"). The PPTA Office serves as the primary point of contact for PPTA procurements and ensures that the process is administered in accordance with applicable law. The PPTA Program Director is responsible for managing a consistent, transparent and well-defined procurement process that promotes innovation, competition and Value-for-Money.

The following diagram presents the two-stage PPTA procurement process:



It is important to note that for a majority of the PPTA projects a two-step procurement process is anticipated; however, the PPTA Office reserves the right to merge the RFQ and the RFP stages for a particular PPTA project if it determines that doing so is in the best interest of the procurement process.

6.2 REQUEST FOR QUALIFICATIONS

The PPTA Office launches the first stage of the PPTA procurement process by issuing an RFQ. The primary objective of the RFQ is to define a pool of qualified, potential Proposers for a project. While a number of elements of the procurement process will be consistent across all transportation modes, the procurement documents and process should take into account the project-specific details based on the nature and status of the project, project objectives, complexity, schedule requirements, public support, estimated costs and funding requirements.

6.2.1 SUBMISSION OF QUALIFICATION ("SOQ") EVALUATION METHODOLOGY

The RFQ documents will specify the evaluation criteria and the relative weight given to such criteria so that Respondents will know how their submissions will be evaluated. The PPTA Office is responsible for reviewing, scoring and ranking all responsive SOQs. Upon completion of the SOQ evaluation process, the PPTA Office will recommend to the Steering Committee which Respondents should advance to the RFP stage. Scoring of qualifications and any ranking of the SOQs will not be carried over to the evaluation of the final RFP responses.

6.2.2 SHORT-LISTING OF QUALIFIED RESPONDENTS

The Steering Committee will approve, modify or reject the recommendation submitted by the PPTA Office. Respondents that are approved by the Steering Committee will advance to the RFP stage. If there are no qualified Respondents for a particular project, the PPTA Program Director may make a decision to cancel the procurement or re-procure it at a later date.

The PPTA Office, in coordination with the Department, will notify all Respondents in writing whether they have been short-listed to proceed to the RFP stage. Additionally, the PPTA Office will inform other state and federal agencies, local governments and other stakeholders as necessary.

Guidance: Further detail about the issuance of RFQ documents and requirements for SOQs can be found in Appendix I of this Implementation Manual.

6.3 REQUEST FOR PROPOSALS

Upon receiving the determination of short-listed Proposers from the Steering Committee, the PPTA Office can begin the RFP process. The RFP process creates competition among a small list of qualified Proposers to create value for the Commonwealth.

The PPTA Office may choose to issue the RFP documents in draft format to short-listed Proposers and hold one-on-one meetings to solicit feedback on the proposed RFP and draft comprehensive agreement. Once consideration has been given to the Proposer feedback, the PPTA Office will issue the final RFP documents to short-listed Proposers. The PPTA Office and other appropriate personnel will evaluate responses to the RFP from short-listed Proposers based on suitable criteria. The PPTA Office reserves the right to run a BAFO ("Best and Final Offer") process with some or all of the short-listed Proposers.

Guidance: Further detail about the RFP process can be found in Appendix J of this Implementation Manual.

6.4 VALUE-FOR-MONEY ("VFM") - PART II

Prior to recommending to the Steering Committee the selection of the Preferred Proposer, the PPTA Office will subject a project to an additional VfM analysis. This final comparison occurs between the Department's updated Public Sector Comparator ("PSC") and the Preferred Proposer's proposal. This final check ensures the Commonwealth, the PPTA Office and the Department only advance a PPTA project if it provides value to the Commonwealth.

As of the date of this Implementation Manual, the Virginia Department of Transportation is the only Department with a detailed methodology for determining VfM. The VfM methodology is publicly available to on the Department of Transportation's website at http://www.virginiadot.org/business/ppta-process.asp.

6.5 Basis for Award and Selection of Preferred Proposer

Upon completion of the review of the proposals, the PPTA Office will determine the Preferred Proposer based on the evaluation methodology set out for the specific project. If the PPTA Office determines that: (a) that the proposal meets the evaluation selection criteria, (b) the proposal satisfies the VfM analysis set forth in Sections 5.2 and 6.4 of this Implementation Manual, and (c) a conditional award of the contract to the Preferred Proposer is in the public interest, the PPTA Office, in coordination with the Department, will recommend to the Steering Committee which Proposer is the preferred candidate for awarding the project.



The Steering Committee will review the recommendation of the PPTA Office and decide whether to proceed with a conditional award to the Preferred Proposer or take another action. The selection of the Preferred Proposer is not final until the Steering Committee accepts the

recommendation of the PPTA Office to conditionally award the project to the Preferred Proposer. If the Steering Committee accepts the recommendation, the PPTA Office, in coordination with the Department, will initiate the contract finalization phase. This action does not constitute the final award of the contract. Rather, it represents the fact that the selected Preferred Proposer will have the first chance to finalize the contract with the PPTA Office, in coordination with the Department.

The PPTA Office will inform the Preferred Proposer that it has been selected and initiate the finalization of the terms of the comprehensive agreement. The PPTA Office, in coordination with the Department, will notify all other Proposers in writing regarding the Steering Committee's decision to conditionally award the project to the Preferred Proposer.

6.6 PPTA AUDIT REQUIREMENTS

The PPTA (§ 56-560.E of the Code of Virginia), requires that for any PPTA project with an estimated construction cost of over \$50 million, the Responsible Public Entity shall require the private entity to pay the costs for an independent audit of any and all traffic and cost estimates associated with the private entity's proposal, as well as a review of all public costs and potential liabilities to which taxpayers could be exposed (including improvements to other transportation facilities that may be needed as a result of the proposal, failure by the private entity to reimburse the responsible public entity for services provided, and potential risk and liability in the event the private entity defaults on the comprehensive agreement or on bonds issued for the project).

The PPTA Office will appoint an independent consultant to conduct this audit prior to the contract award to the Preferred Proposer. Additionally, the PPTA Office will disclose all information from such review.

Guidance for the PPTA Audit requirements can be found in Appendix K of this Implementation Manual.

6.7 CONTRACT FINALIZATION AND AWARD

Prior to developing and/or operating a qualifying transportation facility, the successful Proposer must enter into a comprehensive agreement with the Department. The Department Administrator has the statutory authority to enter into the comprehensive agreement, as applicable, pursuant to the PPTA.

The PPTA Office and the Department will initiate this process by issuing a list of open issues and matters for the parties to resolve during the contract finalization period and an anticipated timeline for completion. Final authorization to develop and/or operate any qualifying transportation facility is contingent upon the successful finalization and execution of the comprehensive agreement between the Preferred Proposer and the Department Administrator.

