

AGENDA ITEM #19: FOR YOUR INFORMATION

A. HRTPO STAFF COMMENT ON HSIP NPRM

HRTPO staff reviewed the Notice of Proposed Rulemaking (NPRM) on the Highway Safety Improvement Program (HSIP). The comment submitted by HRTPO staff is attached.

Attachment 19-A

B. HRTPO STAFF COMMENTS ON PPTA MANUAL 2014 UPDATE

The Virginia Office of Public-Private Partnerships (P3) is working on an update of the Public-Private Transportation Act (PPTA) Manual. To assist with the update, the P3 Office requested comments on the current 2012 PPTA Manual. HRTPO staff reviewed the 2012 Manual and provided comments. Attached is a message of appreciation from the P3 Office to HRTPO staff for its comments. The attachment includes the comments submitted by HRTPO staff.

Attachment 19-B

C. TRANSPORTATION ALTERNATIVES PROGRAM REMINDER

During the July 2014 TTAC meeting, HRTPO staff provided a briefing on the Transportation Alternatives Program (TAP), including the timeline for the FY 2016 TAP project selection process. Important deadlines approaching are:

- September 17, 2014 – Letter to HRTPO requesting resolution of support
- November 1, 2014 – Application Deadline (Submit to VDOT LAD)

D. HRTAC WEBSITE

The Hampton Roads Transportation Accountability Commission (HRTAC) went into effect on July 1, 2014 and is responsible for managing the use of Hampton Roads Transportation Fund revenues on transportation projects in the region. The HRTAC also has the authority to issue bonds and to impose and collect tolls on projects constructed by the Commission.

For more information on the HRTAC, visit the HRTAC website at <http://www.hrtpo.org/page/hrtac/>.

“National Performance Management Measures; Highway Safety Improvement Program (NPRM published 3-11-14)

HRTPO Staff Comments

Posted to regulations.gov 6-30-14

June 2014

Proposed section 409.209(c)(3)(i) indicates that MPOs are not required to establish targets. (They can meet the requirements of (c)(3) by simply “agreeing to plan and program safety projects so that they contribute toward the accomplishment of 1 year safety targets established by the State DOT”. [It is difficult to think how an MPO might program safety projects so that they do NOT contribute toward the accomplishment of state targets.]) Without targets, the MPO will not know whether it is planning and programming enough safety projects, and therefore reduces the effectiveness of performance management.

August 26, 2014

Ms. Camelia Ravanbakht-

Thank you very much for taking time from your busy schedule in Hampton Roads to offer comments and suggestions on the 2012 PPTA Manual.

We very much appreciate the substantive comments you've offered at various locations throughout the document. These will prove exceptionally helpful as we update the 2014 PPTA Manual to enhance transparency, increase competitiveness, enhance public engagement and understanding, better address the risks identified who is responsible for managing them.

Thank you, as always for your assistance and support with our efforts.

Jackie Cromwell

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**HRTPO STAFF REVIEW OF THE VIRGINIA PPTA IMPLEMENTATION
MANUAL AND GUIDELINES – UPDATE TO 2012 EDITION**

Hampton Roads Planning District Commission

723 Woodlake Drive, Chesapeake VA, 23325

August 18, 2014

**REVIEW OF:
VIRGINIA PPTA IMPLEMENTATION MANUAL AND GUIDELINES (MAY 21, 2012)**

COMMENTS:

There has been a serious lack of transparency associated with the implementation of the Virginia PPTA. Two examples of this issue are the Midtown Tunnel/Downtown Tunnel/MLK Freeway Extension project and the U.S. Route 460 Relocated project. With regard to the first project, citizens and some elected officials from Hampton Roads stated they were unaware of the financial particulars (toll rates and escalation, high return on investment rate for the private partner, etc.) associated with the project until after the contract was awarded and that information was published in the media. With regard to the second project, the Commonwealth Transportation Board (CTB) has said it approved the project despite having very little information on the particulars of the project.

The following comments are offered in the interest of clarifying portions of the PPTA Implementation Manual and Guidelines and strengthening the transparency of the P3 process:

1.7: Public Participation in Transportation Planning and Project Development Process

This section needs more details on the opportunities for public involvement and comment specific to the PPTA Framework. The information in the table on page 11 needs to be expanded to clearly describe what is being referred to in the right hand column.

