

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact §§ 2.2-4302.2, 2.2-4303, 2.2-4304, 2.2-4343, and 23-38.110 of the Code  
2 of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-4303.1 and 2.2-  
3 4303.2, relating to the Virginia Public Procurement Act; methods of procurement; job order  
4 contracting and cooperative procurement.

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

6 **1. That §§ 2.2-4302.2, 2.2-4303, 2.2-4304, 2.2-4343, and 23-38.110 of the Code of Virginia are**  
7 **amended and reenacted and that the Code of Virginia is amended by adding sections numbered**  
8 **2.2-4303.1 and 2.2-4303.2 as follows:**

9 **§ 2.2-4302.2. (Effective July 1, 2014) Process for competitive negotiation.**

10 A. The process for competitive negotiation shall include the following:

11 1. Issuance of a written Request for Proposal indicating in general terms that which is sought to  
12 be procured, specifying the factors that will be used in evaluating the proposal and containing or  
13 incorporating by reference the other applicable contractual terms and conditions, including any unique  
14 capabilities, specifications or qualifications that will be required;

15 2. Public notice of the Request for Proposal at least 10 days prior to the date set for receipt of  
16 proposals by posting on the Department of General Services' central electronic procurement website or  
17 other appropriate websites. Additionally, public bodies shall publish in a newspaper of general  
18 circulation in the area in which the contract is to be performed so as to provide reasonable notice to the  
19 maximum number of offerors that can be reasonably anticipated to submit proposals in response to the  
20 particular request. Posting on the Department of General Services' central electronic procurement  
21 website shall be required of any state public body. Local public bodies are encouraged to utilize the  
22 Department of General Services' central electronic procurement website to provide the public with  
23 centralized visibility and access to the Commonwealth's procurement opportunities. In addition,  
24 proposals may be solicited directly from potential contractors. Any additional solicitations shall include

25 certified businesses selected from a list made available by the Department of Small Business and  
26 Supplier Diversity; and

27           3. For goods, nonprofessional services, and insurance, selection shall be made of two or more  
28 offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of  
29 the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal.  
30 Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered, but  
31 need not be the sole or primary determining factor. After negotiations have been conducted with each  
32 offeror so selected, the public body shall select the offeror which, in its opinion, has made the best  
33 proposal and provides the best value, and shall award the contract to that offeror. When the terms and  
34 conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more  
35 than one offeror. Should the public body determine in writing and in its sole discretion that only one  
36 offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under  
37 consideration, a contract may be negotiated and awarded to that offeror; or

38           4. For professional services, the public body shall engage in individual discussions with two or  
39 more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with  
40 emphasis on professional competence, to provide the required services. Repetitive informal interviews  
41 shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and  
42 performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In  
43 addition, offerors shall be informed of any ranking criteria that will be used by the public body in  
44 addition to the review of the professional competence of the offeror. The Request for Proposal shall not,  
45 however, request that offerors furnish estimates of man-hours or cost for services. At the discussion  
46 stage, the public body may discuss nonbinding estimates of total project costs, including, but not limited  
47 to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. In accordance  
48 with § 2.2-4342, proprietary information from competing offerors shall not be disclosed to the public or  
49 to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation  
50 factors published in the Request for Proposal and all information developed in the selection process to

51 this point, the public body shall select in the order of preference two or more offerors whose  
52 professional qualifications and proposed services are deemed most meritorious.

53 Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract  
54 satisfactory and advantageous to the public body can be negotiated at a price considered fair and  
55 reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first  
56 shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until  
57 such a contract can be negotiated at a fair and reasonable price.

58 Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in  
59 the Request for Proposal, a public body may award contracts to more than one offeror.

60 Should the public body determine in writing and in its sole discretion that only one offeror is  
61 fully qualified or that one offeror is clearly more highly qualified and suitable than the others under  
62 consideration, a contract may be negotiated and awarded to that offeror.