If at any point in the contract finalization phase the PPTA Office determines that the Preferred Proposer will not provide the Commonwealth with the best value, the PPTA Office may suspend or terminate the procurement or choose to finalize a contract with the next highest ranking Proposer. This process may continue until the PPTA Office reaches an agreement or decides to terminate the procurement. Additionally, 30 calendar days prior to entering into a comprehensive agreement with the Preferred Proposer, the PPTA Office will issue a public notice to provide an opportunity for public comment. The public comment period may include a public hearing in the sole discretion of the PPTA Office.



Prior to signing the comprehensive agreement, as applicable, the Department Administrator, in association with the PPTA Program Director, will present the major business points of the applicable agreement to the relevant Oversight Board and the Secretary of Transportation. The

Department Administrator, in consultation with the PPTA Program Director, will determine whether to enter into the comprehensive agreement with the private entity. Once the comprehensive agreement is executed, the contract is awarded to the successful Proposer.

6.8 POST FINANCIAL CLOSE

If financial close is not simultaneous with commercial close, upon signing the comprehensive agreement the project shall proceed to financial close.

Upon reaching financial close, the Department is responsible for coordinating the implementation of the PPTA project (if the contract is with the Virginia Department of Transportation, the contract will be administered by the relevant District Office). The PPTA Office will continue to serve as a resource to the Department and the private entity for any commercial or contract management issues that may arise during the project development, design, construction, finance, and operation or maintenance phases.

6.9 KEY ACTION ITEMS

Project Procurement Activity	Responsible Entity
Develop procurement documents	PPTA Office with the Department
Issue the Request for Qualifications	PPTA Office with the Department

Project Procurement Activity	Responsible Entity
Evaluate responses and short-list qualified Respondents	PPTA Office and the Steering Committee
Issue the Request for Proposals	PPTA Office with the Department
Evaluate the Proposals	PPTA Office
Conduct the VfM analysis	PPTA Office
Issue Public Notice	PPTA Office
Select a Preferred Proposer	PPTA Office and the Steering Committee
Conduct PPTA Audit	PPTA Office
Finalize the Contract	PPTA Office with the Department
Award the Contract	Department Administrator

7. TIMELINES AND MILESTONES

The Commonwealth is committed to managing a consistent, transparent and streamlined PPTA Program that meets the broader multi-modal transportation objectives of the Commonwealth. This chapter outlines the target timelines and key milestones that are fundamental to the success of the PPTA Framework.

The PPTA Office will work toward delivering PPTA projects in a timely and efficient manner. However, the PPTA Office may revise these timelines for some PPTA projects depending on the complexity of the PPTA project, transportation mode, volume of projects, project readiness in terms of state and federal environmental clearances, right-of-way acquisition, project funding, the need for further information, or other unanticipated circumstances.

7.1 PROJECT IDENTIFICATION

The project identification phase consists of the submission of candidate PPTA projects across all transportation modes. As noted in Chapter 3 (Project Identification), there are two primary sources from which projects can be submitted to the PPTA Office: (a) solicited projects; and (b) unsolicited projects.

Solicited projects are identified by the planning staff across all transportation agencies and metropolitan planning organizations to meet the Commonwealth's transportation needs and are submitted to the PPTA Office for consideration as potentially suitable candidates for delivery under the PPTA Program. The Commonwealth's transportation agencies and offices can submit candidate projects to the PPTA Office at any time of the year.

Private entities that are interested in submitting unsolicited project proposals to develop and/or operate qualifying transportation facilities may submit their proposals to the PPTA Office on an on-going basis.

Suggested Timeline: Not Applicable.

7.2 PROJECT SCREENING

The project screening phase begins with the high-level screening and policy review for solicited projects and unsolicited projects respectively and concludes with the prioritization of the PPTA projects by the Steering Committee.

7.2.1 SOLICITED PROJECTS

For solicited projects submitted by the Commonwealth's transportation agencies and offices, the PPTA Office will perform the high-level screening process twice during the fiscal year – i.e., 60 calendar days prior to the end of 2nd quarter and 4th quarter of each fiscal year – to determine whether these candidate projects should advance to the detail-level screening phase. Once initiated, the PPTA Office will have 60 calendar days to complete the high-level screening review for all candidate projects and submit the Project Screening Report to the PPTA Program Director for review and consideration.

The second part of the project screening phase begins when the detailed-level screening criteria are applied to those solicited projects that were selected to advance to this stage after passing the high-level screening review and concludes when the PPTA Office submits its recommendations to the Steering Committee.

At least once every two years, the PPTA Office will conduct a detail-level screening review for all short-listed projects. Once initiated, the PPTA Office will have 90 calendar days to complete the detail-level screening review, depending on the availability of data, for selected candidate projects. Additionally, within 15 calendar days of concluding the detail-level screening review, the PPTA Office will send copies of the Project Screening Report and corresponding recommendation to the Steering Committee for review and consideration. Within 15 calendar days of issuing the Project Screening Reports to the Steering Committee, the PPTA Program Director will convene a meeting of the Steering Committee to review and discuss the Project Screening Report.

Suggested Timeline: 180 calendar days.

7.2.2 UNSOLICITED PROJECTS

Within 90 calendar days of receipt of an unsolicited project proposal from a private entity, the PPTA Office will conclude the policy review and submit a recommendation to the Steering Committee as to whether the unsolicited project proposal should advance to the detail-level screening review or be returned to the private entity. The Steering Committee will have 15 calendar days from receiving a recommendation to either accept the recommendation or request additional review. At such time, the PPTA Office will send a request for comments to each affected jurisdiction identified in the proposal. Affected jurisdictions will have 60 calendar days from such notification to submit any comments to the PPTA Office.

Within 15 calendar days of the Steering Committee's decision to advance the unsolicited project proposal for further review, the PPTA Office will initiate a detail-level screening review. The PPTA Office will have 75 calendar days to complete the detail-level screening review and submit the Project Screening Report and corresponding recommendation to the Steering Committee for review and consideration.

Within 15 calendar days to issuing the Project Screening Report to the Steering Committee, the PPTA Program Director will convene a meeting of the Steering Committee to finalize its recommendation. The Steering Committee will submit its recommendation to the Secretary of Transportation for approval of the procurement method. The Secretary of Transportation will have 15 calendar days to accept the recommendation or to reject the unsolicited project proposal.

Suggested Timeline: 225 calendar days.

7.3 PRIORITIZATION OF PPTA PROJECTS

Project prioritization begins when the Steering Committee receives the Project Screening Reports and corresponding recommendations and ends when the Steering Committee determines the project's short-term, medium-term or long-term priority. Within 15 calendar days of receiving an approval for the procurement method from the Secretary of Transportation for unsolicited proposal or issuing the Project Screening Reports and corresponding recommendations for solicited PPTA projects, the PPTA Program Director will convene a meeting of the Steering Committee. The Steering Committee will have 15 calendar days to advance a project as a PPTA project or reject the project and return it to the Department or private entity that submitted it.

Suggested Timeline: 30 calendar days.

