

Report of the Governor's Task Force on Procurement Assessment

*Recommendations to Improve Virginia Government's
Procurement Systems*



February 3, 2000



COMMONWEALTH of VIRGINIA

Office of the Governor

James S. Gilmore, III
Governor

G. Bryan Slater
Secretary of Administration

The Honorable James S. Gilmore, III
Governor of Virginia
State Capitol
Richmond, Virginia 23219

Dear Governor Gilmore:

On behalf of the Task Force on Procurement Assessment, I am pleased to forward this report to you with its recommendations on how we can improve the performance of the Commonwealth's procurement efforts.

Since April of this year, the Task Force has worked many long hours to develop these recommendations. As more fully described in the report, we have actively solicited the views of all the major stakeholders in the procurement process, and in many cases, responded to the challenges identified.

This is an historic initiative, long overdue in our state, and an enormous opportunity to streamline a critical government function as we improve services for Virginians.

Each year, the Commonwealth procures more than \$4.5 billion worth of goods and services. This figure rises substantially when adding capital outlay and other construction projects. The recommendations contained herein are designed to deliver these products and services in a manner that is more cost-effective, timely, and consistent with the level of accountability the public should expect.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Bryan Slater".

G. Bryan Slater
Secretary of Administration
Chairman, Task Force on Procurement Assessment

A handwritten signature in black ink, appearing to read "Donald W. Upson".

Donald W. Upson
Secretary of Technology

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Individuals who wish to research the full array of materials presented to the Task Force may do so by directing their Internet web browser to the following URL:
<http://www.vaprocurement.state.va.us>



Prepared with assistance from
The Performance Center
and the Mason Enterprise
Center

George Mason
University

Executive Summary – The Vision

Five years from now, e-procurement in Virginia government will be a way of life. One web site for all state agencies will serve as the central marketplace for buyers and sellers of goods, and services, including capital outlay procurement. Vendors will receive e-mails announcing opportunities based on their interests, or they can visit the central web site, and get a project description and/or the full solicitation. Local governments will participate too, as each deems appropriate to their needs.

Because of this activity, agencies will have more choice, better, and less costly offers from which to select. Vendors, especially small, women, and minority owned businesses will have more opportunities because, all opportunities can be accessed at one place. Agency buyers will be able to click, order, and purchase their goods for delivery – reducing time and paperwork.

Agencies will have more freedom and authority, and we, as Virginia citizens will be comfortable with that because agency procurement staffs will be certified professionals and the Department of General Service's periodic reviews will have facilitated improvement in their programs. Making purchasing decisions around the concepts of "best value" or the total ownership cost will be the norm. At the same time, negotiating prices will be easier, allowing savings in some areas never available before. Agency decisions will also occur faster and better because of projects to eliminate non-value added steps as well as new and more sophisticated solicitation vehicles.

Vendors and state employees will be trained in the new way of doing business. State agencies with complex procurement issues, such as privatization and outsourcing, will have staff expertise to handle the analysis required.

Honesty and integrity will be hallmarks of the system, because more information on transactions and other aspects of the process will be available to the public. Likewise, multi-award contracts will allow for a wide range of competitively developed options from which to choose, thus providing agencies with the ability to make quick decisions.

To achieve this vision, the Task Force on Procurement Assessment is recommending five initiatives made up of 35 specific recommendations. The initiatives are:

1. Improving Access for All Using State of the Art Technology.
2. Promoting "Best Value" Procurement Policies and Practices.
3. Increasing the Number of Competitively Awarded Contracts
4. Modernizing Agency Empowerment Thresholds, Reducing Paperwork, and Process Complexity
5. Maintaining Accountability, Openness, and Improving Performance

The 35 recommendations were evaluated in order to assess how well each supported the six key improvement objectives. Specifically, the Task Force analyzed each idea and asked how well it would:

1. Promote procurement options for both products and services?
2. Balance cost and value for the end user?
3. Promote an appropriately open system?
4. Produce definable results that can be measured by feedback?
5. Make things fast and timely?
6. Make things ethical and accountable?

Of the 35 recommendations in this report, nine (9) will require implementing a statutory change. The rest can be implemented administratively, should that be the desired approach. Those changes requiring legislation are summarized below and are more fully defined in the report:

Recommendation A.6. would amend the law as necessary to permit the Commonwealth to charge for paper copies of solicitations and to make newspaper posting optional when the DGS central web site, as recommended in this report, is deemed to be fully operational.

Recommendation B.1. would amend the law to create flexibility within the "Invitation for Bid (IFB) /Request for Proposal (RFP)" approach to address simple "best value" issues more efficiently by developing a third solicitation approach, consisting of a modified RFP and/or a modified IFB. Under this approach, end-item price would not be the only variable in the selection process.

Recommendation B.4. would update the law to specifically encourage and consider "full cycle – best value" procurement concepts when making decisions.

Recommendation C.1. would change the law to expressly allow for multi-award contracts. Multi-awards are defined as "more than one award for an item meeting the same specifications." This change would be designed to cause: 1) Multiple vendor participation in a single project for goods, services, and professional services; 2) Multiple open ended awards to one vendor for different phases of a project for goods, services, and professional services; and 3) The creation of a Federal Government General Services Administration (GSA) like schedule of statewide contracts for goods, services, and professional services. The use of a particular vendor and/or the use of the schedule/contract would be at the option of the agency excepting where mandatory use is required because of specially defined requirements.

Recommendation D.5. would change the law to raise the small purchase threshold for goods and services, including professional services, to at least \$50,000 (consider going to \$100,000) and document at least three quotes from \$5,000 to \$50,000.

Recommendation D.8. assumes the law is changed to allow for a third solicitation option, similar to that proposed in Recommendation B.1., and would change the law to ensure that it allows electronic proposals and/or oral presentations, as appropriate.

Recommendation D.9. would amend the law to make negotiations optional when using the competitive negotiation process for the procurement of "other than professional services" and "professional services."

Recommendation D.12. would amend the law, by specifically modifying VPPA 11-35(G) to require that : "competition be sought with openness and administrative efficiency" in lieu of "maximum feasible degree."

Recommendation E.2. would amend the law to eliminate mandatory sources for procurement.

Taken together with the other recommendations that can be implemented administratively, the Task Force believes that the vision outlined in this executive summary can be easily achieved.

Procurement in Virginia Today

In 1983, responding to the needs of the day, the Commonwealth adopted the Virginia Public Procurement Act (VPPA). The Act formed the basis for public-procurement practices in the Commonwealth. It established clear and consistent guidelines for fair and open competition in Virginia's public purchasing. It restored public trust in the state's procurement processes.

The guiding principles for procurement in the Commonwealth as established then are found in the VPPA, section 11-35(G):

"To the end that public bodies in the Commonwealth obtain high quality goods and services at reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to public business and that no offeror be arbitrarily or capriciously excluded, it is the intent of the General Assembly that competition be sought to the maximum feasible degree, that individual public bodies enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor, and that the purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered."

Since the enactment of the VPPA, almost twenty years ago, much has changed in the state government work environment. Decentralization of authority, best-value procurement of goods and services, technology procurements, electronic commerce and public-private partnerships are concepts that have changed the way the Commonwealth procures goods and services. Electronic procurement systems and the use of the Internet for procurement are growing rapidly. During fiscal year 1998, the Commonwealth spent in excess of \$4.5 billion on the purchase of goods and services. These purchases were made under rules established nearly twenty years ago.¹ While these rules have served Virginia well in the past, it can do better in the future.

Authority is decentralized on a varied basis.

Although the VPPA provides a common procurement framework for much of the state government, authority to work within the system is decentralized in many ways.

Decentralization has many advantages. Among the advantages are:

- responsiveness to local needs and requirements,
- opportunities to innovate, and
- control of resources at the operational level of government.

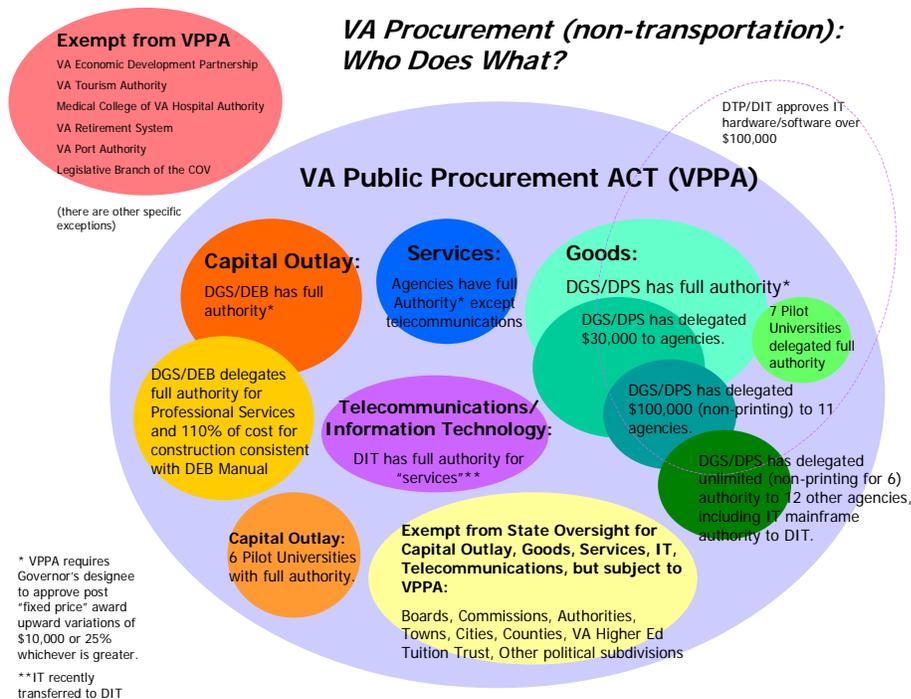
At the same time, decentralized procurement in the Commonwealth presents a panorama of oversight, operational constraints, and procedures. Because of these operational differences, maintaining the level of openness and assuring consistent interpretation can sometimes be difficult. For example, with the exception of statewide contracts, vendors who wish to participate in the procurement process must be familiar with the needs and

¹ Executive Order 30 (98), Office of the Governor, Commonwealth of Virginia, September 2, 1998.

desires of multiple agencies. Today, the only central source of information is the Virginia Business Opportunities (VBO) periodic publication.

