



Colorado Department of Transportation

# P3 Management Manual

High-Performance Transportation Enterprise

UPDATED November 2020

*Prepared by RS&H and Clary Consulting*

# Table of Contents

|   |    |
|---|----|
| Table of Contents .....   | 1  |
| I. Purpose and Goals .....  | 4  |
| A. Purpose .....  | 4  |
| B. Goal .....   | 5  |
| C. P3 Defined.....  | 5  |
| II. P3 Program Development and Management .....   | 6  |
| A. Program Legal Direction and Policies.....  | 6  |
| B. HPTE Mission/Goals.....  | 7  |
| C. Program Organizational Chart/Decision-Making Authority.....  | 8  |
| D. Overall P3 Process Chart.....  | 15 |
| E. Identification of Potential P3 Projects .....  | 16 |
| F. High-Level Screening of Potential P3 Projects.....   | 17 |
| G. Priority Setting for Potential P3 Projects.....  | 18 |
| H. Program-Level Public Outreach and Involvement Plan .....   | 19 |
| I. Program-Level Resources and Periodic Resource Evaluation.....  | 20 |
| J. Staff Training.....  | 20 |
| K. Expertise Availability and Approach.....   | 21 |
| L. Program-Level Procurement Policies .....   | 22 |
| i. Unsolicited Proposal Process.....  | 24 |
| M. P3 Program Transparency and Timing of Availability of Key P3 Program Public<br>Records .....                         | 25 |
| N. P3 Records Management System .....   | 27 |
| O. Conflict of Interest Policies and Review Process .....   | 27 |
| P. Program-Level P3 Financial Policies .....  | 28 |
| Q. Program-Level Funding and Project-Level Funding.....   | 29 |
| R. Policies/Process for Dispute Resolution .....  | 30 |
| III. Project Planning and Development (Pre-Procurement Phase).....  | 31 |
| A. Decision-Making to Enter and Fund Project Planning and Development .....   | 31 |
| B. Project-Level Organizational Chart.....  | 31 |
| C. Decision-Making Authority, Roles, and Responsibilities and Key Decision Points ...                                   | 32 |
| D. Identification of Team Needs and Contracts (Expertise Needed, Duration,<br>Schedule, Funding, Contract Manger) ..... | 36 |

|       |  |    |
|-------|--|----|
| E.    | Funding Partner Coordination.....                                  | 36 |
| F.    | Project and Document Controls.....                                 | 36 |
| G.    | Feasibility/Scoping of Project (Confirm Minimum Requirements)..... | 37 |
| H.    | Feasibility Schedule Development .....                             | 38 |
| I.    | Risk Analysis .....  | 38 |
| i.    | Initial Risk Register Items .....                                  | 39 |
| ii.   | Risk Register Template.....  | 40 |
| iii.  | Risk Analysis Strategy.....  | 42 |
| J.    | Value for Money Analysis.....                                      | 43 |
| K.    | Procurement Goals/Guidelines .....                                 | 44 |
| L.    | Procurement Schedule Development.....                              | 45 |
| M.    | Project-Level Public Outreach Plan .....                           | 46 |
| N.    | Industry Outreach .....  | 47 |
| O.    | Report to HPTe Board and Transportation Commission.....            | 48 |
| P.    | RFQ Development .....  | 49 |
| Q.    | RFP Development .....  | 50 |
| R.    | Quality Assurance/Quality Control.....                             | 53 |
| IV.   | Project Procurement Phase .....                                    | 54 |
| A.    | Commitment to Transparency.....                                    | 54 |
| B.    | Updating the Project Risk Assessment and Allocating Risk .....     | 55 |
| i.    | Risk Workshop(s).....  | 55 |
| ii.   | Risk Assessment .....  | 56 |
| iii.  | Updated Risk Analysis .....  | 56 |
| C.    | Schedule .....   | 57 |
| D.    | Two-Phase Procurement Process.....                                 | 58 |
| i.    | Finalizing the RFQ.....  | 59 |
| ii.   | Issuing the RFQ .....  | 61 |
| iii.  | Submission of SOQS .....   | 61 |
| iv.   | Evaluation of SOQs.....  | 62 |
| v.    | Shortlisting of Qualified Respondents .....                        | 63 |
| vi.   | Developing the RFP .....   | 64 |
| vii.  | Selection and Award .....  | 73 |
| viii. | Changes Prior to Execution of the P3 Project Agreement .....       | 73 |

- ix. Stipend Payment ..... 74
- x. Protest Procedures ..... 74
- E. Commercial Close ..... 75
  - i. Final VfM ..... 75
- F. Financial Close ..... 75
  - i. Requests for Material Changes ..... 76
  - ii. Failure to Reach Financial Close ..... 76
  - iii. HPTE Acting as Conduit Bond Issuer..... 76
  - iv. Execution of Financial Close ..... 76
- V. Project Implementation and Operations Phases ..... 77
  - A. Organizational Chart/Decision-Making Authority ..... 77
  - B. Program Organization, Roles, and Responsibilities..... 78
  - C. Project Management Team, Roles, and Responsibilities..... 79
  - D. Technical Support ..... 81
  - E. Project and Document Controls..... 81
  - F. Document Retention..... 82
  - G. Correspondence and Delivery ..... 82
  - H. Serving Notices..... 82
  - I. Project Handoff Meetings..... 82
  - J. HPTE/CDOT Monitoring, Payments, and Reporting..... 83
    - i. Milestone/Progress Payments to Private Partner..... 83
    - ii. HPTE/CDOT Monitoring Requirements ..... 85
    - iii. Non-Compliance Monitoring Requirements and Payment Adjustments..... 86
    - iv. Claims Assessment and Processing..... 86
    - v. Third-Party Coordination..... 87
    - vi. Public Outreach..... 88
    - vii. Transition Plan Development for Operations..... 88
  - K. After Action Report for Implementation Phase ..... 89

# I. Purpose and Goals

## A. Purpose

The High-Performance Transportation Enterprise (HPTE) Public-Private Partnership (P3) Management Manual provides a framework for both HPTE and the Colorado Department of Transportation (CDOT) for the development, implementation, and oversight of P3 projects.

This manual addresses P3 program development and management, and walks through the different stages of project development and defined roles and responsibilities to ensure timely and responsive actions between HPTE and CDOT to address common needs of P3 projects. The manual is divided into four sections:

- 1) P3 Program Development and Management
- 2) Project Planning and Developmental/Pre-Procurement Phase
- 3) Project Procurement Phase
- 4) Project Implementation and Operations Phases

The manual is meant to supplement existing laws, policies, and guidance already in place by CDOT for traditional projects and also by HPTE for P3 projects. The manual will not replace existing procedures for traditional projects, but specifically addresses additional guidance and processes for P3 projects. The manual incorporates appropriate laws and applicable HPTE/CDOT policies, manuals, and guidance, and provides direction for the HPTE P3 Program and P3 projects that the HPTE Board approves to move forward. The manual is not meant to be all-inclusive and specific elements will need to be developed in more detail as P3 projects move forward.

Each P3 project will include a project interagency agreement that identifies project resources and responsibilities as well as additional guidance for the P3 project. The interagency agreement will govern if there is possible confusion with guidance in the P3 manual.

In addition, it is important that the P3 Manual become a living document that is periodically updated for law and policy changes, and at the completion of any phase of a P3 project for best practices and any lessons learned on a given project.

P3 projects are complex and each is unique. At times it will be necessary to implement specific guidance on a P3 project that is different than the guidance in the P3 Manual. This will be documented for that P3 project and if the different approach becomes practice, the P3 Manual will be changed at the next update. In addition, specific guidance will be provided for each P3 project in documents such as the Request for Qualifications (RFQ), Request for Proposals (RFP), and P3 Project Agreement that is much more detailed than the P3 Manual and specific to that P3 project.

## B. Goal

The P3 Manual will help HPTE and CDOT follow a consistent approach for selection of appropriate projects for the P3 delivery method and, once selected, optimize their efficiencies on accelerating projects through the P3 delivery method. By further defining roles and responsibilities, each team member will be able to take ownership of their responsibilities and ensure the appropriate personnel are being engaged at the proper time to help decision-makers make sound choices based on sufficient information in a timely manner, while addressing public concerns and transparency throughout.

## C. P3 Defined

Under the Colorado Revised Statutes (CRS) HPTE is authorized to pursue P3s for surface transportation infrastructure projects. The CRS further defines the types of projects to include a highway, a bridge other than a designated bridge, or any other infrastructure, facility, or equipment used primarily or in large part to transport people on systems that operate on or are affixed to the ground. The P3 project scope includes multiple project elements, including those below, that will vary depending on the scope defined by HPTE in partnership with CDOT:

- Planning
- Design
- Engineering
- Construction
- Repair/reconstruction
- Maintenance
- Operations
- Financing

The P3 project agreement is between the public owner (HTPE) and the private partner that includes, but is not limited to:

- Acceptance of a private contribution to the P3 project in exchange for a public benefit concerning the project other than only a money payment.
- Sharing of resources and the means of providing P3 projects.
- Cooperation in researching, developing, and implementing the P3 project.

## II. P3 Program Development and Management

The HPTE has outlined P3 Program goals and objectives to serve as a resource for innovative finance and P3s. This will allow careful due diligence that evaluates whether moving forward with the proposed P3 project based on preliminary analysis supports using the P3 approach as the best value. This chapter outlines the process for screening and identifying prospective major projects that might fit the P3 approach and the due diligence process that will be followed for presenting recommendations to the HPTE Board for decision-making prior to moving the project forward as a P3.

### A. Program Legal Direction and Policies

In 2009, the General Assembly created the HPTE in the Funding Advancement for Surface Transportation and Economic Recovery or “FASTER” Act [Section 43-4-801, et seq., C.R.S.]. The General Assembly specifically charged HPTE with the responsibility to seek out opportunities for P3s for the purpose of completing surface transportation infrastructure projects through any available means of financing that will allow the efficient completion of projects [Section 43-4-806 (1) (c), C.R.S.]. By statute, HPTE’s business purpose is to “pursue public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects [Section 43-4-806 (2) (c), C.R.S.]” To accomplish that purpose, HPTE has authority to:

- Impose tolls and other user fees for the privilege of using surface transportation infrastructure.
- Issue revenue bonds secured by those tolls and fees.
- Contract with government and nongovernment sources for loans or grants to be used to support HPTE’s functions.
- Seek out and enter into P3s.

HPTE is a government-owned business established as a separate division within the CDOT. HPTE is an enterprise for purposes of Section 20 of Article X of the State Constitution (commonly referred to as “TABOR”), and accordingly is not subject to the revenue and spending limitations of TABOR as long as it receives less than ten percent of its total revenues in grants from state and local governments. A seven-member board of directors (the HPTE Board) oversees HPTE’s operations; four members are appointed by the Governor and three are appointed by the Transportation Commission. The HPTE Board appoints the Director and together, the HPTE Board and Director exercise powers and perform duties specifically given in statute.

In the “FASTER” Act that created the HPTE, the legislative intent expressed that innovation and flexibility be interpreted broadly to help facilitate moving key projects forward. As such, HPTE has flexibility in the development and procurement of P3 projects. To help guide this

process the HPTE Board has adopted policies and key CDOT policies to provide guidance for the implementation of the P3 Program. The below are rules and policies adopted by the HPTE Board as applicable to the HPTE that have been adopted, as periodically amended by the Transportation Commission. These rules and policies carry the same authority as law and must be followed at all times in the development and implementation of the P3 program. These sections and links are current as of March 2016 and should be verified from time to time on the CDOT intranet to ensure this is most current version of the applicable rule and policy.

This section outlines the legal direction for HPTE and the complete statutory language governing the HPTE can be found at the following links:

- [Colorado Revised Statutes](#)
- [Statute CRS 43-4-806 as of 2014](#)

The HPTE has adopted the following guidance for the HPTE Board, which will be updated from time to time, and that should be reviewed as part of the P3 Program:

- [HPTE Articles of Organization](#)
- [HPTE Bylaws](#)
- [Mission Statement](#)

The P3 Program has the following directive process:

- Applicable federal and state laws must be followed at all times for the P3 Program and P3 projects.
- Rules have the same force as law and must be followed unless the rule is changed through the approved rule update process and policies can be adjusted by HPTE Board action. The below rules and policies directly related to the P3 Program and P3 projects adopted by the HPTE Board As of **March 2016** these include:
  - [HPTE Transparency Policy](#)
  - [Tolling Policy](#)
  - [Toll Enforcement Rules](#)
  - [Colorado Records Management Policies](#)
- The HPTE by law is a part of the CDOT and part of the State of Colorado, however, as an "enterprise" the HPTE is provided broad flexibility to implement P3 projects. The rules, policies, and procedures of the CDOT that have been adopted by the HPTE Board as applicable to the HPTE that must be followed for the P3 Program as shown in Attachment A. These items should be checked from time to time on the CDOT intranet to ensure this is most current version of the rule and policy.

## B. HPTE Mission/Goals

The following is HPTE's mission:

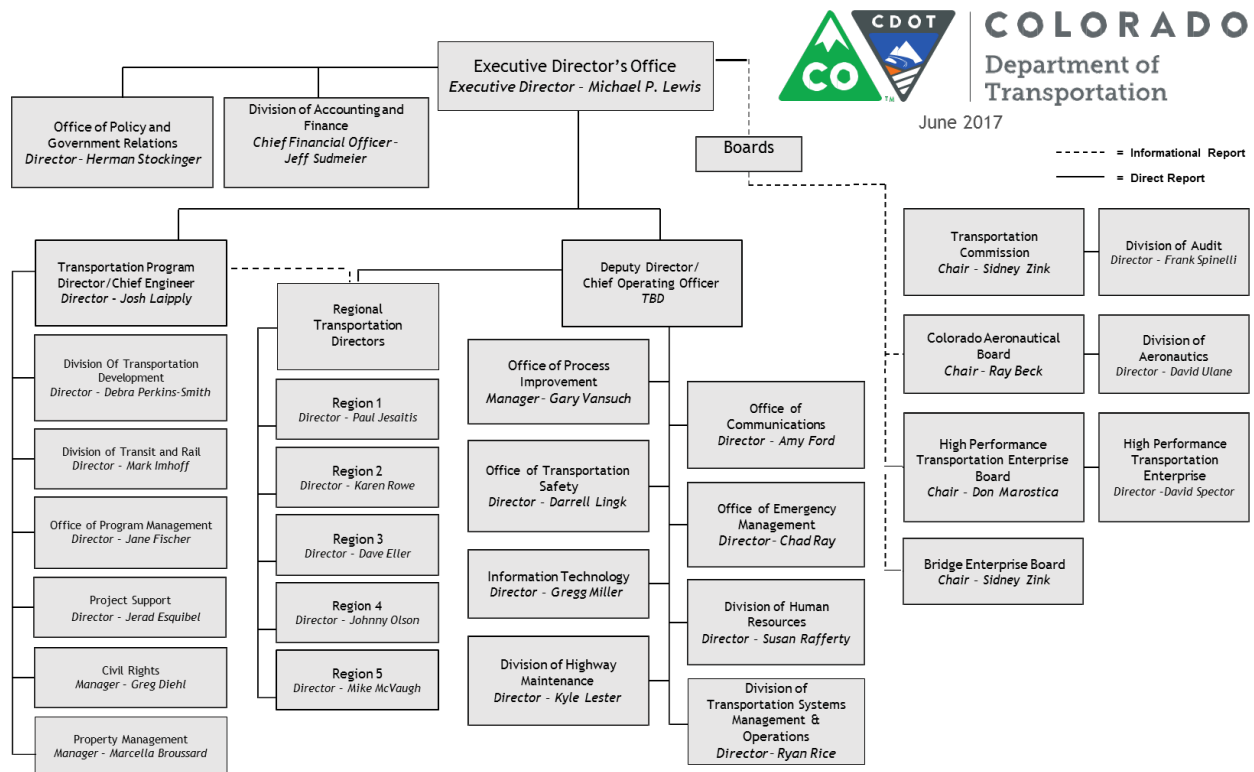
"The mission of the Colorado High Performance Transportation Enterprise is to partner with local agencies, communities and private industry to seek out opportunities for creative means of financing and accelerating the delivery of multimodal transportation infrastructure projects."



- Identify Opportunities.
- Develop Partnerships.
- Provide Sustainable Alternatives.
- Lead Innovative Financing.
- Accelerate Program Delivery.

### C. Program Organizational Chart/Decision-Making Authority

The overall organization for CDOT is shown below with the areas highlighted that are directly part of the efforts for the P3 Program and P3 projects. These include the primary offices of HPTe, Division of Accounting and Finance (highlighted in green), and the Office of Communications (highlighted in grey)



**Figure 1 - CDOT Organizational Chart**

It is important to always check for the latest [CDOT organization chart](#) as the organizational structure may be adjusted from time to time.

The organizational chart for the P3 Program relationships for major projects that become P3 projects is shown in Figure 2. The major policy boards and functional units include:

- Policy Boards
  - Transportation Commission – The Transportation Commission sets the overall policy for CDOT. Primarily related to major projects/P3 projects the Commission reviews and, if supported as the best approach, receives and/or approves:
    - Briefings on key projects
    - Approves moving a major project forward for consideration as a P3 in partnership with the HPTE Board
    - Approves CDOT funds allocated to the P3 Program and/or a P3 project
    - Approves agreements as needed for a P3 project, that CDOT is party to the agreement
    - Other items as required by the Commission as CDOT policy board related to a P3 projects
  - HPTE Board – Approves the project moving forward as a P3 and is briefed on major elements of the project process such as reviewing and, if supported as the best value for the state, receives and/or approves the key items shown below:
    - Approves the adoption of policies associated with the P3 Program
    - Briefings on issuing the Request for Qualification (RFQ) to begin the P3 procurement process
    - Briefing on the shortlist of proposers
    - Briefing on issuing the final RFP
    - Approves selection of the preferred proposer
    - Approves commercial close – signing the P3 project agreement
    - Approves financial close documents required for signature by the HPTE
    - Approves amendments to P3 project agreements
    - Receives briefings on major actions such as letter of interest (LOI) for a Transportation Infrastructure Finance and Innovation Act (TIFIA) loan, serving as conduit bond issuer or other authorized actions associated with facilitating the financing for a P3 project
    - Receives briefing on accepting an unsolicited proposal
    - Approves toll rates or dynamic pricing algorithms
    - Approves other items associated with a P3 project as determined by the HPTE in coordination with the HPTE Director.
  - Colorado Bridge Enterprise (CBE) – Approves funding and/or financing for designated bridge projects that fall under the responsibility of the Bridge

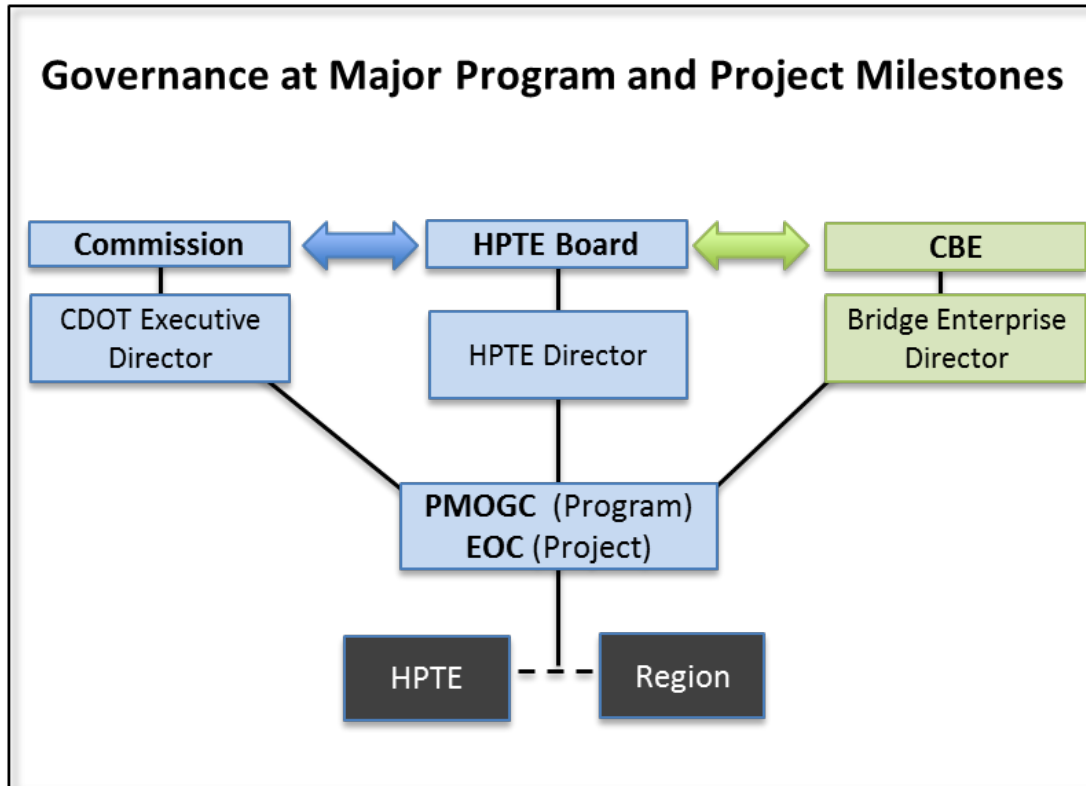
Enterprise. The HPTE Director will coordinate with the CDOT Executive Director and jointly present a proposal to the CBE for the CBE to participate in funding and/or financing for designated bridge projects that relate to a P3 project. The CBE Board will review the proposal and either approve or reject the proposal based on the best interest of the State and the CBE.

- Functional Units and Offices
  - Program Management Office (PMO) Governance Committee – The PMO Governance Committee (PMOGC) is composed of all major leaders in the CDOT, including the HPTE Director. The PMOGC will be included in key activities associated with projects that are being considered as potential P3 projects such as:
    - Serve as the “vetting organization” for key projects including receiving briefings from the Regions and HPTE on projects that have potential to be considered for P3.
    - Discuss and, with the assistance from the Region and HPTE, review key projects that are being recommended for a P3 approach.
    - When it is in the best interest of the state, the PMOGC will recommend to the CDOT Executive Director that a project should be developed for a P3.
    - Consider and make recommendations related to priorities for CDOT regarding funding allocations for in partnership with the Region Director where the P3 project is located. The recommendation for funding allocation will be made to the Executive Director and Commission.
  - An Executive Oversight Committee (EOC) will be established to provide project specific guidance once a project is prioritized to move forward as a P3 Project. The committee will provide overall policy direction, dispute resolution, and guidance to the P3 Project Team during pre-procurement and procurement activities. The primary functions of the EOC are to:
    - Make policy decisions for the project
    - Ensure adequate resources are provided from each respective organization to support the project
    - Provide support to the project team in relation to regional and national stakeholders
    - Resolve questions related to technical aspects of the P3 Project during all phases of the project, once it is established as a P3 Project
    - Monitor the progress of the project

- CDOT Division of Accounting and Finance headed by Chief Financial Officer (CFO) – While not shown on Figure 2, the CDOT's CFO or their designee serves as a resource to HPTE for funding and finance aspects of major projects that move forward under the P3 approach. Typically, staff of the CFO will participate during the project development and procurement phases for the P3 project.
- CDOT Regions – The CDOT Regions develop projects and may propose a project to the PMO for consideration as a major project. The regions will allocate funds that may be used for project development and later phases of the project in coordination with the Executive Director and in partnership with the PMO. If a major project is considered as a P3, the Region will lead the technical development of the project and rely on the HPTE to run the due diligence process to determine whether the project should be approved for moving forward as a P3. The Region will support HPTE's due diligence with cost estimating, risk assessments, and cash flow information needed for the HPTE's analysis. If the project is approved to move forward as a P3, the HPTE, in coordination with the Region, manages the P3 process and serves in the role of “owner” of the project for the P3 process. The Region will lead the project for key elements, including:
  - Project environmental review and approvals
  - Public communication related to environmental and technical elements
  - Technical lead
  - Major team member in the P3 process and lead on technical elements
  - Oversight of P3 project implementation (design-build) phase in partnership with HPTE
  - Coordination on the oversight of P3 project operations phase in partnership with HPTE
  - Oversight of P3 project “handback” phase in partnership with HPTE
- HPTE – The HPTE has a small staff of experts and administrative personnel that provide management and oversight for the P3 Program under the direction of the HPTE Board. HPTE provides expertise for innovative finance and project delivery including these areas:
  - Financial expertise in innovative finance including leveraging funds through commercial and government loans, bonds, and public-private partnerships to advance projects
  - Tolling expertise including feasibility analysis, rate setting, managed lanes, and operations

- Project delivery expertise including alternative procurement methods such as design-build, design-build finance, design-build-finance-operate-maintain
- Feasibility expertise for value for money analysis to help determine the best value method for delivery of projects
- Legal expertise related to innovative finance and alternative project delivery
- Public outreach related to innovative finance and alternative project delivery
- Project management of innovative finance and P3 project development, procurement, contract management and operations

The HPTE augments its resources with contracted resources for legal, financial, public outreach, technical, and tolling expertise. The HPTE partners with the local Region on each project being considered as a P3 in their respective region(s). The roles and responsibilities of each will be further defined in a P3 project interagency agreement. Once the Commission designates a project to be considered for the P3 approach, HPTE assumes the leadership for the P3 aspects of the project in coordination with the CBE (where applicable), including due diligence to determine if the project should move forward as a P3 as the “best value” for the state. Should a project be deemed the best value as a P3 project, HPTE, in partnership with CBE (where applicable) and the Region, leads the project procurement. HPTE “owns” the P3 project agreement upon execution and manages the P3 project agreement in partnership with the Region once the project reaches commercial and financial close.



**Figure 2 - Governance at Major Program and Project Delivery Milestones**

The following table provides general guidance on the differentiation of who leads and who supports certain activities. Upon adoption of this P3 Manual by the HPTE Board and the Transportation Commission, the table below shall amend and replace the table in the MOU between CDOT and HPTE (see attachment A) that outlines the key areas, as well as which group leads and supports for each area.

| Program / Project Phase | Description  | Responsibilities and Resources (HPTE Eligible Projects Only) |              |
|-------------------------|--|--|--------------|
|                         |  | Region   | HPTE         |
| Overall Program         | <u>Management and Oversight</u> : Provide communications, overall administration and reporting of P3 Program | Support  | Lead         |
|                         | • Establish policies   | N/A  | Lead         |
|                         | • Provide strategic master planning  | Support  | Lead         |
|                         | • Conduct program communications and marketing*  | Support*   | Lead*        |
|                         | • Establish procedural guidelines and procedures*  | N/A  | Lead*        |
|                         | • Conduct program-level budget planning and reporting  | Lead (Commission)  | Lead (Board) |

|   |   |              |         |
|---|---|--------------|---------|
| Program Planning  | <u>Management and Oversight</u> : Conduct initial feasibility, conceptual design, financial plan, initial environmental planning, delivery plan, ID and select projects, prioritization and screening for potential P3 projects | Lead         | Support |
|   | • Identify and prioritize potential projects  | Lead (PMOGC) | Support |
|   | • Determine initial feasibility of potential projects   | Support      | Lead    |
|   | • Prepare conceptual project definition/scope/design  | Lead         | Support |
|   | • Conduct Phase I T&R Study (revenue projections)   | Support      | Lead    |
|   | • Prepare conceptual cost estimates and scheduling  | Lead         | Support |
|   | • Conduct environmental review (pre-NEPA)   | Lead         | Support |
|   | • Prepare value-for-money analysis  | Support      | Lead    |
|   | • Prepare initial financing plan  | Support      | Lead    |
|   | • Engage industry (program info, initial interest)  | Support      | Lead    |
|   | • Conduct public engagement   | Lead         | Support |
|   | • Conduct stakeholder engagement (local TR agencies)*   | Support*     | Lead*   |
|   | • Provide FHWA coordination and approvals   | Lead         | Support |
| • Make P3 decision and prepare delivery plan            | Support   | Lead         |         |
| Project Development                                     | <u>Management and Oversight</u> : Conduct final feasibility, financing plan, NEPA, and preliminary engineering  |              |         |
|   | • Provide overall project management  | Lead         | Support |
|   | • Determine final feasibility of project  | Lead         | Support |
|   | • Prepare preliminary project design  | Lead         | Support |
|   | • Conduct Phase II T&R Study (revenue projections)  | Support      | Lead    |
|   | • Prepare preliminary cost estimates and scheduling   | Lead         | Support |
|   | • Provide environmental clearance/approval (NEPA)   | Lead         | Support |
|   | • Prepare value-for-money analysis  | Support      | Lead    |
|   | • Prepare final financing plan  | Support      | Lead    |
|   | • Engage industry (project information, RFI)  | Support      | Lead    |
|   | • Conduct public engagement (project specific)  | Lead         | Support |
|   | • Conduct stakeholder engagement (local TR agencies)  | Lead         | Support |
|   | • Provide FHWA coordination and approvals   | Lead         | Support |
|   | • Develop project communications plan   | Lead         | Support |
|   | • Develop project management plan   | Lead         | Support |
| • Make P3 procurement decision and define delivery plan | Support   | Lead         |         |
| Project Procurement                                     | <u>Management and Oversight</u> : Procure the project   |              |         |
|   | • Provide overall project management  | Lead         | Support |
|   | • Prepare solicitation <u>documents</u> (RFI, RFP, others)  | Support      | Lead    |
|   | • Prepare contract documents  | Support      | Lead    |
|   | • Prepare <u>investment</u> -grade T&R (revenue projections)  | Support      | Lead    |
|   | • Prepare final financial documents and requirements  | Support      | Lead    |
|   | • Prepare value engineering and technical requirements  | Lead         | Support |
|   | • Alternative Technical Concept (ATC) reviews   | Lead         | Support |
| • Coordinate procurement with industry bidders          | Support   | Lead         |         |

|              |   |          |         |
|--------------|---|----------|---------|
|              | • Review proposals and conduct evaluations                                | Support  | Lead    |
|              | • Conduct public engagement (project specific)                            | Lead     | Support |
|              | • Conduct stakeholder engagement (local TR agencies)                      | Lead     | Support |
|              | • Provide FHWA coordination and approvals                                 | Lead     | Support |
|              | • Select winning bidder and negotiate contract                            | Support  | Lead    |
| Construction | <u>Management and Oversight: Construct the project</u>                    |          |         |
|              | • Provide contract management and administration                          | Lead     | Support |
|              | • Provide change management   | Lead     | Support |
|              | • Provide budget management   | Lead     | Support |
|              | • Provide financial reviews   | Support  | Lead    |
|              | • Conduct design reviews  | Lead     | Support |
|              | • Construction oversight and quality audits                               | Lead     | Support |
|              | • Conduct final project acceptance  | Lead     | Support |
| O & M        | <u>Management and Oversight: Operating the project</u>                    |          |         |
|              | • Manage P3 project agreement and related contracts (including reporting) | Support* | Lead*   |
|              | • Toll collection   | Support  | Lead    |
|              | • Maintenance   | Support  | Lead    |
|              | • Roadway Operating Decisions such as road closure                        | Lead     | Support |

**Figure 3 - Identification of Leadership and Support**

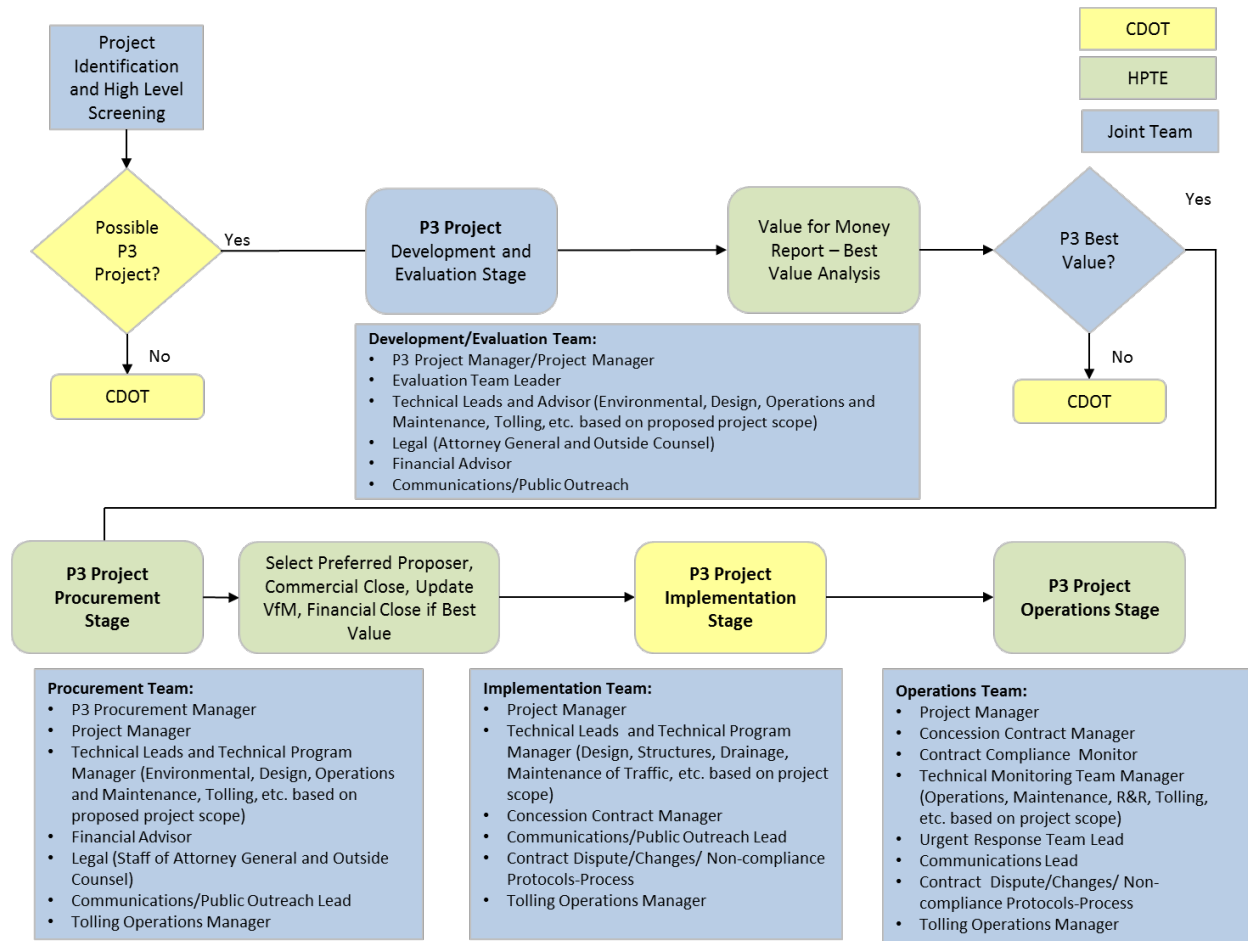
\*Denotes a change from the MOU

This manual will help provide guidance to help clarify what the lead role and support role means for the various categories as outlined in the chart above.

## D. Overall P3 Process Chart

Each P3 project is unique in the project scope and expertise that might be required throughout the life of a potential P3 project. The leadership of HPTE, and the Region, in coordination with the Executive Director, will partner to provide P3 project teams that bring together the most appropriate resources and skills for the applicable P3 project phase. In addition, each phase may have different decision-making hierarchy for major milestones and authorizations to continue as a P3 project. The chart below helps identify the key roles and responsibilities that occur throughout the life of a P3 project. Many of the steps are shown as a joint responsibility that could be led by either HPTE or CDOT depending on the project and specific resources available and needed. It must be understood that many activities must overlap phases to continue the progress of the project and procurement. The subsequent chapters in the P3 Manual outline in more detail the key roles and responsibilities at each stage of the P3 project.





