COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

Nicholas Donohue
Chairperson

1221 East Broad Street
Richmond, Virginia 23219

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Agenda item # 19

RESOLUTION
OF THE
COMMONWEALTH TRANSPORTATION BOARD

October 13, 2026

Made By: Mr. Gribbin, **Seconded By:** Mr. Moye

Action: Motion Carried, Unanimously

Title: 2026 Virginia PPEA Implementation Manual and Guidelines

WHEREAS, pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA), (Code of Virginia § 56-575.1 *et seq*.), the Virginia Department of Transportation (VDOT) and the Department of Rail and Public Transportation (DRPT) are responsible public entities (RPEs), defined as a public entity that has the power to develop or operate a qualifying project under the PPEA; and

WHEREAS, RPEs are required, in accordance with § 56-575.3:1, to adopt and make publicly available guidelines that establish a process for acceptance and review of proposals to develop and/or operate qualifying projects; and

WHEREAS, the VDOT Office of Public-Private Partnerships (VDOT P3 Office) has developed the 2026 PPEA Implementation Manual and Guidelines in accordance with the statutory requirements.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby accepts the recommendations of the VDOT P3 Office and endorses the 2026 PPEA Implementation Manual and Guidelines as presented to the Board (attached hereto as Appendix A).

BE IT FURTHER RESOLVED, that the Board hereby recommends that VDOT and DRPT, as RPEs pursuant to the PPEA, adopt the 2026 PPEA Implementation Manual and Guidelines.

BE IT FURTHER RESOLVED, that the Board hereby prescribes compliance with the 2026 PPEA Implementation Manual and Guidelines for all qualifying projects requiring funding authorization from the Board.

BE IT FURTHER RESOLVED, that this resolution shall supersede all resolutions heretofore adopted by this Board governing guidelines developed for use in implementation of the PPEA, provided however that nothing herein is intended to invalidate any actions previously taken pursuant to those resolutions.

Commonwealth Transportation Board (CTB) Decision Brief

2026 Virginia PPEA Implementation Manual and Guidelines

Issue: Pursuant to § 56-575.3:1 of the Code of Virginia, the Virginia Department of Transportation (VDOT) and the Department of Rail and Public Transportation (DRPT), as responsible public entities (RPEs) under the Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA), (Code of Virginia §§ 56-575.1 *et seq*.), are required to adopt and make publicly available guidelines for the acceptance and review of qualifying project proposals. The VDOT Office of Public-Private Partnerships (VDOT P3 Office) has developed the 2026 PPEA Implementation Manual and Guidelines and is seeking the Board's endorsement and recommendation of adoption by VDOT and DRPT.

Facts: The PPEA authorizes RPEs to enter into public-private partnership agreements for qualifying projects including education facilities, government buildings, technology infrastructure, and other public facilities. Although the PPEA has been in effect since 2002, neither VDOT nor DRPT have previously had a need to accept or review proposals related to qualifying projects under the PPEA. Adoption of these guidelines is required before VDOT or DRPT may evaluate or pursue any opportunities under the PPEA moving forward.

The VDOT P3 Office developed the 2026 PPEA Implementation Manual and Guidelines in accordance with the statutory requirements of the PPEA as in effect on April 1, 2026. The development process included consultation with the Office of the Attorney General, Governance and Legal Affairs Division (GALA), and DRPT.

The 2026 PPEA Implementation Manual and Guidelines establish a framework for identifying, screening, developing, procuring, and implementing qualifying projects under the PPEA, covering both Solicited Projects and Unsolicited Proposals. The framework includes a cost-benefit and opportunity cost analysis, and a Declaration of Public Purpose. The guidelines are designed to provide a level of transparency and consistency comparable to the Public Private Transportation Act Implementation Manual and Guidelines. VDOT and DRPT elected to maintain a joint document for VDOT and DRPT, consistent with the PPTA Implementation Manual and Guidelines.

Recommendations: The VDOT P3 Office recommends that the Board endorse the 2026 PPEA Implementation Manual and Guidelines and recommend their adoption by VDOT and DRPT. The VDOT P3 Office further recommends that the Board prescribe compliance with the 2026 PPEA Implementation Manual and Guidelines for all qualifying projects requiring funding authorization from the Board.

Action Required by CTB: A majority vote of the CTB is required to endorse the 2026 PPEA Implementation Manual and Guidelines and recommend that VDOT and DRPT adopt the 2026 PPEA Implementation Manual and Guidelines.

Result, if Approved: Upon Board endorsement, and following publication in the Virginia Register of Regulations (Virginia Register) and the completion of a 30-day public comment period, VDOT and DRPT will formally adopt the 2026 PPEA Implementation Manual and Guidelines as RPEs under the PPEA and will be authorized to evaluate and pursue qualifying project opportunities under the PPEA framework.

Options: Approve, Deny, or Defer

Public Comments/ Reaction: Upon Board endorsement, the 2026 PPEA Implementation Manual and Guidelines will be posted to the Virginia Regulatory Town Hall as a guidance document and published in the Virginia Register. Publication in the Virginia Register will initiate a 30-day public comment period.

The Commonwealth of Virginia



PPEA Implementation Manual And Guidelines

For the

Public-Private Education Facilities and Infrastructure Act of 2002

(As Amended)

WORKING COPY

July 2026

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1.0	March 2026

PREFACE

This initial version of the PPEA Guidelines was developed in accordance with statutory requirements in the Public-Private Education Facilities and Infrastructure Act of 2002, Va. Code § 56-575.1 *et seq.* (PPEA) in effect as of March 1, 2026. These guidelines will be updated periodically to reflect changes in legislation, policies, procedures, and industry practice. It tailors the guidance specifically to the use of the public-private partnership (P3) delivery method by the Virginia Department of Transportation (VDOT) and the Virginia Department of Rail and Public Transportation (DRPT). These guidelines have been developed to include congruency and consistency with the Public-Private Transportation Act of 1995, Va. Code § 33.2-1800 *et seq.* (PPTA) process that was established in the May 2015 updates to the PPEA Guidelines.

That congruency was driven in large part by two parallel efforts. While the VDOT P3 Office reviewed and revised its Guidelines for projects under the PPTA in 2014, other groups within VDOT began to investigate the consolidation of existing offices and facilities in Hampton Roads and the prospect of co-locating in new facilities with the state police and emergency services. Because such a project might be developed and procured through the PPEA, VDOT began to look at processes that guide non-transportation project procurements in Virginia and at best practices from around the country for delivering “social infrastructure” .

In 2015, the VDOT P3 Office discovered that guideline changes to make the PPTA process more open and transparent, to improve accountability by a series of public discussions and decisions and to stimulate competition also could prompt greater and more efficient use of the PPEA by state transportation agencies. Despite significant differences in the PPTA and PPEA laws, they asked how they could make the PPEA guidelines more congruent with the PPTA guidelines that had been adopted by VDOT and DRPT and added into law by the 2015 Virginia General Assembly.

Those PPEA Guideline updates allow the strengths of public engagement, risk management and cost-benefit analysis to illustrate for a transportation agency (a responsible public entity) the potential for a public-private partnership. The process provides for an early review by the required legislative commission prior to moving project development and, subsequently, into a PPEA procurement. That emphasis on building a stakeholder consensus on a PPEA project before moving to procurement moderates the risk to potential private partners of one all-or-nothing review by the legislative commission at the end of the process. That consensus on project scope and broad business terms is in place before private teams invest millions of dollars in time and resources preparing proposals. Furthermore, and consistent with the PPEA, these guidelines are designed to encourage competition and guide the selection of projects under the purview of VDOT, as a responsible public entity (as defined in the PPEA).

A congruent set of guidelines for all P3 procurements in Virginia at some point may suggest that the PPEA and PPTA laws, themselves, might be combined so that all state transportation agencies have equal opportunities to develop public-private partnership procurements for priority projects. A consistent, disciplined process that attracts efficiencies and new resources to address Commonwealth infrastructure needs is the real goal.

Faizan Habib

Director, VDOT Office of Public-Private Partnerships

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EXECUTIVE SUMMARY

The Public-Private Education Facilities and Infrastructure Act of 2002, as amended, Chapter 22.1 of Title 56 of the Code of Virginia (Va. Code § 56-575.1 *et seq., or* PPEA), grants Responsible Public Entities (RPEs) the authority to utilize Public-Private Partnerships (P3) to develop a wide range of projects for public use. The PPEA defines Responsible Public Entity to include any Public Entity that has the power to develop or operate an applicable Qualifying Project (as defined by the PPEA). Public Entities must determine there is a need for the project, and that private involvement may deliver the project to the public in a more timely and cost-effective fashion.

The 2026 PPEA Implementation Manual and Guidelines (PPEA Manual and Guidelines), developed by the Virginia Department of Transportation's Office of Public-Private Partnerships (VDOT P3 Office), provide a P3 Project Delivery Framework (Framework) that identifies, evaluates, develops, procures and delivers Qualifying Projects in a consistent, transparent, timely, and cost-effective manner. In this guidance, any project advanced using the PPEA is generally referred to as a P3 project and the RPE's under this PPEA Manual and Guidelines are the Virginia Department of Transportation (VDOT) and the Department of Rail and Public Transportation (DRPT).

The Framework, shown in **Figure 1**, formalizes the process to enhance delivery of Qualifying Projects in the Commonwealth. It is designed to highlight the multiple decision points; salient points of transparency and public engagement opportunities, and the competitive nature of the procurement process.

The PPEA Manual and Guidelines are organized into chapters that provide specific details and address roles and responsibilities. The document reflects the processes and decision points inherent in a P3 project for both Solicited Projects (initiated by the RPE) and Unsolicited Proposals (submitted by Private Entities) to develop or operate a Qualifying Project.

Chapter 1 is the **introduction** to the PPEA Manual and Guidelines and includes descriptions of the: purpose; project objectives; Framework; organizational structure; pre-procurement funding and public engagement.

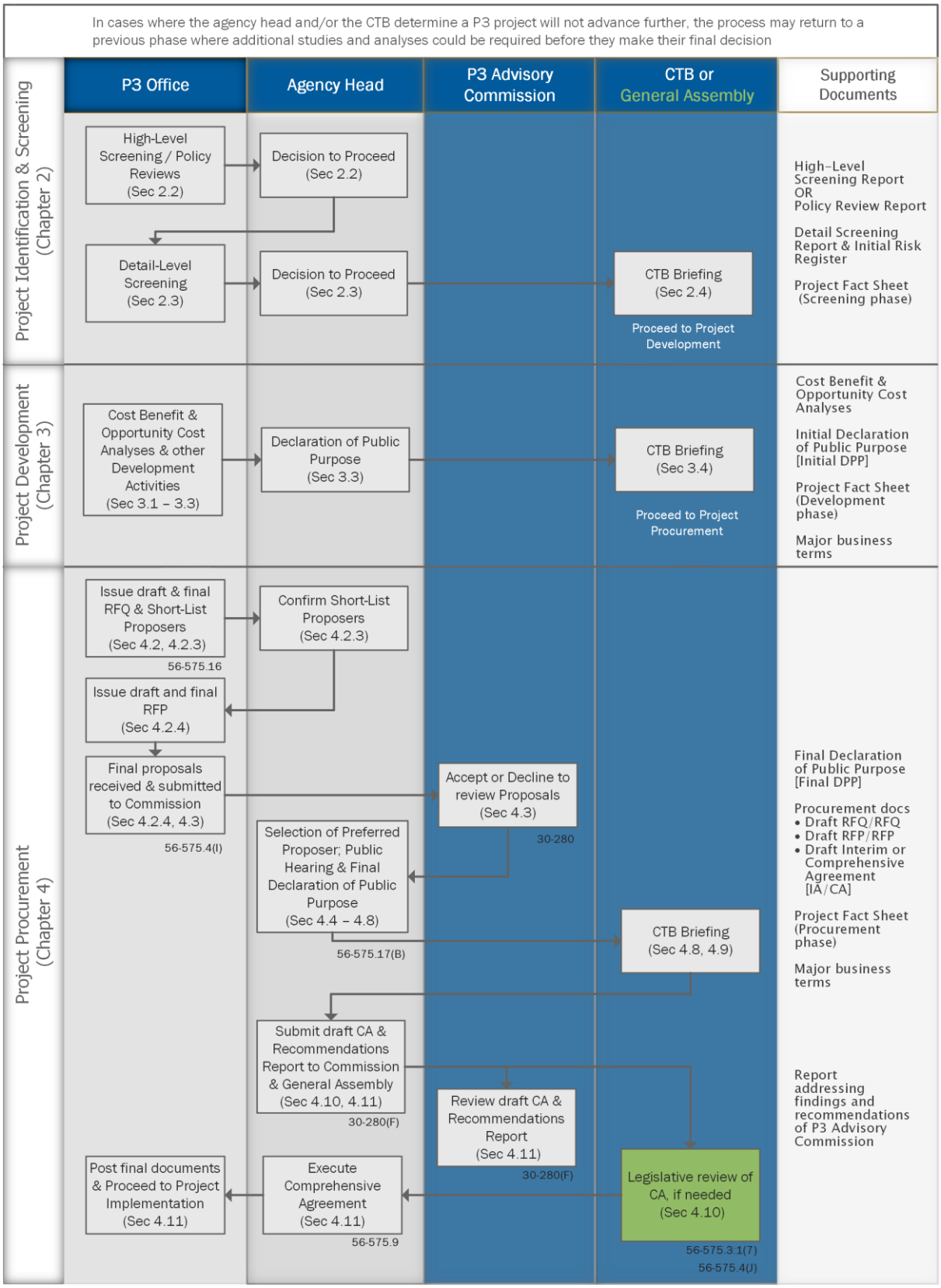
Chapter 2 lists the types of projects defined as Qualifying Projects in the PPEA and describes the **project identification and screening phase** for potential P3 projects and the steps related to both Solicited Projects and Unsolicited Proposals.

Chapter 3 describes the **project development phase** including a number of key tasks, which could take place to prepare the project for procurement depending on the characteristics and scope of the project.

Chapter 4 describes the **project procurement phase** that includes issuing a Request for Qualifications (RFQ), short-listing qualified Proposers, issuing a Request for Proposals (RFP), establishing the basis for award, and selecting a Preferred Proposer.

Chapter 5 describes the **project implementation phase** which commences after the execution of the Comprehensive Agreement until the completion of both (i) VDOT / DRPT and (ii) the selected Proposer's contractual obligations.

Figure 1: P3 Project Delivery Framework (Framework)



1 INTRODUCTION

The Public-Private Education Facilities and Infrastructure Act of 2002, as amended, Chapter 22.1 of Title 56 of the Code of Virginia (PPEA)is intended to facilitate the timely development and/or operation of Qualifying Projects and to encourage investment in the Commonwealth of Virginia by Private Entities. This legislative framework enables the Commonwealth, local governments, and Public Entities, as defined in the PPEA, to enter into Public-Private Partnerships (P3s) to facilitate the development and/or operation of education facilities, technology infrastructure, and other public infrastructure and government facilities. The PPEA allows a Private Entity to develop a project for public use if a Responsible Public Entity (RPE) determines that there is a need for the project and that private involvement may provide the project to the public in a more timely or cost-effective manner that promotes optimal risk sharing. P3 projects, under the PPEA may bring private funding and/or private sector expertise and efficiencies to the development and/or operation of Qualifying Projects.

This PPEA Manual and Guidelines is organized into chapters, which include: Project Identification and Screening; Project Development; Project Procurement; and Project Implementation. Each chapter concludes with a summary of key action items and the entity(ies) responsible for each item. The purpose of the PPEA Manual and Guidelines is to define consistent, transparent, and efficient processes relevant to the development of P3s, and to encourage private sector innovation and investment addressing educational and public use facility needs of the Commonwealth.

1.1 Applicability of the PPEA Manual and Guidelines

The PPEA requires the RPEs to develop and/or adopt guidelines for the acceptance and review of both Solicited Projects and Unsolicited Proposals. Before an RPE can identify and initiate a Solicited Project or accept an Unsolicited Proposal for consideration, the PPEA requires an RPE to adopt and make publicly available guidelines that are reasonable, encourage competition and guide the selection of projects by the RPE. Va. Code §56-575.3:1(A)). The PPEA also requires that the guidelines establish a specific schedule for review of a Solicited Project or an Unsolicited Proposal by the RPE; a process for alteration of that schedule by the RPE if it deems changes are necessary; and the type and amount of information necessary for adequate review in each phase. The processes outlined in this PPEA Manual and Guidelines are specifically designed for use by the Virginia Department of Transportation (VDOT) and Virginia Department of Rail and Public Transportation (DRPT). They should also be used by members of the private sector interested in submitting Proposals for P3 projects to VDOT or DRPT.

Each P3 project is unique and certain elements set forth in this PPEA Manual and Guidelines may not apply in all circumstances or may be subject to change. Therefore, the agency head, in coordination with the VDOT P3 Office Director, retains flexibility to modify the development, procurement and implementation processes contained herein to address the specific needs of a particular P3 project, provided the process modifications are in accordance with the PPEA. The public, private entities (industry) and other stakeholders will be notified of modifications to project development, procurement and implementation processes set forth in this PPEA Manual and Guidelines by means of a statement issued with the Request for Qualifications (RFQ) and/or Request for Proposals (RFP) documents, outlining and explaining the modifications.

The PPEA Manual and Guidelines do not modify or override requirements of the PPEA or other applicable law. In the event of any conflicts between the PPEA (or other applicable law) and the PPEA Manual and Guidelines, the PPEA shall govern. The PPEA Manual and Guidelines may be updated periodically in order to reflect changes in applicable law, policies and best practices.