7.4 PROJECT DEVELOPMENT

The project development phase begins once a project has been approved and prioritized by the Steering Committee and ends when the project is ready to move into the procurement phase. The PPTA Office, in consultation with the Department and other state, local and federal agencies, is responsible for coordinating all tasks necessary to prepare a project for procurement.

Depending upon the project's readiness in terms of state and federal environmental approvals, stakeholder support, project funding, commercial structure in terms of payment mechanism, allocation of project risks, delivery method and the status of procurement documents, the timing of the project development phase could vary greatly. Projects that do not require substantial environmental or other approvals could be developed in less than a year, while projects requiring substantial environmental and/or other approvals could take much longer to develop.

7.5 PROJECT PROCUREMENT

The project procurement phase for a given project begins with an issuance of the RFQ documents and ends with either an award of the contract to the Preferred Proposer or with a decision to cancel the procurement.

The table below presents the objectives of the PPTA Office with respect to target milestones for a two-stage PPTA procurement process. The suggested procurement timelines will vary on a case-by-case basis depending on the mode of transportation and scale and complexity of the project. The proposed project timelines will be outlined within the RFQ documents.

Procurement Phase	Suggested Timelines for Key Milestones	
Issue the RFQ documents	N/A – Initiation of the project procurement phase	
Receive and evaluate the Statements of Qualifications ("SOQ")	60 days from issuance of the RFQ	
Announce Short-Listed Respondents	60 to 90 days from receipt of the SOQs	
Issue the final RFP documents	60 to 120 days from announcement of the short-listed Proposers	
Receive the Proposals	90 to 120 days from issuance of the RFP	
Select the Preferred Proposer	60 days from receipt of the proposals	
Conduct PPTA Audit	30 days from selection of a Preferred Proposer	
Finalize and Award the Contract	30 days from completion of an independent PPTA audit	

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APPENDIX A

DEFINITIONS

- Addenda or Addendum means supplemental additions, deletions, and modifications to the provisions of the solicitation documents issued by the PPTA Office or a Responsible Public Entity.
- Affected Jurisdiction means any county, city or town in which all or a portion of a qualifying transportation facility is located and any other Responsible Public Entity directly affected by the qualifying transportation facility.
- **Best Value** means the overall combination of quality, price, and various elements of required services that in total are optimal value to the Department's needs.
- Comprehensive Agreement means the comprehensive agreement between the private entity and the Responsible Public Entity required by § 56-566 of the Code of Virginia.
- Concession Payment means a payment from a private entity to a Responsible Public Entity in connection with the development and/or operation of a qualifying transportation facility pursuant to a concession.
- **Department** means either the Virginia Department of Transportation, the Virginia Port Authority, the Department of Rail and Public Transportation, the Department of Aviation, or the Department of Motor Vehicles each of the Commonwealth.
- Department Administrator means the Commissioner, Director or the Chairman of the Board of Commissioners who is responsible for making decisions for his/her respective Departments. For example, the Commonwealth Transportation Commissioner is the Department Administrator for the Virginia Department of Transportation, and for the Virginia Port Authority, the Chairman of the Board of Commissioners is the Department Administrator.
- Develop or Development means to plan, design, develop, finance, lease, acquire, install, construct or expand.
- Interim Agreement means an agreement, including a memorandum of understanding or binding preliminary agreement, between the private entity and the Responsible Public Entity that provides for completion of studies and any other activities to advance the development and/or operation of a qualifying transportation facility.
- NEPA means the National Environmental Policy Act.
- Operate or Operation means to finance, maintain, improve, equip, repair, or operate.
- Planned Project means a project developed a Department which can be submitted to the PPTA Office for consideration as a PPTA procurement.
- PPTA Candidate Project Form means a form submitted by a Department to the PPTA Office seeking candidacy of a project for PPTA procurement.

- PPTA Director means the highest ranking individual within the PPTA Office responsible for overseeing all aspects of the PPTA program.
- **PPTA Office** means the office established under the guidance of the Commonwealth's Secretary of Transportation which is responsible for developing, implementing and administering PPTA projects.
- Preferred Proposer means the private entity, company, firm, consortium or other legal entity selected by the PPTA Steering Committee during the procurement process to perform the services described in the RFP documents issued by the PPTA Office.
- Project Sponsor means a Department that has submitted a candidate PPTA project or private entity
 that has submitted an unsolicited project proposal to the PPTA Office for consideration for delivering
 the project utilizing the PPTA delivery method.
- Proposal means the documents submitted by a Proposer in response to the RFP issued by the PPTA
 Office.
- Proposer means the private entity submitting a proposal for the PPTA project in response to the RFP issued by the PPTA Office.
- PPTA means the Public-Private Transportation Act which is a legislative framework enabling the Commonwealth, local governments, and certain other Responsible Public Entities to enter into agreements authorizing private entitles to develop and/or operate qualifying transportation facilities.
- Qualifying Transportation Facility means one or more transportation facilities developed and/or operated by a private entity pursuant to the PPTA.
- Respondent means any private entity, company, firm, consortium or other legal entity that intends to submit a response to the RFQ issued by the PPTA Office.
- Responsible Public Entity means a public entity, including local governments and regional authorities that has the power to develop and/or operate the Qualifying Transportation Facility in accordance with the PPTA.
- RFQ means the documents consisting the Request for Qualifications issued for a PPTA project by the PPTA Office. This regards an initial procurement step commonly taken to identify the pool of qualified, potential project partners.
- RFP means the documents consisting the Request for Proposals and the PPTA project and the work to be performed and materials to be furnished in response to which a Proposer may submit a proposal.
- Short-Listed Proposer means the Respondents that have been selected to advance to the RFP stage of the PPTA procurement and qualified to submit a proposal for the PPTA project in response to the RFP.
- State means the Commonwealth of Virginia.

- SOQ means the documents consisting the Statement of Qualifications and supporting information, including all clarifications thereto submitted by Respondents in response to Request for Qualifications issued by the PPTA Office.
- Transportation Facility means any road, bridge, tunnel, overpass, ferry, airport, mass transit facility, vehicle parking facility, port facility or similar commercial facility used for the transportation of persons or goods, together with any buildings, structures, parking areas, appurtenances, and other property needed to operate such facility. A commercial or retail use or enterprise not essential to the transportation of persons or goods shall not be a "transportation facility."
- Unsolicited Proposal means a proposal to develop and/or operate a Qualifying Transportation Facility submitted by a private entity not in response to an RFQ or RFP.