**Figure 4 - Overall Process Flow Chart**

## E. Identification of Potential P3 Projects

CDOT conducts a continuing, comprehensive, and cooperative (3C), performance-based, multimodal transportation planning process in accordance with federal and state requirements. CDOT works closely with many planning partners throughout the state, including local officials in the ten rural Transportation Planning Regions (TPR) and five Metropolitan Planning Areas. The Metropolitan Planning Organizations (MPO) and Regional Planning Commissions (RPC) in these 15 regions meet regularly to plan for their areas. The Statewide Transportation Advisory Committee (STAC), comprised of representatives from each of these planning organizations, meets monthly to advise the CDOT on the multimodal transportation planning needs of the state. Transportation stakeholders are also represented on other statewide planning bodies including the Statewide MPO Committee, Transit and Rail Advisory Committee (TRAC), and the Freight Advisory Council (FAC). Transportation planning is an ongoing process that periodically culminates in the development or update of several required planning products including a Statewide Transportation Plan (SWP), Regional Transportation Plans (RTP), and a Statewide Transportation Improvement Program (STIP). These products include:

- Performance objectives with both short- and long-term goals for the multimodal transportation system
- Strategies to achieve these performance objectives
- Priorities for investment in transportation programs and projects

Priorities for projects identified through the planning process and in Regional Transportation Plans are consolidated and further refined in the [Development Program](#).

Projects are considered from the planning process that includes the SWP, RTPs, Development Program, and STIP. Projects for consideration as a major project are derived from the RTPs, Development Program, and STIP, or longer-range cost feasible plan (or “needs plan”). These may be further considered as a P3 approach by the CDOT Regions or others within CDOT for further evaluation by CDOT’s PMO and ultimately the Executive Director and Commission. Additionally, the PMO, Executive Director or Commission may bring a project forward as a major project in consultation with the applicable Region Director. The PMO and Executive Director will consult with the HPTE Director and Board to discuss the major projects to be considered for delivery through the P3 approach. Transportation projects that may not be owned by or being sponsored by the CDOT (such as a regional project) can be considered by the HPTE for a P3 approach provided the project falls within the jurisdiction of and meets the mission of the HPTE. Some of the factors to consider when identify projects and prioritizing them high level for screening may include those outlined in section F below.

## F. High-Level Screening of Potential P3 Projects

The joint team of HPTE and the Region, under the leadership of the PMOGC, will provide a very high-level screening of the list of projects developed by the PMO for consideration of delivery under the P3 approach. HPTE will provide recommendations of projects to move forward for further more detailed screening as a P3 in partnership with the Region.. The screening process will determine, at a high level, whether the project should be considered for prioritization and detailed due diligence for delivery as a P3, or be eliminated from consideration as a P3. Projects that appear to warrant moving to the P3 Project Development phase will be recommended to the Executive Director for final decisions prior to presenting recommendations to the Transportation Commission and HPTE Board for concurrence to further evaluate a project as a P3. Some key elements to consider at the screening level include:

- Size of the project
  - Does the project size justify being considered for the P3 approach?
  - Generally, projects need to be a minimum of \$100 million in size to be considered a major project that warrants consideration for delivery under the P3 approach.
- Challenging project funding
  - Does the project have all funding identified in CDOT’s Work Plan?

- If so, the project might be more appropriate for a design-build approach instead of a P3.
- Does the project generate revenues and if so, have these been forecasted at a preliminary level?
- If the funding is identified over a long-term, such as ten years or longer in the cost feasible Long-Range Transportation Plan, or there are challenges finishing out the funding plan that equity or tolling could help solve, then this might warrant evaluation as a P3 project.
- Project complexity or uniqueness
  - Does the project include challenging elements that innovation and/or a life-cycle approach can help solve?
  - Combining phases such as design-build-operate-maintain are areas where P3 projects can be helpful.
- Project is broken up into multiple projects (accelerating improvements/project efficiencies)
  - Is the project being broken up simply due to funding challenges, which costs more, increases coordination challenges, and is more disruptive to the public?
  - If so, combining the project into a larger P3 may be an option.
  - If the project was done as a P3 would it free up funding for other projects that may not be viable as a P3?
- Environmental review process is underway or cleared
  - Has the project received environmental approvals or the environmental review stage is underway and can be completed in a reasonable time?
- Project risks
  - Are there risks that a P3 model could help transfer to the private sector for a long term agreement?

## G. Priority Setting for Potential P3 Projects

When the initial screening is provided and there is more than one candidate P3 project under consideration by the HPTE, the HPTE Director will consult with CDOT's Executive Director, PMOGC, and HPTE Board to set priority for the candidate P3 projects. Key items to consider include:

- Production readiness
  - What is the current production phase for the project?
  - Projects that have environmental approvals and required right-of-way in hand will generally receive a higher priority.
  - Projects that are in the later stages of the environmental review process will also receive consideration.

- Acknowledgement, status, and magnitude of any known project risks. This could include a project requiring extensive environmental mitigation, or high potential for encountering contamination. These examples may require long lead times to investigate and develop solutions that could be difficult to simply transfer to a private party, therefore they could carry risk for a procurement as well as a risk of poor value to the owner if the risk is transferred without fully understanding it.
- Relative benefit to the travelling public
  - What are the safety challenges, traffic levels, and congestion periods, and what benefit does the project provide to improve safety, relieve congestion, and provide options/choices for the travelling public?
  - Projects that provide a major benefit will receive a higher priority.
- Funding status
  - Has a preliminary funding plan been identified for the project under a P3 approach?
  - Projects that show a preliminary "path" for reaching financial close as a P3 project will generally be given higher priority.
  - This is not all inclusive as part of the mission of the HPTe is to help solve funding challenges.

## H. Program-Level Public Outreach and Involvement Plan

By nature, P3 programs and projects require more public outreach and a comprehensive involvement plan. Each P3 project will have unique project characteristics, possibly the CDOT Region, the location, and interested parties. The HPTe Director will provide a comprehensive P3 Program-level public outreach and involvement plan (P3 Public Outreach Plan) in coordination with the HPTe Board and CDOT Office of Communications. The P3 Public Outreach Plan will be updated periodically based on feedback and periodic assessments of best practices, and updates included in the revised P3 Public Outreach Plan. The P3 Public Outreach Plan will be included on the HPTe internet site and updated as changes are made.

The P3 Public Outreach Plan will include key elements, such as:

- Key focus groups for outreach – The Plan will identify the key groups, including applicable elected officials, interest groups, and others.
- Key public outreach approaches and mediums – The Plan will identify the major approaches such as public meetings, official briefings, written materials, posting to the website, other forms of social media, and the overall delivery approach for the Plan.
- Plan implementation – The Plan will be put into action and delivered by appropriate officials, staff, and consultants.

- Evaluation of the Plan – The HPTE should maintain records of materials used for the Plan, meetings held, attendees, questions and responses, and other feedback on the Plan. This should be used to evaluate the effectiveness of the Plan and the results provided to the HPTE Board at least every other year and also utilized to update the Plan at the next update cycle, or more frequently as needed.

## I. Program-Level Resources and Periodic Resource Evaluation

Annually, the HPTE Director will evaluate the resource level being provided in support of the P3 Program. The HPTE Director will coordinate with the CDOT Executive Director and PMO on the evaluation of resources to ensure that all aspects of the P3 Program are considered, evaluated, and addressed. The HPTE Director will provide a resource update to the HPTE Board and CDOT Executive Director at least once each year. The resource review will consider the number of P3 projects in operation, implementation, procurement, and due diligence. In addition, the HPTE Director will consider resources being provided as a consultant to CDOT under the Fee for Service Interagency Agreement to assist as an advisor for CDOT on innovative finance and consideration of projects as a possible P3 project. The resource review will consider the HPTE and CDOT in-house and consultant resources allocated or available to the P3 Program to ensure that all elements of the P3 Program are addressed.

## J. Staff Training

P3s are still new to the United States. As such, there is not “standard” training similar to engineering standards or other well established disciplines and standards. As such, it is important that staff training for the P3 Program be developed with a wide range of approaches and activities, and the training program be updated on an annual basis as the availability of training on P3s is changing each year. Some key areas to consider for inclusion in the P3 Program staff training:

- United States Department of Transportation – Build American Bureau – The US DOT was directed by Congress to develop a range of P3 materials, including manuals, training, and related materials to assist the states in the consideration and implementation of P3 programs. In addition, US DOT – through the Build American Bureau and Colorado Division Office – can set up special workshop sessions on key topics based on requests by the CDOT. The FHWA materials can be accessed here: [www.transportation.gov/buildamerica/](http://www.transportation.gov/buildamerica/).
- Conferences – Various conferences are held across the United States that focus on key aspects of P3 programs and case studies of P3 projects. It is important to vet the scope of the conference program to ensure the topics are useful to the staff. Most conferences provide affordable registration fees for public sector participants.
- Partnering with other states – States that have experience in P3s are often open to partnering with other states to share knowledge, experience, and best practices on P3 programs and projects. This can be accomplished through assistance from the American Association of State Highway and Transportation Officials (AASHTO), US DOT, or by reaching out directly to the other states. As of 2017, the following states

had a P3 project in operation, implementation, and/or procurement for major rehabilitation/capacity improvement P3 projects:

- Alabama (private toll roads P3)
  - Arkansas (design-build-finance or DBF)
  - California (concession)
  - Florida (DBF and concession)
  - Georgia (DBF)
  - Illinois (concession)
  - Indiana (concession)
  - Maryland (concession)
  - Michigan (DBF)
  - New York (Port Authority – concession)
  - North Carolina (DBF and concession)
  - Ohio (concession)
  - Pennsylvania (concession)
  - South Carolina (concession)
  - Virginia (concession)
  - Texas (concession)
- Peer exchanges – Canadian provinces have extensive experience with P3 programs and projects as well as other countries in Asia, Australia, Europe, and South America. Peer exchanges can be helpful to learn from countries that have been in the P3 space much longer than the United States to allow for forward planning of areas such as operations and maintenance (O&M) and handback. In many cases FHWA, AASHTO, the Transportation Research Board (TRB), and other organizations can help facilitate peer exchanges.
  - Topic-specific training – Topic-specific training can be provided from expert consultants available to the HPTC and CDOT that provide more detailed guidance on major topics related to technical, financial, and legal areas for the P3 Program.

## K. Expertise Availability and Approach

It is the direction of the Commission and HPTC Board that the in-house staff level of HPTC remain small and that expertise and resources be augmented from expert consultant resources. In addition, the in-house legal resources are provided by the Office of the Attorney General. The following expertise will be provided for the P3 Program:

- HPTC expertise
  - In-house
    - Director
    - Project Managers
    - Communications (shared with the CDOT)
    - Office Manager/Board Secretary
    - Toll Services
    - Operations

- Consultant expertise
  - Financial
  - Legal
  - Insurance advisors
  - Public outreach
  - Contract monitoring
  - Technical advisors
  - Tolling advisors
  - Operations
  - Maintenance
- Region expertise
  - In-house
    - Director
    - Environmental
    - Project management
    - Design
    - Construction
    - Operations
    - Maintenance
  - Consultant expertise
    - Broad based technical (this can be in one group or individual consultant services)
    - Environmental
    - Design
    - Construction
    - Operations (may be provided by HPTE advisor)
    - Maintenance (may be provided by HPTE advisor)
    - Project management
- Office of the Attorney General
  - In-house legal services

## L. Program-Level Procurement Policies

The HPTE is exempt from state procurement laws, policies, and guidance. This is to allow flexibility to implement P3 projects in the most efficient and cost-effective manner. This Manual and the P3 process are designed to meet Federal procurement requirements and the HPTE Director and Region Director will partner with the FHWA Division to ensure the P3 procurement process meets applicable Federal requirements on projects that include Federal funds and/or part of the Federal-aid highway system. The HPTE has instituted policies and practices in the US 36 P3 project and the Central 70 P3 project. Key elements of these policies that will apply at the P3 Program level and accordingly apply to each HPTE procurement:

- HPTE Board approval – The HPTE Board must be briefed at key points and approve the major decision points in the procurement process, including:
  - Briefing on a candidate P3 project moving forward into the procurement process
  - Briefing on the RFQ and RFP
  - Briefing on the shortlist
  - Approve the selected preferred proposer
  - Approve the P3 project agreement at commercial close
  - Financial close (as applicable, such as the P3 project agreement requires an amendment for financial close and any financing documents required for financial close that HPTE is a party to the agreement such as serving as a conduit for private activity bonds)
- Public outreach – At a minimum, public outreach will be conducted prior to moving into procurement, after selection of the preferred proposer, and prior to financial close. In general, public outreach should consider the timeliness of educational messages to ensure the public understands why P3s are being considered and the benefits that they will achieve.
- P3 Project Manager – Prior to procurement, a P3 Project Manager will be assigned. The P3 Project Manager will be responsible for all aspects of the procurement under the direction of the HPTE Director.
- Two-step procurement process – Generally P3 procurements that are solicited by HPTE will involve a two-step procurement process comprised of the below steps. However, in some instances the P3 project may warrant less or more steps as determined jointly by the HPTE Director and Chief Engineer in coordination with the CDOT Executive Director.
  - RFQ – The RFQ stage involves the P3 Project Team preparing and HPTE issuing an RFQ that outlines the key qualifications that must be met by the private teams interested in proposing on the P3 project procurement. The private teams will submit a Statement of Qualifications (SOQ) in response to the RFQ. The Procurement Team, as reflected in Figure 4, will lead the evaluation of SOQs and recommended shortlisting to move into the next step.
  - RFP – The RFP stage involves the P3 Project Team preparing and HPTE issuing an RFP that outlines the instructions to proposers, technical provisions, draft P3 project agreement, and related documents and exhibits. The shortlisted proposers will provide a proposal in response to the RFP. The P3 Procurement Team will lead the evaluation of the proposals.
- Team approach – Each procurement effort shall be a team approach that includes HPTE, the applicable Region for the P3 project (or other entities if they are the project originator/sponsor), CDOT CFO, Attorney General, State Controller, funding partners (if other than the CDOT and HPTE), FHWA, and expert technical, financial, and legal



advisors. The P3 Project Manager, working with the HPTE Director and Region Director, shall develop sub-teams within the Procurement Team as needed for major elements of the procurement.

- Office of the Attorney General – In coordination with the HPTE, staff of the Attorney General lead the legal review for all documents to be signed by the HPTE, including the P3 project agreement. The Attorney General will be assisted by expert legal advisors available to the HPTE.
- State Controller – The State Controller must approve and sign all contractual documents associated with the procurement, including the P3 project agreement.

#### i. Unsolicited Proposal Process

The HPTE legal authority allows for the submission of unsolicited proposals. As a general policy, HPTE **would prefer to use a solicited procurement process** as this provides an efficient and effective procurement process with more probable outcome for both the public sector and the interest industry participants. However, this is not to say that unsolicited proposals will not be considered. Interested industry participants are encouraged to meet with the HPTE Director to discuss ideas in one-on-one sessions prior to submitting an unsolicited proposal.

To be considered by HPTE staff, all unsolicited proposals must follow the HPTE Unsolicited Proposal Policy (updated November 2020) steps, which include:

- 1. Threshold Review
  - a. All proposals must be submitted using the form provided in Annex A of the policy.
  - b. \$5,000 must be paid to HPTE to cover costs associated with the Phase One Evaluation.
  - c. The proposer must highlight any elements of the submission they deem confidential and submit them separately, using the guidelines in section 16 of the policy. HPTE does not encourage the submission of confidential or proprietary information.
- 2. Phase One: Conceptual Proposal
  - a. A Review Team, consisting of HPTE and CDOT staff, is formed to evaluate the submission based on the criteria outlined in section 8 of the policy.
  - b. The Review Team may request to meet with the proposer to clarify elements of the submission.
- 3. Phase Two: Detailed Proposal
  - a. If the Review Team decides to move forward with the submission, an invitation to submit a detailed proposal will be sent to the proposer with a list of key information that should be included.

- b. The proposer must pay HPTE \$50,000 to cover costs associated with the Phase Two Detailed Proposal Evaluation. If additional funds from the proposer are deemed necessary by the HPTE Director, the proposer must pay the identified fee before the evaluation can proceed.
- c. HPTE and CDOT advisers are added at this stage to provide additional due diligence on the proposal submission.
- d. The Review Team will use the evaluation criteria set out in section 13 of the policy, in addition to any criteria they deem relevant to the submission.
- e. The Review Team may request to meet with the proposer to clarify the details of the submission.
- f. The Review Team will make a recommendation to the CDOT Executive Management Team (EMT). If the EMT decides to move forward, the proposal will be brought before the HPTE Board and Transportation Commission (if relevant) to approve or reject.

Under no circumstances is the HPTE required to accept the unsolicited proposal. The HPTE may discontinue the process at any point prior to commercial/financial close when determined in the best interest of the state.

## M.P3 Program Transparency and Timing of Availability of Key P3 Program Public Records

Transparent processes and open records are fundamental to successful P3 projects and procurements. Transparent processes help stakeholders and the public understand the complexity of these projects and the types of risks that will be transferred to the private sector or retained by the public owner/agency. A transparent process will also eliminate conflicts and misunderstandings and ensures an attractive environment for private investors and government partners. To that end, the General Assembly specifically required HPTE to be subject to the Colorado Open Records Act (CORA) [Section 43-4-809 (2) (b), C.R.S.]. The CORA [Section 24-72-201, et seq., C.R.S.] makes most of HPTE's documents and information, with some exceptions outlined in law, subject to disclosure as public records. In addition, the HPTE has adopted a CORA Policy relating to P3s. In the case of any conflicts or confusion of the P3 manual and the CORA laws and HPTE CORA policy, the law and policy will govern.

- P3 projects and procurements involve an enormous variety of documents and information of interest to stakeholders, including legislators, the public, local governments, and private-sector proposers. The following example documents, created as part of the P3 Program and procurement process, are public records under CORA:
  - **Minutes and documents** provided at HPTE Board meetings will be published to the HPTE website within a reasonable time after each Board meeting.
  - **Initial project value analysis** and any subsequent updates that evaluate the feasibility of pursuing a P3 project compared to a conventional public sector approach will be published to the HPTE website after presentation and acceptance by the HPTE Board. Updates to the project value analysis will be

published to the HPTE website after presentation and acceptance by the HPTE Board.

- **Key procurement documents prepared by HPTE**, such as the RFQ, initial and final RFPs, shortlists of the prospective bidders, and selection of the preferred bidder will be posted to the HPTE website when approved and/or issued publically by the HPTE Board.
- **Qualifications and proposals submitted by the prospective bidders**, which include the bidders' detailed proposals in response to the RFQ and RFP, are subject to being released publically during the procurement process – except for items that are marked as not subject to disclosure under CORA. All public information will be maintained by HPTE staff for up to six years after contract expiration and will be readily available for public inspection in either electronic and/or paper file, based on the media format that is most efficient. After that point the HPTE staff may archive the materials as “public” and “confidential” in accordance with standard CDOT policies and procedures.
- **Commercial and financial closing documents**, which include the contractual and financing agreements executed between the state and selected bidder, except for those documents or portions of documents protected from release by law, will be posted to the HPTE website. The P3 project agreement on the website will be updated as amendments are executed on the P3 project agreement. All public information will be maintained by HPTE staff for up to six years after financial close and will be readily available for public inspection in either electronic and/or paper file, based on the media format that is most efficient. After that point the HPTE staff may archive the materials as “public” and “confidential” in accordance with standard CDOT policies and procedures.
- **Major monthly monitoring reports and related documents** that are generated by the private partner and HPTE during the design-build and operation-maintenance stages of the P3 project will be posted on the HPTE website.
- As part of each procurement effort for a P3 project, the HPTE will notify the proposers of the following requirements in the RFQ and RFP:
  - All information provided by proposers is subject to and will become public records in accordance with the HPTE Transparency and HPTE CORA Policy, as well as CORA.
  - Confidential commercial and financial information and trade secrets may not be public records. However, proposers have the burden of proof for establishing what information is confidential and must proactively identify this information and be prepared to defend against release if the CDOT/HPTE requests the information be made public record.
- The HPTE will consult with the Office of the Attorney General on any questions that arise about whether P3 Program documents may be public record prior to the release of any documents that a proposer or private partner asserts is confidential.

## N. P3 Records Management System

Colorado Revised Statutes outline specific records management requirements to ensure agencies have adequate systems to maintain and manage their records for the purpose of providing public access and for conducting business and managing operations. Specifically, Section 24-80-102.7(2)(a), C.R.S., requires that “each state agency shall establish and maintain a records management program for the state agency and document the policies and procedures of such program.”

In accordance with CDOT Procedural Directive 51.1, the HPTE has identified the HPTE Office Manager as the HPTE records coordinator who, among other duties, (1) works with the CDOT’s Official Records Custodian on records retention and disposition requirements, (2) completes a “Record Analysis Sheet” that lists the types of documents retained and the state or federal statute requiring retention, and (3) advises the Official Records Custodian of any documents not included in existing records retention schedules and develops a schedule for those records.

The HPTE Records Coordinator, in coordination with the HPTE Director, has created an [HPTE State Archives and Public Records Disposition Schedule](#) to the P3 Manual that outlines the requirements for records management for the P3 Program. This includes the identification of the follow major items:

- Contractor proposal and supporting documents procured by HPTE
- Concession Agreement(contract) and supporting documents
- Project monitoring files applicable to P3/toll projects
- Project monitoring files applicable to other projects

## O. Conflict of Interest Policies and Review Process

It is critical that conflicts of interest be prevented for the P3 Program and if encountered, dealt with in a timely manner. It is impractical to address all potential individual conflicts of interest that might arise over time in the P3 Management Manual. However, there are certain elements that can be generalized here that include:

- Employees of the HPTE/CDOT are expected to be aware of and shall follow applicable laws and policies related to conflicts of interest both during employment and post-employment.
- In the future, no firm and/or individual may advise the HPTE or CDOT on a P3 project that is also an integral member of a proposer team on the same P3 project, such as an equity owner, design-build joint venture member, lead operations, lead maintenance team member, or lead advisor for the equity owners such as technical, financial, or legal advisor. In the case of any situations that existed prior to this manual, HPTE shall ensure appropriate firewalls are in place to ensure that a team that participated as an integral member of the private partner team on a P3 project are not reviewing work performed as part of the P3 project and to avoid any sensitive information being shared regarding contract language, pending claims, or other information that would jeopardize HPTE’s ability to ensure there are no conflicts of interest on the applicable P3 project.

- All firms and/or individuals that perceive a real or potential conflict of interest shall promptly notify the HPTE Director in writing via e-mail or certified mail.
  - Cases will be examined on a case-by-case basis in collaboration with the Attorney General's Office.
  - To ensure a timely review and response, the firm and/or individual will outline the real or perceived potential conflict of interest in their notice to the HPTE Director. The HPTE Director may request follow up information as needed. In the submittal, the firm and/or individual agree to abide by the decision of the HPTE Director on the question of whether a conflict of interest exists or not.
  - The HPTE Director will review the information within ten days of receipt.
  - The HPTE Director will notify the firm and/or individual of the HPTE's decision.

## P. Program-Level P3 Financial Policies

The HPTE is an “enterprise” for purposes of section 20 of Article X of the State Constitution, so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from the state and local governments. The HPTE has the ability to implement tolls, serve as a conduit bond issuer, facilitate finance options, and pass through grant funding as appropriate. Some major program-level financial considerations are outlined below:

- The HPTE may submit an LOI to the US DOT for an allocation of private activity bond (PAB) capacity for an eligible project as part of the P3 procurement effort.
  - The amount of the PAB allocation will be determined in consultation with US DOT based on the availability of PAB capacity and interaction with the prospective proposers at the industry forum, one-on-one sessions, advice from financial advisors, and other related information.
  - All debt incurred by the private partner on P3 projects shall be non-recourse to the HPTE and state.
  - The HPTE is open to serving as the conduit bond issuer for bond issues in support of P3 projects. To do so, the following major elements shall be met:
    - The private partner in the P3 project will express in writing they desire for the HPTE to serve as a conduit bond issuer for the applicable P3 project.
    - The HPTE and state shall not be liable for conduit bonds issued and shall be indemnified by the private partner in the P3 project against any cost that may be incurred as part of the bond issue. All offering documents and bonds issued shall bear a statement on their face that the HPTE and state are not liable for the bonds.
    - The conduit bond issue will be the best value for the state as demonstrated by the financial model presented by the private partner on the P3 project.

- HPTE will charge a market rate issuer fee for serving as the conduit private activity bond issuer. The bond issuer fee will be set by the HPTE Director and included in the draft and final Request for Proposal for the P3 project procurement.
- All applicable costs of the bond issue are the responsibility of the private partner, including any cost incurred by HPTE for the bond issue.
- The HPTE may submit an LOI to the US DOT for availability of a TIFIA loan for a P3 project and/or may be the applicant in select instances for the TIFIA loan. The HPTE will operate under the following guidelines for TIFIA loans where HPTE is providing the option of a TIFIA loan to the private partner:
  - The HPTE will serve as a “facilitator” to have a TIFIA loan available for a P3 project procurement effort to the extent the project meets the TIFIA loan requirements, TIFIA loan funds are available, and the US DOT expresses openness for a TIFIA loan on the P3 project subject to appropriate due diligence.
  - The amount of TIFIA loan being requested in the LOI will be determined based on the applicable TIFIA loan program requirements in consultation with the US DOT TIFIA Joint Program Office (JPO).
  - The HPTE will work with the TIFIA JPO to provide information needed for the JPO to evaluate whether the project qualifies for a TIFIA loan and also to respond to questions about the project and procurement effort.
  - The HPTE will work with the shortlisted teams to facilitate questions on their behalf to the TIFIA JPO related to a prospective TIFIA loan.
  - The HPTE will facilitate a draft term sheet, to the extent possible, working with the TIFIA JPO and provide this as part of the RFP package of documents for the shortlisted teams.
  - The HPTE will appropriately note on any documents facilitated on a possible TIFIA loan in the RFP package of documents that the HPTE assumes no responsibility or liability for the documents provided on a prospective TIFIA loan.

## Q. Program-Level Funding and Project-Level Funding

The HPTE is responsible for ensuring that both the HPTE program and each project being pursued has a budget allocated for forecasted program expenses and project needs. The HPTE will develop an overall P3 Program budget and funding sources for the overall P3 Program budget. HPTE will partner with project sponsors (CDOT Regions and others) for allocations at each project stage, including:

- P3 program management
  - General P3 program management (staffing, public outreach advisor)

- P3 project screening and priority setting (staffing, public outreach advisor, other advisors may be funded/provided via CDOT at the screening and priority setting stage)
- HPTE P3 project oversight (staffing and consultant advisors)
- P3 project
  - Project due diligence and development (staffing and public outreach/financial/legal advisors, with technical advisors)
  - Project procurement (stipends, staffing, and public outreach/financial/legal advisors)
  - Project implementation/operations (project subsidies, availability payments, dedication of project revenues – if revenue risk, HPTE contract/operations monitoring)
  - Project handback (advisors)

## R. Policies/Process for Dispute Resolution

The HPTE will review claims/disputes that occur on P3 projects in a partnership with CDOT, with the intent to resolve these in a partnership effort with the private partner while protecting the public interest. However, from time to time disputes will occur that involve a formal dispute resolution process.

The HPTE will utilize the CDOT's standard dispute resolution Dispute Review Board (DRB) process for disputes that occur on P3 projects. The DRB process is outlined at the CDOT website: [www.codot.gov/business/designsupport/dispute\\_review\\_board](http://www.codot.gov/business/designsupport/dispute_review_board).

The HPTE will include the requirements for the DRB in the procurement documents and final P3 project agreement for P3 projects. The HPTE will partner with CDOT and appropriate advisors on disputes that occur on P3 projects and follow the DRB process for the resolution of disputes that cannot be resolved via discussions and escalation of negotiations to the executives of both HPTE/CDOT and the private partner.

In select instances the HPTE Director in coordination with the Chief Engineer, may utilize an alternative dispute resolution approach where this best fits an element of a project or the overall project.

# III. Project Planning and Development (Pre-Procurement Phase)

## A. Decision-Making to Enter and Fund Project Planning and Development

As discussed in Chapter 2, the CDOT Executive Director and PMO will first evaluate and approve a project moving forward as a “major project” and to be evaluated as a P3 project in conjunction with HPTE. The HPTE Director will be part of the discussion and decision-making for this process.

Once the project has been initially screened and prioritized by the HPTE Board as discussed in Chapter 2 sections E through G, the prospective P3 project is evaluated further by the HPTE in partnership with CDOT. The PMO, in conjunction with the HPTE Director and CDOT Executive Director, makes the final decision to move a project forward for due diligence in the project planning and development stage as outlined in Chapter 3.

The HPTE and CDOT will work together to identify funding to pay for the costs associated with the P3 project planning and development stage (P3 Project Development Stage) of the proposed P3 project.

On projects that involve Federal funds and/or major Federal highways, HPTE will coordinate with the Region to ensure that the FHWA Division is part of the P3 Project Development Stage and involved in the consideration of a project as a P3 project. The CDOT Region will coordinate with the FHWA Division Administrator on the appropriate timing for a Project Stewardship and Oversight Plan. This plan will outline FHWA involvement in the project. In addition, for proposed P3 projects that meet the threshold for a major project under the Federal definition (currently greater than \$500 million and/or projects that will involve a TIFIA loan), HPTE and the Region will ensure a Project Finance Plan and Project Management Plan are developed timely and updated annually and submitted to the FHWA Division Administrator.

## B. Project-Level Organizational Chart

At the P3 Project Development Stage the HPTE will take the project lead in coordination with the Region for the day-to-day responsibility of due diligence and evaluation of the project as a P3. The applicable CDOT Region will be the lead for key elements of the project, including the environmental review and public involvement, as well as all project-level data. The CDOT Region will be assisted by HPTE and the Chief Engineer for the technical aspects of the project. The HPTE Director and Region Director will collectively identify the key members of the P3 Project Team for the P3 Project Development Stage in coordination with other CDOT managers as needed. The P3 Project Team will include the



key roles and responsibilities identified for the P3 Project Development Stage outlined in further detail in the next section.

## C. Decision-Making Authority, Roles, and Responsibilities and Key Decision Points

The high-level decision-making authority, key roles and responsibilities, and key decision points in the P3 Project Development Stage are shown below.

- CDOT has ultimate responsibility for the project's scope and environmental approvals, and will work closely with the HPTE on the management aspects that will be needed to help deliver the most effective project that provides the best value, including:
  - PMOGC to provide HPTE and Regions direction and guidance for the evaluations of projects as P3.
  - Environmental review, public hearings, and related elements required to achieve environmental approvals.
  - Project scope.
  - Project phases and elements such as design-build, operate and maintain, toll operations/services, etc., to be included in the project.
  - Project subsidies and/or funding to be provided from the CDOT.
  - Interaction, presentations, and recommendations to the Transportation Commission related to a CDOT project.
- The HPTE Board will review and make decisions related to the following elements of a proposed P3 project.
  - Moving the proposed project forward as a P3.
  - Approving the budget for HPTE funds for the project.
- The HPTE Director, in coordination with the Region Director, will have ultimate responsibility for the day-to-day direction of the P3 Project Development Stage:
  - The HPTE Director, in coordination with the Region Director, will identify key personnel for the P3 Project Team, including the following roles and responsibilities for the P3 Project Development Stage:
    - P3 Project Manager – The HPTE Director will delegate the day-to-day management to the designated P3 Project Manager under the supervision and direction of the HPTE Director.
    - Identify P3 Project Team technical team leaders based on the project scope such as:
      - Environmental
      - Design/engineering

- Traffic Engineering
- Operations and maintenance
- Tolling services
- Identify P3 Project Team outside technical advisor team.
- Identify P3 Project Team legal team leader (staff of the Office of the Attorney General) and outside expert P3 legal counsel team.
- Identify P3 Project Team financial team leader and outside expert P3 financial advisor team.
- Identify the public involvement and outreach team leader and outside expert public outreach team.
- In identifying the P3 Project Team members, the HPTE Director and Region Director, in coordination with the EOC, will consider the following key elements:
  - Project scope including the project phases and elements such as design-build, operate and maintain, toll operations/services, etc. to be included in the project.
  - Thoughts on the initial risk allocation among the HPTE/CDOT and the proposer/private partner, project subsidies and/or funding approach.
  - Key elements of the Value for Money (VfM) analysis.
  - Anticipated funding partners.
  - Anticipated public involvement and outreach approach and effort.
  - The Project Team will include representation for expertise on key elements of the project from the following areas where the skills best fit for the proposed P3 project moving into the P3 Project Development Stage:
    - HPTE
    - Chief Engineer
    - CDOT CFO
    - CDOT Region
    - Office of the Attorney General
    - CDOT Office of Communications
    - FHWA
    - Funding Partners
    - Expert Advisors
      - ❖ Financial
      - ❖ Legal
      - ❖ Technical
      - ❖ Public Outreach

- The Region Director will partner with the P3 Project Manager to coordinate the technical elements of the proposed P3 in coordination with the HPTE.
- The “P3 Project Team” for the P3 Project Development Stage under the direction of the P3 Project Manager will be responsible for the planning and development of the project as a proposed P3 project. The P3 Project Manager will coordinate the day-to-day activities of the Project Team for the P3 Project Development Stage for the proposed project. This will include, but not be limited to:
  - Develop and maintain the proposed P3 Project Team distribution list.
  - Develop and manage the schedule of key activities for the P3 Project Development Stage of the proposed P3 project as further outlined below. The P3 Project Manager will coordinate the development of the schedule that identifies the overall schedule of key activities that includes at a minimum:
    - Schedule for the P3 Project Development Stage.
    - Key decision-points in the process and the applicable decision-maker.
    - Major elements to be analyzed in the due diligence including for the proposed P3 project.
    - Assessment of the status of the environmental review and the steps and timing required to achieve environmental approvals.
    - Identify document control systems and records management for the proposed P3 project.
    - Estimated project costs and schedule by major project phase assuming:
      - Traditional project delivery approach
      - P3 approach
    - Assumed risk allocation for major elements of the proposed P3 project and the cost/cost savings and schedule/schedule savings for each:
      - Traditional project delivery approach
      - P3 approach
      - Development of the initial risk matrix
    - Assumed cost of financing assuming:
      - Traditional project delivery approach
      - P3 approach
    - Industry forum and one-on-one sessions.
    - Project delivery options and analysis of the options.
    - Initial VfM analysis.
    - Public outreach that includes:
      - Education on the P3 approach

- Workshops on the proposed P3 project in the geographical area of the project
- Outreach to elected officials and interested parties
- Other public outreach as needed
- Summaries and recommendations to reject or approve moving forward as a P3 project.
- If moving forward, development of the initial RFQ for the proposed P3 project.
- Other activities as may be needed depending the unique elements of the proposed P3 project, such as assessment of toll services.
- Establish sub-groups as needed among the Project Team and a lead member for each sub-group to help the P3 Project Manager coordinate the efforts of the Project Team for that particular sub-group. Sub-group activities may include:
  - Identification and sizing of non-compliance points regime.
  - Sizing of financial adjustment regime.
  - Formula for best value selection (appropriate weighting of financial and technical scoring).
  - Development of performance specifications.
- Schedule working sessions, meetings, presentations, etc. as needed.
- Consult with the EOC on major decisions. "Bump-up" major project decisions as needed to CDOT and HPTE senior management.
- Develop briefing materials on the proposed P3 project in coordination with the HPTE Director/Region Director/Public Outreach experts.
- Assist the applicable Directors with public outreach as needed.
- Provide briefing updates on the progress for the P3 Project Development Stage. The periodic briefing updates may include the following elements as applicable for briefings of the HPTE Board, PMOGC, CDOT Executive Director, and Transportation Commission to help these entities make decisions on the project:
  - P3 project description.
  - Description of the P3 Project Development Stage for the proposed P3 project.
  - Schedule for the P3 Project Development Stage with the current status in the schedule.
  - Summary of major activities during the past month.
  - Summary of planned major activities for the next month.

