PUBLIC-PRIVATE PARTNERSHIPS OVERVIEW

Office of Public-Private Partnerships

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June 2026

Goals for This Presentation

- Follow-up to questions asked last month in Express Lanes presentation
- Education about an important financing tool in our toolkit
- Explain the CTBs role in the P3 process

Virginia currently has two P3 enabling Statutes:

- Public-Private Transportation Act of 1995, as amended (PPTA)
- Public-Private Education Facilities and Infrastructure Act of 2002, as amended (PPEA)

P3 Office

- The Office of Public-Private Partnerships (P3 Office) was created in 2010 as a statewide resource responsible for identifying, developing, and procuring P3 projects in a statewide program for project delivery via the PPTA and PPEA.
- P3 Office and its predecessor VDOT Innovative Project Delivery Division have delivered $20 billion in infrastructure for the Commonwealth.
- P3 office works in conjunction with the Secretary of Transportation, VDOT, Department of Rail and Public Transportation (DRPT), and other state transportation agencies to focus on development of alternative project delivery models across all modes of transportation.
- Public facing website: https://p3.virginia.gov/

What are Public-Private Partnerships?

A Public-Private Partnership (P3) is a contractual agreement between a public agency and a private entity to meet the need of the public by allocating risks to the party best equipped to mitigate those risks and fully utilizing the resources of both parties.

Potential Benefits:

- Accelerate project delivery
- Efficiencies driven by single entity having responsibility for design, construction and operations
- Bringing private sector innovation to project design and technology
- Enhanced forecasting and budgeting predictability for public sector through fixed pricing
- Complex construction and financial risks can be shared with, or transferred to the private sector
- Ability to generate revenue for regional investment to fund other transportation initiatives

Common P3 Misconceptions

"P3 is equivalent to “Privatizing” the asset"

- The Commonwealth of Virginia retains ownership of all concessionaire-operated assets procured under the P3 statue
- P3 contracts include performance metrics to ensure accountability and transparency throughout the contract term

"Tolling is inherent to P3 project"

- P3 is a procurement statue that provides flexibility to deliver design-build (HRBT Expansion) and revenue-risk projects (95 Express Lanes)

"P3s aren't transparent"

- VDOT’s P3 Implementation Guidelines are build on the P3 statute to further encourage transparency by requiring early engagement of stakeholders, Public Sector Analysis and Competition, and oversight by Public-Private Partnerships Steering Committee and the Commonwealth Transportation Board

"P3s are appropriate for every project"

- Not all projects have the same construction complexity, risk profile, or funding challenges
- Projects are screened for appropriateness via project screening and identification, Public Sector Analysis and Competition, and market sounding

CTB and PPTA Steering Committee Oversight

- For every PPTA project, the CTB and PPTA Steering Committee provide oversight and transparency.
- Steering Committee includes a Deputy Secretary of Transportation, two CTB members, staff director of house and senate money committees, VDOT CFO, and a non-agency public financial expert.
- Per the 2017 P3 Implementation Manual and Guidelines, for each project the CTB is briefed a total of five times, and the Steering Committee meets three times during the procurement process.

Statutorily required documents

- Public Sector Analysis and Competition ("public option") – § 33.2-1803.1:1.
- Finding of Public Interest ("FOPI") - § 33.2-1803.1.

P3 Procurement Process (new projects)

What's included?

- Potential projects for P3 are identified from VDOT or given "unsolicited" by industry.
- Initial screening conducted by P3 Office for technical, legal, financial feasibility.

Screening & Identification

Key outputs/goal

Goal – Determine if this project, at first look a) meets our strategic goals, b) has public benefit, and c) seems to be feasible.

If so – move forward (VDOT makes determination, CTB is briefed)

P3 Procurement Process (new projects)

What's included?

- VDOT does in-depth analysis of costs to use public finance for the project ("Public Option")
- VDOT does initial market sounding to get ranges of "P3" options
- VDOT develops "Finding of Public Interest"



Key outputs/goal

Goal: Decide if it makes more sense to go P3 or public. What must the P3 offer to make it the better option?

CTB and Steering Committee are briefed. Steering Committee must concur with VDOT analysis and Finding of Public Interest to proceed.

P3 Procurement Process (new projects)

What's included ?

