

PROCURING INFRASTRUCTURE PUBLIC-PRIVATE PARTNERSHIPS 2018 IN UNITED STATES

SURVEY QUESTION	ANALYSIS
PPP Regulatory Framework	
2. Does the regulatory framework in your country allow procuring PPPs?	Yes
If yes, please specify the relevant regulatory framework and the year of adoption:	<p>The United States is a federation of states, with the U.S. federal government and the government of each state regulating PPPs in a specific manner. This analysis will be focused on the state of Virginia (also known as the Commonwealth of Virginia), which established a framework for PPPs in some sectors. Considering the study’s scope - a transportation project -, this study will be based on the transportation sector. In 1988, Virginia enacted the Virginia Highway Corporation Act (Va. Code Ann. § 56-535 et seq). This was followed by the Public-Private Transportation Act of 1995 (“PPTA”), now codified (Va. Code Ann. § 33.2-1800 through Va. Code Ann. § 33.2-1824).</p> <p>The 2014 Virginia PPTA Implementation Manual and Guidelines (Manual and Guidelines) provides an updated project delivery framework which identifies, evaluates, develops and delivers Virginia’s public-private partnership (P3) transportation projects (currently being updated) are the</p> <ol style="list-style-type: none"> 1) September 2016 P3 Value for Money Guidelines, developed to provide guidance to the VDOT Office of Public-Private Partnerships (VDOT’s P3 Office) and Responsible Public Entities (RPEs) with the preparation of a value for money comparison of potential project delivery options; 2) the September 2015 P3 Risk Management Guidelines which provides a Risk Management Framework, and serves as a guide for managing various risks throughout the entire lifecycle from the initial screening to handback at the end of the contract term; 3) the August 2015 P3 Public Engagement Guidelines which enhance transparency, and identifies and explains opportunities for public engagement of citizens and key stakeholders throughout the various phases of the P3 process. <p>Together these documents are governing guidelines for solicitation, evaluation, award, and delivery of P3 projects procured under the Public-Private Transportation Act of 1995, as amended, (PPTA) in the Commonwealth.</p>
and provide a link to a government-supported website where the mentioned regulatory framework is available or provide an electronic copy of it:	http://law.lis.virginia.gov/vacode/ http://law.lis.virginia.gov/vacode/title33.2/chapter18/ www.p3virginia.org .
2.1. Are you aware of any reforms (in the regulatory frameworks – laws, regulations, policies, etc.- or	No

<p>in generally followed practices) related to PPPs that: Took place in 2016, are ongoing and/or are planned to be adopted BEFORE June 1, 2017?</p>	
<p>Please describe:</p>	<p>n/a</p>
<p>2.2 Are ongoing and/or are planned to be adopted AFTER June 1, 2017?</p>	<p>Yes</p>
<p>Please describe:</p>	<p>Virginia SB 1322 - Amends the PPTA. Renames the "Advisory Committee" the Transportation Public-Private Partnership "Steering Committee" and provides that the Deputy Secretary of Transportation shall serve as the chairman of the Steering Committee. Under the PPTA as amended, a responsible public entity ("RPE") may grant approval for the development and/or operation of a transportation facility by a private entity if that private entity can develop and/or operate the transportation facility for less cost than the Department of Transportation ("VDOT") or the Department of Rail and Public Transportation ("DRPT"). The law requires the chief executive officer of the RPE to certify in writing to the Governor and the General Assembly of Virginia that there has been no material change to the finding that a PPP is in the best interest of the public since the finding was issued and that the public contribution requested by the private entity does not exceed the maximum allowable. The law clarifies that the finding of public interest by the Steering Committee shall be made after receipt of responses to the request for qualifications and prior to the issuance of the first draft request for proposals. The law requires the RPE, when such entity is VDOT or DRPT, to ensure competition through the procurement process and develop a public sector analysis of the cost for the responsible entity to develop and/or operate the transportation facility. VDOT or DRPT and the Steering Committee must review the public sector analysis prior to the initiation of any procurement. The law adds to the information required to be included in the finding of public interest a description of the benefits expected to be realized by the RPE and a public sector analysis demonstrating that the private sector can deliver the project for less cost than the RPE. This law is identical to HB 2244. This law became effective on July 1, 2017 and is codified at Va. Code Ann. §§ 33.2-1801 et seq. See http://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+SB1322.</p> <p>HB 1929 - Amends the PPTA. Requires all comprehensive agreements originally entered into on or after July 1, 2017, resulting in privately funded roads open for public transportation, to include a provision requiring funding for adequate staffing, defined in the law, for general law-enforcement services by the Virginia State Police. This law became effective on July 1, 2017 and is codified at Va. Code Ann. § 33.2-1808. See http://lis.virginia.gov/cgi-bin/legp604.exe?171+sum+HB1929.</p> <p>Also, the PPTA Manual is being revised effective October 2017.</p>
<p>3.1 Besides national defense and other matters of national</p>	<p>No</p>

<p>security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Transportation.</p>	
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>3.2 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Water and Irrigation</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>3.3 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Energy generation and distribution.</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>3.4 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Telecom</p>	No
<p>If yes, please provide the relevant legal/regulatory provisions:</p>	n/a
<p>3.5 Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors?: Other</p>	No
<p>If yes, specify and provide the relevant legal/regulatory provisions:</p>	n/a
<p>4. Does the regulatory framework provide for a specific tax regime for PPP transactions (i.e. tax incentives, special tax depreciation treatment, etc.)?</p>	No

