

Cooperative Procurement - Discussion Draft #3

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact § 2.2-4304 of the Code of Virginia, relating to the Virginia Public
2 Procurement Act; cooperative procurement.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That § 2.2-4304 of the Code of Virginia is amended and reenacted as follows:**

5 **§ 2.2-4304. Joint and cooperative procurements.**

6 A. Any public body may participate in, ~~sponsor, conduct,~~ or administer a ~~cooperative~~ joint
7 procurement agreement ~~on behalf of or~~ in conjunction with one or more other public bodies, or public
8 agencies or institutions or localities of the several states, of the United States or its territories, the
9 District of Columbia, or the U.S. General Services Administration, for the purpose of combining
10 requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and
11 services or construction.

12 B. A ~~In addition,~~ a public body may purchase from another public body's contract even if it did
13 not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to
14 bid specified that the procurement was being conducted on behalf of other public bodies, except for:

- 15 1. Contracts for architectural or engineering services; or
- 16 2. ~~Construction in excess of \$200,000 by a local public body from the contract of another local~~
17 ~~public body that is more than a straight line distance of 75 miles from the territorial limits of the local~~
18 ~~public body procuring the construction. The installation of artificial turf or other athletic surfaces shall~~
19 ~~not be subject to the limitations prescribed in this subdivision~~ New capital construction. For the purposes
20 of this subdivision, "new capital construction" means the construction of a new public building, structure
21 or infrastructure facility. "New capital construction" does not include the demolition, alteration,
22 addition, renovation, maintenance, repair, equipment acquisition, or improvements to a public building,
23 structure or infrastructure facility or any ancillary new construction required to properly complete any
24 demolition, alteration, addition, renovation, maintenance, repair, equipment acquisition, or

Cooperative Procurement - Discussion Draft #3

25 | improvements Nothing in this subdivision shall be construed to prohibit sole source or emergency
26 procurements awarded pursuant to subsections E and F of § 2.2-4303.

27 In instances where any authority, department, agency, or institution of the Commonwealth
28 desires to purchase information technology and telecommunications goods and services from another
29 public body's contract and the procurement was conducted on behalf of other public bodies, such
30 purchase shall be permitted if approved by the Chief Information Officer of the Commonwealth. Any
31 public body that enters into a cooperative procurement agreement with a county, city, or town whose
32 governing body has adopted alternative policies and procedures pursuant to subdivisions A 9 and A 10
33 of § 2.2-4343 shall comply with the alternative policies and procedures adopted by the governing body
34 of such county, city, or town.

35 | B.C. Subject to the provisions of §§ 2.2-1110, 2.2-1111, 2.2-1120 and 2.2-2012, any authority,
36 department, agency, or institution of the Commonwealth may participate in, sponsor, conduct, or
37 administer a cooperative procurement arrangement on behalf of or in conjunction with public bodies,
38 private health or educational institutions or with public agencies or institutions of the several states,
39 territories of the United States, or the District of Columbia, for the purpose of combining requirements
40 to effect cost savings or reduce administrative expense in any acquisition of goods and services, other
41 than professional services. A public body may purchase from any authority, department, agency or
42 institution of the Commonwealth's contract even if it did not participate in the request for proposal or
43 invitation to bid, if the request for proposal or invitation to bid specified that the procurement was being
44 conducted on behalf of other public bodies. In such instances, deviation from the procurement
45 procedures set forth in this chapter and the administrative policies and procedures established to
46 implement this chapter shall be permitted, if approved by the Director of the Division of Purchases and
47 Supply.

48 Pursuant to § 2.2-2012, such approval is not required if the procurement arrangement is for
49 telecommunications and information technology goods and services of every description. In instances
50 where the procurement arrangement is for telecommunications and information technology goods and

Cooperative Procurement - Discussion Draft #3

51 services, such arrangement shall be permitted if approved by the Chief Information Officer of the
52 Commonwealth. However, such acquisitions shall be procured competitively.

53 Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee
54 that will allow for participation in any such arrangement.

55 C.D. As authorized by the United States Congress and consistent with applicable federal
56 regulations, and provided the terms of the contract permit such purchases:

57 1. Any authority, department, agency, or institution of the Commonwealth may purchase goods
58 and nonprofessional services, other than telecommunications and information technology, from a U.S.
59 General Services Administration contract or a contract awarded by any other agency of the U.S.
60 government, upon approval of the director of the Division of Purchases and Supply of the Department of
61 General Services;

62 2. Any authority, department, agency, or institution of the Commonwealth may purchase
63 telecommunications and information technology goods and nonprofessional services from a U.S.
64 General Services Administration contract or a contract awarded by any other agency of the U.S.
65 government, upon approval of the Chief Information Officer of the Commonwealth; and

66 3. Any county, city, town, or school board may purchase goods and nonprofessional services
67 from a U.S. General Services Administration contract or a contract awarded by any other agency of the
68 U.S. government.

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