The many different aspects of procurement in the Commonwealth are illustrated in Figure 1, below. Because there are so many different methods of procurement and so many different levels of authority, the challenge to improving the system rests on determining how best to preserve the advantages of decentralization while making the system easier to use and monitor.

Figure 1



As the chart shows, with a few exceptions, all state and local government entities must comply with the VPPA. Local governments and a few other organizations, although required to comply with the VPPA, can develop additional requirements to manage procurement, provided those requirements do not conflict with the VPPA.

The Department of General Services (DGS), except as it delegates, oversees most of the procurement relating to the purchase of goods and services and construction activity, through its Division of Purchase and Supply (DPS) and its Division of Engineering and Buildings (DEB), respectively. Each Division has its own manual that interprets and provides greater detail around various requirements of the VPPA.

The Department of Information Technology (DIT) is responsible for procuring telecommunications services and products via statewide contracts. Additionally, DIT has recently taken on the responsibility of administering statewide information technology services on a pilot basis as delegated by DGS.

With a few exceptions, DEB has delegated nearly all of its authority to individual agencies, provided that they follow the DEB Manual. Six universities have their own

construction authority independent of the DEB Manual when the project involves non-general funds.

DPS has delegated considerable authority and appears to be moving in the direction of greater empowerment at the agency level for the purchase of goods. As for services, agencies have full authority in their own right.

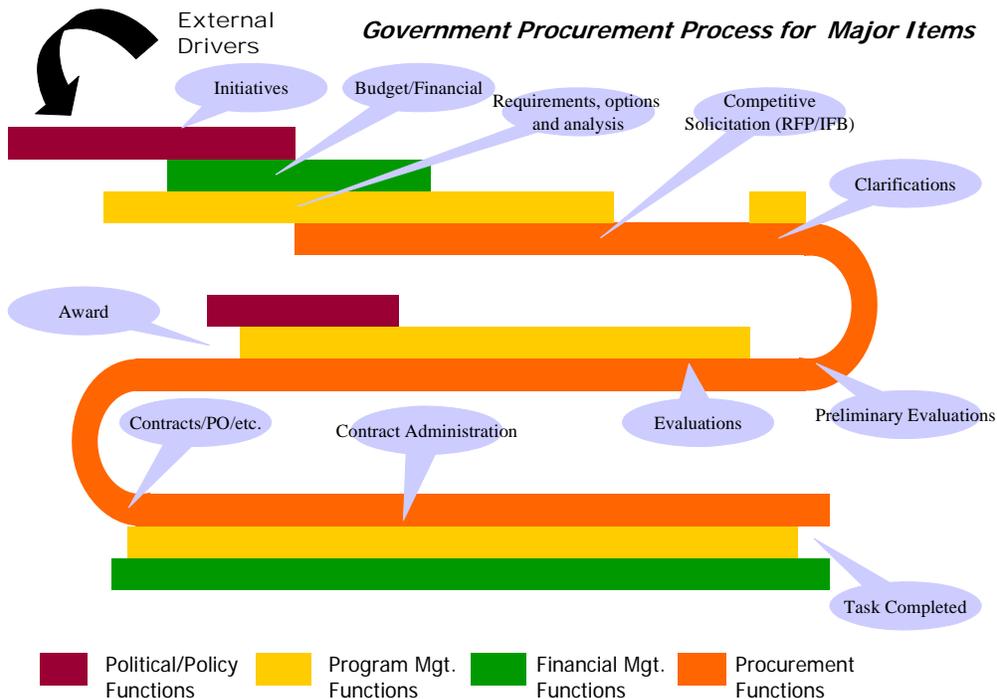
For decisions regarding whether to order from statewide contracts or to issue solicitations, agencies are in full control consistent with their needs and resources. Likewise, in all cases, agencies are responsible for the issuance of purchase orders and payments, as opposed to using a centralized payment and ordering process.

The Procurement Process in the Commonwealth is Similar to Other Governments and Major Private Sector Businesses

Among the many who have vital interests in procurement are political and policy leaders, financial managers, program managers, and procurement professionals. These interests and roles are illustrated in Figure 2.

It should be noted that the procurement process depicted in Figure 2 does not apply to small, routine purchases but rather to large procurements of end items and services. For the most part, Virginia government agencies have and continue to embrace modern tools for the purchase of small goods and services. The use of credit cards in Virginia and other areas have helped to significantly improve the process of procuring small items. The primary impediments to the continual improvement of the small purchase processes are 1) non-value-added approvals at the agency level, 2) the unavailability of statewide data to determine where bulk savings could be created, and 3) the ambiguity in the VPPA around the ability to make multiple awards via one procurement.

Figure 2



The significance of recognizing the various roles in the procurement of major items is that various stakeholders participate during different periods in the procurement process. These stakeholders are critical to any effort to improve the process.

As the Task Force considered the key question, "Where does the procurement process begin and end?" the roles of various stakeholders take on an even greater importance.

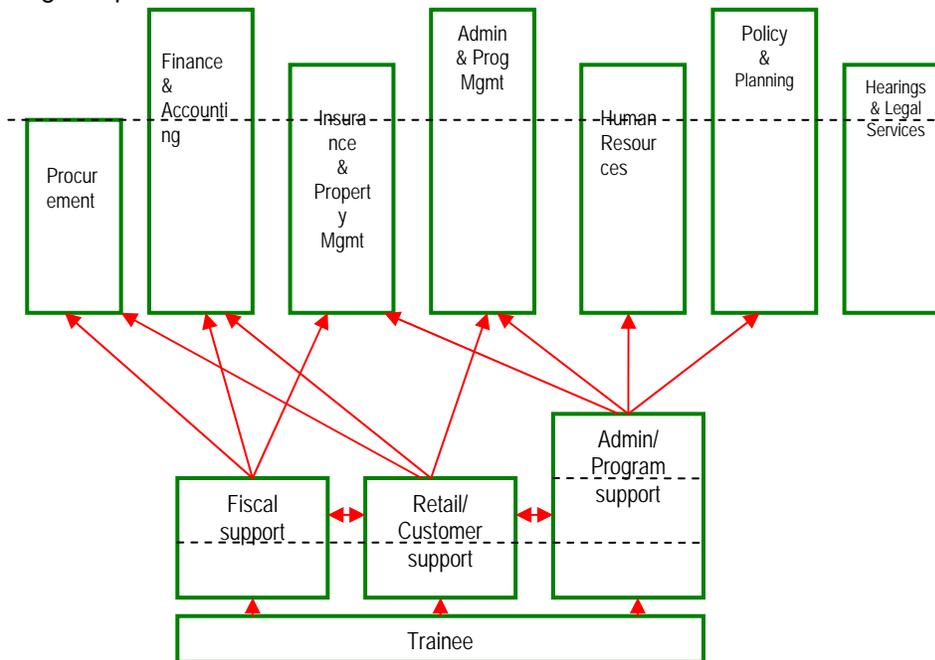
Consistently throughout discussions by the Task Force was the recognition that the procurement professional corps within state and local government is a key element in improving the process. At the same time, the importance of educating and training managers at all levels emerged as an important means of the improving the professional procurement process.

Figure 2 provides an overview of the procurement process within the Commonwealth and a method for identifying critical points for improvement within the process. Although much of the discussion and evaluation of this process by the Task Force focused on "procurement" functions, Task Force members are keenly aware of the role of the remaining three functions. Also noted was the lack of feedback along the procurement continuum. At few points within the process is there any systematic method or practice for evaluating outcomes and then feeding this information back into the system.

The Professional Contracting Infrastructure has Limited Capability When Compared to Potential Need

Among the categories of Administrative Support career functions in Virginia, the professional contracting series ranks the lowest relative to career-advancement opportunity and income potential. Agencies with complex procurement issues involving major information systems, complex outsourcing decisions, and major construction activities may find it difficult to receive adequate advice, best-value, and other decision-support services.

Most agencies in need of this high level of expertise rely on other management and/or programmatic infrastructure to perform analysis and review options. The level of involvement of the professional procurement infrastructure varies, depending upon the organization and its capability. This approach is used by many agencies and does not in and of itself suggest that a change is warranted. However, as government continues to look for alternative ways to do business, Virginia needs to develop a higher level of understanding, training, and responsibility in order for procurement officials to manage complex approaches to procurement involving techniques such as best-value decision making and performance-based contracts.



Efforts are Underway to Increase the Professional Capability of the Procurement Workforce

Advanced procurement skills are typically achieved through various certification programs run by the Department of Purchasing and Supply and Nationwide Groups. In the Commonwealth, these include the VA Contracting Officer (VCO), the Certified Public Purchasing Officer (CPPO), and the Certified Purchasing Manager (CPM). The Commonwealth administers VCO certification, which requires completion of 60 hours of classroom instruction and successfully passing a written examination. Although no agency is required to have any certified staff, 624 state and local government employees are currently certified. Approval authority is geared in part to personnel who are certified. In 1999, 64 individuals achieved certification and 25 are in the examination process. Certification can be sustained by earning six points every five years. (one point = six hours of professional development.) In 1999, 53 employees were recertified. Additionally, in 1999 DPS delivered 52 procurement-training classes covering 11 different courses of instruction attended by 1,315 state and local government employees.