- Summary and timing of the next major decision point in the P3 Project Development Stage for the proposed P3 project.

## D. Identification of Team Needs and Contracts (Expertise Needed, Duration, Schedule, Funding, Contract Manger)

The HPTE Director and Region Director shall jointly identify the expertise needed for the P3 Project Development Stage of the proposed P3 project, including the HPTE Director identifying the expert advisors for financial, legal, and public outreach (related to the P3 elements), and the Region Director identifying the technical advisors for the P3 project. The respective directors will identify the following for the advisory services contracts:

- Contract manager for the expert advisor contract.
- Budget manager for the expert advisor contract.
- Funding and budget for the expert advisor contract.
- Term and amount for the contract and/or task order.
- Monitoring of the contract budget, work, invoices and overall performance of the expert advisor.

The P3 Project Manager will coordinate the expert advisors efforts for the P3 Project Development Stage.

## E. Funding Partner Coordination

The P3 Project Manager will ensure that funding partners are an integral part of the P3 Project Development Stage. This includes the following elements:

- Public outreach to the funding partner on the P3 approach and to others that the funding partner may wish the P3 Project Team to provide public outreach to as part of their funding partnership.
- Have the funding partner identify a key contact or contacts for the proposed P3 project.
- Add the key contact(s) to the distribution list for key activities, meetings, status reports, presentations, and related information.
- Scheduling and tracking the development and execution of any intergovernmental and/or funding agreements.

## F. Project and Document Controls

The HPTE will develop a project document control system and utilize the system for each proposed P3 project once the P3 Project Development Stage begins. The project document control system will facilitate the development, management, and storage of documents for the proposed P3 project. This project document control system will include the minimum elements outlined below. CDOT may utilize it's internal system (currently

ProjectWise) and HPTE's Aconex system where HPTE and CDOT agree for documentation and management of these documents at the Regions to accomplish these requirements.

- A system that has the ability to store and share large documents among multiple P3 Project Team members that is secure/access protected and limited to only authorized users to ensure the integrity of the process.
- A system that will store a large volume of documents in an electronic format that provides for search and retrieve capabilities by authorized users.
- A document control manager will be assigned for each proposed P3 project that will be responsible for project document control system.
- A system that can track the performance of the contract through implementation and operations.

## G. Feasibility/Scoping of Project (Confirm Minimum Requirements)

The P3 Project Team will discuss and outline the scope for the project that will include consideration of the following key project elements as the P3 Project Development Stage moves forward:

- Project phases to include in the proposed P3 project, including the high-level project phases of design-build-operate-maintain. Note that projects that include design-build phases with no elements of proposer financing will be managed by CDOT and not under the guidelines of the P3 Manual.
- Consideration of whether a segmented series of projects or a portion of these will be combined into one overall project through financing by the proposer/private partner.
- Term of the proposed P3 project.
- Consideration of project elements that may be unique for each project such as:
  - Toll services for projects that include tolling.
  - The inclusion of optional services such as operate-maintain segments of roadway that may be adjacent to the proposed P3 project where it is more cost effective for the proposer/private partner to deliver these services as part of the P3 project.
  - Separating certain elements as between HPTE and CDOT, and between HPTE/CDOT and the private partner, such as:
    - The process to set toll rates and who collects tolls.
    - HPTE/CDOT retains certain elements of operate-maintain such as snow/ice removal or other elements.
  - Linkage of risk allocation to the project scoping to best align the risk sharing with the party (HPTE or private partner) that is in the best position to manage the risk in the most cost-effective manner.

- Revisiting the project scoping as cost estimates, risk allocation, financial evaluation, and the overall initial VfM analysis is refined to help provide the best value option for the project scope for the proposed P3 project.

## H. Feasibility Schedule Development

The P3 Project Manager, in partnership with the P3 Project Team, will develop the overall proposed P3 project schedule that will involve the below major elements:

- P3 Project Development Stage schedule at a very detailed level as outlined in in section F.
- P3 Proposed Procurement Stage schedule at a level that details the major steps for the Procurement Stage and the time to accomplish the Procurement Stage. This schedule will be revisited in more detail should the decision be made to move the proposed P3 project to the Procurement Stage.
- The proposed Implementation Stage schedule at a level to identify the overall time period from design-construction of the project until it is planned to open to traffic. This schedule will be developed in more detail for the RFP should the decision be made to move the proposed P3 project to the Procurement Stage.
- The proposed Operate-Maintain Stage schedule that outlines the time period from opening to traffic and start of the operating period to the handback period and the end of the P3 term.

## I. Risk Analysis

The intent of this manual as it pertains to risk analysis is to provide the basic framework and guidance for expectations of risk analysis and efforts throughout a project's life. The purpose of a risk analysis is to help define the risks for the project as well as the procurement, and understand the how these risks can impact schedule and costs. Discussing these in a workshop setting allows input from many P3 Project Team members with a variety of experiences.

The P3 Project Team will normally identify as many risks as possible and then discuss each risk on a comparison basis with the base project assumptions initially in the P3 Project Development Stage. Early on, the base project lacks detail and most risks are discussed in a qualitative manner. As the project progresses and more details are available, it will shift to a more quantitative analysis such as during the later portion of the P3 Project Development Stage and into the Procurement Stage.

The workshop discussions allow the P3 Project Team to develop expected costs and schedule impacts both qualitative and quantitative, depending on the information available. The discussion will also help identify mitigation actions that can be taken to help reduce or eliminate particular risks. The risk listing or risk register that is developed can be updated on a regular basis as risks will change throughout the life of the project. It is recommended that the P3 Project Team conduct risk analysis workshops to update the risk register at key decision making times of the project. The risk analysis will also produce a

range of most likely costs and schedules based on participation of the group and the statistical analysis that is run by the risk workshop facilitator.

The recommended timing of risk workshops and updates to the risk register are:

- P3 Project Development Stage – At this stage of the project there may be a lack of detailed information and the focus may be on procurement risks, including the development of a feasible project, competition, and overall procurement and implementation schedules. Identifying and discussing these risks can help the team focus on the needs and actions that will help define a feasible project and mitigation actions to help ensure realistic costs and schedule. Risks will also be prioritized to help the Project Team manage the risk in an efficient manner.
- Pre-Procurement – Prior to entering procurement, it is recommended to update the risk register to help define and confirm the risk allocations on the project as well as the probability of costs to ensure the project is still viable and there have been no changes that would affect the delivery method chosen. A risk workshop should be held to provide the team time to react and ensure that the RFP documents incorporate the risk decisions that have been made.
- Procurement – When major changes are made to the draft RFP and final RFP and prior to executing a contract, it is recommended that the risk register be updated to support updates to the VfM analysis to ensure any changes that have taken place during procurement have been accounted for and included in the VfM analysis prior to entering into the P3 project agreement.
- Implementation – It is recommended that the risk register be updated to focus on the owner obligations to help the P3 Project Team develop a risk management approach to the design and construction that is effective and efficient. Since many risks are transferred to the private party, the P3 Project Team can prioritize those elements of the project that will be the owner's responsibility after construction as well as those assets being designed and constructed that will outlive the P3 project agreement term.
- Operations – Again, it is recommended to update the risk register for the operations period. This will allow the P3 Project Team to manage its limited resources efficiently. In addition to owner obligations, there could also be a focus on items that affect public safety and public perception.
- Handback – Prior to the actual handback of the facility, the risk register should be updated for specific handback activities to help plan and manage the handback process. This assessment will also provide CDOT with information they may desire to make decisions on how to manage the facility after the handback.

#### i. Initial Risk Register Items

The P3 Project Team will identify a list of risk items referred to as the risk register that will focus on the major elements of the project. The listing will include the anticipated risk allocation that best manages risk to provide the state the greatest value for the proposed P3 project. Potential risk-related elements to be considered include:



- Project scope
- Project costs
- Environmental approvals
- Permitting
- Utilities
- Operations
  - Enhanced elements
  - Service patrols
  - Acceptable down time/availability
- Maintenance
  - Routine
  - Periodic
  - Renewal and replacement
- Project revenues and funding
  - Revenue risk
  - Funding subsidies
  - Availability based
- Financing
- Emergency events
  - Traffic incidents and clearing
  - Storm events
  - Major events such as road closures
  - Major event damage
    - Clearance
    - Repairs
- Term of the proposed P3 project
- Third parties
- Competing facilities
- Contamination
- Latent defects
- Right-of-way
- Law changes
- Standard changes
- Force majeure
- Handback
- Warranties
- Insurance
- Toll services (if applicable)

## ii. Risk Register Template

The risk register template is typically a spreadsheet that expands on the risk items that have been identified to include a variety of categories that will allow the P3 Project Team to review, organize, distribute, track, prioritize, and follow up on the risk management actions

that are identified to be done during the risk discussions and meetings. The risk register template will also include the risk modeling outputs that are typically calculated in an embedded macro-program within the file housing all the risk inputs. The following list of items is meant to provide a general overview of the inputs to be expected in the risk register.

- Risk number – It is recommended that each risk be given a sequential number to allow for quick reference in discussions and meetings. It is expected the number of risks will grow as a project progresses and more details made available. Consideration can also be given to sequential numbering the risks by categories, although many risks may overlap categories.
- Risk category – Organizing by category allows the team to sort the risk register by specific categories that can be assigned and tracked by team members. The categories can vary depending on the desires of the P3 Project Team and the scope of the project. Example categories can include Policy, Technical, Funding/Financial, Government Approvals, Tolling, etc.
- Risk topic – Although similar to category, the P3 Project Team can utilize risk topics as a secondary sorting mechanism to efficiently manage the risks. As an example, under the Technical Risk Category the P3 Project Team may elect to have topics such as Roadway, Structures, ITS, Tolling, etc.
- Impact stage – This is the phase that the particular risk will come to fruition. Typical phases would include development, procurement, design, construction, operations, and handback.
- Risk description – This is simply a description of the risk that is detailed enough that one not familiar with the project could gain a good understanding of the risk.
- Expected value/Monte Carlo Analysis inputs – The below items can be utilized to develop the expected outcomes through a statistical analysis that evaluates the outcomes and the probability of these outcomes occurring based a range of assumptions for the data typically referred to as a Monte Carlo Analysis. This analysis provides an expected outcome for the project's cost and schedule based on an iterative statistical analysis. The formulas and specific information required for input should be reviewed with a risk facilitator prior to beginning a workshop and collecting the input.
  - Consequence of risk – The consequence the risk will typically be a brief description of the impact of the risk. Typically this will be cost or schedule, but could also be detailed as having a safety, environmental, or reputation consequence.
  - Probability range – These are ranges that a risk event would occur and have a negative impact on the project. It is important to discuss these as a group to get all feedback on the likelihood of a risk event materializing. These ranges can help prioritize efforts when managing the risks. Typical ranges can be in 20 percent increments where risk items with a 90 percent or greater likelihood should be considered to be part of your base project.

- Qualitative cost and schedule impact – This will be a range, typically by percent and weeks or months, of the base project cost and schedule impact the risk could have on the project.
- Quantitative cost and schedule impact – When more detail is available, the risks can be quantified versus just qualified. The range of impacts could be specific quantities as the minimum, maximum and most likely impact that can be expected.
- Monte Carlo simulation (distribution, modeling notes) – These are notes that outline the risk being evaluated and the range of assumptions applied for the risk that supports the calculation for a particular risk.
- Risk response method (mitigation, transferences) – This is where specific strategies can be identified for the P3 Project Team to follow up on as part of their risk management.
- Risk allocation – Which party in the P3 project is responsible for the risk - the public owner, private partner, or shared.
- Risk allocation notes – Some risk allocations may need explanation if they are shared or potentially expected to change over time. This will help the team understand the expectations as well as the potential action items that may be identified.
- Risk Actions/Recommendations to support the tracking of activities and their expected effect including: critical path(schedule impact), owner actions, mitigation, planned mitigation cost, review dates, status, comments)
- Risk closure notes – Identifying how and why a particular risk is no longer relevant or does not exist any longer. These notes will help when going back through the history of the project to help document decisions.
- Lessons learned notes – All projects will bring lessons learned. The P3 Project Team should be diligent in documenting these and carrying them through to other projects to ensure there is continuity in policy and practice where appropriate.

By developing a risk register that can be sorted by columns, the team can easily track particular aspects of the risks and utilize this template to help manage the project based on the risks. These risks can be prioritized and specific actions included in the template will allow the team to follow up on actions and update the risk as it changes.

### iii. Risk Analysis Strategy

The risk analysis provides an excellent opportunity to educate the P3 Project Team on the risks as well as collect feedback from a multidiscipline group that will help provide sufficient information for sound decision making. The P3 Project Manager can utilize the risk analysis to prioritize the team's actions as well as brief senior management. Specific strategies can include:

- Identify key risk elements that will be needed for policy discussions with the HPTE Director, and CDOT Executive Director for approval or direction or that should be further evaluated by the P3 Project Team.

- Keep the risk register up to date as further discussions occur among the P3 Project Team, with the industry and as decisions are made by HPTE and CDOT management.
- Solicit feedback from industry on particular risk elements and include the feedback in the analysis and potential mitigation strategies.

## J. Value for Money Analysis

A VfM analysis will be conducted at key stages in the process for the proposed P3 project. These major stages include:

- Initial VfM analysis as part of the P3 Project Development Stage. The initial VfM builds the template for the project that includes all major elements including:
  - A Public Comparator that models the project based on a traditional delivery approach such as design-build, public financing, and O&M by the CDOT. The P3 Project Team will develop and/or have developed the information supporting the Public Comparator such as:
    - Schedule for a traditional delivery of the project.
    - Cost estimate for design-build traditional delivery for the project.
    - Cost estimate for traditional delivery of O&M for the project. This will include ongoing renewal and replacement such as resurfacing, bridge repairs, etc.
    - Public financing cost for the project.
    - Possible risk factors such as cost overruns, schedule overruns, inflation for future delivery of phases, and other key items associated with traditional delivery.
  - P3 delivery that models the project based on a P3 delivery approach where the P3 Project Team has outlined the P3 project scope. At the initial VfM analysis stage the HPTE Director CDOT Executive Director, and other senior managers and Transportation Commission or HPTE Board members may want the P3 Project Team to evaluate more than one project scope and P3 delivery approach, for example: (1) shifting revenue risk to the private partner or an availability payment approach, (2) leaving all or part of the O&M such as snow removal with the CDOT, and (3) providing "options" such as the proposer "bidding" to provide O&M services on adjacent lanes or roadways to the main P3 project. The P3 Project Team will develop and/or have developed the information supporting the P3 delivery approach such as:
    - Schedule for P3 delivery of the project.
    - Cost estimate of the capital cost (design-build) for the project.
    - Cost estimate for the operating period for the project including operations and maintenance.

- Renewal and replacement costs.
  - Handback requirements.
  - Merge the cost factors into a life-cycle cost model for the overall term of the P3 project.
  - Risk analysis and the impact upon cost and schedule.
  - Financing cost for a P3 delivery approach.
  - Other factors associated with the P3 delivery approach such as cost savings from advancing the project, shifting of revenue or partial revenue risk, availability performance standards, HPTE and CDOT costs, stipends, and related elements.
  - Based on direction from the HPTE Director, CDOT Executive Director, Transportation Commission, or HPTE Board, there may be multiple delivery approaches modeled for the P3 delivery approach to evaluate the best alternative for delivering the project.
- The Public Comparator will be matched against the P3 delivery approach(es) and this results in a “best value” analysis that shows whether the Public Comparator or P3 delivery approach is the apparent Best Value for delivering the project. These results will be part of the briefing package presented to the HPTE Director, CDOT Executive Director, Transportation Commission, and HPTE Board to help make a decision to reject or approve the project moving forward as a P3.
- Update the initial VfM prior to selecting the preferred proposer in the procurement process. This is further discussed in Section IV.
  - Update the updated VfM prior to financial close for the P3 project. This is further discussed in Chapter 4, section F.

## K. Procurement Goals/Guidelines

The major goals for procurement of a P3 project are for the HPTE, in partnership with the CDOT, to:

- Provide comprehensive, consistent, and timely information and evaluations supporting a fair and open procurement process.
- Protect the integrity of the procurement process.
- Protect the public interest.
- Select the best value proposal.
- Strive to reach financial close provided the P3 project is the best value to the state.

The policies and major guidelines governing the procurement of a P3 project are outlined in Chapter 2, section L. The procurement process is outlined in more detail in Chapter 4.

## L. Procurement Schedule Development

The P3 Project Team will develop the initial procurement schedule. The schedule will identify key activities for the procurement process and include adequate time to accomplish these activities to reach financial close in a timely manner. Key activities to be included in the initial procurement schedule are shown below:

- Development of the draft RFQ as further discussed under RFQ development in Chapter 3.
- Environmental approval (if pending).
- All FHWA approvals.
- Briefings for HPTE Director, CDOT Executive Director, the Transportation Commission, and HPTE Board before the final decision to move into the Procurement Stage for the P3 project.
- Development of the draft RFP as further discussed under RFP development in Chapter 3.
- HPTE Director approval of the issuance of the RFQ.
- Due date for SOQs.
- Review and evaluation of the SOQs.
- Presentation and recommendation to the HPTE Director for approval of the shortlist of proposers.
- Issuance of the draft RFP.
- ATC process, including meetings, submission, and response due dates.
- Interactive one-on-one Sessions with shortlisted proposers.
- Formal written question and answer periods.
- Issuance of the final RFP.
- Due date for proposals.
- Review and evaluation of the proposals.
- Update the VfM analysis.
- Presentation and recommendation to the HPTE Board – HPTE Board selection of the preferred proposer.
- Protest period.
- Negotiations on final P3 project agreement.
- Presentation and recommendation to the HPTE Board – HPTE Board approval of the P3 project agreement.
- Commercial close.
- Negotiations on financing documents.

- Updated VfM.
- Presentation and recommendation to HPTE Board – HPTE Board approval of financing documents.
- Financial close.
- P3 project moves to implementation stage.

## M. Project-Level Public Outreach Plan

HPTE adopted a transparency policy and has developed an overall P3 Program Public Outreach Plan that has been included as Attachment B. HPTE will ensure that public outreach is accomplished within the requirements of the transparency policy as part of the P3 Project Development Stage. The HPTE Director, in coordination with the Region Director, will direct the development of a public outreach plan for the proposed P3 project.

The P3 project public outreach plan will address at a minimum the following requirements:

- Identify the key groups, individuals, and geographical areas that are the focus of the public outreach.
- Develop briefing materials on the P3 project and update these as the proposed P3 project moves forward.
- Identify the media approaches to deliver the public outreach such as:
  - Website project information
  - Media packages
  - Public workshops
  - Focus group sessions
  - Key official briefings
  - Board meetings
- Identify a schedule for delivery of the public outreach for the major stages. The public outreach plan for the P3 project will start with the P3 Project Development Stage and be expanded for additional stages should the P3 project move forward beyond the P3 Project Development Stage.
  - P3 project development
  - Procurement
  - Negotiation/financial close
  - Implementation
  - Operations
- Recordkeeping for the public outreach effort that includes:
  - Identification of attendees/participants for public outreach
  - Summary of key input and questions received in public outreach
  - Follow up in response to input and questions received
  - Input on materials used in the public outreach

- Periodic evaluation and update will be accomplished based on feedback from public outreach sessions. The P3 Project Team will utilize the evaluation to update the public outreach plan to continually improve the public outreach effort for the P3 project.

As part of public outreach the HPTE Transparency Policy calls for HPTE, in coordination with interested local governments, to hold a minimum of three public town hall meetings in relation to a potential P3 project. These meetings will:

- Be held either at a location near the primary communities expected to be affected by the project and at such other forums as HPTE may deem appropriate to provide access to the public.
- Allow for comment, input, and questions from the public and response from staff or board members of the HPTE.
- Update the public on additional developments regarding the project and other information as required by, or consistent with, the HPTE Transparency Policy.
- To the extent possible, these public town hall meetings should be coordinated with other project activities such as the environmental review and public hearings associated with this review and other required public hearings to avoid duplication and confusion about the project.

All meetings required by the HPTE Transparency Policy will be preceded by full and timely notice. This includes posting a notice on the project website and providing notice to appropriate media, members of the General Assembly whose districts include any geographic area located within the expected boundaries of the project, and the county/municipal governing bodies of those geographic areas.

## N. Industry Outreach

Industry outreach can be accomplished in a number of forms and can be useful in the P3 Project Development Stage to assist the P3 Project Team in developing the proposed P3 project. Typically these will be held before procurement begins to help generate interest and momentum for the project, as well as provide industry input for consideration by the P3 Project Team as the project moves into procurement. Proper outreach and marketing of the program and projects will help maximize competition on projects. Some key options for industry outreach include:

- Industry forum – Industry forums may be held once the P3 Project Team has developed adequate information to share on the proposed P3 project such as a tentative project scope, timing, and key elements related to possible procurement, finance approach, key technical elements, and related information. The focus of the industry forum is to share and gather information to help develop the best P3 project, delivery approach, and process that delivers the best value for the state. The industry forum normally includes:
  - General sessions where HPTE/CDOT share information on the project, project scope, and ideas on finance approach, key technical elements, etc. Industry



may provide limited input during the general sessions, but not normally specific input.

- One-on-one sessions where the industry participants are offered the opportunity to share specific ideas or concerns with HPTE/CDOT on the project and approach.
- Follow up evaluation of the input and use by the P3 Project Team to help define the proposed P3 project and approach.
- Request for LOI can be used to request written responses from industry to evaluate the level of interest and any specific comments that are provided by the industry participants that respond with an LOI. The P3 Project Team will evaluate the input to help define the proposed P3 project and approach.
- P3 conferences and national meetings (ARTBA, AASHTO, and TRB as examples) can be used to share brief information on the proposed P3 project and solicit informal feedback from the industry on the proposed P3 project and approach. These are very useful in building interest in the proposed P3 project.
- Industry requested meetings with HPTE/CDOT are common once information regarding a potential P3 project becomes known. These meetings can be held during the P3 Project Development Stage prior to issuance of the RFQ document and operate similar to one-on-one meetings at the industry forum.

It is important for the HPTE/CDOT to share consistent information with industry participants on the proposed P3 project to ensure consistent feedback is received from industry. It is critical that HPTE/CDOT only answer technical questions in meetings with the industry participants and hold all policy issues and decisions for discussion among the P3 Project Team and interaction with the HPTE Director, and CDOT Executive Director.

## O. Report to HPTE Board and Transportation Commission

The P3 Project Team, under the direction of the HPTE Director, will develop a report on the proposed P3 project after completion of due diligence in the P3 Project Development Stage that includes the following key elements for the proposed P3 project at a minimum:

- Project description
  - Summary of the project scope
  - Key project elements/unique features
- P3 project schedule
- Term of the P3 project
- Estimated life-cycle costs over the term
  - Estimated design-build cost
  - Estimated operating period cost (operations, maintenance, and renewal and replacement)
- Delivery options considered and the suggested approach
- Finance approaches considered and the suggested approach

- Summary of the VfM analysis that compares the P3 delivery options with the Public Comparator (VfM report attached)
- Summary of the risk analysis and key project risk
- Summary of industry outreach and input
- Summary of the public outreach and input
- Overall recommendation based on the assessment of delivery options and the VfM analysis identification of the best value.

In addition, the P3 Project Team will prepare and deliver a summary presentation for the HPTE Board that summarizes the report and recommendation for the best value approach for the project for consideration by HPTE Director, Region Director, and the CDOT Executive Director.

## P. RFQ Development

The RFQ is used to solicit the SOQs from interested private sector P3 firms/teams (respondents). The RFQ asks interested respondents to submit a SOQ in response to evaluation and selection criteria defined within the RFQ. The primary objective of the RFQ is to receive SOQs to evaluate and select a pool, or “shortlist,” of qualified, potential proposers for the project. It is a formal and structured process that must comply with federal regulations, state statutes, and the Colorado code of regulations. Respondents are required to submit a SOQ in response to the RFQ by a specified cut-off date identified in the RFQ.

The P3 Project Team will develop a draft RFQ for the proposed P3 project that includes the following key elements:

- Summary-level P3 project description
- P3 project scope and goals
- Overall P3 project schedule
- Draft procurement schedule
- Minimum technical qualifications
- Key personnel and their minimum qualifications
- Minimum financial qualifications
- Minimum experience on prior P3 projects
- Unique project elements or challenges
- RFQ schedule
- Key standard elements such as communication limitations (generally referred to as “cone of silence”), conflicts of interest, CORA requirements, etc.
- Instructions for qualifications package submittal

- Format
- Limitations
- Due date
- Brief description of the qualifications package evaluation and shortlist process

One of the most important aspects of the RFQ will be to define the project and procurement goals. Although these goals may change over time, establishing them early allows for both the P3 Project Team and potential respondents to focus and prioritize around meeting these goals. These goals should also play a large part in the evaluation of proposals that will further incentivize proposers to elaborate and find ways to achieve the goals set for the project.

The draft RFQ may be shared with industry representatives for input if desired and the input considered for developing the final RFQ document. The final draft RFQ will be presented to the HPTD Director for approval once the decision has been made to move forward with the P3 project. The RFQ is further refined and the process for evaluation and shortlist is further outlined in Chapter 4.

## Q. RFP Development

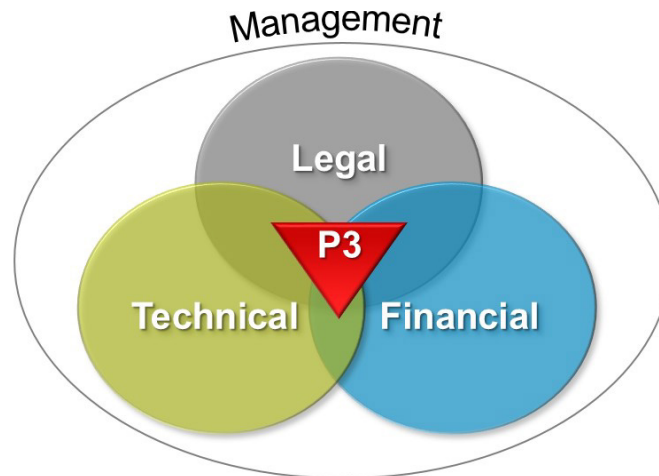
After the HPTD Director and the CDOT Executive Director have approved the project moving forward as a P3 project the P3 Project Team will begin development of the RFP documents. The major documents to develop at this stage include:

- Draft Instructions for Proposers (ITP)
- Draft P3 project agreement
- Reference documents
- Draft technical requirements

Development of the documents comprising the RFP should be underway prior to issuance of the RFQ and during the RFQ period of the procurement stage, with the intent to provide a comprehensive draft RFP to the shortlisted proposers shortly after announcement of the shortlist.

It is important to note that P3 brings a uniqueness and complexity to the RFP documents that many project team members may not be familiar with if only accustomed to working on typical design-build type projects. This section is meant to highlight some of the more unique items that will need to be considered and addressed in the RFP documents.

A P3 project can provide tremendous opportunities for risk transfer, but requires technical, financial, and legal advisory teams to be working together to ensure the RFP documents address each element appropriately (see figure 6). The below figure represents that it takes the union of the technical, finance, and legal expertise to handle the P3 uniqueness of a project but these working groups must be managed.



**Figure 5 - Technical, Financial, and Legal Teams**

The project team should hold an RFP kickoff session where they can discuss all portions of the RFP in detail to ensure assignments and schedules are clear and the interaction the team will need to complete the draft RFP. As mentioned earlier, this section is intended to identify and explain some of the inter-relations of items that need to be addressed in the development of the RFP. All items do not need to be finalized in the initial draft of the RFP and can change throughout the development and procurement, but early understanding of all elements associated with a P3 RFP will put the team in the best position to manage priorities and meet schedules and avoid surprises in the process.

Risk Allocations – As mentioned in the risk sections, the risk register and information that is developed in the risk workshops and analysis must transfer to the RFP. The risk register can be used as a checklist to ensure each item is handled appropriately as well as a QC document for verification.

Project Goals – Are the project goals clear and up to date? Do goals align as it pertains to scope and costs?

Evaluation Criteria – Are the evaluation criteria clear, do they tie to the project goals, and will the selection criteria provide value between technical and finance?

Submittal Requirements – Do the submittal requirements fall in line with the pass-fail needs and the evaluation criteria? Is there value in everything being asked for?

ATC Process – Evaluate lessons learned from previous procurements and ensure schedule allows for sufficient time.

Design and Construction Criteria –

- How will criteria be dealt with in the future for renewal/rehabilitation work?
- Are current criteria too prescriptive?
- What flexibilities should be given with base criteria versus forcing an ATC?
- What should be the design submittal requirements? Should this be open to flexibility for the private partner?
- Are the tolling requirements and agreements needed for tolling clear?

O&M – There are many aspects of O&M that will need to be addressed in the RFP, which include:

- Limits of responsibility and performance expectations during construction.
- Limits of responsibility and performance expectations during operations.
- Maintenance of third party assets – will there be temporary or long-term responsibilities for existing or newly constructed assets that are not part of the CDOT system? This could include cross roads, ITS devices, signal systems, bus facilities, or other areas that would need to be coordinated.
- Are there existing assets that may be transferred to the private party and is sufficient information available to assess the risk of these items?
- Are the tolling responsibilities clear and will there be a need for separate agreements needed for tolling operations?
- Performance Standards – review latest performance standards and compare with other states and lessons learned to ensure requirements are reasonable and cure periods to address and re-occurrence are appropriate and defensible.
- What will be the level of owner oversight and should it be paid by the P3 firm?
- How should any financial adjustments be sized for non-compliance or violations?
- How should the non-compliance point system be sized and the overall lengths of time to be considered for accumulation of points (i.e., one year, three years etc.)?
- What will be the consequence for the accumulation of too many points?
- What should trigger a replacement or rehabilitation of an asset?
- How should a renewal be planned and funded?
- How should traffic operations and safety issues be handled?
- How will emergencies be handled (evacuations, state of emergency, lifting of tolls, contraflow)?
- How will shared assets be handled for inspections, repair, and funding?
- How will future improvements be handled? Construction, impact, and maintenance of?
- How will change in standards be dealt with?

Handback Requirements –

- How will a handback reserve be sized, funded, and drawn? What should be the timetable and activities involved for early asset assessments that could trigger additional work prior to handback?
- What condition is expected at handback? What maintenance inventory is expected?

### Administration –

- Establish a conduit issuance bond fee as applicable to the project
- Will the private partner be responsible to provide project offices to HPTE/CDOT during implementation? During operations?
- What are the roles and responsibilities for document control during implementation and operations, and what long-term provisions should be considered?
- What are roles and responsibilities for public outreach during implementation and operations?
- How will change in ownership be handled? Is there a minimum time period before allowing a transfer?
- What should the insurance requirements be during implantation? During operations?

As the RFP develops it will be important for the team to track and document decisions by creating an RFP matrix that identifies the lead for each section of the RFP and any decisions or direction that is needed for the section. As this direction is given it should be the lead's responsibility to document the decision/direction with sufficient detail so as much of the RFP language will be challenged throughout the process there will be a history of how the draft language was developed, which will allow the project team to react quickly and appropriately during any challenges. P3 agreements are complex and intended to provide value to CDOT, but it takes a multidisciplinary team to develop and understand all aspects of the contract. Also, it is important to listen to proposers to find and ensure the final RFP language and requirements will provide CDOT with the greatest value.

## R. Quality Assurance/Quality Control

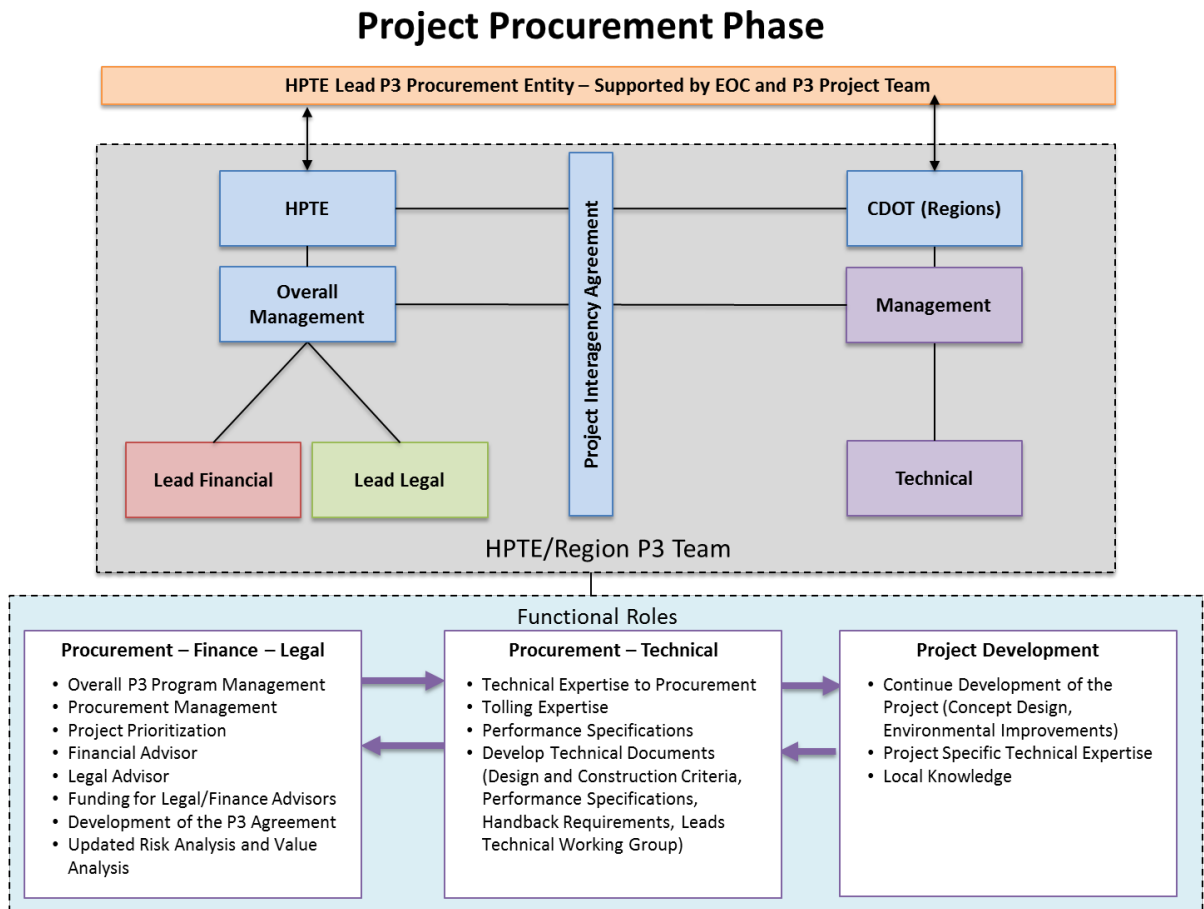
There are a number of key analyses being performed and reports/presentations being generated during the P3 Project Development Stage. The P3 Project Manager will review the quality control process that ensures that each of the major processes includes adequate quality control by the P3 Project Team to ensure that work is cross checked by experienced members of the P3 Project Team prior to the finalization of analyses and reports/presentations. The processes are varied during the P3 Project Development Stage so the HPTE Director/P3 Project Manager will review each major area and have the applicable P3 Project Team members provide their quality control processes for review and approval by the P3 Project Manager.