- An initial RFQ is released, responses are evaluated.
- Environmental Approval Process is completed.
- An RFP is issued based on RFQ responses. Responses are reviewed (including Alternative Technical Concepts)
- Public comment period



Key outputs/ goal

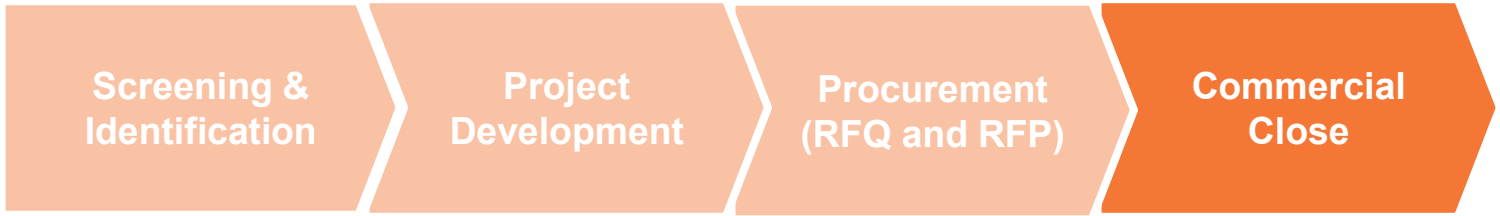
- **Goal For RFQ** – Decide whom should be on the short list and based on these proposals, if it is it still in the public interest to proceed (Steering Committee vote following CTB briefing)

- **Goal for the RFP** – If the proposals meet the key business targets, and we are comfortable with public feedback, the goal is to select the preferred proposer.

P3 Procurement Process (new projects)

What's included ?

- PPTA Process Audit conducted
- Certification by VDOT Commissioner certifies the Finding of Public Interest is still valid, the major terms have not changed and maximum public contribution is not exceeded



Key outputs/ goal

- **Goal – sign the deal, if P3 proposal is still better than Public Option**
- CTB is briefed on final deal (votes to allocate funds if necessary)
- Steering Committee is also briefed

Concessionaire Project Enhancement

- Comprehensive Agreements may provide opportunities for either the Concessionaire or the Department to make enhancements to existing assets.
  - Examples of projects delivered via Concessionaire Project Enhancement mechanisms include I-395 Express Lanes, I-95 Express Lanes Fredericksburg Extension, I-495 Express Lanes Northern Extension.
  - An example of a Department Project Enhancement includes 95/123 Progressive Design Build Project.

Sample of Concessionaire Project Enhancement Provision from 95/395 Amended and Restated Comprehensive Agreement

Section 12.01 Project Enhancements by the Concessionaire

(a) The Concessionaire will have the right, at its sole cost and expense (unless the Department agrees to contribute funds for a Concessionaire Project Enhancement), at any time after the Service Commencement Date, to design, develop, construct, operate and maintain Concessionaire Project Enhancements within the Project Right of Way, including any fundamental change in the dimensions, character, quality, location, or position of all or any part of the Project; *provided*, that the Concessionaire will not undertake any such Project Enhancements (except for the Concessionaire Project Enhancement in Section 12.01(b)) unless all aspects thereof are approved in writing by the Department in its sole discretion, and the Concessionaire has entered into a Development Contract with the Department with respect to such Concessionaire Project Enhancement.

P3 Procurement Process (Concessionaire Enhancement)

