

BENCHMARKING PPP PROCUREMENT 2017 IN THE UNITED STATES¹

Regulatory and Institutional Framework for PPPs	
Does the regulatory framework in your country allow procuring PPPs?	Yes
Yes. If yes, please specify the relevant regulatory framework and the year of adoption:	The United States is a federation of states, each of them regulating PPPs in a specific manner. This analysis will focus on the state 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). This Act is precised by the PPTA Value for Money Guidance edited by the Office of transportation PPPs of Virginia in August 2012, the Implementation Manual and Guidelines for the Public-Private Transportation Act of 1995 (As Amended) dated January 2016 ("PPTA Implementation Manual"), edited by the Virginia P3 and by the CV3P P3 Risk Management Guidelines dated September 2015.
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/
Besides national defense and other matters of national security, does the regulatory framework explicitly prohibit or restrict PPPs in any of the following sectors? Transportation.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Water and irrigation	Yes
If yes, please provide the relevant legal/regulatory provisions:	No law allows PPPs in the water sector
Energy generation and distribution	Yes
If yes, please provide the relevant legal/regulatory provisions:	No law allows PPPs in the energy sector
Telecom	Yes
If yes, please provide the relevant legal/regulatory provisions:	No general law allows PPPs in the telecom sector. However, the Public-Private Education Facilities and Infrastructure Act of 2002, Va. Code Ann. [Section] 56-575.1 includes in the qualifying projects :(iv) utility and telecommunications and other communications

¹ The scope of the assessment is limited to infrastructure projects developed by procuring authorities at the national or federal level. However, in the case of the United States, the study focuses on measuring only the Commonwealth of Virginia, respectively.

	infrastructure; (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;
Health	Yes
If yes, please provide the relevant legal/regulatory provisions:	No law allows PPP in the health sector
Education	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Other	Yes
If yes, please provide the relevant legal/regulatory provisions:	The only sectors with explicit authorization for PPP's are the transportation and education sectors. This should not be read to mean that PPP's are not allowed in other sectors, only that there is not explicit pre-authorization for such projects.
Please identify the PPP procuring authorities in country_name 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.
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):	The Virginia Office of Public-Private Partnerships (VAP3) : http://www.p3virginia.org/
If yes, what are the main responsibilities of the PPP Unit (check all that apply). PPP regulation.	No
PPP policy guidance and capacity building for other public authorities.	Yes
PPP promotion among the public and/or private sectors in national and international forums.	No
Technical support in implementing PPP projects.	Yes
Gatekeeping (approval of PPP projects).	Yes
Procurement of PPPs.	No
Oversight of PPP implementation.	Yes
Other	No
please specify:	n/a
Preparation of PPPs	Score: 71

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
If yes, is a second approval by the Ministry of Finance or Central Budgetary Authority required before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
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?	Yes
If yes, please specify the relevant authority	Federal Highway Administration and Transportation Public-Private Partnership Advisory 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):	If federal funds will be used, the 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). Furthermore, § 33.2-1803.2. A. of the code provides for the Transportation Public-Private Partnership Advisory Committee. Pursuant to § 33.2-1803 procurement 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.
If yes, is a second approval by the same authority required before signing the PPP contract?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Does the government integrate the prioritization of PPP projects with all other public investment project	Yes

<p>prioritization? (e.g. in the context of a national public investment system)?</p>	
<p>If yes, please provide the relevant legal/regulatory provisions (if any):</p>	<p>The FHWA is responsible for critically reviewing and approving the Statewide Transportation Improvement Program (STIP) at the beginning of each Federal fiscal year to make sure it complies with 23 U.S.C. § 134 and 23 U.S.C. § 135. Section 134 states that it is in the national interest to encourage and promote the safe and efficient management, operation, and development of transportation systems by encouraging the continued improvement of metropolitan and statewide transportation planning processes by metropolitan and statewide planning organizations. Section 135 establishes the requirements for Long-Range Plans and STIPs.</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>During the High-Level Screening Criteria for Solicited Projects, the procuring entity must examine if the project is consistent with priorities identified by the appropriate transportation plans and programs, such as SYIP, STIP, and MPO plans and programs (section 3.1.1 of the PPTA Implementation Manual).</p>
<p>If yes, which of the following options best describes the way your government prioritizes PPP projects? (Please select only one). The regulatory framework provides for the inclusion of PPPs in the national public investment system and/or details a specific procedure to ensure the consistency of PPPs with other public investment priorities.</p>	<p>Yes</p>
<p>If yes, please specify:</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</p>	<p>No</p>