1.2 P3 Project Objectives

To ensure that P3 projects are consistent with the purpose of the PPEA (see Va. Code § 56-575.2) and the Commonwealth's goals, the following objectives for P3 projects have been established:

- create investment opportunities that increase the quality of public infrastructure and government facilities;
- administer a fair, reliable, uniform and competitive project development and procurement process that encourages innovation and private sector investment and creates long term value for the Commonwealth;
- achieve lifecycle cost efficiencies through appropriate risk transfer and optimal risk allocation;
- facilitate timely delivery of P3 projects, within established laws and regulations;
- promote transparency and accountability through active public engagement, coupled with informed and timely decision making; and
- foster efficient management of Commonwealth financial and organizational resources.

1.3 Organizational Structure

The VDOT P3 Office reports directly to the Chief Financial Officer (CFO) at the Virginia Department of Transportation (or their designee) and supports DRPT for any P3 project considered under the PPEA. Key participants in the development and delivery of a PPEA project in this regard would include the: VDOT P3 Office; VDOT / DRPT; Affected Jurisdiction(s); RPE Oversight Body (under the guidance of the Commonwealth Transportation Board); Appropriating Bodies (if the statutory criteria are met); and the Public-Private Partnership Advisory Commission.

VDOT P3 Office - The VDOT P3 Office coordinates all aspects of the development and procurement of PPEA projects initiated as Solicited Projects or submitted as Unsolicited Proposals for VDOT / DRPT. The VDOT P3 Office works closely with VDOT / DRPT and Affected Jurisdictions to facilitate public awareness, understanding, and support for P3 projects. Other responsibilities of the VDOT P3 Office include:

- *Project Identification and Screening* - The VDOT P3 Office screens and evaluates potential Qualifying Projects to determine whether or not to advance the potential project using the P3 delivery method. Further descriptions of VDOT P3 Office's role in the project identification, advancement and decision-making phase can be found in **Chapter 2**.
- *Developing and Procuring P3 Projects* - A VDOT P3 Office project manager works with all stakeholders to develop and procure P3 projects. A description of the project development and project procurement phases can be found in **Chapter 3 and 4**, respectively.

Responsible Public Entity (RPE) - According to the PPEA, the RPE is the legal entity that has the authority and power to develop and/or operate (§56-575.1) a Qualifying Project. The RPE has the responsibility and legal authority to make decisions on commercial and contractual terms related to P3 projects and to enter into contractual agreements. In this PPEA Manual and Guidelines the RPE is VDOT or DRPT.

Agency head – Subject to the oversight of other officials and entities provided by law, each agency's agency head has the responsibility and authority to make decisions on the P3 project delivery model,

including business and contractual terms related to the P3 projects. At VDOT, the agency head is the Commissioner of Highways; at DRPT, the agency head is the Director.

Affected Jurisdiction(s) - An Affected Jurisdiction is any county, city, or town in which all or a portion of a Qualifying Project is located (Va. Code § 56-575.1). It is important that Affected Jurisdictions are part of the process and have input in potential Qualifying Projects. Qualifying Projects should be compatible with the goals and objectives of the Affected Jurisdiction(s).

RPE Oversight Bodies – RPEs developing public use facility P3 projects may rely on direction from various Oversight Bodies. For example, the Commonwealth Transportation Board (CTB) oversees the Virginia Department of Transportation (VDOT) and the Virginia Department of Rail and Public Transportation (DRPT) as provided by law.

It is important that RPE Oversight Body(ies) are regularly informed regarding the status of a P3 project. The VDOT P3 Office keeps the CTB informed at major milestones as shown in **Figure 1.**

Appropriating Bodies - The Appropriating Body reviews financial studies and analyses related to a Qualifying Project; including but not limited to: a Cost-Benefit Analysis and an assessment of opportunity cost prior to execution of an Interim Agreement (IA) or Comprehensive Agreement (CA) (Va. Code § 56-575.3:1(B)). Transportation funds for VDOT and DRPT are appropriated through the Commonwealth's budget process.

Public-Private Partnership Advisory Commission – The Public-Private Partnership Advisory Commission (the Commission) advises RPEs that are agencies or institutions of the Commonwealth on financial impacts, policy aspects and general business terms and conditions for Proposals received pursuant to the PPEA.

As defined in the Virginia Code§ 30-279, the Commission shall consist of the following eleven members:

- Chair of the House Committee on Appropriations, or designee;
- four members of the House of Delegates appointed by the Speaker of the House
- Chair of the Senate Committee on Finance and Appropriations, or designee;
- two members of the Senate appointed by the Senate Committee on Rules; and
- three Secretaries as defined in § 2.2-200 to be appointed by the Governor to serve *ex officio.*

According to the Virginia Code § 30-280 each RPE receiving detailed Proposals from Private Entities for a Qualifying Project shall provide copies of such Proposals to the chairs of the Commission, the House Committee on Appropriations, the House Committee on Finance, the Senate Committee on Finance and Appropriations or their designees, and the Director of the Department of General Services for review and comment prior to the development of an IA or CA.

1.4 P3 Project Delivery Framework(Framework)

The Framework shown in **Figure 1** formalizes P3 project delivery for Qualifying Projects. It highlights the phases and decision points inherent in P3 project development for both Solicited Projects and Unsolicited Proposals. Further information on each phase of the P3 Framework is contained in each of the chapters of the PPEA Manual and Guidelines.

1.5 Public Engagement

Active public engagement is important to ensure transparency, accountability and the successful delivery of the Qualifying Project. There are numerous public engagement opportunities identified throughout the PPEA. The PPEA requires that a RPE make publicly available the guidelines that it has adopted (Va. Code § 56-575.3:1(A)). In addition, the PPEA Manual and Guidelines are available on the VDOT P3 Office website: p3.virginia.gov

For Unsolicited Proposals the PPEA requires, the advertising of a public notice in the Virginia Business Opportunities publication and posting on the Department of General Services' centralized electronic procurement website (eva.virginia.gov) (Va. Code § 56-575.3:1(B)(11)). The PPEA also addresses the posting of Proposals, public comment, and public access to procurement records (Va. Code § 56-575.17), as noted below.

VDOT / DRPT will post Proposals within 10 working days after acceptance of such Proposals. Posting, or a link to the Proposal documents, will be on the VDOT P3 Office website and the eva.virginia.gov website.

In addition to the posting requirements, at least one copy of the Proposals will be made available for public inspection. Trade secrets, financial records, or other records of the Private Entity eligible to be excluded from disclosure under the provisions of § 2.2-3705.6 (11) of the Code of Virginia will not be required to be posted, except as otherwise agreed to by VDOT / DRPT and the Private Entity.

VDOT / DRPT will also hold a public hearing on the Proposals during the Proposal review process, but not later than 30 calendar days prior to entering into an IA or CA (Va. Code § 56-575.17(B)).

Once the development of an IA or a CA is complete, but before it is executed, the VDOT / DRPT will make the proposed agreement available for public inspection.

Once an IA or a CA has been executed, VDOT / DRPT will make the procurement records available for public inspection.

1.6 Pre-Procurement Funding

The agency head and the VDOT P3 Office Director will establish a funding mechanism to advance the development of a Qualifying Project submitted through the required steps identified in the P3 Framework shown in **Figure 1**.

2 PROJECT IDENTIFICATION AND SCREENING PHASE



This chapter discusses the criteria for identification of Qualifying Projects. The chapter also outlines the two step process by which the VDOT P3 Office screens a Qualifying Project. The screenings assist VDOT / DRPT in making decisions about advancing the Qualifying Project to project development and potential procurement through the PPEA.

2.1 Project Identification

For a project to be identified for development under the PPEA it must first be considered for its suitability as a Qualifying Project. In terms of the PPEA, Qualifying Projects are defined as one or more of the following (Va. Code § 56-575.1):

i. any education facility, including, but not limited to a school building, any functionally related and subordinate facility and land to a school building (including any stadium or other facility primarily used for school events), and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education;

ii. any building or facility that meets a public purpose and is developed or operated by or for any Public Entity;

iii. any improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a Public Entity;

iv. utility and telecommunications and other communications infrastructure;

v. a recreational facility;

vi. technology infrastructure, services, and applications, including, but not limited to, telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods and services;

vii. any services designed to increase the productivity or efficiency of the Responsible Public Entity through the use of technology or other means;

viii. any technology, equipment, or infrastructure designed to deploy wireless broadband services to schools, businesses, or residential areas;

ix. any improvements necessary or desirable to any unimproved locally- or state-owned real estate; or

x. any solid waste management facility as defined in § 10.1-1400 that produces electric energy derived from solid waste.

In addition to determining if the project satisfies the criteria of a Qualifying Project, each project needs to be screened for applicability with the criteria listed below to ensure that the project is consistent with the purpose of the PPEA (Va. Code § 56-575.2):

1. There is a public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, or installation of education facilities, technology infrastructure and other public infrastructure and government facilities within the Commonwealth that serve a public need and purpose;

2. Such public need may not be wholly satisfied by existing methods of procurement in which Qualifying Projects are acquired, designed, constructed, improved, renovated, expanded, equipped, maintained, operated, implemented, or installed;

3. There are inadequate resources to develop new education facilities, technology infrastructure and other public infrastructure and government facilities for the benefit of citizens of the Commonwealth, and there is demonstrated evidence that public-private partnerships will meet these needs by improving the schedule for delivery, lowering the cost, and providing other benefits to the public;

4. Financial incentives exist under state and federal tax provisions that promote Public Entities to enter into partnerships with Private Entities to develop Qualifying Projects; and

5. Authorizing Private Entities to develop or operate one or more Qualifying Projects may result in the availability of such projects to the public in a more, timely, or less costly fashion, thereby serving the public safety, benefit, and welfare.

PPEA candidate projects are identified from two primary sources, either as Solicited Projects, or as Unsolicited Proposals. For Qualifying Projects, whether Solicited or Unsolicited, that are deemed in writing by the agency head to be a priority for the VDOT / DRPT, the P3 Office may develop an accelerated selection and review process and documentation timelines for development, procurement and implementation. (See Va. Code § 56-575.3:1(B)(4))

2.1.1 Solicited Projects

Any Solicited Project candidate for P3 consideration should meet P3 suitability criteria as outlined below in Section 2.2. The VDOT P3 Office will maintain a portfolio of candidate P3 projects and perform High-Level Screenings, as described below, to determine their feasibility.

2.1.2 Unsolicited Proposals

Unsolicited Proposals for a PPEA project are submitted to an RPE by a Private Entity. Private Entities interested in submitting an Unsolicited Proposal to VDOT may wish to coordinate with the VDOT P3 Office prior to submission. When ready, the Private Entity may submit the Unsolicited Proposal to the agency head at the below address. Private Entities must also notify each Affected Jurisdiction by furnishing a copy of the Unsolicited Proposal to each Affected Jurisdiction (See Va. Code § 56-575.6 and Appendix E).

Director of VDOT Public-Private Partnerships Office
Virginia Department of Transportation
1221 E. Broad St
Richmond, VA 23219

Private Entities may request approval of a potential Qualifying Project by submitting an Unsolicited Proposal. Any such request shall be accompanied by the following material and information (in accordance with Virginia Code § 56-575.4) unless waived by the RPE in coordination with the VDOT P3 Office:

1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the Qualifying Project;

2. A description of the Qualifying Project, including the conceptual design of such facility or facilities or a conceptual plan for the provision of services or technology infrastructure, and a schedule for the initiation of and completion of the Qualifying Project to include the proposed major responsibilities and timeline for activities to be performed by both the Public Entity and the Private Entity;

3. A statement setting forth the method by which the Private Entity proposes to secure necessary property interests required for the Qualifying Project;

4. Information relating to the current plans for development of facilities or technology infrastructure to be used by a Public Entity that is similar to the Qualifying Project being proposed by the Private Entity, if any, of each Affected Jurisdiction;

5. A list of all permits and approvals required for the Qualifying Project from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals;

6. A list of public utility facilities, if any, that will be crossed by the Qualifying Project and a statement of the plans of the Private Entity to accommodate such crossings;

7. A statement setting forth the Private Entity's general plans for financing the Qualifying Project including the sources of the Private Entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on the behalf of the Private Entity;

8. The names and addresses of the persons who may be contacted for further information concerning the request;

9. User Fees, lease payments, and other service payments over the term of the IA or CA and the methodology and circumstances for changes to such User Fees, Lease Payments, and other service payments over time;

10. Any additional material and information as VDOT / DRPT may reasonably request; and

11. Private Entities will also be required to submit an initial Cost-Benefit Analysis and Opportunity Cost Analysis (Va. Code § 56-575.3:1(B)(5)).

Using the information listed above, a Policy Review (see Section 2.2.2) of Unsolicited Proposals submitted will be performed to determine their feasibility.

2.1.2.1 Unsolicited Proposal Review Fee

Private Entities interested in submitting an Unsolicited Proposal are required to pay a non-negotiable Proposal Review Fee at the time of submitting the Unsolicited Proposal to VDOT / DRPT.

The Proposal Review Fee is $25,000.00 for all Unsolicited Proposals submitted with a total proposed and conceptual value of under $50M. For Unsolicited Proposals submitted with a total proposed and conceptual

value of $50M and greater, the Proposal Review Fee will be $50,000.00. Fees may be paid by certified check or money order made payable to the Treasurer of the Commonwealth.

The form and manner of the Proposal Review Fee payment submission shall be determined and specified by VDOT / DRPT. Proposers submitting multiple Proposals for unrelated P3 projects will be required to submit a Proposal Review Fee for each Unsolicited Proposal submission.

2.2 High-Level Screening and Policy Review

The project screening process within the Framework is designed to assist the VDOT / DRPT in determining the suitability of delivering projects under the PPEA and is a means of systematically and consistently applying evaluation criteria to Solicited Projects and Unsolicited Proposals.

Project screening is organized into two stages:

1. Solicited Projects will undergo a High-Level Screening and Unsolicited Proposals will undergo a Policy Review.

2. Those Solicited Projects and Unsolicited Proposals that are recommended to advance for further consideration will undergo a Detail-Level Screening.

The VDOT P3 Office Director will appoint a project manager for each project selected for screening. The project manager will work with representatives from other VDOT / DRPT divisions, as applicable, to conduct and document the screening results.

2.2.1 Solicited Projects: High Level Screening

In coordination with VDOT / DRPT, the VDOT P3 Office will conduct the High-Level Screening of Solicited Projects identified as candidates for P3 delivery.

Figure 2 depicts steps taken during the High-Level Screening**.**

Figure 2: High-Level Screening Process

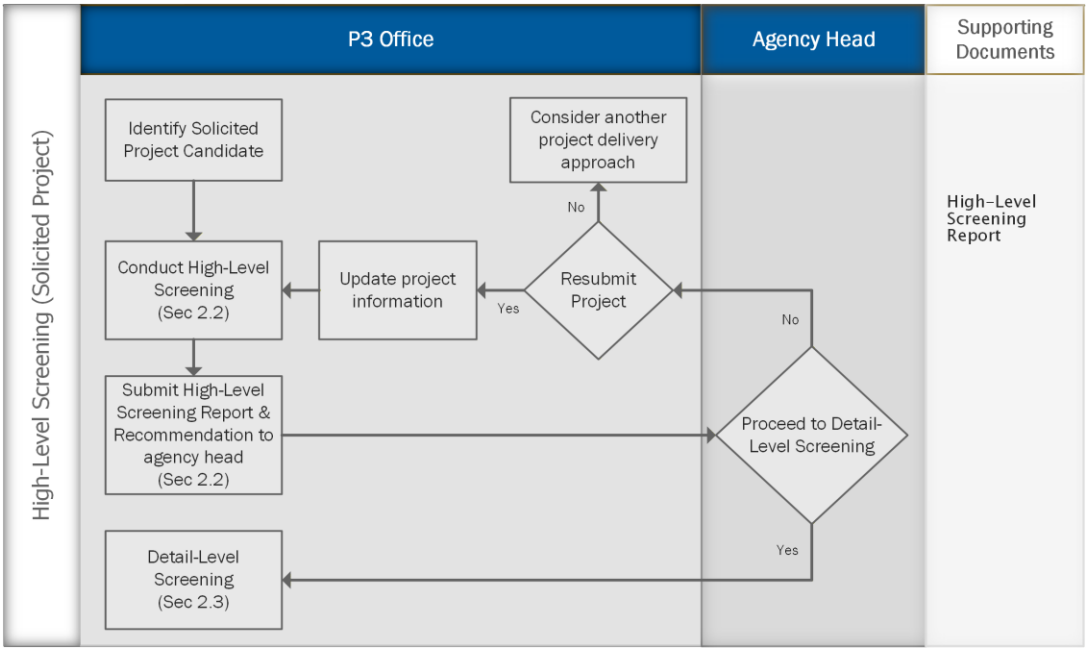


Table 1 below provides guidance for the High-Level Screening criteria intended to assess whether a project is a potential candidate P3 project.

Table 1: High-Level Screening Criteria for Solicited Projects

High-Level Screening Criteria	
Project Complexity	Is the project sufficiently complex in terms of technical and/or financial requirements to effectively leverage private sector innovation and expertise?
Accelerating Project Development	If the required public funding is not currently available for the project, could using a P3 delivery method accelerate project delivery?
Education, Technology, Public Infrastructure and Government Facility Priorities	Is the project consistent with the overall objectives and missions of the Commonwealth and/or the VDOT / DRPT? Does the project adequately address education infrastructure, technology infrastructure or public infrastructure and government facility needs? Are any mandatory source requirements applicable to the project, and if so, are these requirements adequately addressed? Examples include: • *Virginia Correctional Enterprises (VCE). Section 53.1-47 of the Code of Virginia provides that goods and services produced or manufactured by state correctional facilities must be purchased by state agencies.* • *Virginia Information Technologies Agency (VITA) – VITA approval is required for the purchase of information technology. See Va. Code § 2.2-2012.*
Project Efficiencies	Would the P3 delivery method provide efficiencies over the project lifecycle? Is there an opportunity to provide economies of scale, or achieve efficiencies through the inclusion of long-term operations and maintenance functions?
Ability to Transfer Risk	Would the P3 delivery method provide optimal transfer of project risks and potential future responsibilities to the private sector either on a short-term basis or a long-term basis?
Funding Requirement	Does the project have any revenue generation potential to offset any public funding requirement, if necessary? Could VDOT / DRPT pay for the project over time, such as through an availability payment, or bridge financing as opposed to paying for the entire cost upfront?
Ability to Raise Capital	Would delivering the project under the PPEA help free up capital from other sources for other priorities within the Commonwealth or for the VDOT / DRPT? Is the project consistent with federal requirements and potential agreements for federal funding and/or approval for P3 projects, if required?
Nonfinancial Considerations	Considerations of the nonfinancial benefits of a proposed Qualifying Project

The VDOT P3 Office will rely on these High-Level Screening criteria to initially assess the suitability of candidate projects for P3 delivery and to determine which projects should advance to a Detail-Level Screening. The VDOT / DRPT may amend these High-Level Screening criteria to address unique aspects of each candidate project.