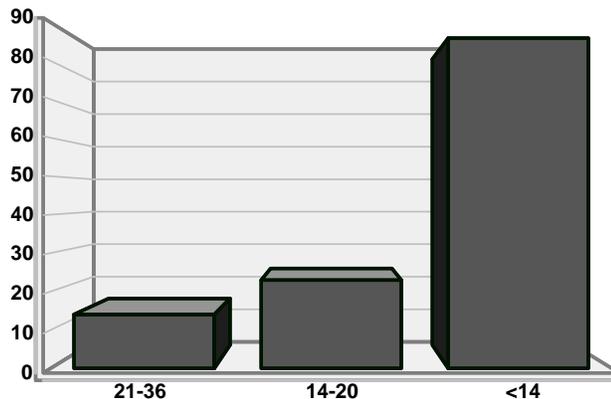
Virginia Does Well at Following the Law for Goods and Services

Agencies that receive authority from DPS are also subject to periodic on-site review at least once every three years. The results of the review may lead to more DPS oversight of an agency. Likewise, delegated authority can be increased when reviews are good. DPS continues to refine its review process and approach. Over time, the review process should continue to improve and can become a major source of measuring performance. At present, the major objectives of the review process are:

- Compliance, in order to determine the extent to which VPPA and DPS policies and procedures are being followed.
- Advice/Consultation
- To identify areas of improvement, training needs, procedures that can be shared with other state agencies, etc.
- To assess performance to standards of increased delegated authority, if appropriate.

Agency Ratings

Results include 126 Agencies



Raw scores of 40 and above suggest the need to withdraw or reduce the agency's delegated procurement authority.

Scores between 21 and 36 indicate the need for a follow-up visit within 12 months of receiving the agency's response to the review report.

Scores between 14 and 20 suggest that an annual “progress/status” contact is needed with the agency, and an accelerated review may be needed.

Scores below 14 only require reviews under the normal three-year schedule.

The DPS review of the procurement of goods is the only systematic, continuous look at agency procurement and statewide trends. There is no systematic review of the procurement of services or construction. Nor is there any review of the “reviewers.” These other functions, however, are subject to review as a result of other more ad hoc audit activities. Likewise, hotline, complaint-tracking, and other systems are in place to mitigate to some degree the lack of review.

VPPA Does Not Facilitate Modern Procurement Thinking on Best Value

The primary driver for decision making in today’s procurement environment is a concept called “best value.” The concept is based on the notion that “total ownership cost” analysis should be applied to most acquisitions. In essence, “TOC” requires one to look at the costs associated with the acquisition over its useful life. Concurrent with these concepts are efforts to define outcomes up-front as well as to measure performance during and after the procurement.

Although the VPPA does not prohibit “best value” decisions, the concept is not necessarily facilitated either. Without the VPPA embracing best value as a policy cornerstone, many procurement professionals are reluctant to make pro-active best-value interpretations of the existing procurement laws and regulations.

In addition to best value not being referenced in the VPPA, the limitation on the type of contract vehicles makes it a difficult concept to deploy.

Limitations on the Number and Types of Contract Vehicles Raise the Risk of Potentially Costly Decisions

There is no such thing as a 100% risk-free procurement. At the same time, risk can be mitigated with the introduction of modern, state-of-the-art procurement vehicles. At this time, there are essentially three types of procurement vehicles. At the agency level, procurements are made via 1) an Invitation for Bid (IFB) and 2) a Request for Proposal (RFP), or 3) Statewide Contracts.

IFBs are intended to allow for faster procurement. The trade-off is that the VPPA appears to set price as the only decision point, irrespective of such issues as warranties, past performance, etc. While the RFP can allow for considerations other than price, the process to undertake an RFP is cumbersome and not always warranted. Because there is nothing in between the RFP and IFB, the Commonwealth risks the making of poor and costly decisions when it must make relatively fast purchases.

Another vehicle available to agencies is statewide contracts for goods available through DPS. Even here, there is risk as the VPPA is unclear surrounding the ability to make multi-awards on one contract. Thus, an agency with a time problem could be forced to acquire a more costly or less than desirable product relative to its needs. Today, DPS has 413 statewide contracts.

An example of a successful cooperative procurement effort within the Commonwealth is that of the Virginia Association of State Colleges and University Purchasing Professionals development of "cooperative procurement contracts" for its members. For over six years, the nine participating schools have enjoyed the benefits of more than twenty fully cooperative contracts from audio visual support to tax consulting services, and more than

sixty contracts with "additional users" clauses offering goods and services from Apple products to Year 2000 Consulting Services.

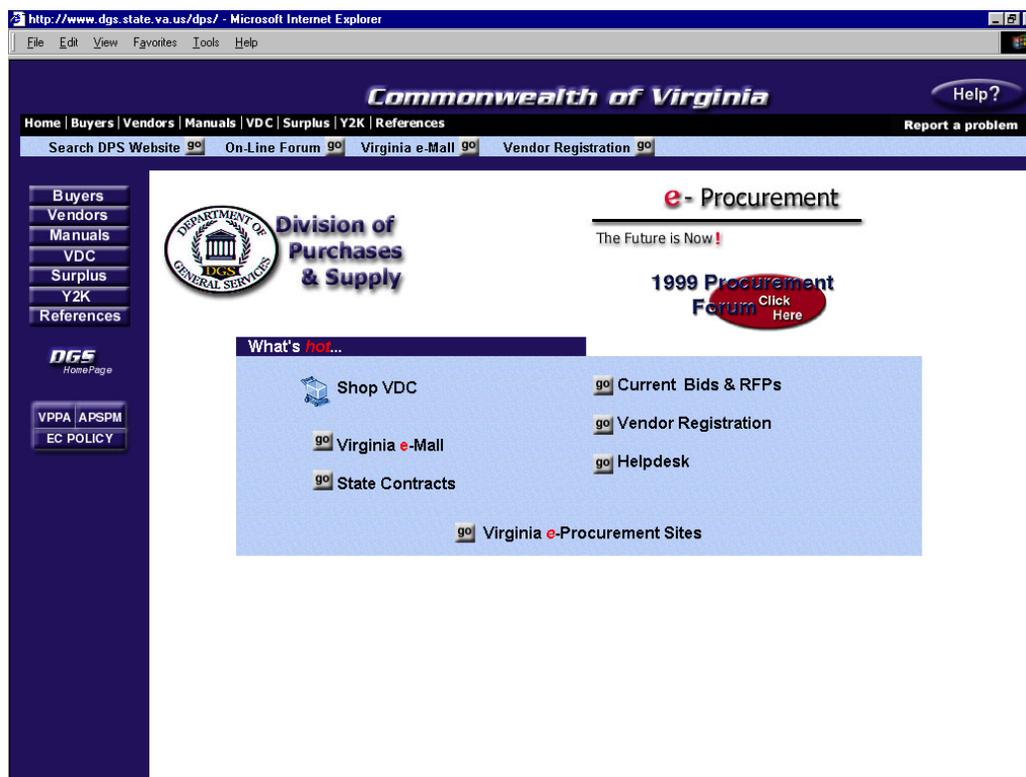
On a statewide basis, cooperative procurement has been a limited alternative. This vehicle is a result of more than one agency coming together within or without the DPS umbrella. Occasionally Virginia has participated in such cooperative arrangements with other states.

E-Procurement is Occurring But Can be Significantly Enhanced

This past April, DPS launched its E-Procurement web site for goods and services. The current vision – one the Task Force will recommend be enhanced - contemplates the following capability:

- Vendor registration database
- Advertising of statewide goods and services contracts
- Buying capability for goods and services (shopping cart approach)
- Information repository for various items such as the VPPA, and other manuals

At the present time, only goods and services under the auspices of DPS



are advertised. Solicitations from other agencies, such as DIT telecommunications services, statewide construction services, as well as individual agency needs, are not available directly from this site. DPS is gradually adding to the site, some links have been included university procurement offices and about a dozen localities.

E-Procurement has essentially three components covering the following areas:

Advertising, Receiving Bids and Proposals: this phase typically involves advertising bids via a web site, registering vendors in order to send them information, and receiving proposals electronically.

On-Line Ordering: this phase generally applies to agency ordering goods via a web connection from government contracts that are already in place.

Vendor Payments: this final phase normally involves such things as electronic purchase orders, invoices, and payment.

In each area, there is ample evidence of savings emerging across the country.² Wide-audience on-line posting and “pushing” of solicitations to pre-registered vendors are yielding as much as 10 times the number of responses as before.

On-line ordering and vendorpayment systems are cutting internal processing costs or the cost of "doing business" significantly.

According to a recent survey of 35 states by the National Electronic Commerce Coordinating Council, most states appear to be somewhat in the middle of full implementation in all aspects of each of these areas. States whose purchasing is centrally administered appear, as would be expected, to be farther along.

As previously explained, with the exception of purchasing from statewide contracts, all facets of Virginia's procurement systems are administered at the agency level within a generally applicable common policy and procedure framework. Given the various facets of E-Procurement, it is hard to say precisely where Virginia falls among its sister states except to say it is likely to be behind states whose philosophy has always been to run centralized systems.

To receive the full benefits of E-Procurement as weighed against its cost, Virginia must consider to what degree it centralizes the three functions outlined above. An approach toward total centralization of all or part of each function would clearly be expensive with and without less clear benefits. Likewise, failure to centralize some portion would dilute the potential advantage that E-Procurement has to offer.

For example, if all 150 or so state agencies developed their own web sites to post solicitations and continued to advertise in the Virginia Business Opportunities as they do today, what would have changed? To look for sale opportunities, vendors, as some do today, would have to separately electronically contact 150 different agencies. Thus, access and the potential of a higher level of competition might only marginally improve or might not improve enough to even justify the cost of maintaining so many sites, as compared to what could happen if vendors only had to go to one central place.

At the same time, centralizing payment and processing systems is a very complex project often dependent on other forces affecting an agency's ability to move forward. Despite this, most agencies already appear to recognize the value of automated systems that deal with payment and processing. Most agencies of any size have in place today some level of automation in this area and, if not, have such in their strategic information-technology and financialmanagement plans. It is reasonable to expect that most agencies will achieve these capabilities over time and on their own.

² Marc Holzer and Kathe Callahan, Government at Work : Best Practices and Model Programs, (1997) Sage Publications, San Francisco, CA,

Issues around the negotiation of price for professional services – particularly Architects and Engineers, continue in the forefront

At issue is whether or not the state should have the flexibility to concurrently negotiate price with two or more firms that offer professional services, as one of many factors to consider in the procurement of those services. In Virginia today, price must first be negotiated with the firm deemed most qualified. Then, failing to come to acceptable terms, the negotiations must be terminated with that firm and then initiated with the firm deemed next most qualified. However, should a determination be made to move to the next firm, there is a prohibition on returning back to the first firm for further discussion.

