

**WORKGROUP NO. 2**  
**IT, GOODS, OTHER PROFESSIONAL SERVICES, AND NONPROFESSIONAL SERVICES**  
**SCOPE OF WORK**  
**2014**

	GENERAL ISSUE CATEGORY	SOURCE	COMMENT	NOTES
1	<b>Applicability/Exemptions</b> <i>Subcategory: Goods, services, construction</i>	<b>Virginia Information Technologies Agency (VITA)</b>	Consider statutory clarifications that produce benefits. <i>(Example: Prequalification of vendors; does the topic pertain to all goods and services or just to construction? (§ 2.2-4317))</i>	
2	<b>Applicability/Exemptions</b> <i>Subcategory: Method of procurement</i>	<b>VITA</b>	Put competitive negotiation on equal footing with competitive sealed bidding.	
3	<b>Applicability/Exemptions</b> <i>Subcategory: Method of procurement</i>	<b>Large Locality (Fairfax Co.)</b>	Avoid proposed changes that are in conflict with the intent of the VPPA. <i>(Example: Changes based on (i) an Attorney General Opinion stating that a public body cannot consider factors that are not related to the goods or services being procured, (ii) enforcement of documented worker status, and (iii) preferences)</i>	
4	<b>Applicability/Exemptions</b> <i>Subcategory: Readability/Internal consistency</i>	<b>Large Locality (Fairfax Co.)</b>	Review the cumulative effect of changes over several sessions. As a whole, these changes have adversely affected readability and created conflicting provisions.	

	<b>GENERAL ISSUE CATEGORY</b>	<b>SOURCE</b>	<b>COMMENT</b>	<b>NOTES</b>
5	<b>Applicability/Exemptions</b> <i>Subcategory: Nature of public body</i>	<b>Small Locality</b> <i>(Gloucester Co.)</i>	Review use of population thresholds associated with application of the VPPA.	
6	<b>Applicability/Exemptions</b> <i>Subcategory: Readability</i>	<b>Small Locality</b> <i>(Gloucester Co.)</i>	Variety of exceptions and exemptions to the Act make it difficult to read, follow, and interpret.	
7	<b>Applicability/Exemptions</b> <i>Subcategory: Method of procurement</i>	<b>Design Professionals</b> <i>(VSAIA, ACEC)</i>	All decisions concerning procurement of professional services should be contingent upon first identifying those most qualified to provide the required services without regard to price.	
8	<b>Applicability/Exemptions</b> <i>Subcategory: Method of procurement</i>	<b>Wanda Edwards</b> <i>(Coalition for Procurement Reform)</i>	Additional controls should be placed on the use of sole source contracts; such contracts should be limited to \$50,000.	
9	<b>Applicability/Exemptions</b> <i>Subcategory: Definitions</i>	<b>Department of Minority Business Enterprise</b>	Consider changing the definition of small business to more adequately target small businesses. <i>(Current language provides 250 or fewer employees or average gross receipts of \$10 million or less averaged over the previous three years.)</i>	
10	<b>Cooperative Procurement</b>	<b>DGS</b>	Fractured efficiency of cooperative contracting such that one public body cannot use another public body's contract without expending resources to bring it into compliance with laws.	

	GENERAL ISSUE CATEGORY	SOURCE	COMMENT	NOTES
11	<b>Cooperative Procurement</b>	<b>VITA</b>	Modify cooperative procurement language; current language effectively creates a de facto “statewide” contract, which dilutes competition and leverage.	
12	<b>Enforcement/Oversight</b>	<b>DGS</b>	No consequences for violations.	
13	<b>Enforcement/Oversight</b>	<b>DGS</b>	No central procurement oversight, thus making achievement of enterprise cost savings and efficiencies difficult.	
14	<b>Enforcement/Oversight</b>	<b>VITA</b>	Improper use of sole sourcing as a procurement method without clear justification or because of prior work by a specific vendor.	
15	<b>Enforcement/Oversight</b>	<b>VITA</b>	Requests for Proposals that are essentially non-competitive because the RFPs are include overly prescriptive mandatory requirements. This produces a perception of favoritism and discourages vendor participation.	
16	<b>Vendor Eligibility</b> <i>Subcategories: Preferences, Qualification to contract</i>	<b>Large Locality (Fairfax Co.)</b>	Avoid proposed changes that are in conflict with the intent of the VPPA.  <i>(Example: Changes based on (i) an Attorney General Opinion stating that a public body cannot consider factors that are not related to the goods or services being procured, (ii) enforcement of documented worker status, and (iii) preferences)</i>	

