

**COMMONWEALTH CONSULTATION, LLC
BRADLEY DEVELOPMENT, LLC
Joint Venture Collaborative**

Bradley Development, LLC and Commonwealth Consultation, LLC have reviewed the proposed recommendations by the Associated General Contractors of Virginia (AGC). We have been advocating the utilization of a Review Board for procurement transaction disputes. Some of the recommendations offered by the AGC may enhance the intent and purpose of a Review Board **but the makeup of the panel needs to comply with existing law and remain the same.**

We recommend and reference:

2.2-4365. Administrative appeals procedure. –A. A public body may establish an administrative procedure for hearing (i) protests of a decision to award or an award, (ii) appeals from refusals to allow withdrawal of bids, (iii) appeals from disqualifications and determinations of non-responsibility, and (iv) appeals from decisions on disputes arising during the performance of a contract, or (v) any of these. **Such administrative procedure shall provide for a hearing before a disinterested person or panel, the opportunity to present pertinent information and the issuance of a written decision containing findings of fact. The disinterested person or panel shall not be an employee of the governmental entity against whom the complaint has been filed.** The findings of fact shall be final and conclusive and shall not be set aside unless the same are (a) fraudulent, arbitrary or capricious; (b) so grossly erroneous as to imply bad faith; or (c) in the case of denial of prequalification, the findings were not based upon the criteria for denial of prequalification set forth in subsection B of 2.2-4317. No determination on an issue of law shall be final if appropriate legal action is instituted in a timely manner.

The proposed structure of the membership of the Review Board should comply with the law and have a disinterested person or panel. It is essential that the Workforce Group maintain this compliance. The public needs confidence in the process. This will also allow local residents and businesses to be awarded more contracts. **Education of the Prime and General Contractors on the benefits of the broad flexibility given to the public body to comply with procurement requirements for minority participation by either joint venturing with minority companies or subcontracting labor only opportunities will enhance cooperation and understanding between the Primes and minority firms.**

We concur with the recommendation that the panel be comprised of individuals with knowledge of construction industry and procurement laws. We highly recommend that Commonwealth Consultation, LLC and Bradley Development, LLC be considered for appointment to the Board of Review. We have been advocates for procurement procedures that are transparent and easily comprehended by the local residents and business concerns. We also conduct workshops and training sessions on joint ventures and on the benefits of minority inclusion on your bottom line.

The Virginia General Assembly, the sub-Committee studying the VPPA and the workgroups that were established to make recommendations should also look at the 2004 and 2011 Commonwealth of Virginia Disparity Studies and the recommendations of Gov. Robert McDonnell's Procurement and Supplier Diversity Advisory Commission while considering enhancements to the VPPA. Gov. McDonnell did not act upon any of the legal remedies and recommendations of MGT of America, Inc. after the completion of the Study. These three documents would greatly assist these august bodies in its deliberations.

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