This practice applies to all services designated as “professional” by the VPPA and are listed as follows: Accounting, Actuarial services, Architects, Land Surveyors, Landscape Architecture, Law, Dentistry, Medicine (human), Optometry, Pharmacy, Professional Engineers, and the State Corporation Commission Economists.

In 1980, then Secretary of Administration and Finance, Charles Walker, led a commission to report on ways to reform Virginia’s procurement system which recommended allowing competitive negotiations, and stated that...

“No issue generated more comment during the course of the study than the procurement of architectural and engineering services.”

That statement remains true for this report. Of the professional services, Architects and Engineers have by far the biggest stake when it comes to state expenditures. Architects and engineers generally oppose changes to the current approach. They argue that it is their belief that the most important reason to select a design professional for an assignment is that they be the most qualified, among the proposors, to accomplish the work. In their view and experience the introduction of price competition will compromise their ability to deliver the “best value” to the project. They note there is a long tradition in the industry emphasizing “Qualifications Based Selections” (QBS) as applied to government procurement here in Virginia, as well as in other states. To the Architects and Engineers industry, as well as, the American Public Works Association, the American Bar Association and other related associations, it is a matter of good public policy. QBS , in their view, best insures that the taxpayers receive the best value for their capital investments.

The alternate argument is that the protection afforded professional services around price is inconsistent with sound procurement policy and could be costly to Virginians. Similar protection is not available to the industry in the private sector as, in the case of Architects and Engineers, their ethical concept of non-bidding of price was deemed by the U.S. Supreme Court in 1978 to be a violation of the antitrust laws. For the industry’s argument to hold true, one would have to believe that buildings built in the private sector since 1978 are inferior. Likewise, the assertion that government will naturally migrate to the lower cost proposal is unfounded. Using the RFP process, procurement officials frequently make “best value” decisions which consider a host of other factors. Perhaps more importantly, in those situations where budget limitations are very real, a QBS might not result as the state will end up selecting its second or third choice because it could not go back to its first choice over the issue of price.

The Task Force Decision Making Approach

The recognition that change in the procurement process was warranted prompted an initial Executive Order, #30. This Executive Order was then continued by #40, which organized a representative group from the public and private sectors to form the Governor's Task Force on Procurement Assessment.

The Scope did not Include Transportation Procurement

The Task Force set a broad scope for its evaluation of Virginia's procurement systems. Nearly every aspect was reviewed with the one exception being procurement processes around the acquisition of highway building and maintenance. This decision was made because of the focus on transportation by other commissions.

The Task Force Used a Collaborative Decision-Making Process to Develop its Recommendations

The Task Force met eight times from April through December 1999. From the first meeting through the last, Task Force members collaboratively developed conclusions and recommendations that will materially improve the Procurement process in the Commonwealth.

At the first meeting, on April 27, 1999, the Task Force developed five critical questions that focused efforts throughout the Task Force's learning process. The five critical questions were:

1. *How do we promote access to ensure competition is fair and more broadly defined?*
2. *How do we improve the process and protect openness, accountability, and efficiency?*
3. *How should we measure outcomes – cost and performance?*
4. *How do we improve communication, education, and outreach for buyers and sellers to gain efficiency? Where does the procurement process begin and end?*
5. *How should we procure technology and use technology to improve efficiency in procurement?*

At that first meeting, the Task Force also directed that vendors throughout the Commonwealth be surveyed for their views and opinions on the Procurement Process.

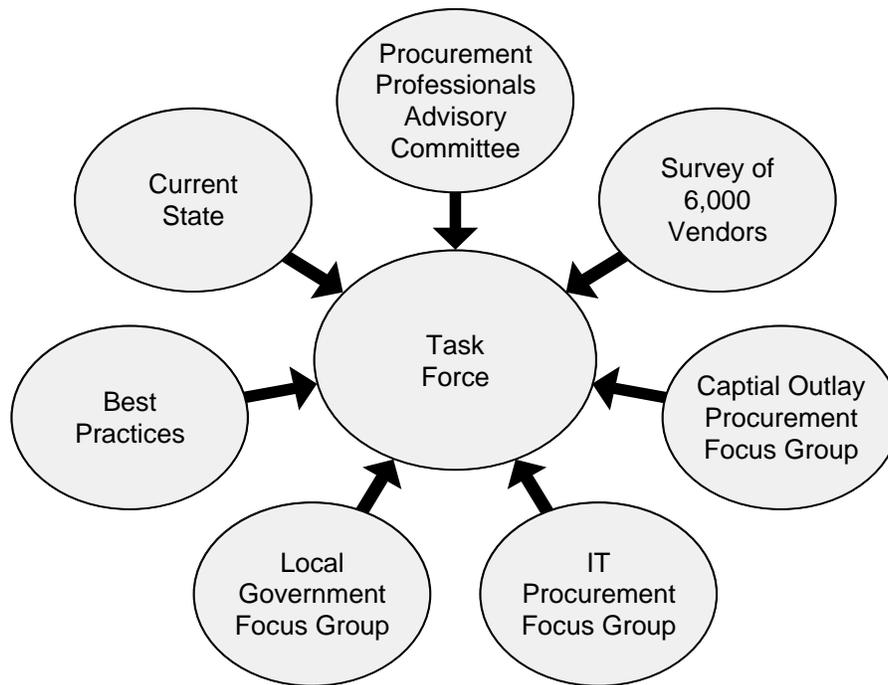
During subsequent meetings in July, September, October, November, and December, the Task Force addressed each question specifically and incorporated Question #5, into each set of deliberations.

Information was Presented from a Number of Sources

The need for information was important and information was sought, developed, and reviewed from a myriad of sources.

Data Collection Sources

On Each Critical Question



Current State and Best Practices

Throughout the work of the Task Force, research associates at the Mason Enterprise Center, George Mason University, and the Department of General Services provided information and data on “Best Practices” nationally and the “Current State” of procurement in the Commonwealth.

Summary of Best Practices

George Mason University researchers and the Performance Center presented summaries of "Best Practices" at Task Force meetings in May through August. A major focus of all "best practices" found was on efficiency and effectiveness of procurement through electronic commerce. Two states, California and Florida, were considered models for Web Enabled procurement statewide. Innovation and efforts to privatize were found to be considerably enhanced by inclusion of all stakeholders in the policy-development process. Although considerable savings were forecast when electronic commerce was fully implemented, dual systems and startup costs were considerably higher than originally estimated.

Focus Groups

A series of four focus groups, or information collection activities, was held during the course of the Task Force deliberations. These included a two-day series, June 3-4, 1999, with procurement professionals from throughout the Commonwealth. Others conducted included Local Government procurement officials, Information Technology procurement professionals, and Capital Outlay and Construction professionals. The

results of each information-gathering effort was collected, organized, and presented to the Task Force within days of the completion of the event. Representatives of the Procurement Professionals Advisory Group that was formed during the Procurement Professionals Focus Group session attended the final two meetings of the Task Force and were called upon as sources of information and insight into procurement practices in the Commonwealth.

Summary of Focus Group Recommendations

- 1) **Procurement Professionals Advisory Committee** - PPAC (June 3-4, 1999). The PPAC made five major recommendations to the Task Force:
 - Use the Internet and new technology to increase competition and communicate opportunities for vendors and buyers.
 - Establish a centralized web site for agencies to advertise.
 - Establish a system to allow on-line bidding for contracts, commodities, and services.
 - Conduct vendor forums, training, and workshops to show vendors how to do business with state.
 - Post all solicitations on the Internet.
- 2) **Construction and Capital Outlay Group** (June 24, 1999). The focus group participants made three major recommendations:
 - In addition to the standard (newspaper) medium of advertising: Permit Agencies to post advertisements via e-mail on the Virginia Business Opportunities -VBO. Format an e-mail posting so that all agencies' postings can be updated and posted to provide a central location where anyone can have broader access to the current advertisement.
 - Develop a more efficient and effective method to grant procurement authority (currently the agency Virginia Contracting Officer – VCO) to agency staff directly involved in the capital outlay process.
 - Enable agencies to have the option to award multiple professional service (A/E) term contracts on a single RFP advertisement – current limitation is 1 contract award per RFP solicitation.
- 3) **Information Technology Professionals** (July 28, 1999). IT Professionals made five recommendations:
 - Define procedures for tracking and measuring vendor/contractor performance.
 - Establish a contract administration program that includes a certification program for all public entities.
 - Provide for appropriately trained analytical staff, management, and MIS to track and analyze data on IT procurement.
 - Continuously improve customer satisfaction by concentrating on end user -- timing, cost/value, quality, and vendor performance.
 - Conduct statewide staffing analysis of "procurement services" to ensure appropriate resource commitments. Consider staffing and cost benchmarks with other states and other similar organizations.
- 4) **Local Government Procurement Professionals** (September 1, 1999). This group made four very clear recommendations to the Task Force:
 - Continue to allow local governments flexibility in procurement processes.
 - Amend the Act to permit electronic bidding and contracting. This should be major thrust.

- Eliminate non-responsibility process. Some local government procurement officials find it reduces their ability to protect the local jurisdiction's best interests.
- Don't mandate changes that will be cost prohibitive to localities (e.g., use of technology).

Vendor Survey

Between the first meeting and the second meeting, a survey was developed and a random sample of three vendor databases selected. The three databases were the Department of Purchasing and Supply registered vendor list, the Virginia Chamber of Commerce vendor list, and the Virginia Business Enterprise vendor list. Duplicates were eliminated and a representative sample of each database was randomly selected. From a total of over 37,000 vendors, 6000 were mailed the survey form with a self-addressed, stamped return envelope. The return rate of 20%, over 1200 individual surveys, was consistent with mail surveys and provided a statistically valid sample. Beginning with the second meeting in June, analysis of the responses from vendors was provided to the Task Force.

Summary of Survey Results

The six major recommendations for improvement were:

- More Help for Small Companies.
- Emphasize Quality Over Price.
- Pay Faster/Cut Red Tape.
- Less Paper and More Electronic Commerce.
- Enhance access and keep a level playing field for new and incumbent vendors.
- Support More Women/Minorities.