The HPTE Director may authorize a quality assurance review of any major element of the P3 Project Development Stage. For example, an outside firm independent of the P3 Project Team could be engaged to peer review one or more of the following major elements, depending on the risk valuation of that particular element:

- VfM analysis
- Risk matrix and analysis
- Traffic and revenue forecast and analysis
- Public outreach plan
- Delivery options analysis
- Draft RFQ or RFP

# IV. Project Procurement Phase

Colorado's Transportation Commission is the state's transportation policy decision-making body. CDOT manages the state's transportation system under the direction of the Transportation Commission. The procurement of P3 projects is the responsibility of HPTE but they will need to work closely with CDOT and the CDOT Regions to manage a successful procurement. Figure 7 illustrates the organizational structure of the offices during procurement.



**Figure 6 - Team Structure, Roles, and Responsibilities – Project Procurement Phase**

This section describes the competitive P3 procurement process and provides guidance on related activities for all projects that have been selected for P3 procurement.

## A. Commitment to Transparency

The HPTE is committed to being transparent during the procurement of P3 projects. HPTE's board adopted the "HPTE Transparency Policy" to ensure transparency and accountability for, and public participation in, any P3 entered into by HPTE.

In accordance with the HPTe Transparency Policy, the Procurement documents for a P3 project should include:

- The procurement documents will include provisions to facilitate the public disclosure of information provided by proposers.
- The HPTe will make available other relevant information relating to the project that will assist the public in considering meaningful comments.
- When the P3 agreement is executed, the HPTe will post the fully executed agreement together with a summary of the key terms of such agreement on the project's website.

## B. Updating the Project Risk Assessment and Allocating Risk

Once P3 projects are approved for procurement, the HPTe initiates the procurement process starting with the issuance of RFQ documents, followed by the issuance of the RFP. An increased level of project definition will be available prior to finalizing the draft RFP and will provide the team an opportunity to update the project risk assessment. Some new risks may be identified and some risks may be closed out from the previous risk assessments performed during project development. As the P3 project agreement and technical requirements are developed, it is important that the risk register and risk allocations are updated to reflect current project conditions.

The risk register should be updated prior to issuance of the RFP based on the decisions that have been made prior to completing the RFP. This allows quantifying and qualifying the risk decisions that have been made and how they affect the project's cost and risk profile. Updating the risk register and risk analysis has a number of benefits throughout the procurement process:

- Enables updating project cost, revenue, and schedule risk adjustments.
- Provides input into the cost analysis.
- Helps identify and/or confirm the commercial risk allocation that should be incorporated into the P3 project agreement.
- Helps identify risk mitigation strategies that can be implemented to reduce/eliminate risks.
- Increases overall confidence in appropriate allocation of commercial project risks.
- Helps identify the high cost and schedule risks that will help in risk management when prioritizing team resources and actions.
- Prepares the team for the upcoming proposer challenges regarding risk allocations in the P3 project agreement.

### i. Risk Workshop(s)

The HPTe project manager should review previous risk management activities and analyses that may have been conducted on the project risk workshop(s) should have been conducted and a risk register should have been developed for every P3 project regardless



of size and complexity. Also an expected value (or Monte Carlo) analysis may have been performed. The HPTe project manager may decide to update the risk register and risk analyses via targeted meetings with experts and other stakeholders or have a subsequent risk workshop(s).

## ii. Risk Assessment

### Step 1 – Update Risk Identification and Quantitative Risk Analysis

The P3 Project Manager, in collaboration with the project manager, should review new information that might have become available as a result of further design studies and input from the initial risk workshop during project development. This new information is likely to require a review of the identification and quantification of the previously identified risks. If additional risks are identified, they must be added to the risk register by filling in the risk category, risk topic, impact phase, and risk description columns. Changes in the base cost estimate or the schedule may alter the percentage cost risk impact or number of months delay respectively. It is the responsibility of the P3 Project Manager to arrange the necessary workshops/meetings in order to make these changes to the risk register through discussion with the appropriate personnel that can contribute to the identification of risks.

### Step 2 – Update Risk Response

After updating the information in Step 1, the P3 Project Manager, in coordination with the person or entity most familiar with the risk, should update the risk register to reflect mitigations carried out and new mitigation strategies for the procurement. Other forms of response may also be deployed and recorded in the risk register. At this point, the focus should be on risks that have been previously identified as having a high risk value (combination of probability and impact). The P3 Project Manager may elect to hold a facilitated 'workshop' to keep the meetings focused and productive in addressing and documenting each risk.

### Step 3 – Update Potential Risk Allocation

The undertaking of risk allocation becomes more significant during procurement as risk transfer has to be fully defined in the P3 project agreement. The allocations listed in the risk register must align with the P3 project agreement and technical requirements. It may be helpful to record the section reference of the P3 project agreement that relates to the assignment of a particular risk event in the risk register notes column. This documentation can also aid in any peer review or quality control review of the documents that will help ensure the documents have been drafted in accordance with the intent of the risk allocations.

## iii. Updated Risk Analysis

The procurement phase represents an opportunity to update the quantification of risks. Input information should be well developed by this stage and be appropriate for an expected value (or Monte Carlo) analysis. The output and details of the risk analysis, along with the other risk assessment information, should be captured by the P3 Project Manager in the risk register. Using the outputs and details of the risk assessment information and risk register, the P3 Project Manager will lead the updates to:

- Any risk management plan that has been developed from the risk register or the overall management plan if a specific risk management plan does not exist. An update to estimated project costs.
- Calculation of risk adjusted costs and scheduling of project milestones.
- Revision of the HPTe's project contingency costs/amounts.
- Consideration of risks and potential allocations as input for industry review meetings.

It should be noted that all risks will need to be reassessed if the base cost and schedule have been modified to ensure the inputs are still correct relative to the updated base information.

## C. Schedule

There will be significant interaction between the HPTe and private industry during the RFQ phase, and between the HPTe and the shortlisted proposers during the RFP phase of the procurement. The procurement process must be planned and well executed to avoid potential delays and challenges. The HPTe project manager will need to develop a procurement schedule for the overall procurement since critical procurement milestone dates will need to be included in the RFQ and the RFP. These milestone dates include, but are not limited to:

- RFQ issuance
  - Industry forum
  - RFQ issuance
  - Final date for RFQ comments
  - Final date for responses to RFQ comments
  - SOQ submission deadline
  - Deadline for submission of public disclosure SOQ
  - Interviews (if required)
  - Anticipated announcement of shortlisted proposers
- RFP process
  - Issue draft RFP to shortlisted proposers
  - Proposer comments/questions due (set 1)
  - First one-on-one meetings (set 1)
  - Proposer comments/questions due (set 2)
  - Update of RFP
  - Second one-on-one meetings
  - Last day for ATC submittals
  - Last day for change to proposer team
  - Issue final RFP
  - Final responses to ATC submittals
  - Final one-on-one meetings
  - Proposal due date
  - Proposal evaluation
  - Select preferred proposer

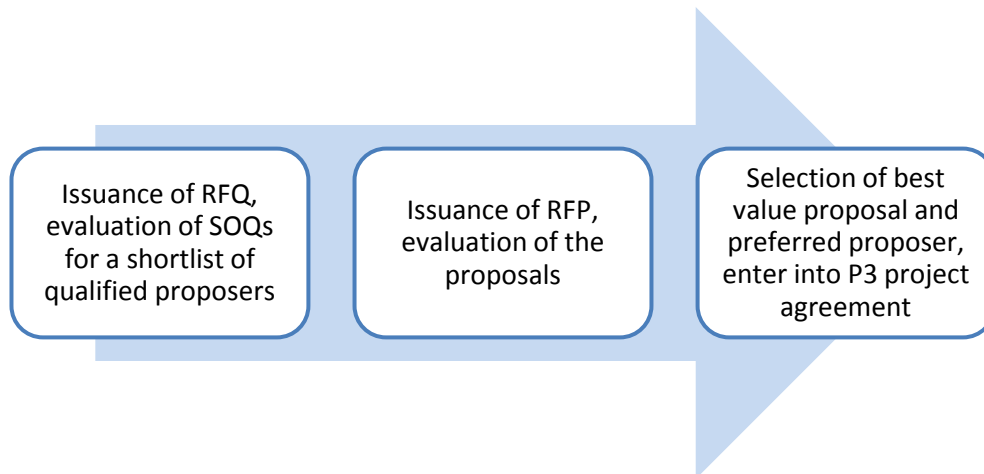
- Negotiations
- Execute P3 project agreement (commercial close)
- Further negotiations on financial plan
- Financial close (amend P3 project agreement as needed)

The project development status must be considered in preparing the procurement schedule including NEPA/environmental clearance, due diligence activities (such as surveying, geotechnical investigations, subsurface utility investigations, hazardous materials investigation, etc.), right-of-way acquisition, utility coordination and relocations, capital and lifecycle cost estimates, traffic and revenue estimates, and feasibility and VfM analyses. The procurement schedule needs to accommodate required timeframes for state and federal reviews necessary due to project funding.

Each P3 project will have unique considerations affecting its procurement schedule. Factors that need to be considered when finalizing a procurement schedule include the completeness of project development (specifically status of NEPA/environmental clearance), size and complexity of the project, risk factors and allocation, complexity of the procurement, decisions pending, whether an investment grade Traffic and revenue study will be needed, etc. It should be noted that an investment grade study takes approximately nine months to complete. The procurement schedule should be updated at least monthly, reflecting current status of procurement activities and incorporating any changes to the procurement approach/strategy.

## D. Two-Phase Procurement Process

Typically HPTE uses a two-phase procurement process. The P3 procurement process (Figure 8) consists of: (1) the RFQ phase and evaluation of SOQs resulting in a "shortlist" of qualified proposers and (2) the RFP stage including issuance, evaluation of the proposals, and selection of a best value proposal and preferred proposer to enter into a P3 project agreement to develop and implement the project. HPTE does have the flexibility to go directly to the RFP stage and as part of the evaluation of the proposal to include pass/fail criteria. It should be noted that during the RFQ phase, a draft RFP could be released if available. The HPTE serves as the primary point of contact for P3 procurements, in consultation with the CDOT and the Colorado Attorney General's Office, and ensures that the process is administered in accordance with applicable law. The HPTE Director is responsible for managing a consistent, transparent, and well-defined procurement process.



**Figure 7 - Two-Phase Procurement Process**

i. Finalizing the RFQ

As discussed in Chapter 3, once the HPTE Board has approved moving forward with the proposed P3 project, the HPTE initiates the first phase of the P3 procurement process by issuing a RFQ. The draft RFQ was developed in the latter stages of the Project Development Stage. This draft RFQ is updated and finalized based on industry input, review by the P3 Project Team, and updates on the project. One of the key areas that is normally updated from the draft RFQ relates to the minimum qualifications based on the extent of industry interests, the complexity of the project, and adjustments in project scope.

Typically the final RFQ format includes of eight major elements:

- Executive summary/introduction of the project/establishment of the goals for the project and procurement
- Background information, including relevant information about the development status and funding of the project
- Description of the procurement process
- Procurement rules including communications, conflicts of interest, and confidentiality
- Submission requirements for the SOQs
- Evaluation process and criteria
- Protest procedures and debriefings
- Submittal forms

a. Evaluation Criteria for the SOQ

Specific content of the SOQ must be identified in the RFQ, and should be developed using proven methods that will determine the true qualifications of the respondents. Evaluation criteria usually include: (1) technical criteria including the organization, structure, experience, and performance of the firm/team on similar projects; and (2) financial criteria,

including the financial qualifications and capacity of the firm/team and financial approach to the project.

The evaluation criteria contained in the RFQ focuses on specialized capabilities required for the project. Individual criteria are weighted according to their relative importance to the successful completion of the project. The actual criteria selected for use should be applicable to the project and the respondent's ability to perform the work. When setting the evaluation criteria, the project goals should be considered and how the evaluation criteria will support those goals. With this in mind, it is also important to avoid criteria that are so restrictive that few, if any, firms/teams can meet the minimum requirements. Criteria that may be considered are:

- Organization, structure, experience and performance of the firm/team
  - Project team organization
  - Key project team members
  - Minimum qualification requirements/experience for individual experience of team members
  - Staff/resource capacity and availability (project manager, design manager, construction superintendent, quality manager, etc.)
  - History of the proposed team working together
  - Corporate experience with P3 projects
  - Experience in similar types of work
  - Past performance
  - Experience in the execution of fast-track projects
  - Experience with formal partnering activities
  - Scheduling and control systems to track and manage project
  - Specialized design capability for the key project elements
  - Specialized construction capability for the key project elements
  - Experience with complex construction staging, traffic control, and site conditions
  - Quality assurance organization
  - Quality assurance approach
  - Quality performance
  - Specialized expertise that reduces risk and assures quality of work
  - Safety record
  - Approach and understanding of the project
  - Understanding of local environment
- Financial qualifications and capacity of the firm/team
  - Financial capacity
  - Bonding record or proof of bonding ability

- Past performance on awarded contracts (completion, liquidated damages, quality, claims, fines, schedule)
- History of performance (unsubstantiated claims, fines, suits, quality, accuracy, schedule)
- Legal and financial disclosures

To develop and maintain a level and uniform playing field, the RFQ should rigidly define the SOQ submittal format. It should specify at a minimum the maximum number of single-sided pages, font size and type, allowable paper size(s), and labeling and pagination requirements.

The SOQ evaluation methods are disclosed in the RFQ. It is important to structure the RFQ to request information about a respondent's experience that can be evaluated in an objective manner. The SOQ should allow the respondents to demonstrate their firm/team's strengths, and permit HPTE to determine which of the respondents are the most highly qualified. Cost or price related factors are prohibited from use in the RFQ and consideration in the SOQs.

## ii. Issuing the RFQ

The HPTE, in consultation with CDOT and other state and federal agencies, as appropriate, is responsible for the development and issuance of the RFQ documents. The HPTE will issue a public notice on the project website and will email those who have signed up on [HPTE's Bidder's List](#) to announce the issuance of the RFQ documents. The public notice may also be issued by publication in a newspaper or newspapers of general circulation in the area in which the project is to be performed, so as to provide reasonable notice to the maximum number of respondents that can be reasonably anticipated to submit responses to the RFQ.

The RFQ documents will be posted on the project website. These documents should provide for a minimum 60-day competition period and include information regarding the scope, nature, and timing of development and/or operation of the project.

The procurement documents, including required forms, addenda, and other related information, will be made available electronically on the project website. The HPTE may arrange for a pre-proposal conference or webinar, as deemed appropriate, to present and clarify information about the project and procurement process, as well as respond to any questions that prospective respondents may have about the RFQ. A notice for such event will be made known within the RFQ documents and on the project website.

At any time during the procurement process, the need to issue one or more addenda to the procurement documents may arise following interaction with the industry, or in the event the underlying conditions of a particular project change or more information becomes available. Respondents are encouraged to check the project website frequently and before submitting their responses.

## iii. Submission of SOQS

In response to the issuance of an RFQ, interested respondents will be required to submit an SOQ. The SOQ should be prepared in accordance with the timelines and requirements of the RFQ.

As a part of the SOQ, respondents may be required to provide information related to the structure of the respondent team, qualification and experience of the respondent, individual team members, and key personnel with developing, designing, constructing, financing, and operating and/or maintaining comparable projects. The specific nature of experience, key personnel, and background sought will depend on the project as well as the delivery structure used.

Additionally, the RFQ may require submittal of certain financial information from the respondent and its affiliates. The intent of financial qualification submittal requirements is to determine whether the private entity submitting a response has sufficient financial capacity to assume the responsibilities and obligations required to deliver the project on schedule. The HPTe, in coordination with CDOT, may require the submission of financial statements (including audited financial statements), letters of support from providers of payment, and performance security and/or disclosure of material changes in the respondent's financial position during a specified period of time or reporting period identified in the RFQ.

Prior to submitting their responses, respondents are encouraged to become familiar with the Colorado Open Records Act (CORA), C.R.S. § 24-72-201, et seq. provisions to ensure that documents identified as confidential financial or commercial information will not be subject to disclosure pursuant to CORA and to otherwise understand which documents may be subject to disclosure pursuant to CORA.

#### iv. Evaluation of SOQs

The RFQ documents specify the evaluation criteria and methodology used to evaluate such criteria so that proposers will know how their submissions will be evaluated. The HPTe Director and P3 Project Manager, in coordination with the P3 Project Team, will establish an RFQ review process to:

- Evaluate the SOQs submitted
- Determine and shortlist the most highly qualified respondents in accordance with the RFQ
- Shortlist the most highly qualified respondents no later than 60 days after the deadline for submission of the SOQs

A method and evaluation process for SOQs shall be developed for each project. A formal shortlist process and ranking document must be developed. The evaluation process shall be approved by the HPTe Director in coordination with the CDOT Region Director. A defensible SOQ evaluation process requires the approach be developed, documented, and in place before the release of the RFQ.

The evaluation of SOQs begins immediately after the submittal date identified in the RFQ. The evaluation process has two steps. The initial step determines responsiveness according to the requirements of the RFQ as a pass or fail evaluation. All SOQs receiving a "pass" proceed to the next step. All SOQs receiving a "fail" are rejected and returned. The failing respondents' only means to cure is through the protest procedure described in more detail below.

The second step of the SOQ evaluation process is a scoring or ranking step where the information in the SOQs for all responsive (pass) proposers is measured against the evaluation criteria set forth in the RFQ.

The evaluations are completed by an SOQ Evaluation Committee. This committee must contain individuals experienced in a broad array of areas of project delivery. The evaluation process should be completed with the entire committee present. This approach will provide the best opportunity for sharing of expertise and reducing the required time for outside research.

There are two established standard methods for scoring the evaluations of the SOQs. The numeric SOQ evaluation process is where proposals are given a numeric score used for ranking and the adjectival SOQ evaluation process is where categories of acceptance are described and different adjectives are used to score the proposal. The adjectives will carry a numeric score that will be applied after the adjectival grade is given and ultimately will result in a numeric ranking of proposals. Regardless of the approach used, the entire Evaluation Committee must be brought together for training in the evaluation process.

#### v. Shortlisting of Qualified Respondents

The HPTE is responsible for reviewing, scoring, and ranking all responsive SOQs. The maximum number of proposers to be shortlisted and invited to submit a proposal in response to the RFP shall be specified in the RFQ. The minimum number shall be two firms, but is not recommended. Federal guidelines state three to five firms should be shortlisted. While the HPTE will make the final decision, it is expected that no more than four proposers will be shortlisted to advance to the RFP stage.

Upon completion of the SOQ evaluation process, the HPTE Director in coordination with the P3 Project Team will brief the HPTE Board regarding which proposers will advance to the RFP stage. Scoring of qualifications and any ranking of the SOQs will not be carried over to the evaluation of the final RFP responses. Only firms that have been shortlisted during the RFQ process will be allowed to submit a proposal in response to the RFP.

After the Board is briefed, the shortlist results will be posted on the HPTE internet site. The Director, or designee, will notify all respondents in writing of the shortlisting and invite those shortlisted proposers to submit a proposal in accordance with the RFP. Additionally, the HPTE, in coordination with the CDOT, will inform other state and federal agencies, affected localities, affected elected officials, MPOs, and stakeholders.

After HPTE announces the shortlist, the losing proposers may request a debriefing meeting with HPTE. These debriefing meetings should give the proposers and HPTE an informal setting in which to discuss the RFQ and the shortlisting process.

If after the competitive response period, the HPTE receives a single responsive submittal to its RFQ, then the HPTE will conduct an evaluation on whether to start negotiations with the proposer for the project or if the proposed procurement should be terminated. If the procurement is terminated, the HPTE will make a determination if modifications are required to the timing, scope, and nature of the project to promote greater competition. The HPTE will make a presentation of its determination to the HPTE Board and seek a resolution from



the Board to advance a modified procurement. The HPTE's presentation will be at a scheduled meeting open to the public.

If there is only one shortlisted proposer, or none, HPTE may decide to meet with private industry to determine why they were not more responsive to the RFQ. From those discussions, the scope may be modified taking into account the feedback from the private sector. The HPTE may reissue the modified RFQ or re-procure the project at a later date.

The HPTE reserves the right, in its sole discretion, to cancel the RFQ, issue a new RFQ, reject any or all SOQs, seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to the RFQ, seek and receive clarifications to an SOQ, and waive any deficiencies, irregularities, or technicalities in considering and evaluating the SOQs. The RFQ does not commit HPTE to enter into a contract or proceed with the procurement of the project. The HPTE assumes no obligations, responsibilities, or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred by the parties responding to any RFQ. All such costs shall be borne solely by each proposer.

#### vi. Developing the RFP

Upon making the determination of shortlisted proposers, the HPTE will complete its development of the draft RFP to begin the second phase of the P3 procurement process. It will be important to keep the project team informed and clear responsibilities for the team members so each aspect of the RFP has a responsible person. Since there is a tremendous amount of overlap between the technical, legal, and financial teams, each person responsible for a given section shall coordinate input from the other P3 Project Teams as necessary to complete their section of responsibility. This communication and coordination to develop the internal draft documents will allow for more efficient quality control and page turn process of the documents since all parties have had input into the internal draft. The purpose of the RFP process is to create competition among a shortlist of the most qualified proposers to create value for the public. The RFP solicits proposals from the shortlisted proposers. This process, like the RFQ process, must follow federal regulations, state statute, and the Colorado Code of Regulations. The HPTE must receive approval from FHWA to release the final RFP.

The draft RFP should be issued as soon as practicable after the shortlisting process has been completed. To assist development and definition, the RFP process may be undertaken in two steps. First, the issuance of a draft RFP to solicit formal questions from the shortlisted proposers followed by one-on-one meetings. Depending on the schedule and the amount of discussion and potential for changes in the RFP, the procurement manager can decide whether to issue subsequent drafts of the RFP or issue the final RFP. After the final RFP is issued, all changes to the RFP will need to be addressed through an addendum. The issuance of subsequent versions of the RFP should be contemplated in the original schedule and coincide with the one-on-one meetings with proposers and comment periods.

##### a. Major Components of the RFP

The RFP documents include specific requirements for the detailed proposals, as well as the selection criteria to be met. Depending on the project, the RFP documents usually include:

- Instructions to Proposers (ITP)

- P3 project agreement
- P3 project agreement schedules including technical requirements

#### b. Developing a Sound RFP (Scenario Testing)

The P3 RFP development may be new to some of the team and may introduce new areas compared to traditional project delivery. To help test the draft RFP it is useful for the team to perform a 'Scenario Workshop' where a group is established (generally a peer review team) to "test" the draft RFP for all phases of the project such as design, construction, operations, maintenance, tolling services, financial capacity, etc. The workshop members are intended to pose questions on how the RFP handles different situations ('Scenarios'). The scenario tests should be addressed by an peer review team that is independent from the P3 Project Team responsible for developing the RFP language. This will allow the peer review team to review the RFP language and provide their interpretation of the RFP language. The P3 Project Team can confirm if the interpretation is what they intended or if there is a potential omission or re-write needed to address each scenario to ensure the draft RFP meets the appropriate HPTE/CDOT intent.

#### c. Industry Review of the RFP

It is important to note that the RFP is developed as a draft and there is input received from industry through various mechanisms throughout the RFP phase. The interaction with industry will allow for the exchange of information that should provide HPTE with sufficient information to finalize the RFP. It is expected that feedback from industry will lead to an RFP that will continue to maximize the competition while providing value to the state. Formalized processes will be identified in the ITP, including dates and times, for this interaction may include:

- Pre-proposal conference – Pre-proposal conferences may be mandatory or optional as stated in the ITP and RFP. The draft ITP will identify the date, time, and location of the meeting, and state whether the meeting is mandatory. The pre-proposal conference is undertaken after the release of the draft RFP and draft ITP. It is an informal conference intended to provide information and clarity where all proposers are invited in a single setting.
- One-on-one and ATC meetings with proposers – One-on-one meetings are confidential meetings with proposers to discuss their observations and recommendations on the RFP (primarily the commercial terms of the agreement), while ATC meetings are set aside to specifically discuss ATCs. The one-on-one will typically be with the core groups from the project team and the proposer team that have good knowledge of the entire RFP. The goal of these meetings will be to hear out concerns from all proposers to help gauge the need to modify the documents in any way. Decisions on questions should not be made during these meetings, but rather after all proposers have been heard. If the meeting or questions result in material changes to the P3 project agreement or technical requirements, an update or revision will be released to all proposers. Proposers will be afforded a reasonable amount of time to review these materials, contemplate any consequences, and consider the content for inclusion in their proposals.

- Pre-proposal submittals – The pre-proposal submittals can be used to submit specific items that warrant approval or feedback prior to the proposals being submitted. The most common pre-proposal submission is an ATC submission that will require a response of approval or rejection by HPTE in order for a proposer to submit it with their proposal. The pre-proposal submission can also be discussed in specific meetings set aside with proposers.
- Comments/questions – The HPTE will request written comments on the draft RFP at various dates specified in the ITP and may provide a specific form for questions to be submitted on. It is desirable to receive these questions at least one week in advance of any meetings where the questions will be discussed to allow the project team to prepare internally to identify the initial reaction and any clarifications that are needed. These questions can form the agenda and priorities during the one-on-one meetings.

When any of these processes are used, the ITP and RFP shall list appropriate dates, times, and locations for each.

d. Developing an ATC Process, including Alternative Configuration Concepts (ACC) and Alternative Requested Elements (ARE)

The HPTE encourages proposers to recommend ATCs that are equal or better in quality or effect (as determined by CDOT in coordination with the HPTE, in their sole discretion) than the technical requirements in the RFP. The purpose of the ATC process is to allow the proposers to incorporate innovation, flexibility, and time and cost savings into the design, construction, operation, and maintenance of the P3 project, and ultimately to obtain the best value for public.

The HPTE may invite each proposer to confidentially discuss the proposer's ATCs in further detail. In addition, the proposers may request an ATC meeting with HPTE. The HPTE reserves the right to limit the frequency of ATC meetings.

The purposes of the ATC meetings are as follows:

- Give the proposers the opportunity to present and explain each ATC to the HPTE/CDOT and to ensure that HPTE/CDOT fully understands such ATC.
- Discuss the proposed deviations from the basic configuration, design criteria, construction criteria, operation, and maintenance criteria, or other technical requirements of the RFP.
- Discuss alternative approaches to the tasks included within the definition of non-separable tasks.
- Answer questions and address other issues related to ATCs.

The submission of an ATC will include a description and conceptual drawings of the configuration of the ATC or other appropriate descriptive information and an explanation of where and how the proposer would use the ATC on the project. The ATC submission will present deviations, or references to the RFP requirements with which the ATC is inconsistent, including an explanation of the nature of the deviations from the RFP requirements and a

request for HPTE approval of such deviations or a determination that the ATC is already consistent with this RFP requirements. The ATC submission may also include:

- An analysis justifying the proposer's use of the ATC and why HPTE/CDOT should allow the deviations, if any, from the RFP requirements as well as a preliminary analysis of potential environmental impacts (including NEPA re-evaluations), community impacts (including additional public involvement), safety impacts, and maintenance and operation impacts.
- A cost and benefit analysis including a detailed breakdown of any savings that would accrue to HPTE/CDOT as a result of the ATC or a statement to the effect that there are no such cost savings.
- An estimate of any impact to the design and construction schedule resulting from implementing the ATC, including a description of the methods the proposer would use, as well as a schedule graphically showing how the ATC will impact the time period, or a statement to the effect that there are no such impacts. A description of any additional risks to HPTE/CDOT or third parties associated with implementation of the ATC.
- A description of how the ATC is, in terms of quality and performance, equal to or better than an RFP requirement.
- Any changes in operational and maintenance requirements associated with the ATC, including ease of operations or maintenance.
- Any changes in handback procedures or anticipated life an element of the project associated with the ATC.

In the event that implementation of an ATC will require governmental approvals, the proposer will have full responsibility for obtaining such approvals. If any required approval is not subsequently granted, with the result that the proposer must change its approach to meet the original requirements of the P3 project agreement and technical requirements, the proposer will not be eligible for an HPTE/CDOT approval for such ATC that extends the project schedule, nor will it be entitled to any other adjustment of its obligations or any form of compensation.

The RFP will spell out specific conditions that may warrant HPTE issuing an addendum to the technical requirements as a result of an ATC submission. These conditions should be made clear to proposers prior to their ATC submissions. Typical items that would dictate an addendum include:

- Uncovering an error, omission or ambiguity in the RFP
- Acceptance of significant design changes such as typical sections, number of lanes, design speed
- Incorporation of changes previously contemplated by HPTE/CDOT

If HPTE elects to issue an addendum as a result of the ATC submission they will need to evaluate the timing of the RFP addendum with the response to the specific ATC accordingly.

The HPTE/CDOT intends to review the ATCs and provide verbal comments, as determined in HPTE/CDOT's sole discretion, to each proposer during the ATC Meetings. Verbal comments will not be considered HPTE/CDOT approval or denial of the proposed ATC.

The HPTE will respond to ATC submissions by a date specified and listed in the RFP. The HPTE's written response with respect to ATCs will be limited to one of the following statements:

- HPTE approval is granted for the ATC
- HPTE approval is denied for the ATC
- Identification of any conditions that must be met to approve the ATC
- The ATC is already allowed within the terms of the contract, and is therefore not applicable as an ATC

The proposer may incorporate zero, one, or more approved ATCs as part of its proposal. If HPTE responded to an ATC stating that certain conditions must be met for HPTE approval, the proposer may incorporate such ATC conditions into the proposal at its own risk. If the proposer incorporates an ATC with conditions into its proposal, the proposer will be responsible to comply with these ATC conditions if awarded the P3 project agreement. Copies of HPTE approval letters for each ATC incorporated in the proposal must be included in the proposal.

#### e. Final RFP

The release of the final RFP, for risk purposes, is based on prior receipt of the signed environmental/NEPA decision document. The final RFP is created by compiling the information and input gathered during all previous phases. It will reflect scope of work changes and clarification resulting from the one-on-one meeting process and comments received subsequent to the draft RFP and draft ITP release. Refinements in scope and price of the project do not invalidate the process. It should be noted that FHWA approval is typically required prior to release of the final RFP and any subsequent amendments to the RFP. It will be important to keep FHWA informed throughout the development of the RFP so approvals will be known ahead of time and there is no impact to schedules waiting for approvals or issues with obtaining approvals.

Once consideration has been given to feedback from the shortlisted proposers and other appropriate parties, the HPTE will issue the final RFP documents to shortlisted proposers. The final ITP accompanies the final RFP, and also reflects scope of work changes and clarification resulting from the draft RFP release. The final ITP will identify the anticipated notice to proceed date and a procurement schedule by which proposers shall prepare and submit their proposals.

If after the competitive response period, HPTE receives a single responsive submittal to its RFP, HPTE will conduct a full value assessment of the proposal received to determine if the responsive submittal brings value to the public. Once the value assessment has been completed, the HPTE Director, in coordination with P3 Project Team, will present the proposal and value assessment to the HPTE Board, which will determine whether to accept the responsive proposal or terminate the procurement. The HPTE Director's presentation to the Board will be at a scheduled meeting open to the public.

Decisions related award of a stipend for the development and submittal of a proposal by shortlisted proposers will be approved by the HPTE Director in coordination with CDOT on a project-specific basis. The requirements for and amount of the stipend will be included in the final RFP.

*1) Proposal Submissions*

In response to the issuance of the final RFP documents, shortlisted proposers will be invited to submit a detailed proposal containing at least two basic components, a technical proposal and a financial proposal, in accordance with the requirements stated in the RFP documents. The RFP may require proposers to submit information different from or in addition to such information referenced in this P3 Manual.

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

*2) Technical Proposal*

The HPTE requires the proposer to provide a technical proposal addressing the project's scope of work and the RFP technical requirements. Required information may include design elements and approach, construction approach, operations approach, maintenance approach, approach for maintenance of traffic during construction, project management approach, schedule, phasing, quality control and assurance approach, environmental requirements, communication and public involvement approach, and other information as appropriate for the project's implementation.

The intent of the technical proposal is to provide assurance of the following:

- That the selected proposer has a sufficient understanding of the project and/or desired service
- An approach that fosters innovation and creativity
- An approach that meets technical and contractual requirements
- The ability to deliver the project and/or desired service in accordance with technical and contractual requirements stated in the RFP documents in a timely and efficient manner

If compliance with NEPA is required, the technical proposal must be consistent with any existing NEPA approvals or additional NEPA documentation may be required.

*a. Financial Proposal*

The content requirements of the financial proposal will vary with the type of P3 delivery structure and the nature of a particular P3 project. If the RFP and project scope requires the proposer to finance any part of the project, the RFP will require that the financial proposal include a financial plan and financial model. Depending upon the nature of the project, the project delivery method, and current market conditions, the requirements for the contents and level of detail of the financial plan could be substantially different. The financial proposal may require that the proposer update the financial qualification

information provided with the SOQ. The RFP documents will include the financial plan requirements.

The HPTE will seek, where financially feasible and the best value for the state, proposals that minimize the use of public funds. 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.

The proposal will also include a requirement for "bid or proposal security" that is generally for between five percent and ten percent of the total value of the capital cost of the proposal, and can generally be provided in the form of a bond or letter of credit. In addition, the proposer must generally hold their proposal pricing for a minimum period of 180 days or longer depending on the requirements of the RFP. The bid/proposal security is generally subject to forfeit if the proposer is selected and fails to reach commercial and financial close on the project within the time period established in the RFP.

### *3) Proposal Evaluation Criteria*

The evaluation methodology for proposals will depend largely on the nature of the project, the scope of work, and details set forth in the RFP documents. The HPTE generally uses best value as the basis for award. However, the HPTE reserves the right to utilize other basis for award, including low bid, lowest lifecycle cost, lowest public subsidy, and any other basis that is appropriate and deemed by the HPTE in coordination with CDOT to be in the best interests of the project and the state of Colorado.

The specific criteria and methodology for evaluating proposals will be included in the RFP documents of the specific P3 procurement and will vary depending on the scope and complexity of the project and project delivery approach. The RFP evaluation criteria will allow the HPTE to clearly communicate the project objectives and priorities to the private sector.

### *4) Evaluation of Proposals*

Selection of the preferred proposer is an important decision, and many factors must be evaluated in determining the most appropriate and qualified proposer for the P3 project. Prior to receiving proposals, the HPTE will establish a technical and financial review process for each project. The HPTE Director, in coordination with the P3 Project Team, will form a proposal evaluation team (which may operate through sub-teams, and will be subject to appropriate governance and oversight) to review the proposals and provide a selection recommendation to HPTE's Board. The nature of the elements being evaluated and the evaluator's qualifications shall be considered when selecting members of the proposal evaluation team.

Upon receipt of proposals, the HPTE will commence the evaluation and selection process. The evaluation process will include an initial review of each part of a proposal to verify responsiveness and a "pass/fail" evaluation in accordance with requirements of the RFP. Each proposal that has (1) been deemed responsive and (2) achieved a "pass" for the "pass/fail" evaluation will then be ranked based on the technical and financial evaluation criteria and weightings set out in the RFP. Typically the project team will complete the evaluation of the technical portion of the proposal prior to opening and evaluating the financial portion of the proposal. The determination of apparent best value proposal shall

be based on the highest total proposal score considering the weighing of the technical and financial portion of the proposal.

The HPTE may ask written questions of the proposers, seek written clarifications, and conduct discussions on the proposals during the evaluation and selection process. The HPTE may request proposers to attend an oral interview to explore any matter in its proposal that HPTE considers to be more conveniently clarified through an oral interview than through written requests for clarification.

Evaluations and rankings of proposals are subject to the sole discretion of HPTE and it may reject all proposals or advertise for new proposals if, in its judgment, such action is in the best interests of the public.

