

STATE OF COLORADO

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John W. Hickenlooper
Governor

D 2014-010

EXECUTIVE ORDER

Directing the High-performance Transportation Enterprise to Adopt Additional Transparency Measures in Transportation Infrastructure Public-Private Agreements

Pursuant to the authority vested in the Office of the Governor of the State of Colorado, and, in particular, pursuant to Article IV, Section 2, of the Colorado Constitution, I, John W. Hickenlooper, Governor of the State of Colorado, hereby issue this Executive Order directing the High-performance Transportation Enterprise to utilize additional transparency measures and public meetings in the development of future public-private partnerships for surface transportation infrastructure.

I. Background and Purpose

In 2009, to address Colorado's "quiet crisis in transportation" the General Assembly declared that it was in the best interests of the state to aggressively pursue innovative means to finance and deliver surface transportation infrastructure projects, and that such means specifically included the use of public-private partnerships (P3s). COLO. REV. STAT. § 43-4-806(1). To accomplish this goal, the General Assembly enacted Senate Bill 09-108, thereby creating the High-performance Transportation Enterprise (HPTE). COLO. REV. STAT. § 43-4-806(2)(a)(I).

In 2013 and 2014, HPTE selected a concessionaire and entered into an agreement with Plenary Roads Denver for the purpose of improving U.S. 36 within the Denver metropolitan area. The P3 agreement and financing package supports critical upgrades to U.S. 36 and provides for a new managed lane providing dedicated bus-rapid-transit, high-occupancy vehicle, and user fee travel. The project marks the first P3 entered into by the state.

During the 2014 legislative session, the General Assembly passed Senate Bill 14-197. The legislation was crafted in reaction to public concerns that the U.S. 36 P3 development and negotiation process could have benefited from additional transparency and public involvement. Unfortunately, the legislation also imposed unworkable substantive limitations on future P3 transactions that would have undermined Colorado's goal of maintaining the flexibility to pursue innovative means to finance surface transportation infrastructure projects; Senate Bill 14-197 was therefore vetoed. Nevertheless, Senate Bill 14-197 contained several provisions valuable with merit for increasing involvement by the public in future P3 agreements.

In order to address the public concerns voiced about HPTE's process, HPTE must, following a robust public process, utilize additional transparency measures in connection with any future P3 transactions.

II. Directive and Scope

For all future P3 agreements with private parties to deliver surface transportation projects, HPTE is hereby directed to consider, adopt and implement appropriate procedures to:

- A. 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;
- B. 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;
- C. Provide on the HPTE website a summary of the essential terms of the P3 agreement, which are easily understandable by the public, after entering into a P3 agreement;
- D. 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; and
- E. Upon request, and with reasonable safeguards protecting proprietary information and the negotiating process, provide additional reports and presentations to the General Assembly, in addition to existing requirements stated in the Colorado Revised Statutes.

III. Staffing and Resources

HPTE shall use existing funding, if at all, in implementing and adopting the transparency measures described in this Executive Order.

IV. Duration

This Executive Order shall remain in full force and effect until modified or rescinded by future Executive Order of the Governor.



GIVEN under my hand and the
Executive Seal of the State of
Colorado this fourth day of
June, 2014.

A handwritten signature in blue ink, appearing to read 'John W. Hickenlooper', written in a cursive style.

John W. Hickenlooper
Governor