

**Integrated Government Advisory Committee  
Tuesday, October 5, 2004, 9:30 a.m.  
General Assembly Building, House Room D  
Richmond Virginia**

The Integrated Government Advisory Committee, charged with exploring the issues created or enhanced by the transformation of government in the electronic age, met for the third time on Tuesday, October 5, 2004. At this meeting, the Committee discussed a legislative proposal concerning electronic communication meetings, and received briefings concerning interoperability coordination, VITA's standardized terms and conditions relating to technology procurement contracts, and outsourcing and offshoring.

***Electronic Communication Meetings: Overview***

Lisa Wallmeyer, JCOTS Staff Attorney, briefed the Committee on provisions relating to electronic communication meetings in Virginia. Section 2.2-3708 of the Virginia Freedom of Information Act (FOIA) enables any state public body to hold a meeting via audio or audio/visual means, so long as it follows certain provisions. The provisions include such requirements as 30 days notice for a meeting held via electronic communication means, and that a quorum of the membership must be physically assembled in one location before other members can meet from remote sites. Those remote signs must be located in Virginia and be open to the public. In addition, the provisions limit a public body to holding no more than 25 percent of its meetings annually via electronic communication means. The legislature enacted these provisions in 1989, and they basically remain unchanged.

In 1999, however, the General Assembly enacted Chapter 704 of the Acts of Assembly of 1999, which contains alternative provisions with lessened requirements (known as "the Pilot Project"). The Pilot Project applies only to certain state public bodies holding audio/visual meetings. Its provisions require only seven days notice of such meetings, and that three members of a public body (or a quorum if less than three) be at sites in Virginia and open to the public, but not necessarily at the same physical location. Once the presence of three members, or the quorum, is established, other members may meet from locations not in Virginia or not open to the public. Because the General Assembly intended the Pilot Project to be a temporary project to gather data on how the lessened requirements affected public access to meetings, it also contains heightened reporting requirements concerning the meetings. The Pilot Project will expire July 1, 2005 absent legislative action by the 2005 General Assembly.

Ms. Wallmeyer and Mitchell Goldstein, JCOTS Executive Director, recommended that the Act establishing the Pilot Project sunset, and that Committee consider amending FOIA to create one set of requirements with provisions from both. Practical experience indicates that many public bodies do not take advantage of the FOIA provisions because some of its requirements are stringent; however, because the Pilot Project does not apply to all state agencies and enables only audio/visual conferencing, many state agencies do not take advantage of it. Furthermore, because the Pilot Project only appears in the Acts of Assembly and the annotations to the Code of Virginia (annotations are not available online), many public bodies do not realize that it exists.

Hopefully, creating one standard for electronic communication meetings that addresses some existing logistical concerns will provide for more use of such meetings and may increase public participation in these meetings. The Committee voted to adopt these recommendations. However, it also voted to remove the requirement that electronic communications meetings be recorded.

The final proposal would amend § 2.2-3708 to (i) reduce the notice requirement from 30 days to seven working days; (ii) count toward a quorum of the public body those members present at locations in Virginia and open to the public; once a quorum is established, other members may meet from remote locations outside of Virginia or not open to the public; (iii) require that reports be filed annually with JCOTS and the FOIA Council identifying experience and issues with the meeting; (iv) eliminate the recording requirement; (v) allow closed meetings to be held via electronic communications; and (vi) eliminate the limit on the number of meetings that can use electronic communications.

### ***The JCOTS Pilot Project***

Because public bodies have only taken advantage of videoconferencing a few times, in December 2002, JCOTS recommended establishing two regularly-scheduled two-hour meeting times every month during the interim to make videoconference facilities available to public bodies in the legislative branch. At its meeting on April 23, 2003, the Joint Rules Committee gave JCOTS approval to move forward and facilitate the videoconference pilot project. JCOTS worked with the House and Senate Clerks' offices, the Virginia Freedom of Information Advisory Council, the Virginia Community College System (VCCS) and the Virginia Department of Transportation (VDOT). VCCS and VDOT have a combined total of 51 videoconference sites throughout the state that legislators, other members of public bodies in the legislative branch, and the general public can use to attend and participate in videoconference meetings. These groups decided to limit the videoconference facilities available to six regions throughout Virginia as part of the videoconference pilot project, Northern Virginia, Hampton Roads, the Richmond area, the Lynchburg area, the Blue Ridge area (Harrisonburg & Staunton areas), and Southwest Virginia (Abingdon & Bristol areas).