No Steering Committee, CTB briefed at least once

Development Phase

- Development Framework Agreement

Procurement Phase

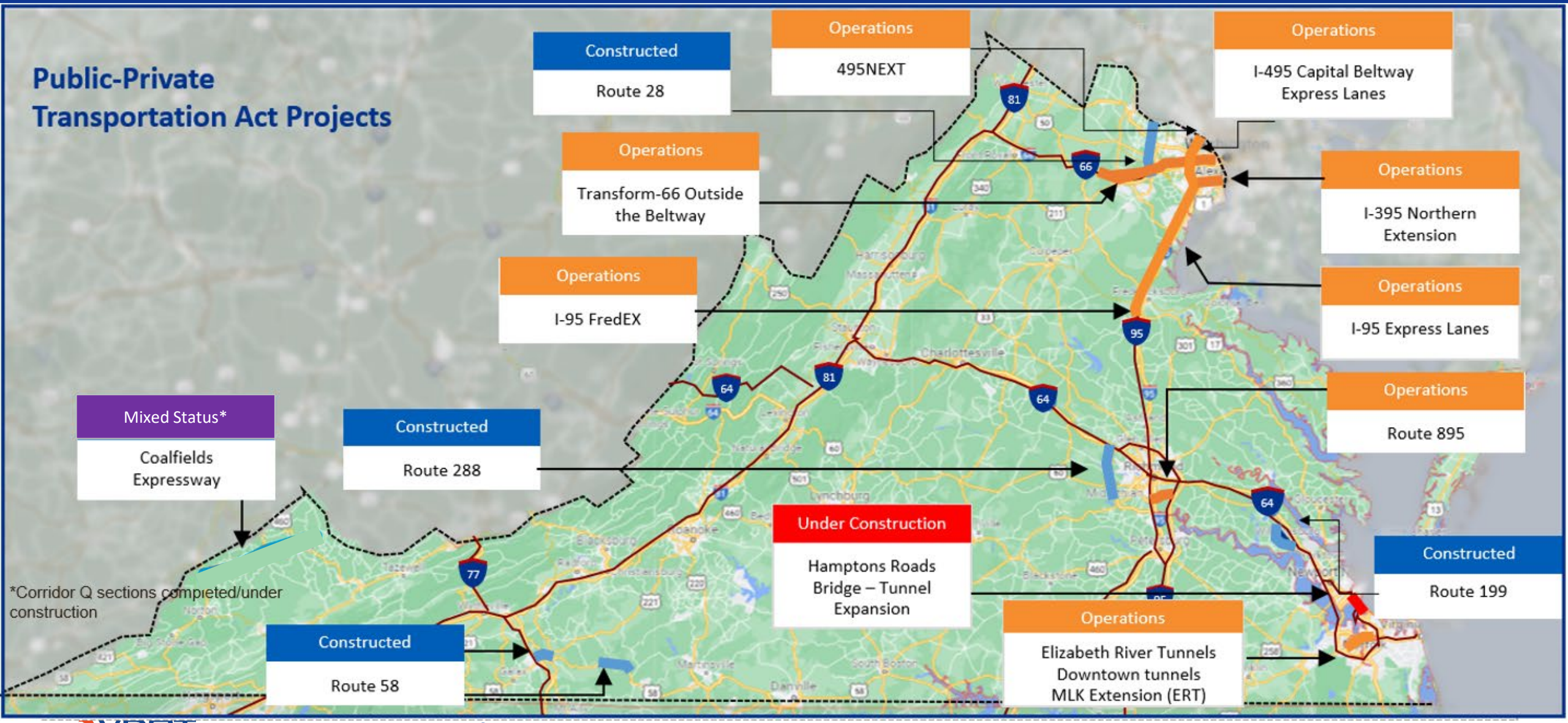
- Proposal Specifications
- Term Sheet
- Technical Requirements
- Binding Proposal
- Draft Amendment
- Contractor Procurement by Concessionaire
- Environmental Study

Commercial Close

- Execute Amendment
- Financial Close preparation

*Process may be altered due to the nature and scope of the Project Enhancement.

PPTA Projects Delivered by Office of Public Private Partnerships



Highlighted PPTA Projects

Northern Virginia

- 88 miles of concessionaire-operated Managed Lanes Network in service
- I-95, I-395, I-495, and I-66 Outside the Beltway
- Estimated $5.1 billion in transit and corridor improvement payments during the term of the concession agreement