If yes, please specify and provide the relevant legal/regulatory provision (if any):	n/a
5. Please identify the PPP procuring authorities in United States and provide their website(s) (if available):	Pursuant to article § 33.2-1800 of the Va. Code Ann., “Responsible public entity” means a public entity, including local governments and regional authorities, that has the power to develop and/or operate the qualifying transportation facility. Consequently, PPPs can be procured by RPE’s that are state government, local government, or an established authority.
6. In addition to the PPP procuring authorities listed above, is there a specialized government entity that facilitates the PPP program (PPP Unit)?	Yes
If yes, please indicate its name, and its website (if available):	Virginia Department of Transportation, Office of Public-Private Partnerships (VDOT P3 Office) : http://www.p3virginia.org
6.1 If yes, what are the main responsibilities of the PPP Unit (check all that apply): PPP regulation and policy guidance.	Yes
6.2 PPP capacity building for other public authorities.	Yes
6.3 PPP promotion among the public and/or private sectors in national and international forums.	Yes
6.4 Technical support in implementing PPP projects.	Yes
6.5 Identification and selection of PPP projects from the pipeline.	No
6.6 Revision of fiscal risks born by the Government.	No
6.7 Consultation with affected communities on potential impact of PPP projects.	No
6.8 Approval of PPP projects.	Yes
6.9 Undertaking the procurement of PPPs.	No
6.10 Oversight of PPP implementation.	Yes
6.11 Other	No
6.11 please specify:	n/a
Please provide the relevant legal/regulatory provisions:	For transportation projects, the Transportation Public-Private Partnership Advisory Committee must review and certify that a proposed PPP transportation project serves a “public interest” before procurement can be initiated. See, Va. Code § 33.2-1803.2.

	The VAP3 accepts and solicits PPP's, but does not have the authority to accept or reject the proposals. That power lies with a mixture of other agencies/commissions and with the legislature. The VAP3 was established for administrative convenience.
PPP Preparation	
8. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before launching the procurement process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.1. Does the Ministry of Finance or Central Budgetary Authority approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.2. Does the Ministry of Finance (or government more broadly) have a specific system of: Budgeting for PPP projects.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Accounting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Reporting liabilities (explicit and implicit, direct and contingent) arising from PPPs.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
8.3. If yes to question 8.2, which of the following alternatives best describes the regulation?: Accounting and reporting according to International Public Sector Accounting Standards (IPSAS).	n/a
Accounting and reporting according to other international standard (e.g.	n/a

European System of Accounts).	
Please specify:	n/a
Other.	n/a
Please specify:	n/a
9. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before launching the procurement process (e.g. Cabinet, Cabinet Committee, Parliament, Supreme Audit Office, etc.)?	Yes
If yes, please specify the relevant authority	For transportation P3's, Federal Highway Administration and the PPTA's Transportation Public-Private Partnership Steering Committee (the Committee); for PPPs undertaken by local governments, funding must be approved by the governing body of the locality.
and provide the relevant legal/regulatory provisions (if any):	<p>If federal funds will be used, Federal Highway Administration's approval is necessary in order to enable RFP issuance and constitutes project authorization so long as the National Environmental Policy Act (NEPA) process has been satisfactorily completed. See 23 C.F.R. § 635.112(i)(1).</p> <p>Furthermore, § 33.2-1803.2. A. of the code provides for the Transportation Public-Private Partnership Advisory Committee. Procurement pursuant to § 33.2-1803 shall be initiated by the Department of Transportation or the Department of Rail and Public Transportation only after the Transportation Public-Private Partnership Advisory Committee (the Committee) has determined that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves the public interest pursuant to § 33.2-1803.1. The determination shall be evidenced by an affirmative vote of a majority of the members of the Committee.</p>
9.1. Besides the procuring authority and the Ministry of Finance or Central Budgetary Authority, does any other authority(s) approve the PPP project before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
10. Does the procuring authority use transaction advisors during the PPP project cycle?	Yes

<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>No regulatory basis</p>
<p>11. In a case comparable to the case study assumptions, please select the option that best describes the way your government integrates the prioritization of PPP projects with other public investment project prioritization? (e.g. in the context of a national public investment system, multi-year perspective plans, medium-term budgetary framework): The regulatory framework provides for the inclusion of PPPs in the national public investment system/medium term budgetary framework and details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any):</p>	<p>The Virginia Department of Transportation (VDOT) assembles a four year transportation planning document called the Statewide Transportation Improvement Program (STIP), which is created from regional transportation improvement programs. The STIP includes both federally and state funded projects scheduled for some phase of implementation within the four-year period. It also serves as the reference document required by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) for use in approving federal funds for transportation projects in Virginia. Any PPP project seeking to use federal funds, thus, must be in the STIP.</p>
<p>The regulatory framework prescribes the need for PPPs to be consistent with all other investment priorities without establishing a specific procedure to achieve that goal.</p>	<p>No</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>n/a</p>
<p>The regulatory framework does not include any provisions but the procuring authority evaluates the consistency of PPPs with other government investment priorities in practice.</p>	<p>No</p>