Within 10 calendar days of completing the High-Level Screening, the VDOT P3 Office Director will submit a recommendation to the agency head as to whether a given candidate project should advance to the Detail-Level Screening process. The agency head will then make the final determination.

2.2.2 Unsolicited Proposals: Policy Review

Private Entities may submit Unsolicited Proposals to VDOT / DRPT at any time pursuant to the PPEA and this PPEA Manual and Guidelines. Private Entities should note the requirements with respect to submission of Unsolicited Proposals are described in Section 2.1.2.

Within 30 calendar days of receiving an Unsolicited Proposal from a Private Entity, the VDOT P3 Office will perform a Policy Review and brief evaluation of the concept and benefits to ensure the Unsolicited Proposal is in accordance with the Code of Virginia, this PPEA Manual and Guidelines and is consistent with the PPEA's intent and policy objectives. The findings of the evaluation and the VDOT P3 Office's recommendation's will be documented in a Policy Review Report, which will be submitted by the VDOT P3 Office Director to the agency head.

Figure 3 below represents the steps to be taken during the Policy Review process.

Figure 3: Policy Review Process

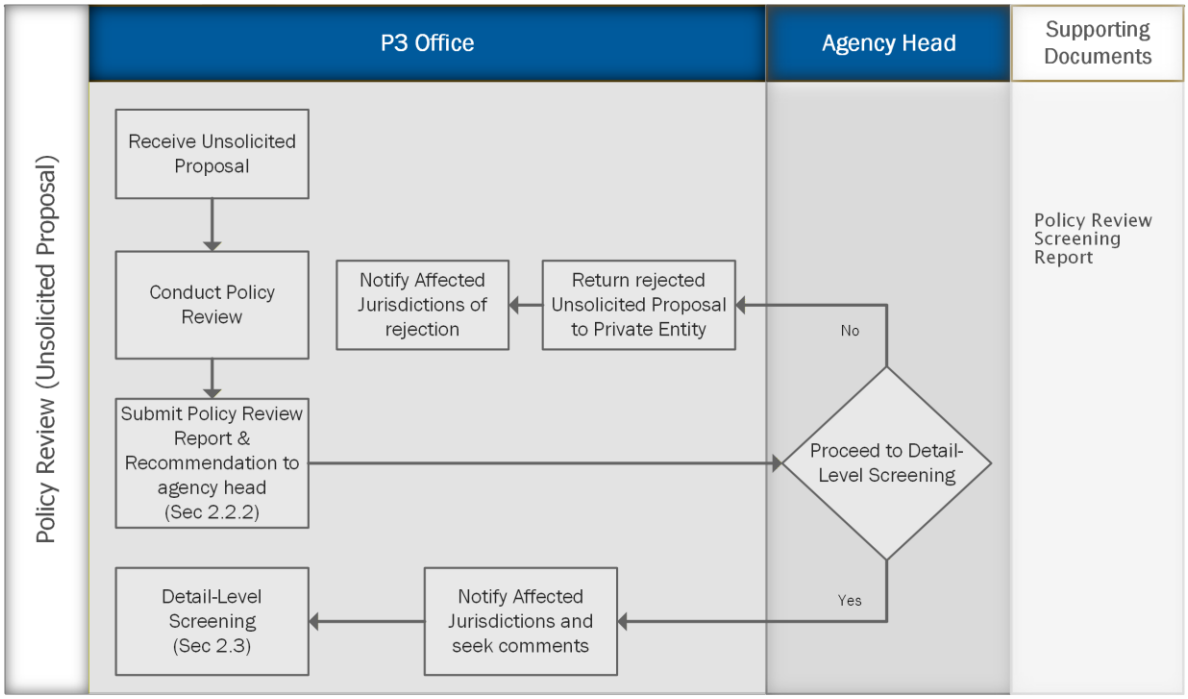


Table 2 provides guidance for the Policy Review criteria intended to assess whether an Unsolicited Proposal is a potential candidate P3 project.

Table 2: Policy Review Criteria for Unsolicited Proposals

Policy Review Criteria	
Policy Objectives	The Unsolicited Proposal conforms to the policy objectives and intent of the PPEA.
Timely Development	The Unsolicited Proposal satisfies a public need for timely development and operation of a Qualifying Project.
Demonstrated Need	The Unsolicited Proposal addresses a demonstrated need as identified by a state, regional, and/or local agency, or capital improvement plans.
Interface with Existing/Planned Systems	The Unsolicited Proposal interfaces with existing and planned systems.
Potential for Market Interest	The Unsolicited Proposal has the potential to generate market interest from other private sector entities.
Project Efficiencies	The Unsolicited Proposal would make the Qualifying Project available to the public in a more efficient and less costly fashion as compared to the traditional procurement method
Nonfinancial Considerations	Considerations of the nonfinancial benefits of a proposed Qualifying Project
Funding Requirement	The Unsolicited Proposal is consistent with federal requirements and potential agreements for federal funding and/or approval for P3 projects if required
Not on List of Solicited Projects	The Unsolicited Proposal is not currently on the list of proposed Solicited Projects.
Proposal Completeness	Does the Proposal contain the minimum required material and information listed in Va Code §56-575.4A?
Cost Benefit Analysis and Opportunity Cost Analysis Review	Does the Cost Benefit Analysis and Opportunity Cost Analysis submitted indicate a positive benefit to cost ratio and a favorable opportunity cost scenario? Are the assumptions used to generate the Cost Benefit Analysis and Opportunity Cost Analysis reasonable?

Within 10 calendar days of completing the Policy Review, the VDOT P3 Office will submit a Policy Review Report containing a recommendation to the agency head as to whether the Unsolicited Proposal meets the policy requirements and is compliant with applicable laws and this PPEA Manual and Guidelines. The agency head will then make the final determination as to whether the Unsolicited Proposal should advance to the Detail-Level Screening review.

If the VDOT P3 Office recommends that the Unsolicited Proposal does not meet the PPEA requirements and Policy Review criteria, or if the Unsolicited Proposal pertains to a project for which VDOT / DRPT plans to issue a solicitation, VDOT / DRPT may decide to return the Unsolicited Proposal and any unused portion of the Proposal Review Fee to the Private Entity that submitted it. The VDOT P3 Office Director will notify the Affected Jurisdiction(s) of the decision to reject the Unsolicited Proposal.

If the Unsolicited Proposal passes the Policy Review, the VDOT P3 Office Director may notify the Affected Jurisdiction(s) of the decision to proceed to the Detail-Level Screening and include a written request for

comments An Affected Jurisdiction is required by the PPEA to submit in writing any comments regarding the proposed project to VDOT / DRPT within 60 calendar days from the date of notification from the Private Entity regarding an Unsolicited Proposal.

2.3 Detail-Level Screening Process

The Detail-Level Screening criteria, found in Appendix F (Guidance on Detail-Level Screening Criteria) shall form the basis upon which the VDOT P3 Office determines the desirability and feasibility of delivering Qualifying Projects utilizing the P3 delivery method.

The VDOT P3 Office intends to evaluate Solicited Projects and Unsolicited Proposals against the same criteria wherever possible; however, due to differences in project characteristics across Qualifying Projects, screening criteria may be modified accordingly.

The steps to be taken for both Solicited Projects and Unsolicited Proposals through the Detail-Level Screening phase are summarized in the discussion below.

The VDOT P3 Office will conduct a Detail-Level Screening for Solicited Projects advancing through the High-Level Screening and Unsolicited Proposals advancing through the Policy Review. As part of the Detail-Level Screening, the VDOT P3 Office will assess each Solicited Project and Unsolicited Proposal for its feasibility as a P3 project. The VDOT P3 Office will capture the output of the Detail-Level Screening and summarize the results in a Detail-Level Screening Report for each Solicited Project or Unsolicited Proposal evaluated. The final report and recommendation will be presented by the VDOT P3 Office Director to the agency head. The agency head will either continue to advance the Solicited Project or Unsolicited Proposal or will withdraw it from further advancement. Withdrawn Solicited Projects may be re-submitted for consideration as a P3 project at a later date or implemented through traditional planning and procurement. Rejected Unsolicited Proposals are returned to the Proposer along with any remainder of the Proposal Review Fee. The VDOT P3 Office may notify the Affected Jurisdiction in writing of the agency head's decision.

2.4 Report to RPE Oversight Body

The VDOT P3 Office Director and the agency head will present a Project Fact Sheet (identification and screening phase) to the CTB and brief them on the results of the Detail-Level Screening Report and the planned duration of the P3 development and procurement at the next available scheduled public meeting of the CTB. An estimated budget to complete the project development activities will also be presented.

Once the Unsolicited Proposal is accepted in writing by the agency head, a notice of the Proposal's acceptance is posted within 10 working days (Va. Code § 56-575.17). Section 2.6 below elaborates on the posting of public notices for both Solicited Projects and Unsolicited Proposals.

For Unsolicited Proposals, VDOT / DRPT will provide notice of the agency's decision to move forward to the Private Entity and each Affected Jurisdiction identified in the Unsolicited Proposal.

The Project Fact Sheet developed in the identification and screening phase will be posted on the VDOT P3 Office website (https://p3.virginia.gov/) for public awareness and feedback.

Figure 4 below represents the steps to be taken during the Detail-Level Screening process for Solicited Projects:

Figure 4: Detail-Level Screening Process – Solicited Projects

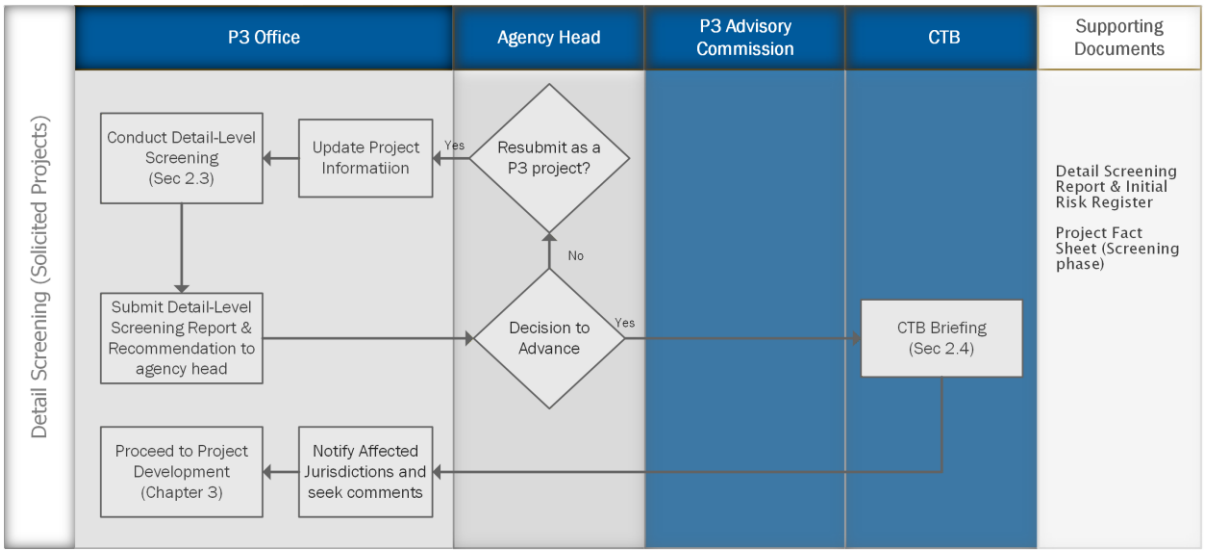
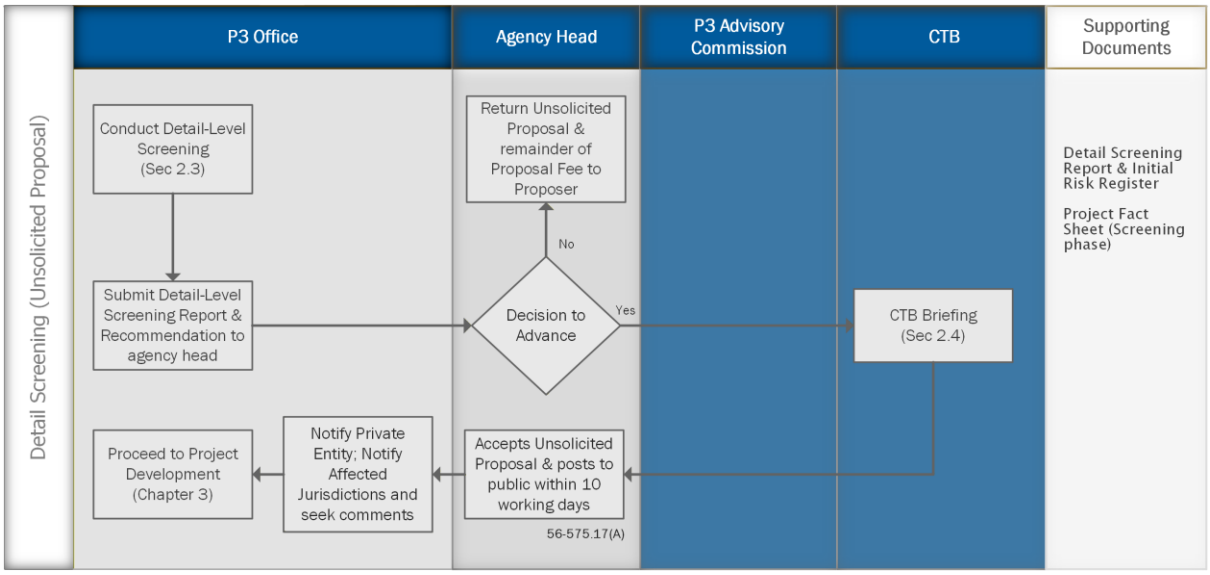


Figure 5 represents the steps to be taken during the Detail-Level Screening process for Unsolicited Proposals:

Figure 5: Detail-Level Screening Process – Unsolicited Proposals



2.5 Risk Assessment

As part of the Detail-Level Screening desirability and feasibility analysis, the VDOT P3 Office will convene an initial risk assessment exercise to identify and assess risks specific to the development of the project. This will typically take the form of a risk workshop where a risk register for the project is created. The risk register is a tool to capture risk information, consequences to scope, schedule, and cost, responses, and potential risk allocations. Other risk assessment approaches may be acceptable. Risks identified during this phase will be updated and refined as the project moves through subsequent phases of the Framework.

2.6 Public Notice for Solicited Projects and Unsolicited Proposals

The PPEA requires that the PPEA Guidelines include opportunities for competition through public notice and availability of representatives of the RPE to meet with Private Entities considering a proposal (Va. Code § 56-575.3:1(B)(1)). Representatives of the VDOT P3 Office are available throughout the process to meet with Private Entities including prior to submission of an Unsolicited Proposal (See Section 2.1.2) and after the draft RFP is posted (See Section 4.2.4).

In accordance with the afore-mentioned public notice requirement and with additional posting requirements of the PPEA (Va. Code § 56-575.17), Unsolicited Proposals will be posted by the VDOT P3 Office within 10 working days after having been accepted by the agency head. Responses to Solicited Projects will also be posted within 10 working days of acceptance by the agency head. Posting shall be on the Department of General Services centralized electronic procurement website and the VDOT P3 Office website: https://.P3.virginia.gov.

Public notice for an Unsolicited Proposal will also be completed in accordance with the PPEA (Va. Code § 56-575.3:1(B)(11), in that the posting and publishing of the public notice of a Private Entity's request for approval of an Unsolicited Proposal for a Qualifying Project will include the following:

- specific information and documentation to be released regarding the nature, timing, and scope of the Qualifying Project and information on the process and reasonable selection criteria to allow other Private Entities to respond with a competing Proposal;

- a reasonable time period as determined by the RPE to encourage competition and public-private partnerships in accordance with the objectives of the PPEA, such reasonable period will not be less than 45 calendar days, during which time VDOT / DRPT shall receive competing Proposals; and

- Advertisement of a public notice in the Virginia Business Opportunities publication and on the Commonwealth's electronic procurement website.