	GENERAL ISSUE CATEGORY	SOURCE	COMMENT	NOTES
17	<b>Vendor Eligibility</b> <i>Subcategory: Qualification to contract</i>	<b>Small Locality</b> <i>(Gloucester Co.)</i>	Avoid legislative actions that seek to make the procurement function a regulatory program. <i>(Example: SCC registration and E-Verify requirements)</i>	
18	<b>Vendor Eligibility</b> <i>Subcategory: SWaM</i>	<b>DGS</b>	Small business set-aside preference should be examined for improvement	
19	<b>Technology/Business Practice Outdated</b>	<b>Large Locality</b> <i>(Fairfax Co.)</i>	Adapt the VPPA to current technology and business practices. Consider using changes made to the Model Procurement Code as a guide.	
	<b>BILLS REFERRED FROM 2014 GENERAL ASSEMBLY</b>			
20	<b>Vendor Eligibility</b> <i>Subcategory: SWaM</i>	<b>HB 223 Dance</b>	<b>Virginia Public Procurement Act; establishment of historically underutilized business zones (HUB zones).</b> Requires the Department of General Services and the Virginia Information Technologies Agency to develop procurement regulations for the utilization of small businesses located in historically underutilized business zones (HUB zones). The bill also authorizes public bodies to establish programs to facilitate the participation of small businesses in HUB zones. Such programs must be in writing and comply with any enhancement or remedial measures authorized by the Governor in the case of state agencies or the chief executive of a local governing body in the case of local agencies.	

	GENERAL ISSUE CATEGORY	SOURCE	COMMENT	NOTES
21	<p><b>Vendor Eligibility</b>  <i>Subcategory: Qualification to contract</i></p>	<p><b>HB 769</b>  <b>Hugo</b></p>	<p><b>Virginia Public Procurement Act; project labor agreements by certain state agencies.</b> Provides, under certain conditions, that when engaged in procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of any project paid for in whole or in part by state funds, or when overseeing or administering such procurement, neither the Commonwealth Transportation Board nor any state transportation agency nor any construction manager acting on behalf of such entities shall, in their bid specifications, project agreements, or other controlling documents, provide an incentive in the scoring of such bids that favors entities entering into project labor agreements. The bill sets out exceptions to this requirement.</p>	
22	<p><b>Vendor Eligibility</b>  <i>Subcategory: SWaM</i></p>	<p><b>HB 797</b>  <b>Lopez</b></p>	<p><b>Department of Small Business and Supplier Diversity; definition of small business.</b> Changes the definition of small business to require the business to have 250 or fewer employees and average annual gross receipts of \$10 million or less averaged over the previous three years. Currently, a small business is required to meet one or the other of these conditions.</p>	

	GENERAL ISSUE CATEGORY	SOURCE	COMMENT	NOTES
23	Enforcement/Oversight	HB 1159 Rasoul	<p><b>COIA: Political contributions; prohibitions during procurement process.</b> Includes the mayor or chief executive officer of a locality, school superintendent, and any member of a local governing body, planning commission, or school board in the current prohibition against knowingly soliciting or accepting a contribution, gift, or other item with a value greater than \$50 from any bidder, offeror, or private entity who has submitted a bid or proposal pursuant to the Virginia Public Procurement Act, the Public-Private Transportation Act, or the Public-Private Education Facilities and Infrastructure Act during the bidding period. The restrictions only apply if the stated or expected value of the contract is \$5 million or more and do not apply to contracts awarded as the result of competitive sealed bidding. Furthermore, no bidder, offeror, or private entity who has submitted a bid or proposal under such acts shall offer or promise to make such a gift to the mayor or chief executive officer of a locality, school superintendent, or any member of a local governing body, planning commission, or school board. Any violation shall be subject to a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater.</p>	