The performance of the Commonwealth as a "buyer" was the area vendors believed the greatest improvement could be made. Vendors recommended that the VA to improve in the following areas, in order, when initiating procurement actions:

- Quality
- Cost
- Past Performance
- On-Time Delivery

Balancing the Need for Timeliness with Accountability

Throughout its deliberations the Task Force recognized that timeliness was critical to improving the procurement process, whether providing information to vendors, training to buyers, or resolving disputes between vendors and buyers. The timeliness and speed with which the procurement process is executed must be matched by a robust accountability system that ensures taxpayer money is properly spent. To that end, due consideration was given to each recommendation to ensure that the current system of accountability was not compromised and that, where necessary, additional accountability measures are incorporated. To illustrate, the Task Force recognized the valuable role played by the "Procurement Review Process" and has made recommendations concerning the need for continued oversight and review of any further decentralization of procurement within the Commonwealth.

Improvement Objectives

Six key objectives were developed and weighted (in the order listed below) according to importance on the part of the group. All ideas were scored on a scale of 1-10 (with 10 as high) to determine how well each achieved the objectives. Ideas that scored above the “mean” are included in this report as recommendations. For each idea, the following was asked.

How does the idea help...

1. *promote procurement options for both products and services?*
 2. *balance cost and value for the end user?*
 3. *promote an appropriately open system?*
 4. *produce definable results that can be measured by feedback?*
 5. *make things fast and timely?*
 6. *make things ethical and accountable?*
-
1. Promoting options for both products and services were considered important because the procurement system must be flexible enough to meet increasing demands in many areas for speed, efficiency, and effectiveness.
 2. Balancing cost and value for the end user of the product or service includes “best value,” which is not always the lowest offered price. The concept of “best value” is consistent with best practices in both the private and public sectors.
 3. Promotion of an appropriately open system ensures maximum competition while ensuring participation in the procurement process for all that wish to participate.
 4. A fully rationale and open procurement system can produce measurable results that are clearly defined
 5. Speed and timely delivery of goods and services are important considerations. Where speed and timeliness are not considered, there should be clear and unambiguous reasons.
 6. Ethical and accountable procurement is essential for maintaining public trust.

Recommendations

As previously mentioned in this report, all recommendations were scored against how well each achieved the six weighted objectives. The recommendations are listed in five different categories. In those five categories, *with a few exceptions to consider like subject groupings*, each recommendation is addressed in the order of how well it achieved the objectives as determined collectively by the Task Force. Each recommendation is listed, followed by a discussion as to why it has been made.

Ideas that scored in the lower 50 percent are listed in the appendix to the report. These ideas are listed, because they were discussed as part of the overall effort and are important to understanding the full flavor of the Task Force deliberations. These ideas were considered, but are not recommended. At the same time, most Task Force members would suggest that those responsible for the administration of Virginia's procurement system consider many of the ideas listed in the appendix and make a subsequent determination as to whether or not they should be implemented, particularly where they may be implemented at little or no cost.



Initiative A: Improving Access for All Using State of the Art Technology.

Increased access to technology is the key to achieving greater cost savings for taxpayers. While it is true that streamlining procurement processes will result in administrative savings too, the big-dollar savings are achieved by providing more choices. In short, generating more responses to solicitations will increase competition. Utilizing modern technology is one way to increase the number of solicitation responses.

Recommendation A.1. Require all state agency solicitations over \$30,000 to be available from one web site, using a uniform format that is easy to use. Where technically feasible, in the judgment of the procuring agency, the entire solicitation should be posted on-line.

Why this is important: The Task Force believes this recommendation to be one of the cornerstones of Virginia's efforts to modernize its procurement systems. This concept sets the stage for multiple benefits in a number of areas. First, as was highlighted in the vendor-community survey, easy access to information about solicitations and the contracting process was the number one issue. This is especially true for Small, Women-owned, and Minority Businesses (SWAMs) who do not have vast networks across the state. Second, one web site, easy to use, with a "catchy" address, containing solicitation information from all state agencies organized in a consistent manner, perhaps using Standard Industrial Classification (SIC) or other classification codes, will enhance access like no other venue can, resulting in a significant increase in solicitation response, choice, and better pricing options. It should be noted that while the Task Force would not rule out and perhaps even encourage links to agency web sites for further information, the strategic nature of this recommendation does not contemplate the public having to search 150 or more links to obtain basic information. Such a result would not achieve the "easy to use" objectives of the recommendation. The viability of this recommendation depends on the vendor community being able to know with certainty that all solicitations over \$30,000 can be accessed from this one site. Finally, as can be found throughout these recommendations, the existence of the web site becomes integral to addressing many other issues, from "marketing" of solicitations to maintaining "accountability" through disclosure.

Recommendation A.2. Centralize, enhance and require vendor registration on the web site.

Why this is important: While DGS has already begun to promote vendor registration at the central web site, more is required. Specifically, the benefits of this feature are critical to Virginians receiving the savings envisioned because of more procurement solicitation responses. At the core of the registration process is the electronic mail links to vendors within certain classification codes. Armed with this information, agencies can become pro-active and "market" their solicitations by sending messages directly to vendors that might be interested in responding. Likewise, this becomes a way to communicate generic information of interest to vendors and, in particular, special initiatives for SWAMs. Doing this right will create immediate savings in the cost of solicitation, by allowing agencies to eliminate costly mass mailings to large mailing lists and other advertising means. Additionally, vendors will be able to efficiently register at only one place instead of with each agency independently as many do today.

Recommendation A.3. Foster and encourage training for the emerging and changing role of DGS; in particular its Division of Purchase and Supply (DPS). In preparation for e-procurement, DPS must become a) consultants, b) planners and designers, c) custodians

of the e-procurement web site, d) innovators, and e) trackers, monitors, and managers of information.

Why this is important: Because of “e-procurement” it is clear that five years from now, the DGS/DPS role in procurement will be different. These changes are already happening and will require great attention on the part of the Executive and Legislative branches to ensure the skills and cultures are prepared for the challenge.

Recommendation A.4. Develop and implement a statewide educational campaign to focus on marketing, public awareness and outreach, prior to mandatory web site use. Incorporate a mechanism for “off-line” vendor support during a web transition.

Why this is important: The Task Force expects that at some point, (see recommendation A.6) the state would move toward a mandatory use of this system. As such, a level of educational activity and information dissemination would be required and appropriate.

Recommendation A.5. Allow all local government solicitations that meet DGS e-procurement standards to be advertised on the central web site and/or with links to their own web sites.

Why this is important: Although the Task Force does not believe that local governments should be required to participate in the full range of the “e-procurement” program, they certainly should be allowed and would probably find it of benefit. Indeed, the cost savings that are believed to result from e-procurement are because of greater activity and competition. Anything that causes more solicitations to be available, and the resulting increase in web site searches, would likely yield more responses and thus benefit the whole system.

Recommendation A.6. Target July 1, 2002 as the date for full implementation of “front end” e-procurement, i.e. the enhanced central web site. Amend the law as necessary to permit charging for paper copies and making newspaper posting optional when the web site is deemed to be fully operating.

Why this is important: The Task Force has chosen this date as the target for the proposed “e-procurement” initiative because it coincides with the recently passed Senate Joint Resolution and Governor’s vision for when Virginia is to be fully functional in the area of e-commerce. Additionally, not only will these incentives facilitate the web site’s use, but they will also save taxpayer dollars by reducing expensive newspaper advertising.



Initiative B: Promoting “Best Value” Procurement Policies and Practices.

At the core of procurement reform throughout most of government today is the concept of “total ownership cost,” or otherwise referred to as “best value.” In its most fundamental form, “best value” decisions consider a variety of factors in addition to cost. In the world of commodities, items such as warranties, material quality, potential maintenance, and economic life must be weighed appropriately against the cost. The concept applies to services, as well, in that there are often considerations around experience and qualifications of vendors, which are fundamental to success of the project. More and more, modern procurement systems are looking for ways to promote this concept in a manner that is not cumbersome and time consuming.

Recommendation B.1. Amend the law to create flexibility within the “Invitation for Bid (IFB) /Request for Proposal (RFP)” approach to address simple “best value” issues more efficiently by developing a 3rd solicitation approach, consisting of a modified RFP and/or a modified IFB. Under this approach, end-item price would not be the only variable in the selection process.

Why this is important: As currently written, the VPPA identifies only two methods of solicitation - the IFB and the RFP. The IFB, while it can and does establish basic specifications, assuming those basic specifications are met, price is considered the only variable that can be used in determining selection. The RFP, on the other hand, is contemplated as the vehicle intended to be used for solicitations where price is not the only variable to consider. Unfortunately, partly because of its more subjective selection process, the RFP process is considerably more cumbersome and time consuming than the IFB. Missing from our system is something in between - something that can be used for lower dollar items and less complex procurements, especially where time is a consideration. Without this flexibility, we risk the possibility that, in situations where time is of the essence, the less sophisticated IFB would be used, only to be regretted at a subsequent date.

Recommendation B.2. Require agency end users (key agency program personnel and managers) to attend training programs to improve their abilities in requirement development, and purchasing best practices in the area of “best value” decision making.

Why this is important: The role of agency end users was identified as an important link in an efficient public procurement process. Specifically, they need the ability to clearly define outcomes to result from the procurement and the requirements to achieve those outcomes. Improving end user buying and program management capabilities will result in a more efficient and effective procurement process.

Recommendation B.3. Provide adequate resources to DGS for training and support needed to ensure that end users (key agency program personnel and managers) are trained and have the skills to become “best value” decision-makers.

Why this is important: Although not mutually dependent, this can facilitate implementation of Recommendation B.2., above, by providing the resources necessary to ensure that DGS can augment its current training program to make it available to end users.

Recommendation B.4. Update the law to specifically encourage and consider “full cycle – best value” procurement concepts when making decisions.