If yes, please elaborate:	n/a
The procuring authority does not evaluate PPPs against existing government priorities.	No
Please elaborate and provide examples:	n/a
11.1. Based on your experience, is it always the case that this prioritization is done in practice in accordance with the provisions of the regulatory framework described above?	Yes
If yes, please specify:	Priorization in practice is made through the Statewide Transportation Improvement Program (STIP)
If no, please elaborate:	n/a
12.1 Which of the following assessments are conducted when identifying and preparing a PPP in order to inform the decision to proceed with it? (check all that apply): Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the PPP project)	Yes
Relevant legal/regulatory provision (if any)	<p>Pursuant to § 33.2-1803(C) of the Code, the responsible public entity may determine that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves such public purpose if:</p> <ol style="list-style-type: none"> 1. There is a public need for the transportation facility or facilities the private entity proposes to develop and/or operate as a qualifying transportation facility; 2. The transportation facility or facilities and the proposed interconnections with existing transportation facilities, and the private entity's plans for development and/or operation of the qualifying transportation facility or facilities, are, in the opinion of the responsible public entity, reasonable and will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, enhancing economic efficiency, or any combination thereof.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	<p>According to the PPTA implementation manual - appendix E : Public Need and Public Benefits - the procuring entity shall ask the following questions :</p> <ul style="list-style-type: none"> - Does the project address the needs outlined in the local, regional and state transportation plans, such as congestion relief, safety, new capacity and preservation of existing assets? - Does the project support improving safety, reducing congestion, increasing

	<p>capacity, providing accessibility, improving pedestrian, biking facilities and/or enhancing economic efficiency?</p> <ul style="list-style-type: none"> - Are there anticipated transportation benefits to the community, the region and/or the Commonwealth? - Is the project expected to help achieve performance, safety, mobility or transportation demand management goals? - Is the project expected to improve connections among existing and planned transportation modes? - Are there potential project benefits to the Affected Localities' transportation system? - Are there anticipated enhancements to adjacent transportation facilities or other modes?
Is the assessment done in practice?	Yes
Details:	The assessment is prepared before launching the procurement of a PPP.
12.2. Affordability assessment, including the identification of the required long term public commitments (explicit and implicit, direct and contingent liabilities)	Yes
Relevant legal/regulatory provision (if any)	In accordance with § 33.2-1803(F) of the code, for any project with an estimated construction cost of over \$50 million, the responsible public entity also shall require the private entity to pay the costs for an independent audit of [...] all public costs and potential liabilities to which taxpayers could be exposed (including improvements to other transportation facilities that may be needed as a result of the proposal, failure by the private entity to reimburse the responsible public entity for services provided, and potential risk and liability in the event the private entity defaults on the comprehensive agreement or on bonds issued for the project). This independent audit shall be conducted by an independent consultant selected by the responsible public entity, and all such information from such review shall be fully disclosed.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	<p>The PPTA Implementation Manual - Appendix H - provides guidance for the PPTA Audit Requirements</p> <ol style="list-style-type: none"> 1. Audit of the traffic and cost estimates provided by the Private Entity named as the Preferred Proposer in its Proposal to the RPE; 2. Identification and quantitative assessment of anticipated public costs and potential liabilities; and 3. Qualitative assessment of the cost and revenue projections relative to other, similar projects and assessment of the potential for increased costs and liabilities to the VAP3 or the RPE. <p>The level of audit shall be specific to the scope and type of agreement, whether Interim or Comprehensive Agreement.</p>
Is the assessment done in practice?	Yes

Details:	The assessment is prepared before launching the procurement of a PPP.
12.3. Risk identification, allocation and assessment (risk matrix)	Yes
Relevant legal/regulatory provision (if any)	<p>Pursuant to § 33.2-1803(C) (5) of the code, the responsible public entity may determine that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves such public purpose if the risks, liabilities, and responsibilities transferred, assigned, or assumed by the private entity provide sufficient benefits to the public to not proceed with the development and/or operation of the transportation facility through other means of procurement available to the responsible public entity.</p> <p>Furthermore § 33.2-1803.1 (B) states that, at a minimum, a finding of public interest shall contain the following information: 2. A statement of the risks, liabilities, and responsibilities to be transferred, assigned, or assumed by the private entity, which shall include the following:</p> <ol style="list-style-type: none"> a. A discussion of whether revenue risk will be transferred to the private entity and the degree to which any such transfer may be mitigated through other provisions in the interim or comprehensive agreements; b. A description of the risks, liabilities, and responsibilities to be retained by the responsible public entity; and c. Other items determined appropriate by the responsible public entity in the guidelines for this chapter. <p>3. The determination of whether the project has a high, medium, or low level of project delivery risk and a description of how such determination was made. If the qualifying transportation facility is determined to contain high risk, a description of how the public's interest will be protected through the transfer, assignment, or assumption of risks or responsibilities by the private entity in the event that issues arise with the development and/or operation of the qualifying transportation facility.</p> <p>Finally, according to section 4.3 of the PPTA Implementation Manual, During the project development phase, the VAP3 will convene and participate in an interim risk workshop to update the project risks identified in the Detail-Level Screening and identify any additional risks.</p>
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The CV3P P3 Risk Management Guidelines (3.1.2) identifies steps for the Screening phase, which are the following : Step 1 - Create Risk Register ; Steps 2 - 4 Conduct Risk Analysis, Identify Risk Response and Identify Potential Risk Allocation ; and for the Development phase, as follows : Step 1 - Conduct Risk Analysis; Step 2 - Refresh Risk Register; Step 3 - Identify Risk Response; Step 4 - Identify Potential Risk Allocation.
Is the assessment done in practice?	Yes
Details:	The assessment is prepared before launching the procurement of a PPP.
12.4. Comparative assessment to evaluate whether a PPP is the best	Yes

