

Virginia DOT

General Information	
Contact Information	<p>Shailendra G. Patel, P.E., DBIA Director, Alternative Project Delivery Office 804-692-0476 Shailendra.Patel@VDOT.Virginia.gov</p>
Relevant Statute	<p>VA Code §33.2-209.B</p> <ul style="list-style-type: none"> • Broad legislation that authorizes VDOT and the Commonwealth Transportation Board (CTB) to develop and award design-build contracts <ul style="list-style-type: none"> • Originally enacted in 2001, allowed CTB to award a limited number of contracts annually • Modified in 2006 to eliminate restriction on number of projects • Legislation contemplates that there is a finding by the CTB that “objective criteria” exist to justify design-build • Design-build procurement processes are to be developed by VDOT <p>Public Private Transportation Act (PPTA) of 1995 (VA Code §56-556 et seq.)</p> <ul style="list-style-type: none"> • Virginia’s P3 statute that also allows design-build • Detailed procurement procedures consistent with either “competitive sealed bidding” or “competitive negotiation.”
DB Program Characteristics	<p>As of 12/11/2015, 78 total DB projects:</p> <ul style="list-style-type: none"> • 37 DB contracts completed, totaling \$604.1 million • 36 active DB projects, totaling \$1325.6 million • 5 active proposals, totaling \$344.6 million

Agency Culture, Organization and Training	
Dedicated DB Program Staff	<ul style="list-style-type: none"> • Dedicated staff in Alternative Project Delivery Office (8 F/T) • DOT in general is more centralized for procurement, but regions handle administration of the contracts • Procurement of design-build under PPTA handled by VAP3 Office
Outsourcing	<ul style="list-style-type: none"> • Consultants used for preliminary design, design oversight, and CEI
DB Project Team Makeup	<ul style="list-style-type: none"> • Not discussed
Internal Issues Related to DB Use	<ul style="list-style-type: none"> • Northern Virginia, Richmond, and Hampton Roads/Norfolk areas more responsive to DB • Rural districts less responsive to DB; somewhat reluctant to relinquish control
Industry Issues Related to DB Use	<ul style="list-style-type: none"> • Some complaints from small contractors • Virginia Transportation Construction Alliance very active, and has a DB committee that regularly meets with VDOT, contractors and designers to discuss issues of concern and how to improve • No issues from consultants; larger engineering firms have good relations with VDOT and contractors

Procedural Guidance and Template Documents	<ul style="list-style-type: none"> • DB guidelines and memorandums that address development of plans and RFP • VDOT programmatic documents include: <ul style="list-style-type: none"> - Design-Build Evaluation Guidelines - Design-Build Procurement Manual - Instructional and Informational Memoranda - Minimum Requirements for Quality Assurance and Quality Control on Design Build and P3 Projects, - RFQ/RFP, Standard Lump Sum Agreement, and Template documents Parts 3-5
Training	<p>Regular training workshops for APDO and District personnel involved in the design-build projects</p> <ul style="list-style-type: none"> • DB 101 (DB basics, VDOT’s procurement approach, contracts, etc.) • More advanced topics also offered (e.g., scope validation, ROW, project management, change order management)

Selection of Project Delivery Method	
Drivers for Using DB	<p>The legislation requires that the Commissioner of Transportation issue a formal Finding of Public Interest (FOPI) for each project that design-build is in the best interest of the Commonwealth. The FOPI is based on “objective criteria,” and this is established in VDOT’s Objective Criteria Policy (July 2006)</p> <ul style="list-style-type: none"> • Each candidate project must have the need for an expedited delivery • Some other Objective Criteria include: <ul style="list-style-type: none"> • Fixed completion date • Established budget – i.e., completion at or near the established cost without significant overruns • Well-defined scope or performance requirements • Risk analysis that indicates a limited number of issues (e.g. right of way, utilities) are to be resolved
Process and Tools	<ul style="list-style-type: none"> • APDO Design-Build Procurement Manual (2011) outlines the processes • APDO identifies candidate design-build projects, APDO Instruction Memo on DB Candidate Projects (February 12, 2013), and generally includes: <ul style="list-style-type: none"> • Objective Criteria with consideration of: <ul style="list-style-type: none"> • Discussions with District • Available funding within the SYIP • Compliance with law • Done in conjunction with Districts, Planning, Programming and Preliminary Engineering Divisions • Projects must be in SYIP • Adequate funding for design, ROW, and construction of entire project must be identified and programmed before initiating procurement
Key Considerations	See above
Project Characteristics that are suited for DB	<p>Objective Criteria is the benchmark for this. Specific projects are also identified, including:</p> <ul style="list-style-type: none"> • Emergency and repair projects • Projects directly impacting public safety • Projects directly supporting economic development/enhancement • Projects using specialty or innovative designs or construction methods • Projects to maximize the use of available funding