### ***Electronic Communications: Agency Experience***

Susan Hayden, Director of Public Affairs for the Virginia Community College System (VCCS), provided her agency's experience with electronic communications meetings to the Committee. Ms. Hayden indicated that the VCCS Board frequently uses the Pilot Project provisions when nominating candidates for president of one of the community colleges. She noted that this process usually occurs outside of the timeframe of regularly scheduled Board meetings. The Board's members are located around the Commonwealth, and these meetings only last about 15 minutes. Because the Pilot Project uses a "dispersed quorum" requirement, where the members may participate remotely from sites around the Commonwealth, as opposed to being physically assembled in one location, VCCS saves money and time. Additionally, Ms. Hayden reported that VCCS experiences increased public participation from the media and citizens during electronic communications meetings than during regularly scheduled Board meetings where the members physically assemble at the meeting location. Because of VCCS's positive experience,

Ms. Hayden indicated that it would support a measure to adopt the "dispersed quorum" requirement, or, at least, to extend the sunset provision on the Pilot Project.

### ***Public Safety Interoperability Coordination***

Chris Essid, Commonwealth Interoperability Coordinator for the Office of the Secretary of Public Safety, explained the development of the Commonwealth's Strategic Plan for Communications Interoperability. While Mr. Essid's office is located within the Office of the Secretary of Public Safety, he works across the Secretariats to address interoperability issues throughout government. Being the first state in the nation to create a governance structure for interoperable communications, the Commonwealth serves as a model for the nation.

Mr. Essid began by providing background on the issue and the SAFECOM program. Inadequate and unreliable wireless communications have been issues plaguing public safety organizations for decades. In many cases, agencies cannot perform their mission critical duties. These agencies are unable to share vital voice or data information via radio with other jurisdictions in day-to-day operations and in emergency response to incidents including acts of terrorism and natural disasters.

According to a report done by the National Task Force on Interoperability (February 2003), the public safety community identified several key issues that hamper public safety wireless communications today - incompatible and aging communications equipment; limited and fragmented budget cycles and funding; limited and fragmented planning and coordination; limited and fragmented radio spectrum; and limited equipment standards. In short, the nation is heavily invested in an existing infrastructure that is largely incompatible. The federal Office of Management & Budget established the SAFECOM Program and the President's Management Council approved it to address these public safety communications issues.

SAFECOM's mission is to serve as the umbrella program within the federal government to help local, tribal, state, and federal public safety agencies improve public safety response through more effective and efficient interoperable wireless communications. Communications interoperability is the ability of public safety agencies to talk across disciplines and jurisdictions via radio communications systems, exchanging voice and/or data with one another on demand, in real time, when authorized.

As a public safety practitioner driven program, SAFECOM is working with existing federal communications initiatives and key public safety stakeholders to address the need to develop better technologies and processes for the cross-jurisdictional and cross-disciplinary coordination of existing systems and future networks. SAFECOM harnesses diverse federal resources in service of the public safety community. SAFECOM makes it possible for the public safety community to leverage resources by promoting coordination and cooperation across all levels of government. The program has developed standardized grant guidance for public safety interoperability equipment grants and is working for standardized grant guidance for all interoperability grants, assisted the Commonwealth with the development of the Statewide Interoperable Communications Strategic Plan and governance model, and developed best practices to assist other states in developing interoperability plans.

In developing a strategic plan, Mr. Essid's office held focus group sessions in rural and urban areas around the Commonwealth. The focus groups afforded the Commonwealth the ability to capture the perspective of the local responders on interoperable communications, share education and awareness with all stakeholders, and learn the commonalities and differences among the regions. Feedback from these focus groups established an understanding of the current state of interoperability and the barriers standing in the way of future goals to make a case for change. The goals of these sessions were to establish communications interoperability as a high priority in the Commonwealth, establish the statewide use of a common language and coordinated protocols for emergency response, maximize interoperability capabilities using existing systems and equipment and planning for future technology purchases, and enhance knowledge and use of existing and future systems and equipment. At a strategic planning session, stakeholders reviewed the information from the focus groups and used that information to develop the core components of the strategic plan.

The barriers that emerged involved a lack of priority, lack of coordination, lack of lifecycle planning, technical barriers, inadequate training and numerous statewide mutual aid channels. Inconsistent funding streams and insufficient personnel resources allocated to drive collaboration demonstrates a lack of priority for interoperability. The use of different codes and terms and inadequate coordination of standard operating procedures evidences a lack of coordination. Current barriers to lifecycle planning include artificial lifecycles established by vendors and built-in incompatibility between versions of systems. Many grants do not pay for training creating a problem when implementing new systems. Finally, with various systems in place statewide and a lack of funding to replace all of them, the Commonwealth needs a "system of systems." Mr. Essid highlighted that the true problem with coordination is only 10 percent technology and 90 percent people.

The goal is to establish interoperability as a high priority in the Commonwealth with common standards, a common approach to lifecycle planning and extensive training and information sharing. To further this goal, Governor Warner established the Commonwealth Interoperability Coordinators Office (CICO). CICO will coordinate projects and efforts across the Commonwealth, act as a liaison with the Commonwealth Preparedness Working Group, act as a conduit between Initiative Action Teams and others and monitor their progress, and request resources, as required. CICO will receive advice and recommendations from the First Responder Interoperability Executive Committee. Ten representatives of state and local government and the public safety community comprise the Executive Committee and will receive support from a larger Advisory Committee.