option when compared to other procurement alternatives (i.e. value for money analysis, public sector comparator)	
Relevant legal/regulatory provision (if any)	According to section 4.2 of the PPTA Implementation manual, as part of the project development phase, the VAP3 will conduct an Initial VfM Analysis to determine whether a project provides more benefits to its users and to the Commonwealth when delivered through the P3 delivery process than when delivered through a traditional method.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	The PPTA Value for money guidance of the Office of transportation public private partnerships provides a specific methodology to assess the value for money of a PPP project.
Is the assessment done in practice?	Yes
Details:	The assessment is prepared before launching the procurement of a PPP.
12.5. Financial viability or bankability assessment	Yes
Relevant legal/regulatory provision (if any)	Appendix E of the PPTA implementation manual requires to assess the financial feasibility of the project.
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	Appendix E of the PPTA implementation manual requires, to assess the financial feasibility of the project, to ask the following questions : <ul style="list-style-type: none"> - Are there public funds required and, if so, are the Commonwealth's financial responsibilities clearly stated? - Is the preliminary financial plan feasible in that the sources of funding and financing can reasonably be expected to be obtained? - What is the level of private financial equity/debt within the preliminary financial plan?
Is the assessment done in practice?	Yes
Details:	The assessment is prepared before launching the procurement of a PPP.
12.6. Market sounding and/or assessment (showing evidence of investors' interest in the market for the project)	Yes
Relevant legal/regulatory provision (if any)	Pursuant to Appendix E of the PPTA Implementation Manual, among the Detail-Level Screening Criteria is the market Demand for PPTA Delivery. However, 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.
Is there a specific methodology for the assessment?	No

If yes, please elaborate	n/a
Is the assessment done in practice?	Yes
Details:	The assessment is prepared before launching the procurement of a PPP.
12.7. Environmental impact assessment	Yes
Relevant legal/regulatory provision (if any)	Within the Key Tasks during the Project Development Phase is Analyzing compliance with environmental and transportation planning requirements (4.1 of the PPTA Implementation Manual).
Is there a specific methodology for the assessment?	Yes
If yes, please elaborate	<p>PPTA Implementation Manual (1.6): For all projects requiring federal action, the relevant RPE initiates and completes an environmental document in accordance with the National Environmental Policy Act (NEPA), prior to inviting proposals for projects. At this point, the purpose and need for the project have been well-established, alternative design concepts and scopes have been analyzed, and operational features are identified. The concepts and analyses are submitted to the public and various other stakeholders for review and comment, and, ultimately, a preferred alternative is selected and a determination such as a Categorical Exclusion (CE), Finding of No Significant Impact (FONSI), or Record of Decision (ROD) is issued by the appropriate lead federal agency.</p> <p>FONSI means Finding of No Significant Impact as defined in 40 CFR 1508.13. A FONSI is issued by the lead federal agency when environmental analysis and interagency review during the environmental assessment process determines a project has no significant impacts on the environment.</p> <p>NEPA process: means the statutory process to assess the environmental impacts of alternative options carried out in accordance with the requirements of the National Environmental Policy Act.</p>
Is the assessment done in practice?	Yes
Details:	Environmental assessment is a part of the prefeasibility analysis of the project.
12.8. Consultation process with affected communities on potential impact of the PPP project	No
Relevant legal/regulatory provision (if any)	n/a
Is there a specific methodology for the assessment?	n/a
If yes, please elaborate	n/a
Is the assessment done in practice?	n/a
Details:	n/a
13. Does the procuring authority include the	No

assessments (indicated in Question 12 above) in the request for proposals and/or tender documents (for example, as part of an Information Memorandum to the bidders)?	
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and specify which of the assessments are included in the request for proposals and/or tender documents:	n/a
13.1. Are the assessments published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
specify the website	http://www.p3virginia.org/
please specify which of the assessments are published online:	Various assessments, such as: high and detail level screenings, policy reviews, risk registers and risk analyses, and value for money analysis would be posted, as well as the environmental impact assessment.
14. Does the procuring authority include a draft PPP contract in the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Contents of RFP documents are stated by Appendix G of the PPTA implementation manual and include the RPE's preferred allocation of project risks and commercial terms via a draft Comprehensive Agreement.
If no, please elaborate	n/a
14.1. Are the tender documents published online?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Statements of Qualifications in response to RFQs, and Technical and Financial Proposals (redacted as appropriate) in response to RFPs
and please specify the website:	http://www.p3virginia.org/
15. In a case comparable to the case study assumptions, have standardized PPP model contracts and/or transaction documents been developed?	Yes
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	Forms are available on: http://www.p3virginia.org/ppta-resources/ This includes: P3 Task Order template – P3 High-Level Screening Report template – P3 Detail-Level Screening Report template – P3 Policy Review Report template.
16.1 In a case comparable to the case study assumptions,	No

who is the responsible party for each of the following requirements? Obtaining the required urban permits: Procuring authority (or other Government entity)	
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.2. Obtaining the required environmental permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.3. Obtaining the required operational permits: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
16.4. Obtaining the required land: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes

Relevant legal/regulatory provision (if any)	No regulatory basis
16.5. Obtaining the required right of way: Procuring authority (or other Government entity)	No
Private Partner	No
Private partner with facilitation role assigned to the procuring authority (or other Government entity)	No
To be established in the contract	Yes
Relevant legal/regulatory provision (if any)	No regulatory basis
PPP Procurement	
18. Which of the following options best describes the required qualifications of the bid evaluation committee members? (Please select only one): The membership of the bid evaluation committee is specified and/or its members are required to meet detailed qualifications.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members require sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The bid evaluation committee members are not required to have any specific qualifications.	Yes
Please elaborate and provide examples:	No specific provisions. In practice, the committee is comprised of technical experts, financial experts, and a procurement manager.
19. Does the procuring authority issue a public procurement notice of the PPP project?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to section 5.2.1 of the Implementation Manual and Guidelines for the PPTA, the RFQ documents will be posted on the Department of General Services central procurement website and the VDOT P3 website (www.p3virginia.org).