Why this is important: To fully gain acceptance of this way of thinking, the VPPA should specify this concept as an integral part of Virginia’s procurement policy. In the absence of this acknowledgment, Virginians risk being victims of less sophisticated and ultimately more costly procurement decisions. In non-RFP solicitation methods, current law and/or interpretation in practice results in procurement officials relying almost exclusively on “best price” as the only variable because it is the least subject to challenge and consequently their safest option (i.e., least risk to them as buyers rather than focusing on optimally meeting the needs of the end user).

Recommendation B.5. Create a central knowledge base of lessons learned and other benchmarks around “best value” issues – include positive and negative information about vendor habits. DGS should become a repository and educator for best practice knowledge.

Why this is important: Because “best value” decisions require more information than simple cost comparisons, a central knowledge base will allow end users to make the best possible decisions by being able to research comparable situations.

Recommendation B.6. Include a “risk management vs. risk avoidance” component to the procurement process. The “Risk Assessment” component would be added to the procurement process, as part of the design, build, and cost benefit determination. To facilitate this, amend the law to allow purchasing agencies to negotiate logical caps, indemnities, and other appropriate agreements to facilitate best value decisions around “hold harmless” and other “indemnification” issues as is currently practiced in the private sector.

Why this is important: As the private sector learned many years ago, the cost of procurement is not just the price paid for a product or service. As presently written the VPPA focuses exclusively on risk avoidance. Although this may be a useful guideline, it does not permit “best value” procurement decisions that incorporate the many potential benefits of risk management. These concepts are particularly important to our efforts to procure goods and outsource services especially in the area of technology.

Recommendation B.7. Provide resources within DGS to ensure that vendors are trained and become informed decision-makers, and understand what the Commonwealth desires in the area of “best value.” Offer “How to do Business” seminars to address issues including Small, Women-Owned And Minority (SWAM) businesses, frequently asked questions, opportunities, and customer measurement activities.

Why this is important: Trained and educated vendors working with trained and educated buyers are the best guarantee of “best value” procurement decisions for the citizens of the Commonwealth. Such training will give the Commonwealth an opportunity to make its expectations clear in order to avoid potential difficulties and to obtain better proposals. The Task Force found that information and training to be two of the greatest needs for the thousands of vendors that do business with the Commonwealth. It is especially important that this effort be focused on small and disadvantaged businesses and specifically those that have particular educational needs in order to succeed.



Initiative C: Increasing the Number of Competitively Awarded Contracts

The Task Force concluded that a competitive environment must remain a key element of Virginia's procurement system. The challenge is being able to enhance this environment in a way that offers more choice via an increased number of competitively chosen vendors whose services can be procured in a timely manner. Increasing the number of competitively awarded contracts is another way to ensure "best value" for the citizens of the Commonwealth because more choice will be available to end users.

Recommendation C.1. Amend the law to expressly allow for multi-award contracts. Multi-awards are defined as "more than one award for an item meeting the same specifications." This change would be designed to cause: 1) Multiple vendor participation in a single project for goods, services, and professional services; 2) Multiple open-ended awards to one vendor for different phases of a project for goods, services, and professional services; and 3) The creation of a schedule like the Federal Government General Services Administration (GSA) for statewide contracts for goods, services, and professional services. The use of a particular vendor and/or the use of the schedule/contract would be at the option of the agency, excepting where mandatory use is required because of specially defined requirements.

Why this is important: There is a widely held belief that the VPPA does not currently permit multi-vendor contracts. This inflexibility in the law has the effect of limiting choice and the number of vendors who can do business with the state. At a minimum, the risk to Virginia is a limitation on choice and a better "best value" decision process. At the maximum, the fewer the "players" the less pressure to reduce strategic costs, because there is no viable marketplace of "approved" vendors who were approved through a competitive selection process. The ability to incorporate multi-vendor contracts is a necessary step toward achieving the savings and "best value" procurement practices recognized throughout the private sector, and now included in much of public sector procurement.

Recommendation C.2. Continue to allow and promote cooperative purchasing agreements. However, the sponsoring or lead procurement organization should not be able to build in an administrative fee.

Why this is important: Cooperative purchasing agreements occur when a number of purchasing entities come together to increase buying power to obtain better deals. A typical group could be made up of states, a group of counties and cities, another large state agency with other agencies, or a large university together with its surrounding localities. Even though the Task Force has a concern about incorporating administrative fees, as is typically attempted by those who are administratively responsible, these innovative partnerships should be encouraged. Determination as to how best to manage the agreements must recognize that including an administrative fee is not always the most efficient or effective method.

Initiative D: Modernizing Agency Empowerment Thresholds, Reducing Paperwork, and Process Complexity

Administrative costs are an integral part of the procurement process. Where agency procurement actions can be streamlined and made to be more efficient and effective administrative costs will be significantly reduced. Integral to administrative costs are bureaucratic review procedures that increase the amount of paperwork required and add layers of complexity to a procurement action. Where these can be reduced without a loss of accountability and still improve access to the procurement process, a more efficient and efficient procurement process will result.

Recommendation D.1. DGS should conduct a review of the 1988 Secretary of Administration directive outlining the capital outlay process to look for improvements consistent with the six (6) objectives used by the Task Force.

Why this is important: Because of time constraints, the Task Force only touched on certain areas of procurement relative to capital outlay. Based on this limited review, the Task Force believes the 1988 Directive is in need of review and revision to become consistent with the current and projected capital outlay process needs of the Commonwealth. A review built around the Task Force decision objectives for procurement improvement would identify what changes, if any, are needed.

Recommendation D.2. Eliminate requirements for approval of multi-color printing.

Why this is important: When the approval process was established, multi-color printing technology was in its infancy and expensive. Technological improvements have dramatically lowered the cost of multi-colored printing. While seemingly insignificant in scope, best value decisions can now be made without a bureaucratic approval process.

Recommendation D.3. Provide a legal basis for electronic signatures.

Why this is important: As the Commonwealth moves quickly into the age of electronic procurement, establishing a legal basis for electronic signatures will facilitate the major cost savings associated with the new procurement practices. The Task Force recognizes the efforts underway in this area in Virginia, as well as, at the Federal level, and recommends that those parties responsible for facilitating this issue move forward as expeditiously as possible.

Recommendation D.4. The Governor should direct Agency heads to review their internal procurement processes and eliminate all non-value-added requirements. Such reviews should be made on an ongoing basis.

Why this is important: In its investigation, the Task Force determined that many of the impediments to timely procurement actions and decisions are a result not of the VPPA or DGS, but are created by the agencies themselves. To be sure, many of these additional requirements have, or did at some point in time, have a purpose. However, as with all bureaucratic processes, requirements are typically “added to” but never “deleted from.” A periodic review will ensure that the organizational inertia to establish more non-value-added processes are kept to a minimum.

Recommendation D.5. Amend the law to raise the small purchase threshold for goods and services, including professional services to at least \$50,000 (consider going to \$100,000) and document at least three quotes from \$5,000 to \$50,000.

Why this is important: The cost of procurement in time and personnel costs are not insignificant. Allowing a more flexible method of procurement will decrease those costs considerably. It should be noted that small purchases over \$30,000 would still have to be advertised as outlined in recommendation A1.

Recommendation D.6. Allow for single oral and/or written quotes for goods and services, including professional services for items under \$5,000.

Why this is important: Similar to recommendation 5, an effective and efficient procurement system requires the maximum flexibility for its buyers. Increasing the number of procurement options facilitates that flexibility. More particularly, in these cases over analysis could cost more than the item being purchased.

Recommendation D.7. The Department of Accounts and other stakeholders in the financial community should promote, as much as feasible, the use of FAX/electronic invoices, purchase orders, receiving documents, and other electronically facilitated documents.

Why this is important: Electronic procurement requires that, to the maximum extent feasible, all communication is electronic. As long as paper submissions are required, the Commonwealth will never be fully technologically enabled. Evidence is beginning to mount from other states that “back office” e-procurement practices are where significant savings can be achieved.

Recommendation D.8. Assuming the law is amended to allow for a third solicitation option, similar to that proposed in Recommendation B.1., above, amend the law to ensure that it would allow electronic proposals and/or oral presentations, as appropriate.

Why this is important: Authorizing these techniques will allow for faster decisions, as well as, proposals that are better understood because of the oral presentations.

Recommendation D.9. Amend the law to make negotiations optional when using the competitive negotiation process for the procurement of “other than professional services” and “professional services.”

Why this is important: Current law mandates entering in to competitive negotiations around price for “other than professional services” but does not allow it for “professional” services. The Task Force is recommending that in both cases, the process should be optional. In the case of mandatory negotiations, there are times when the purchasing agency is satisfied the proposal is the best available. In those cases, the requirement to meet becomes pro-forma and results only in delay of the decision. Likewise, not having the option to talk about price in the case of professional services eliminates the opportunity on the part of the Commonwealth to achieve some savings when it believes it appropriate, and in effect offers price protection to the service providers. In considering these changes, the Task Force wants to make it crystal clear that in neither case is it recommending that price be the only or driving consideration. Each case should stand on its on merit, and decisions should be made consistent with the “best value” considerations as outlined in other parts of this report.

Recommendation D.10. DGS should develop reasonable procurement turn-around time standards based on the type and value of the procurement, and should include on-time delivery.

Why this is important: The length of time from beginning to end of a procurement is a significant issue among end users, vendors, and policy makers. DGS should take the lead and develop reasonable standards for turn-around time as benchmarks for use by agencies and the public.

Recommendation D.11. DGS should assist agencies to periodically survey internal and external (vendors) customers for satisfaction with procurement services. Likewise, DGS should create an appropriate survey mechanism to determine how well Virginia is achieving its objectives in the eyes of the greater vendor community.

Why this is important: The most affected procurement “customers” are the end user and the vendor supplying the good or service. The Task Force recognizes that the competitive process creates winners and losers, and losers might tend to look at a process less favorably. Nevertheless, it is hoped that regardless of a particular outcome, vendors will always view the process as fair, ethical, user friendly, and inviting with regard to their participation. Periodic determinations of how well the Commonwealth is performing can facilitate improvements in the process and contribute to a more efficient and effective procurement system.