APPENDIX B

RIGHTS AND DISCLAIMERS

RIGHTS RESERVED

The PPTA Office, in coordination with each Department reserves all rights available by law in processing PPTA proposals, including, without limitation, the sole and unfettered right to:

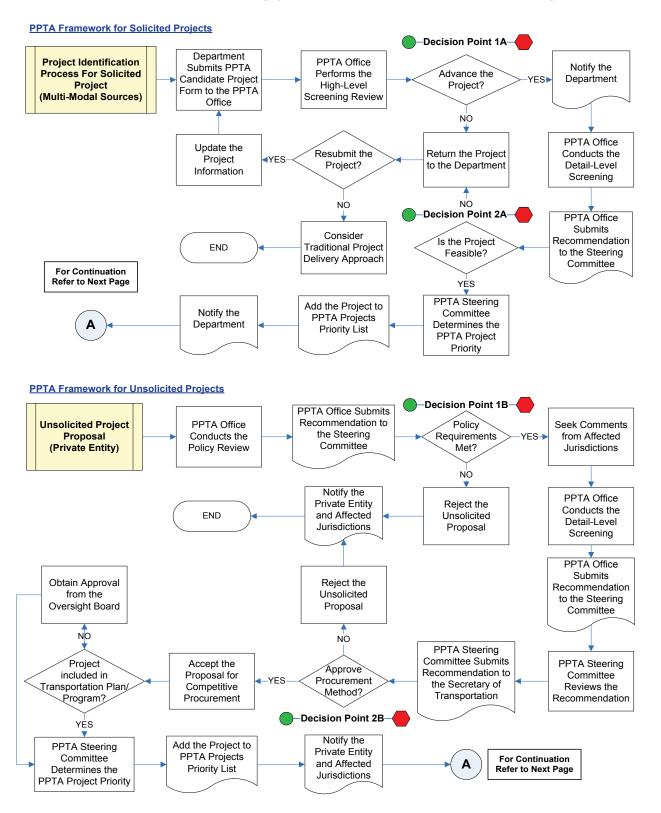
- Alter the schedule of review of any proposal if they deemed changes are necessary because of the scope or complexity of a proposal they receive;
- Reject any and all proposals at any time;
- Terminate evaluation of any and all proposals at any time;
- Suspend, discontinue and/or terminate interim or comprehensive agreement negotiations with any Proposer at any time prior to the actual authorized execution of such agreement by all parties, subject to appropriate documentation;
- Negotiate with a Proposer without being bound by any provision in the proposal;
- Request or obtain additional information about any proposals;
- Issue addenda to, and/or cancel, any RFQ or RFP;
- Revise, supplement or withdraw all or any part of the guidelines included in this Implementation Manual:
- Decline to return any and all fees required to be paid by private entities as part of the evaluation process for unsolicited project proposals; and
- Request clarifications to unsolicited project proposals.

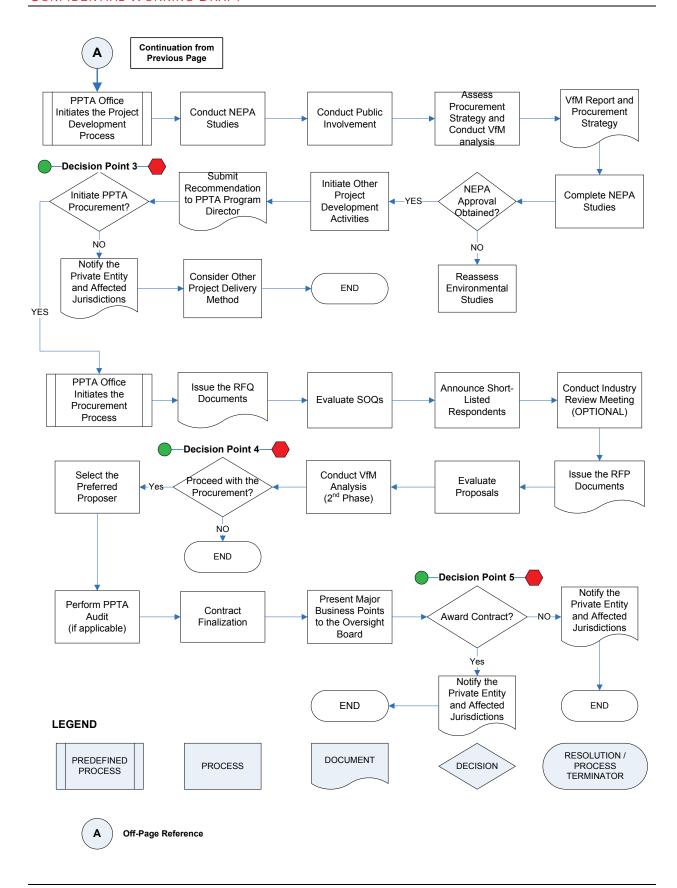
DISCLAIMERS AND CONDITIONS FOR SUBMISSIONS UNDER THE PPTA

- Neither the Commonwealth nor any of its political subdivisions, agencies, or employees shall be liable for, or reimburse, the costs incurred by Respondents or Proposers, whether or not selected for negotiations, in developing and submitting proposals or in negotiating agreements;
- Any and all information made available to Proposers is made for convenience purposes only and is without representation or warranty of any kind;
- Proposers must submit questions concerning the PPTA process in writing to the PPTA Program
 Director who will coordinate a response in writing; Proposers may not rely on oral responses to
 inquiries; and

•	The Commonwealth, the Secretary of Transportation, the PPTA Program Director or the Department Administrator shall not be liable to a Respondent or Proposer for the disclosure of all or a portion of a response to RFQ or a proposal submitted under this Implementation Manual.

APPENDIX C - PROJECT DELIVERY FRAMEWORK





APPENDIX D

GUIDANCE ON APPROACH TO COMMERCIAL TERMS

Appendix J presents the PPTA Office's approach to developing commercial terms which will form the basis for interim agreements and comprehensive agreements governing PPTA projects. In developing commercial terms, the PPTA Office seeks to strike a balance between (i) providing the private sector with enough transparency regarding the Commonwealth's principles and process so as to promote and preserve its confidence and participation in the PPTA Program with (ii) preserving the PPTA Office's flexibility across modes and transactions to negotiate fair, market-based transactions which reflects the best interests of the Commonwealth. The principles reflected herein guide the PPTA Office. While each PPTA project is different and will have its own unique challenges, the guiding principles identified below remain constant, and the PPTA Office intends to apply these principles during the process of developing commercial terms for PPTA project across modes and methods of project delivery.

GUIDING PRINCIPLES

Certain fundamental principles guide the PPTA Office and influence the Commonwealth's position on the development of commercial terms for PPTA projects. The PPTA Office's approach to developing commercial terms is based on promoting and advancing these principles. The PPTA Office's guiding principles for developing commercial terms are as follows:

- Protect the Public Interest by being an effective steward of public resources and ensuring that the Commonwealth and its transportation agencies satisfy their statutory and legal duties to the public;
- Deliver Transportation Solutions to solve the Commonwealth's transportation challenges;
- Promote Transparency and Efficiency within the PPTA Framework in order to generate and preserve confidence of key stakeholders in the PPTA Program;
- Maximize Competition through consistent communication with the private sector, managing an
 efficient project selection process and administering a uniform and transparent procurement process;
- Execute PPTA Projects Timely through decisive process management and efficient decision making;
- Encourage Creativity and Innovation to generate meaningful participation by the private sector;
- Collaborate, Cooperate and Communicate with private partners as well as federal and state
 agencies and other key stakeholders to identify shared goals, key concerns and criticisms and solve
 problems on a programmatic and transactional basis;
- Advocate Reasonable and Fair Commercial Terms to ensure marketability of PPTA projects by adopting market-based risk allocations which are appropriate for the complexity and scope of a specific PPTA project;
- Standardize Terms, Procedures and Documents as appropriate to enhance speed of project execution and establish common understanding of key commercial terms and uniform treatment of general matters while remaining flexible to address the unique elements of a project on a pertransaction basis; and

Lead the Public-Private Partnership Community by developing and preserving a reputation for managing PPTA projects effectively and successfully to promote confidence in the PPTA Office and realize long term investment in the Commonwealth.