2.7 Key Action Items

Table 3: Key Action Items for High-Level Screening during Project Identification and Screening Phase

Project Identification and Screening Activity	Responsible Entity	Targeted Timeframe
High-Level Screening for Solicited Projects		
Initiate a Solicited Project	VDOT / DRPT	As appropriate
Produce High-Level Screening Report	VDOT P3 Office with District/Division assistance, as applicable	Within 30 calendar days of project identification
Submit High-Level Screening Report to agency head	VDOT P3 Office	Within 10 calendar days of completing the High-Level Screening Report
Agency head decision to proceed to Detail-Level Screening	Agency head	Within 10 calendar days of receiving a completed High-Level Screening Report

Table 4: Key Action Items for Policy Review during Project Identification and Screening Phase

Project Identification and Screening Activity	Responsible Entity	Targeted Timeframe
Policy Review for Unsolicited Proposals		
Submit Unsolicited Proposal to VDOT P3 Office and Notify Affected Jurisdiction (§56-575.6.A)	Private Entity	At any time
Produce Policy Review Report	VDOT P3 Office	Within 30 calendar days of receiving a copy of the Unsolicited Proposal from the Private Entity
Submit Policy Review Report to agency head	VDOT P3 Office	Within 10 calendar days of completing the Project Screening Report

Project Identification and Screening Activity	Responsible Entity	Targeted Timeframe
Agency head's decision to proceed to Detail-Level Screening	Agency head	Within 10 calendar days of receiving a completed Project Screening Report
Notify Affected Jurisdiction(s) of decision to proceed to Detail-Level Screening and seek comments or the decision to reject and return the Unsolicited Proposal	VDOT P3 Office	Within 10 calendar days of agency head's decision to proceed to Detail-Level Screening
Provide comments on Unsolicited Proposal	Affected Jurisdiction(s)	Within 60 calendar days from the date of notification by the Private Entity

Table 5: Key Action Items for Detail-Level Screening for Solicited Projects and Unsolicited Proposals during Project Identification and Screening Phase

Project Identification and Screening Activity	Responsible Entity	Targeted Timeframe
Detail – Level Screening for Solicited Projects and Unsolicited Proposals		
Conduct a Detail-Level Screening of Solicited Projects and Unsolicited Proposals	VDOT P3 Office	As appropriate
Prepare Project Fact Sheet and brief the CTB on the findings, the Project Fact Sheet and recommendation of Detail-Level Screening, and project development budget	VDOT P3 Office Director / agency head	At the next scheduled and available CTB meeting after agency head's decision - to advance the project to the project development phase
Post notification of accepted Unsolicited Proposal	VDOT P3 Office Director / agency head	Within 10 calendar days of agency head's acceptance of the Unsolicited Proposal (Va. Code § 56-575.17.A)

3 PROJECT DEVELOPMENT



This chapter describes the project development phase and related activities for P3 projects that are determined as Qualifying Projects and accepted by the VDOT / DRPT for development under the PPEA.

3.1 Project Development Process

In coordination with the VDOT / DRPT and with assistance from external advisors as necessary, the VDOT P3 Office project manager is responsible for getting the project ready for procurement. The VDOT P3 Office Director is responsible for maintaining appropriate coordination with other Agencies, elected officials and the CTB throughout the project development phase and for providing, as appropriate, project information such as budget, scope, and schedule, to the agency head.

The VDOT P3 Office's efforts will include, but not be limited to, developing the elements shown in **Table 6**.

Table 6: Examples of Key Tasks during the Project Development Phase

Key tasks undertaken during the project development phase, depending on the characteristics of the project.
▪ Further defining project scope, cost and schedule
▪ Determining compliance with environmental requirements
▪ Determining technical feasibility and operations and maintenance evaluations
▪ Determining the adequacy of the information to be included in the Proposals
▪ Submitting grant and funding applications, as required
▪ Performing public outreach
▪ Defining an approach to risk assessment
▪ Performing a Cost-Benefit Analysis and Opportunity Cost Analysis (Solicited Projects) or reviewing the Cost-Benefit and Opportunity Cost Analyses provided by the Private Entity (Unsolicited Proposals)
▪ Determining the optimal financial structure
▪ Soliciting information from private sector through Request for Information

At the discretion of the VDOT P3 Office and the agency head, a Request for Information (RFI) may be issued to obtain additional information and comment from the private sector and other interested stakeholders. Public briefings may also be arranged to further discuss elements of the project under consideration and include, or identify stakeholders for engagement, consultation and support. These forums offer opportunities for public comments and private sector input which improve or refine the scope of the project being developed.

3.2 Cost Benefit and Opportunity Cost Analyses

For Solicited Projects, once the project development work has reached a level to support initial Cost Benefit and Opportunity Cost analyses, the VDOT P3 Office will arrange for these analyses to be performed to provide both quantitative and qualitative information to VDOT / DRPT. Under this guideline document Unsolicited Proposals are required have an initial Cost Benefit Analysis provided at the time of submittal. The initial Cost Benefit Analysis will compare the total expected cost of a project against the total expected benefits, to see whether the benefits outweigh the costs, and by how much. The initial Opportunity Cost Analysis will evaluate potential returns on different investment options to determine the best use of limited public resources.

The output from these analytical tools allows the VDOT P3 Office and the agency head to determine a quantitative comparison in expended cost to benefits gained by continuing to invest in a project as a P3. VDOT P3 Office may undertake additional analyses and studies that may be considered in evaluating a potential Qualifying Project.

The CTB will be briefed on the results of the initial Cost Benefit and Opportunity Cost analyses before the project is advanced to the procurement phase.

The appropriate Cost Benefit and Opportunity Cost analyses methodologies will vary across Qualifying Projects.

3.3 Declaration of Public Purpose

During the project development phase, the VDOT P3 Office, in coordination with VDOT / DPRT, will prepare an Initial Declaration of Public Purpose (Initial DPP) document.

The Initial DPP will describe the scope and nature of the project; identify any risks to the project that have a high level of probability and/or potential costs; and identify any anticipated benefits to the Commonwealth and/or VDOT / DRPT related to the development and/or operation of the project in accordance with the PPEA (Va. Code § 56.575.1 et sec). In addition, the Initial DPP will include all relevant analyses and information supporting the use of a P3 delivery method with a statement that the agency head has a clear understanding regarding the elements included in the Initial DPP.

Once complete, the Initial DPP will be signed by the agency head and the Secretary of Transportation. The Initial DPP provides an affirmation that the P3 delivery method serves the public purpose of facilitating the timely development or operation a Qualifying Project.

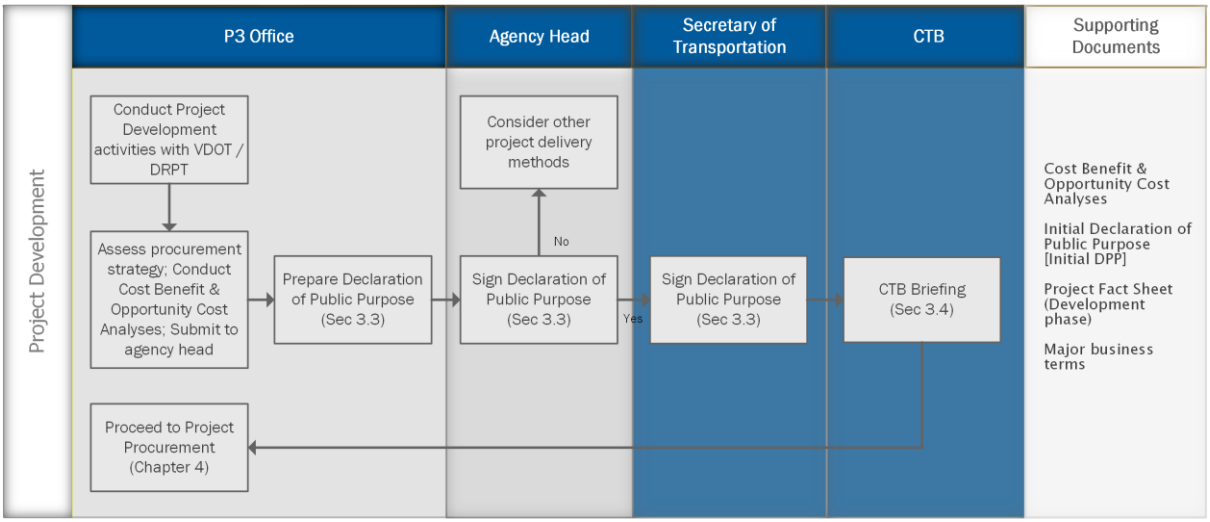
3.4 Report to RPE Oversight Body

At the conclusion of the P3 project development phase, the VDOT P3 Office Director and the agency head will present a Project Fact Sheet (development phase) to the CTB. The Project Fact Sheet will provide information on studies and activities such as: salient points emerging from an RFI process (if used); a preliminary schedule for project delivery; preliminary procurement documents; activities related to risk management for the project; Cost Benefit and Opportunity Cost analyses; preliminary estimation of the project cost; an initial estimate of the public subsidy for the project; any potential economic benefits, and the preliminary business points. The VDOT P3 Office Director and agency head will also present the Initial DPP signed by the Secretary of Transportation.

The Project Fact Sheet (development phase) is posted on the VDOT P3 Office website (www.P3.virginia.gov) for public awareness and feedback.

Figure 6 represents the steps during the project development process for P3 projects.

Figure 6: Project Development Process



3.5 Risk Assessment

During the project development phase, the VDOT P3 Office will convene and participate in a risk workshop to review the project risks previously identified in the Detail-Level Screening and identify any additional risks that may have become known as part of the project development phase. At this phase in the Framework a quantitative assessment of all identified risks is carried out; including appropriate risk assessment, risk response/treatment, preferred risk allocation and the commencement of a risk management plan.

3.6 Key Action Items

Table 7: Key Action Items for Project Development Phase

Project Development Activity	Responsibility	Targeted Timeframe
Perform project development activities (e.g., geotechnical testing, environmental, preliminary engineering, risk analysis, etc.)	VDOT / DRPT with assistance from the VDOT P3 Office project manager	Determined by project specific scope
Conduct Cost Benefit and Opportunity Cost Analyses (Solicted Projects) or Affirm the Analyses provided by the Private Entity (Unsolicited Proposals)	VDOT P3 Office	Determined by project specific scope
Update project risks and identify new project risks	VDOT P3 Office	Continuous through project development phase
Report to CTB	VDOT P3 Office Director / agency head	Determined by completion of project development activities

4 PROJECT PROCUREMENT



This chapter describes the procurement phase and provides guidance on related activities for projects that are determined to be Qualifying Projects and have been accepted by VDOT / DRPT for implementation under the PPEA. There are two ways to structure the procurement for a Qualifying Project: using a single-stage procurement, or a two-stage procurement. While the discussion below focuses on a two-stage P3 procurement, it may be more beneficial in certain cases (i.e. for less complex P3 projects) to use a single-stage procurement. For instance a single-stage procurement may be selected if it is determined that doing so is in the best interest of the Commonwealth. In either case, the VDOT P3 Office in coordination with VDOT / DPRT is responsible for leading the procurement process. Also in either case, the original Proposer of an Unsolicited Proposal may need to submit new documentation to the VDOT P3 Office in response to the requests issued during procurement.

4.1 Single-Stage PPEA Procurement Process

The single-stage procurement process requires Proposers to submit project specific information regarding qualifications and experience with their response to Request for Proposals (RFP). The Offeror's experience and qualifications are evaluated first; against project specific criteria. Based on the results of this evaluation, technical criteria related to the Qualifying Project are then evaluated and a determination is made regarding the selection of the best Proposal.

4.2 Two-Stage PPEA Procurement Process

The two-stage procurement process consists of issuing a Request for Qualifications (RFQ) and then a Request for Proposals (RFP).

The VDOT P3 Office serves as the primary point of contact for P3 procurements, in consultation with VDOT / DPRT and the Office of the Attorney General (OAG). The VDOT P3 Office will conduct a consistent, transparent and well-defined procurement process and will ensure that the process is administered in accordance with applicable law.

4.2.1 REQUEST FOR QUALIFICATIONS (RFQ)

The VDOT P3 Office initiates the first stage of the P3 procurement process by issuing the RFQ. The primary objective of the RFQ is to receive Statements of Qualifications (SOQ) to define a pool of qualified, potential Proposers for the project.

4.2.2 STATEMENT OF QUALIFICATIONS EVALUATION

The RFQ documents will specify the evaluation criteria and the methodology used to evaluate such criteria so that Proposers will know how their SOQs will be evaluated.

RFQ documents will be posted on the Department of General Services central procurement website (www.eva.virginia.gov), and the VDOT P3 Office website (www.P3.virginia.gov). These documents shall (1) provide for a minimum of 60-days to allow for competitive procurement and (2) include information

regarding the scope, nature and timing of development and/or operation of the proposed project. The public will have the opportunity to provide comments on a continuous basis by making use of the VDOT P3 Office website (www.P3.virginia.gov).

4.2.3 SHORT-LISTING OF QUALIFIED PROPOSERS

The VDOT P3 Office is responsible for reviewing, scoring, and ranking all responsive SOQs. Upon completion of the SOQ evaluation process, the VDOT / DRPT will make a recommendation to the agency head regarding which Proposers should advance to the RFP stage. Proposers that are confirmed by the agency head will be short-listed to advance to the RFP stage. While the agency head will make the final decision, it is expected that no more than four Proposers will be short-listed to 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.

Electronic copies of the public information included in the SOQs submitted by all Proposers will be posted on the VDOT P3 Office website (www.P3.virginia.gov) within 10 calendar days of the agency head's decision on which Proposers will advance to the RFP stage.

The VDOT P3 Office will notify all Proposers in writing whether they have been short-listed. Additionally, the VDOT P3 Office will inform other state and federal Agencies, Affected Jurisdictions, and stakeholders, as applicable.

If after the competitive response period there are no Proposers that submit SOQs for a particular RFQ, the VDOT P3 Office Director, in consultation with the agency head will seek information from private industry, through a meeting or other appropriate communications, to determine why the market was not more responsive to the RFQ. The scope may be modified taking into account the feedback from the private sector.

If VDOT / DRPT receives a single responsive submittal to its RFQ, then the VDOT P3 Office will conduct an evaluation and market assessment to determine if the responsive submittal brings benefit to the Commonwealth and/or VDOT / DRPT, or if the proposed procurement should be terminated. If it is found that the submittal does not bring value to the Commonwealth and/or VDOT / DRPT, the VDOT P3 Office may reissue a modified RFQ or re-procure the project at a later date after briefing the CTB to advance a modified procurement. Under these circumstances, VDOT / DRPT will make a presentation of its determination and why the modified procurement will be more competitive to the CTB. This presentation will be at a regularly scheduled meeting open to the public.

4.2.4 REQUEST FOR PROPOSALS (RFP)

Upon the determination of short-listed Proposers the RFP process begins. The RFP process optimizes competition among a short-listed group of qualified Proposers.

The VDOT P3 Office may choose to issue the RFP documents in draft format to short-listed Proposers and hold proprietary one-on-one meetings to solicit feedback on the proposed draft RFP including a draft CA. Once consideration has been given to the Proposer's feedback, the VDOT P3 Office will issue the final RFP documents to the short-listed Proposers. The VDOT P3 Office and other appropriate personnel comprising an Evaluation Team, will evaluate responses to the RFP from short-listed Proposers based on criteria defined in the RFP. The VDOT P3 Office reserves the right to run a Best and Final Offer (BAFO) process with the short-listed Proposers (see Appendix I for more details on the use of the BAFO process).

If after the competitive response period, VDOT / DRPT receives a single responsive submittal to its RFP, VDOT / DRPT will conduct a full benefit assessment of the Proposal received to determine if the responsive submittal brings benefit to the Commonwealth and/or VDOT / DRPT. The benefit assessment will include,

at a minimum, an assessment of risk allocations and the Cost Benefit and Opportunity Cost Analyses described in Section 4.5. Once these assessments have been completed, the VDOT / DRPT will make a presentation to the CTB regarding VDOT / DRPT's decision to accept the responsive Proposal or terminate the procurement. The VDOT / DRPT's presentation to CTB will be at a meeting which is open to the public.

Decisions related to payment of a stipend for the development and submittal of an RFP by responsive Short-Listed Proposers will be made by the agency head on a project specific basis and detailed in the RFP.

4.2.5 Interim Agreement (IA)

The PPEA (§ 56.-575.9:1. of the Code of Virginia) allows an RPE to enter into an IA with a Private Entity or multiple Private Entities if the RPE determines in writing that it is in the public interest to do so.

In certain circumstances the agency head in consultation with the VDOT P3 Office Director, may choose to enter into an IA with the Private Entities proposing the development and/or operation of a Qualifying Project prior to and in connection with the finalization of a CA. All proposed IAs will be reviewed by the Commission and the CTB prior to execution.

4.3 Report to the Commission

An RPE receiving detailed Proposals from Private Entities for a Qualifying Project will provide copies of the Proposals to the Commission and Director of General Services for review and comment (per Virginia Code § 30-280(A)).

The following Qualifying Projects shall not be subject to review by the Commission (per Virginia Code § 30-280(B)):

1. Any proposed Qualifying Project with a total cost of less than $3 million; or

2. Any proposed Qualifying Project with a total cost of more than $3 million but less than $50 million for which funds have been specifically appropriated as a public-private partnership in the general appropriation act or capital construction projects that have been authorized in the appropriation act, provided such project does not increase in size more than five percent beyond the plans and justifications that were the basis of the appropriation. For any Qualifying Project that will be completed in phases and for which no appropriation has been made for phases other than the current phase of the project, the Commission may undertake additional reviews of such projects.

Accordingly, within 10 calendar days of receipt of a complete copy of the Proposals for a Qualifying Project, the Commission will determine whether to accept or decline such Proposals for review and notify VDOT / DRPT of its decision (§ 30-280(C)). If the Commission accepts a Proposal for review, the findings and recommendations of the Commission shall be provided to VDOT / DRPT within 45 calendar days of receiving complete copies of the Proposals. If no findings or recommendations are provided by the Commission to the VDOT / DRPTwithin the 45-day period, the Commission shall be deemed to have no findings or recommendations. Upon acceptance for review, VDOT / DRPT shall provide any additional information regarding the Qualifying Project upon the request of the Commission, provided such information is available or can be obtained by VDOT / DRPT.

The Commission will review accepted Proposals and provide findings and recommendations including:

- Whether the terms and conditions of the Proposals and proposed Qualifying Project create state tax-supported debt taking into consideration the specific findings of the Secretary of Finance with respect to such recommendation;

- An analysis of the potential financial impact of the Qualifying Project;
- A review of the policy aspects of the Proposals and the Qualifying Project; and
- Proposed general business terms and conditions.