19.1. If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	www.p3virginia.org
20. Are foreign companies prohibited from participating in the bidding process?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
21. In a case comparable to the case study assumptions, does the procuring authority grant the potential bidders a minimum period of time to submit their bids?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to section 5.2.1 of the Implementation Manual and Guidelines for the PPTA, the RFQ documents will be posted on the Department of General Services central procurement website and the VDOT P3 Office website. These documents shall provide for a minimum 60-day competition period.
and the time in calendar days:	60
22.1. In a case comparable to the case study assumptions, which are the procurement procedures available and/or set as default for PPP projects? Open tendering:	No
Available	
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.2. Restricted tendering (with pre-qualification stage):	No
Available	
Default	Yes
Relevant legal/regulatory provision (if any)	Section 5.1 of the PPTA Implementation Manual indicates: The P3 procurement process consists of (1) issuing a RFQ and (2) issuing a Request for Proposals (RFP).
22.3 Multi-stage tendering (with shortlisting of final candidate(s)): Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.4. Competitive dialogue: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a

22.5. Direct negotiation with more than one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.6. Direct negotiation with only one candidate: Available	No
Default	No
Relevant legal/regulatory provision (if any)	n/a
22.7 Other. Specify:	No
Available	n/a
Default	n/a
Relevant legal/regulatory provision (if any)	n/a
22.8. Do the tender documents detail the procedure of the procurement process providing the same information to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to section 5.2.1 of the Implementation Manual and Guidelines for the PPTA, the RFQ documents will be posted on the Department of General Services central procurement website and the VDOT P3 Office website. These documents shall (1) provide for a minimum 60-day competition period 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.
If no, please elaborate:	n/a
22.9. Do the tender documents specify the prequalification/shortlisting criteria (when applicable) in order to make them available to all the bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to section 5.2.1 of the PPTA implementation manual, the RFQ documents will specify the evaluation criteria and the methodology used to evaluate such criteria so that Proposers will know how their submissions will be evaluated.
22.10. Based on your experience, is it always the case that the specified criteria are respected in practice?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	The RFQ documents will specify the evaluation criteria and the methodology used to evaluate such criteria so that Proposers will know how their submissions will be evaluated.

If no, please elaborate:	n/a
23. Can interested parties/potential bidders submit questions to clarify the public procurement notice and/or the request for proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
23.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose those questions and clarifications to all potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
23.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes
If yes, please specify:	Practice is to disclose information requested as a clarification to all bidders.
If no, please elaborate:	n/a
24. Besides questions and clarifications, can the procuring authority conduct pre-bidding conference?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Appendix F of the Implementation Manual: The VAP3 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 Respondents may have about the RFQ.
24.1. If yes, notwithstanding confidential information pertaining to the bidders, does the procuring authority disclose the content and the results of the pre-bid conference to all bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
24.2. Based on your experience, is it always the case that this disclosure of information is done in practice?	Yes

If yes, please specify:	Some information is disclosed as VAP3 seeks transparency. However, confidential information received from bidders is not disclosed.
If no, please elaborate:	n/a
25. In a case comparable to the case study assumptions, does the procuring authority require the bidders to prepare and present a financial model with their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Appendix G of the PPTA Implementation Manual, the content requirements of the Financial Proposal will vary with the type of PPTA delivery structure and the transportation mode and nature of a particular 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 VAP3 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.
If no, please elaborate:	n/a
26. Does the procuring authority evaluate the proposals strictly and solely in accordance with the evaluation criteria stated in the tender documents?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to section 5.6 of the PPTA Implementation manual, the RPE Administrator will take into account the recommendation of the VAP3, the evaluation criteria and the VfM analysis when selecting a Preferred Proposer.
Evaluation criteria is not set in the tender documents	No
27. In the case where only one proposal is submitted (sole proposals), which of the following options best describes the way the procuring authority deals with them? (Please select only one): The procuring authority follows a specific procedure before awarding a PPP contract where only one proposal is submitted.	Yes

Please specify and provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to section 5.3 of the PPTA Implementation manual, if after the competitive response period, an RPE receives a single responsive submittal to its RFP, the RPE will conduct a full value assessment of the proposal received to determine if the responsive submittal brings value to the Commonwealth. The value assessment will include, at a minimum, an assessment of risk allocations and the Final VfM Analysis described in Section 5.5. Once the value assessment has been completed, the RPE will make a presentation to the RPE's Oversight Board to present the value assessment and seek a resolution from the Oversight Board to accept the responsive proposal or terminate the procurement. The RPE's presentation to the Oversight Board will be at a regularly scheduled meeting open to the public.</p>
The procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	<p>No</p>
Please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
The procuring authority does not award a PPP contract if only one proposal is submitted.	<p>No</p>
Please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
The regulatory framework does not include any provisions.	<p>No</p>
28. Does the procuring authority publish the award notice?	<p>Yes</p>
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	<p>No regulatory basis</p>
28.1. If yes, is the public procurement award notice published online?	<p>Yes</p>
If yes, please specify the website:	<p>http://www.p3virginia.org/p3-projects/</p>
29. Does the procuring authority provide all the bidders with the result of the PPP procurement process?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>According to section 5.6 of the PPTA implementation manual, the VAP3, in coordination with the RPE, will notify all other Proposers in writing regarding the RPE Administrator's decision to award the project to the Preferred Proposer.</p>
If no, please elaborate:	<p>n/a</p>