Central Virginia

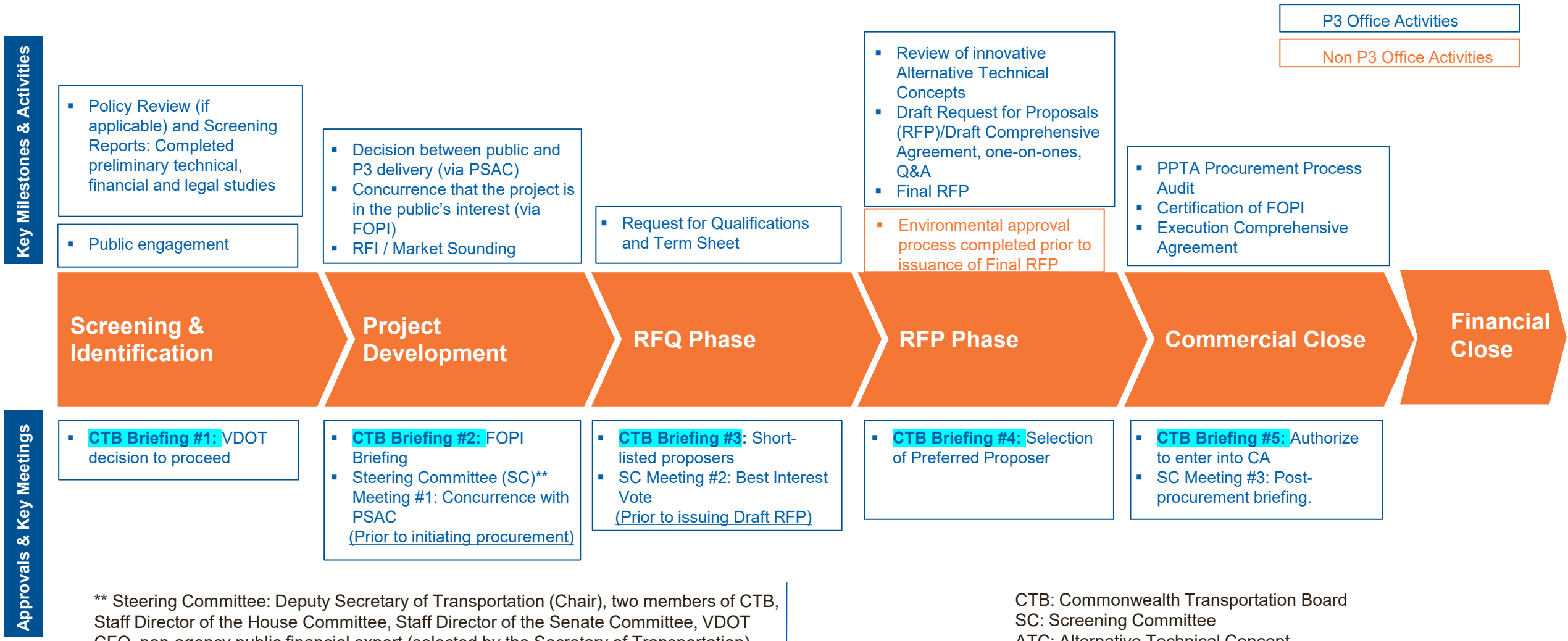
- Pocahontas Parkway
  - 8.5-mile tolled facility connecting the junction of I-95 and State Route 150 in Chesterfield County

Hampton Roads

- Downtown and Midtown Tunnels
  - Tolled facility
  - Annual contribution of $3.2 million, subject to annual 3.5% increase, to Toll Relief Program by the Concessionaire for qualified low-income users
- Hampton Roads Bridge Tunnel Expansion Project


VDOT
Virginia Department of Transportation

P3 Procurement Process
Based on 2017 PPTA Implementation Manual



** Steering Committee: Deputy Secretary of Transportation (Chair), two members of CTB, Staff Director of the House Committee, Staff Director of the Senate Committee, VDOT CFO, non-agency public financial expert (selected by the Secretary of Transportation)

CTB: Commonwealth Transportation Board
SC: Screening Committee
ATC: Alternative Technical Concept

Project Identification & Screening Process

Candidate projects are identified two ways:

Solicited

- VDOT identifies projects through statewide planning, needs assessments, or policy priorities.
- Potential P3 Projects are evaluated through a multi-step screening process by the P3 Office (High-level Screening and Detailed Level Screening).
- Projects are formally solicited as P3 opportunities under the PPTA.

Unsolicited

- Private entities may submit innovative project ideas not previously identified by VDOT
- Unsolicited Proposals must address a transportation need and demonstrate public benefit.
- Unsolicited Proposals must also go through a Policy Review.
- If the Unsolicited Proposal meets these requirements, it will then continue through the Screening Process

CTB Briefing #1: The completed Screening Reports (for Solicited and Unsolicited Projects) and, if applicable Policy Review (Unsolicited Projects only), are presented to the CTB prior to moving to Project Development Process.