There are two established standard methods for evaluating proposals:

- The Numeric Proposal Evaluation process where proposals are given a numeric score used for ranking
- The Adjectival Proposal Evaluation process where categories of acceptance are described and used for rank

Regardless of the approach used, the entire Evaluation Board must be brought together for training in the evaluation process.

#### 5) *Formal Discussions*

Usually HPTE intends to evaluate proposals and award P3 contracts without the use such formal discussions, unless the HPTE determines that formal discussions and best and final offers (BAFO) are needed to provide the best value. When used, formal discussions will be held after all proposals have been received and the evaluation process is underway.

Formal meetings are undertaken with complete confidentiality. The HPTE shall not disclose information or details of competing proposals, or furnish information about another proposer's technical or financial approach to the project. The HPTE shall not engage in auction techniques during such formal discussions. "Auction techniques" include (1) indicating to a proposer a cost or price it must meet to obtain further consideration, (2) advising a proposer of its price standing relative to another proposer, or (3) otherwise furnishing information about another proposer's prices.

Formal discussions may be considered for any of the following reasons:

- Promote understanding of the HPTE's RFP requirements and of the proposer's proposal
- Clarify initial proposals, identify deficiencies in initial proposals, or resolve ambiguities or mistakes in initial proposals
- Ensure conformance of proposals with the RFP requirements
- Facilitate the development of a P3 agreement that will be most advantageous to HPTE taking into consideration price and the other evaluation factors set forth in the RFP



If the meetings or responses to inquiries result in material changes to the scope of work or otherwise affect the manner or form of the response, all proposers known to be participating will be notified in writing of any such change. When such written notice is given, proposers will be afforded a reasonable amount of time to review these materials, contemplate any consequences, and consider the content for inclusion in their proposals.

#### *6) Best and Final Offer*

After evaluation of the proposals and if formal discussions are held, HPTE reserves the right to request that proposers submit proposal revisions – also known as a BAFO. Typically, only those proposers that are responsive and/or fall within a competitive range will be permitted to submit BAFOs. The RFP revision or BAFO is intended to provide proposers an opportunity to revise their proposals (both technical and financial) to be responsive to the formal discussions and the BAFO request issued by the HPTE.

The BAFO request shall include:

- Notice that formal discussions are concluded
- Notice that the BAFO is the opportunity to submit a best and final offer
- Notice of a common cut-off date and time that allows a reasonable opportunity for submission of written best and final offers
- Notice that if any modification is submitted, it shall be received by the date and time specified and is subject to the late submissions, modifications, and withdrawals of proposals provision of the solicitation

Proposers will be given a reasonable opportunity to submit, in writing, revised technical or price proposals that may result from the formal discussions.

After receipt of the BAFOs the HPTE will not reopen formal discussions and the BAFO will be the basis for any award. The BAFOs will be evaluated as stated in the RFP, based on the consideration of the revised technical and financial proposals. The proposal evaluation process will be repeated by the HPTE for the proposal revisions/BAFOs.

It is important to note that BAFOs are not mandatory and may not be useful or appropriate for a given project. If BAFO is to be used, it will be specifically stated in the RFP.

#### *7) VfM Update*

The HPTE Director and P3 Project Manager will ensure the P3 procurement schedule provides adequate time for an update of the initial VfM analysis based on the proposal ranked as the “best value proposal” prior to the selection of the best value proposal and announcement of the award. The HPTE Director will identify a peer review team independent of the team that developed the initial VfM to prepare the VfM Update.

The P3 Project Manager will work with the peer review team to ensure the VfM Update is prepared timely so the P3 procurement remains on schedule. The best value proposal identified by the review and ranking of the submitted proposals will form the P3 approach values for the VfM model update. The P3 Project Manager will ensure the VfM is updated for key changes in the project scope, cost estimates, and related information for the Public Comparator. The updated VfM report will be included as part of the evaluation report to the HPTE Board. For the award to the best value proposal to move forward, the VfM analysis

must support that the proposal ranked as the best value represent the overall best value for the state in comparison to the Public Comparator.

#### vii. Selection and Award

The HPTE may initiate limited negotiations or recommend execution of the P3 agreement without negotiations. Negotiations (if any) are limited to those issues that HPTE determines are appropriate to include in the negotiations. The HPTE will identify and set out in writing the issues to be negotiated to the preferred proposer. The preferred proposer will be deemed not to have negotiated in good faith if it fails to attend and actively participate in reasonably scheduled negotiation meetings with HPTE or insists upon terms or conditions that are (1) materially inconsistent with the preferred proposer's proposal or (2) outside the scope of the issues identified in writing by HPTE as included in the negotiation. In addition, the proposers may be required to forfeit their bid/proposal security.

If HPTE fails to reach an agreement with the proposer initially determined to have provided the apparent best value proposal, HPTE will formally end negotiations with that proposer and take action as HPTE determines appropriate. Such action may include:

- Rejection of all proposals
- Re-calculation of the best value proposal based on the remaining proposers (excluding the proposer initially determined to have provided the apparent best value proposal) and, based on this re-calculation, proceed to negotiations with the proposer that submitted the most highly ranked proposal to finalize a P3 agreement with that proposer

If the second option is selected, the next most highly ranked proposal will then be considered the apparent best value proposal and the proposer that submitted such proposal will be considered the preferred proposer provided this option is supported by a revised updated VfM analysis. If negotiations fail with the second ranked proposer, HPTE may formally terminate negotiations with that proposer and proceed with negotiations with the third ranked proposer.

Upon completion of the evaluations and successful negotiations (if any), the evaluation team will recommend to the HPTE's Board that HPTE enter into a P3 project agreement with the preferred proposer. The HPTE Board will take into account the evaluation criteria and selection recommendation of the HPTE Director when selecting a preferred proposer. Once approved by the Board, HPTE will notify all proposers of the selection. The HPTE will inform the preferred proposer that it has been selected by written notice and initiate the finalization of the terms of the P3 agreement. At the same time, the HPTE will send a written notice to all other unsuccessful proposers to award the project to the preferred proposer.

The HPTE will deliver notice to the preferred proposer and the preferred proposer will proceed to execute and deliver the P3 agreement.

#### viii. Changes Prior to Execution of the P3 Project Agreement

If HPTE becomes aware any material adverse change in the financial condition of any member of a proposer's team whose financial statements were provided with the proposal, or of the proposed lender(s), HPTE will consider whether such change would have resulted

in the preferred proposer receiving a "fail." Should the preferred proposer fail to take action within a time specified by HPTE to remedy this adverse change, HPTE may declare the proposer in breach and select an alternative preferred proposer to proceed with the project.

The selected proposer is required to seek HPTE approval if it seeks to change the composition of its team or the percentage of equity participation of one or more equity members. The HPTE will consider requests by the selected proposer to make such changes, based only on unusual circumstances beyond the proposer's control, and will approve or reject them as it deems appropriate in its sole discretion. If any unapproved change is implemented after the approval date for such changes, HPTE will have the right to declare the proposer in breach and select an alternative preferred proposer for the project.

#### ix. Stipend Payment

The HPTE may offer to pay a stipend payment to each shortlisted proposer that provides a responsive and "pass" but unsuccessful proposal, but is not selected as the preferred proposer. A stipend payment is conditioned upon the proposer providing an executed stipend agreement and being fully compliant with the conditions established in such agreement for payment of the stipend payment. Acceptance of the stipend payment entitles HPTE to use any and all concepts, ideas, ATCs, and information contained in the proposals or in connection with a subsequent procurement for the project or any other project, without any obligation to pay any additional compensation, consideration, or value to the unsuccessful proposers.

Under no circumstances will HPTE be liable for or reimburse any costs incurred by any proposer or any member of a proposer's team.

#### x. Protest Procedures

In the competitive environment of the procurement, and in accordance with the requirements of the RFQ or RFP, one or more of the proposers may formally protest the HPTE's selection of the shortlisted proposers, approval of changes in a proposer's organization, or decisions regarding responsiveness, best value evaluation rankings, selection of the preferred proposer, or award of the contract. These protests must be hand delivered to the HPTE's contact person no later than 14 calendar days after the public announcement by HPTE. The RFP may also specify other contacts and CDOT or HPTE who are to receive the formal protest. The protesting proposer is responsible for obtaining proof of delivery. The protester shall concurrently file a notice of protest with the other proposers whose addresses may be obtained from the HPTE's contact person. The notice of protest shall state the grounds of the protest.

Unless the Protest Review Committee decides otherwise in its discretion, no hearing will be held on the protest and the Protest Review Committee or its designees shall decide it on the basis of the written submissions received from the protesting parties. The Protest Review Committee or its designees may, in its discretion, discuss the protest with the protesting parties, other proposers, procuring authorities' advisors, and other state entities or their representatives.

Any additional information regarding the protest requested from the protesting parties by the Protest Review Committee or its designees shall be submitted within the time period requested in order to expedite resolution of the protest. If any party fails to expeditiously comply with any request for information, the protest may be resolved without such information.

## E. Commercial Close

Upon award and the protest period expiring, HPTE and the preferred proposer will finalize the P3 project agreement. Typically there is a designated time period to accomplish commercial close after project award. The draft P3 project agreement is normally updated to reconcile any minor issues in the draft P3 project agreement and documents and the final proposal.

### i. Final VfM

After all documents are agreed to, including any amendments to the P3 project agreement and supporting documents, and the financial model has been updated for commercial close and identified items for financial close, HPTE will provide a final VfM analysis based on the financial mode proposed for financial close prior to commercial close to ensure that the P3 Project is the best value for the state prior to commercial close and the proposed financial close. The final VfM report will form part of the due diligence documents provided to the HPTE Board supporting moving to commercial close and financial close on the P3 project.

- ii. Once all parties are in agreement, the HPTE Director will recommend the P3 project agreement for approval by the HPTE Board. Upon approval, the P3 project agreement will be provided to the awarded proposer for execution and returned to the HPTE. The P3 project agreement will be executed by the HPTE and the State Controller after verification to ensure there were no material changes. At this point the awarded proposer becomes the private partner and moves to the financial close process.

## F. Financial Close

The private partner has a financial team as part of their proposal. The private partner and their financial team take the executed P3 project agreement and, working with the financial markets, finalize the finance plan that fully finances the delivery of the P3 project. The RFP includes a time period for the private partner to reach financial close. The private partner keeps HPTE "up-to-date" on their progress during this time. The investors and lenders for the private partner may request additional information and also that certain documents such as the P3 project agreement and/or supporting documents be updated or amended to meet their financial requirements. The private partner will review the suggested changes with HPTE and the P3 Project Team. Minor changes can generally be accommodated and will be incorporated into an amendment to the P3 project agreement and/or supporting documents.

### i. Requests for Material Changes

In select cases the investors or lenders may request a material change to the P3 project agreement or supporting documents. HPTE will evaluate the requested material change in three steps as shown below.

- Would the material change result in the private partner's proposal being judged as "fail" under the pass/fail criteria of the RFP? If so, the HPTE will reject the material change.
- Would the material change result in the private partner's proposal being ranked lower than another proposer's ranking? If so, the HPTE will reject the material change.
- If the material change passes the two prior evaluations then HPTE in its sole discretion will evaluate and make a decision about whether the material change is in the state's best interest and based on this assessment make a final decision on accepting or rejecting the material changes to the documents and notify the private partner of the final decision. In select cases, the material change may be of such import that subsequent HPTE Board approval is required for the change.

### ii. Failure to Reach Financial Close

It is within the HPTE's sole discretion to allow extensions of time for the private partner to reach financial close provided the HPTE has evidence that significant progress is being made by the private partner to reach financial close and the additional time would result in financial close in the best interest of the state. If time has expired and the private partner cannot reach financial close within the time period set in the RFP, HPTE may require that the private partner forfeit their bid/proposal security.

### iii. HPTE Acting as Conduit Bond Issuer

As discussed in Chapter 2 in some cases the private partner may request that HPTE serve as a conduit bond issuer on behalf of the P3 project. It is in the sole discretion of the HPTE Board to agree to serve as a conduit bond issuer. If the Board agrees to do so the requirements of Chapter 2, section P shall be met in serving as conduit bond issuer. The proposer shall pay HPTE the conduit bond issuer fee as outlined in the RFP.

### iv. Execution of Financial Close

After completion of appropriate due diligence the private partner will reach financial close. HPTE will have a role in this to the extent the P3 project agreement and supporting documents must be amended or HPTE serves as a conduit bond issuer. Otherwise the process is the responsibility of the private partner. Once financial close is completed the private partner will provide HPTE a complete transcript of the closing documents.

At this point the P3 Project moves to the Implementation stage as discussed in Chapter 5.

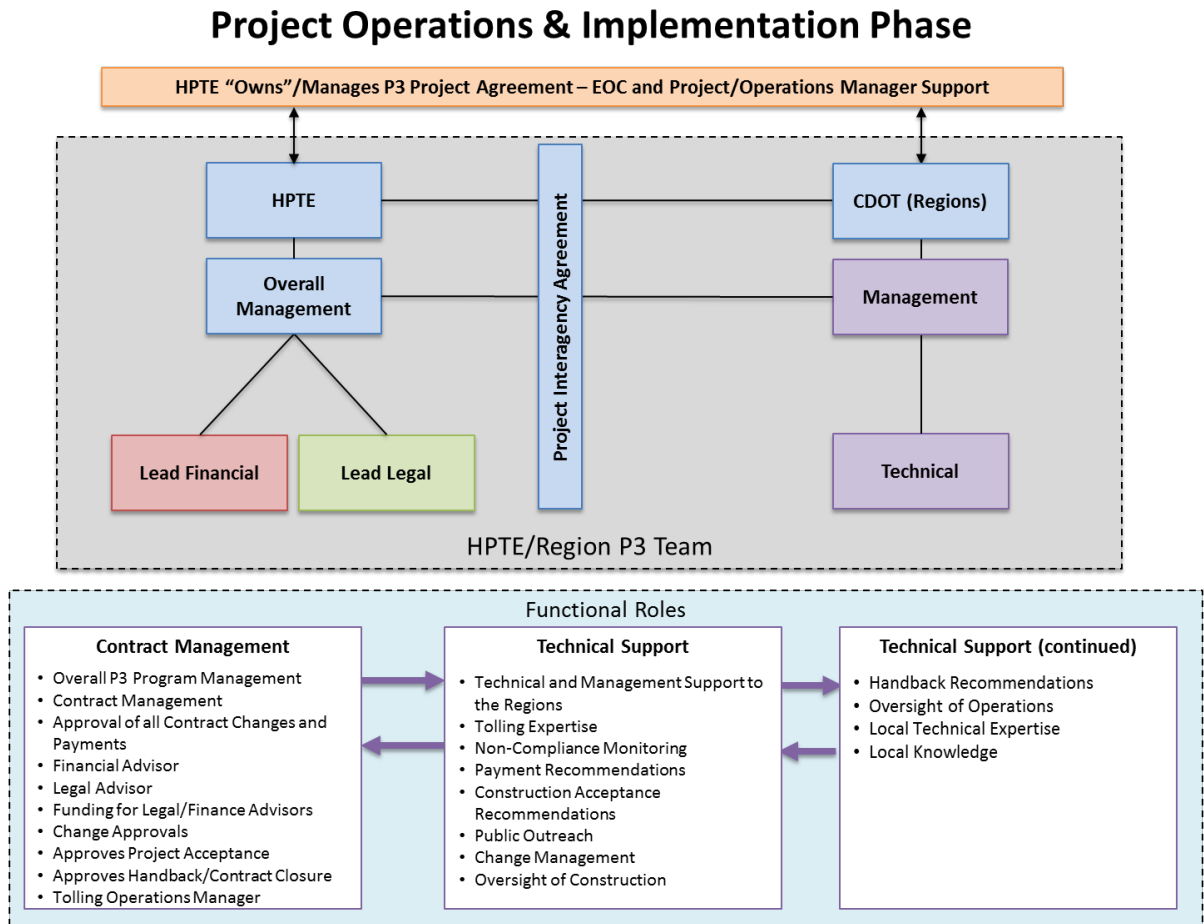
# V. Project Implementation and Operations Phases

## A. Organizational Chart/Decision-Making Authority

As the project moves through implementation and into operations, the project team needs to have clear roles and responsibilities. Although much of the project will be relatively similar to a typical major design-build project and follow very similar processes, the project team needs to understand how decisions and directions affect the long-term P3 project agreement. Therefore, the decision-making and communications will require CDOT to be the day-to-day lead on the project for both the implementation and operations phases of the project, and communicate with HPTE on a regular basis. HPTE will act as the contract manager. Figure 9 illustrates the organization of the offices with the general responsibilities that will need to be assigned for the project. As mentioned previously, the decision-making process should include an assessment/consideration of how all decisions impact the long-term P3 project agreement. Both HPTE and CDOT will jointly develop the management plan for a specific project and include the following sections to help ensure the appropriate personnel are involved in decision-making during implementation:

- Defined regular meetings/teleconferences with the HPTE/CDOT to cover:
  - Project status
  - Project issues
  - Public outreach
  - Claims and intent to claim/change orders/supplemental agreements
  - Non-compliance status
  - Project look-ahead
    - Potential issues/decisions needed
    - Opportunities for incorporation of lessons learned/best practices from other projects/states
- Defined decision-making matrix to categorize decisions, including the following approval/concurrence options:
  - CDOT approval/HPTE concurrence
  - CDOT approval
  - HPTE approval/CDOT concurrence
  - HPTE approval
- Contract status
  - Payment to/from private partner to date
  - Pending payments to/from the private partner
  - Non-compliance status
  - Contract performance measures
- Owner obligations
  - Review of upcoming owner deliverables/reporting
  - Owner performance and resources

Each entity will determine at what level within their organization they need to escalate a specific decision or concurrence. The intent of this section is to recognize the need for a joint effort on some decisions, while allowing the flexibility for each entity to make decisions that are solely their responsibility in a timely fashion. Although not every needed decision will have a clear path for decision making, developing a process allows for all decisions and issues to get identified early that will allow for proper and sound decision making by the team. This section will discuss and provide examples of decision-making considerations to help illustrate and prepare the team to establish a clear process during implementation and operations.



**Figure 8 - Team Structure, Roles, and Responsibilities – Project Implementation and Operations Phase**

## B. Program Organization, Roles, and Responsibilities

The Executive Oversight Committee (EOC) that had been established specific to a project to provide guidance during the pre-procurement and procurement phases will be re-evaluated for membership during Implementation as well as Operations. The committee will provide overall policy direction, dispute resolution, and guidance to the project delivery team. The primary functions of the EOC are to:

- Make policy decisions for the project

- Ensure adequate resources are provided from each respective organization to support the project
- Provide support to the project team in relation to regional and national stakeholders
- Monitor the progress of the project

The member organizations of the EOC will have the following roles and responsibilities on the project:

- HPTe – Serve as the lead contract manager for the P3 project agreement, assisting the CDOT Region on any P3 project agreement questions and interactions with the private partner. HPTe also holds final approval authority over the contract and will typically provide the legal and financial interpretations of the contract and proposed contract changes. HPTe will also provide the tolling expertise needed when applicable to a project. HPTe will provide oversight of the Operations and Maintenance stage of the P3 project. HPTe will consult technical expertise from the Chief Engineer, Headquarter Operations staff, and applicable Region as needed in support of the oversight of Operations and Maintenance.
- CDOT Region – Deliver and manage the design and construction work, right-of-way acquisition, intergovernmental agreements, and other project-related agreements with utilities and other agencies. The applicable region will be responsible for major operational decisions such as roadway closure during the Operations and Maintenance Phase of the contract.
- FHWA Colorado Division Office – Oversee the project, consistent with the Project Stewardship and Oversight Agreement, quality assurance reviews, and process claims and P3 project agreement modification orders per the Project Stewardship and Oversight Agreement.
- Other key funding partners – HPTe will coordinate with other funding partners in accordance with intergovernmental agreements for the project.

### C. Project Management Team, Roles, and Responsibilities

The below roles and responsibilities cover both the implementation and the operations period. The general structure and reporting of the team will be similar in both periods but some positions will only exist during implementation like the design and construction managers. These positions can be re-established in the future during major project renewals depending on how the concessionaire plans their work. It should also be noted that the personnel that fill all positions should be re-evaluated as the project transitions from implementation to operations and the efforts and risks are reduced.

The **project manager** reports to the EOC, is the senior point of contact for the project, and is responsible for:

- Overall responsibility and day-to-day decisions making for implementation period and most likely full-time in the project office, ensuring the project is on time and on budget



- Overall responsibility for the oversight of the Concessionaire's Operations during the operating period and planned renewal work working at a remote location and available as needed by the Operations Manager.
- Serving as the senior point of contact for the project
- Ensuring terms and conditions of the P3 project agreement are met by HPTE and the private partner
- Managing the contractual and financial matters
- Overseeing administration of the federal funding

HPTE will assign a **contract/operations manager** that will have ultimate responsibility for interpretation of the contract utilizing legal, finance, and technical advisors as necessary. They will provide regular guidance and direction for all contract matters. During the design-build phase the contract manager will partner with the Region's Design-Build Project Manager on contractual issues. The contract/operations manager will provide regular guidance and direction on all contract matters and provide monitoring of the concessionaire in the field for operations. They will decide what direction and decisions must be escalated to the Project Director and will, along with the day to day managers brief the project director on the project issues and status.

The project manager is responsible for assuring all Equal Employment Opportunity requirements of the P3 project agreement are fulfilled.

The **design managers** report directly to the Design-Build project manager. Design Managers from both CDOT and other project partners are charged with the overall administration of the design portion of the project and ensuring the design conforms to the terms of the P3 project agreement. They are responsible for ensuring a smooth cooperative relationship between the private partner, CDOT, and other project partners, and impacted local jurisdictions in review and approvals necessary as stipulated in the P3 project agreement. They also coordinate with the Construction Manager to resolve design-related issues that are brought up during construction.

The **construction managers** report directly to the Design-Build project manager. Construction managers from both CDOT and other project partners are charged with the overall administration of the construction portion of the project. They evaluate, process, and approve change orders, disputes, and claims. The construction managers also coordinate with the design managers before and during construction so that the project is built per the P3 project agreement and to the highest quality possible.

The **contract/operations manager** will be termed the operations manager to oversee the contractual obligations during the operating period. They will assign resources for any independent inspections or assessments of the private partner's performance and make recommendations to the HPTE Operations Manager for any non-compliance assessments as well as recommendations on any contract changes whether if they will be owner directed changes, private partner requested or potential claim oriented changes. The operations manager will be responsible for regular reporting on the project as well as briefings to the HPTE Operations Manager and Region Director to keep them updated and informed on the status and issues on the project. The operations manager will also be responsible to have an

Operations Management Plan developed, as describe in the Operations Transition section, in place that will complement the Concessionaire's Maintenance and Operations Management Plan and will provide the necessary guidance and information to manage the project on a day to day basis.

The **project public information (PI) liaison** coordinates with the project manager during the implementation and operations stage and is responsible for coordinating all public outreach efforts by CDOT, funding partners and the private partner during the life of the project.

Other project partners provide staff to support CDOT in the management of the project per the terms of Intergovernmental agreements.

## D. Technical Support

Throughout design, construction and operations, the project will receive technical support from experienced CDOT engineers and construction managers and their consultants, experts from other agencies, experts from CDOT's specialty units such as environmental, traffic, right-of-way, and from FHWA. The management of technical support will be handled through the day to day managers during the given phase of the project.

## E. Project and Document Controls

The private partner will use data systems, standards, and procedures compatible with those employed by the HPTE/CDOT and implement any new operating practices required as a result of HPTE/CDOT's amendments to any such systems, standards, and procedures. Any software interface must be secure so that only authorized users have access.

The private partner will:

- Provide a secure location for any interface as may be provided by HPTE/CDOT, such that only authorized users have access and that it is protected from loss, theft, damage, unauthorized, or malicious use.
- Use appropriate standards and procedures, and train private partner personnel to operate any HPTE/CDOT data management system the HPTE/CDOT may require in connection with the project.
- Provide a mechanism for the electronic transfer of meta data along with the associated portable document format (PDF) images for uploading into an Electronic Document Management System (EDMS) employed by HPTE/CDOT.
- To allow for disaster recovery and additional security, the private partner will back-up all project-related documents on a nightly basis and store all project-related documents in a secure off-site area on a weekly basis. The private partner will provide HPTE/CDOT access to their document control database as deemed necessary by HPTE.

The HPTE has successfully used the EDMS system Aconex on other projects.

HPTE/CDOT will:

- Assess how project files will be stored and organized, and will further consider:
  - Typical project development information that would have started ahead of the project being designated as a P3
  - Organization and tracking of information being provided to proposers during procurement
  - Organization and location of information that is submitted by proposers including the team's evaluation of proposals, recommendations and selection of best value proposals
  - Location and responsibilities for housing any confidential information
    - During procurement
    - During construction
    - During operations
- Access protocols for project information
- Retention protocols for project information
- Archiving protocols for project information
- Responsibilities for project and document controls

## F. Document Retention

The private partner will establish and maintain an EDMS to store, catalog, and retrieve all documents. Unless otherwise directed by HPTE, record retention will comply with the requirements of the CDOT and be provided to HPTE at the time of expiration or earlier termination of the agreement.

## G. Correspondence and Delivery

The private partner must use the EDMS web-based collaboration system to communicate all formal matters with the HPTE/CDOT and other consultants and subconsultants in relation to the project and its execution. The private partner will register and transmit all drawings and documents and all amendment to drawings and documents for the project on the EDMS web-based collaboration system.

## H. Serving Notices

A notice, consent, information, or request that must or may be given or made to a party under the agreement must be delivered to that party using both the web-based collaboration system and electronic mail.

## I. Project Handoff Meetings

It is recommended that an official handoff meeting occur to recognize the transfer of day-to-day responsibilities from the procurement team to the implementation team, and from the implementation team to the operations team. These meetings can serve as a platform to confirm the communication and documentation protocols and establish regular meeting and reporting schedules and responsibilities required for the particular phase of the project. The meetings can also serve as an opportunity to educate any members of the

implementation or operations team on any specific contract requirements/obligations that management would like to highlight. It is recommended to get the implementation as well as the operations team members involved prior to the start of their respective phases to help ensure a smooth handoff/transition and overall acceptance of the work and responsibilities at these meetings.

## J. HPTE/CDOT Monitoring, Payments, and Reporting

There will be several aspects of the project that require monitoring and reporting for different reasons and purposes. The monitoring and reporting of certain items will most likely be needed to satisfy many stakeholders including, FHWA, project supporters (including funding sources), the general public, other projects looking for lessons learned, and third parties including permitting agencies.

The HPTE and CDOT will work closely to incorporate these items into the project's implementation and operations management plan clearly stating the deliverables and the responsible party for each item. Each project will be unique and HPTE and CDOT may consider utilizing facilitated workshops to help develop a monitoring and reporting plan that will address everyone's needs in an efficient and logical manner. These workshops could be part of a risk analysis mentioned earlier in the manual that will allow the team to have a risk-based approach to their management structure and activities.

It is important to extract all of the owner obligations from the P3 project agreement and incorporate into the appropriate management plan, as well as other agreements for the project, and assign the appropriate personnel/office/position that will be responsible for each obligation. In some cases the team may develop a specific process to address specific obligations that may include both HPTE and CDOT participation. The team can also summarize the private partner obligations and assess and develop specific processes of how and who will monitor these obligations and the actions and responsibilities if these obligations are not met.

This process will identify many of the items that should be considered for the management plan as well as provide some guidance to help the team develop the roles and responsibilities for these items. A critical item that will require both HPTE and CDOT to work closely on will be all items requiring some form of payment or receipt of payment.

### i. Milestone/Progress Payments to Private Partner

The HPTE/CDOT may utilize milestone or progress payments to the private partner for various reasons including:

- A public subsidy (payment(s) to the private partner) may be required to make the project financially feasible. These payments to the private partner will offset debt and reduce the overall finance costs of the project.
- Incentivize or prioritize certain project obligations.
- Incentivize meeting certain schedule commitments.

- Potentially pay for specific project feature(s) that the funding (payment) was intended for. An example could be a municipality that requested a pedestrian bridge be constructed with the project with set aside funding.
- Also, availability type payments during the operations phase.

During the Procurement Phase, HPTE and CDOT will have worked closely to develop the sizing of payments as well as the timing of the payments, and what will be required of the concession team to receive or authorize these payments. The sizing/timing of the payments will need to be clear in the P3 project agreement and achieve both the goal of injecting the public subsidy but also assuring HPTE/CDOT that they are receiving value that is equal to or greater than these payments prior to authorizing.

Since CDOT will be responsible for the overall implementation of the project, they will need to be the lead in tracking and reporting of any payments that will be due to the private partner. They will work closely with HPTE to incorporate the specific requirements and expectations for all activities leading up to milestone achievement. CDOT will have an obligation to HPTE to provide updates and status of these milestones as well as recommendations for approval or rejection regarding private partner invoices for such payments.

The requirements (obligations) and expectations that are developed should be shared early with the private partner. Reviewing the expectations in conjunction with the P3 project agreement language will help confirm clear understanding of these requirements between all parties and help avoid untimely disagreements regarding milestone achievements and appropriate payments. The example below helps illustrate the need for defining expectations as part of the development of clear milestone/payment requirements, and the benefits of following up on these items as part of the development of the team's implementation management plan.

Example:

An owner has incentivized an opening a new ramp (traffic movement) in an accelerated fashion and incorporated a milestone payment for "Completion of the new ramp with it opened to traffic in its final configuration."

Although this may sound like a straight forward requirement, the below items are left unclear in the contract:

- Will the ramp be required to remain open without closures for the duration of the P3 project agreement?
- Does the final surface course need to be in place?
- Does the final striping need to be in place?
- Does the lighting need to be installed and functional?
- Do the full shoulders need to be available?

By developing a set of requirements and expectations needed to accomplish the milestone, any disagreements can identified early and worked out in advance and can be tracked, reported on, and discussed by the team without any misunderstandings. This will

allow the project team to have a clear focus on the tasks needed to achieve any milestones as well as provide the public information on milestones that will set the appropriate expectations when achieved. It is suggested that this exercise be done in the development of the procurement documents to the greatest extent possible and to confirm the information as part of the implementation management planning.

If HPTE/CDOT elect to make progress payments during construction they will clearly define what will be required to review and process these progress payments for payment.

Considerations shall be made for:

- What percent of work must be accomplished prior to allowing a progress payment?
- Will the progress payment cover activities that are not 'in the ground' work? Will they cover mobilization, design, planning, management, financial advisors?
- What percentage of effort versus progress payments is desirable?
- What effort will it take to monitor the progress for payments?
- What are the potential public perceptions when making progress payments?

## ii. HPTE/CDOT Monitoring Requirements

HPTE and CDOT will work together to develop the monitoring requirements as part of the implementation and operations management plans. There will be specific monitoring and reporting requirements as part of any agreements that either CDOT or HPTE has made as part of the development of the project. In addition both CDOT and HPTE may want to monitor other items that may not be a specific requirement as part of the executed agreements for the project. These could be items that will help manage HPTE/CDOT's risks on the project or help provide insight to the performance and lessons learned that can be gained on the project. It is suggested that CDOT/HPTE utilize a risk-based approach to help develop and prioritize their monitoring plan so resources can be planned in the most efficient way to meet the goals of the project and protect HPTE/CDOT. The below items are meant to be a starting point for consideration of items that could be included in the project's monitoring portion of both the applicable implantation and operations management plans:

- FHWA reporting requirements (financial, traffic, or other)
- Traffic performance
- Customer service
- Milestone status/payments
- Submittals and review times
- Utility relocations
- Right-of-way acquisitions
- Permitting status
- Long-term asset construction (elements being constructed that will outlive the term)
- Operations and/or maintenance performance during implementation
- O&M performance during operations
- Material or other testing audits
- Certifications

- DBE goals
- Private partner performance (non-compliance, payment adjustments)
- Owner performance (owner obligations)
- Availability of the roadway(s) as applicable
- Any relief or compensation events
- Other

It is recommended that regular meetings are scheduled (potentially quarterly) to reassess the monitoring aspects of the implementation and operations plans during the respective periods. This will allow both CDOT and HPTE to ensure priorities and staffing are still appropriate from the previous update and if not, have the flexibility to adjust the monitoring to best suit the project and meet both HPTE and CDOT goals.

### iii. Non-Compliance Monitoring Requirements and Payment Adjustments

When the Project Team identifies non-compliance events in the field, they shall notify the HPTE of the event by summarizing:

- Description of the event
- How the event was identified (private partner reported – self-reported – or other)
- The specific P3 project agreement reference that the private partner failed to comply with
- The number of non-compliance points and/or financial adjustment(s) that can be assessed per P3 project agreement for the specific event
- Recommendation of the project office with supporting information
- Timing requirements for owner action/decision on the non-compliance event (may coincide with private partner, notice, or invoice approvals)

HPTE, upon notification and receipt of the non-compliance information/package, will assess the need for a meeting/teleconference with the project office or if they are able to provide concurrence of the recommendation. The HPTE shall track and document both the non-compliance points and financial adjustments that could have been assessed as well as what actually gets assessed, and look for trends and potentially lessons learned that should be captured and applied to future projects or adjustments to the current project. This tracking document should be incorporated and updated as necessary into the lessons learned information described in section M).

### iv. Claims Assessment and Processing

As with the non-compliance reporting, the project office shall provide the HPTE and FHWA early notice of any potential for claims as well as any claims that have been submitted, and provide a summary that would include:

- Description of the claim or potential claim
- Any supporting documentation if submitted by the private partner

- Schedule impacts on any decision making that will be needed
- Recommended actions from the project office (this will vary depending on how far any evaluations have progressed)

The HPTE will utilize their advisors as necessary to evaluate claims and provide direction and decisions to the project office to follow through on. HPTE will be responsible to process claims for payment (with assistance from the project office (CDOT)) and if disputed, follow the necessary dispute procedures called for in the P3 project agreement. The project office will be responsible for developing any supporting documentation necessary for either disputing claims or approving/paying claims. This will include any presentation material that may be necessary for a dispute review board. The HPTE will have approval authority over the any information presented or provided in support of a claims dispute. Coordination with FHWA will be required to maintain consideration for federal eligibility.

Through the coordination with the HPTE, payment sources will be identified as well as any third-party approvals that may be necessary from any funding partners or other stakeholders that could be required to approve or accept the financial impacts of a claim. The HPTE will make the determination per project as to whom, whether CDOT or HPTE, shall coordinate claim matters with third parties. This designation can be on a project basis or claim by claim as determined by HPTE.

The HPTE will summarize and track the claims on a project for applicability for future and current projects. The summary and relevant information should be incorporated and updated as necessary into the lessons learned information described in section M. (As the database of information grows, the HPTE will be able to identify the best way to organize the information for easy access to the project teams developing and implementing projects.)

#### v. Third-Party Coordination

The CDOT and HPTE shall review the list of third parties and identify who will be the main point of contact during the project's implementation period and whether that needs to vary at different levels as it pertains to:

- General Information (project status/updates)
- Any reviews or feedback on project submittals or decisions
- Contractual issues that may affect an agreement or require approval/acceptance of the third party (claim or unforeseen condition)

It will be project office's responsibility to identify any third party communications and coordination that will be necessary of HPTE. Both CDOT and HPTE shall keep each other informed of any developments and contacts made with third parties. Depending on the expected involvement as well as risks with third parties, they should be discussed as part of the regular project status/update meetings that the project office will have with HPTE on. As the project progresses, some third parties may not be as relevant and will not need to be reported on while others may increase in priority.