29.1. If yes, does the notification of the result of the PPP procurement process include the grounds for the selection of the winning bid?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
30. Is there a standstill (or pause) period after the contract award and before the signing of the contract in order to allow unsuccessful bidders to challenge the award decision?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
and the time in calendar days:	n/a
30.1. Is the standstill period set out in the notice of intention to award?	n/a
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
31. Does the regulatory framework restrict negotiations with the selected bidder between the award and the signature of the PPP contract in order to prevent an unfair disadvantage to the other bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
31.1. Based on your experience, is it always the case that this restriction is respected in practice?	Yes
If yes, please specify:	Practice is to limit negotiations as final procurement documents are subject to review and comment during the procurement process.
If no, please elaborate:	n/a
32. Does the procuring authority publish the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to section 5.11 of the 2014 PPTA implementation manual, once the contract is finalized and a decision to award has been made, the RPE will post major business points of the CA, including any projected public funds used on

	the project and the signed contract on the VDOT P3 Office and/or project website.
32.1. If yes, which of the following options best describes this publication (choose only one)?: Publication of the full PPP contract including all its annexes and appendixes	Yes
Publication of the full PPP contract without including all its annexes and appendixes	No
Publication of a summary of the PPP contract without publishing the full PPP contract	No
Publication of a summary of the PPP contract along with the full PPP contract including all its annexes and appendixes	No
Publication of a summary of the PPP contract along with the full PPP contract without including all its annexes and appendixes	No
32.2. If yes, is it published online?	Yes
If yes, please specify the website:	VDOT P3 Office and/or project website: www.p3virginia.org
32.3. If yes, does the procuring authority also publish any subsequent amendment made to the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
PPP Contract Management	
41. Has the procuring or contract management authority established a system to manage the implementation of the PPP contract (e.g. attributing responsibilities or establishing specific management tools)?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	23 U.S. Code § 106 - Project approval and oversight g.1 (A)In general.-The US Secretary of Transportation shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title.

	(B)Minimum requirement.- At a minimum, the program shall be responsive to all areas relating to financial integrity and project delivery.
41.1. If yes, which of the following tools does it include (check all that apply)?: Establishment of a PPP contract management team	Yes
Relevant legal/regulatory provisions (if any):	No regulatory basis
Participation of the members of the PPP contract management team in the PPP procurement process and/or vice versa	Yes
Relevant legal/regulatory provisions (if any):	No regulatory basis
Elaboration of a PPP implementation manual or an equivalent document	Yes
Relevant legal/regulatory provisions (if any):	Pursuant to 23 U.S. Code § 106 - Project approval and oversight (h) Major Projects.- (2)Project management plan.-A project management plan shall document- (A) the procedures and processes that are in effect to provide timely information to the project decision makers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and (B) the role of the agency leadership and management team in the delivery of the project.
Establishment of personnel training programs (i.e. initial training and continued training throughout the course of the project)	No
Relevant legal/regulatory provisions (if any):	n/a
Establishment of a risk mitigation mechanism which considers the evolving nature of risks throughout the project lifecycle (guidelines, specific processes, insurance regime, etc.)	Yes
Relevant legal/regulatory provisions (if any):	The PPP Risk Management Guidelines and the PPP Risk Register address the process of a risk mitigation mechanism.
41.2. Which of the following options best describes the required qualifications of the PPP contract management team members? (Please select only one): The membership of the PPP	No

contract management team is specified and/or its members are required to meet detailed qualifications.	
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are required to meet sufficient qualification without specific details.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The PPP contract management team members are not required to meet any specific qualifications.	Yes
Please elaborate and provide examples:	The contract management team is an established practice and not a requirement of the regulatory framework. Hence, there are no requirements for the qualification of their members.
42. Does the procuring or contract management authority establish a system for tracking progress and completion of construction works under a PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
42.1. If yes, is the PPP contract construction performance information made available to the public?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	No regulatory basis
42.2. If yes, is the PPP contract construction performance information made publicly available online?	Yes
If yes, please specify the website:	Individual project website including Virginia Department of Transportation website: http://www.p3virginia.org/categories/completed-p3-projects/
43. Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract	Yes

implementation after construction?	
If yes, please provide the relevant legal/regulatory provisions (if any):	<p>23 U.S.C. §129 (a) (3) B Annual audit.-</p> <p>(i)In general.- A public authority with jurisdiction over a toll facility shall conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A), and report the results of the audits to the Secretary.</p> <p>(ii)Records.- On reasonable notice, the public authority shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.</p>
43.1. If yes, which of the following tools does it include (check all that apply)?: Performance is assessed against evaluation criteria set in the tender documents and the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The procuring or contract management authority can abate (reduce) payments for non-performance of operating obligations under the PPP contract	No
Relevant legal/regulatory provisions (if any)	n/a
The private partner must provide the procuring or contract management authority with periodic operational and financial data	Yes
Relevant legal/regulatory provisions (if any)	Where the FHWA has designated a PPP project a “Major Project” under 23 USC § 106 (a project with a cost of \$500 million or more), 23 USC § 106(h) requires submission and approval of a project management plan, a finance plan and annual updates.
The procuring or contract management authority must periodically gather information on the performance of the PPP contract	Yes
Relevant legal/regulatory provisions (if any)	23 U.S.C. § 129(a)(3)(B) requires a public authority with jurisdiction over a toll facility to conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance, and report the results of the audits to the FHWA.
The PPP contract performance information	Yes