The PPTA Office intends to apply these guiding principles and values to each PPTA project through the processes utilized to develop commercial terms as outlined below; however, due to the uniqueness of each PPTA project, certain principles and values may weigh and factor differently when developing commercial terms and finalizing an interim or comprehensive agreement, as applicable, for a specific PPTA project.

DEVELOPMENT OF COMMERCIAL TERMS

The PPTA Office will utilize certain processes and procedures to facilitate the development of commercial terms for each PPTA project. These processes and procedures will take place during various stages of the PPTA project development and procurement processes and will promote, advance and reflect the Commonwealth's guiding principles. As the PPTA Office implements such processes and procedures, it intends to do so in an ordered, logical and efficient manner. Each PPTA project is distinct and therefore many of the commercial terms and conditions underlying an interim agreement or comprehensive agreement must be negotiated on a case-by-case basis.

During the pre-solicitation stage of a PPTA procurement, the PPTA Office in conjunction with the Department may conduct project-specific industry workshops in order to measure the private sector's interest in the proposed PPTA project and to gauge the potential scope of the project risks, allocation of those risks and related commercial terms. The PPTA Office and the Department may follow up with, or hold independent of, industry workshops a series of one-on-one meetings with potential developer teams after the industry workshops to further develop the scope of the proposed PPTA project and advance consideration of potential commercial terms for the project.

Prior to issuance of the final RFP documents for a particular PPTA project, the PPTA Office will maintain open lines of communication within the parameters and restrictions set forth in the procurement documents with short-listed Proposers. The PPTA Office will consider the input received from short-listed Proposers related to the project scope to ensure that the project and its corresponding commercial terms are financeable and consistent with market demands and conditions.

The PPTA Office expects that many of the key commercial terms which will form the basis for an interim agreement or comprehensive agreement will be determined prior to issuance of the final RFP documents. The contract finalization phase will provide an opportunity to make changes necessary to react to events such as changes in law, litigation, significant shifts in market conditions, new facts, and considerations raised by significant third party participants as appropriate. During the contract finalization phase, the PPTA Office will work with Preferred Proposer to agree upon an ordered and efficient review and comment process to resolve any outstanding issues and/or refine the language of the documents in a manner which is timely, cost effective and reflects the importance of achieving commercial and financial closings. All contract terms will be finalized prior to the conditional award of the project to the Preferred Proposer.

The PPTA Office, in conjunction with the Department and external legal, financial and technical advisors, will in most circumstances be primarily responsible for drafting, issuing and managing the PPTA project's primary commercial documents, such as term sheets, interim agreements, comprehensive agreements, technical requirements and related documents.

During the process of drafting the primary commercial documents, the PPTA Office, the Department and external advisors will be guided by the PPTA principles and take the following factors into consideration:

- The transportation mode and asset classification;
- Whether the project is a greenfield construction or brownfield monetization;
- The proposed financial structure;
- The commercial terms and risk allocations reflected in past PPTA projects in the Commonwealth and recent transactions of similar complexity and scope in other jurisdictions;
- Current economic and financial conditions: and
- Political and cultural issues.

For certain terms, the PPTA Office will develop standard contractual language reflecting such terms to address matters that will be part of any transaction, regardless of the nature of the PPTA project or the Department involved.

The PPTA Office in conjunction with its constituent agencies and external advisors will on an ongoing basis engage the private sector to evaluate shifting market conditions as well as conduct periodic internal reviews of its principles and processes. Furthermore, the PPTA Office will consider developing an outreach program to both the private sector and similar offices in other states through the use of workshops or other methods to discuss the shifting market dynamics or conditions which may impact the PPTA Program.

The PPTA Office views its approach to developing commercial terms as a dynamic process which will evolve over time in an effort to continually reflect the best practices of engaging in public-private partnerships to develop transportation infrastructure in the Commonwealth.

APPENDIX E

EXAMPLE PPTA CANDIDATE PROJECT FORM

Departments that are interested in submitting a candidate project to be considered for PPTA procurement must submit a completed Candidate Project Form and supporting information/documents to the PPTA Office. Departments can submit the form to the PPTA Office at any time pursuant to the process outlined in Chapter 3 (Project Identification) of the Implementation Manual.

ADMINISTRATIVE DETAILS					
Date Prepared:			Department:		
Project Title:			□ VDOT	□ DRPT	□ VPA
Applicable MPO:			☐ AVIATION	□ DMV	□ OTHER
Applicable Commonwealth Tra	insportation Plan:				
☐ PPTA Priority of Governor		☐ Six Year I	mprovement P	rogram	
☐ Legislative Mandate		□ Virginia M	lultimodal Long	Range Tran	sportation Plan
☐ Virginia Surface Transporta	tion Plan	□ Virginia P	ort Authority Ma	aster Plan	
☐ Six Year Airport Capital Imp	rovement Plan	□ Other			
If other please explain:					
PROJECT-SPECIFIC DETAILS					
Project Description:					
Total Estimated Costs of the Project : \$					
Project Type:					
□ Brownfield	☐ Greenfield	□ Ref	urbishment		
□ Non-Toll (*If relevant)	□ Toll	□ Oth	er		
Does project interface with exis	sting planned system	? □ Yes	s □ No		
Are there interoperability issue	s?	□ Yes	s □ No		

PROJECT-SPECIFIC DETAILS				
Does the project address an Oversight Board priority?				
Initial Justification for PPTA:				
□ Project Efficiency □ Cost Savings □ Value Engineering □ Innovation				
Provide detail:				
ATTACHMENTS				
Transportation agencies and offices are encouraged to provide any additional relevant supporting information/documentation that may be readily available to allow the PPTA Office to conduct the high-level screening and evaluation in a timely manner.				
Have you provided attachments? ☐ Yes ☐ No				
Please itemize below:				
CONTACT DETAILS				
Please provide up-to-date contact details for the project sponsor.				
Name:				
Department:				
Telephone:				
Email:				

APPENDIX F

GUIDANCE FOR UNSOLICITED PROPOSAL PREPARATION

The PPTA permits private entities to submit unsolicited project proposals to develop and/or operate qualifying transportation facilities at any time pursuant to the PPTA and this Implementation Manual. Private entities are discouraged from submitting the anticipated proposal to the Secretary of Transportation for pre-submission review. Rather, in an effort to streamline the PPTA process, all unsolicited project proposals should be submitted directly to the PPTA Office which will then initiate the appropriate steps in accordance with § 56-560 of the Code of Virginia.