## vi. Public Outreach

As the project moves into implementation, it is critical that the project office take the lead in public outreach. The project office will be in the best position to provide the latest and most accurate information. As part of the development of the project's implementation management plan, the roles of the private partner and CDOT will be clearly defined. The project office will update HPTE regularly on any outreach activities and issues that may have developed, including particular public complaints. The HPTE shall have approval authority over any outreach literature or marketing-type materials generated by the project office for public consumption. The HPTE and CDOT will work collaboratively on any specific messages that they want to convey to the public that will enhance the public's understanding of alternative project delivery (P3) and any project-specific benefits that have been realized. This project-level public outreach can be used to help support the more program-level messages both CDOT and HPTE want to convey.

As the project moves into operations HPTE and CDOT must evaluate how best to handle public outreach. Each project will be unique and the Project Team may decide on different approaches. Items that should be considered for a P3 project in the operations phase include:

- How are the O&M responsibilities divided between a private partner, CDOT, and HPTE? Will private partner have responsibilities right-of-way to right-of-way or potentially only for the tolled lanes?
- Who is collecting tolls?
- What are any third party obligations for the project?
- Who has snow removal responsibilities?
- Is this a high profile or controversial project?

## vii. Transition Plan Development for Operations

Prior to implementation completion, the CDOT office shall start the development of a CDOT/HPTE Operations Management Plan. It is important to start the development of this plan approximately a year in advance of project completion. The early start is necessary to work out the responsible parties for inspections, monitoring, and reporting during the operating period to ensure each agency confirms their responsibilities and can plan resources accordingly. The plan should address several items, including but not be limited to the following:

- Inspections
- Monitoring
- Specific asset discussion as necessary based on P3 project agreement (lighting, landscaping, structures, etc.)
- Incorporation of P3 project agreement requirements (DBE reporting, insurance, etc.)
- Emergency procedures
- Incident management
- Financial reporting
- Communications (public relations)

- Tolling operations
- ITS and traffic management
- Snow/ice removal/treatments
- Project controls
- Document control
- Performance management and reporting
- Payment/revenue processing
- Annual budgets
- Non-compliance reporting
- P3 project agreement changes
- Permit work/lane closure requests
- Permit compliance
- Safety compliance
- Fuel spills
- Renewal work
- Owner reports (annual finance plan, project management plan updates, other)
- Handback procedures and responsibilities, early asset condition reports, determination of appropriate hold-backs, and funding for reserve handback account.

The plan should describe the process and minimum requirements for HPTE/CDOT related to the transitioning into the operations phase including HPTE/CDOT roles and responsibilities, documentation responsibilities and decision-making. This can prove challenging to prioritize but the development should be started approximately a year in advance of construction acceptance. Once the plan is complete it should be updated on a regular basis and for significant changes to ensure that it is accurate and captures any lessons learned and best practices for continued success.

## K. After Action Report for Implementation Phase

Because P3 projects are complex and new to states, it will be important to clearly identify best practices and lessons learned as they evolve. The performance management and reporting section identified in the Transition Plan above will be a good source of information in determining how well the performance criteria of the contract is working. The goal will be to set performance criteria at the appropriate level to yield the performance expected at the optimum value. It will be HPTE's responsibility to document and organize materials that are generated on projects for non-compliance, claims, and general clarifications that occur as projects get implemented. The HPTE will review these materials on a regular basis with project personnel to draw out any best practices or lessons learned that can be incorporated into procedures or modification of procedures and/or practices that will improve the state's P3 Program. The HPTE will decide what actions require HPTE Board approval and will be responsible for developing any materials for board consideration, as well as regular updates on actions the HPTE has or will be taking to improve their processes and the overall P3 Program.

# Attachment A

## MEMORANDUM OF UNDERSTANDING

By and between the

COLORADO DEPARTMENT OF TRANSPORTATION

AND

HIGH PERFORMANCE TRANSPORTATION ENTERPRISE

THIS MEMORANDUM OF UNDERSTANDING, entered into as of the 30th day of September, 2013, by and between the Colorado Department of Transportation ("CDOT"), an agency of the State of Colorado ("State"), and the High Performance Transportation Enterprise ("HPTE"), a government-owned business created as a Division of CDOT by the "Funding Advancements for Surface Transportation and Economic Recovery Act of 2009" ("FASTER"). CDOT and HPTE are referred to in this Memorandum of Understanding individually as a "Party" and jointly as the "Parties".

### RECITALS

WHEREAS, CDOT has the responsibility to plan, develop, construct, coordinate, and promote an integrated transportation system within the State; and

WHEREAS, the General Assembly of the State found and determined in FASTER (Section 43-4-806(1), C.R.S.) that:

- (a) It is necessary, appropriate and in the best interests of the State to aggressively pursue innovative means of more efficiently financing important surface transportation infrastructure projects that will improve the safety, capacity, and accessibility of the surface transportation system; and
- (b) The HPTE should actively seek out opportunities for public-private partnerships for the purpose of completing surface transportation infrastructure projects; and
- (c) The authority of the HPTE should be broadly construed to allow HPTE sufficient flexibility, consistent with the requirements of the state constitution, to pursue any available means of financing such surface transportation infrastructure projects that will allow the efficient completion of the projects; and

(d) The types of innovative financing opportunities include, but are not limited to, public-private partnerships, operating concession agreements, user fee-based project financing, and availability payment and design-build contracting; and

WHEREAS, FASTER (Section 43-4-806(2), C.R.S.) created an HPTE board (“Board”) and the Board adopted on November 17, 2010, Articles of Organization (as amended from time to time “Articles of Incorporation”) and Bylaws (as amended from time to time “Bylaws”) providing for its operation and management and setting forth its powers; and

WHEREAS, FASTER (Section 43-4-806(2)(d), C.R.S.) provides that the HPTE shall constitute an “enterprise” for purposes of section 20 of article X of the State Constitution so long as it receives less than ten percent of its total revenues in grants from all Colorado state and local governments combined; and

WHEREAS, the funding for HPTE is expected to be derived from multiple sources including toll revenues, work and fee for service and completion fee agreements with CDOT and other entities, concession fees, bond issuance fees, federal funds, and loans from the Transportation Commission; and

WHEREAS, FASTER (Sections 43-4-806(2)(c), 6(f) and (h), C.R.S.) authorizes HPTE to enter into agreements with the Transportation Commission or CDOT in furtherance of the purposes for which HPTE was created; and

WHEREAS, CDOT and HPTE have determined that it will advance and promote the respective missions of CDOT and HPTE to define and set forth in this Memorandum of Understanding their operating roles and responsibilities as they relate to those missions.

NOW, THEREFORE, in consideration of the mutual covenants, obligations, and conditions expressed below, the Parties understand and agree as follows:

## **Article One**

### **General Provisions**

1.1 Definitions. Terms defined in FASTER (Section 43-4-803, C.R.S.) have the same meanings when used in this this Memorandum of Understanding.

1.2 Effective Date and Term. This Memorandum of Understanding shall be effective immediately upon its execution and shall continue in effect until terminated in accordance with its terms.

1.3 Termination of Master Agreement. The Master Agreement by and between the Colorado Department of Transportation and the Colorado High Performance Transportation Enterprise, entered into as of the 30<sup>th</sup> day of November, 2010, is terminated.

## **Article Two**

### **Coordination between CDOT and HPTE**

2.1 The Board has the authority to establish policies for HPTE under which it will identify and prioritize HPTE projects and make and enter into agreements and contracts with private entities for the financing, design, construction, operations and maintenance of surface transportation infrastructure projects. Nevertheless, as a division of CDOT, HPTE must coordinate and integrate its mission with CDOT in the fulfillment of its duties and the exercise of its powers.

2.2 Accordingly, CDOT has created and will maintain an Office of Major Project Development (OMPD) as a resource and center of expertise for the coordinated fulfillment of the joint missions of CDOT and HPTE. As a resource to both CDOT and HPTE, the purpose of the OMPD will be to provide the following services for P3 and other major projects:

(a) Supporting HPTE in overall program-level activities including the establishment of policies, strategic master planning, communications and marketing, establishment of procedures and budget planning and reporting, all in fulfillment of the mission of HPTE.

(b) Conducting early development activities and determining the overall feasibility of potentially eligible major projects, including project scoping, conceptual design, preliminary environmental evaluations, and support of HPTE with its initial financial analyses. In coordination with HPTE, define the initial project delivery structure to pursue.

(c) Identifying, analyzing and prioritizing corridors that are candidates for public-private partnerships, other innovative financing, or are potentially eligible for inclusion in a major project effort.

(d) Supporting HPTE in the value-for-money analyses and financial planning for candidate HPTE projects and in coordination with the HPTE, coordinating project delivery planning with the DTD, other relevant CDOT divisions, and CDOT regions for overall project funding and programming.

(e) In conjunction with HPTE, establishing criteria to determine when HPTE leads project procurement.

(f) In support of HPTE, deciding whether a project will be administered and contracted by the HPTE or CDOT. For non-HPTE projects, assessing the eligibility of the project for inclusion in the OMPD project program and making recommendations to the Chief Engineer for his final determination.

(g) For eligible major projects determined to be administered by HPTE:

(i) Leading the effort within CDOT to implement the project including overall project management, preliminary design, environmental studies and documentation, and agency and public coordination utilizing a team led by an OMPD project manager; and

(ii) Supporting HPTE-led activities including financial analyses, financial implementation and the procurement, including contract development, bidder selection, negotiations, and industry engagement.

(h) In conjunction with HPTE, developing a policy as to the acceptance and evaluation by CDOT and/or HPTE of unsolicited proposals involving potentially eligible major projects, which policy shall in any event provide that HPTE shall be the sole entity within CDOT to receive and evaluate unsolicited proposals for any such projects which are expected to be revenue-producing projects.

2.3 The goal of the OMPD will be to provide the necessary resources, in coordination with HPTE, other CDOT divisions, and CDOT regions, for a unified management structure for the development and implementation of major projects. Major projects are defined as (i) projects involving public-private partnerships or other financings requiring the powers of HPTE; (ii) projects involving toll operations, technologies and equipment; or (iii) projects with non-traditional or innovative contracting methods requiring or otherwise benefitting from the centralized management or expertise of the OMPD, to be determined by the Chief Engineer of CDOT (Chief Engineer), in coordination with the OMPD and HPTE as appropriate.

2.4 The OMPD will be led by a Director, reporting directly to the Executive Director or his/her designee and the Director of HPTE. Primary personnel management will be the responsibility of the Executive Director or his/her designee. Funding of the OMPD will come from the annual CDOT budget as well as ongoing project funding allocations as part of the annual budgeting actions by the Transportation Commission. Technical staff support to the OMPD will come from full time employees assigned to the OMPD, participating staff from appropriate divisions and regions on an as needed basis,

and consultants as necessary to support the office's programmatic and project specific efforts.

2.5 The role and responsibilities of the OMPD will include, in coordination with other CDOT divisions and CDOT regions, leadership, overall management and/or support in identifying, selecting, developing and implementing eligible projects. Specifically, the responsibilities and resources of the OMPD and HPTE in respect of HPTE eligible major projects will be allocated as set forth in Attachment A.

2.6 Before any substantial work is done in respect of an eligible major project, HPTE and CDOT, working through the OMPD, will enter into a project-specific agreement defining the roles and responsibilities of the parties, the anticipated funding sources for the project, any fees to be paid to HPTE for services for completing the financing for the project or otherwise, the rights and obligations of the parties with respect to the assets be acquired, and such other matters as may be appropriate in the circumstances.

2.7 The OMPD Director and the Director of HPTE will be responsible for developing and implementing operating procedures and protocols for coordinating the activities of the OMPD and HPTE and for communicating with and reporting to the Executive Director and Transportation Commission and to the HPTE Board. In particular, the OMPD Manager and the Director of HPTE will develop for adoption by the Transportation Commission and the HPTE Board a "Program Implementation Process" for mutual approvals by each body at critical decision points of the planning, development, procurement, construction and operation phases of eligible projects.

### **Article Three**

#### **CDOT Services**

3.1 HPTE may, with the approval of and subject to such condition as are imposed by the Executive Director, utilize the professional and administrative services of CDOT employees or agents and CDOT facilities in connection with its authorized activities.

3.2 HPTE will reimburse CDOT, at CDOT's regularly burdened rates, for any administrative services or facilities provided by CDOT, its employees or agents. To the extent reimbursement is not immediately forthcoming and the funds expended by the Transportation Commission derived from the state highway fund, pursuant to FASTER (section 43-4-806(d)(4), C.R.S.) the value of such services or facilities shall, notwithstanding any state fiscal rule or generally accepted accounting principle that



could be interpreted to require a contrary conclusion, constitute a loan from the Transportation Commission to HPTE.

3.3 Specific services CDOT will provide to the HPTE include but are not limited to accounting and budget support. CDOT's Chief Financial Officer will act as the Chief Financial Officer for HPTE and ensure, among other things necessary for its ongoing budgetary and accounting needs, that HPTE's annual budget, budget supplements, ongoing accounting, and annual audited financial statements are prepared timely and correctly in accordance FASTER and this Memorandum of Understanding. The CFO will ensure that accountants and budget analysts within the Division of Accounting and Finance assigned to support the HPTE will develop the specialized policies, procedures, and expertise required to meet the needs of HPTE.

## **Article Four**

### **Procurement**

4.1 The State Procurement Code is not applicable to HPTE and in order to facilitate its pursuit of public-private partnerships and other innovative and efficient means of financing surface transportation infrastructure projects, the HPTE Board has adopted a set of Project Proposal Guidelines (as modified, the "Guidelines") which the Board has determined to be consistent with best practice principles of transparency, competition and fair-dealing. The Guidelines are attached as Attachment B and are confirmed in their current form by the parties.

4.2 The parties agree that the HPTE will coordinate its procurement processes with the OMPD, the CDOT procurement office and other CDOT entities that support the processes of contracting and procuring for goods and services. CDOT procurement, and other internal entities that are components of a procurement process, will support the preparation of contracts and the encumbrance of funds for the HPTE whether or not the state procurement code is followed or not by the HPTE so long as they meet the HPTE Board's Guidelines and the state's fiscal rules.

4.3 The parties agree that if either of the following will occur, HPTE will use the modified procurement process set forth in section 4.14 of Attachment B.

(a) HPTE is to be reimbursed by CDOT for personal services or goods procured by HPTE, or

(b) CDOT will utilize personal services or goods procured by HPTE for CDOT projects.

4.4 The parties agree that HPTE will utilize CDOT processes and procedures for the procurement by it of any professional services.

4.5 The parties agree the procurement for outside legal services will be done by HPTE in coordination with the Attorney General's office.

## **Article Five**

### **Budget Coordination**

5.1 HPTE will prepare an annual budget and other budgeting documents in the format and by the deadlines set by the CDOT budget office each year. Additional required reports may include, but are not limited to, the long range plan and annual travel plan. HPTE and the OMPD agree to coordinate the development of the budgets to assure consistency and completeness. This coordination does not limit the HPTE Board's authority during the fiscal year to adjust its budget as it deems necessary so long as those actions do not exceed annually available revenues, nor does it limit the Board's authority to delegate budget authority to the Director.

5.2 The HPTE annual budget may contain a request for a CDOT loan to fund staff positions and other program costs.

5.3 Pursuant to the statutory requirements of FASTER and except as the terms of any relevant project-specific agreements may otherwise require, HPTE shall use available revenues to repay CDOT loans at the discretion of the Board. Furthermore, at the discretion of the Board and based on the HPTE annual budget, excess revenue derived from project-related operations may be retained by the HPTE in the statewide transportation enterprise operating fund or the transportation special fund, pursuant to 43-4-806(4), after fulfillment of all appropriate obligations, for HPTE priorities and for the sustained operations of the HPTE.

## **Article Six**

### **CDOT Policies and Procedures**

6.1 The parties agree that only the CDOT Policy and Procedural Directives listed on Attachment C shall apply to HPTE; except as they may be superseded by the

terms of this Memorandum of Understanding. The Board will pass a Resolution adopting the Policy and Procedural Directives listed on Attachment C

6.2 Future Policy and Procedural Directives adopted by the Transportation Commission shall not apply to HPTE unless the HPTE Board adopts them by Resolution.

## **Article Seven**

### **Termination**

7.1 This Memorandum of Understanding may be terminated at any time by mutual agreement of the parties.

## **Article Eight**

### **Amendments**

8.1 Amendments to this Memorandum of Understanding must be in writing and must be duly authorized and approved by the Transportation Commission and the Board.

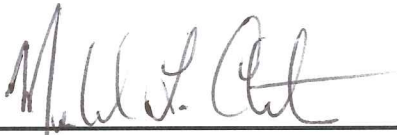
**SIGNATURE PAGE**

Effective this 30th day of September, 2013.



---

**Don Hunt, Executive Director, Colorado Department of Transportation**



---

**Michael Cheroutes, Director, High Performance Transportation Enterprise**

**Attachment A**

**Office of Major Project Development (OMPD)/High Performance Transportation Enterprise (HPTE)**

**Resources and Responsibilities for Basic Functions**

The following table assigns the source of resources and responsibilities for the fulfillment of the basic functions for the OMPD and HPTE for the coordinated implementation of the HPTE P3 and Innovative Finance Program. The HPTE and the OMPD will work collaboratively to accomplish the mutual and joint goals of CDOT and the HPTE, in compliance with the statutory authority of the HPTE, as follows:

| Program/<br>Project<br>Phase                 | Description  | Responsibilities and Resources<br>(HPTE Eligible Projects Only) |                 |
|--|--|---|-----------------|
|  |  | OMPD*   | HPTE            |
| Overall Program                              | <u>Management and Oversight:</u> Provide communications, overall administration and reporting of P3 Program  | Support   | Lead            |
|  | • Establish policies   | Support   | Lead            |
|  | • Provide strategic master planning  | Lead  | Support         |
|  | • Conduct program communications and marketing   | Lead  | Support         |
|  | • Establish procedural guidelines and procedures   | Lead  | Support         |
|  | • Conduct program-level budget planning and reporting  | Lead<br>(Commission)  | Lead<br>(Board) |
| Program Planning                             | <u>Management and Oversight:</u> Conduct initial feasibility, conceptual design, financial plan, initial environmental planning, delivery plan, ID and select projects, prioritization | Lead  | Support         |
|  | • Identify and prioritize potential projects   | Lead  | Support         |
|  | • Determine initial feasibility of potential projects  | Lead  | Support         |
|  | • Prepare conceptual project definition/scope/design   | Lead  | Support         |
|  | • Conduct Phase I T&R Study (revenue projections)  | Support   | Lead            |
|  | • Prepare conceptual cost estimates and scheduling   | Lead  | Support         |
|  | • Conduct environmental review (pre-NEPA)  | Lead  | Support         |
|  | • Prepare value-for-money analysis   | Support   | Lead            |
|  | • Prepare initial financing plan   | Support   | Lead            |
|  | • Engage industry (program info, initial interest)   | Support   | Lead            |
|  | • Conduct public engagement  | Lead  | Support         |
|  | • Conduct stakeholder engagement (local TR agencies)   | Lead  | Support         |
|  | • Provide FHWA coordination and approvals  | Lead  | Support         |
| • Make P3 decision and prepare delivery plan | Support  | Lead  |                 |
| Project Development                          | <u>Management and Oversight:</u> Conduct final feasibility, financing plan, NEPA, and preliminary engineering  | Lead  | Support         |
|  | • Provide overall project management   | Lead  | Support         |
|  | • Determine final feasibility of project   | Lead  | Support         |

|  |   |                 |                 |
|--|---|-----------------|-----------------|
|  | <ul style="list-style-type: none"> <li>• Prepare preliminary project design</li> </ul>                        | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Conduct Phase II T&amp;R Study (revenue projections)</li> </ul>      | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Prepare preliminary cost estimates and scheduling</li> </ul>         | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Provide environmental clearance/approval (NEPA)</li> </ul>           | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Prepare value-for-money analysis</li> </ul>                          | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Prepare final financing plan</li> </ul>                              | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Engage industry (project information, RFI)</li> </ul>                | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Conduct public engagement (project specific)</li> </ul>              | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Conduct stakeholder engagement (local TR agencies)</li> </ul>        | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Provide FHWA coordination and approvals</li> </ul>                   | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Develop project communications plan</li> </ul>                       | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Develop project management plan</li> </ul>                           | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Make P3 procurement decision and define delivery plan</li> </ul>     | Support         | Lead            |
| Project Procurement  | <u>Management and Oversight: Procure the project</u>  | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Provide overall project management</li> </ul>                        | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Prepare solicitation documents (RFI, RFP, others)</li> </ul>         | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Prepare contract documents</li> </ul>                                | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Prepare investment-grade T&amp;R (revenue projections)</li> </ul>    | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Prepare final financial documents and requirements</li> </ul>        | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Prepare value engineering and technical requirements</li> </ul>      | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• ATC reviews</li> </ul>   | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Coordinate procurement with industry bidders</li> </ul>              | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Review proposals and conduct evaluations</li> </ul>                  | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Conduct public engagement (project specific)</li> </ul>              | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Conduct stakeholder engagement (local TR agencies)</li> </ul>        | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Provide FHWA coordination and approvals</li> </ul>                   | Lead            | Support         |
| <ul style="list-style-type: none"> <li>• Select winning bidder and negotiate contract</li> </ul> | Support   | Lead            |                 |
| Construction   | <u>Management and Oversight: Construct the project</u>  | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Provide contract management and administration</li> </ul>            | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Provide change management</li> </ul>                                 | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Provide budget management</li> </ul>                                 | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Provide financial reviews</li> </ul>                                 | Support         | Lead            |
|  | <ul style="list-style-type: none"> <li>• Conduct design reviews</li> </ul>                                    | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Construction oversight and quality audits</li> </ul>                 | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Conduct final project acceptance</li> </ul>                          | Lead            | Support         |
| O&M  | <u>Management and Oversight: Operating the Project</u>  |                 |                 |
|  | <ul style="list-style-type: none"> <li>• Manage concession and related contracts (incl. reporting)</li> </ul> | Lead            | Support         |
|  | <ul style="list-style-type: none"> <li>• Toll collection</li> <li>• Maintenance</li> </ul>                    | Support<br>Lead | Lead<br>Support |

## Attachment B

### COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE PROJECT PROPOSAL GUIDELINES (THE "GUIDELINES")

#### 1. INTRODUCTION

- 1.1 These Guidelines are intended to provide a project identification and evaluation process to be utilized by the Colorado High Performance Transportation Enterprise (the "Enterprise") in connection with its pursuit of public-private partnerships and other innovative and efficient means of completing surface transportation infrastructure projects in accordance with the provisions of Section 43-4-806, Colorado Revised Statutes, as amended. The Enterprise recognizes that each project will have its unique characteristics and goals and that tailored approaches to assessing and implementing projects will be required for the Enterprise's program to be successful. The Enterprise intends to retain the flexibility to modify or deviate from these Guidelines as it sees fit and in the interest of the State and the public.
- 1.2 These Guidelines may be revised from time to time and such revisions will be promptly posted on the Enterprise's website. Those performing work or otherwise relying on these Guidelines assume all risks related to any revisions. The Enterprise will not be liable for any damages sustained by anyone based on a modification or failure to modify the Guidelines. In addition, the Enterprise, at its sole discretion, may waive or deviate from some or all of these Guidelines where it deems such waiver(s) or deviation to be in the best interest of the State. In no event shall any such waiver or deviation result in any liability for the Enterprise, the State or any other party.

#### 2. INTERPRETATION

- 2.1 Definitions. The following definitions are provided to assist in understanding of the Guidelines and may be modified in any Solicitation Documents or Agreements issued by the Enterprise:

"Agreement" means a binding document or series of documents between the Enterprise (or the Enterprise and CDOT) and a Person that outline the basis on which to plan, finance, design, engineer, construct, install, acquire, operate and maintain (or any combination of these activities) an Eligible Project.

"Bidder" means a Person or Consortium who seeks to enter into an Agreement in response to Solicitation Documents.

"CDOT" means, the Colorado Department of Transportation created in Section 24-1-128.7, Colorado Revised Statutes, as amended.

|                          |  |
|--------------------------|--|
| “Consortium”             | means two or more Persons acting together for the purpose of seeking to enter into an Agreement.   |
| "Eligible Project"       | means any surface transportation infrastructure project as defined in Section 43-4-803(23), Colorado Revised Statutes, as amended.   |
| "Person"                 | means any individual, sole proprietorship, corporation, partnership, unincorporated association or public entity and includes successors and permitted transferees and their assigns.  |
| “Project Participant”    | means any Person or Consortium who or which enters into an Agreement.  |
| “Solicitation Documents” | means procurement documents, including but not limited to requests for information, requests for proposals, requests for qualifications and statements of qualifications, initiated by the Enterprise in connection with an Eligible Project.  |
| “Solicited Proposal”     | means a procurement initiated and issued by the Enterprise in connection with an Eligible Project either (i) through a determination by the Enterprise that, based on its findings and evaluations, a procurement for such Eligible Project is in the best interest of the State or (ii) through a determination by the Enterprise that, based on an Unsolicited Proposal, a procurement is in the best interest of the State. |
| “State”                  | means the State of Colorado.   |
| “Unsolicited Proposal”   | means a submittal by a potential Project Participant with respect to an Eligible Project which has not been initiated by the Enterprise.   |

## 2.2 In these Guidelines

- (a) the singular includes the plural and vice versa;
- (b) the headings are inserted for convenience only and shall not affect interpretation of the Guidelines;
- (c) when there are references with general words followed by a list to make it clear that those general words "include" the matters set out in that list, then the contents of the list shall be taken not to limit the generality of those general words; and
- (d) in accordance with these Guidelines the Enterprise is free to exercise its discretion in such matters as it considers necessary or expedient in the light of all circumstances prevailing at the time which the Enterprise considers to be relevant.



3. **UNSOLICITED PROPOSALS**

- 3.1 The Enterprise may consider and evaluate an Unsolicited Proposal, or decline to do so, in accordance with the provisions of this Section 3. The Enterprise may, in its sole discretion, decline to consider and evaluate an Unsolicited Proposal, in which case it shall so notify the Person or Consortium submitting that Unsolicited Proposal. If the Enterprise makes a determination to consider and evaluate an Unsolicited Proposal, then, upon completion of its evaluation in accordance with the provisions of this Section 3, it shall proceed as provided in Paragraph 3.5 hereof.
- 3.2 In determining whether to consider and evaluate an Unsolicited Proposal, the Enterprise shall have regard to all or any facts and matters which the Enterprise considers to be relevant, including:
- (a) the resources available to the Enterprise, both from its own staff and from any necessary or desirable consultants and external resources, to enable it to conduct the evaluation;
  - (b) the extent to which the Unsolicited Proposal appears to offer benefits to the State by fulfilling requirements related to an Eligible Project identified by the Enterprise or CDOT as a priority;
  - (c) the extent to which the Unsolicited Proposal presents a financing plan that efficiently includes Enterprise/CDOT funding and/or maximizes project revenues to present a viable funding proposal;
  - (d) the extent to which the Unsolicited Proposal may significantly shorten a timetable for satisfying a known requirement in any plan set out by CDOT or the Enterprise; and
  - (e) the extent to which the Enterprise or CDOT is already developing its own plans for meeting the requirement which the Unsolicited Proposal is seeking to address.
- 3.3 Except as otherwise determined by the Enterprise, the Enterprise will only consider an Unsolicited Proposal if the Enterprise is given a royalty-free license in any and all intellectual property rights comprised in the Unsolicited Proposal to the full extent necessary to enable the Enterprise to accept the proposal (with or without amendments) for the purpose of seeking competitive proposals as contemplated in Subparagraph 3.5(a) hereof. The Person or Consortium making an Unsolicited Proposal may identify appropriate material contained therein as proprietary or confidential; however, the Enterprise may disclose proprietary or confidential material contained in the Unsolicited Proposal to CDOT personnel, the Transportation Commission or the Enterprise Board of Directors. At the time of submission to the Enterprise the Proposer must also include an executive summary covering the major elements of the Unsolicited Proposal that do not address the Proposer's price, financing plan or other confidential or proprietary information or trade secrets that the Proposer intends to be exempt from disclosure. The Executive Summary will be a public document and will be posted on the Enterprise's website. The executive summary will also be used in connection with seeking competitive proposals as contemplated in Subparagraph 3.5(a) hereof. In the event the Enterprise determines that it is unable to effectively solicit competitive proposals due to the scope of the material in the Unsolicited Proposal that has been designated as proprietary or confidential, the Enterprise may either (i) negotiate with the Person or

Consortium submitting the Unsolicited Proposal to allow the use of so much of such proprietary or confidential information as the Enterprise determines is required for use in connection with seeking competitive proposals or (ii) determine not to proceed further with the Unsolicited Proposal.

- 3.4 The Enterprise will only accept submission of an Unsolicited Proposal if, at the time the Unsolicited Proposal is submitted, the Person or Consortium making the Unsolicited Proposal pays to the Enterprise an initial fee of \$1,000. Such initial fee shall be nonrefundable, whether or not the Enterprise chooses to consider and evaluate the Unsolicited Proposal. If the Enterprise decides to proceed to consider and evaluate an Unsolicited Proposal, then it may make it a condition of proceeding that the Person or Consortium making the Unsolicited Proposal agrees to pay an amount to be determined by the Enterprise to cover the actual costs incurred by the Enterprise in considering and evaluating the Unsolicited Proposal. The Person or Consortium making the Unsolicited Proposal may withdraw such Unsolicited Proposal if it is unwilling to pay such actual costs. In the event that, following a solicitation based upon an Unsolicited Proposal, an award is made for the Eligible Project described in the Unsolicited Proposal to a Bidder other than the Person or Consortium making the Unsolicited Proposal, the Enterprise will require that the successful Bidder pay the Enterprise an amount sufficient for the Enterprise to reimburse the Person or Consortium making the Unsolicited Proposal for amounts paid by such Person or Consortium to the Enterprise for the actual costs incurred by the Enterprise to consider and evaluate the Unsolicited Proposal.
- 3.5 On completion of the evaluation of an Unsolicited Proposal, the Enterprise may:
- (a) seek proposals for the Eligible Project described in the Unsolicited Proposal either (i) in accordance with the procedures set forth in Section 4 hereof, subject to such amendments to the Unsolicited Proposal as the Enterprise may consider appropriate, or (ii) in accordance with such alternative procedures as the Enterprise may determine are appropriate under the relevant circumstances and will encourage competition, provide transparency and ensure nondiscriminatory treatment of potential bidders, subject, however, in either case to exceptions of the type described in Paragraph 4.8 hereof; or
  - (b) notify the proposer(s) that the Enterprise will not proceed any further with the Unsolicited Proposal, and provide a general description of the reasons for that decision.

#### 4. **SOLICITED PROPOSALS**

- 4.1 The Enterprise may solicit proposals in connection with an Eligible Project when it determines either that, based on its findings and evaluations, a procurement for such Eligible Project is in the best interest of the State or that, based on an Unsolicited Proposal, a procurement for such Eligible Project is in the best interest of the State.
- 4.2 In connection with any Solicited Proposal, the Enterprise will issue such Solicitation Documents as it determines may be appropriate under the circumstances. The Solicitation Documents may include such terms and requirements as are determined by the Enterprise to be appropriate and may request submission of such information, including financial and

technical information, as the Enterprise determines to be necessary or useful in evaluating any proposal and the viability of the relevant Eligible Project.

- 4.3 The Enterprise may provide in the Solicitation Documents that the solicitation will take place in successive stages, in order to reduce the number of proposals to be negotiated at each stage, by applying criteria as set forth in the Solicitation Documents.
- 4.4 Prior to issuing any Solicitation Documents, the Enterprise may request expressions of interest in relation to an Eligible Project and take such other preliminary steps as it may deem appropriate to engage with potential Bidders, including but not limited to, conducting meetings with industry participants in order to inform the industry of the opportunity and to hear industry suggestions which may, in the Enterprise's sole discretion, be incorporated into the Solicitation Documents.
- 4.5 For the purpose of encouraging competition, providing transparency and ensuring the nondiscriminatory treatment of potential Bidders, the Enterprise shall, except in certain circumstances as set forth in Paragraph 4.8, provide public notices in connection with its solicitations by such means and in such forms as shall be appropriate under the circumstances, including the publication of the applicable Solicitation Documents. Such public notices may precede or be accompanied by the applicable Solicitation Documents and may include an estimated timetable relating to the solicitation process if available.
- 4.6 The Enterprise may consider requests for further information relating to the Solicitation Documents as may be reasonably requested by a Bidder, and, if the Enterprise determines it appropriate under the circumstances to provide such further information, it will supply such information to all Bidders, provided that the request for such information is received in sufficient time to enable the Enterprise to supply it.
- 4.7 If the Bidder consists of or includes a Consortium, the Bidder may rely on the capacities of the members of the Consortium in responding to and complying with the requirements set forth in the Solicitation Documents regardless of whether or not the members of the Consortium have entered into a legal relationship for purposes of submitting a proposal. If the Enterprise awards an Agreement to a Consortium, it may, if the Enterprise deems it to be necessary or expedient for the satisfactory performance of the Agreement, require the Consortium to form a legal entity before entering into, or as a term of, the Agreement.
- 4.8 The Enterprise may elect not to provide a public notice in connection with the solicitation of work or services relating to an Eligible Project in certain circumstances, including the following:
  - (a) when, for technical, artistic or design reasons, or for reasons connected with the protection of exclusive rights, an Agreement may be awarded only to a particular Bidder;
  - (b) when for reasons of extreme urgency brought about by events unforeseeable by the Enterprise there is insufficient time to provide for the step of issuing a public notice;

- (c) when the Enterprise wants a Project Participant which has entered into an Agreement with the Enterprise to carry out additional work or to provide additional services
    - (i) which were not included in the project initially considered or in the original Agreement but which through unforeseen circumstances have become necessary; and
    - (ii) which cannot for technical or economic reasons be carried out or provided separately from those under the original Agreement without major inconvenience to the Enterprise; and
  - (d) when the Enterprise wants a Project Participant which has entered into an Agreement with the Enterprise to carry out new work or to provide new services which are a repetition of the work or services provided under the original Agreement and which are in accordance with the project for the purpose of which the first Agreement was entered into.
- 4.9 All material submitted by Bidders in response to Solicitation Documents will be the property of the Enterprise. As may be further provided in the Solicitation Documents, any material submitted by Bidders and requested to be treated as proprietary or confidential will be identified and treated in accordance with the relevant procedures set forth in the Solicitation Documents. After a final determination is made by the Enterprise in connection with a Solicited Proposal, all material submitted by Bidders, except material treated as proprietary or confidential in accordance with the Solicitation Documents, will become public record and open to inspection.
- 4.10 The evaluation of Solicited Proposals shall be made by a committee selected by the Director of the Enterprise to evaluate the merits of all responses received in connection with Solicited Proposals. The specific evaluation criteria to be utilized by the committee and any weighting of such criteria will be specified in the Solicitation Documents. Failure of a Bidder to provide in its proposal any information requested by the Solicitation Documents may result in disqualification of the proposal. During the evaluation process, meetings may be scheduled with Bidders, either individually or as a group, to the extent the committee determines that additional information or clarification is needed that would assist in the evaluation process. The recommendations of the committee will be forwarded to the Director of the Enterprise for final approval by the Board or, if the authority is delegated, by the Director.
- 4.11 The Enterprise reserves the right to reject any and all proposals received in response to Solicitation Documents or to cancel the Solicited Proposal process if it is in the best interest of the Enterprise or the State to do so. The Enterprise may reject any proposal received in response to Solicitation Documents if the Bidder, any member of a Consortium acting as a Bidder or any Person who has powers of representation, decision or control of the Bidder or any member of a Consortium acting as the Bidder is ineligible to contract with the State, CDOT or the Enterprise under applicable provisions of federal or state law or under any rules or regulations applicable to the State, CDOT or the Enterprise.
- 4.12 The Enterprise will not be liable for any costs incurred by Bidders prior to the execution of the relevant Agreement or other contract. All costs to prepare and submit responses to Solicitation Documents shall be borne solely by the Bidders. Nothing in Paragraph 4.12 will

prevent the Enterprise, in its sole discretion, from offering stipends and/or cancellation payments to Bidders on such terms as may be determined by the Enterprise.