establishing a specific procedure to achieve that goal.	
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
Among the PPP projects procured within the last two (2) years, how many of them were prioritized along with all other public investment projects? Please elaborate:	All of the projects
Which of the following assessments are conducted when identifying and preparing a PPP? (check all that apply): 10.1. Socio-economic analysis (cost-benefit analysis of the socio-economic impact of the 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?	Yes
If yes, 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 capacity, providing accessibility, improving pedestrian, biking facilities and/or enhancing economic efficiency? - 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?

	<p>- Are there potential project benefits to the Affected Localities' transportation system?</p> <p>- Are there anticipated enhancements to adjacent transportation facilities or other modes?</p>
Affordability assessment, including the identification of the required long term public commitments (explicit and implicit)	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 shall also 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?	Yes
If yes, 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>
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

	<p>c. Other items determined appropriate by the responsible public entity in the guidelines for this chapter.</p> <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?	Yes
If yes, 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.
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?	Yes
If yes, elaborate	<p>Appendix E of the PPTA implementation manual requires, to assess the financial feasibility of the project, to ask the following questions:</p> <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?
Comparative assessment to evaluate whether a PPP is the best option when compared to other procurement alternatives	Yes
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?	Yes
If yes, 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.
Market assessment (showing evidence of enough 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?	No
If yes, elaborate	n/a
Among the PPP projects procured within the last two (2) years, for how many of them were all of the required assessments conducted? Please elaborate:	All of the projects
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 (provide examples):	n/a
Have standardized PPP model contracts and/or transaction documents been developed?	No
If yes, please specify and provide a government-supported website where the mentioned standards are available or provide an electronic copy of them:	n/a
Does the procuring authority obtain the permits necessary to develop and operate the PPP project before calling for tenders in any of the following areas? Environmental permits.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
Urban and zoning permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other permits.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Does the procuring authority make available to PPPCo the necessary land or right of way	Yes

to develop the PPP project (if any)? Land	
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to § 33.2-1806 and § 33.2-1814 (A) of the Code, any public entity may dedicate any property interest that it has for public use as a qualified transportation facility if it finds that so doing will serve the public purpose of this chapter and, at the request of the private entity, the responsible public entity may exercise any power of condemnation that it has under law for the purpose of acquiring any lands or estates or interests therein to the extent that the responsible public entity finds that such action serves the public purpose of this chapter. Any amounts to be paid in any such condemnation proceeding shall be paid by the private entity.
If no, please elaborate (provide explanation):	n/a
Does the procuring authority make available to PPPCo the necessary land or right of way to develop the PPP project (if any)? Right of way	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to § 33.2-1806 and § 33.2-1814 (A) of the Code, any public entity may dedicate any property interest that it has for public use as a qualified transportation facility if it finds that so doing will serve the public purpose of this chapter and, at the request of the private entity, the responsible public entity may exercise any power of condemnation that it has under law for the purpose of acquiring any lands or estates or interests therein to the extent that the responsible public entity finds that such action serves the public purpose of this chapter. Any amounts to be paid in any such condemnation proceeding shall be paid by the private entity.
If no, please elaborate (provide explanation):	n/a
Does the regulatory framework establish any exceptions where the preparation process described above does not apply or allows for a “fast track” procedure?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
What is the average number of calendar days that the procuring authority spends on each of the following activities to prepare a PPP project? Conducting the required assessments:	180
Obtaining the required approvals from other relevant authorities:	720
Preparing the draft PPP contract:	272.5
Obtaining any permits, land and/or right of way that the	No data