PROPOSAL PREPARATION

Private entities submitting an unsolicited project proposal should ensure that the proposal includes a comprehensive project description and provides enough information about the proposed project for the PPTA Office to determine whether the proposal satisfies the review and evaluation criteria as set out in §§ 56-558 and 56-560 of the Code of Virginia. Private entities should also provide sufficient information to facilitate a high-level policy review as detailed in Section 4.1 of this Implementation Manual and a detail-level screening as described in Appendix F. In addition, the financial plan for the project must contain enough detail so that an analysis could be performed to determine whether the proposed project is financially feasible. The financial plan shall disclose the full extent of any public financing and/or funding commitments that are required to enable the proposed project.

To promote standardization of the evaluation procedures, private entities are required to organize contents of the unsolicited proposal as follows:

- Table of Contents
- Executive Summary
- TAB 1: Project Description and Approach
- TAB 2: Desirability of the Project
- TAB 3: Feasibility of the Project
- Appendices Additional Information (if applicable)

The PPTA Office may require private entities submitting an unsolicited project proposal to give one or more oral presentations of their proposal to the PPTA Office, the Department and/or the public. Such presentations will provide opportunities to educate the Department and the public and/or to clarify aspects of the proposal. All pages of the proposal should be numbered. Each copy of the proposal should be placed in a three-ring binder and contained in a single volume where practical.

PROPOSAL SUBMISSION

Private entities submitting unsolicited project proposals are required to deliver ten (10) hard copies and one (1) electronic copy in Portable Document Format ("PDF") to the PPTA Office. Proposals must be sealed in mailing envelopes or packages bearing the Proposer's name, address and the words "Public-

Private Transportation Act Proposal" clearly written on the outside. The cover page must include the title of the proposal, the name and address of the proposing entity, the person authorized to act on behalf of the Proposer and his or her email address and telephone and facsimile numbers.

All unsolicited project proposals should be submitted to the attention of the PPTA Program Director at the following address:

PPTA Office Virginia Department of Transportation 1401 E. Broad Street Richmond, VA 23219

Attn: PPTA Program Director

Private entities interested in submitting an unsolicited project proposal are required to pay a non-refundable, non-negotiable Proposal Review Fee of [\$50,000] at the time of submitting the unsolicited project proposal to the PPTA Office. The proposal review fee shall be submitted in the form of a cashier's check made payable to the Treasurer of Virginia. Proposers submitting multiple proposals affecting unrelated qualifying transportation facilities will be required to submit a proposal review fee for each unsolicited proposal submission.

Upon receipt, the PPTA Office will notify the Commonwealth's transportation agencies and appropriate federal agency, and other stakeholders that the unsolicited project proposal has been submitted for a given transportation project and that the PPTA Office will initiate a review within 30 calendar days to determine if the proposal meets all legal and policy requirements for further evaluation, as set out in §§ 56-558 and 56-560 of the Code of Virginia and this Implementation Manual.

The private entity submitting an unsolicited proposal to the PPTA Office pursuant to § 56-560 of the Code of Virginia shall notify each affected jurisdiction by furnishing a copy of its proposal to each affected jurisdiction identified in the proposal.

If an unsolicited project proposal is submitted during a period when the PPTA Office is unable to review and evaluate that proposal by virtue of being committed to the development, evaluation, and negotiation of other priority transportation projects, or for any other reason as determined by the PPTA Office at its sole discretion, then the private entity will be notified by the PPTA Office so that the proposal can be resubmitted at a later date.

APPENDIX G

GUIDANCE ON DETAIL-LEVEL PROJECT SCREENING CRITERIA

Those planned projects that have passed through the high-level screening process and those unsolicited projects that have passed through the high-level policy review are eligible for detail-level screening. The detail-level project screening criteria form the basis upon which the PPTA Office evaluates the feasibility of delivering transportation projects across all transportation modes using the PPTA project delivery method. The screening criteria reflect the policy priorities of the Administration for delivering transportation projects in a timely and cost-effective manner.

The detail-level screening criteria are described in more detail to provide the private sector with a guide for defining what information the PPTA Office will evaluate as they make their recommendation to the PPTA Steering Committee as to whether to invest in advancing the project forward under the PPTA Program.

In detail-level project screening, the PPTA Office will evaluate projects on the basis of two primary review categories: (1) desirability of the project; and (2) feasibility of the project. The table below provides some guidance to the private and public sectors as to how to interpret the criteria:

Detail-Level Screening Criteria – Desirability of the Project			
Public Need	Does the project address the needs of the local, regional and state transportation plans, such as congestion relief, safety, new capacity, preservation of existing assets?		
	Does the project support improving safety, reducing congestion, increasing capacity, providing accessibility and/or enhancing economic efficiency?		
Public Benefits	Will this project bring a transportation benefit to the community, the region, and/or the state?		
	Does the project help achieve performance, safety, mobility or transportation demand management goals?		
	Does the project improve connections among existing and planned transportation modes?		
	Are there identified project benefits to the affected community transportation system?		
	Does this project enhance adjacent transportation facilities or other modes?		
Economic Development	Will the project enhance the Commonwealth's economic development efforts?		
	Is the project critical to attracting or maintaining competitive industries and businesses to the region, consistent with stated objectives?		

Detail-Level Screening Criteria – Desirability of the Project			
Market Demand for PPTA Delivery	This measure is only applicable to solicited projects; unsolicited projects do not need to address this issue as private entities are demonstrating market demand through the submission of their proposal.		
Stakeholder Support	Business Community Support – What is the extent of support or opposition for the project? Does the proposed project demonstrate an understanding of the national and regional transportation issues and needs, as well as the impacts this project may have on those needs?		
	Public Involvement Strategy – What strategies are proposed to involve local, state and/or federal officials in developing this project?		
	Has the project received approval in applicable local and/or regional plans and programs?		
	Is the project consistent with federal agency programs or grants on transportation (FHWA, FTA, MARAD, FAA, FRA, etc.)?		
Legislative Considerations	Are there any legislative considerations that need to be taken into account such as tolling, user charges, or use of public fund?		