- 4.13 The award in connection with a Solicited Proposal will be made to the Bidder whose proposal is determined to be the most advantageous to the State and the Enterprise, and shall be subject to negotiation and execution of an acceptable Agreement.
- 4.14 At the Enterprise's discretion, it may solicit a proposal that complies with the Colorado Procurement Code (CRS § 24-103-101, et al.). If the Enterprise determines that a solicitation will comply with the procurement code, the following shall occur to the extent that they have not already occurred following HPTE's process for Solicited Proposals outlined above:
- (a) Prior to a solicitation being advertised, a representative of the Enterprise shall meet with CDOT's Purchasing Director to discuss the solicitation and process, to discuss all written determinations that must be made under the Procurement Code and the development of the official file;
  - (b) CDOT's Purchasing Director may determine "competitive sealed proposals" is the most advantageous and practical procurement method for HPTE solicited proposals, and if this determination is made, Colorado Procurement Rule R-24-103-203 shall be followed;
  - (c) the Solicited Proposal will be advertised for a minimum of thirty (30) days unless CDOT's Purchasing Director determines a shorter time is warranted;
  - (d) If CDOT's Purchasing Director, pursuant to Colorado Procurement Rule R-24-102-202.5-.2, determines that the Colorado Bid Information and Distribution System (BID) is not likely to yield adequate competition, the Solicited Proposal will be advertised on the Enterprise's website and not on BIDS;
  - (e) the Solicited Proposal shall state the evaluation factors;
  - (f) If a Solicited Proposals warrants it, a shortlist will be created and individuals or firms will be given a minimum of seven business days to prepare for an interview;

The award shall be made to the responsible offer or whose Solicited Proposal is determined in writing to be the most advantageous to the Enterprise, taking into consideration the price and the evaluation factors set forth in the Solicited Proposal. No other factors or criteria shall be used in the evaluation.

## Attachment C

### CDOT Policy and Procedural Directives Applicable to HPTE

| Short Name | Title  |
|------------|--|
| 0001-0     | Policy & Procedural Directives   |
| 0001-1     | Procedure for Creating & Updating & Procedural Directives & PD Flow                                      |
| 0002-0     | CDOT Values  |
| 0004-0     | Audit Division   |
| 0004-1     | Audit Division Responsibilities  |
| 0004-2     | Audit Recommendation Tracking Report   |
| 0004-3     | Coordination for Outside Audits and Studies  |
| 0006-0     | Vehicle Fuels Control Policy Directive   |
| 0006-1     | Vehicle Fuels Control Procedural Directive   |
| 0008-0     | Residence and Telephone Requirements   |
| 0009-0     | Equipment Management   |
| 0009-1     | Commute Vehicles   |
| 0009-2     | PD Utilization and Replacement of Road Equipment   |
| 0010-0     | Workplace Violence   |
| 0010-1     | Workplace Violence Procedural Directive  |
| 0012-0     | Workplace Accommodation for Nursing Mothers Policy Directive   |
| 0012-1     | Workplace Accommodation for Nursing Mothers Procedural Directive   |
| 0014-0     | CDOT Vision, Mission, Investment Category Goals and Objectives   |
| 0015-1     | Employee Wellness Program  |
| 0016-0     | Regional Transportation Director Authority for Administrative Settlement of Construction Contract Claims |
| 0018.1     | Notification of Division Authority When Out of State or on Vacation                                      |
| 0019-1     | Service of Legal Action  |
| 0020-0     | Rule Making Policy Directive   |
| 0020-1     | Rule Making Procedural Directive   |
| 0022-1     | Mail and Messenger Service   |
| 0024-1     | Publication Approval & State Publications Law Compliance   |
| 0025-2     | Reimbursement of Cost Incurred Responding to Open Records  |
| 0026-0     | Electronic Messaging Policy  |
| 0027-0     | Internet Policy  |
| 0027-1     | Social Marketing Use of Web 2.0 & Similar Applications   |
| 0028-1     | Employee Identification Card   |
| 0029-1     | Guidelines for Submitting Resolutions to the Transportation Commission                                   |
| 0031-1     | Website Development  |
| 0032-1     | Internal Web Page Development  |
| 0041-1     | Disbursement of Motor Pool Vehicles  |
| 0042-1     | Contact with Private Attorneys or their Agents   |

|         |   |
|---------|---|
| 0043-1  | Administration of Special Bridge Account  |
| 0044-1  | Tort Lawsuits Against the Division of Highways  |
| 0046-1  | Mobile Device Procedure   |
| 0051-1  | Records Management  |
| 0051-2  | Public Inspection of Department Records   |
| 0051-3  | Confidential Records  |
| 0060-1  | Property Funds - Maintenance and Operations Budget  |
| 0080-0  | Occupational Health and Safety  |
| 0080-1  | Personal Protective Equipment Use   |
| 0080-2  | Reporting of Unsafe or Unhealthy Working Conditions   |
| 0080-3  | Accident Review Board   |
| 0080-5  | Voluntary medical Monitoring Program for Identified Positions                                     |
| 0080-6  | Vehicle Backing   |
| 0080-7  | Electrical Safety in the Workplace  |
| 0080-8  | Lockout / Tagout/ Tryout - Controlling Hazardous Energy   |
| 0080-9  | Confined Spaces Entry   |
| 0080-10 | Respiratory Protection Program  |
| 0080-11 | State Vehicle Operations and Wireless Mobile Devices  |
| 0081-1  | Drug & Alcohol Policy   |
| 0081-1  | CDOT Substance Abuse, Controlled Substance and Alcohol Testing for Safety-Sensitive Positions     |
| 0081-1  | CDOT Substance Abuse, Controlled Substance and Alcohol Testing for Non Safety-Sensitive Positions |
| 0081-2  | Employee Disclosure of Alcohol Misuse or Controlled Substances Use Program                        |
| 0081-3  | Risk & Insurance Management   |
| 0089-0  | Accident Reporting and Claim Handling   |
| 0089-1  | Worker's Compensation   |
| 0089-2  | Modified Duty   |
| 0206-1  | Reporting and Investigating Cash Shortages or Thefts  |
| 0206-2  | Maintenance Section Recovery of Cost for Highway Damage Repairs                                   |
| 0206-3  | Securities in Lieu of Retainage   |
| 0207-0  | Travel Policy   |
| 0207-1  | In State Travel   |
| 0207-2  | Out of State Travel   |
| 0302-0  | PO Anti-Trust Monitoring and Detection Program  |
| 0302-1  | PD Anti-Trust Monitoring and Detection Program  |
| 0306-1  | Flagger Training & Certification Program  |
| 0315-0  | Contract Time and Contract Time Extensions  |
| 0357-2  | Revocation of Pre-qualifications and/ or Debarment for Bid-related Offenses                       |
| 0384-0  | Subletting a Contract   |
| 0387-0  | Construction by Public Agencies   |
| 0390-0  | Accommodation if Utilities within State Highway System ROW  |
| 0400-1  | Obtaining and Modifying Professional Consultant Services  |

|        |  |
|--------|--|
| 0500-1 | Plans, Specifications, and Estimates (PS - E) to advance Federal-Aid Projects to Advertisement and Award in a                                      |
| 0500-0 | PO Development of Federal Aid Projects under the CDOT Federal -Aid Highway Program Stewardship Agreement   |
| 0501-0 | Drainage Design and Cooperative Storm Drainage System  |
| 0501-1 | Drainage Design  |
| 0501-2 | Cooperative Storm Drainage System  |
| 0503-0 | Landscaping with Native Plant Material   |
| 0507-0 | ADA Accessibility for CDOT Projects  |
| 0507-1 | Standards for Rest Areas & Pedestrian Underpasses & Overpasses   |
| 0508-1 | Release Memo PD's Engineer's Stamp   |
| 0600-0 | Equal Employment Opportunity and Non-Discrimination Policy   |
| 0600-1 | Equal Employment Opportunity and Non-Discrimination Policy   |
| 0600-2 | Placement of Employees with Disabilities   |
| 0600-6 | Internal Discrimination Complaint Procedures   |
| 0602-0 | Diversity Policy   |
| 0603-0 | Sexual Harassment  |
| 0604-0 | Non-Discrimination Federally Funded Program Policy   |
| 0605-0 | PO Release Memo Comprehensive Accessibility for Persons with Disabilities<br>Release Memo PD ADA Accessibility Requirements in CDOT Transportation |
| 0605-1 | Projects   |
| 0611-0 | Disadvantaged Business Enterprise Program<br>Review Procedures for A-95 Notices of Intent/ Applications from Outside                               |
| 0700-1 | Agencies   |
| 0701-0 | Access Control Policy  |
| 0707-3 | Resource Allocation  |
| 0715-1 | Financial Monitoring of Projects   |
| 0717-1 | Fiscal Notes New   |
| 0720-0 | Colorado State Infrastructure Bank (SIB)   |
| 0720-1 | Colorado State Infrastructure Bank (SIB)   |
| 0800-0 | State Highway Safety Agency  |
| 0800-1 | State Highway Safety Agency  |
| 0803-0 | Naming Highways, Bridges or Other Components of the Highways   |
| 0805-0 | Work Safety and Mobility Policy  |
| 0805-1 | Work Zone Safety and Mobility  |
| 0902-0 | Shoulder Policy  |
| 1000-0 | Maintenance Work Requiring State Highway Commission Action   |
| 1001-1 | Handling of Hazardous Materials and Hazardous Waste  |
| 1003-0 | Maintenance Incentive Pilot Program  |
| 1004-0 | Rock fall Management Policy  |
| 1005-0 | Removal and Disposal of Wildlife Carcasses from State Highway & ROW  |
| 1005-1 | Removal and Disposal of Wildlife Carcasses from State Highway & ROW  |
| 1006-0 | Adopt-A-Highway Program  |



|        |  |
|--------|--|
| 1006-1 | Adopt-A-Highway Program  |
| 1006-2 | Adopt-A-Highway Program Signing  |
| 1050-0 | Division of Authority over State Highways within Cities, Cities & Counties, and Incorporated Towns |
| 1050-1 | Contracts with local Agencies for Maintenance of State Highways                                    |
| 1055-0 | Snow Removal on State Highways   |
| 1055-2 | Priorities and Level of Service for Snow and Ice Control   |
| 1200-0 | General Personnel Administration   |
| 1200-1 | Limitation on State Spending for Meals, Gifts, and Official Functions                              |
| 1200-2 | Outside Employment and Outside Business Interest   |
| 1200-3 | Procedure or Administration of Furlough  |
| 1204-1 | Leave Sharing  |
| 1204-2 | General Leave  |
| 1205-1 | Employee Organization Access   |
| 1206-1 | PD Family Medical Leave Program  |
| 1207-0 | Employee Innovations Policy New  |
| 1207-1 | PD CDOT Cost Savings IDEA Incentive Program  |
| 1221-1 | Interviewer Guidelines   |
| 1222-0 | Driving Record and License Requirements  |
| 1222-1 | Driving Record and License Requirements  |
| 1226-1 | Employee Orientation   |
| 1230-0 | Hours of Work and Overtime Compensation  |
| 1230-1 | Flextime Agreements  |
| 1230-2 | Compensation for Overtime, on-call, call-back, shift differential, and compensatory time           |
| 1230-4 | Flex place   |
| 1240-1 | Inclement Weather  |
| 1260-0 | Organizational Learning Policy   |
| 1260-1 | CDOT University College Deans  |
| 1262-1 | Education and Professional Development Reimbursement Program                                       |
| 1265-1 | Service Awards   |
| 1280-1 | Transfer Policies and Procedures   |
| 1291-1 | Retirement Plaques   |
| 1300-0 | Disposition of Excess Land   |
| 1300-1 | Property Inventory & Review  |
| 1300-2 | Disposal of Excess Property  |
| 1303-0 |  |
| 1303-1 | Annexation of Department Property  |
| 1307-0 | Property Leases  |
| 1400-0 | Surface Treatment Program  |
| 1401-0 | Product Evaluation and Experimental Features   |
| 1401-1 | Product Evaluation and Experimental Features   |
| 1500-0 | Guide Sign Policy  |

|        |  |
|--------|--|
| 1501-0 | Roadside Memorial Signing  |
| 1501-1 | Roadside Memorial Signing  |
| 1503-0 | Naming Highways, Bridges, or Components of Highway<br>Procedure of Implementing Commission Resolutions Regarding the Naming of |
| 1503-1 | Highways, Bridges, or Components of the Highway System   |
| 1505-1 | Traffic Safety in Highway and Street Work Zones  |
| 1510-1 | Promptly Reopening Roadway to traffic  |
| 1511-0 | DUI/DUID Fatal Crash Signage   |
| 1511-1 | DUI/DUID Fatal Crash Signage   |
| 1600-2 | Research and Development Project Proposal Selection and Control Process  |
| 1601-0 | Interchange Approval Process   |
| 1601-1 | Interchange Approval Process   |
| 1602-0 | Bike & Pedestrian  |
| 1602-1 | Bike & Pedestrian  |
| 1603-0 | Managed Lanes Policy   |
| 1604-0 | Public Notification  |
| 1606-0 | Maintaining Linear Reference System  |
| 1606-1 | Maintaining Linear Reference System  |
| 1607-0 | Rail Corridor Preservation Policy  |
| 1612-0 | State Highway Relocation Policy  |
| 1800-1 | Reproduction Work Orders and Charging to Using Organization  |
| 1900-0 | Sound wall Policy  |
| 1900-1 | Implementation of Sound wall Policy  |
| 1901-0 | CDOT Policy on Air Quality   |
| 1902-0 | CDOT Environmental Compliance (Water Quality)  |
| 1903-0 | Hazardous Materials Routing Procedure  |
| 1903-1 | Hazardous Materials Routing Procedure  |

# Attachment B

# **High Performance Transportation Enterprise's Public-Private Partnership Public Outreach Plan**

*Current as of June 3, 2015*

## **DEFINING THE OPPORTUNITY**

Improving our roadways is critical to meeting the transportation needs of Colorado, one of the top five fastest growing states in the country. 80 percent of the state's population growth from approximately 5.4 million in 2015 to 7.8 million by 2040 is expected to occur in urban areas, according to the State Demographer's Office<sup>1</sup>.

Explosive population growth will further stress our overly congested highways, which will cause deterioration of travel time, road quality, safety, our economy and the environment.

As transportation needs increase, access to government funding for transportation is decreasing just as rapidly. Gas taxes don't keep up with inflation, increasingly energy efficient cars and trucks reduce fuel demand, and diminished and uncertain federal government funding are all challenges we must face together. Colorado must find other ways to increase capacity and finance repairs to keep up with growth, which is the mission of the High Performance Transportation Enterprise (HPTE).

In 2009, HPTE was formed by the Colorado State Legislature to serve as an independent enterprise to aggressively pursue innovative ways of more efficiently financing important transportation projects. The HPTE searches out innovative ways to finance projects to help Colorado fulfill its commitment to increase travel choices through options that include express lanes, transit, biking, walking and carpooling. CDOT's Transportation Commission decides the projects for HPTE to evaluate and ultimately determines which projects move forward.

Such innovative means of financing projects include, but are not limited to, public-private partnerships, which is an umbrella term for a variety of financing models including operating concession agreements, user fee-based project financing, availability payment and design-build contracting.

### **Public-Private Partnerships**

A public-private partnership (P3) is an agreement where a government-owned facility (surface transportation infrastructure, in the case of HPTE and CDOT) that is funded and operated through a partnership of government and one or more private sector companies.

P3s are just one of many financing tools the HPTE evaluates to help fund important transportation projects. A few benefits of P3s are faster construction, larger scope, more innovation and less risk for taxpayers. In most cases, the private entity delivering on a project assumes substantial financial, technical and operational risk. In return, the private entity is allowed to collect revenues for a fixed period of time to compensate them for their investment and risks they assume. The private entity invests over the whole life of the project, including all infrastructure upgrades needed and with long-term, performance-based requirements to meet before receiving payments.

### **Situation Analysis and the Opportunity**

---

<sup>1</sup> <http://www.colorado.gov/cs/Satellite/DOLA-Main/CBON/1251590805419>

As with any change, the innovation driving HPTE's work to identify and secure new surface transportation infrastructure financing tools has been met by some in the public with suspicion and resistance. Early in 2013, HPTE's public involvement and transparency was called into question by stakeholders with regard to the concessionaire agreement that was scheduled to close on the US 36 Express Lanes Project with Plenary Roads Denver.

Based on that feedback, as well as a subsequent HPTE Board Resolution and Executive Order signed by Governor John Hickenlooper, this plan is designed to establish an integrated, coordinated, consistent flow of information about P3s in general and the HPTE specifically.

## **PLANNING AND PROGRAMMING**

### **Program Goals**

- To meet all transparency requirements set by Gov. John Hickenlooper's Executive Order D 2014-010 and HPTE Board's Transparency Policy, and to respond to issues and concerns raised by the audit conducted by HPTE and released in early 2015
- To produce a desired future state whereby increased communication enables broad understanding among key stakeholders and members of the general public of HPTE's mission, its policies and procedures, and how the Enterprise is improving mobility in the state.

### **Objectives**

Pending resource allocation, our objectives are:

1. To identify and provide information to key stakeholders of 1.) HPTE's charter/mission and, 2.) *WHY* we are investigating various transportation funding mechanisms under the broad umbrella term "Public-private Partnerships" or P3s by June 30, 2016.
2. To include information about the HPTE's best practices and national leadership in alternative transportation funding in all key stakeholder communications.
3. To provide consistent quarterly and milestone-based HPTE updates to identified elected officials (local, municipal elected officials, including county commissioners and members of the General Assembly).
4. To create at least four new and distinct methods by which members of the public can submit comments and/or questions (i.e., comment form, email contact, project hot lines, social media, etc.) about HPTE/P3s/I-70 East, etc., by December 31, 2015.
5. To secure monthly articles (on average) in Front Range major media outlets (TV, Radio, Print, or through partner communication channels (community newsletters, transportation organization [P3 Alliance] email blasts, etc.).
6. To deliver monthly (on average) presentations to members of civic organizations along the Front Range to communicate HPTE updates and key messages.

## Strategies

| Strategy  | Toward Objective |   |   |   |   |   |
|---|------------------|---|---|---|---|---|
|   | 1                | 2 | 3 | 4 | 5 | 6 |
| A. Using a variety of communication tools, establish an integrated, coordinated, consistent, two-way flow of information about the HPTE and methods being explored to fund surface transportation in the state. | ✓                | ✓ | ✓ | ✓ | ✓ | ✓ |
| B. Ensure multiple ways for stakeholders to insert feedback into the system for HPTE's use in evaluating specific corridors/projects, gauge public questions/sentiment towards P3s, etc.                        |                  |   |   | ✓ |   |   |
| C. Establish and/or foster mutually beneficial relationships with external groups and individuals to help communicate key information.  | ✓                | ✓ |   |   | ✓ | ✓ |
| D. Further utilize HPTE Director as among the most trusted and respected in the field regarding financing methods and public-private partnerships for surface transportation/infrastructure projects.           |                  | ✓ | ✓ |   |   | ✓ |

## Target Publics and Corresponding Objectives

| Target Publics  | Toward Objective |   |   |   |   |   |
|---|------------------|---|---|---|---|---|
|   | 1                | 2 | 3 | 4 | 5 | 6 |
| <b>Internal (CDOT/HPTE, in close coordination with CDOT PR Office)</b>                                |                  |   |   |   |   |   |
| - Commissioners   | ✓                | ✓ | ✓ |   | ✓ |   |
| - Employees   | ✓                | ✓ | ✓ |   | ✓ |   |
| - Executive Director, OMPD, Region 1  |                  | ✓ | ✓ |   | ✓ |   |
| - Government Relations (Herman Stockinger, Andy Karsian, Angie Drumm/her successor and Rebecca White) |                  | ✓ | ✓ |   | ✓ |   |
| - HPTE Board Members  |                  |   | ✓ |   | ✓ |   |
|   |                  |   |   |   |   |   |

|   |          |          |          |          |          |          |
|---|----------|----------|----------|----------|----------|----------|
| <b>External - Transportation Community (in close coordination with CDOT PR Office)</b>  |          |          |          |          |          |          |
| - 36 Commuting Solutions (TMO)  | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Colorado Contractors Association (CCA)  | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Colorado Motor Carriers Association (CMCA)  | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Transportation Management Organizations (TMOs)  | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Move Colorado (Engineering / Construction Industry Group)   | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Transit Alliance / Citizen's Academy  | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Regional Transportation District (RTD) / RTD Board  | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Ports-to-Plains Alliance  | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Denver Regional Council of Governments (DRCOG) Vanpool Participants   | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Denver Metro Chamber of Commerce - Infrastructure Committee   | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Denver Metro Chamber of Commerce - P3 Alliance  | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Metro Mayor's Caucus/MPACT 64   | ✓        | ✓        |          | ✓        | ✓        | ✓        |
| - Others - See Stakeholder List   | ✓        | ✓        |          | ✓        | ✓        | ✓        |
|   |          |          |          |          |          |          |
| <b>Target Publics</b>   | <b>1</b> | <b>2</b> | <b>3</b> | <b>4</b> | <b>5</b> | <b>6</b> |
| <b>External - Governmental Entities / Entities Serving Government / Elected Officials / Think Tanks (in close coordination with CDOT Government Relations Office)</b> |          |          |          |          |          |          |
| - General Assembly  |          |          |          |          |          |          |
| - Elected Officials (local, city, county and municipal and state) - See Stakeholder List  | ✓        | ✓        | ✓        |          | ✓        |          |
| - Public Information Officers (PIOs) - See Stakeholder List   | ✓        | ✓        |          | ✓        |          |          |

|  |   |   |   |   |   |   |
|--|---|---|---|---|---|---|
| - Key departmental staff from cities of Aurora, Boulder and Denver<br>- See Stakeholder List | ✓ | ✓ |   |   |   |   |
| - Colorado Counties, Inc.  | ✓ | ✓ | ✓ |   |   | ✓ |
| - Mayors and Commissioners Coalition (MCC)   | ✓ | ✓ | ✓ |   |   | ✓ |
| - Colorado Municipal League (CML)  | ✓ | ✓ | ✓ |   |   | ✓ |
| - Denver Regional Council of Governments (DRCOG)   | ✓ | ✓ | ✓ |   |   | ✓ |
| - Independence Institute   | ✓ | ✓ |   | ✓ | ✓ |   |
| - Colorado Fiscal Institute  | ✓ | ✓ |   | ✓ | ✓ |   |
| - Bell Policy Group  | ✓ | ✓ |   | ✓ | ✓ |   |
| - Colorado Public Interest Research Group (COPIRG) -<br>Opponents?                           | ✓ | ✓ |   | ✓ | ✓ |   |
| - Colorado Competitive Council (C3)  | ✓ | ✓ |   | ✓ | ✓ | ✓ |
| - Others - See Stakeholder List  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
|  |   |   |   |   |   |   |
| <b>External - Community Organizations</b>  |   |   |   |   |   |   |
| - Lions/Kiwanis/Rotary/etc. - See Stakeholder List   | ✓ | ✓ |   | ✓ | ✓ | ✓ |
| - Realtor Groups/Associations - See Stakeholder List   | ✓ | ✓ |   | ✓ | ✓ | ✓ |
| - Chambers of Commerce - See Stakeholder List  | ✓ | ✓ |   | ✓ | ✓ | ✓ |
| - Bankers/Financial Institution Groups/Associations - See<br>Stakeholder List                | ✓ | ✓ |   | ✓ | ✓ | ✓ |
| - Others - See Stakeholder List  | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
|  |   |   |   |   |   |   |



| Target Publics   | 1 | 2 | 3 | 4 | 5 | 6 |
|--|---|---|---|---|---|---|
| <b>External – General Public via Media (Traditional and Social; in close coordination with CDOT PR Office)</b> |   |   |   |   |   |   |
| - Print/Broadcast Media along Front Range - See Stakeholder List   |   | ✓ |   | ✓ | ✓ |   |
| - Vertical Media - nationwide - See Stakeholder List   |   | ✓ |   | ✓ | ✓ |   |
| - Online Media - influential nationwide in P3 space - See Stakeholder List                                     |   | ✓ |   | ✓ | ✓ |   |
| - Twitterverse - influential nationwide in P3 space - See Stakeholder List                                     |   | ✓ |   | ✓ | ✓ |   |

## IMPLEMENTATION

### Action Plan: Proposed Tactics

Tool/Tactic: Rebranding of HPTE.

Objectives: 1 (HPTE mission/purpose/P3s), 2 (HPTE reputation), 3 (transparency)

Audience: Media/General Public, Transportation Community, Government Entities/Entities Serving Government/Elected Officials/Think Tanks, Community Organizations

Rationale: Rebranding HPTE in simple, understandable language is necessary to communicate what the organization does and how it benefits the state of Colorado and the average person.

Frequency: Once. Brand should be launched prior to any further significant outreach efforts.

Tool/Tactic: Conduct informal research to determine current stakeholder understanding and opinion of HPTE.

Objectives: 1 (HPTE mission/purpose/P3s), 2 (HPTE reputation), 3 (transparency)

Audience: Transportation Community, Government Entities/Entities Serving Government/Elected Officials/Think Tanks, Community Organizations

Rationale: Determining the current level of understanding and opinion among key stakeholders will help shape relevant messaging and information.

Frequency: Pending resources.

Tool/Tactic: Draft and publish content/articles for CDOT Intranet and/or *InMotion* Magazine (CDOT's internal publication)

Objectives: 1 (HPTE mission/purpose/P3s), 2 (HPTE reputation)

Audience: CDOT Internal

Rationale: It is important to keep internal stakeholders and decision-makers well informed about the issues HPTE is addressing, as well as HPTE's activities and success stories. Using existing tools (as opposed to starting our own internal newsletter) is an efficient use of time and resources.

Frequency: Monthly or quarterly. For more details, see PROGRAM IMPLEMENTATION PLANS SECTION: INTERNAL COMMUNICATIONS; PAGE 12.

Tool/Tactic: Foster relationships with strong external supporters of transportation to help spread our messages in the community

Objectives: 1 (HPTE mission/purpose/P3s), 2 (HPTE reputation)

Audience(s): P3 Alliance, Transportation Community, Government Entities/Entities Serving Government/Elected Officials/Think Tanks, Community Organizations, and Media

Rationale: Encouraging those who rely on an efficient transportation system that offers travel choices and options to help educate key stakeholders and the general public about the need and value of alternative transportation financing to Colorado’s continued success.

Frequency: Ongoing. For more details, see PROGRAM IMPLEMENTATION PLANS SECTION: DEVELOPING A “KEY COMMUNICATORS” NETWORK; PAGE 25.

Tool/Tactic: Develop and implement traditional and social media outreach

Objectives: 1 (HPTE mission/purpose/P3s), 2 (HPTE reputation), 3 (transparency), 4 (feedback channels)

Audience(s): All

Rationale: Traditional and social media outreach will increase transparency and connection with key stakeholders and the public. Social media, specifically, will help HPTE engage with one of the strongest supporters of alternative transportation solutions - 18-34-year-olds. -- the highest users of social media.

Frequency: . For more details, see PROGRAM IMPLEMENTATION PLANS SECTION: HPTE Media Outreach Plan; PAGE 18.

Tool/Tactic: Refresh HPTE Website (EO, SA)

Objectives: 1 (HPTE mission/purpose/P3s), 2 (HPTE reputation), 3 (transparency), 4 (feedback channels)

Audience(s): All

Rationale: The current HPTE website is good; we need to make it great. As the primary resource/clearing house of all things HPTE/P3-related, the site must be comprehensive, easy to understand and clearly communicate our primary messages. As a communication tool that will reach 100 percent of our audiences, it also will be key in achieving 66 percent of our objectives. The site must be coordinated with the CDOT Express Lanes page to provide up to date information on all present and future Express Lane corridors.

Frequency: Initial up-front intense effort, followed by updates as needed. For more details, see PROGRAM IMPLEMENTATION PLANS SECTION: WEBSITE/SOCIAL MEDIA/DISCUSSION BOARDS; PAGE 23.

Tool/Tactic: Host public open houses (EO, TP)

Objectives: 1 (HPTE mission/purpose/P3s), 2 (HPTE reputation), 3 (transparency), 4 (increased feedback channels), 5 (secure media coverage)

Audience(s): General Public, Transportation Community, Government Entities, Elected Officials, Media

Rationale: Complies with Gov. John Hickenlooper’s Executive Order D 2014-010 and HPTE Board’s Transparency Policy. Creates a two-way dialogue between HPTE and stakeholders; particularly those who live/work within close proximity of a corridor under study.

Frequency: At key points in the process. For more details, see PROGRAM IMPLEMENTATION PLANS SECTION: PUBLIC OPEN HOUSES; PAGES 13-16.

Tool/Tactic: Elected Officials Outreach (EO, TP, SA)

Objectives: 1 (HPTE mission/purpose/P3s), 2 (HPTE reputation), 3 (transparency), 4 (increased feedback channels)

Audience(s): General Assembly, Local Elected Officials

Rationale: Complies with Gov. John Hickenlooper's Executive Order D 2014-010 and HTPE Board's Transparency Policy. Increases transparency between HPTE and policy makers.

Frequency: Quarterly updates and at key points in the process. For more details, see PROGRAM IMPLEMENTATION PLANS SECTION: PUBLIC OPEN HOUSES; PAGES 13-16.

Tool/Tactic: Speaking Engagements/Presentations

Objectives: 1 (HPTE mission/purpose/P3s), 2 (HPTE reputation), 3 (transparency), 4 (increased feedback channels), 6 (public presentations)

Audience(s): General Public, Transportation Community, Government Entities, Elected Officials, Media

Rationale: Maintains an ongoing two-way dialogue between HPTE, stakeholders and the general public.

Frequency: Monthly and at key points in specific funding processes. For more details, see PROGRAM IMPLEMENTATION PLANS SECTION: PUBLIC OPEN HOUSES; PAGES 13-16.

## **EVALUATION**

### **Feedback and Program Adjustment**

Feedback on this transparency plan received from stakeholders, internal and external audiences, etc., will be collected and evaluated on an ongoing basis.

This transparency plan shall be reviewed regularly to ensure the effort is on schedule and minor changes can be incorporated along the way.

## KEY MESSAGES

Compiled from Statistically Significant Primary Research Conducted by 360 Strategies Group, Fall 2014

|   |
|---|
| <b>Quality of Life</b>  |
| <ul style="list-style-type: none"><li>- P3s often get projects started sooner, built faster and completed earlier with more system features, which makes for major benefits to you, your friends and neighbors who depend on reliable travel times in those corridors every day - all without raising taxes.<ul style="list-style-type: none"><li>- (Insert, based on tool and audience, data comparing future [no action] travel times with those expected with P3).</li></ul></li></ul> |
| <ul style="list-style-type: none"><li>- An approach with private investment helps us accelerate improvements and get you moving faster years sooner than we could afford to do otherwise.</li></ul>   |
| <ul style="list-style-type: none"><li>- CDOT will never eliminate a General Purpose Lane, and these lanes will <i>always</i> be toll-free.</li></ul>  |
| <ul style="list-style-type: none"><li>- CDOT sometimes adds Express Lanes, which increase capacity and reduce congestion in every lane, including general purpose lanes.</li></ul>  |
| <ul style="list-style-type: none"><li>- Express Lanes reduce congestion and travel times and offer you the choice of how to best get from point A to point B.</li></ul>   |
| <ul style="list-style-type: none"><li>- P3s allow flexibility so Colorado can support continued economic growth and quality of life, while allowing the state to be the best stewards of taxpayer dollars in an uncertain future funding environment.</li></ul>   |
| <b>Accelerating Critical Projects</b>   |
| <ul style="list-style-type: none"><li>- P3s are key to helping us meet long-overdue needs, and often get key projects started earlier, built faster, and completed sooner with more system features.</li></ul>  |
| <ul style="list-style-type: none"><li>- Fast tracking critical projects gives you more travel choices more quickly, so you can choose the best way for you and your family to reliably get from point A to point B.</li></ul>   |
| <b>Case-by-case Basis</b>   |
| <ul style="list-style-type: none"><li>- P3s are targeted solutions applied only in key corridors, which CDOT analyzes on a case-by-case basis.</li></ul>  |
| <ul style="list-style-type: none"><li>- P3s are not a solution in every corridor. But, in some cases, P3s are the best solution.</li></ul>  |
| <b>Predictability (reducing or transferring risk)</b>   |
| <ul style="list-style-type: none"><li>- P3s benefit taxpayers because they come with guarantees on quality, long-term maintenance and associated costs - things we can depend on. Plus, the state always owns the road and remains in control, which gives taxpayers confidence and assurances.</li></ul>   |
| <ul style="list-style-type: none"><li>- We know exactly what we're going to get with the project - and what the construction costs are going to be.</li></ul>   |
| <ul style="list-style-type: none"><li>- We have clear, specific requirements on long-term maintenance and operations.</li></ul>   |
| <ul style="list-style-type: none"><li>- We know the partner is responsible for highest quality design and construction—and they are incentivized to build a high-quality project when they are responsible for managing, operating and improving the roadway for many years to come.</li></ul>  |
| <ul style="list-style-type: none"><li>- We have guarantees on reliable travel times in the Express Lanes built into the agreement.</li></ul>  |

## Program Implementation Plans (PIP) Table of Contents

|  |        |
|--|--------|
| <b>PIP 1: Internal Communications</b>                  | Pg. 12 |
| <b>PIP 2a: Public Open Houses (I-70 East Specific)</b> | Pg. 13 |
| <b>PIP 2b: Public Open Houses (Future P3)</b>          | Pg. 15 |
| <b>PIP 3: Speaking Engagements/Presentations</b>       | Pg. 17 |
| <b>PIP 4: Media Outreach Plan</b>                      | Pg. 18 |
| <b>PIP 5: Website/Social Media/Discussion Boards</b>   | Pg. 23 |
| <b>PIP 6: Developing a “Key Communicators” Network</b> | Pg. 25 |
| <b>PIP 7: Tolling Rates Outreach</b>                   | Pg. 26 |
| <b>PIP 8: Construction PI Specs</b>                    | Pg. 28 |
| <b>PIP 9: State Policy Requirements Checklist</b>      | Pg. 31 |

## **Program Implementation Plan (PIP) 1: Internal Communications**

### **Overview**

It is important to keep internal stakeholders and decision-makers well informed about the issues HPTE is addressing, as well as HPTE's activities and success stories. Strategies and tactics described below will help create informed advocates and ambassadors of CDOT internal stakeholders.

### **CDOT Intranet**

#### Approach

1. Set introductory meeting with the CDOT Intranet Webmaster, Tara Galvez
2. Set regular calendar for updating information on the CDOT Intranet
3. Provide information with reasonable lead time to allow information to be posted
4. Double-check information

#### Timeline

*Monthly* - A good time to update may be after HPTE Board meetings (which are typically the 3rd Wednesday of each month), after Transportation Commission meetings where HPTE business is discussed.

*As-needed* - We will continually monitor opportunities to use these channels to increase information sharing with this audience, which will likely often correspond to actions surrounding key deadlines in the I-70 East public process, any legislative on a state or federal level that may impact HPTE, newsworthy items that allow for greater understanding of P3s, etc.