procuring authority must provide according to the regulatory framework:	
PPP Procurement	Score: 83
Are the bid evaluation committee members required to meet specific qualifications?	No
If yes, please specify and provide the relevant legal/regulatory provisions (if any)	n/a
If no, please elaborate (provide examples):	No specific provisions
If yes, which of the following options best describes the required qualifications of the committee members? (Please select only one). The regulatory framework details the qualifications required and/or the specific membership of the bid evaluation committee.	n/a
If yes, please specify:	n/a
The regulatory framework requires generally sufficient qualification without detailing the specific qualifications required to be a member of the bid evaluation committee.	n/a
The regulatory framework does not include any provisions.	n/a
Other	n/a
please specify:	n/a
Does the procuring authority issue a public procurement notice of the PPP?	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 VAP3 website.
If yes, is the public procurement notice published online?	Yes
If yes, please specify the website:	VAP3 and project's website
Does the procuring authority grant the potential bidders a	Yes

minimum period of time to submit their bids?	
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 VAP3 website. These documents shall provide for a minimum 60-day competition period.
and the time in calendar days :	60
Do the tender documents detail the stages of the procurement process?	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 VAP3 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 VAP3 website.
If no, please elaborate (provide examples):	n/a
Does the procurement process include a pre-qualification stage to select a number of qualified bidders to present the full proposal?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to section 5.2 of the PPTA implementation manual, the VAP3 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.
If yes, do the tender documents specify the prequalification criteria in order to make them available to all of 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.
Among the PPP procurement processes conducted within the last two (2) years that had a prequalification stage, how many of them included prequalification criteria in the tender documents? Please elaborate	All of the projects
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):	Practice
If yes, does the procuring authority disclose those questions and clarifications to all of the potential bidders?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
Among the PPP procurement processes conducted within the last two (2) years where questions were submitted, in how many were the questions and clarifications disclosed to all of the potential bidders? Please elaborate:	All of the projects
Besides questions and clarifications, can the procuring authority conduct other types of dialogue with the potential bidders?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	Practice
If yes, does the procuring authority disclose the content and the results of the dialogue to all of the potential bidders?	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Among the PPP procurement processes conducted within the last two (2) years where any other type of dialogue was conducted, in how many was the content and the result of the dialogue disclosed to all of the potential bidders? Please elaborate:	All of the projects
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

	<p>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.</p>
If no, please elaborate (provide examples):	n/a
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.
Among the PPP procurement processes conducted within the last two (2) years, in how many of them was the evaluation of the bidders conducted in accordance with the criteria stated in the tender documents? Please elaborate:	All of the projects
In the case where only one proposal is submitted (sole proposals), does the procuring authority follow any special procedure before awarding the PPP?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	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.
If yes, what of the following options best describes the way the procuring authority deals with sole proposals? (Please select only one). The regulatory framework details a specific procedure that the procuring authority must follow before awarding a PPP contract where only one proposal is submitted.	Yes

Please specify:	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.
The regulatory framework considers sole proposals valid as long as they meet the conditions outlined in the tender documents.	No
The regulatory framework does not allow the award of a PPP contract if only one proposal is submitted.	No
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
In practice, what is the average number of calendar days between the initial publication of the PPP public procurement notice and the award of the PPP? Number of calendar days:	454
Does the procuring authority publish the award notice?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Practice
If yes, is the public procurement award notice published online?	Yes
If yes, please specify the website:	http://www.p3virginia.org/p3-projects/
Does the procuring authority provide all the bidders with the result of the PPP procurement process?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	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.

If no, please elaborate (provide examples):	n/a
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):	Practice
Does the regulatory framework restrict or regulate in any way negotiations with the selected bidder between the award and the signature of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions:	Practice
Among the PPP procurement processes conducted within the last two (2) years, in how many of them were the terms and conditions changed between the award and the signature of the PPP contract? Please elaborate:	All of the projects
Does the procuring authority publish the PPP contract?	Yes
If yes, please specify the means of publication and provide the relevant legal/regulatory provisions (if any):	Pursuant to section 5.11 of the 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 VAP3 and/or project website.
If yes, is it published online?	Yes
If yes, please specify the website:	VAP3 and/or project website.
Does the regulatory framework establish any exceptions where the procurement process described above does not apply or allows for a “fast track” procedure?	Yes
If yes, please provide the relevant legal/regulatory provisions:	The PPTA requires that a responsible public entity’s guidelines have a prioritized documentation, review, and selection process for projects that have pending state or federal environmental clearances, have secured significant right-of-way, have previously allocated significant state or federal funding, or exhibit other circumstances that could reasonably reduce the procurement time. See Va. Code Section 33.2-1803(E).
Unsolicited proposals	Score: 100