There should be an explicit opportunity for the public to review and comment on the details of the proposals prior to the selection of the preferred proposer. There should be an explicit opportunity for the public to review and comment on the details (toll rates, rate of return to the private entity, risk to be undertaken by public and private entities, etc.) of the preferred deal prior to execution of the deal. Information on the proposed deals must be presented in an easy to understand fashion. Additionally, the state should provide explicit guidance to its partner agencies with regards to the state's requirements for public involvement regarding Virginia's PPTA.

There is no mention in this document that is specific to Environmental Justice and Title VI or Limited English Proficiency in the Public Involvement Process within the PPTA Framework.

The methods outlined in this section speak more to informing the public than engaging the public or soliciting public input and involvement.

On page 11 of this section, in the *Key Project Milestone Table*, there is no mention of notifying the public in steps 3-6. This indicates no accountability to the public.

2.1: Organizational Structure

Recommend “Virginia Agency of Transportation” in the second sentence be replaced with “the Commonwealth’s transportation agencies” for clarity, since the current wording makes it sound like there is a single agency known as the Virginia Agency of Transportation.

2.2: OTP Director

Under Contract Management it states:

The third key function of the OTP3 is contract management. Agreement is executed and financial close has occurred, the OTP3 will assist with contract management and serve as a resource for the District or Agency for any commercial issues that may arise during the construction and/or operations and maintenance phases of the project. The OTP3’s role also includes certain contract compliance responsibilities such as reviewing the periodic updates to the financial model, evaluating revenue sharing provisions, monitoring refinancing activities, reviewing the audited financial statements for the project and other activities as defined in the applicable Comprehensive Agreement.

There is no mention of compliance with Federal Regulations regarding the assurance of DBE/SWAM or Title VI.

3.1: Solicited Projects

In the table on page 17, recommend replacing the definitions for the STIP and LRTP with the definitions provided in the Federal regulations 23 CFR §450.104:

Statewide Transportation Improvement Program (STIP) – a statewide prioritized listing/program of transportation projects covering a period of four years that is consistent with the long-range statewide transportation plans and Transportation Improvement Programs (TIPs), and required for projects to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.

Metropolitan Planning Organization Long-Range Transportation Plan (LRTP) – the official multimodal transportation plan addressing no less than a 20-year planning horizon that is developed, adopted, and updated by the MPO through the metropolitan transportation planning process.

In the paragraph below the table, it is unclear to what “The Agency’s” refers.

3.3: Key Action Items

In the table, under Responsible Entity, in the statement “Agencies and Commonwealth’s Transportation Agencies”, it is unclear to what the first “Agencies” refers.

4.1.1: Solicited Projects – High Level Screening

In the first sentence there is another mention of “Agencies and the Commonwealth’s transportation agencies”. What is the difference between these two references to “agencies”?

4.2: Detail-Level Project Screening Process

To facilitate screening, it is recommended that the screening criteria on the [“Detail-level Screening Report” template](#) be re-worded such that a “yes” answer always indicates that the PPTA is an appropriate avenue for the subject project. (On the current template [dated March 12, 2012], for some criteria a “yes” answer indicates a good fit [e.g. for “Public Need”] but for some criteria a “yes” answer indicates a bad fit [e.g. for “Project Risks”].)

6.1: Two-State PPTA Procurement Process

The flowchart should be modified to indicate the opportunities for public participation. In particular, there should be opportunities for public review and comment associated with Decision Point 4 and Decision Point 5 (prior to execution of the contract).

7.5: Project Procurement

This section should be revised to indicate the opportunities for public participation. In particular, the public should have an opportunity to review and comment on a project prior to the awarding of the contract. This review period should include access to the financial plan for the project. The financial information should be provided in transparent, easy to understand terms.

This section should also acknowledge the implementation of DBE, SWAM and Title VI compliance in the procurement process.

Appendix B – PPTA Project Delivery Framework Flowchart

p. 40

Typo: “For continuation refer to page 41” should read “For continuation refer to page 42”

p. 41

Typo: “For continuation refer to page 41” should read “For continuation refer to page 42”

p. 42

Typo: “Continuation from previous page” should read “Continuation from previous pages”

Appendix D – Guidance for Unsolicited Proposal Preparation

p. 50

The last two categories—“Concession Term” and “End of Term Arrangement”—do not address the last two categories on the [“Detail Level Project Screening Report” template](#) (“Key Constraints or Assumptions” and “Life Cycle Management”).

Appendix E – Guidance on Detail -Level Project Screening Criteria

Potential disparate burdens to the community in which the project is occurring needs to be assessed and factored into the screening process.