Overview of the Virginia Public Procurement Act

Special Joint General Laws Subcommittee Studying the Virginia Public Procurement Act

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Background

• Vulnerable processes
• No uniform procurement policy
• Variety of statutes and rules
• SJR 148 (1979)
Virginia Public Procurement Act

• All state entities and localities covered

• Purpose
  – High quality at reasonable prices
  – Fair and impartial process
  – Access to public contracts

• Organization- Six Articles
  – Art. 1 General Provisions
  – Art. 2 Contract Formation and Administration
  – Art. 3 Exemptions and Limitations
  – Art. 4 Prompt Payment
  – Art. 5 Remedies
  – Art. 6 Ethics in Public Contracting
Virginia Public Procurement Act

- Employment Services Orgs.
- PPTA
- PPEA
- Higher Education
- SWAM
- Mandatory Source
Issues Impacting the VPPA

• Mandatory procurement: VCE
  – Required for state entities
  – Discretionary for localities
  – Exceptions

• Supplier diversity
  – Certification
  – Programs to facilitate participation

• Employment services organizations
Issues Impacting the VPPA

• Public-Private Partnerships
  – Public-Private Transportation Act of 1995
  – Public-Private Education Facilities and Infrastructure Act of 2002

• Public Institutions of Higher Education
  – Three levels of autonomy
Issues Impacting the VPPA

• General Services
  – Role
  – Division of Purchases and Supply
  – Division of Engineering and Buildings

• Electronic Procurement : eV Fa
Competitive Sealed Bidding

- Goods, printing, or nonprofessional services
- Invitation to Bid: specification driven
- Public notice required
- Agency developed specifications
- Bidding on same terms and conditions
- Award to lowest responsible and responsive bidder
Competitive Negotiation

- Services and some aspects of construction
- Request for Proposal
- Public notice required
- “Concept” provided by the public body
- Price is one of many factors
- Qualifications are critical
- Award to vendor deemed most qualified
Competitive Negotiation
Architectural or Professional Engineering Services

• Similar experience/Similar projects
• Clearly identified in the RFP
• Limited to one-year term or by project fee limits
• Renewable for four one-year terms
Competitive Negotiation
Architectural or Professional Engineering Services

• General Rule: project fee limited to $100,000

• Exception to general rule
  – State agency: $200,000
  – Certain localities: $1 million
Methods of Procurement

• Competitive Negotiation
• Competitive Sealed Bidding
• Sole Source
• Emergency
• Small Purchase
• Other Methods
  – Reverse Auctioning
  – Cooperative Procurement
Allowable Preferences

• General Rule: tie bid; preference to VA firm or products

• Other Preferences
  – Recycled content
  – Coal mined in Virginia
  – Paper and paper products; highest recycled content
  – Local preferences
Exemptions

• Exemption from VPPA

• Exemption from competition

• Exemption from competitive sealed bidding and competitive negotiation

• Other exemptions
Questions?

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Special Subcommittee website:
http://dls.virginia.gov/interim_studies_procurement.html