Detail-Level Screening	Criteria – Feasibility of the Project
Technical Feasibility	Project Approach – Is the project described in sufficient detail to determine the type and size of the project, the location of the project, all proposed interconnections with other transportation facilities, the communities that may be affected and alternatives that may need evaluation?
	Proposed Project Schedule – Is the proposed schedule for project completion clearly outlined and feasible?
	Operation – Does the project set forth plans for operation of the facility, including a schedule defining initiation of operations?
•	Technology – Is the project's technical approach based on proven technology?
	Conforms to Laws, Regulations, and Standards – Is the project consistent with applicable state and federal statutes and regulations, or reasonably anticipated modifications of state or federal statutes, regulations or standards?
	Does the proposed design meet appropriate state and federal standards?
	Federal Oversight – Will the project require some level of federal involvement or oversight?
	 Meets/Exceeds Environmental Standards – Is the proposed project consistent with applicable state and federal environmental statutes and regulations? Does or will the proposed design meet appropriate state or federal environmental standards? Does the project adequately address

Detail-Level Screening Criteria – Feasibility of the Project			
	conformity with applicable air quality standards?		
	Federal State and Local Permits and Approvals – Does the project identify the required permits and regulatory approvals and a reasonable plan and schedule for obtaining them?		
	Rights of Way – Does the project set forth the method by which all property interests required for the transportation facility will be secured and by whom?		
	Utilities – Does the project set forth the method by which utility relocations required for the transportation facility will be secured and by whom?		
	Maintenance – Does the project include a schedule and plan to maintain this facility in conformity with standards acceptable to the Department?		
System Interface and Compatibility	Land Use Impacts – Is the project compatible with local land use and comprehensive plans?		
	Does the project provide continuity with existing and planned state and local facilities, existing and planned multi-modal facilities?		
Financial Feasibility	Are there public funds required and if so, are the Commonwealth's financial responsibilities clearly stated?		
	Is the preliminary financial plan feasible in that the sources of funding and financing reasonably be expected to be obtained?		
Legal/Legislative Feasibility	Is legislation needed to complete the project?		
Project Risks	Are there any particular risks unique to the project that have not been outlined above that could impair project viability?		
	Are there any project risks proposed to be transferred to the Department that are likely to be unacceptable?		

APPENDIX H

SAMPLE PROJECT SCREENING REPORT

Upon completion of the detail-level screening process, the PPTA Office is responsible for submitting the Project Screening Report for each project to the PPTA Steering Committee for review and consideration.

PROJECT BACKGROUND			
Date:			
PPTA Project Name:			
Department:	□ VDOT □ AVIATION	□ DRPT □ DMV	□ VPA □ OTHER
Attachments:	☐ YES	□ No	
Supporting info:			
PROJECT DESCRIPTION AND APPROAG	СН		
Provide Description:			
Project Approach:			
SCREENING CRITERIA: DESIRABILITY			
Public need (i.e., congestion, safety new capacity, preservation of existing assets, etc.)			
Supporting info:			

SCREENING CRITERIA: DESIRABILITY
Public benefits
Supporting info:
Economic development
Supporting info:
Market demand (Note: This measure is only applicable to solicited projects; unsolicited projects do not need to address this issue as private entities are demonstrating market demand through the submission of their proposal.)
Supporting info:
Stakeholder support
Supporting info:
Legislative considerations (i.e., tolling, user charges, public funds, etc.)
Supporting info:
CODEENING ODITEDIA, EFACIDII ITV
SCREENING CRITERIA: FEASIBILITY Technical feasibility (including environmental approvals and project schedule)
Supporting info:
Financial feasibility
Supporting info:

SCREENING CRITERIA: FEASIBILITY			
Legal/legislative feasibility			
Supporting info:			
Project risks			
Supporting info:			
PPTA OFFICE RECOMMENDATION TO THE STEERING COMMITTEE TO PROCEED WITH PROCUREMENT AS PPTA			
Please make appropriate selection:			
□YES	□NO		
Comment:			

APPENDIX I

GUIDANCE FOR THE RFQ PROCESS

Appendix I provides guidance on the processes for issuance of RFQ documents and submitting SOQs.

ISSUANCE OF RFQ DOCUMENTS

The PPTA Office, in consultation with the Department Administrator and other state and federal agencies as appropriate, is responsible for the development and issuance of the RFQ documents. The PPTA Office will issue a public notice on the PPTA Program website and the state eVA system (http://www.eva.state.va.us/index.htm) to announce issuance of the RFQ documents. The eVa system is a web-based purchasing system used by state agencies to announce bid opportunities, invite bidders, and receive quotes. The public notice may be issued by publication in a newspaper or newspapers of general circulation in the area in which the project is to be performed so as to provide reasonable notice to the maximum number of Respondents that can be reasonably anticipated to submit responses to the RFQ.

The procurement documents, including any required forms, Addenda and other related information will be made available electronically on the eVA system. The PPTA Office may arrange for a pre-proposal conference or webinar, as deemed appropriate, to present and clarify information about the project, procurement process and respond to any questions that prospective Respondents may have about the RFQ. A notice for such event will be made known both within the RFQ documents, the eVA system and on the PPTA Program website.

At any time during the procurement process, the need to issue one or more Addenda to the procurement documents may arise following interaction with the industry or in the event the underlying conditions of a particular project change or more information becomes available. Private entities are encouraged to check the eVA system and the PPTA Program website frequently and before submitting their responses.

SUBMISSION OF SOQS

In response to the issuance of an RFQ, private entities that are interested in the project will be required to submit an SOQ. SOQs should be prepared in accordance with the timelines and requirements of the RFQ document. For unsolicited project proposals approved by the Secretary of Transportation, the individual or private entity that submitted the original unsolicited project proposal will be required to submit an SOQ with other prospective Respondents to an RFQ if the individual or private entity remains interested in developing the project.

As a part of the SOQ, Respondents may be required to provide information related to the structure of the respondent team, the qualification and experience of the Respondent, individual team members, and key personnel with developing, designing, constructing, financing, operating and/or maintaining projects comparable to the project. The specific nature of experience, key personnel and background sought will depend on the specific project as well as the project delivery structure used. Additionally, the RFQ may require submittal of certain financial information from the Respondent and its affiliates. The intent of financial qualification submittal requirements is to determine whether the private entity submitting a response has sufficient financial capacity to assume the responsibilities and obligations required to deliver the project on schedule and within the financial needs and requirements of the project. The PPTA Office may require the submission of financial statements (including audited financial statements), letter of

support from providers of payment and performance security, and disclosure of material changes in the Respondent's financial position during a specified period of time or reporting period identified in the RFQ.

Respondents are encouraged to become familiar with the Virginia Freedom of Information Act (VFOIA) provisions to ensure that documents identified as confidential or proprietary will not be subject to disclosure pursuant to VFOIA prior to submitting their responses and to otherwise understand which document may be subject to disclosure pursuant to the VFOIA.

APPENDIX J

GUIDANCE FOR THE RFP PROCESS

Appendix J provides guidance on the process for developing RFP documents, contents of proposals and evaluation methodology.

Upon receiving the determination of short-listed Proposers from the Steering Committee, the PPTA Office may begin the RFP process. The purpose of the RFP process is to create competition among a small list of qualified Proposers to create value for the Commonwealth.