63 ~~B. For multiple projects, a contract for architectural or professional engineering services relating~~  
64 ~~to construction projects, or a contract for job order contracting, may be negotiated by a public body,~~  
65 ~~provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly~~  
66 ~~identified in the Request for Proposal, and (iii) the contract is limited to a one year term or when the~~  
67 ~~cumulative total project fees reach the maximum cost authorized in this subsection, whichever occurs~~  
68 ~~first.~~

69 ~~Such contracts may be renewable for four additional one year terms at the option of the public~~  
70 ~~body. The fair and reasonable prices as negotiated shall be used in determining the cost of each project~~  
71 ~~performed and the sum of all projects performed in a one year contract term shall not exceed \$500,000,~~  
72 ~~except that for:~~

73 ~~1. A state agency, as defined in § 2.2-4347, the sum of all projects performed in a one year~~  
74 ~~contract term shall not exceed \$1 million as may be determined by the Director of the Department of~~  
75 ~~General Services;~~

76 ~~2. Any locality or any authority, sanitation district, metropolitan planning organization or~~  
77 ~~planning district commission with a population in excess of 80,000, or any city within Planning District~~

8, the sum of all projects performed in a one-year contract term shall not exceed \$5 million and those awarded for any airport as defined in § 5.1-1 and aviation transportation projects, the sum of all such projects shall not exceed \$1.5 million;

3. Architectural and engineering services for rail and public transportation projects by the Director of the Department of Rail and Public Transportation, the sum of all projects in a one-year contract term shall not exceed \$2 million. Such contract may be renewable for two additional one-year terms at the option of the Director;

4. Environmental location, design and inspection work regarding highways and bridges by the Commissioner of Highways, the initial contract term shall be limited to two years or when the cumulative total project fees reach \$5 million, whichever occurs first. Such contract may be renewable for two additional one-year terms at the option of the Commissioner, and the sum of all projects in each one-year contract term shall not exceed \$5 million; and

5. Job order contracting, the sum of all projects performed in a one-year contract term shall not exceed \$2 million.

Competitive negotiations for such contracts may result in awards to more than one offeror provided (i) the Request for Proposal so states and (ii) the public body has established procedures for distributing multiple projects among the selected contractors during the contract term.

C. For any single project, for (i) architectural or professional engineering services relating to construction projects, or (ii) job order contracting, the project fee shall not exceed \$100,000, or for architectural or engineering services for airports as defined in § 5.1-1 and aviation transportation projects, the project fee of any single project shall not exceed \$500,000, except that for:

1. A state agency as defined in § 2.2-4347, the project fee shall not exceed \$200,000, as may be determined by the Director of the Department of General Services;

2. Any locality or any authority or sanitation district with a population in excess of 80,000, or any city within Planning District 8, the project fee shall not exceed \$2 million; and

3. Job order contracting, the project fee shall not exceed \$400,000.

105 ~~D. For the purposes of subsections B and C, any unused amounts from the first contract term~~  
106 ~~shall not be carried forward to the additional term.~~

107 ~~E. Multiphase professional services contracts satisfactory and advantageous to the completion of~~  
108 ~~large, phased, or long term projects may be negotiated and awarded based on a fair and reasonable price~~  
109 ~~for the first phase only, where the completion of the earlier phases is necessary to provide information~~  
110 ~~critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the entering into~~  
111 ~~any such contract, the public body shall (i) state the anticipated intended total scope of the project and~~  
112 ~~(ii) determine in writing that the nature of the work is such that the best interests of the public body~~  
113 ~~require awarding the contract.~~

114 **§ 2.2-4303. Methods of procurement.**

115 A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or  
116 for the purchase of services, insurance, or construction, shall be awarded after competitive sealed  
117 bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

118 B. Professional services shall be procured by competitive negotiation.

119 C. Upon a determination made in advance by the public body and set forth in writing that  
120 competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods,  
121 services, or insurance may be procured by competitive negotiation. The writing shall document the basis  
122 for this determination.

123 Upon a written determination made in advance by (i) the Governor or his designee in the case of  
124 a procurement by the Commonwealth or by a department, agency or institution thereof or (ii) the local  
125 governing body in the case of a procurement by a political subdivision of the Commonwealth, that  
126 competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured  
127 through a licensed agent or broker selected in the manner provided for the procurement of things other  
128 than professional services set forth in § 2.2-4302.2. The basis for this determination shall be documented  
129 in writing.