Does the regulatory framework allow for the submission of unsolicited proposals? (if no, skip to section F)	<p>Yes</p>
If yes, 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;</p> <p>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 the attention of the VAP3 Director at the following address.</p> <p>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>
If yes, please specify, to the best of your knowledge, the percentage of PPP investments in your country approved as unsolicited proposals during the last five (5) years:	<p>0</p>
Does the procuring authority conduct an assessment to evaluate unsolicited proposals?	<p>Yes</p>
If yes, please specify and provide the relevant legal/regulatory provisions (if any):	<p>Pursuant to section 3.1.2 of the PPTA Implementation Manual, within 90 calendar days of receiving an Unsolicited Proposal from a Private Entity via an RPE, the VAP3 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 VAP3’s recommendation’s will be documented in a Policy Review Report which will be submitted to the RPE Administrator.</p>
If yes, does it ensure that the unsolicited proposal is consistent with the existing government priorities?	<p>Yes</p>

If yes, please provide the relevant legal/regulatory provisions (if any):	Pursuant to section 3.1.2 of the PPTA Implementation Manual, within 90 calendar days of receiving an Unsolicited Proposal from a Private Entity via an RPE, the VAP3 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.
If yes, which of the following options best describes how unsolicited proposals are evaluated against existing government priorities? (Please select only one). The regulatory framework details a specific procedure to ensure the consistency of PPPs with other public investment priorities.	Yes
If yes, please specify:	Section 3.1.2 of the Implementation Manual and Guidelines for the PPTA gives Policy Review Criteria
The regulatory framework requires unsolicited proposals to be among the existing government priorities without establishing specific procedures to achieve that goal.	No
The regulatory framework does not include any provisions.	No
Other	No
please specify:	n/a
Among the unsolicited proposals approved within the last two (2) years, how many of them were a part of the existing government priorities? Please elaborate:	All of the projects
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 post unsolicited proposal for 120 days for competing proposals
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):	<p>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;</p> <p>According to Appendix B of the PPTA implementation manual, RPE Administrator accepts unsolicited proposal and post unsolicited proposal for 120 days for competing proposals</p>
and the time in calendar days:	<p>120</p>
Does the procuring authority use any of the following mechanisms to reward/compensate the presentation of unsolicited proposals? (check all that apply): Access to the best and final offer.	<p>No</p>
Developer's fee (reimbursing the original proponent for the project development cost).	<p>No</p>
Bid bonus.	<p>No</p>
Swiss challenge (If unsuccessful, the original proponent has the option to match the winning bid and win the contract).	<p>No</p>
Other	<p>No</p>
please specify:	<p>n/a</p>
Please provide the relevant legal/regulatory provisions (if any):	<p>n/a</p>
PPP Contract Management	<p style="text-align: right;">Score: 43</p>
Has the procuring or contract management authority established a system to manage the implementation of the PPP contract?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions (if any)	<p>23 U.S. Code § 106 - Project approval and oversight g.1 (A)In general.— The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title.</p> <p>(B)Minimum requirement. — At a minimum, the program shall be responsive to all areas relating to financial integrity and project delivery.</p>
If yes, which of the following tools does it include (check all that apply)? Establishment of a PPP contract management team.	<p>Yes</p>

If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
Participation of the members of the PPP contract management team in the PPP procurement process.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
Possibility to consult with PPP procurement experts when managing the PPP contract.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	Practice
Elaboration of a PPP implementation manual or an equivalent document.	Yes
If yes, please provide the 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.
Other	No
please specify:	n/a
If there is a contract management team, in how many of the PPP projects procured within the last two (2) years did the management system and tools fully inform the contact management team? Please elaborate:	All of the projects
Does the procuring or contract management authority establish a monitoring and evaluation system of the PPP contract?	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	23 U.S.C. §129 (a) (3) B) Annual audit.— (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. (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.
If yes, which of the following tools does it include (check all	Yes