Review by the Commission will not be construed to constitute approval of any appropriations necessary to implement any subsequent IA or CA (§ 30-280(D)). The VDOT / DRPT will not commence negotiation of an IA or CA until the Commission has submitted its findings and recommendations or the time has expired for the Commission to do so.

4.4 Basis for Award and Selection of Preferred Proposer

After the Commission has had the opportunity to review the Proposals and proposed IA or CA as described above in Section 4.2, the VDOT P3 Office will inform the Preferred Proposer that it has been selected. Pursuant to § 56-575.17(B) of the Code of Virginia, 30 calendar days prior to entering into an IA or CA, a public hearing will be held for public comment on the Proposals. The VDOT P3 Office also provides opportunities for public comment on the project and Proposals on a continuous basis by making use of the VDOT P3 Office and/or project website. The RFP, including the proposed CA will be posted to the VDOT P3 Office and/or project website. The VDOT P3 Office will notify all other Proposers in writing regarding the agency head's decision to award the project to the Preferred Proposer. The VDOT / DRPT will also provide a briefing to the CTB as noted in Section 4.9. Appropriate members of the General Assembly and other previously identified stakeholders will also be notified and briefed upon request.

4.5 Competition: Significant Scope Change Policy

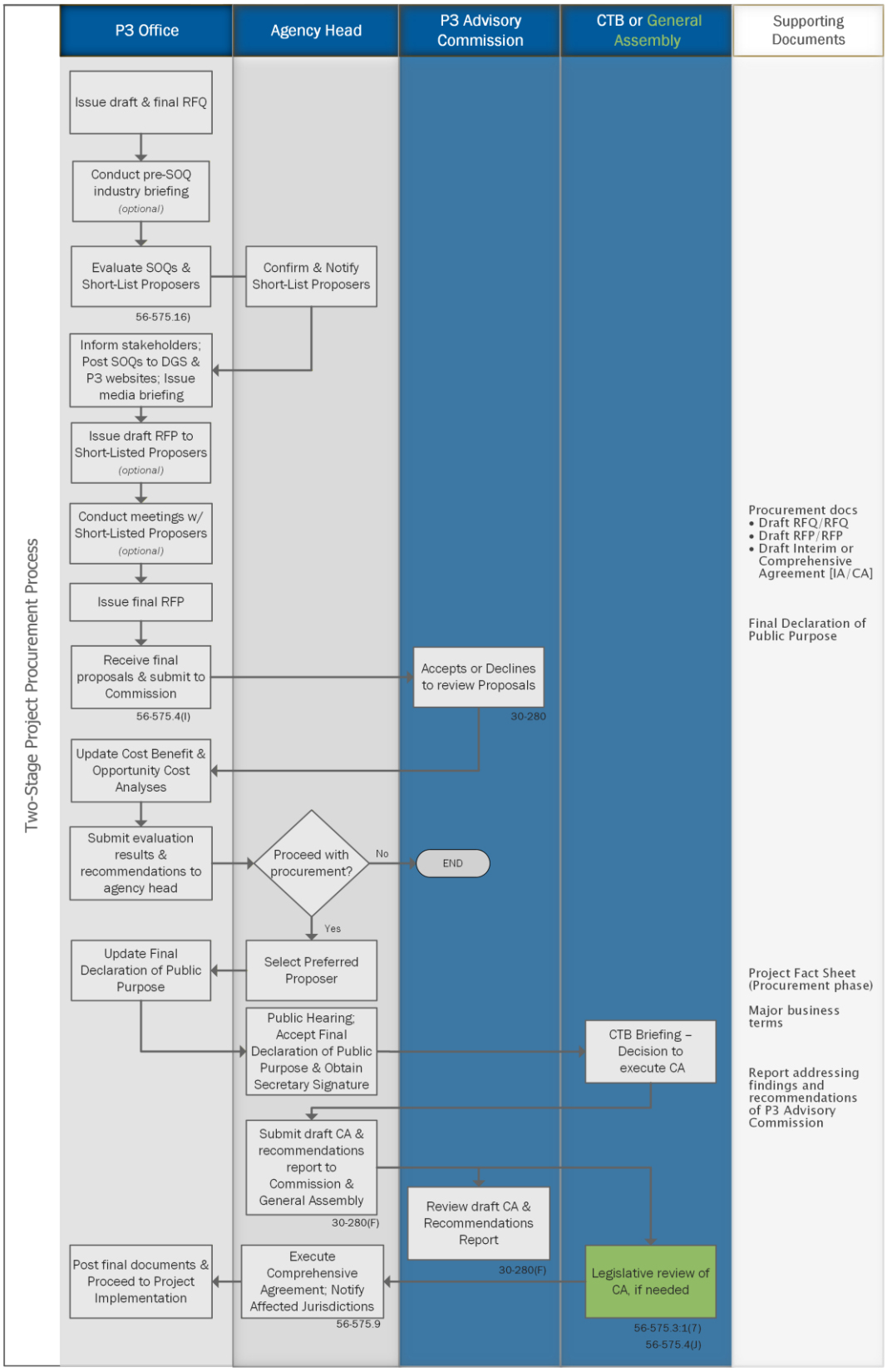
In an effort to enhance competition of the Qualifying Project, VDOT / DRPT will conduct an assessment to identify any significant scope changes. If the VDOT / DRPT, during the procurement of a P3 project, modifies the procurement documents in such a manner as to materially change the scope or alter the proposed delivery method, then the VDOT / DRPT shall conduct full Cost Benefit and Opportunity Cost Analyses of the current and proposed procurements. Once the Cost Benefit and Opportunity Cost Analyses have been completed, the VDOT / DRPT will make a presentation to the CTB to present the Cost Benefit and Opportunity Cost Analyses, reasons for the scope changes, and the VDOT / DRPT's decision to continue the procurement with the proposed material changes or terminate the procurement. The VDOT / DRPT's presentation to the CTB will be at a meeting which is open to the public.

4.6 Revisited Cost Benefit and Opportunity Cost Analysis

Prior to recommending the selection of the Preferred Proposer to the CTB, the VDOT P3 Office will revisit the Cost Benefit and Opportunity Cost Analyses and update them accordingly, taking into account any additional project information that has become available since the initial Cost Benefit and Opportunity Cost Analyses (as described in Section 3.2) were performed. The agency head will consider the recommendation of the VDOT P3 Office, the evaluation criteria and the results of the Cost Benefit and Opportunity Cost Analyses when selecting a Preferred Proposer. The results are provided in the briefing given by the VDOT P3 Office Director and the agency head to the CTB.

Figure 7 represents the two-stage PPEA procurement process.

Figure 7: Two-Stage PPEA procurement



4.7 Risk Management

During the project procurement phase, the VDOT P3 Office will convene and participate in a risk workshop to refresh the risk register, confirm the project risk allocation and update the risk management plan. The VDOT P3 Office Director certifies the risk management plan and the agency head endorses the final risk management plan for application during the implementation stages of the project.

4.8 Final Declaration of Public Purpose

During the project procurement phase, the VDOT P3 Office will prepare a Final Declaration of Public Purpose (Final DPP) document for the signature of the agency head and the Secretary of Transportation. This is a reaffirmation that the P3 delivery method is consistent with the intent of the Initial DPP and continues to bring benefit and serves the public purpose of the Commonwealth and/or the VDOT / DRPT. The Final DPP is presented to the CTB along with the major business points of the CA as described in Section 4.8.

4.9 Report to RPE Oversight Body

Near the conclusion of the P3 project procurement phase and the VDOT / DRPT's selection of the Preferred Proposer has been completed, the VDOT P3 Office Director and the agency head will present a Project Fact Sheet (procurement phase) to the CTB. The CTB will be briefed on: the Final DPP; updated schedule for project delivery; the CA documents; the updated risk management report; the final Cost Benefit and Opportunity Cost Analyses; the projected final project cost; including the projected public contribution for the project (if applicable); the updated Cost Benefit and Opportunity Cost Analyses and the final major business points.

The Project Fact Sheet (procurement phase) is posted on the VDOT P3 Office website and/or project dedicated website for public awareness. The agency head and the VDOT P3 Office Director will notify and brief the Chairs of the House and Senate Committees as appropriate. Other members of the General Assembly and stakeholders will be notified and briefed upon request and as appropriate.

4.10 Appropriating Body Review

In accordance with Virginia Code § 56-575.4(J), before any IA or CA is executed, the proposed CA for a Qualifying Project will be submitted for Appropriating Body review if it: :

- creates a tax-supported debt,
- requires a level of appropriation significantly beyond the appropriation received by the RPE in the most recent appropriation act, or
- significantly alters the Commonwealth's discretion to change the level of services or funding the services provided by the Qualifying Project over time.

The the agency head and the VDOT P3 Office Director will submit the proposed CA to the Appropriating Body for review, including in the submitted briefing discussion of the above conditions.

4.11 Contract Finalization and Award

Prior to developing and/or operating a Qualifying Project, the successful Proposer must enter into a CA with the VDOT / DRPT. The agency head has the statutory authority to enter into the CA, as applicable, pursuant to the PPEA.

The VDOT/DRPT shall submit a copy of the proposed IA or CA to the Commission, the chair of the House Committee on Appropriations, House Committee on Finance, and Senate Committee on Finance and Appropriations or their designees, and the Director of the Department of General Services at least 30 calendar days prior to execution of the Agreement along with a report describing the extent to which the Commission's recommendations, as outlined in Section 4.2, were addressed in the proposed IA or CA. (See Va. Code §30-280(F))

The VDOT / DRPT will initiate the contract finalization and award process by issuing a list of open issues and matters for the parties to resolve and an anticipated timeline for completion.

In accordance with Virginia Code § 56-57.17(B), VDOT / DRPT will hold a public hearing on the proposal at an appropriate time during the proposal review process but not later than 30 days prior to executing an IA or CA.

Once the contract is finalized and executed, the VDOT / DRPT will post major business points of the CA, including any public funds used on the Qualifying Project and the proposed CA documents on the VDOT P3 Office website, and/or project dedicated website.

4.12 Key Action Items

Table 8: Key Action Items for Project Procurement Phase

Project Procurement Activity	Responsibility	Targeted Timeframe
Release of RFQ	VDOT P3 Office	Released after CTB briefing to proceed from project development phase to project procurement phase
Post RFQ to Department of General Services central procurement website and VDOT P3 Office project website	VDOT P3 Office	45-120 calendar day duration for Unsolicited Proposals 60 calendar day duration for Solicited Projects
Develop RFP documents	VDOT P3 Office	Completion targeted for 120 calendar days after release of RFQ
Evaluate responses and short-list qualified Proposers	VDOT P3 Office	Completion targeted for 60 calendar days after receipt of SOQ
VDOT / DRPT approves Short-Listed Proposers	VDOT / DRPT	Within 10 calendar days of completion of SOQ evaluation
Short-Listed Proposers announced	VDOT P3 Office	Within 10 calendar days of VDOT / DRPT approval of Short-Listed Proposers
Release RFP	VDOT P3 Office	Release targeted for 30 calendar days after completion of SOQ evaluation

Project Procurement Activity	Responsibility	Targeted Timeframe
Request comments from Affected Localities	VDOT P3 Office	Within 10 calendar days of release of the RFP
Comments received from Affected Localities	VDOT P3 Office	60 calendar days after request for comments by VAP3
Evaluate the RFPs	VDOT P3 Office / Evaluation Team	Completion targeted for 90 calendar days after receipt of RFP
Revisit Cost Benefit and Opportunity Cost analyses	VDOT P3 Office	Completion targeted for 30 calendar days after completion of evaluation of RFPs
Report to the Commission and provide copies of detailed proposals (§ 30-280(A))	VDOT P3 Office Director and agency head	Targeted for 60 calendar days after completion of RFP evaluation.
Select a Preferred Proposer	Agency head	Targeted for 90 calendar days after receipt of RFP
Report to CTB on selection of Preferred Proposer	VDOT P3 Office Director and agency head	Determined by completion of project procurement activities and timing of next public meeting
Confirm Commission's recommendations are addressed in proposed IA or CA and prepare report	VDOT P3 Office	At least 30 calendar days before execution of IA (if needed) and/or CA
Appropriating Body reviews CA (when 56-575.4(J) is applicable)	General Assembly	Prior to execution of the CA
Commission, House/Senate Committees and Department of General Services Reviews CA and recommendations report	Commission, DGS, VDOT P3 Office Director and agency head	At least 30 calendar days before execution of IA (if needed) and/or CA
Hold Public Hearing	VDOT / DRPT	Not later than 30 calendar days prior to executing IA or CA
Finalize and Award the Contract	VDOT / DRPT	At least 30 calendar days after Public Hearing and delivering proposed CA to required parties

5 PROJECT IMPLEMENTATION



This chapter provides general guidance on activities that may be appropriate after the P3 project's Comprehensive Agreement is executed; the P3 project is constructed or in service and, if applicable, during Operations and Maintenance. Applicable activities rely heavily on the specific type of Qualifying Project that is delivered under the PPEA and whether there are ongoing terms to operate and maintain the P3 project after construction or installation is complete and the project is in service.

5.1 Post-Commercial Close

Once a Comprehensive Agreement is executed for a P3 project by the agency head and Preferred Proposer (Commercial Close), the VDOT P3 Office begins preparing for the transition from leading project procurement to supporting the responsible VDOT District/Division or DRPT project manager leading the project's implementation.

During this transition phase, the VDOT P3 Office will also continue to lead coordination efforts related to achieving Financial Close. Activities leading to Financial Close may include coordinating with financial institutions, outreach to bonding agencies, and confirmation of available federal and State funding.

5.2 Post-Financial Close

After Financial Close is reached, project design and construction begin with leadership from the VDOT District/Division or DRPT project manager. The VDOT P3 Office project manager assumes an active supporting role during this phase, assisting with contract interpretations, documentation submittals, etc.

A checklist will be developed by the VDOT P3 Office to ensure that appropriate parties receive timely submittals or evidence of commitments addressed as stipulated in the Comprehensive Agreement, and other contract documents.

A repository will also be identified during the project procurement phase to house all appropriate project documentation. This will continue to be maintained during the project implementation phase by submittals of documentation to the VDOT P3 Office.

5.3 Operations and Maintenance

If the project is a VDOT P3 project and the Comprehensive Agreement includes ongoing terms for the Preferred Proposer to operate and maintain the P3 project after construction is complete, the VDOT P3 Office begins preparing for the transition to a more active oversight role that may begin after construction is completed. Once the P3 project begins operating, the VDOT District/Division project manager and VDOT P3 Office may have shared responsibility in assuring compliance with the terms of the Comprehensive Agreement and related contract documents.

During this transition phase, the VDOT P3 Office will work closely with the VDOT District/Division project manager and the Private Entity to configure the VDOT P3 Office's electronic Strategic Contract Management System (SCMS) with the data necessary to track recurring and one-time tasks, triggered events, performance shortfalls, and significant payments during the operating period per the terms of the Comprehensive Agreement. If the Comprehensive Agreement includes terms for assessing non-compliance points during the construction period, this functionality can be configured in the SCMS and launched when construction begins.

5.4 Lessons Learned

It is recommended to conduct lessons learned sessions at the end of each phase of project development, procurement, and implementation to identify comments and recommendations that add value to future projects and document and share findings.

5.5 Key Action Items

Project Implementation Activity	Responsibility	Targeted Timeframe
Coordination to reach Financial Close	VDOT P3 Office	6 to 9 months after award
Support District/DRPT implementation of the Comprehensive Agreement	VDOT P3 Office	Ongoing after Financial Close
Lessons Learned Workshop	VDOT P3 Office / VDOT District/DRPT	60 days after Financial Close/after project completion
Document Control database	VDOT P3 Office/VDOT District/DRPT	Begin during Project Procurement & continued until project completion
If there are ongoing terms for the Preferred Proposer to operate and maintain the project after construction is complete, configure SCMS to track recurring and one-time tasks, triggered events, and performance shortfalls during the operating period per the terms of the Comprehensive Agreement	VDOT P3 Office/VDOT District/DRPT	Begin during construction and launch after construction is complete
Performance Monitoring *(if applicable)*	VDOT P3 Office/ VDOT District/DRPT	As stipulated in CA

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Appendix A -PPEA Guidelines Definitions

Provided below are terms used in this PPEA Manual and Guidelines.

Acronym	Definition
CA	Comprehensive Agreement
agency head	Chief Executive Officer
CFO	Chief Financial Officer
CTB	Commonwealth Transportation Board
DGS	Department of General Services
DPP	Declaration of Public Purpose
DRPT	Virginia Department of Rail and Public Transportation
FHWA	Federal Highway Administration
OAG	Office of Attorney General
P3	Public-Private Partnership
PPEA	Public-Private Education Facilities and Infrastructure Act of 2002 (as amended)
RFI	Request for Information
RFP	Request for Proposals
RFQ	Request for Qualifications
RRIF	Railroad Rehabilitation and Improvement Financing
SFAC	Senate Finance and Appropriations Committee
SCMS	Strategic Contract Management System
SOQ	Statement of Qualifications
VDOT	Virginia Department of Transportation
VFOIA	Virginia Freedom of Information Act

These definitions are applicable to all guidance documentation published by the Virginia Department of Transportation Office of Public-Private Partnerships. Terms below that are defined in Virginia Code § 56-575.1, or elsewhere by statute, are repeated here for convenience, but the statutory definitions govern.

- **Affected Jurisdiction** means any county, city or town in which all or a portion of a Qualifying Project is located.
- **Agency** means VDOT or DRPT.
- **Agency head** – Subject to the oversight of other officials and entities provided by law, each agency's agency head has the responsibility and authority to make decisions on the P3 project delivery model, including business and contractual terms related to the P3 projects. At VDOT, the agency head is the Commissioner of Highways; at DRPT, the agency head is the Director
- **Appropriating Body** means the body responsible for appropriating or authorizing funding to pay for a Qualifying Project.
- **Commission** means the Public-Private Partnership Advisory Commission.
- **Comprehensive Agreement** means the Comprehensive Agreement between the Private Entity and the RPE, required by § 56-575.9 of the Code of Virginia.

