

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**INNOVATIVE PROJECT DELIVERY DIVISION**  
**MEMORANDUM**

<b>GENERAL SUBJECT:</b>	<u>Competitive Procurement under PPTA</u>	<b>NUMBER:</b>	<u>IPD 05-01.0</u>
		<b>DATE:</b>	<u>September 30, 2005</u>
<b>SPECIFIC SUBJECT:</b>	<u>Memorandum for Establishing competitive procurement on all solicited and unsolicited Public Private Transportation Act (PPTA or Act) projects.</u>	<b>SUPERSEDES:</b>	<u>N/A</u>
		<b>SUNSET/ EXPIRES:</b>	<u>In effect until superseded</u>

Original Signature on File  
**Thomas W. Pelnik, III P.E.**  
**Director, Innovative Project Delivery Division**

**PURPOSE:** To define time periods for response to a public notice, or request for proposal, for the competitive procurement of transportation construction projects resulting from unsolicited or solicited proposals submitted pursuant to the PPTA.

**OBJECTIVE:** To maximize competition and the opportunity for participation on the typically complex project procured under the PPTA, and provide contracts with the best value to the Commonwealth.

**BACKGROUND:** State and federal law address requirements for competitive procurement. The Virginia Public Procurement Act (§ [2.2-4300](#) et seq.), and federal law (23 CFR 635.104) state a preference for competitive sealed bidding, providing for alternative procurement when justified by a finding of public interest.

State law specifically establishes the PPTA to allow for public-private partnerships. Although, Section [56-573.1](#) of the PPTA states that the Virginia Public Procurement Act shall not apply, it further requires procurement procedures consistent with "competitive sealed bidding" as defined in § [2.2-4301](#) and subsection B of § [2.2-4310](#), unless the reasons for using competitive negotiation procedures are documented in writing. Further, the subsequent approval of the procurement method by the Secretary of Transportation is required before the comprehensive agreement is signed.

The following procedures are based on VDOT review of PPTA procurement in 2005 and pertinent Federal regulations, with consideration of past proposals and projects since the inception of the Act in 1995. As a result, neither the minimum 10-day public notice required under the Virginia Public Procurement Act nor VDOT's typical 30-day to 60-day notice of invitations to bid are pertinent to the projects considered under the PPTA.

#### Public Notice Periods

In accordance with the PPTA Implementation Guidelines, VDOT will post a public notice after receiving unsolicited proposals that are in conformance with the Act and the guidelines. VDOT may publish a notice of unsolicited proposals that specifically solicits competing proposals, and may include requests for specific information that may be different from the original unsolicited proposal. VDOT may also solicit proposals for priority projects, in accordance with the Act and the guidelines.

VDOT also may issue a Request for Information (RFI), inviting private entities to express a potential interest in developing and/or operating one or more qualifying transportation facilities. An RFI is not a formal solicitation and VDOT, in its sole discretion, will determine appropriate public notice time periods for RFI's on a project specific basis.

The following durations will normally apply to the response period following a public notice of unsolicited proposals and to VDOT Solicitation for Proposals (SFP):

A. The Period for Response to a Public Notice or SFP

120-days: Projects requiring federal oversight, as described in the current Efficiencies Agreement between VDOT and FHWA. FHWA approval of the procurement procedure (the PPTA), will require a Special Experimental Program (SEP) workplan, such as in accordance with SEP-14 or SEP-15.

90-days: Projects that do not require federal oversight or federal financial participation

The deadline for receipt of responses to public notices for unsolicited proposals, SFP's or RFI's will be 10:00 A.M., prevailing local time, in Richmond, on the last day of the time period, or such greater time as designated in writing by the Department. All public notices will list the due date within the text of the notice.

B. Public Notice Locations

Projects under \$500 Million Projected Total Cost:

- Notify the Virginia Division Federal Highway Administration (FHWA) on federally funded projects
- Local and/or Regional Newspapers
- Washington Post
- VDOT web site: [www.virginiadot.org](http://www.virginiadot.org)
- eVA

Projects over \$500 Million Projected Total Cost:

- Notify the Virginia Division Federal Highway Administration (FHWA) on federally funded projects
- Local and/or Regional Newspapers
- Washington Post
- VDOT web site: [www.virginiadot.org](http://www.virginiadot.org)
- eVA
- Engineering News Record (ENR)