that apply)? PPPCo must provide the procuring or contract management authority with periodic operational and financial data.	
If yes, please provide the 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
If yes, please provide the relevant legal/regulatory provisions (if any):	23 U.S.C. § 129(a)(3)(B) (requiring 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 procuring or contract management authority must establish a risk mitigation mechanism.	Yes
If yes, please provide the relevant legal/regulatory provisions (if any):	The P3 Risk Management Guidelines provides suggested risk management activities and, for monitor and review: It is essential that the Agency continues to monitor risks throughout the implementation and operations phases. Following contract execution, the project team should develop separate key deliverables matrices for the implementation and operations phases. These matrices are a tool for all parties to monitor the responsibilities outlined in the CA and should be dynamically updated as needed for clarification and adjustments to regulatory changes (sections 5.1 and 5.2).
The PPP contract performance information must be available to the public.	No
If yes, please provide the relevant legal/regulatory provisions (if any):	n/a
Other	No
please specify:	n/a
Is PPP contract performance information publicly available online?	No
If yes, please specify the website:	n/a
Does the regulatory framework expressly regulate a change in the structure (i.e. stakeholder composition) of PPPCo?	No
If yes, please provide the relevant legal/regulatory provisions:	n/a

If yes, which of the following circumstances are specifically regulated? (check all that apply): Any change in PPPCo during an initial period (e.g. construction and first five years of operation).	n/a
If yes, please provide the relevant legal/regulatory provisions:	n/a
In case of a change affecting the controlling interest, the replacing entity must meet the same technical qualifications as the original operator.	n/a
If yes, please provide the relevant legal/regulatory provisions:	n/a
Flexibility to substitute non-controlling interest after the initial period.	n/a
If yes, please provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework expressly regulate the modification or renegotiation of the PPP contract (once the contract is signed)?	Yes
If yes, please provide the relevant legal/ regulatory provisions:	Practice
If yes, 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 provisions:	n/a
A change in the risk allocation of the contract.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
A change in the investment plan or duration of the contract.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a

Does the regulatory framework expressly regulate the following circumstances that may occur during the life of the PPP contract? (check all that apply): Force Majeure.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Material Adverse government action.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Change in the Law.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Refinancing.	No
If yes, please provide the relevant legal/regulatory provisions:	n/a
Other.	No
If yes, please specify and provide the relevant legal/regulatory provisions:	n/a
Does the regulatory framework establish a specific dispute resolution mechanism for PPPs?	Yes
If yes, please specify and provide the relevant legal/regulatory provisions	Practice
If yes, which of the following options best describes the dispute resolution mechanism for PPPs? (Please select only one). The regulatory framework details specific resolution mechanisms for disputes arising during the implementation of the PPP.	n/a
If yes, please specify:	n/a
The regulatory framework prescribes that a dispute resolution mechanism should be regulated in the contract.	n/a
The regulatory framework provide the parties with recourse to arbitration but no	n/a

other alternative dispute resolution mechanism.	
Other	n/a
please specify:	n/a
Does the regulatory framework allow for the lenders to take control of the PPP project (lender step-in right) if either PPPCo 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 provisions:	Practice
If yes, which of the following options best describes the lender step-in right? (Please select only one). The regulatory framework expressly regulates the lender step-in rights.	No
If yes, please specify:	n/a
The regulatory framework prescribes that the lender step-in rights should be regulated in the contract.	No
The regulatory framework prescribes that a direct agreement should be signed with the lenders.	No
Other	No
please specify:	n/a
Does the regulatory framework expressly establish the grounds for termination of a PPP contract?	Yes
If yes, please specify:	Material defaults, convenience
and provide the relevant legal/regulatory provisions:	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.

If yes, does the regulatory framework also establish the consequences for the termination of the PPP contract?	<p>Yes</p>
If yes, please provide the relevant legal/regulatory provisions:	<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>
Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: Took place in 2015, are ongoing and/or are planned to be adopted BEFORE June 1, 2016?	<p>Yes</p>
Please describe:	<p>Update of PPTA Implementation Manual</p>
Are you aware of any reforms (in practice or in laws, regulations, policies, etc.) related to PPPs that: 50.2. Are ongoing and/or are planned to be adopted AFTER June 1, 2016?	<p>Yes</p>
Please describe:	<p>New bill that may mandate certain requirements for future tolling, limiting the development of certain toll roads projects.</p>