- **Cost-Benefit Analysis** means an evaluation tool comparing proposed Total Benefits to the proposed Net Total Cost of a Qualifying Project, required by § 56-575.3:1(5) of the Code of Virginia. The evaluation provides information to decision-makers on whether a Qualifying Project is worth pursuing to procurement.

- **Evaluation Team** means a team made up from individuals representing VDOT P3 Office and/or DRPT for the purpose of evaluation of Statements of Qualifications or Proposals submitted during the procurement phase.

- **Hard Benefits** means the benefits of a Qualifying Project with independent, fact based, easily measurable and easy to prove results of reduced cost or increased revenue at designated times throughout the project.

- **Hard Benefits ROI Ratio** means the Return on Investment received for the Hard Benefits of a Qualifying Project. This ratio is expressed as a percent and is calculated by taking total Hard Benefits and dividing by the Net Total Cost of the Qualifying Project times 100.

- **Initial Declaration of Public Purpose (Initial DPP)** means a document prepared by the VDOT P3 Office and VDOT / DRPT, wherein the Commissioner/Director affirms that the P3 delivery method serves the public purpose of the Commonwealth or VDOT / DRPT.

- **Interim Agreement** means an agreement between a Private Entity and a VDOT / DRPT that provides for phasing of the development or operation, or both, of a Qualifying Project. Such phases may include, but are not limited to, design, planning, engineering, environmental analysis and mitigation, financial and revenue analysis, or any other phase of the project that constitutes activity on any part of the Qualifying Project.

- **Net Total Costs –**means the project costs minus any revenue generation for the term of the Qualifying Project Comprehensive Agreement.

- **Opportunity Cost Analysis –** means an evaluation tool that compares the Qualifying Project with the next best alternative that was not chosen, required by § 56-575.3:1(5) of the Code of Virginia. The opportunity cost analysis is what action you would have taken if you didn't make the choice you did. The evaluation provides information to decision-makers demonstrating if the proposed Qualifying Project is worthwhile in pursuing and has inherent value that is greater than the next best alternative.

- **PPEA** means the Public-Private Education Facilities and Infrastructure Act of 2002, as amended, Chapter 22.1 of Title 56 of the Code of Virginia, statute governing RPEs entering into agreements authorizing Private Entitles to develop and/or operate Qualifying Projects.

- **P3 Project Delivery Framework (Framework)** means the Commonwealth's structured project identification, screening, development and procurement process designed to assist in the evaluation and selection of Qualifying Projects in which projects must pass through a series of decision points in order to progress towards final approval and contract award.

- **Preferred Proposer** means the Private Entity selected during the procurement process to perform the services described in the RFP documents issued by the VDOT P3 Office, in coordination with the VDOT/DRPT.

- **Private Entity(ies**) means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, non-profit entity, special purpose vehicle, or other business entity.

- **Procurement** means the acquisition of goods, services, or works from a Private Entity

- **Project Cost** means the measurement of all costs associated with the project, including all construction, routine and full lifecycle maintenance costs for the term of the Comprehensive Agreement of the Qualifying Project.

- **Proposal** means the documents submitted by a Proposer in response to an RFP issued by the VDOT P3 Office, in coordination with VDOT/DRPT.

- **Proposal Review Fee** means the non-negotiable fee to be remitted to VDOT/DRPT with the submission of an Unsolicited Proposal.

- **Proposer** means the Private Entity participating in the procurement process for either a Solicited or Unsolicited Proposal for a PPEA project in response to an RFQ or RFP issued by the VDOT P3 Office in coordination with the VDOT / DRPT.

- **Public Entity** means the Commonwealth and any agency or authority thereof, any county, city or town and any other political subdivision of the Commonwealth, any public body politic and corporate, or any regional entity that serves a public purpose. For the purposes of these Guidelines, the Public Entity is either VDOT or DRPT.

- **Public-Private Partnership (P3)** means a project or service which is funded and operated through a partnership of government and one or more Private Entities. In Virginia, the PPEA is the legislative framework that enables P3 agreements for Qualifying Projects defined by the PPEA.

- **Public-Private Partnership Advisory Commission** (or Commission) means an advisory commission in the legislative branch that will advise VDOT / DRPT on Proposals received pursuant to the **PPEA**. See Chapter 42 of Title 30 of the Code of Virginia.

- **Public Subsidy** means the amount of funds committed to the project by the Agency.

- **Qualifying Project** means (i) any education facility, including, but not limited to a school building, any functionally related and subordinate facility and land to a school building (including any stadium or other facility primarily used for school events), and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education; (ii) any building or facility for principal use by any Public Entity; (iii) any improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a Public Entity; (iv) utility and telecommunications and other communications infrastructure; or (v) a recreational facility; (vi) technology infrastructure, services, and applications, including, but not limited to, telecommunications, automated data processing, word processing and management information systems, and related information, equipment, goods and services; (vii) Any services designed to increase the productivity or efficiency of the RPE through the use of technology or other means; (viii) any technology, equipment, or infrastructure designed to deploy wireless broadband services to schools, businesses, or residential areas; (ix) any improvements necessary or desirable to any unimproved locally- or state-owned real estate; or (x) any solid waste management facility that produces electric energy derived from solid waste.

- **Revenues** means all revenues, income, earnings, User Fees, Lease Payments, or other service payments arising out of or in connection with supporting the development and/or operation of a Qualifying Project, including without limitation, money received as grants or otherwise from the United States of America, from any Public Entity, or from any agency or instrumentality of the foregoing in aid of a Qualifying Project.

- **RFP** means the documents constituting the Request for Proposals and identifying the P3 Project, the work to be performed and materials to be furnished, in response to which a Proposer may submit a Proposal.

- **RFQ** means the documents constituting the Request for Qualifications issued for a P3 Project by the VDOT P3 Office.

- **Responsible Public Entity (RPE) means** the Commonwealth and any agency or authority thereof, any county, city or town and any other political subdivision of the Commonwealth, any public body politic and corporate, or any regional entity that has the authority to develop and/or operate an applicable Qualifying Project in accordance with the PPEA. **Agency Head** means the Commissioner, Director or the Chairman of the Board of Commissioners who is responsible for making decisions for his/her respective Department, or Agency. For these guidelines, the RPE is either VDOT or DRPT.

- **Return on Investment (ROI)** means the benefit received from an investment in a Qualifying Project. A high ROI means the investment compares favorably to investment cost. As a performance measure, ROI is used to evaluate the effectiveness of an investment or to compare the effectiveness of a number of different investments.

- **Short-Listed Proposer** means the Proposers that have been selected to advance to the RFP stage of the PPEA procurement process.

- **Soft Benefits** means benefits which are difficult to define, for which no positive confirmation is possible and have more qualitative than quantitative results. These benefits are more complex and the basis of the assumptions are easy to challenge.

- **Soft Benefits ROI Ratio** means the Return on Investment received for the Soft Benefits of a Qualifying Project. This ratio is expressed as a percent and is calculated by taking total Soft Benefits and dividing by the Net Total Cost of the Qualifying Project times 100.

- **Solicited Project** means a project initiated by an RPE.

- **SOQ** means the documents constituting the Statement of Qualifications and supporting information, including all clarifications thereto, submitted by Proposers in response to RFQs issued by the VAP3.

- **State** means the Commonwealth of Virginia.

- **Total Benefits –** means the total Hard Benefits plus the total Soft Benefits.

- **Total Benefits ROI Ratio** means the Return on Investment received for the Total Benefits of a Qualifying Project. This ratio is expressed as a percent and is calculated by taking Total Benefits and dividing by the Net Total Cost of the Qualifying Project times 100.

- **Total Costs –** means all costs including all procurement, risk adjustments costs, construction, routine maintenance and full lifecycle maintenance.

- **Unsolicited Proposal** means a Proposal to develop and/or operate a Qualifying Project submitted by a Private Entity not in response to an RFQ or RFP.

- **User Fees** mean the rates, fees or other charges imposed by the Private Entity of a Qualifying Project for use of all or a portion of such Qualifying Project pursuant to the Comprehensive Agreement pursuant to Va. Code § 56-575.9.

- **VDOT P3 Office** means the Virginia Department of Transportation Office of Public-Private Partnerships which is responsible for developing, implementing and administering the procurement of P3 Projects for VDOT and DRPT.

- **VDOT P3 Office Director** means the highest-ranking individual within the VDOT P3 Office responsible for overseeing all aspects of the P3 Program.

- **Virginia Department of Rail and Public Transportation (DRPT)** is a state agency headed by a Director and reporting to the Secretary of Transportation. *See* Virginia Code § 33.2-282

- **Virginia Department of Transportation (VDOT)** is a state agency headed by the Commissioner of Highways and reporting to the Secretary of Transportation. *See* Virginia Code § 33.2-256

Appendix B- Rights and Disclaimers

Rights Reserved

The VDOT P3 Office in coordination with VDOT / DRPT, reserves all rights available by law in processing PPEA Proposals, including, without limitation, the sole and unfettered right to:

1. Alter the schedule of review or scope of evaluation, including components thereof, of any procurement document if changes are deemed necessary because of the scope or complexity of a Qualifying Project they receive;

2. Reject any and all Proposals at any time;

3. Terminate evaluation of any and all Proposals or Qualifying Projects at any time;

4. 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;

5. Negotiate with a Proposer without being bound by any provision in the Proposal;

6. Request or obtain additional information about any Proposals;

7. Waive minor errors, omissions or irregularities in a response to an RFQ or RFP;

8. Issue addenda to, and/or cancel, any RFQ or RFP;

9. Revise, supplement or withdraw all or any part of the guidelines included in this PPEA Manual and Guidelines;

10. Decline to return any and all fees required to be paid by Private Entities as part of the evaluation process for Unsolicited Proposals;

11. Request clarifications to Unsolicited Proposals;

12. Request an updated proposal and SOQ that meets the requirements of competing proposals when an Unsolicited Proposal is accepted; and

13. Modify the process and submission requirements for reviewing Proposals in connection with a re-sale, re-tendering, transfer or other disposition of a project pursuant to the provisions of an existing Comprehensive Agreement.

Disclaimers and Conditions for Submissions under the PPEA

Neither the Commonwealth nor any of its political subdivisions, agencies, or employees shall be liable for, or reimburse, the costs incurred by Proposers 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 and Proposers is made for convenience purposes only and is without representation or warranty of any kind.

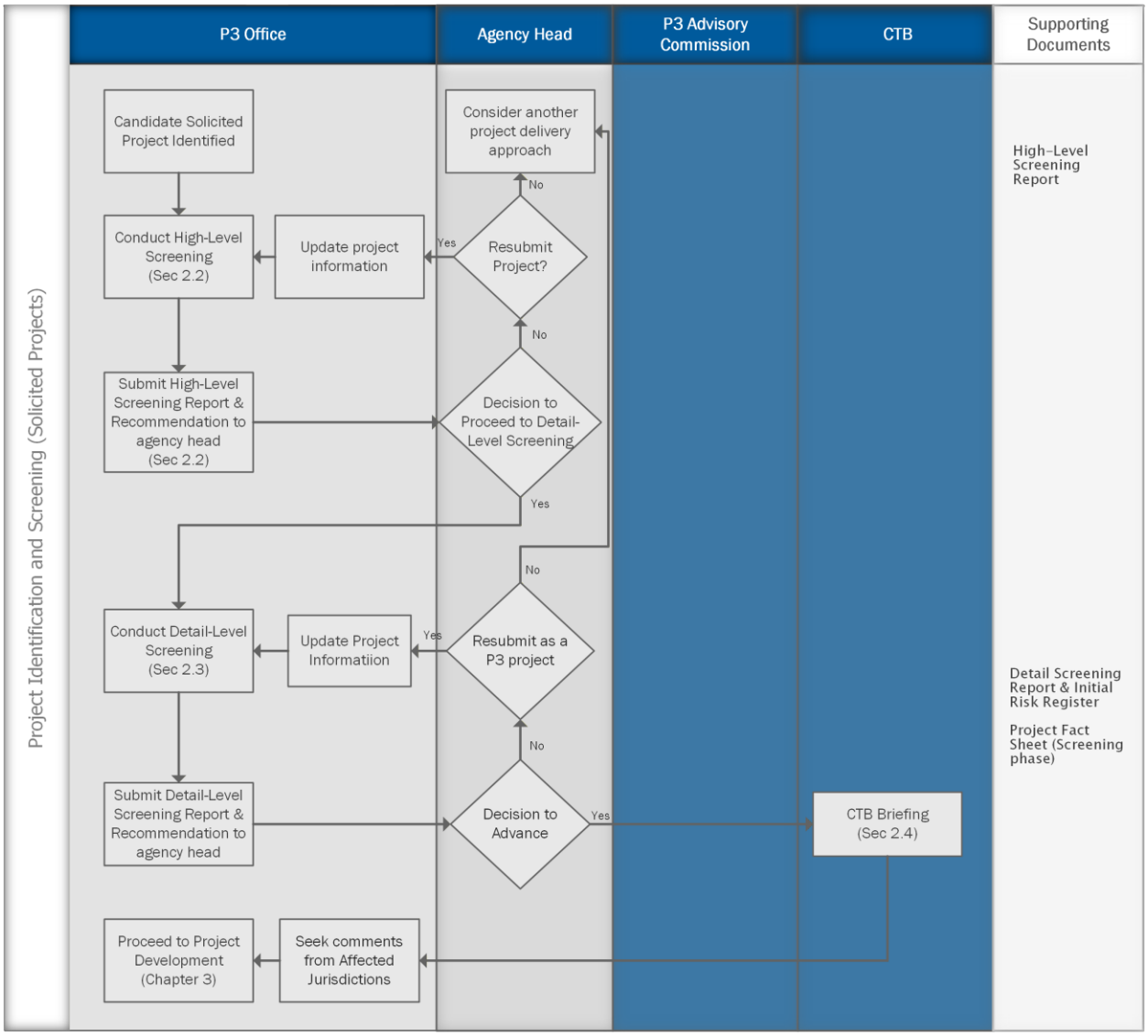
Proposers and Proposers must submit questions concerning the PPEA process in writing to the point of contact referenced in the procurement documents, which will coordinate a response in writing; Proposers may not rely on oral responses to inquiries.

Virginia law governs, and generally requires, disclosure of procurement and contract records after the completion of the procurement or contract. It is the responsibility of a Private Entity to comply with Virginia law, including satisfying the requirements for withholding of certain, specifically identified information. *See* Virginia Code § 2.2-3705.6(11). The Commonwealth, the Secretary of Transportation, the VDOT P3 Office Director or the agency head shall not be liable to a Proposer for the disclosure of all or a portion of a response to RFQ, RFP or a Proposal submitted pursuant to this PPEA Manual and Guidelines.

