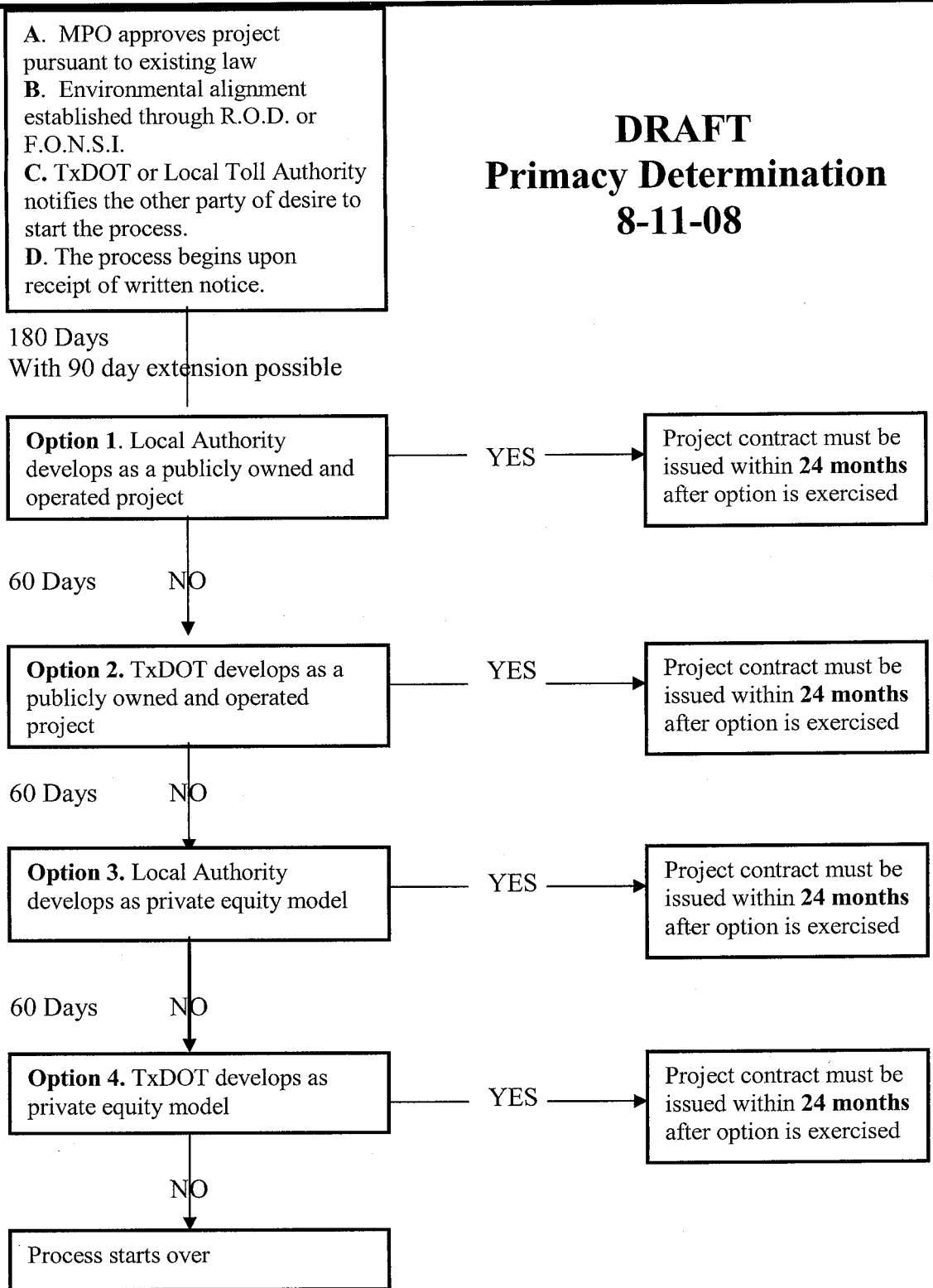


DRAFT
Primacy Determination
8-11-08



1. Project held in perpetuity by developing entity (TxDOT or Local Toll Authority).
2. All surplus revenues must remain in the region per Transportation Code 228.0055 and 228.006.
3. On private equity projects (options 3&4), each RFP, evaluation, and final contract must include an option to purchase stating a specific dollar amount for every five year period from when the segment opens. The entity has the option to purchase the toll project at an amount not to exceed the specific dollar amount or fair market value, whichever is less.
4. On private equity projects (options 3&4), compensation provisions for building competing facilities may not exceed 30 years from the opening of the segment. All options (1-4) and must exclude any interstate project and any project included in a long range plan approved by a MPO before the toll road contract is issued.
5. Publicly owned and operated projects (options 1&2) may utilize private financing but private parties may not own equity in such a project. All ownership must belong to public entity. Entity may contract out operation services.
6. All entities must issue construction contract on a project within 24 months of exercising its primacy option, unless project is in litigation. In this case, time period is suspended until litigation has concluded.
7. Local Toll Authority may advance the environmental work if a project is not on the state highway system.
8. If Local Toll Authority decides not to do project as a publicly owned facility, Local Toll Authority must share its T&R counts, preliminary engineering and other project related information with TxDOT.
9. Project development may proceed prior to receiving environmental clearance.
10. Timelines are a maximum but can be shortened when feasible, and any step may be waived entirely if Local Toll Authority and TxDOT agree in writing.
11. Primacy for all grandfathered projects in SB 792 remains unchanged.
12. A Local Toll Authority's access to the state highway system and cost of right of way remain consistent with SB 792, except that all entities must pay historical cost of right of way unless waived by TxDOT.