### ***InMotion***

#### Approach

1. Set introductory meeting with the *InMotion* Editor, Dennis VanPatter
2. Set calendar for updating information
3. Provide information at or before Editor's deadline
4. Double-check information

#### Timeline

Quarterly or as-needed

## **Program Implementation Plan 2a: Corridor-specific Public Outreach - I-70 East**

### **Overview**

HPTE is committed to delivering robust public outreach on all current and future projects, including I-70 East. We understand that it is our responsibility to provide stakeholders with accurate, timely information so they can provide feedback for our use in the process.

### **Sub Goals**

Our goal for I-70 East public outreach is consistent with our overall Strategic Communications and Transparency Plan goal, which is:

- To meet all transparency requirements set by Gov. John Hickenlooper's Executive Order D 2014-010 (EO) and HPTE Board's Transparency Policy (TP), and to respond to issues and concerns raised by the HPTE US 36 Project audit (SA) and released in March 2015.
- To produce a desired future state whereby increased communication enables broad understanding of HPTE's mission, its policies, procedures, and how the Enterprise is improving mobility in the state among key stakeholders and members of the general public.

Using the guidance provided in the HPTE Transparency Outreach Communications Plan, our corridor-specific I-70 East public outreach has the goal of soliciting as much public comment and feedback as is possible, so we are able to insert that feedback into the process and inform the HPTE Board.

### **Target Publics**

Stakeholders are likely to include, but not necessarily be limited to:

- Corridor users (commuters, taxis, commercial vehicles/motor carriers, Bus/shuttles, recreational, cyclists, pedestrians, ExpressToll account holders w/in corridor, etc.)
- Members of the faith community
- Elected officials (local, city, county and municipal and state – General Assembly)
- Impacted local governments (cities and counties) and associated PIOs
- Media (print, radio, tv, web, online and social)
- Businesses, business organizations
- Tourism
- Internal CDOT and partner agency teams
- Partner agencies
- HPTE Board
- Residents
- Homeowners' Associations
- Property management companies
- Transportation Management Organization(s)
- Transportation Industry Organizations / HPTE Key Communicators



## **Key Messages May Include**

- Include broad HPTE Key Messaging, where appropriate (See Page X)
- Include I-70 East Project Key Messaging (TBD)

## **Strategies May Include**

- Work with the media to bring attention to the corridor and publicize opportunities for the public to gain information/provide comment
- Employ all relevant communication channels available to reach key HPTE stakeholders (broadly) and corridor-specific stakeholders (in particular)
- Work with Key Communicators to help spread messaging in the community and at public meetings

## **HPTE Engagement Process – Key Outreach Elements**

### **1. Visioning Stage - Complete**

- Telephone Town Hall – June 25, 2014; Town Hall – July 8, 2014

### **2. Pre-RFQ Stage – Complete**

- Telephone Town Hall – October 16, 2014; Town Hall – November 5, 2014

### **3. Pre-RFP & Selection**

#### *Key Outreach Elements*

- Pre-Draft RFP – Telephone Town Hall and Community Open House – October 2015

### **4. Pre-Close Stage – 2016 TBD**

#### *Key Outreach Elements*

- Contract Summary Review and Project Overview – Telephone Town Hall and Community Open House – TBD

## **HPTE Engagement Process – Supporting Communication Efforts**

The following tactics will be considered and implemented as appropriate to support the key outreach elements outlined above:

- Provide reports and presentations, as requested, to the General Assembly, for example, the TLRC Committee Meeting, SMART Committee Meetings, Audit Reporting (EO, SA)
- Develop and produce set of tools (FAQs, door hangers, post cards, posters, etc.) for use in communicating key messages - distribute through project and local community communication channels
- Paid advertising in neighborhood news publication(s)
- Develop HPTE outreach content for I-70 East project telephone hot line or coordinate similar feedback mechanism with respective CDOT Project Team
- Develop and distribute news releases to help publicize public meetings, TTHs, key study milestones, etc.
- Provide consistent information updates and materials to Key Communicators
- Produce and update HPTE content for I-70 East Project website. Link to HPTE page (EO, TP)
- Develop and launch corridor study timeline graphic element on website
- Seek monthly presentation opportunities to community and civic organizations (Lion's Clubs, Rotary, Realtors Groups, etc.) in project area

## **Program Implementation Plan 2b: Corridor-specific Public Outreach (Future Projects/Non-I-70 East Specific)**

### **Overview**

HPTE is committed to delivering robust public outreach on all current and future projects. We understand that it is our responsibility to provide stakeholders with accurate, timely information so they can provide feedback for our use in the process.

### **Sub Goals**

Our goal for corridor-specific public outreach is consistent with our overall Strategic Communications and Transparency Plan goal, which is:

- To meet all transparency requirements set by Gov. John Hickenlooper's Executive Order D 2014-010 and HPTPE Board's Transparency Policy, and to respond to issues and concerns raised by the audit conducted by HPTE and released in early-2015, and
- To produce a desired future state whereby increased communication enables broad understanding of HPTE's mission, its policies, procedures and how the Enterprise is improving mobility in the state among key stakeholders and members of the general public.

Using the guidance provided in the HPTE Transparency Outreach Communications Plan, our corridor-specific public outreach has the goal of soliciting as much public comment and feedback as is possible, so we are able to insert that feedback into the process and inform the HPTE Board.

### **Target Publics**

Stakeholders are likely to include, but not necessarily be limited to:

- Corridor users (commuters, taxis, commercial vehicles/motor carriers, Bus/shuttles, recreational, cyclists, pedestrians, Express Toll users w/in corridor under study, etc.)
- Members of the faith community
- Elected officials (local, city, county and municipal and state)
- Impacted local governments and associated PIOs
- Media (print, radio, tv, web)
- Businesses, business organizations
- Tourism
- Internal CDOT and partner agency teams
- Partner agencies
- HPTE Board
- Residents
- Homeowners' Associations
- Property management companies
- Transportation Management Organization(s)
- Transportation Industry Organizations / HPTE Key Communicators

### **Key Messages May Include**

- Include broad HPTE Key Messaging, where appropriate (See Page X)
- Include corridor-specific Key Messaging (TBD)

### **Strategies May Include**

- Work with the media to bring attention to the corridor under evaluation/study, publicize opportunities for the public to gain information / provide comment
- Employ all relevant communication channels available to reach key HPTE stakeholders (broadly) and corridor-specific stakeholders (in particular)
- Work with stakeholders to develop an informed group of ambassadors / Key Communicators to help share news and information

### **HPTE Engagement Process – Key Outreach Elements**

#### **1. Visioning Stage**

- Public Open House and/or Telephone Town Hall Event

*Intent:* Discuss role of HPTE, types of P3s (in general), Review Value for Money Report, Request input on *if* project should be a P3

#### **2. Pre-RFQ Stage**

- Public Open House and/or Telephone Town Hall Event

*Intent:* Discuss what type of partner should be selected for the project

#### **3. Pre-RFP & Selection**

- Public Open House and/or Telephone Town Hall Event

*Intent:* Provide update, review elements of Request for Proposals and possible partners

#### **4. Pre-Close Stage**

- Proposed Agreement Review Public Open House and/or Telephone Town Hall

*Intent:* Present summary of project agreement contract elements, including discussion of protections for the state, and public performance standards

### **HPTE Engagement Process – Supporting Communication Efforts**

The following tactics will be considered and implemented as appropriate to support the key outreach elements outlined above:

- Provide reports and presentations, as requested, to the General Assembly, for example, the TLRC Committee Meeting, SMART Committee Meetings, Audit Reporting (EO, SA)
- Develop and produce set of tools (FAQs, door hangers, post cards, posters, etc.) for use in communicating key messages - distribute through project and local community communication channels
- Paid advertising in neighborhood news publication(s)
- Develop HPTE outreach content for project telephone hot line or coordinate similar feedback mechanism with respective CDOT Project Team

- Develop and distribute news releases to help publicize public meetings, TTHs, key study milestones, etc.
- Develop public meeting materials such as presentations, handouts, boards
- Provide consistent information updates and materials to Key Communicators
- Produce and update HPTE content for I-70 East Project website. Link to HPTE page. (EO, TP)
- Develop and launch corridor study timeline graphic element on website
- Seek monthly presentation opportunities to community and civic organizations (Lion's Clubs, Rotary, Realtors Groups, etc.) in project area

### **Public Outreach Evaluation Considerations**

- Conduct regular (monthly) analysis of media coverage to track clip count and use of HPTE key messages.
- Conduct regular (bi-monthly) count of public comments received.
- Track and catalogue comments made by elected officials representing districts inside the corridor under study.
- Track and catalogue how external ambassadors/Key Communicators participated, for example, participating in a public meeting or TTH, Op-ed, speaking opportunity.
- Maintain adequate records of all outreach efforts, including lists of attendees at meetings, agenda, if formal meeting minutes are taken to be included, copies of handouts or presentations and follow-up action items consistent with public relations best practices for public engagement during environmental reviews. (SA)

### **Program Implementation Plan (PIP) 3: Speaking Engagements/Presentations**

#### **Overview**

Proactive, consistent communication to professional and civic organizations is a cost-effective way to increase transparency and understanding of the HPTE's mission and ongoing efforts to address Colorado's infrastructure needs. Reaching out and educating groups that are actively involved in enhancing Colorado's economy and quality of life is critical to the success of HPTE's work.

#### Approach

Staff will identify opportunities to address professional and civic organizations on a regular basis, beginning with an average minimum of one presentation per month.

#### Timeline

Outreach to begin in June 2015 and continue.

## **Program Implementation Plan (PIP) 4: HPTE Media Relations Plan**

### **Overall:**

Since its inception in 2009, the High-Performance Transportation Enterprise (HPTE) has been tasked to aggressively pursue innovative means of more efficiently financing important surface transportation and infrastructure alternatives. Faced with transportation budget shortfalls that it knew would put drivers at risk on deteriorating roads and bridges, CDOT became an early adapter and leader in change and innovation. Not always easy to understand or to be accepted by the public, CDOT knew that innovative transportation financing was needed to meet the needs of an exploding population in Colorado. This media relations plan lays out strategies that position Colorado's HPTE as a national leader in Public-Private Partnerships (P3s) and other innovative transportation financing.

### **Goal:**

To help build support and credibility in both the transportation and finance fields, as well as among key stakeholders in Colorado for the HPTE and its successful projects. Positive stories about Colorado's HPTE office and its work creating successful P3s, written by trusted media sources, can help build public and political support for this critical work.

### **Action and Communication Tactics:**

#### Tier 1 – National Trade/Local Media Outreach

- Policy
- Transportation
- Financial/P3 publications
- Targeted statewide newspapers, magazines, TV and radio

Why: By focusing first on the media that key stakeholders read, and trade publications where they may get additional information about an issue – local newspapers/radio/TV, policy-related publications, national transportation publications, financial trades – we can reach them through trusted news sources. This list will also include bloggers.

#### 2015/16 Outreach Timing:

For local outreach, we will use timeframes where attention will be on HPTE and Express Lanes projects that are about to open or when key projects are being awarded. There will be heightened discussion in the media already about these projects that are alternatively financed or P3s, so it will be a good time to pitch a financing-focused story. Key milestones over the next 12 months include *\*Note timing of events may change:*

- US 36 Express Lanes Phase I Opening – July 2015
- I-70 East P3 Release of Draft RFP/Public Presentations – October 2015
- I-70 Mountain Corridor Express Lane (Eastbound, Empire to Idaho Springs only) – Fall 2015/November 2015
- I-25 North (from current end to 120th Ave) – February 2016
- US 36 Express Lanes Phase II Opening – January 2016
- I-70 East Record of Decision and Award to P3 Concessionaire Team – TBD 2016

In addition to leveraging the timing around Colorado’s transportation infrastructure milestones and successes, we will research the editorial calendars of financial and government publications to determine if there is an editorial theme or story already planned that HPTE can tie into around each of the milestones.

Most of the pitches can be refocused for other media targets, and we will research national and industry data that drives home the overall message that privately financed transportation--and other government infrastructure projects – are the only way our Colorado DOT will continue to lead the nation in innovation, safety and efficiency.

#### Proposed Trade Publications and Local Media (See expanded list)

- Local Media: A sampling of local media, to include DBJ, BizWest, local dailies, local talk radio, CPR
- Transportation: In Transit, ENR, Better Roads Magazine, Design-Build plus all of the pre-developed trade list
- Financial/P3: P3 Bulletin, Financial Advisor, Investor, Infra Insight blog, Equities, Investment Advisor, others TBD

#### Tier 2 – National Media Outreach

- National business and consumer print/broadcast media

Why: Stories in national media are credibility-building, and this issue is building momentum in mainstream national media. These stories can be used to leverage local media stories and be used to reach key stakeholders directly and indirectly.

Approach: We will tie into stories being pitched around each milestone locally and in the trades and determine those best suited for a national outlet. We will target stories that highlight Colorado’s success in upgrading its roadways more quickly and more efficiently using innovative financing.

Timing:

- Pitch national media in between local focused stories.

Potential Publications:

- Print: New York Times, Fast Company, Wall Street Journal, Barron’s, The Hill, Huffington Post, Forbes
- Broadcast: CNN, FOX, Today Show, Nightline
- Financial: Bloomberg, Reuters

#### National News Events/Governor Events, Speeches, Visits – Additional Opportunistic Pitches

In addition to pitching around specific milestones and to trades and national media, we will scan current events, national news and events and visits around Governor Hickenlooper and leverage P3/alternative financing stories using those events as our hooks.

Suggested Pitch Calendar:

| DATE  | MILESTONE   | PITCHES  | MEDIA  |
|---|---|--|--|
| All Months  | <p>Editorial Calendar Pitches Around Each Milestone</p> <p>Ongoing research of current events/governor-related news</p> | <p>We will proactively review editorial calendar stories upcoming for all the trade categories and pitch them in advance.</p> <p>Pitch alternative financing/P3 related stories around national news, visits and speeches by Governor Hickenlooper.</p>  | <p>Local, Financial, Transportation, P3, Finance, National</p> |
| <p>Quarterly: June, Sept., Dec. – transportation July 2015, Oct., Jan. 2016 - financial</p> | <p>Quarterly bylines by HPTE Director</p>   | <p>Using successful “5 top tips” or “10 best practices” story strategies, pitch bylined articles to trade magazines quarterly.</p>   | <p>Financial, Transportation, P3, Finance</p>                  |
| <p>June 2015</p>  | <p>Pre-US 36 Express Lanes Phase I Opening</p>  | <p>5 things about the new US36 Express Lanes that could not have happened without a P3 partnership</p> <p>Highlights Plenary’s role once the Express Lanes open</p> <p>Financial focused story about where all the transportation money went and how US36 is just one example of new era in transportation financial</p>           | <p>Greater Denver/Boulder Media</p> <p>CPR</p>                 |
| <p>July 2015</p>  | <p>US 36 Express Lanes Phase I Opening</p>  | <p>Story and infographic around grand opening events that highlights the shortened timeline versus what it would have been without a P3 partnership</p> <p>How the P3 financing helped add features to the road—bikeway</p> <p>Write a P3 story for all neighborhood Your Hub that highlights biggest misconceptions about P3s</p> | <p>Greater Denver/Boulder Media</p>                            |
|   | <p>Post-US 36 Express Lanes Phase I Opening</p>   | <p>How Denver’s first major highway expansion was realized faster, more efficiently using a P3,</p>  | <p>Financial, Transportation</p>                               |

|                   |   |  |  |
|-------------------|---|--|--|
| August 2015       |   | <p>highlighting additional features, safety and lessons learned for other DOTs</p> <p>Trend story to financial trades on this growing investment opportunity and how HPTE is proactively financing projects with private dollars</p>   | n, P3, Finance   |
| September 2015    | I-70 East P3 Release of Draft RFP/Public Presentations                      | <p>Review of the VFM, what it meant for this road and the three models that were considered</p> <p>Highlight specific innovations and improvements now in place because of P3 financing – e.g., DDI</p>  | Greater Denver Media   |
| October 2015      | 70 Mountain Corridor Express Lane (Eastbound, Empire to Idaho Springs only) | <p>Trend story for Oct. on Denver’s expected growth and how its FASTER funding and P3 partnerships have made major improvements to the key roadways that run through Denver to DIA and the mountain corridor, highlighting how the engineering marvel of I70 continues</p> <p>Recap the project both I70E and I70W featuring the financial partnerships as the reason the Express Lanes are able to open well before (or for) ski season and additional features attributable</p> <p>An I70-specific project pitch that highlights Twin Tunnels Peak Period Shoulder, and eastbound Express Lanes around decreased travel times, project delivery and safety</p> | <p>National</p> <p>Greater Denver/Mountain Media</p> <p>Financial, Transportation, P3, Finance</p> |
| November/December | 2015 Project Recap  | Recap P3 projects from 2015, successes, lessons learned, best practices  | <p>Local, Financial, Transportation, P3, Finance</p> <p>National</p>                               |
| February 2016     | I-25 North (from current end to 120th Ave)                                  | Story and infographic around grand opening events that highlights the shortened timeline versus what it would have been without a P3 partnership   | Greater Denver/Boulder Media   |
| February 2016     | US 36 Express Lanes Phase II Opening  | Highlight smooth operations and response to issues from Plenary around the first phase operations  | Greater Denver/Boulder Media   |



|             |  |   |   |
|-------------|--|---|---|
| January/TBD | I-70 East Record of Decision and Award to P3 Concessionaire Team | <p>Transportation project updates for 2016, what consumers can expect this year for projects and financing</p> <p>Trend of where P3s and alternative financing for infrastructure are going next; what are local governments financing through the private sector – highlight CO’s technology boom, innovation and the future of technology growth through innovative financing</p> | <p>Greater Denver/Boulder Media</p> <p>Trade/National</p> |
|-------------|--|---|---|

Social Media

Being careful to not over post, or even mention “P3s,” we will develop 3-5 social media posts each month that tie the financing of projects into key benefits to drivers around the use of P3s.

We recommend posting general benefits post on CDOT’s site, but also creating social media posts that can be used by businesses, local government, biking groups and other supportive groups when each milestone hits.

Here are a few examples:

- 70s and sunny tomorrow. Great day for a drive. Thanks to an on time finish, no construction means smooth sailing on US36.
- The first phase of US36 Express Lanes open today, exactly XX months in the making. In the old days that would have taken XX more years!
- As of tomorrow, you might notice lighter traffic on US36, thanks to the new Express Lanes to carry some of the traffic.
- Don’t want to spend money on the new Express Lanes? You’ll get all the benefits of one less person on the road if that other guy does.

## **Program Implementation Plan (PIP) 5: Website Refresh/Social Media/Discussion Boards**

### **Overview**

With broadband becoming more and more ubiquitous and the digital divide shrinking, digital communication channels have become as important as more traditional channels. This plan describes the process by which HPTE will ensure these channels are used for clear, two-way communication between the Enterprise and our stakeholders.

### **Website Refresh**

#### Approach

The HPTE website is hosted and managed by Tara Galvez in the CDOT PR Office. Like all CDOT websites, the HPTE site must conform to specific brand and style standards. Tara has indicated that there are many ways we can adjust the look and feel of the HPTE website to improve its ability to communicate key information while still remaining in line with the standards.

The first step was to conduct an analysis of the current site. Some initial findings / recommendations are:

- A listing of HPTE Board Members appears in the right-hand column of nearly every page. We should consider eliminating that column to allow the content in the center column to expand / not be so skinny on the page.
- While the current site - using a left-hand column navigation panel - does well in providing an extreme (and necessary) level of detail for those willing to search for it, where the current site's organization struggles is answering common questions from the public first. To that end, we might consider organizing information differently with an eye towards showing HPTE's three core pillars up-front. These pillars are:
  - Why HPTE exists
  - What HPTE does
  - How HPTE does it
- Clearly provide a structure for easy access to information required by the Executive Order (EO) and the State Audit (SA), including:
  - Project priority list that lists the projects that the HPTE is considering for a P3 approach. This should be updated quarterly. (SA)
  - Project development documents, including associated Project Value Analyses and decision-making processes, summaries of essential terms of P3 agreements in language and graphics that are easily understandable to the public (SA, EO)
  - Any changes in the status of High-Occupancy Vehicle (HOV) lanes as they relate to a P3 agreement (EO)
  - Consideration of various transit alternatives during analysis of proposed surface transportation infrastructure projects that include high-occupancy vehicle, toll or managed lanes (EO)
- A sub-page that communicates well and quickly in a graphically modern and interesting way is the Express Lanes page, and we might consider moving all our website content into that format.
- Additional information, including a review of the current site map, is available in the document, "HPTE Site Map - March 2015.docx."

## Timeline

This is an ambitious project, especially in light of HPTE's current internal resources. While we will start immediately, this is much more likely to be completed using a phased approach.

## **Social Media**

### Approach

HPTE is in the process of developing a sub-plan for implementing social media channels as part of our outreach and information/comment collection process. This plan will include three components - the first being "Evergreen" messaging, the second being milestone/event-based and the third is monitoring and re-posting.

### *Evergreen*

This type of messaging is designed to support objectives in this plan that help to establish HPTE as a trusted expert in the field of alternative financing for surface transportation projects. This is accomplished by broadcasting facts about the current transportation funding shortfall, facts about P3s, statistics about maintenance costs, information about projected future states of our transportation infrastructure, etc. This stream of information is meant to get our audiences used to regularly hearing interesting, pertinent items from the Enterprise.

Many services such as Hootsuite enable social media managers to schedule posts even months in advance - thus the term "Evergreen." We will investigate which service best meets our needs.

### *Milestone/Event-based*

This component of our social media will be dovetailed with other communication channels, such as proactive media relations and website updates. For example, when we distribute a news release and post it to our website, we'll also Tweet out a link and make a post on the CDOT Facebook page. Further, we'll coordinate with CDOT and our other friends in the industry and ask them to re-tweet, like our post, etc.

### *Monitoring/Re-posting*

The last prong in our social media effort will be to monitor streams from others in the transportation / P3 industry and re-tweet interesting information that they post. This - similar to the Evergreen prong, will help to position the Enterprise as having our finger on the pulse of the latest in P3s, which will help solidify our reputation.

## Timeline

Begin in Summer 2015; continue indefinitely.

## **Discussion Boards**

### Approach

We view the discussion boards hosted by media outlets for their readers/viewers to comment on stories/articles as a critical source of information to learn how interested audiences view key components of the process. As part of our work to review/track media articles, we will also review the comments and use information gathered here to help shape and refine our messaging.

In addition, we will consider starting a discussion with the CDOT PR and Government Affairs Offices to gauge the viability of developing a framework for if/when we should - as an Enterprise - engage on these boards to rebut mis- or disinformation.

#### Timeline

Begin media monitoring/discussion board tracking effort in Summer 2015.

### **Program Implementation Plan (PIP) 6: Developing a "Key Communicators" Network**

#### **Overview**

When it comes to communication, an often overlooked component is the identity of the messenger. For HPTE strategic communications, it will be helpful to develop a network "Key Communicators" who are unaffiliated with HPTE, but have strong relationships with various key stakeholder groups. These individuals can help broaden the reach of HPTE's communication efforts and ensure that the information is understandable and relevant to those in their specific group(s).

#### Approach

The key to building third-party stakeholder support is creating relationships with "Key Communicators" who can share information about HPTE - whether that is by submitting a letter to the editor, speaking at a public meeting, etc. This also will leverage the P3 Alliance through the Denver Metro Chamber.

HPTE will look to our list of stakeholders to identify individuals who may be interested in serving in this capacity. We will then reach out to them to discuss items of mutual interest.

Once we have identified a group of Key Communicators, we will consistently provide them with key messages, and ask them to engage at strategic points where their voice can have the greatest reach and impact.

We will continue to seek Key Communicators on a regular basis to help share news and information from the HPTE.

#### Timeline

Outreach to begin in June 2015 and continue.

## Program Implementation Plan 7: Tolling Rate Outreach

### Overview

Toll rate increases and new tolling projects invite more questions and concerns with drivers and elected officials than ever before, but these changes provide an opportunity for HPTE to lead the information and education before any tolls are considered or approved by the HPTE Board. In the past, HPTE was able to announce rate changes through a press release and road signage. The public has asked for and requires more input and proactive notification.

### Goal

For stakeholders to be educated about and provide comment regarding toll rate changes prior to an HPTE Board vote and implementation.

### Target Publics

- Drivers
- Elected officials
- Transportation Management Organizations
- HPTE Board
- Project concessionaires
- CDOT and HPTE staff
- Media

### Strategies

Partner with local agencies, transportation organizations and the media to increase the level of understanding regarding toll rate increases.

### Required Tools/Tactics Checklist

| Stakeholder Group                                      | Required Outreach Checklist                              | Rationale   | General Timing*                      | Lead             |
|--|--|---|--------------------------------------|------------------|
| Internal staff<br>HPTE Board<br>Customer service staff | <input type="checkbox"/> Key Message sheet               | Ensure all teams understand upcoming toll rate changes            | Prior to first HPTE Board Meeting    | Megan/Consultant |
| HPTE Board<br>Public                                   | <input type="checkbox"/> HPTE Board Meeting Presentation | Introduce proposed toll rate changes and public outreach timeline | Approximately 3 months prior to vote | Mike             |

**\*Timing suggestions are included to provide general guidance for planning outreach.**

|  |   |   |   |                       |
|--|---|---|---|-----------------------|
| Drivers<br>Project stakeholders        | <input type="checkbox"/> Communication Work Plan                                | Requires concessionaire to address specifics of toll rate increase at a more detailed level     | Same time as 1 <sup>st</sup> HPTE Board Meeting                 | Concessionaire        |
| Elected Officials<br>TMOs              | <input type="checkbox"/> Toll rate change memo                                  | Give electeds a sneak peek of proposed rates and public outreach timeline                       | Day of HPTE Board Meeting                                       | Megan/Consultant      |
| Drivers<br>Elected officials<br>Public | <input type="checkbox"/> Telephone Town Hall                                    | Provide widest range of stakeholders the opportunity for comment and engagement on toll changes | Following 1 <sup>st</sup> HPTE meeting                          | Megan/Mike/Consultant |
| Drivers<br>Elected officials<br>Public | <input type="checkbox"/> Public Meeting   | Provide an opportunity for in-person comment and engagement on toll changes                     | Following 1 <sup>st</sup> HPTE meeting                          | Megan/Mike/Consultant |
| Drivers<br>Elected officials<br>Public | <input type="checkbox"/> Press release<br><input type="checkbox"/> Media visits | Provide in-depth information and notify of comment opportunities                                | Immediately following both HPTE Board meetings                  | Megan/Consultant      |
| Drivers                                | <input type="checkbox"/> VMS Boards   | Notifies drivers of rate changes while they are driving   | After rate change implementation                                | Region PIO            |
| TMOs<br>City staff<br>City residents   | <input type="checkbox"/> Notifications on websites and existing materials       | Broadens the reach of HPTE communication  | Prior to TTH and Public Meeting as well as after implementation | Megan/Consultant      |
| HPTE Board                             | <input type="checkbox"/> HPTE Board Meeting Presentation                        | Present public feedback and allow Board to vote   | Approximately 3 months after first Board meeting                | Mike                  |

**Specific timing will be determined based on actual proposed tolling rate change.**

**Public Outreach Evaluation Considerations**

- Maintain adequate records of all outreach efforts, including lists of attendees at meetings, lists of those notified of meetings, minutes as appropriate, copies of handouts or presentations and follow-up action items consistent with public relations best practices for public engagement during environmental reviews. (SA)

## Program Implementation Plan 8: Construction Public Information Specifications

### Overview

After construction of a project is completed, a concessionaire will enter the Operations and Maintenance (O&M) phase that may require regular work and repairs on the roadway. Depending on the impact of the O&M project, the level of communication outreach will vary. Notification timing is a key element in ensuring that impacted stakeholders and audiences receive timely, accurate and useful information.

### Approach

Notification requirements will vary for the level of work that is required.

- Level 1 – Long-term closures/demolitions (7 days or longer), openings (i.e. major configurations), emergency closures
- Level 2 – Short-term closures/demolitions (6 days or shorter), change of business/residential access
- Level 3 – Lane closures, traffic impacts, nighttime w/ significant noise
- Level 4 – Nighttime w/ no traffic impact, utility shut off, work that doesn't impact travel (i.e. shoulder work)

| <i>Type of Work</i>                              | <i>Notification Timing</i>   | <i>Required Outreach Checklist</i>  | <i>Review Protocol/Timing</i> |
|--|--|---|-------------------------------|
| <b>Level 1</b>                                   |  |   |                               |
| Long-term closure/demolitions (7 days or longer) | Communication Work Plan in place 30 days in advance. Outreach begins 21 days in advance. | <input type="checkbox"/> Public meeting<br><input type="checkbox"/> News release<br><input type="checkbox"/> Doorhangers<br><input type="checkbox"/> Signage<br><input type="checkbox"/> Posters/flyers with detour maps<br><input type="checkbox"/> GovDelivery content<br><input type="checkbox"/> CDOT social media<br><input type="checkbox"/> Project hotline/website<br><input type="checkbox"/> Stakeholder email list | CDOT/HPTE – five days prior   |
| Openings (i.e. major configurations)             | 21 days in advance   | <input type="checkbox"/> Opening event<br><input type="checkbox"/> News release<br><input type="checkbox"/> Signage<br><input type="checkbox"/> GovDelivery content<br><input type="checkbox"/> CDOT social media   | CDOT/HPTE - five days prior   |

|   |                      |  |                             |
|---|----------------------|--|-----------------------------|
|   |                      | <input type="checkbox"/> Project hotline/website<br><input type="checkbox"/> Stakeholder email list  |                             |
| Emergency closures                                  | Immediately          | <input type="checkbox"/> Signage<br><input type="checkbox"/> CDOT social media   | CDOT PIO/Project PI Team    |
| <b>Level 2</b>                                      |                      |  |                             |
| Short-term closures/demolitions (6 days or shorter) | 14 days in advance   | <input type="checkbox"/> News release<br><input type="checkbox"/> Doorhangers<br><input type="checkbox"/> Signage<br><input type="checkbox"/> Posters/flyers with detour maps<br><input type="checkbox"/> GovDelivery content<br><input type="checkbox"/> CDOT social media<br><input type="checkbox"/> Project hotline/website<br><input type="checkbox"/> Stakeholder email list | CDOT/HPTE – five days prior |
| Change of business/residential access               | 14 days in advance   | <input type="checkbox"/> Doorhangers<br><input type="checkbox"/> Individual meetings with impacted business/residential owners   | CDOT/HPTE - five days prior |
| <b>Level 3</b>                                      |                      |  |                             |
| Lane closures                                       | Five days in advance | <input type="checkbox"/> News release<br><input type="checkbox"/> Signage<br><input type="checkbox"/> GovDelivery content<br><input type="checkbox"/> CDOT social media<br><input type="checkbox"/> Project hotline/website<br><input type="checkbox"/> Stakeholder email list   | CDOT/HPTE - five days prior |
| Traffic impacts                                     | Five days in advance | <input type="checkbox"/> News release<br><input type="checkbox"/> Signage<br><input type="checkbox"/> GovDelivery content<br><input type="checkbox"/> CDOT social media<br><input type="checkbox"/> Project hotline/website  | CDOT/HPTE - five days prior |



|  |                      |   |                             |
|--|----------------------|---|-----------------------------|
|  |                      | <input type="checkbox"/> Stakeholder email list   |                             |
| Nighttime w/ significant noise                       | Five days in advance | <input type="checkbox"/> News release<br><input type="checkbox"/> Doorhangers<br><input type="checkbox"/> Signage<br><input type="checkbox"/> GovDelivery content<br><input type="checkbox"/> Social media content<br><input type="checkbox"/> Project hotline/website<br><input type="checkbox"/> Stakeholder email list | CDOT/HPTE - five days prior |
| <b>Level 4</b>                                       |                      |   |                             |
| Nighttime w/ no traffic impact                       | 48 hours in advance  | <input type="checkbox"/> Project hotline/website  | Project PI Team             |
| Utility shut off                                     | 48 hours in advance  | <input type="checkbox"/> Doorhangers<br><input type="checkbox"/> Stakeholder email list   | Project PI Team             |
| Work that doesn't impact travel (i.e. shoulder work) | 24 hours in advance  | <input type="checkbox"/> Project hotline/website  | Project PI Team             |

The messages and outreach materials will incorporate the project logo as an identifier and use established templates that help stakeholders quickly and easily recognize the information as coming from the project.

**Public Outreach Evaluation Considerations**

- Maintain adequate records of all outreach efforts, including lists of attendees at meetings, lists of those notified of meetings, minutes as appropriate, copies of handouts or presentations and follow-up action items consistent with public relations best practices for public engagement during environmental reviews. (SA)

## Program Implementation Plan 9: State Policy Requirements Checklist

### Overview

This checklist is intended to provide a cross-reference for the requirements specifically set forth in Gov. John Hickenlooper's Executive Order D 2014-010 and HTPE Board's Transparency Policy, and to respond to issues and concerns raised by HPTE's US 36 project audit conducted by the state and released in early 2015. In addition to the main sections referenced in this list of requirements, references can be found throughout the document, using the following citation abbreviations:

EO = Gov. John Hickenlooper's Executive Order D 2014-010

TP = HTPE Board's Transparency Policy

SA = State HPTE Audit

### Requirements of Executive Order D 2014-010 and HPTE Transparency Policy:

- Following full and timely notice, and in coordination with interested local governments, hold a minimum of three public town-hall meetings for affected corridor communities prior to issuing a request for proposal: **(See PIP 2a, 2b)**
- In coordination with the State Transportation Commission, consider transit alternatives when analyzing any proposed surface transportation infrastructure project that includes high-occupancy vehicle lanes, high-occupancy toll lanes or managed lanes. **(See PIP 5)**
- Provide on the HPTE website a summary of the essential terms of the P3 agreement, which is easily understandable by the public, after entering into a P3 agreement. **(See PIP 2a, 2b, 5)**
- Provide public notice of any change in the status of a high-occupancy vehicle lane or the qualifications required to access such a lane for free as they relate to a P3 agreement. **(See PIP 5)**
- Upon request, and with reasonable safeguards protecting proprietary information and the negotiating process, provide additional reports and presentation to the General Assembly, in addition to existing requirements stated in the Colorado Revised Statutes. **(See PIP 2a, 2b)**

### Requirements of State HPTE Audit:

- Development of a project priority list** – which lists the projects that the public owner/agency is considering for a P3 approach. **(See PIP 5)**
- Project development** – which includes the initial Project Value Analysis and the decision-making process used to decide whether to use a P3 or traditional approach for project implementation. **(See PIP 5)**
- Bidder selection** – which is the point where the preferred bidder is selected but prior to entering negotiations. **(See PIP 2a, 2b)**
- Financial close/final concession agreement** – which occurs after negotiations are concluded but prior to contract execution. **(See PIP 2a, 2b)**

- ❑ Further, public owner/agencies should hold outreach and education activities in appropriate forums – such as one-on-one meetings with legislators and town hall-style meetings with the general public. Outreach and education activities should include adequate detail to help the public and stakeholders understand the complexities of the P3 project, such as the difference between P3 and traditional delivery models for major transportation projects, and the details and long-term obligations of the financing arrangement. **(See PIP 2a, 2b)**
- ❑ Finally, public owner/agencies should maintain records of stakeholder engagement activities, including all meeting dates, the names of meeting attendees, copies of handouts or presentations, and meeting minutes and follow up action items, consistent with public relations best practices and established Federal Highway Administration and CDOT practices for public engagement during environmental reviews. These records are important for evaluating the effectiveness of P3 stakeholder education and outreach efforts to ensure continuous improvement. **(See PIP 2a, 2b, 5)**
- ❑ Maintain adequate records of all outreach efforts, including lists of attendees at meetings, lists of those notified of meetings, minutes and follow-up. **(See PIP 2a, 2b)**