Appendix C - P3 Project Delivery Framework Flowcharts

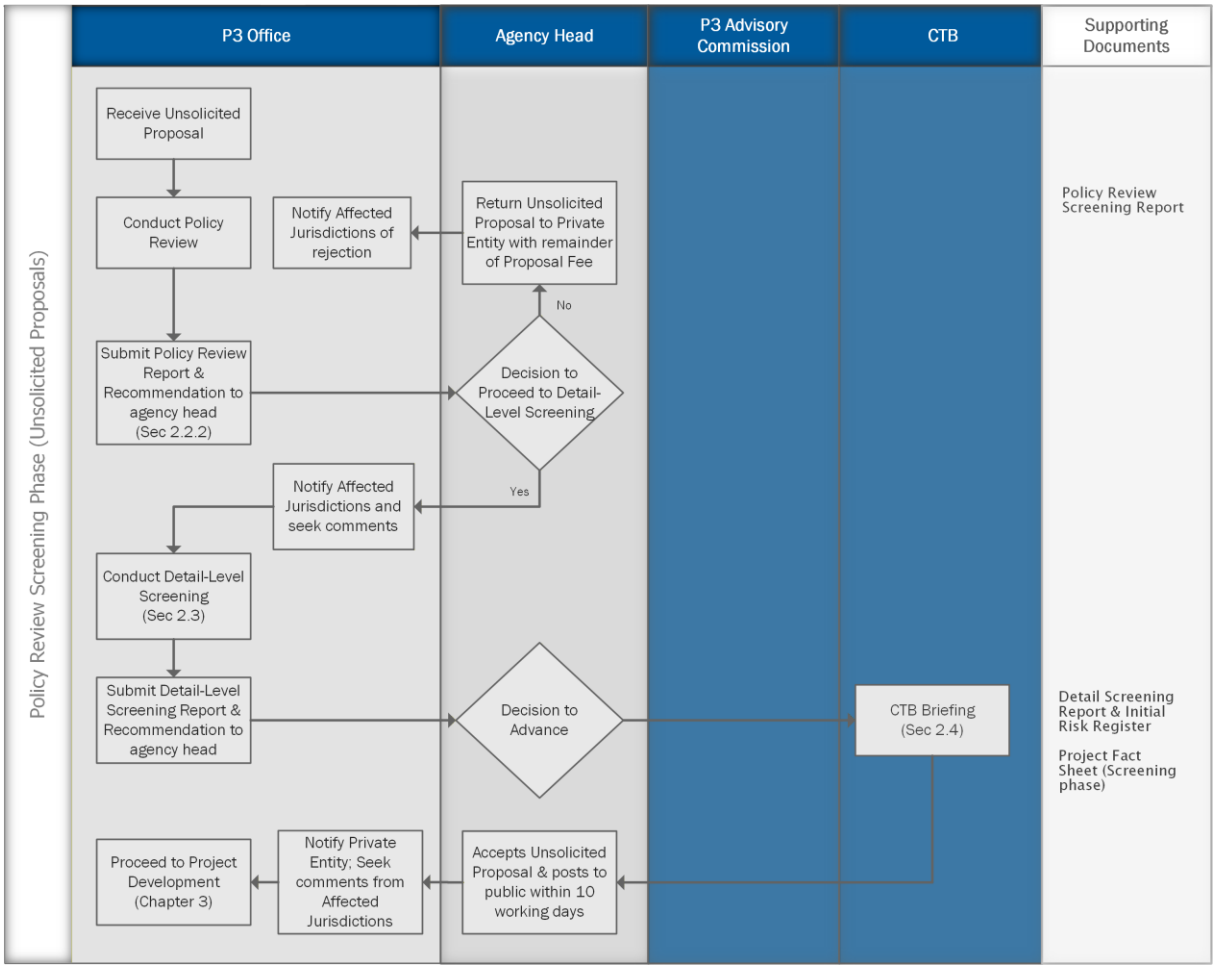
PPEA Framework for Solicited Projects

Project Identification and Screening Phase



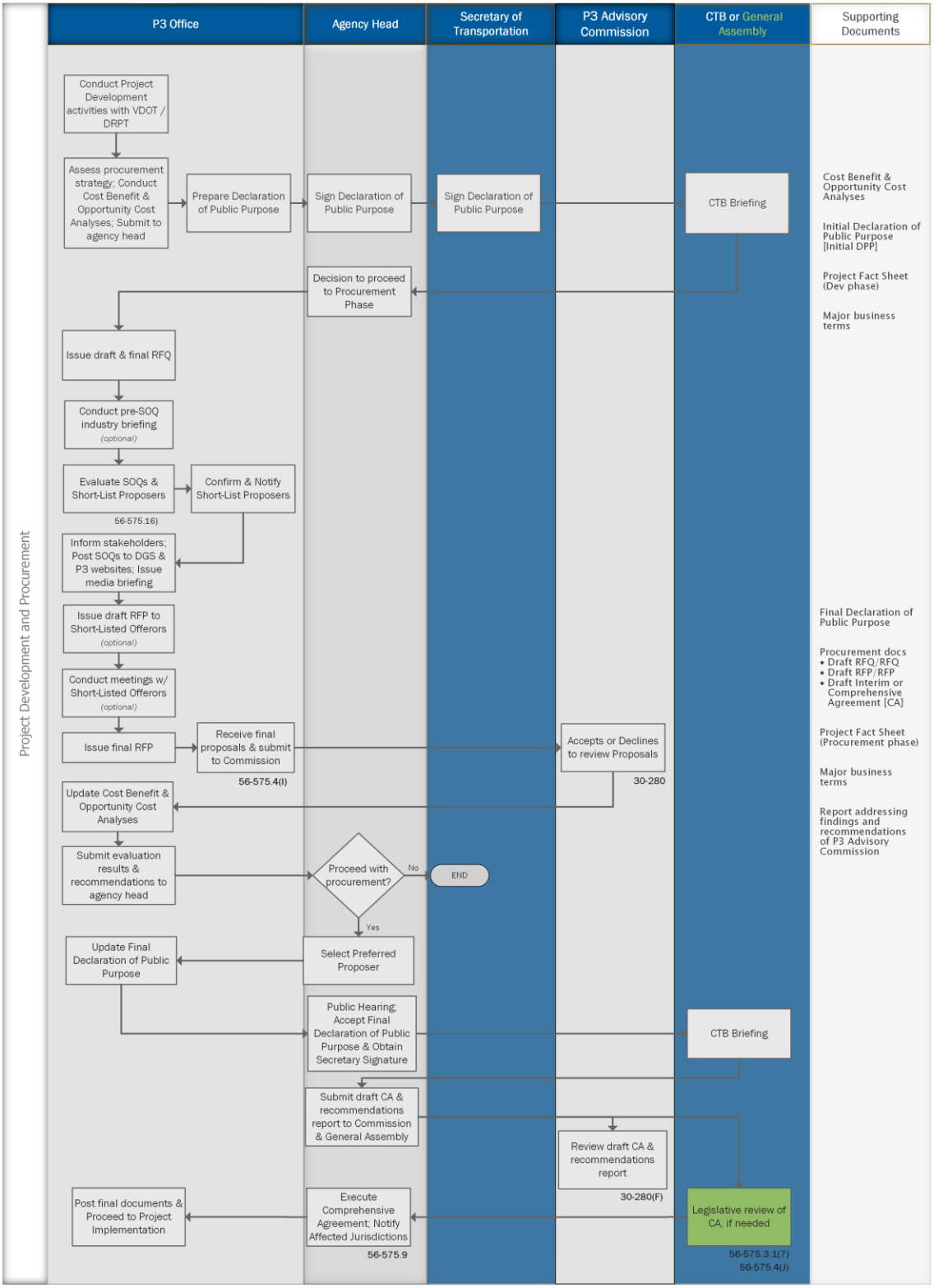
PPEA Framework for Unsolicited Projects

Policy Review Screening Phase



PPEA Framework for Solicited Projects

Project Development and Procurement Phases



Appendix D-Guidance on Approach to Commercial Terms

The guidance below presents the VDOT P3 Office's approach to developing commercial terms that forms the basis for Interim Agreements and Comprehensive Agreements governing P3 projects. In developing commercial terms, the VDOT P3 Office seeks to strike a balance between (i) providing the private sector with enough transparency regarding the Commonwealth's and/or RPEs principles and processes so as to promote and preserve its confidence and participation in the P3 program and (ii) preserving the P3 Office's flexibility across modes and projects to develop and complete competitive fair, market-based transactions that reflect the best interests of the Commonwealth.

While each P3 project is different and will have its own unique challenges, the guiding principles identified below remain constant and the P3 Office intends to apply these principles during the process of developing commercial terms for P3 projects across modes and methods of project delivery:

- ***Protect the Public Interest*** by being an effective steward of public resources and ensuring that the Commonwealth and/or VDOT / DRPT satisfy their statutory and legal duties to the public;

- ***Deliver Education, Technology and other public Infrastructure Solutions or government facilities*** to solve the Commonwealth's challenges;

- ***Promote Transparency and Efficiency*** within the Framework in order to generate and preserve confidence of key stakeholders in the P3 program;

- ***Maximize Competition*** through constant, early communication with the private sector, and during development and procurement, managing an efficient project selection process and administering a uniform and transparent procurement process;

- ***Execute P3 projects in a Timely and Efficient Manner*** 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 within the process as well as federal and state agencies and other key stakeholders to identify shared goals, key concerns and criticisms and resolve issues and challenges on a programmatic and project-specific basis;

- ***Advocate Reasonable and Fair Commercial Terms*** to ensure marketability of P3 projects by adopting market-based risk allocations that are appropriate for the complexity and scope of a specific P3 project – and are in the best interest of the Commonwealth;

- ***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 transaction-specific basis; and

- ***Lead the Public-Private Partnership Community*** by developing and preserving a reputation for managing P3 projects effectively and successfully to promote confidence in the P3 program and realize the benefits of a long-term investment in the Commonwealth.

The VDOT P3 Office intends to apply these guiding principles and values to each P3 project through the processes utilized to develop commercial terms as outlined below; however, due to the uniqueness of each P3 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 P3 project.

Development of Commercial Terms

During the pre-solicitation stage of the PPEA procurement process, the VDOT P3 Office, in conjunction with others from the VDOT / DRPT, may conduct project-specific industry workshops in order to measure the private sector's interest in the proposed P3 project and to gauge the potential scope of the project risks, allocation of those risks and related commercial terms. The VDOT P3 Office and others from VDOT / DRPT may follow up, hold industry workshops, or conduct independent one-on-one meetings with potential developer teams to further develop the scope of the proposed P3 project and advance the consideration of potential commercial terms for the project.

Prior to the issuance of the final RFP documents for a particular P3 project, the VDOT P3 Office will maintain open lines of communication within the parameters and restrictions set forth in the procurement documents with short-listed Proposers. The VDOT P3 Office will consider the input received from Short-Listed Proposers related to the project scope and other salient matters to ensure that the project and its corresponding commercial terms are financeable, risk appropriate, consistent with prevailing market conditions and in the best interest of the Commonwealth.

The VDOT P3 Office expects the key commercial terms that 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 modifications 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 VDOT P3 Office, in coordination with VDOT / DRPT, will work with the 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.

The VDOT P3 Office, in conjunction with others from VDOT / DRPT, the OAG, and external legal, financial and technical advisors, will, in most circumstances, be primarily responsible for drafting, issuing and managing the P3 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 VDOT P3 Office, VDOT / DRPT, the OAG, and external advisors will be guided by the PPEA principles and consider the following factors:

1. Whether the project is a Greenfield construction or Brownfield monetization;

2. The proposed financial structure;

3. The commercial terms and risk allocations reflected in past P3 projects in the Commonwealth, parties that are best able to manage each risk and recent transactions of similar complexity and scope in other jurisdictions;

4. Current economic and financial conditions; and

5. Political and cultural issues.

For certain terms, the VDOT P3 Office will develop standard contractual language to address matters that will be part of any transaction, regardless of the nature of the P3 project.

The VDOT P3 Office, in conjunction with its constituent agencies and external advisors, will engage the private sector on an ongoing basis to evaluate shifting market conditions and will conduct periodic internal reviews of its principles and processes. Furthermore, the VDOT P3 Office will reach out to both the private sector and similar public-private partnership offices in other states to discuss shifting market dynamics and/or conditions that may impact the P3 program.

The VDOT P3 Office views its approach to developing commercial terms as a dynamic process that will evolve over time in an effort to continually reflect the best practices of using public-private partnerships to develop infrastructure in the Commonwealth.

Past P3 projects have benefited from the formation of a Commercial Working Group (CWG) that brings experts together from the legal, finance and technical groups with P3 experience. The CWG meets regularly to identify, prioritize, address issues and provide options and recommendations to senior leadership for decision-making and provide production teams with direction for project implementation. Benefits included team cohesiveness, cross-departmental education and growth, consistent communication, and improved negotiations. Due to the length of time that can pass to achieve commercial and financial close, the consistency of an established CWG would also help address the challenges that can arise from fluctuating financial markets, changes in administration at the state or federal level and/or changes in project personnel. VDOT P3 Office will assess the need for legal, finance and technical expertise and determine if a CWG is needed based on the project's unique aspects.

Appendix E - Guidance for Unsolicited Proposal Preparation

The PPEA permits Private Entities to submit Unsolicited Proposals to develop and/or operate Qualifying Projects at any time, pursuant to the PPEA and this PPEA Manual and Guidelines. In an effort to streamline the PPEA process, all Unsolicited Proposals should be submitted directly to the agency head with a copy to the VDOT P3 Office. Private Entities are encouraged to contact the VDOT P3 Office to arrange a meeting to discuss their ideas and concepts prior to submitting an Unsolicited Proposal. The VDOT P3 Office Point of Contact to arrange a meeting in this regard is:

VDOT P3 Office Director

Virginia Department of Transportation

Office of Public-Private Partnerships
1221 E. Broad Street
Richmond, VA 23219

Tel: 804 786 0455 (O)

Proposal Preparation

Proposers submitting an Unsolicited Proposal should ensure that the Proposal includes a comprehensive project description and provides enough information about the proposed project for the VDOT P3 Office, in coordination with VDOT / DRPT, to determine whether the Proposal satisfies the review and evaluation criteria as set out in 56-575.4. of the Code of Virginia. Proposers should also provide sufficient information to facilitate a Policy Review as detailed in Section 2.2.2 of this PPEA Manual and Guidelines and a Detail-Level Screening as described in Appendix F. In addition, the financial plan for the Qualifying 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 forecasted public financing and/or funding commitments that are required to enable the proposed Qualifying Project.

To promote standardization of the evaluation procedure, 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 VDOT P3 Office may require Private Entities submitting an Unsolicited Proposal to give one or more oral presentations of their Proposal to the VDOT / DRPT and/or the public. Such presentations will provide opportunities to educate the VDOT / DRPT 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 Proposals are required to deliver three (3) hard copies and one (1) electronic copy in Portable Document Format (PDF) to VDOT / DRPT. Proposals must be sealed in mailing envelopes or packages bearing the Proposer's name, address and the words "Public-Private Education Facilities and Infrastructure 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 Proposals should be submitted to the attention of the VDOT / DRPT agency head at the address listed above for the VDOT P3 Office Point of Contact.

Private Entities interested in submitting an Unsolicited Proposal are required to pay a non-negotiable Proposal Review Fee as specified in Section 2.1.2.1 of this PPEA Manual and Guidelines at the time of submitting the Unsolicited Proposal to the RPE. Proposers submitting multiple Proposals for unrelated P3 projects will be required to submit a Proposal Review Fee for each Unsolicited Proposal submission.

Upon receipt, the VDOT P3 Office will notify any appropriate federal agency, and other stakeholders that the Unsolicited Proposal has been submitted for a given Qualifying Project and that the VDOT P3 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 §§ 56-575.4 of the Code of Virginia and this PPEA Manual and Guidelines.

The Private Entities submitting a copy of the Unsolicited Proposal to VDOT / DRPT pursuant to 56-575-4 of the Code of Virginia shall coordinate with the VDOT P3 Office Director prior to furnishing a copy of its Proposal to Affected Localities that are identified in the Proposal.

If an Unsolicited Proposal is submitted during a period when the VDOT P3 Office is unable to review and evaluate that Proposal by virtue of being committed to the development, evaluation, and procurement of other Qualifying Projects, or for any other reason as determined by the VDOT / DRPT at its sole discretion, then the Private Entity will be notified by the VDOT P3 Office so that the Proposal may be resubmitted at a later date.

Appendix F- Guidance on Detail-Level Screening Criteria

Those Solicited Projects that have advanced through the High-Level Screening process and those Unsolicited Proposals that have advanced through the Policy Review are eligible for a Detail-Level Screening. The Detail-Level Screening Criteria form the basis upon which the VDOT P3 Office evaluates the feasibility of delivering projects using the P3 project delivery method. The screening criteria reflect the Commonwealth's and/or VDOT / DRPT's goals and policy priorities for delivering projects in a timely and cost-effective manner.

The Detail-Level Screening Criteria, as described in more detail below, provides the private sector with a guide for defining what information the VDOT P3 Office and VDOT / DRPT will evaluate as they make their recommendation to the P3 Advisory Commission as to whether to invest in advancing the Qualifying Project under the PPEA.

In the Detail-Level Screening phase, the VDOT P3 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 public and private sectors as to how to interpret the criteria:

Table 9 – Detail-Level Screening Criteria - Desirability

Detail-Level Screening Criteria – Desirability of the Project	
Public Need	▪ Does the project address the needs outlined in the local, regional and state plans?
Public Benefits	▪ Are there anticipated benefits to the community, the region and/or the Commonwealth? ▪ Is the project expected to help achieve performance, safety goals? ▪ Are there potential project benefits to the Affected Localities'? ▪ Are there anticipated enhancements to adjacent facilities?
Economic Development	▪ Will the project enhance the Commonwealth's economic development efforts? ▪ Is the project helpful to attracting or maintaining competitive industries and businesses to the region, consistent with stated objectives?
Market Demand for PPEA Delivery	▪ This measure is only applicable to Solicited Projects; Unsolicited Proposals do not need to address this issue, as Private Entities are demonstrating market demand through the submission of their Proposal.
Stakeholder Support	▪ Public and 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 issues and needs, as well as the impacts this project may have on those needs? ▪ Public Involvement Strategy – What strategies are proposed to involve citizens, local, state and/or federal officials in developing this project? ▪ Federal Requirements – Is the project consistent with federal agency programs or grants?
Legislative Considerations	▪ Are there any legislative considerations that need to be taken into account, such as User Fees or use of public funds?

Table 10 Detail-Level Screening Criteria - Feasibility

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, 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? ▪ Design Standards – Does the conceptual design appear to be consistent with the 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? ▪ 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? ▪ Utilities – Does the project set forth the method by which utility relocations will be identified and managed? ▪ Maintenance – Does the project include a schedule and plan to maintain this facility?
System Interface and Compatibility	▪ Land Use Impacts – Is the project compatible with local land use and comprehensive plans? ▪ System Interface – Does the project provide continuity with existing and planned state and local facilities?
Financial Feasibility	▪ Are there public funds required and, if so, are the Commonwealth's and/or VDOT / DRPT's financial responsibilities clearly stated? ▪ Is the preliminary financial plan feasible in that the sources of funding and financing can reasonably be expected to be obtained? ▪ What is the level of private financial equity/debt within the preliminary financial plan? ▪ Initial Cost Benefit Analysis and Opportunity Cost Analysis.
Legal/Legislative Feasibility	▪ Is new legislation or modifications to existing legislation needed to complete the project?
Project Risks	▪ Are there any particular risks unique to the project that have not been outlined that could impair project viability?

Detail-Level Screening Criteria – Feasibility of the Project	
	▪ Are there any project risks proposed to be transferred to VDOT / DRPT that are likely to be unacceptable?
Concession Term	▪ Does the project include a reasonable term of concession for proposed operation and maintenance? ▪ Is the proposed term consistent with market demand, providing a beneficial solution for the Commonwealth and/or VDOT / DRPT? ▪ Is the proposed term optimal for a whole- life approach?
End of Term Arrangement	▪ Does the project include a process for long-term performance management, inventory and hand back provisions?

Appendix G – Guidance for the RFQ Process

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

Issuance of RFQ Documents

The VDOT P3 Office, in consultation with the agency head and other state and federal agencies and officials, as appropriate, is responsible for the development and issuance of the RFQ documents. The VDOT P3 Office will issue a public notice on the VDOT P3 Office website and the state eVA system to announce the issuance of the RFQ documents. The VDOT P3 Office will also notify General Assembly members as appropriate. The eVA system is a web-based purchasing system used by state agencies to announce bid opportunities, invite Proposers 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 Proposers 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 and the VDOT P3 Office website. The VDOT P3 Office may arrange for a pre-Proposal conference or webinar, as deemed appropriate, to present and clarify information about the project and procurement process and respond to any questions that prospective Proposers may have about the RFQ. A notice for such an event will be made known within the RFQ documents, on the eVA system, and on the VDOT P3 Office 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 VDOT P3 Office website frequently and before submitting their responses.