130 D. Construction may be procured only by competitive sealed bidding, except that competitive  
131 negotiation may be used in the following instances upon a determination made in advance by the public

132 body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally  
133 advantageous to the public, which writing shall document the basis for this determination:

134 1. By the Commonwealth, its departments, agencies and institutions on a fixed price design-build  
135 basis or construction management basis under § 2.2-4306;

136 2. By any public body for the construction of highways and any draining, dredging, excavation,  
137 grading or similar work upon real property;

138 3. By any governing body of a locality with a population in excess of 100,000, provided that the  
139 locality has the personnel, procedures, and expertise to enter into a contract for construction on a fixed  
140 price or not-to-exceed price design-build or construction management basis and shall otherwise be in  
141 compliance with the provisions of this section, § 2.2-4308, and other applicable law governing design-  
142 build or construction management contracts for public bodies other than the Commonwealth. The  
143 procedures of the local governing body shall be consistent with the two-step competitive negotiation  
144 process established in § 2.2-4302.2; or

145 4. As otherwise provided in § 2.2-4308.

146 E. Upon a determination in writing that there is only one source practicably available for that  
147 which is to be procured, a contract may be negotiated and awarded to that source without competitive  
148 sealed bidding or competitive negotiation. The writing shall document the basis for this determination.  
149 The public body shall issue a written notice stating that only one source was determined to be  
150 practicably available, and identifying that which is being procured, the contractor selected, and the date  
151 on which the contract was or will be awarded. This notice shall be posted on the Department of General  
152 Services' central electronic procurement website or other appropriate websites, and in addition, public  
153 bodies may publish in a newspaper of general circulation on the day the public body awards or  
154 announces its decision to award the contract, whichever occurs first. Posting on the Department of  
155 General Services' central electronic procurement website shall be required of any state public body.  
156 Local public bodies are encouraged to utilize the Department of General Services' central electronic  
157 procurement website to provide the public with centralized visibility and access to the Commonwealth's  
158 procurement opportunities.

159 F. In case of emergency, a contract may be awarded without competitive sealed bidding or  
160 competitive negotiation; however, such procurement shall be made with such competition as is  
161 practicable under the circumstances. A written determination of the basis for the emergency and for the  
162 selection of the particular contractor shall be included in the contract file. The public body shall issue a  
163 written notice stating that the contract is being awarded on an emergency basis, and identifying that  
164 which is being procured, the contractor selected, and the date on which the contract was or will be  
165 awarded. This notice shall be posted on the Department of General Services' central electronic  
166 procurement website or other appropriate websites, and in addition, public bodies may publish in a  
167 newspaper of general circulation on the day the public body awards or announces its decision to award  
168 the contract, whichever occurs first, or as soon thereafter as is practicable. Posting on the Department of  
169 General Services' central electronic procurement website shall be required of any state public body.  
170 Local public bodies are encouraged to utilize the Department of General Services' central electronic  
171 procurement website to provide the public with centralized visibility and access to the Commonwealth's  
172 procurement opportunities.

173 G. A public body may establish purchase procedures, if adopted in writing, not requiring  
174 competitive sealed bids or competitive negotiation for single or term contracts for goods and services  
175 other than professional services, or construction, if the aggregate or the sum of all phases is not expected  
176 to exceed \$100,000; however, such small purchase procedures shall provide for competition wherever  
177 practicable. ~~For local public bodies, such~~ Such purchase procedures may allow for single or term  
178 contracts for professional services without requiring competitive negotiation, provided the aggregate or  
179 the sum of all phases is not expected to exceed \$60,000. Where small purchase procedures are adopted  
180 for construction, the procedures shall not waive compliance with the Uniform State Building Code.

181 For state public bodies, purchases under this subsection that are expected to exceed \$30,000 shall  
182 require the (i) written informal solicitation of a minimum of four bidders or offerors and (ii) posting of a  
183 public notice on the Department of General Services' central electronic procurement website or other  
184 appropriate websites. Posting on the Department of General Services' central electronic procurement  
185 website shall be required of any state public body. Local public bodies are encouraged to utilize the

186 Department of General Services' central electronic procurement website to provide the public with  
187 centralized visibility and access to the Commonwealth's procurement opportunities.