Recommendation D.12. Amend the law, by specifically modifying VPPA 11-35(G) to state that : “competition be sought with openness and administrative efficiency” in lieu of “maximum feasible degree.”

Why this is important: A focus on competition alone will not ensure a “best value” procurement decision. Full blown competitive solicitations are very expensive which make it appropriate to consider the administrative cost when compared to the level of procurement, i.e., we should avoid situations where \$50,000 in procurement resources are used to complete a \$25,000 purchase. A simple change in the wording conveys the importance of both competition and administrative efficiency.

Recommendation D.13. Raise the DGS/DPS review requirement for sole source from \$10,000 to \$50,000, and provide scrutiny via the DPS review process.

Why this is important: Rightly so, sole-source procurements should be especially scrutinized to determine their appropriateness. Because of specific instances in years past, agencies have been required to submit different levels of sole-source procurement decisions to DGS, and at one time, the Governor’s office, for approval. Since these instances, DGS has implemented a comprehensive periodic review process where all aspects of an agency’s procurement administration, including sole source decisions are reviewed. Because this review process is now in effect, it is no longer necessary to continue to require sole source approval at the low level of \$10,000. Reducing this level of review requirements and incorporating them into other oversight measures, is a more efficient way of maintaining the scrutiny required.

Initiative E: Maintaining Accountability, Openness, and Improving Performance

A public procurement system must remain accountable to the citizens and ensure access to all those who would like to participate, while operating at the highest levels of efficiency and effectiveness. Recommendations included in this section seek to strike a balance between the often-conflicting nature of these four elements.

Recommendation E.1. DGS should develop a “post review” process and provide training for procurement officers in order to measure the overall success or failure of a project. DGS should create a “best practices” procedures or “scorecard” to measure overall procurement success or failure.

Why this is important: The Task Force identified a procurement process that extended beyond the currently understood system. In many cases, a full understanding of whether or not correct decisions were made are not apparent until years after the fact. Analysis of procurement actions, standards of performance (“best practices”) and training are essential elements of improving any process. Any action that improves that process should be incorporated.

Recommendation E.2. Amend the law to eliminate mandatory sources for procurement.

Why this is important: The Task Force is mindful of the fact that the state’s purchasing power can be used as one of many tools to affect other policies. In Virginia, there are two situations where the VPPA requires state agencies to purchase products and services unless they can justify otherwise. Regardless of the worthiness of the mandate, it is important to consider that mandates carry costs and by definition are in conflict with the principles of a competitive process allowing for “best value” decision making to occur.

Recommendation E.3. Continue and enhance the DGS/DPS reviews on a three-year cycle (more frequently depending upon findings and the results of the rating system) and provide the additional resources when necessary for adequate review.

Why this is important: A decentralized procurement system requires more oversight to safeguard accountability and to ensure performance standards. Often resource intensive, the procurement review process is also the first, and last, safeguard to ensuring that the citizens of the Commonwealth receive the best value procurement in every case.

Recommendation E.4. Promote procurement officials’ “certification” as one of many efforts to maintain ethics.

Why this is important: Certification of procurement officials is one means of ensuring both effectiveness and efficiency in the procurement process. It also exposes procurement officials to the standards of practice for their profession, more specifically the ethical practices and standards required of a public procurement official. Whether it is a certification program sponsored nationally, or one conducted within the Commonwealth, agencies should make professionalism a cultural requirement and maybe even more as noted in recommendation E.5.

Recommendation E.5. The Department of Personnel and Training (DPT) should review procurement classifications for adequacy and establish multiple pay grade levels based on a series of certifications established by DPT working with DGS.

Why this is important: The Task Force identified the role of the procurement official as critical to the success of the entire procurement system. By creating a series of pay grades dependent on the professional achieving certification of specific knowledge and skills of correspondingly increasing complexity, procurement officials would have a career path within their specialty, which recognizes and rewards increased value to the Commonwealth. Similarly, Agency heads would have a way to ensure that increases in pay to procurement professionals are based on demonstration/certification of increased capabilities. A key element of this review should include an assessment of what skills are required within agencies with highly complex and expensive outsourcing, privatization, and/or capital outlays, and whether or not a classification for such situations should be created. If so, a professional certification process should be considered whereby the professional demonstrates proficiency before being certified. Improving opportunities for procurement officials to advance within their profession will encourage and retain the most capable and productive professionals.

Recommendation E.6. At a minimum, require the posting of all awards over \$30,000 on the central web site and consider posting all competitively selected awards on the web site regardless of dollar amount.

Why this is important: Posting public notices of awards has long been a good tool to maintain accountability. With the advent of the central web site, this concept only enhances the prospect of ensuring good procurement decisions are made and are available to the public and vendor communities with the most direct stake in the process.

Recommendation E.7. The Secretary of Administration should ensure that systems are in place to measure performance against the objectives established and issue a periodic progress report to the Governor on how well these initiatives are working. Additionally, a comprehensive review of how well the objectives outlined in this report were achieved should be performed in five years.

Why this is important: To ensure that the recommendations contained in this report which are adopted are implemented, the Secretary of Administration should keep policy makers apprised of progress. Additionally, this review is the first major review of Virginia's Procurement System in nearly 20 years. The Task Force believes that given the fast pace of today's business world, particularly given the advances in technology, a periodic assessment with recommendations for improvement, similar to this effort today, is warranted on a more systematic basis. The absence of such could hurt the Commonwealth in its efforts to maintain its efficiency edge and best value service delivery to its citizens.

Appendix A

Other Ideas Considered

Other Ideas Considered

The following ideas, although discussed at length during the deliberative process, did not accrue sufficient Task Force member scores to warrant recommendation within the final report. Where appropriate, ideas that either duplicated or contrasted with those fully recommended are noted. A number of the recommendations listed in the full report incorporate many of the elements of the ideas in this appendix.

The ideas listed are in rank order indicating their relative contribution to improving the procurement process as related to the objectives established.

Idea 1: Require all State Solicitations in their entirety over \$30,000 to be available from one web site, using a uniform format that is easy to use. **Note:** A variation of Recommendation A.1. Require all state agency solicitations over \$30,000 to be available from one web site, using a uniform format that is easy to use. Where technically feasible, in the judgment of the procuring agency, the entire solicitation should be posted on-line.

Idea 2: Incorporate a comment/inquiry collection feature in the web site design.

Idea 3: Develop or certify a decision support tool or tools (may or may not be software based) as one way to assist agencies in looking at cost/value issues. DGS should look at “Compete,” “Compare” and other tools that may be helpful.

Idea 4: Eliminate the DGS/DPS review requirement for sole source reviews which have been pre-determined to be necessary (like service contracts for specified equipment) and provide scrutiny via the DPS review process.

Idea 5: Amend the law to expressly allow for multi-award contracts in areas listed below. Multi-awards is defined as “more than one award for an item meeting the same specifications.” This change would allow with ease:

- Multi-vendors to participate in a single project for goods, services and professional services.
- Multi-open ended awards to one vendor for different phases of a project for goods, services, and professional services.
- The creation of a GSA-like schedule for goods and services and **study whether or not to include professional services**. Use of which vendor and/or use of the schedule/contract should be at the option of the agency excepting where mandatory use is required because of special defined considerations.

Note: Very similar, but more restrictive than Recommendation C.1. To amend the law to expressly allow for multi-award contracts.

Idea 6: Amend the law to make negotiations optional when using the competitive negotiation process for procurement of only “other than professional services” and “study the possibility of doing the same for professional services.” **Note:** Less direct than Recommendation D.9. Amend the law to make negotiations optional when using the competitive negotiation process for procurement of “other than professional services” and “professional services.”

Idea 7: Create an exception to competition to allow sole-source procurements via “piggybacking” that is, allowing a second agency to enter into an agreement with a vendor when 1) that agreement is identical (in all material terms) to the original, competed contract, 2) for identical (in all material ways) items or services, and 3) for quantities of such items or services that are not substantially greater than those in the original contract.

Idea 8: Eliminate exceptions to competitive procurement, e.g. government vs. non-government.

Idea 9: For each procurement, require end-users to define up front what exactly is being procured, goals and results of the effort along with the relevant and measurable “outcome” based criteria. In this process:

- Consider as appropriate, “Requests for Information” periods in the process, but prior to the formal solicitation where input can be generated from vendors on how to achieve goals.
- Consider as appropriate, relying more on “performance specifications” as opposed to “design specifications.”
- Get early involvement of procurement professionals to choose the best approach to the procurement.

Idea 10: Eliminate the VBO when the web site is available.

Idea 11: Raise the DGS/DPS review requirement for sole source from \$30,000 to \$100,000 and provide scrutiny via the DPS review process. **Note:** Similar to but less restrictive than Recommendation D.13. Raise the DGS/DPS review requirement for sole source from \$30,000 to \$50,000 and provide scrutiny via the DPS review process.

Idea 12: Eliminate quarterly reporting for unlimited authority agencies.

Idea 13: Amend the law to make negotiations optional when using the competitive negotiation process for procurement of only “other than professional services.”

Idea 14: Require all awards over \$15,000, based on exceptions to competitive procurement, to be posted on the web site. DPS should periodically review the exception list.

Idea 15: Eliminate the DGS/DPS review requirement for all sole source reviews and provide scrutiny via the DPS review process.

Idea 16: Disclose intergovernmental procurements and supporting rational, measures, best value analysis, etc.

Idea 17: Utilize a statewide database of procurement statistics to measure the percentage of competed contracts.

Idea 18: As part of contract administration, require the pre-identified outcomes from the original solicitation to be assessed periodically during the contract administration phase and at points beyond the contract complete date using end-user evaluations and other techniques.

Idea 19: Require an appropriate assessment (based on “best practices”) of cost verses value (best value) for every item procured.

Idea 20: DGS should develop and publish standards for when it is appropriate to post actual “bids” and/or non-proprietary bid information prior to award.

Idea 21: Amend the law to expressly allow for multi-award contracts in areas listed below. Multi-awards is defined as “more than one award for an item meeting the same specifications.” This change would allow with ease:

- Multi-vendors to participate in a single project for goods, services and professional services.