Submission of SOQs

In response to the issuance of an RFQ, Proposers 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 those Unsolicited Proposals that have been accepted by VDOT / DRPT for a competitive procurement, the Proposer that submitted the original Unsolicited Proposal will be required to submit a SOQ with other prospective Proposers to an RFQ if the Proposer submitting the original Unsolicited Proposal remains interested in developing the project.

As a part of the SOQ, Proposers may be required to provide information related to the structure of the respondent team, the qualification and experience of the Offeror, 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 Offeror and its affiliates. The intent of financial qualification submittal requirements is to determine whether the Offeror submitting a response has sufficient financial capacity to assume the responsibilities and obligations required to deliver the project on schedule. The VDOT P3 Office, in coordination with VDOT / DRPT may require the submission of financial statements (including audited financial statements), letters of support from providers of payment and performance security and/or disclosure of material changes in the Offeror's financial position during a specified period of time or reporting period identified in the RFQ.

Virginia law governs, and generally requires, disclosure of procurement and contract records after the completion of the procurement or contract. It is the responsibility of a Private Entity to comply with Virginia law, including becoming familiar with and satisfying the requirements for withholding of information from

disclosure that is authorized by applicable law. *See* Virginia Code § 2.2-3705.6(11). Proposers who have any questions about confidentiality should raise those with the VDOT P3 Office prior to submitting their responses. The VDOT P3 Office does not provide legal advice but will attempt to help ensure understanding of disclosure requirements.

SOQ Evaluation Criteria

The RFQ documents will specify the evaluation criteria and the methodology used to evaluate such criteria so Proposers will know how submissions will be evaluated. The VDOT P3 Office will coordinate with the agency head to select an evaluation team that is consistent with the Project proposed scope of work. Any information discussed during evaluation team meetings shall be kept confidential, including the sequestering meeting and the scoring/ranking meeting. The use of a consensus approach will be utilized to assign scores for each SOQ. Members of the evaluation committee will not score SOQs individually but will work collectively to arrive at a consensus score for each evaluation criterion. The consensus scores will be based on the evaluation criteria and must be substantiated by the written comments contained on evaluation forms.

Appendix H-Guidance for the RFP Process

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

Upon making the determination of Short-Listed Proposers, the VDOT / DRPT in coordination with the VDOT P3 Office, may begin the RFP process. The purpose of the RFP process is to create competition among a short-list of the most qualified Proposers to create value for the Commonwealth and/or RPE.

The VDOT / DRPT, in coordination with the VDOT P3 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 feedback from the Short-Listed Proposers and other appropriate parties, the VDOT / DRPT, in coordination with the VDOT P3 Office, will issue final RFP documents to Short-Listed Proposers.

The VDOT / DRPT, in coordination with the VDOT P3 Office, will evaluate Proposals submitted by Short-Listed Proposers in response to the RFP, based on appropriate criteria. The VDOT / DRPT in coordination with the VDOT P3 Office reserves the right to carry out a Best and Final Offer (BAFO) process with some or all of the Proposers submitting responsive Proposals.

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:

- Technical requirements for the design, construction, environmental commitments, operations and maintenance components of the project;
- The scope of the services to be provided;
- The RPE's preferred allocation of project risks and commercial terms via a draft Comprehensive Agreement;
- Clear instructions on the content and format of each Proposal;
- A clear and reasonable timetable for submitting the Proposals; and
- Reasonable evaluation criteria.

Proposal Submission

In response to the issuance of the final RFP documents, Short-Listed Proposers will 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 PPEA Manual and Guidelines.

Additionally, the extent and type of information requested may vary depending upon the complexity of the P3 project; however, the information and supporting documents provided should be sufficient to allow the VDOT P3 Office and the VDOT / DRPT to determine the most suitable Proposer for delivering the P3 project.

Technical Proposal

The VDOT P3 Office may require the Proposer to provide a Technical Proposal regarding the project's scope of work and technical requirements as the VDOT P3 Office and the VDOT / DRPT deems appropriate. Such required information may include, without limitation, design elements and approach, construction approach, operations approach, maintenance approach, approach for maintenance of traffic during construction, project management approach, schedule, phasing, quality control and assurance approach, environmental requirements, communication and public involvement approach and other information as is appropriate for the project's implementation.

The intent of the Technical Proposal is to provide assurance that the selected Preferred Proposer 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 the ability to deliver the project and/or desired service in accordance with technical and contractual requirements stated in the RFP documents in a timely and efficient manner. If compliance with NEPA is required, the Technical Proposal must be consistent with any existing NEPA approvals or additional NEPA documentation may be required.

Financial Proposal

The content requirements of the Financial Proposal will vary with the type of PPEA delivery structure and the nature of a particular P3 project. If the RFP and project scope requires the Proposer to finance any part of the project, the RFP will require that 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 Financial Proposal may require that the Proposer update the financial qualification information provided with the SOQ. The RFP documents will include the financial plan requirements.

The VDOT P3 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. However, the VDOT P3 Office in coordination with the VDOT / DPRT reserves the right to utilize other basis for award, including lowest lifecycle cost, highest concession payment, lowest public subsidy and any other basis that is appropriate and deemed by the VDOT P3 Office in coordination with the VDOT / DRPT to be in the best interests of the project and the Commonwealth.

Reasonable and specific criteria and methodology for evaluating Proposals will be included in the RFP documents of the specific PPEA procurement and will vary depending on the scope and complexity of a project and project delivery approach. The RFP evaluation criteria allow the VDOT P3 Office, the VDOT / DRPT, and the Commonwealth to clearly communicate the project objectives and priorities of the VDOT / DRPT to the private sector. Though not an exhaustive list, factors that may be considered include the Proposers' qualifications and experience; project financing and the degree to which the Proposer has conducted due diligence investigation and analysis of the proposed financial plan; technical feasibility; environmental and/or condemnation impacts; state and/or local permits; community benefits and compatibility; the proposed design of the project; and/or the general reputation, industry experience, and financial capacity of the Proposer.

Upon receipt of Proposals, the VDOT P3 Office will commence the evaluation and selection process. The VDOT P3 Office, in coordination with the VDOT / DRPT, may hold interviews, present written questions to Proposers, seek written clarifications and conduct discussions on the Proposals during the evaluation and

selection process. The VDOT P3 Office will coordinate with the agency head and others as appropriate to select an evaluation team that is consistent with the Project proposed scope of work. Any information discussed during evaluation team meetings shall be kept confidential throughout the procurement, including the sequestering meeting and the scoring/ranking meeting. The use of a consensus approach will be utilized to assign scores for each Proposal. Members of the evaluation committee will not score Proposals individually but will work collectively to arrive at a consensus score for each evaluation criterion. The consensus scores will be based on the evaluation criteria and must be substantiated by the written comments contained on evaluation forms.

After evaluation of the Proposals, the VDOT P3 Office, in consultation with the VDOT / DPRT, reserves the right to request that Proposers submit Proposal revisions (also known as a Best and Final Offer (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 revisions 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 VDOT P3 Office. Upon receipt of the Proposal revisions or BAFOs, the Proposal evaluation process will be repeated by the VDOT P3 Office. It is important to note that BAFOs are not mandatory and may not be useful or appropriate for a given project. If BAFO is to be used, it will be specifically stated in the RFP.

Appendix I- Legal Framework – PPEA of 2002

Document Filing with Auditor of Public Accounts

The Auditor of Public Accounts shall periodically review IAs and CAs entered into pursuant to the PPEA to ensure compliance with the provisions of the PPEA (§56-575.18). VDOT P3 Office will electronically file copies of the Agreements and supporting documents on the database maintained by Auditor of Public Accounts.

Conflicts of Interest and Other Considerations

Actual, potential or perceived conflicts of interest may be encountered during a P3 project delivery. To ensure transparency, accountability, and objectivity, any Proposal submitted to VDOT / DPRT pursuant to the PPEA will follow applicable state and federal laws, regulations and guidelines regarding conflicts of interest. Such requirements 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 the Ethics in Public Contracting provisions of the Virginia Public Procurement Act (§2.2-4367 *et seq*. of the Code of Virginia.

VDOT P3 Office and the VDOT / DPRT, in consultation with the OAG and/or the Virginia Conflict of Interest and Ethics Advisory Council, will determine on a case-by-case basis whether conflicts of interest exist and what actions may be appropriate to avoid or mitigate any actual, potential or perceived conflict.

Pledge of Confidentiality

Each member of the VDOT P3 Office and the VDOT / DPRT that is associated with developing, reviewing or selecting submitted project Proposals has access to proprietary and confidential information. Any misuse by VDOT P3 Office employees or representatives of these agencies of such information or other materials, information and data provided to the agencies by a Proposer is strictly prohibited.

The VDOT P3 Office will institute safeguards concerning Proposal security for each P3 project, including where materials will be stored along with who has access to them and under what circumstances. Consultants assisting in the evaluation of the Proposals will be required to execute Confidentiality/Non-Disclosure and Conflict of Interest Agreements that provide for the confidential treatment of evaluation and procurement materials and also require the disclosure of potential or actual conflicts of interest with Proposers. These agreements may be executed at the commencement of procurement as well as during the Proposal evaluation period.

Gifts

Contribution and gift provisions are in place (see Virginia Code § 56-575.17:1) for a Private Entity involved in an IA or CA where the stated or expected value of the contract is $5 million or more. No Private Entity that has submitted a bid or Proposal to a Public Entity that is an executive branch agency directly responsible to the Governor and is seeking to develop and/ or operate a Qualifying Project, and no individual who is an officer or director of such a Private Entity, shall knowingly provide a contribution, gift, or other item with a value greater than $50 or make an express or implied promise to make such a contribution or gift to the Governor, Governor's political action committee, or the Governor's Secretaries, if the Secretary is responsible to the Governor for an executive branch agency with jurisdiction over the matters at issue, following the submission of a PPEA Proposal until the execution of a CA. Any person who knowingly

violates this provision shall be subject to a civil penalty of $500 or up to two times the amount of the contribution or gift, whichever is greater.

Appendix J - Confidentiality and Security of Information

Virginia Freedom of Information Act (VFOIA)

All Proposals submitted by Private Entities to VDOT P3 Office or VDOT / DRPT pursuant to the PPEA become the property of the Commonwealth and are subject to disclosure pursuant to the Virginia Freedom of Information Act (§2.2-3700 *et seq*. of the Code of Virginia) (VFOIA). Private Entities should pay particular attention to § 2.2-3705.6(11) and § 56-575.4(G) of the Code of Virginia which concern VFOIA and the PPEA process. It is the responsibility of Private Entities submitting Unsolicited Proposals or Proposers responding to solicitation requests to familiarize themselves with applicable law to ensure they take the necessary steps to identify information as confidential or proprietary and satisfy the requirements for withholding of information from disclosure that is authorized by applicable law.

In addition to complying with all statutory requirements of VFOIA to invoke an exemption from that statute's mandatory disclosure provisions, VDOT requests that when a Private Entity submits any materials that such Private Entity believes is confidential and/or proprietary information, such Private Entity must make a written request to the VDOT P3 Office:

1. Invoking the claimed VFIOA exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and;

3. Stating the reasons why protection is necessary;

4. Providing a redacted version of the submission.

Failure to take such precautions prior to the submission of a Proposal or other such documentation may subject all information to disclosure under the VFOIA.

The table below contains examples of materials that might qualify for exemptions from disclosure under VFOIA This list is provided as a guide and is not intended to be exhaustive or constitute legal advice..

Material	Citation
PPEA procurement records	Va. Code § 33.2-1820(D)
Trade secrets of Private Entity	Va. Code § 2.2-3705.6(11)(b); Va. Code § 33.2-1820(D); Va. Code § 59.1-336
Financial records of the Private Entity that are not generally available to the public	Va. Code § 2.2-3705.6(11)(b); Va. Code § 33.2-1820(D)
Cost estimates relating to proposed procurement transaction	Va. Code § 33.2-1820(E)
Materials prepared by the VDOT P3 Office (or its staff/consultants) for evaluation and negotiation of PPEA proposals	Va. Code § 2.2-3705.6(11)(a)
Information provided to the VDOT P3 Office by a private entity if disclosure would adversely affect private entity's or P3 Office's bargaining position or financial interest	Va. Code § 2.2-3705.6(11)(b)

Material	Citation
Proprietary, commercial, or financial information provided by a private transportation business to the VDOT P3 Office for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century	Va. Code § 2.2-3705.6(9)
Legal advice/attorney-client privileged materials	Va. Code § 2.2-3705.1(2)
Legal work product for use in litigation	Va. Code § 2.2-3705.1(3)
Appraisals or cost estimates of real property subject to proposed purchase, sale, or lease	Va. Code § 2.2-3705.1(8)
Account numbers/routing information	Va. Code § 2.2-3705.1(13)
Governor's working papers/correspondence	Va. Code § 2.2-3705.7(2)
Trade secrets and financial information supplied in response to audit from the VDOT P3 Office	Va. Code § 2.2-3705.6(31)

The Responsible Public Entity will determine the scope of protection from disclosure available under the Virginia Code § 2.2-3705.6(11). Private Entities who have any questions about confidentiality should raise those with the VDOT P3 Office prior to submitting information. The VDT P3 Office does not provide legal advice but will attempt to help ensure understanding of disclosure requirements.

Federal Freedom of Information Act

As discussed above, VDOT / DRPT, as public bodies of the Commonwealth of Virginia, are subject to VFOIA. It is also possible that documents they share with federal agencies could be subject to the federal Freedom of Information Act, 5 U.S.C. § 551 *et seq*. ("FOIA"). For example, to the extent that the VDOT P3 Office transmits information to the United States Department of Transportation's Federal Highway Administration ("FHWA"), such entity is an "agency' under FOIA, and the transmitted information could be subject to a records request made on the FHWA.

Like VFOIA, FOIA contains a general requirement to make information available upon public request; and like VFOIA there are limited exemptions to this requirement. To the extent that VDOT / DRPT provides materials related to PPEA projects to FHWA, the exemption most relevant to protecting such materials from public disclosure would be FOIA's exemption for trade secrets or confidential financial information. To qualify as "confidential" for this exemption, it is highly recommended that VDOT / DRPT request and receive documented assurances of confidentiality prior to transmitting PPEA materials containing confidential commercial or financial information to federal agencies.

Appendix K - PPEA Manual and Guidelines Statutory Cross-Reference

Cross reference PPEA requirements for guidelines (Va. Code § 56-575.3:1(B)) to PPEA Manual and Guidelines

Va. Code 56-575.3:1(B)	PPEA Guideline Requirement	PPEA Manual & Guidelines Section
1	Opportunities for competition through public notice and availability of representatives of the responsible public entity to meet with private entities considering a proposal	Sec. 2.4; 2.6; 3.4; 4.2; Appendix G (RFQ) & Appendix H (RFP)
2	Reasonable criteria for choosing among competing proposals	Sec. 2.6
3	Suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement	Multiple references to target dates and timelines throughout Manual
4	Authorization for accelerated selection and review and documentation timelines for proposals involving a qualifying project that the responsible public entity deems a priority	Sec 2.1
5	Financial review and analysis procedures that shall include, at a minimum, a cost-benefit analysis, an assessment of opportunity cost, and consideration of the results of all studies and analyses related to the proposed qualifying project. These procedures shall also include requirements for the disclosure of such analysis to the appropriating body for review prior to execution of an interim or comprehensive agreement	Sec. 3.2; 3.4; 4.6; 4.9; Sec 2.2.2 - Table 2; Sec 4.13 - Table 8
6	Consideration of the non-financial benefits of a proposed qualifying project	Sec. 2.2 – Tables 1 & 2
7	A mechanism for the appropriating body to review a proposed interim or comprehensive agreement prior to execution, which shall be in compliance with applicable law and the provisions of subsection I of § 56-575.4 pertaining to the approval of qualifying projects	Sec. 4.10
8	Establishment of criteria for (i) the creation of and the responsibilities of a public-private partnership oversight committee with members representing the responsible public entity and the appropriating body or (ii) compliance with the requirements of Chapter 42 (§ 30-278 et seq.) of Title 30. Such criteria shall include the scope, costs, and duration of the qualifying project, as well as whether the project involves or impacts multiple public entities. The oversight committee, if formed, shall be an advisory committee to	Sec 1.3 & 4.3

Va. Code 56-575.3:1(B)	PPEA Guideline Requirement	PPEA Manual & Guidelines Section
	review the terms of any proposed interim or comprehensive agreement	
9	Analysis of the adequacy of the information released when seeking competing proposals and providing for the enhancement of that information, if deemed necessary, to encourage competition pursuant to subsection G of Â§ 56-575.4	Sec. 4.2.3 & 4.2.4
10	Establishment of criteria, key decision points, and approvals required to ensure that the responsible public entity considers the extent of competition before selecting proposals and negotiating an interim or comprehensive agreement	Executive Summary - Figure 1 - PPEA Framework; Sec. 2.2.2 – Table 2 (Policy Review) & Appendix F – Table 9 (Detail Screening)
11	The posting and publishing of public notice of a private entity's request for approval of a qualifying project, including (i) specific information and documentation to be released regarding the nature, timing, and scope of the qualifying project pursuant to subsection A of § 56-575.4;(ii) a reasonable time period as determined by the responsible public entity to encourage competition and public-private partnerships in accordance with the goals of this chapter, such reasonable period not to be less than 45 days, during which time the responsible public entity shall receive competing proposals pursuant to subsection A of § 56-575.4;and (iii) a requirement for advertising the public notice in the Virginia Business Opportunities publication and posting a notice on the Commonwealth's electronic procurement website shall be included	Sec. 2.6