188 ~~H. A state public body may establish purchase procedures, if adopted in writing, not requiring~~  
189 ~~competitive negotiation for single or term contracts for professional services if the aggregate or the sum~~  
190 ~~of all phases is not expected to exceed \$50,000; however such small purchase procedures shall provide~~  
191 ~~for competition wherever practicable.~~

192 ~~I. Upon a determination made in advance by a public body and set forth in writing that the~~  
193 ~~purchase of goods, products or commodities from a public auction sale is in the best interests of the~~  
194 ~~public, such items may be purchased at the auction, including online public auctions. Purchase of~~  
195 ~~information technology and telecommunications goods and nonprofessional services from a public~~  
196 ~~auction sale shall be permitted by any authority, department, agency, or institution of the~~  
197 ~~Commonwealth if approved by the Chief Information Officer of the Commonwealth. The writing shall~~  
198 ~~document the basis for this determination. However, bulk purchases of commodities used in road and~~  
199 ~~highway construction and maintenance, and aggregates shall not be made by online public auctions.~~

200 ~~J.L. The purchase of goods or nonprofessional services, but not construction or professional~~  
201 ~~services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and~~  
202 ~~highway construction and maintenance, and aggregates shall not be made by reverse auctioning.~~

203 **§ 2.2-4303.1. Architecture and professional engineering term contracting; limitations.**

204 A. A contract for architectural or professional engineering services relating to multiple  
205 construction projects may be awarded by a public body, provided (i) the projects require similar  
206 experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal,  
207 and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the  
208 maximum authorized in this subsection, whichever occurs first.

209 Such contracts may be renewable for four additional one-year terms at the option of the public  
210 body. The fair and reasonable prices as negotiated shall be used in determining the cost of each project  
211 performed.



212 B. The sum of all projects performed in a one-year contract term shall not exceed \$500,000,  
213 except that for:

214 1. A state agency, as defined in § 2.2-4347, the sum of all projects performed in a one-year  
215 contract term shall not exceed \$1 million;

216 2. Any locality or any authority, sanitation district, metropolitan planning organization or  
217 planning district commission with a population in excess of 80,000, or any city within Planning District  
218 8, the sum of all projects performed in a one-year contract term shall not exceed \$5 million and those  
219 awarded for any airport as defined in § 5.1-1 and aviation transportation projects, the sum of all such  
220 projects shall not exceed \$1.5 million;

221 3. Architectural and engineering services for rail and public transportation projects by the  
222 Director of the Department of Rail and Public Transportation, the sum of all projects in a one-year  
223 contract term shall not exceed \$2 million. Such contract may be renewable for two additional one-year  
224 terms at the option of the Director; and

225 4. Environmental location, design and inspection work regarding highways and bridges by the  
226 Commissioner of Highways, the initial contract term shall be limited to two years or when the  
227 cumulative total project fees reach \$5 million, whichever occurs first. Such contract may be renewable  
228 for two additional one-year terms at the option of the Commissioner, and the sum of all projects in each  
229 one-year contract term shall not exceed \$5 million.

230 C. Competitive negotiations for such architectural or professional engineering services contracts  
231 may result in awards to more than one offeror provided (i) the Request for Proposal so states and (ii) the  
232 public body has established procedures for distributing multiple projects among the selected contractors  
233 during the contract term. Such procedures shall prohibit requiring the selected contractors to compete  
234 for individual projects based on price.

235 D. The fee for any single project shall not exceed \$100,000, or for architectural or engineering  
236 services for airports as defined in § 5.1-1 and aviation transportation projects, the project fee of any  
237 single project shall not exceed \$500,000, except that for:

238 1. A state agency as defined in § 2.2-4347, the project fee shall not exceed \$200,000, as may be  
239 determined by the Director of the Department of General Services; and

240 2. Any locality or any authority or sanitation district with a population in excess of 80,000, or  
241 any city within Planning District 8, the project fee shall not exceed \$2 million.

242 The limitations imposed upon single project fees pursuant to this subsection shall not apply to  
243 environmental, location, design, and inspection work regarding highways and bridges by the  
244 Commissioner of Highways or architectural and engineering services for rail and public transportation  
245 projects by the Director of the Department of Rail and Public Transportation.

246 E. For the purposes of subsection B, any unused amounts from one contract term shall not be  
247 carried forward to any additional term.

248 **§ 2.2-4303.2. Job order contracting; limitations.**

249 A. A job order contract may be awarded by a public body for multiple jobs provided (i) the jobs  
250 require similar experience and expertise, (ii) the nature of the jobs is clearly identified in the solicitation,  
251 and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the  
252 maximum authorized in this section, whichever occurs first. Contractors may be selected through either  
253 competitive sealed bidding or competitive negotiation.

254 B. Such contracts may be renewable for two additional one-year terms at the option of the public  
255 body. The fair and reasonable prices as negotiated shall be used in determining the cost of each job  
256 performed and the sum of all jobs performed in a one-year contract term shall not exceed \$5  
257 million. Individual job orders shall not exceed \$500,000.