Project Characteristics that are <u>not</u> suited for DB	Projects that do not fit within the Objective Criteria. Additionally: <ul style="list-style-type: none"> • Preferred that there be no railroad crossings, and projects with railroad crossings should have existing easements and agreements already in place or in place before award • Projects where 3rd party agreements have either not been clearly identified or have major risk of impacting schedule
Entity Making the Delivery Decision	Districts make recommendations; APDO prepares FOPI, and Commissioner reviews and approves FOPI

DB Project Development	
Timing of the Delivery Decision	Not discussed
Project Development Activities	Design taken to the level needed to complete NEPA (1-30%)
Use of Performance Requirements	Not discussed
Lessons Learned	One of the most challenging areas is in developing the scoping document that defines the project's technical requirements. APDO has refined its templates over time to make this easier on the procurement, but it still requires continuous improvement. This is particularly the case in trying to create opportunities for proposers to be innovative. Another challenging area revolves around getting sufficient geotechnical and up-to-date survey information for the procurement to be run efficiently.

Procurement Process	
Delivery Options	<ul style="list-style-type: none"> • Single-phase low bid (29 contracts) • Single-phase best value (4 contracts) • Two-phase low bid (12 contracts) • Two-phase best value (33 contracts) • Two-phase base scope + alternatives (1 contract)
Procurement Steps	Covered elsewhere
Selection Method	<p><i>For Best-Value</i></p> <ul style="list-style-type: none"> • Weighted criteria formula with price converted to points • Consensus scoring of evaluation factors (i.e. 1-10 scale aligned with adjectival ratings) • 70/30 price/technical weighting <p><i>For low bid</i></p> <ul style="list-style-type: none"> • Technical proposals are evaluated on a pass/fail basis • Award to lowest priced proposer, keeping in mind that both single phase (i.e., no shortlisting) and two phase processes use low bid
Bundling DB Projects	Not at the current time
Use of Alternative Technical Concepts (ATC)	The Commonwealth's AG believes that ATCs could violate Virginia procurement law, and therefore, VDOT does not use them at this time. There will likely be a legislative effort in 2016 to create clear statutory authority for the use of ATCs.
Stipends	Yes, for projects using two-phase procurements and where conceptual plans are required as part of the technical proposal. The amount of the stipend is based on approximately 25% to 33% of the estimated cost of developing the technical proposal. To date, stipends have ranged from \$10,000 to \$100,000.

Other Comments	VDOT wants flexibility in procurement to streamline process for projects where time savings is the predominant driver or where innovation is not practical.
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Risk Allocation	
Risk Management Philosophy	<p>VDOT's contracts are based on the DBIA form of contract, modified to reflect VDOT processes.</p> <p>Risk management philosophy is manifested in the "Scope Validation" process used by VDOT, which addresses VDOT-furnished information that may be inaccurate. The process is geared to having the design-builder perform its front-end engineering evaluations (including additional site and geotechnical investigations) quickly and identify where there may be problems.</p> <ul style="list-style-type: none"> • Design-builder has a right during a window of time after award (typically 90 days) to notify VDOT of errors in the RFP documents that it was not able to identify during the proposal period • Adjustments in the contract price and schedule are made if there is a valid scope item • Once the scope validation period is done, design-builder bears the risk of any defects in the RFP documents, including differing site conditions
Differing Site Conditions	<ul style="list-style-type: none"> • DSC clause is in the contract, but it is only available for conditions discovered during the scope validation process
Permitting	<ul style="list-style-type: none"> • Design-builder is to obtain all permits, except those specifically identified to be obtained by VDOT
Utilities	<ul style="list-style-type: none"> • VDOT and design-builder each responsible for certain utilities as identified in the RFP for a particular project
Right-of-Way	<ul style="list-style-type: none"> • Design-builder to perform all services associated with the acquisition of all ROW, but is not responsible for ROW acquisition cost.
Third Parties	Not discussed
Other	Risk assessment workshops conducted to identify risks

DB Contract Administration	
Design Oversight	<ul style="list-style-type: none"> • Consultants perform DB reviews; District staff oversee consultants. This has created to some extent a process that looks much like a DBB design oversight approach • Have had issues with excessive design review comments (by VDOT or consultant reviewers). Have also experienced poor QC by design-builders when submitting design deliverables and plans • No certification required for design review
Construction Oversight and Quality Management	Not discussed
Payment	<ul style="list-style-type: none"> • Pay off of a cost-loaded schedule for lump sum items in schedule of values • Pay at milestone intervals (i.e. 20% and 80% complete)
Best Practices and/or Lessons Learned	Not discussed

Performance Outcomes	
Tracking of Metrics	Not discussed
Primary Success Factors	<ul style="list-style-type: none"> • Communication and coordination between all parties • Clarity of criteria package and scope definition • Equitable risk allocation

Secondary Success Factors	Not discussed
Other Comments	An ATC process would help