The PPTA Office may choose to issue the RFP documents in draft format to short-listed Proposers and hold one-on-one meetings in order to solicit feedback on the proposed RFP documents and draft Comprehensive Agreement. Once consideration has been given to the Proposer feedback, the PPTA Office will issue final RFP documents to short-listed Proposers. The PPTA Office will evaluate responses to the RFP from short-listed Proposers based on appropriate criteria. The PPTA Office reserves the right to run a BAFO process with some or all of the short-listed Proposers.

CONTENTS OF RFP DOCUMENTS

The RFP documents may include specific requirements for the detailed proposals, as well as the selection criteria to be met. Depending on the project, the RFP documents may also include, among other things: (a) technical requirements for the design, construction, environmental commitments, operations and maintenance components of the project, (b) the scope of the services to be provided, (c) the Department's preferred allocation of project risks and commercial terms via a draft comprehensive agreement, (d) clear instructions on the content and format of each proposal, and (e) a clear and reasonable timetable for submitting the proposals. The extent and type of information requested may vary depending upon the complexity of the PPTA project; however, the documents should be sufficient to allow the PPTA Office and the Department to determine the most suitable Proposer for delivering the PPTA project.

PROPOSAL SUBMISSION

In response to the issuance of the final RFP documents, short-listed Proposers may be invited to submit a detailed proposal containing at least two basic components, a Technical Proposal, and a Financial Proposal in accordance with the requirements stated in the RFP documents. The RFP may require Proposers to submit information different from or in addition to such information referenced in this Implementation Manual.

TECHNICAL PROPOSAL

The PPTA Office may require the Proposer to provide a Technical Proposal regarding the project's scope of work and technical requirements as the PPTA Office and the Department deems appropriate. Such required information may include, without limitation, design elements and approach, construction approach, operations approach, maintenance approach, project management approach, schedule, phasing, quality control and assurance approach, environmental requirements and other information as is appropriate for the project's implementation.

The intent of the Technical Proposal is to provide assurance that the private partner selected has a sufficient understanding of the project and/or desired service; an approach that fosters innovation and

creativity; an approach that meets technical and contractual requirements; and that the Proposer establishes that it has the ability to timely and efficiently deliver the project and/or desired service in accordance with technical and contractual requirements stated in the RFP documents. If NEPA compliance is required, the Technical Proposal must be consistent with any existing NEPA documentation or additional NEPA compliance work may be required.

FINANCIAL PROPOSAL

The content requirements of the Financial Proposal will vary with the type of PPTA delivery structure and the transportation mode and nature of a particular PPTA project. If the RFP and project scope requires the Proposer to finance any part of the project, the RFP will require the Financial Proposal include a financial plan and financial model. Depending upon the nature of the project, the project delivery method and current market conditions, the requirements for the contents and level of detail of the financial plan could be substantially different. The RFP documents will include the financial plan requirements. The PPTA Office may require the Financial Proposal to be fully or partially binding and subject to only limited condition. Additionally, the Financial Proposal may also require that the Proposer update the financial qualification information provided with the SOQ.

The PPTA Office will seek, where possible and financially feasible, proposals that minimize the use of public funds as well as the creation of state-supported debt. If a proposal including public or private debt is submitted, then the RFP will require that the proposal identify the amount of public funds required and a plan for complying with any requirements associated with using public funds.

PROPOSAL EVALUATION CRITERIA

The evaluation methodology for proposals will depend largely on the nature of the project, the scope of work and details set forth in the RFP documents. The PPTA Office is encouraged to use best value as the basis for award. However, the PPTA Office reserves the right to utilize other basis for award including low bid, lowest lifecycle cost, highest concession payment, lowest public subsidy, "most or best" project, "trade-offs" and any other basis that is appropriate and deemed by the PPTA Office to be in the best interest of the project and the Commonwealth.

The evaluation mechanism during the RFP stage will be similar in many respects to the RFQ stage. The specific criteria and methodology for evaluating proposals will be included in the RFP documents of the specific PPTA procurement and will vary depending on the scope and complexity of a project, transportation mode and project delivery approach. The RFP evaluation criteria allow the PPTA Office, the Department and Commonwealth to clearly communicate the project objectives and priorities of the Department to the private sector.

Upon receipt of proposals, the PPTA Office will commence the evaluation and selection process. The PPTA Office may invite technical experts from the Department and may elect to engage external advisors to assist in evaluation of technical, administrative and financial matters included in the proposals. Additionally, the PPTA Office, in coordination with the Department, may hold interviews, ask written questions of the Proposers, seek written clarifications and conduct discussions on the proposals during the evaluation and selection process.

After evaluation of the proposals, the PPTA Office, in consultation with the Department, reserves the right to request Proposers to submit proposal revisions (also known as a Best and Final Offer or "BAFO"). Typically, only those Proposers that are responsive and/or which fall within a competitive range will be permitted to submit BAFOs. The request for proposal revision or BAFOs is intended to provide Proposers

an opportunity to revise their proposals (both the Technical Proposal and Financial Proposal) in light of the BAFO request issued by the PPTA Office. Upon receipt of the proposal revisions or BAFOs, the process of evaluation of proposals will be repeated by the PPTA Office. It is important to note that BAFOs are not mandatory and may not be useful or appropriate for a given project.

APPENDIX K

GUIDANCE FOR THE PPTA AUDIT

GENERAL AUDIT SCOPE

- 1. Audit the traffic and cost estimates provided by the private entity (Proposer) in its proposal to the Department;
- 2. Identification and quantitative assessment of anticipated public costs and potential liabilities;
- 3. Provide a qualitative assessment of the cost and revenue projections relative to other, similar projects, and assess the potential for increased cost and liabilities to the PPTA Office or the Department; and
- 4. The level of audit shall be specific to the scope and type of agreement.

AUDIT TIMING

The audit will be conducted prior to the execution of an interim or comprehensive agreement by the Department. The audit for an interim agreement may be limited in scope due to the preliminary and undeveloped nature of the contractual documents as well as limited availability of the project cost and traffic data.

AUDIT PAYMENT

The PPTA Office will be reimbursed for the cost of the audit by the Proposer. The payment due date will be as determined by the PPTA Office, but in no event later then financial closure.

AUDITOR SELECTION

The PPTA Office will select a consultant to conduct the required audit and determine their independence utilizing its reasonable good faith judgment, as well as the following criteria:

- 1. In regards to auditing the cost estimates and traffic data, the consultant will have been determined not to have any actual, potential or perceived conflict of interest;
- In regards to auditing documents to address the public cost and potential liabilities, the proposed independent consultant will not have had any responsibilities associated with the development of contractual documents or allocation of the risk as defined by those documents on behalf of either the PPTA Office or the Proposer; and
- 3. The consultant shall not have otherwise performed services or have other relationships with either the PPTA Office or the Proposer (or the Proposer's affiliates) that, in the PPTA Office's judgment, may affect the objectivity of the consultant.