must be available to the public	
Relevant legal/regulatory provisions (if any)	No regulatory basis
43.2. Is PPP contract performance information made publicly available online?	Yes
If yes, please specify the website:	Individual project website
44. Are foreign companies prohibited from repatriating the income resulting from the operation of a PPP project?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
45. Does the regulatory framework (including standard contractual clauses) expressly regulate changes in the ownership structure (i.e. stakeholder composition) of the private partner and/or assignment of the PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
45.1. If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in the private partner during an initial period (e.g. construction and first five years of operation).	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Changes of ownership/contract assignment, at any time during the contract, must preserve the same technical qualifications as the original operator.	n/a

If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
In other cases, flexibility to change the ownership structure and/or assign the contract.	n/a
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46. Does the regulatory framework (including standard contractual clauses) expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
46.1. If yes, is an approval from a government authority, other than the procuring authority, required?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.2. If yes to question 46, which of the following circumstances are specifically regulated? (check all that apply): A change in the scope and/or object of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory/standard	n/a

contractual provisions (if any):	
A change in the financial and/or economic balance of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the duration of the contract.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
A change in the agreed price or tariff.	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
46.3. Can the procuring authority unilaterally modify a PPP contract?	No
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
47. Does the regulatory framework (including standard contractual clauses) expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
Material Adverse government action .	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis

Change in the Law.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
Refinancing.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
Subcontracting and replacement of the subcontractors.	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
48. Does the regulatory framework (including standard contractual clauses) allow for administrative and/or contractual complaint review mechanisms to address disputes arising from the implementation of PPP contracts?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
48.1. If yes, please specify which of the following options are available (check all that apply): Local administrative review body	No
If yes, please specify:	n/a
Local courts	Yes
Domestic arbitration	Yes
International arbitration	Yes
Investor-State Dispute Settlement (ISDS)	Yes
Mediation	Yes
Please provide the relevant legal/ regulatory/standard contractual provisions (if any)	No regulatory basis

48.2. If applicable, are arbitration awards enforceable by the local courts?: Domestic Arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	Enforceability of arbitral awards is regulated under the ☐ The Federal Arbitration Act (FAA) and the Virginia Uniform Arbitration Act (VUAA), as applicable, and complemented by case law.
International arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	United States is a party to the New York Convention
Investor-State arbitration	Yes
If yes, please provide the relevant legal/ regulatory provisions/standard contractual provisions (if any):	The United States is a party to the ICSID Convention
49. Does the regulatory framework (including standard contractual clauses) allow for the restructuring of a PPP private partner (SPV) in financial difficulty prior to insolvency?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
50. Does the regulatory framework (including standard contractual clauses) allow for the lenders to take control of the PPP project (lender step-in rights) if either the private partner defaults or if the PPP contract is under threat of termination for failure to meet service obligations?	Yes
If yes, please provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
50.1. If yes, which of the following options best describes the lender step-in	No

right? (Please select only one): The regulatory framework expressly regulates the lender step-in rights.	
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	No regulatory basis
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	n/a
Other.	No
Please Specify:	n/a
51. Does the regulatory framework (including standard contractual clauses) expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	Material defaults, convenience Pursuant to § 33.2-18132 (A) of the Code, upon the occurrence and during the continuation of material default, the responsible public entity may exercise any or all of the following remedies: 2.The responsible public entity may terminate the interim or comprehensive agreement and exercise any other rights and remedies that may be available at law or in equity. Furthermore, § 33.2-1808 (8.) related to Comprehensive agreement indicates that compensation to the private entity that may include a reasonable development fee, a reasonable maximum rate of return on investment, and/or reimbursement of development expenses in the event of termination for convenience by the responsible public entity as agreed upon between the responsible public entity and the private entity.

51.1. If yes, does the regulatory framework (including standard contractual clauses) establish the consequences for the termination of the PPP contract?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory/standard contractual provisions (if any):	<p>Pursuant to § 33.2-1817 of the code, the responsible public entity shall terminate the private entity's authority and duties under this chapter on the date set forth in the interim or comprehensive agreement. Upon termination, the authority and duties of the private entity under this chapter shall cease, and the qualifying transportation facility shall be dedicated to the responsible public entity or, if the qualifying transportation facility was initially dedicated by an affected locality or public entity, to such affected locality or public entity for public use.</p>
Unsolicited Proposals	
34. Are unsolicited proposals in United States: (choose only one): Explicitly prohibited by the legal framework? (If prohibited, skip to section F)	<p>No</p>
Explicitly allowed by the legal framework?	<p>Yes</p>
Not regulated by the legal framework, but do happen in practice?	<p>No</p>
Not regulated by the legal framework, and do not happen in practice? (if not done in practice, skip to section F)	<p>No</p>
If the legal framework explicitly prohibits or allows unsolicited proposals, please provide the relevant legal/regulatory provisions	<p>According to § 33.2-1820 (A) (1.) of the code, for responsible public entities that are state agencies, authorities, departments, institutions, and other units of state government, posting shall be on the Department of General Services' central electronic procurement website. For proposals submitted pursuant to subsection A of § 33.2-1803, the notice posted shall (i) provide for a period of 120 days for the submission of competing proposals; (ii) include specific information regarding the proposed nature, timing, and scope of the qualifying transportation facility; and (iii) outline the opportunities that will be provided for public comment during the review process; Furthermore, the PPTA implementation agreement provides regulations related to unsolicited proposals in section 2.2, indicating that the PPTA permits RPEs to receive and evaluate Unsolicited Proposals from Private Entities to develop and/or operate P3 projects under their jurisdiction. Private Entities may submit Unsolicited Proposals for all transportation modes to the RPE at any time, pursuant to the PPTA, the Code of Virginia (Title 62.1) and this PPTA Manual and Guidelines. All Unsolicited Proposals shall be submitted to the RPE for forwarding to the VAP3. A copy of the Unsolicited Proposal may also be mailed to the VAP3 for</p>