Mr. Essid reported that the Governor approved the strategic plan, which he will introduce at the Statewide Interoperability Communications Conference in Richmond on October 19-20. The Conference is an opportunity for public safety responders to get together to discuss interoperable communications. Work will continue to secure funding to implement the initiatives, and the CICO will solicit applications to award \$2.4 million for local interoperability grants.

### ***VITA: Terms and Conditions***

As requested by Delegate Nixon, the Virginia Information Technologies Agency (VITA) provided its standard terms and conditions on for information technology procurement contracts. The Committee intends to compare these terms and conditions with its proposals over the past two years.

### ***Outsourcing & Offshoring***

Finally, staff provided a briefing on outsourcing, in general, and, more specifically, offshoring by government entities. State and national governments, including the Commonwealth, have focused on the issue and its impact on the domestic economy, especially on jobs.

Generally, outsourcing involves a company turning over responsibility, in whole or in part, for an internal business function to an outside service provider. Government can outsource by hiring a vendor through the procurement process to perform a task or service that it traditionally has performed. While outsourcing is nothing new, the model for outsourcing has become increasingly global. This leads to a discussion of offshoring, where labor is performed in another country, and the business process is moved to a lower-cost location, usually overseas. In large part, improvements in technology such as fiber optic cables and the Internet have lowered communication costs and made offshoring economically feasible. While all sectors now face offshoring of jobs and functions, the most common types of jobs include customer service, call service operations and data entry. The key policy questions that emerge for government involved with or considering involvement with companies that offshore are (i) the acceptability of spending tax dollars overseas if it saves money and (ii) whether the state has an obligation to ensure that tax money stays in the domestic economy.

Offshoring is increasingly controversial, and arguments abound both in favor of and in opposition to the practice. Proponents of offshoring argue that it increases the number of American goods in foreign markets, encourages free trade, increases competition, and creates a new demand for goods often purchased in the United States, such as computers. Proponents also suggest that the increased earnings of a domestic company offshore will be repatriated and returned to the United States through taxes. In the public sector, the lower cost of offshoring promotes more efficient spending and effective utilization of tax dollars. They argue that most often, lower-level jobs are offshored, opening the door for the development of more advanced, higher-paying jobs domestically. Finally, they suggest that implementing prohibitions against offshoring might lead to economic retaliation by other countries and could hamper the general administration of public sector outsourcing.

Opponents of offshoring counter that losing jobs overseas is generally bad for the economy. More specifically, they argue that while offshoring appears to save money, there are often hidden costs such as higher general operations costs, the costs associated with shutting down domestic facilities, and social services costs to the state through unemployment and job retraining. Additionally, they argue that cultural differences, language barriers, and potential political instability in foreign countries may create business problems. Opponents suggest that although typically lower-level jobs are lost to offshoring, technology makes it possible for "white collar"

jobs to be offshored as well, and there is no guarantee that increased profits or savings will be used to support the growth and development of new domestic jobs. Finally, opponents raise questions about data security. While a company subject to U.S. jurisdiction must comply with state and federal laws (e.g., intellectual property laws, employment protections, consumer protection laws, telemarketing restrictions, the Fair Credit Reporting Act, and privacy laws like the Gramm-Leach-Bliley Financial Modernization Act (GLB), the Health Insurance Portability and Accountability Act (HIPAA)), concerns emerge surrounding the process and security of moving and rerouting data outside of the United States. Companies also may lose their protections under the safe harbor exemptions to European privacy laws, hindering their ability to process data on Europeans. The Federal Trade Commission has argued that U.S. companies deciding to conduct activities offshore and their third-party providers still are subject to U.S. privacy and consumer protection laws.

In response to these concerns, more than 35 states and the federal government have proposed several pieces of legislation. Approaches include giving preferences to domestic vendors in the procurement process, prohibiting work with companies that offshore, placing restrictions on offshore call centers, limiting the processing of certain data abroad, or providing tax benefits to companies that keep jobs in the United States. Tennessee became the first state to pass such legislation. That law is specifically targeted towards data entry and call centers. Other states have issued executive orders or resolutions "encouraging" companies to keep employment in the United States or in a particular state.

The Virginia General Assembly introduced four bills during the 2004 General Session that addressed outsourcing and offshoring. Committees continued all of these bills to the 2005 General Session. House Bill 243 (Patron - Nutter) and Senate Bill 151 (Patron - Deeds) would create a preference in the procurement process for goods produced in the United States or services provided by U.S.-based companies, so long as the bid price was not more than 20 percent greater than the lowest responsive bid. House Bill 315 (Patron - Cosgrove) would give a three percent preference to goods manufactured, developed or produced in Virginia for contracts in excess of \$500,000. House Bill 1010 (Patron - Rust) would prohibit a public body from entering into a contract for professional services unless the contract provides that only United States citizens, legal resident aliens, and individuals with valid visas will perform the services under the contract or any subcontract.