

**Special General Laws Joint Subcommittee**  
**Studying the Virginia Public Procurement Act**  
**Work Group 2**  
**Information Technology, Goods and Other Professional Services**  
**May 8, 2014, at 1:30 p.m.**  
**House Room 1, The Capitol, Richmond**  
**Meeting Summary**

**Members present:** Eugene Anderson, Mike Bacile, Lee Brazzell, Angela Chiang, Ashley Colvin (for Eric Link), Joe Damico, Gwendolyn Davis, Eric Denby, Brian Epley, Phyllis Errico, Keith Gagnon, Robert Gleason, Mary Helmick, Patti Innocenti, Tom Kaloupek, Phil Pippert, Nicole Riley, Lem C. Stewart, Jr., Ridge Schulyer, John Westrick.

**Member absent:** William Lindsey.

Maria Everett, Senior Attorney, Division of Legislative Services, began the meeting by reviewing the status of the work group under the Virginia Freedom of Information Act (FOIA). The work group is a public body under FOIA and provisions regarding meetings and records generated by the by the group are applicable. Amigo Wade, Senior Attorney, Division of Legislative Services, provided an overview of the activities of the Special General Laws Joint Subcommittee during the 2013 interim and reviewed the work group's study plan. A total of four additional meetings have been scheduled:

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| Thursday, June 19, 2014<br>1:30 p.m., House Room 1, The Capitol<br>Richmond, Virginia  | Wednesday, September 17, 2014<br>1:30 p.m., House Room 1, The Capitol<br>Richmond, Virginia |
| Wednesday, July 23, 2014<br>1:30 p.m., House Room 1, The Capitol<br>Richmond, Virginia | Wednesday, October 15, 2014<br>1:30 p.m., House Room 1, The Capitol<br>Richmond, Virginia   |

Mr. Wade noted that the goal over the course of the meetings is to seek consensus on as many issues as possible. Any issues or matters upon which consensus cannot be reached will be referred to the Special General Laws Joint Subcommittee for final resolution.

Each member of the work group then made brief introductory remarks including a statement of issues of greatest importance to their community of interest and the goals the member wishes to achieve. Dominant themes included ensuring appropriate use of cooperative procurement, flexibility, clarity, streamlining the procurement process, consistency and standardization, equal opportunity to participate in the procurement process, and incorporating disparity study goals for women-owned and minority-owned businesses.

The work group then proceeded to review the Scope of Work document (SOW) to determine which issues were manageable or where consensus could be reached relatively easily.<sup>1</sup> Staff first offered issues related to the sole source provision of the VPPA that would place a \$50,000 cap on the use of the procurement method and establish additional guidelines for the appropriate use of the method (SOW Items 8 and 14). In addition, staff offered that the suggestion to prevent the passage of legislation that conflicted with the intent of the VPPA was aspirational (SOW Items 3 and 16). There was agreement that the two grouping of issues would not be recommended for any further action.

### Points of Consensus

| Item No. | Issue  | Recommendation   |
|----------|--|--|
| 3, 16    | Avoid proposed changes that are in conflict with the intent of the VPPA.   | No action warranted; these items are aspirational in nature.   |
| 8        | Additional controls should be placed on the use of sole source contracts; such contracts should be limited to \$50,000.          | A cap on the total amount of a given sole source contract is not feasible. Current statutory language provides sufficient direction to the procurement official.             |
| 14       | Improper use of sole sourcing as a procurement method without clear justification or because of prior work by a specific vendor. | Additional language establishing conditions for using the method are not warranted. Overall resolution should be included in review of oversight and enforcement provisions. |

The work group then proceeded to discuss additional SOW items and related issues for consideration. These items included (i) placing competitive negotiation and competitive sealed bidding on equal footing (SOW Item 2); (ii) reviewing options for ensuring flexibility regarding the disclosure of cost estimates in solicitations (SOW Item 27); and (iii) the viability of requiring some procurements to be noticed in newspapers.

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<sup>1</sup> The SOW consists of the issues matrix compiled by staff in the first year of study and the legislation referred to the Special Joint Subcommittee from the 2014 Session of the General Assembly.

## **Public Comment**

The work group next received public comment.

*Ida McPherson, Director, Department of Small Business and Supplier Diversity*

Ms. McPherson noted that because sole source contracts involve a closed process, there is potential for abuse. She also noted that cooperative contracting may also lead to abuses and have negative impacts on SWaM programs when large cooperative contracts do not provide opportunities for smaller suppliers or vendors to participate through subcontracting.

*Andrew Sinclair, Virginia Association of Governmental Purchasing.*

Mr. Sinclair stated that he supported placing competitive negotiation and competitive sealed bidding on equal footing. He further noted that the procurements made using competitive negotiation are required to be published in a local newspaper while procurements using competitive sealed bidding do not have a publication requirement. He asserted that in order for the two procurement methods to be placed on equal footing, the mandatory publication requirement must be eliminated.

The meeting concluded at 3:50 p.m.