	<p>the attention of the VAP3 Director at the following address. In accordance with § 62.1-132.19(D) of the code, which states that “neither the Commonwealth nor the Authority (Virginia Port Authority) shall accept any unsolicited proposal under the PPTA (§ 33.2-1800 et seq.) regarding the ownership or operation of any seaport or port facility,” Unsolicited Proposals regarding the ownership and/or operation of any seaport or port facility can no longer be accepted by the VPA or VAP3.</p>
<p>35. Does the procuring authority conduct an assessment to evaluate unsolicited proposals? (if not, skip to question 37)</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant legal/regulatory provisions (if any)</p>	<p>Pursuant to section 3.1.2 of the PPTA Implementation Manual and Guidelines, within 90 calendar days of receiving an Unsolicited Proposal from a Private Entity via an RPE, the VDOT P3 Office will perform a Policy Review and brief evaluation of the concept and benefits to ensure the Proposal is in accordance with the Code of Virginia and this PPTA Manual and Guidelines and is consistent with the Commonwealth’s transportation policy goals. The findings of the evaluation and the VDOT P3 Office’s recommendations will be documented in a Policy Review Report which is submitted to the RPE Administrator.</p>
<p>35.1. If yes, is there any vetting procedure and/or pre-feasibility analysis before fully assessing the unsolicited proposal?</p>	<p>Yes</p>
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>Pursuant to section 3.1.2 of the PPTA Implementation Manual and Guidelines, within 90 calendar days of receiving an Unsolicited Proposal from a Private Entity via an RPE, the VDOT P3 Office will perform a Policy Review and brief evaluation of the concept and benefits to ensure the Proposal is in accordance with the Code of Virginia and this PPTA Manual and Guidelines and is consistent with the Commonwealth’s transportation policy goals. The findings of the evaluation and the VDOT P3 Office’s recommendations will be documented in a Policy Review Report which is submitted to the RPE Administrator.</p>
<p>36. Which of the following options best describe how the procuring authority ensures that unsolicited proposals are consistent with existing government priorities? (Please select only one): The procuring authority follows a specific procedure to ensure the consistency of PPPs with other government investment priorities.</p>	<p>Yes</p>
<p>If yes, please specify and provide the relevant</p>	<p>Private Entities may submit Unsolicited Proposals to the RPE at any time pursuant to the PPTA (§ 33.2-1803) and this PPTA Manual and Guidelines. (3.1.2 of the PPTA Implementation Manual). As a consequence, the Virginia</p>

legal/regulatory provisions (if any):	Department of Transportation (VDOT) assembles a four year transportation planning document called the Statewide Transportation Improvement Program (STIP), which is created from regional transportation improvement programs. The STIP includes both federally and state funded projects scheduled for some phase of implementation within the four-year period. It also serves as the reference document required by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) for use in approving federal funds for transportation projects in Virginia. Any PPP project seeking to use federal funds, thus, must be in the STIP.
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
The procuring authority does not evaluate unsolicited proposals against existing government priorities.	No
Please elaborate and provide examples:	n/a
37. Does the procuring authority initiate a competitive PPP procurement procedure when proceeding with the unsolicited proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	According to Appendix B of the PPTA implementation manual, RPE Administrator accepts unsolicited proposal and posts unsolicited proposal for 120 days for competing proposals
38. Does the procuring authority grant a minimum period of time to additional prospective bidders (besides the proponent) to prepare their proposals?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to § 33.2-1820 (A) (1) of the code, for responsible public entities that are state agencies, authorities, departments, institutions, and other units of state government, posting shall be on the Department of General Services' central electronic procurement website. For proposals submitted pursuant to subsection A of § 33.2-1803, the notice posted shall (i) provide for a period of 120 days for the submission of competing proposals; (ii) include specific information regarding the proposed nature, timing, and scope of the qualifying transportation facility; and (iii) outline the opportunities that will be provided for public comment during the review process; According to Appendix B of the PPTA implementation manual, RPE

	Administrator accepts unsolicited proposal and post unsolicited proposal for 120 days for competing proposals
and the time in calendar days:	120
39.1 Does the procuring authority use any of the following incentive mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer (BAFO) process and/or automatic shortlisting.	No
39.2 Developer's fee (reimbursing the original proponent for the project development cost).	No
39.3 Bid Bonus.	No
39.4 Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	No
39.5 Other.	No
Please specify:	n/a
Please provide the relevant legal/regulatory provisions (if any):	n/a