WEST VIRGINIA CODE: §17-27-5

§17-27-5. Submission and review of conceptual proposals; approval by the Commissioner of the Division of Highways.

(a) The division may solicit, or a private entity may submit in writing, a conceptual proposal for a transportation facility to the division for consideration. The conceptual proposal shall include the following:

(1) A statement of the private entity's qualifications and experience;

(2) A description of the proposed transportation facility;

(3) A description of the financing for the transportation facility; and

(4) A statement setting forth the degree of public support for the proposed transportation facility, including a statement of the benefits of the proposed transportation facility to the public and its compatibility with existing transportation facilities.

(b) The conceptual proposal shall be accompanied by the following material and information unless waived by the division with respect to the transportation facility or facilities that the private entity proposes to develop as a qualifying transportation facility:

(1) A topographic map (1:2,000 or other appropriate scale) indicating the location of the transportation facility or facilities;

(2) A description of the transportation facility or facilities, including the conceptual design of the facility or facilities and all proposed interconnections with other transportation facilities;

(3) The projected total life-cycle cost of the transportation facility or facilities and the proposed date for acquisition of or the beginning of construction of, or improvements to, the transportation facility or facilities;

(4) A statement setting forth the method by which the private entity proposes to secure all property interests required for the transportation facility or facilities: *Provided*, That with the approval of the division, the private entity may request that the comprehensive agreement assign the division with responsibility for securing all property interests, including public utility facilities, with all costs, including costs of acquiring the property, to be reimbursed to the division by the private entity. The statement shall include the following information regarding the property interests or rights, including, but not limited to, rights to extract mineable minerals:

(A) The names and addresses, if known, of the current owners of the property needed for the transportation facility or facilities;

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(B) The nature of the property interests to be acquired;

(C) Any property that the division may expect to condemn; and

(D) The extent to which the property has been or will be subjected to the extraction of mineable minerals.

(5) Information relating to the current transportation plans, if any, of each affected local jurisdiction;

(6) A list of all permits and approvals required for acquisition or construction of or improvements to the transportation facility or facilities from local, state, or federal agencies and a projected schedule for obtaining the permits and approvals: *Provided*, That the acquisition, construction, improvement, or operation of a qualifying transportation facility that includes the extraction of mineable minerals is required to obtain all necessary permits or approvals from all applicable authorities in the same manner as if it were not a qualifying transportation facility under this article;

(7) A list of public utility facilities, if any, that will be crossed or affected by or as the result of the construction or improvement of the public port transportation facility or facilities and a statement of the plans of the developer to accommodate the crossings or relocations;

(8) A statement setting forth the private entity's general plans for financing and operating the transportation facility or facilities;

(9) The names and addresses of the persons who may be contacted for further information concerning the request;

(10) Information about the private entity and, to the extent they differ, any developer, including, but not limited to, an organizational chart, capitalization, experience in the operation of transportation facilities, and references and certificates of good standing from the Tax Commissioner, Insurance Commissioner, and the Division of Unemployment Compensation evidencing good standing with state tax, workers' compensation, and unemployment compensation laws, respectively; and

(11) Any additional material and information requested by the Commissioner of the Division of Highways.

(c) The division may solicit proposals for the acquisition, construction, or improvement of any transportation facility or facilities if it finds that it serves the public purpose of this article. The division may find that the acquisition, construction, or improvement of the transportation facility or facilities serves a public purpose if:

(1) There is a public need for the transportation facility;

(2) The transportation facility and the proposed interconnections with existing

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transportation facilities are reasonable and compatible with the state transportation plan and any applicable local plans;

(3) The estimated cost of the transportation facility or facilities is reasonable in relation to similar facilities: Provided, That moneys used by the state road fund shall not exceed $100 million.

(4) The use of federal funds in connection with the financing of a qualifying transportation facility has been determined by the division to be compatible with the state transportation plan and any applicable local plans; and

(5) The solicitation will result in the timely acquisition, construction, or improvements of transportation facilities, or the more efficient operation thereof, and will result in a more timely and economical delivery of transportation facilities than otherwise available under existing delivery systems.

(d) If proposals for a transportation facility are solicited by the division, the division shall review all solicited conceptual proposals, assign them a priority ranking, and present them with the priority ranking to the Commissioner of the Division of Highways for review. Upon presentation of the priority-ranked proposals, the commissioner shall approve or modify the division's rankings, and may authorize the division to negotiate and enter into a comprehensive agreement with the highest-ranked developer or reject all proposals. The division has no duty to accept, consider, or review a conceptual proposal that was not solicited by the division, but may do so in its sole discretion.

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