	GENERAL ISSUE CATEGORY	SOURCE	COMMENT	NOTES
24	<p><b>Vendor Eligibility</b>  <i>Subcategory: SWaM</i></p>	<p><b>HB 1194/SB  632  James/Lucas</b></p>	<p><b>Department of Small Business and Supplier Diversity; establishment of minority-owned and women-owned state purchasing program.</b> Provides for the Department of Small Business and Supplier Diversity, in conjunction with the Department of General Services, the Virginia Information Technologies Agency, and the Department of Transportation, to develop a program establishing a requirement that at least 15 percent of all state purchases be made from minority-owned or women-owned businesses that are also certified as small businesses.</p>	

	GENERAL ISSUE CATEGORY	SOURCE	COMMENT	NOTES
25	Enforcement/Oversight	HB 1208 Albo	<p><b>Virginia Public Procurement Act; consideration of early payment discounts.</b> Prohibits the consideration of discounts for early payment of invoices offered by any bidder in the determination of the lowest priced bid on any contract awarded using competitive sealed bidding. The bill also provides that no bidder shall be required to offer discounts for early payment of invoices as a condition of any Invitation to Bid, and no bidder shall be declared nonresponsive for failure to offer a discount for early payment of invoices. With respect to competitive negotiation, the bill provides that any offer submitted in response to a Request for Proposal may contain offers for discounts for the early payment of invoices by public bodies; but that, if offered, such discounts shall not be considered in the selection of qualified offerors or in the evaluation of prices submitted by any such offeror. Finally, the bill provides that discounts for prompt payment shall not be considered in the evaluation or made a condition of offers or bids by any state agency or local public body. However, any offered discount may form a part of the award and shall be taken if payment is made within the discount period indicated in the offer or bid by the offeror or bidder. As an alternative to offering a prompt payment discount in conjunction with the offer or bid, offerors or bidders who are awarded contracts may include prompt payment discounts on individual invoices. In connection with any discount offered for prompt payment, time shall be computed from the date of the submission of the invoice by the contractor or supplier.</p>	



	GENERAL ISSUE CATEGORY	SOURCE	COMMENT	NOTES
26	<b>Vendor Eligibility</b> <i>Subcategory: SWaM</i>	<b>HB 1223</b> <b>Yancey</b>	<b>Virginia Public Procurement Act; small, women, and minority-owned businesses.</b> Defines "historically Black colleges and universities" and provides that the term "minority-owned business" includes historically Black colleges and universities, regardless of the percentage ownership by minority individuals or, in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership interest in the corporation, partnership, or limited liability company or other entity. The bill also requires that programs to facilitate the participation of small businesses and all businesses owned by women, minorities, or service disabled veterans in procurement transactions include a provision for fair and equitable evaluations and opportunities for small businesses and all businesses owned by women, minorities, or service disabled veterans	
27	<b>Applicability/Exemptions</b> <i>Subcategory: Method of procurement</i>	<b>HB 1238</b> <b>Gilbert</b>	<b>Virginia Public Procurement Act; disclosure of cost estimates in solicitations prohibited.</b> Provides that no Invitation to Bid or Request for Proposal shall contain the public body's cost estimate for that which is sought to be procured.	

	GENERAL ISSUE CATEGORY	SOURCE	COMMENT	NOTES
28	<p><b>Vendor Eligibility</b>  <i>Subcategory: SWaM</i></p>	<p><b>SB 616</b>  <b>Alexander</b></p>	<p><b>Department of Small Business and Supplier Diversity; creation of Department of Minority Business Enterprise and the Department of Business Assistance.</b> Eliminates the Department of Small Business and Supplier Diversity and re-creates the Department of Minority Business Enterprise and the Department of Business Assistance as those two departments existed prior to January 1, 2014. As such, the bill reassigns the former powers and duties of the Department of Small Business and Supplier Diversity to the Department of Minority Business Enterprise and the Department of Business Assistance. The bill contains numerous technical amendments.</p>	

**APPENDIX A**  
**GENERAL ISSUE CATEGORIES AND SUBCATEGORIES**

**1. APPLICABILITY/EXEMPTIONS**

- Nature/Identity of public body
- Goods, services, construction- nature of what is being procured
- Definitions
- Method of procurement
- Readability/Internal consistency

**2. VENDOR ELIGIBILITY**

- SWAM
- Preferences
- Qualification to contract (E-Verify, etc.)

**3. COOPERATIVE PROCUREMENT**

**4. ENFORCEMENT/OVERSIGHT**

**5. TECHNOLOGY/BUSINESS PRACTICE OUTDATED**