- Multi-open ended awards to one vendor for different phases of a project for goods, services, and professional services.
- The creation of a GSA-like schedule for goods and services and **not to include professional services**. Use of which vendor and/or use of the schedule/contract should be at the option of the agency excepting where mandatory use is required because of special defined considerations.

Idea 22: Establish e-procurement training sites with community colleges and historically black colleges and universities to promote regional and statewide procurement opportunities.

Idea 23: Track and publish the number of hotline reports and review outcomes.

Idea 24: Provide resources targeted to SWAM information and training needs in technology, e-procurement access, electronic bids, etc.

Idea 25: Require agencies to utilize benchmarks (i.e. private/public sectors, other states, etc.) and other cost/value assessment tools as appropriate to help in the decision making process.

Idea 26: Develop a common definition of special groups and needs.

Idea 27: Require all State Solicitations over \$15,000 to be on one web site that is easy to use. **Note:** Similar to, but with a lower threshold, Recommendation A.1. Require all state agency solicitations over \$30,000 to be available from one web site, using a uniform format that is easy to use. Where technically feasible, in the judgment of the procuring agency, the entire solicitation should be posted on-line.

Idea 28: DGS should develop a working relationship with the VA Minority Technology Council, VA Chambers of Commerce, VA State Libraries, higher education institutions, and the VA Dept. of Minority Business Enterprises, for thoughts and ideas on how they might develop and support internal programs to facilitate SWAM participation.

Idea 29: Consider creating a stronger enforcement investigation capability such as Inspector Generals or Ethics Offices.

Idea 30: Create a liaison representative for DBA & VDMBE and decentralized agencies to emphasize professional contract opportunities.

Idea 31: Develop incentive programs for “prime contractor” mentoring and apprenticeship programs to stimulate MBE, DBE, and WBE partnerships.

Idea 32: Create an independent review process to review the reviewers.

Idea 33: Develop mentor/protégé initiative both electronically and physically to enhance and promote sub-contracting opportunities (VDMBE & DBA).

Idea 34: Professional services contract selection panels in agencies should include at least one community-based individual of diversity with technical knowledge in the area.

Appendix B

Task Force Members

Task Force Membership

The Hon. G. Bryan Slater - Chairman
Secretary of Administration

The Hon. Charles R. Hawkins
Member, Senate of Virginia

The Hon. Robert F. McDonnell
Member, House of Delegates

The Hon. Lionell Spruill, Sr.
Member, House of Delegates

Mr. G. Douglas Bevelacqua
Chairman, Westar Corporation

Mr. Paul R. Brubaker
Deputy Assistant Secretary
Office of the Secretary of Defense

Ms. Jewell D. Cowan
Administrative and Operations Project Leader
Auditor of Public Accounts

Mr. Eric N. Denby
Director, Procurement Services
University of Virginia

Mr. Jorman Granger
Industry Client Executive, IBM

Mr. Gene M. Johnson
Deputy Director for Operations
Virginia Department of Corrections

Mr. W. Thomas Kaloupek
Director of Materials Management
Virginia Polytechnic Institute and State
University

Mr. J. Brent Moore
Vice President
Mega Contractors, Inc.

Mr. Kenton H. Pattie
Executive Director
National Emergency Equipment Dealers
Association

The Hon. Donald W. Upson
Secretary of Technology

The Hon. Benjamin J. Lambert, III,
Member, Senate of Virginia

The Hon. James K. O'Brien, Jr.
Member, House of Delegates

Mr. Edward L. Allen, Jr.
Executive Director
Coalition for Government Procurement

Ms. Wanda M. Brown
Managing Associate
PricewaterhouseCoopers, L.L.P.

Ms. Linda Byrd-Harden
Director, Department of Minority Business
Enterprise

Mr. Thomas J. Cricchi
Director, Virginia Region
Cisco Systems

Ms. Nancy M. Harrison
Senior Vice President
Wachovia Bank, N.A.

Mr. David E. Jordan
Executive Assistant for Office of
Compliance
Virginia Department of Taxation

Ms. Tanya C. Matthews, AIC
Managing Principal
Dewberry and Davis

Mr. William G. Norton
Procurement Policy Director
U.S. House of Representatives

Mr. J. Braxton Powell
Director of Financial Policy
Virginia Department of the Treasury

Mr. N. Jerry Simonoff
Director, Department of Technology
Planning

Mr. Paul N. Proto
Director of General Services
County of Henrico

Mr. Kenneth G. Stepka, P.E.
Executive Vice President
Clark Nexsen

Ms. Elizabeth A. Twohy
President, Capital Concrete, Inc.

Mr. Donald C. Williams
Director, Department of General Services

Mr. John W. Yoest, Jr.
Assistant Secretary of Health and Human
Resources

Mr. Jeffrey A. Stonerock
Baker & Botts, L.L.P.

Mr. George O’N. Urquhart
Director, Preparedness and Mitigation
Division
Department of Emergency Services

Mr. Robert W. Woltz, Jr.
Vice President-External Affairs
Bell Atlantic – Virginia

Mr. Brian Zimmer
Director of Automated Procurement
U.S. House of Representatives

Appendix C

Executive Orders

COMMONWEALTH OF VIRGINIA
OFFICE OF THE GOVERNOR
Executive Order 40 (99)

**CONTINUING AND AMENDING THE COMMONWEALTH OF
VIRGINIA PROCUREMENT ASSESSMENT TASK FORCE**

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia, and under the laws of the Commonwealth including but not limited to Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue and amend Executive Order Number Thirty (98), Assessing Virginia's Procurement Process, issued by me on September 2, 1998, as follows: I hereby continue the Commonwealth of Virginia Procurement Assessment Task Force, which is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9-6.25 of the Code of Virginia. The duties and responsibilities of the Task Force shall remain as set forth in Executive Order Thirty (98).

The Task Force shall be composed of no more than 36 members, appointed by the Governor and serving at his pleasure. Otherwise, the composition of the Task Force remains as set forth in Executive Order Thirty (98).

The Task Force shall complete its work and issue a final report to the Governor no later than December 15, 1999, and shall issue interim reports and make recommendations at other such times as it deems appropriate or as the Governor requests.

This Executive Order shall be effective upon its signing and shall remain in force and effect until June 30, 2000, unless amended or rescinded by further executive order.

Given under my hand and the Seal of the Commonwealth of Virginia this 26th
day of March 1999.

Governor James S. Gilmore, III

Attest: Secretary of the Commonwealth Anne P. Petera

COMMONWEALTH OF VIRGINIA
OFFICE OF THE GOVERNOR
Executive Order 30 (98)

Assessing Virginia's Procurement Process

In 1983, responding to the needs of the day, the Commonwealth adopted the Virginia Public Procurement Act (VPPA). The Act formed the basis for public procurement practices in the Commonwealth. It established clear and consistent guidelines for fair and open competition in Virginia's public purchasing. It restored public trust in the state's procurement processes.

Over the past fifteen years, much has changed in the state government work environment. Decentralization of authority, best value procurement of goods and services, technology procurements, electronic commerce and public-private partnerships are concepts that have gained favor over the last decade and one-half. Electronic procurement systems and the use of the Internet for procurement are growing rapidly. During fiscal year 1998, the Commonwealth will spend in excess of \$ 4.5 billion on the purchase of goods and services. These purchases will be made under rules established over fifteen years ago.

The Commonwealth, while at the forefront of technological change, may be operating with dated processes and practices. The Commonwealth should review its procurement practices to determine if its current procurement law and business practices will serve the Commonwealth well in the future.

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and the laws of the Commonwealth, including, but not limited to, Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish an initiative to examine the Commonwealth's procurement practices, to explore methods of creating greater efficiency in procurement, and to create business rules suited to a modern public business environment, while insuring the security of the assets of the Commonwealth. To this end, I hereby create the Commonwealth of Virginia Procurement Assessment Task Force.

The Task Force is classified as a gubernatorial advisory commission in accordance with Section 2.1-51.35 and Section 9-6.25 of the Code of Virginia. It shall have the following duties:

To identify best procurement practices in the private sector and other public sector organizations,

To develop a range of procurement goals, objectives, and policies that can benefit the Commonwealth,

To develop performance measures that will indicate whether the Commonwealth is meeting its objectives in the area of procurement management,

To draft a procurement strategic plan; and

If appropriate, to draft recommendations for revision to the Virginia Procurement Act for consideration of the General Assembly.

The Task Force shall be composed of no more than 30 members, appointed by the Governor and serving at his pleasure. The Task Force shall include a broad representation of procurement professionals from the private sector, state and local governments, as well as other citizens who have knowledge of, and an interest in, Virginia's procurement processes and procedures.

Membership shall also include two members of the Senate of Virginia and two members of the House of Delegates, the Secretary of Technology, the director of the Department of General Services, and the heads of two state agencies or institutions. The Secretary of Administration shall chair the Task Force.

The Task Force shall complete its work and issue a final report to the Governor no later than April 15, 1999, and shall issue interim reports and make recommendations at such times, as it deems appropriate, or upon the Governor's request.

An estimated 100 hours of staff time will be required to support the work of the Task Force. Such staff support as is necessary for the conduct of the Task Force's work during the term of its existence shall be furnished by the Department of General Services, Division of Purchases and Supply, and other such executive department agencies as the Governor may designate. Funding necessary to support the work of the Task Force shall be provided from federal funds, private contributions, and state funds appropriated for the same purposes as the Commission, as authorized by Section 2.1-51.37 of the Code of Virginia. Direct expenditures for the work of the Task force, exclusive of staff time, are estimated to be \$26,000.

Members of the Task Force shall serve without compensation but shall receive reimbursement for expenses incurred in the discharge of their official duties upon the approval by the Secretary of Administration or his designee.

This Executive Order shall be effective upon signing and shall remain in full force and effect until June 30, 1999, unless superseded or rescinded by further executive action.

Given under my hand and under the Seal of the Commonwealth of Virginia this
2nd day of September, 1998.

Governor James S. Gilmore, III

Attest:

Secretary of the Commonwealth Anne P. Petera