Public Sector Analysis and Competition (PSAC)

- VDOT shall ensure competition throughout the procurement process by developing a public sector option and identify a maximum public contribution

- The VDOT shall undertake, in cooperation with the Secretary of Transportation and the Secretary of Finance, a public sector analysis of the cost for the VDOT to develop and/or operate the facility. At a minimum, such analysis shall contain the following information:

    - *Any mitigation of risk of user-fee financing through assumptions related to competing facilities*
    - *Whether the VDOT intends to maintain and operate the facility, or if the public sector option is based on the transfer of such responsibilities to the private sector;*
    - *Public contribution, if any, required to cover all costs to develop and/or operate the facility in excess of financing available (toll revenues);*
    - *Funds provided to support any other revenue generating element of the facility.*

Finding of Public Interest (FOPI)

- A description of the benefits expected to be realized by the Commonwealth through the development and/or operation of the project;
- An analysis of the public contribution necessary for the development and/or operation of the facility pursuant to a public sector analysis and competition, including a maximum public contribution that will be allowed under the procurement;
- Any benefits expected to be realized by the Commonwealth as compared with the development and/or operation of the facility through other options available to the Commonwealth;
- A statement of the risks, liabilities, and responsibilities to be transferred, assigned, or assumed by the private entity, which shall include:
    - *Discussion on risk transfer; and*
    - *a description of the risks, liabilities, and responsibilities to be retained by the Commonwealth*
- A determination of project delivery risks and mitigation strategies

Project Development Process

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

Project Development Activities
▪ Further defining project scope, design concept and phasing schedule
▪ Analyzing compliance with environmental and transportation planning requirements
▪ Analyzing technical feasibility and operations and maintenance evaluations
▪ Refining project cost, revenue estimates and lifecycle costing
▪ Submitting funding and grant applications, as required
▪ Performing outreach, coordinating public involvement and building stakeholder support
▪ Defining an approach to risk allocation and management (see VDOT P3 Office Risk Management Guidelines)
▪ Continuing the Public Sector Analysis and Competition initiated at the project identification and screening phase
▪ Continue to determine the optimal procurement delivery method(s)
▪ Soliciting information from the private sector through a Request for Information (RFI)
▪ Soliciting comments/feedback from the public through the VDOT P3 Office website

Key Documents Developed by P3 Office

- PSAC
- FOPI
- Major Business Terms and Term Sheet
- Risk Assessment

Optional Steps Available

- Request for Information (RFI) from Private Entities as appropriate

CTB Briefing #2: Signed FOPI is presented to the CTB prior to issuance of the Draft RFP
PPTA SC Meeting #1: PSAC is presented for concurrence to the Steering Committee

Procurement Process (RFQ & RFP)

The P3 procurement phase generally consists of: (1) issuing an RFQ, and 2) issuing an RFP.

RFQ Process

1. A Request for Qualifications (RFQ) is issued
2. Term Sheet is issued
3. Responses are evaluated
4. Shortlist of Qualified Proposers is created

CTB Briefing #3: The evaluation results and a Shortlist of Qualified Proposers is presented to the CTB *prior to* the issuance of a Draft RFP and Draft Comprehensive Agreement.
PPTA SC Meeting #2: Vote on if Public Interest is served, and to proceed with P3 procurement

RFP Process

1. Draft RFP is published for Public Comment
2. Draft Comprehensive Agreement is published for Public Comment
3. Alternative Technical Concepts are studied
4. Public Comments are received
5. Discussions with Shortlisted Proposers
6. Final RFP is published
7. Detailed Proposals are submitted*
8. Selection of Preferred Proposer

*If proposals require more public contribution than is identified in the PSAC, or Major Business Terms are not met no selection is made.

CTB Briefing #4: CTB is briefed on submitted Proposals and the Preferred Proposer selected

Commercial Close

Commercial Close is the execution of the Comprehensive Agreement between VDOT and the Preferred Proposer.

Prior to Commercial Close:

- Final Comprehensive Agreement is negotiated
- An Audit of the PPTA process is completed
- Final FOPI is certified

CTB Briefing #5: Commissioner of Highways reports to the CTB.

PPTA SC Meeting #3: The PPTA Steering Committee is briefed on the on the executed Comprehensive Agreement post Commercial Close.