258 D. For the purposes of this section, any unused amounts from one contract term shall not be  
259 carried forward to any additional term.

260 E. The issuance of an individual job order shall result in a complete and usable amount of  
261 construction which will stand alone without additional action or funding. Job "splitting," defined as the  
262 use of multiple job orders to complete a renovation of an entire building or to incrementally complete  
263 construction which results in the addition of square footage, is prohibited.

264 F. Professional services may be included on a job order where the professional services are  
265 incidental and directly related to the job.

266 G. Job order contracting shall not be used for construction, maintenance or asset management  
267 services for a highway, bridge, tunnel, or overpass.

268 **§ 2.2-4304. Joint and cooperative procurement.**

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

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

278 1. Contracts for architectural or engineering services; or

279 ~~2. Construction in excess of \$200,000 by a local public body from the contract of another local~~  
280 ~~public body that is more than a straight line distance of 75 miles from the territorial limits of the local~~  
281 ~~public body procuring the construction.~~ New capital construction. For the purposes of this subdivision,  
282 "new capital construction" means the construction of a new public building, structure or infrastructure  
283 facility. "New capital construction" does not include the demolition, alteration, renovation, maintenance,  
284 repair, equipment acquisition, or improvements to a public building, structure or infrastructure facility or  
285 any ancillary new construction required to properly complete any demolition, alteration, renovation,  
286 maintenance, repair, equipment acquisition, or improvements. The installation of artificial turf or other  
287 athletic surfaces shall not be subject to the limitations prescribed in this subdivision. The provisions of  
288 this subdivision shall not apply to a public utility owned, operated and controlled by a locality or other  
289 political subdivision of the Commonwealth. Nothing in this subdivision shall be construed to prohibit  
290 sole source or emergency procurements awarded pursuant to subsections E and F of § 2.2-4303.

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

299 B. Subject to the provisions of §§ 2.2-1110, 2.2-1111, 2.2-1120 and 2.2-2012, any authority,  
300 department, agency, or institution of the Commonwealth may participate in, ~~sponsor, conduct,~~ or  
301 administer a cooperative joint procurement arrangement ~~on behalf of or~~ in conjunction with public  
302 bodies, private health or educational institutions or with public agencies or institutions of the several  
303 states, territories of the United States, or the District of Columbia, for the purpose of combining  
304 requirements to effect cost savings or reduce administrative expense in any acquisition of goods and  
305 services, other than professional services. A

306 C. In addition, a public body may purchase from any authority, department, agency or institution  
307 of the Commonwealth's contract even if it did not participate in the request for proposal or invitation to  
308 bid, if the request for proposal or invitation to bid specified that the procurement was being conducted  
309 on behalf of other public bodies. In such instances, deviation from the procurement procedures set forth  
310 in this chapter and the administrative policies and procedures established to implement this chapter shall  
311 be permitted, if approved by the Director of the Division of Purchases and Supply.

312 Pursuant to § 2.2-2012, such approval is not required if the procurement arrangement is for  
313 telecommunications and information technology goods and services of every description. In instances  
314 where the procurement arrangement is for telecommunications and information technology goods and  
315 services, such arrangement shall be permitted if approved by the Chief Information Officer of the  
316 Commonwealth. However, such acquisitions shall be procured competitively.

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

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

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

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

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

333 **§ 23-38.110. Procurement; discrimination prohibited; participation of small, women-**  
334 **owned, and minority-owned business enterprises.**

335 A. Subject to the express provisions of the management agreement described in § 23-38.88,  
336 covered institutions may be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-  
337 4300 et seq.), except for § 2.2-4342 (which section shall not be construed to require compliance with the  
338 prequalification application procedures of subsection B of § 2.2-4317); provided, however, that any  
339 deviations from the Virginia Public Procurement Act approved in a Management Agreement shall be  
340 uniform across all covered institutions; and provided further that the governing body of a covered  
341 institution shall adopt, and the covered institution shall comply with, policies for the procurement of  
342 goods and services, including professional services, that shall be based upon competitive principles and  
343 shall in each instance seek competition to the maximum practical degree. The policies shall implement a

344 system of competitive negotiation for professional services pursuant to ~~subsections A, B, and E of § 2.2-~~  
345 ~~4302.2 § 2.2-4303.1~~, shall prohibit discrimination because of race, religion, color, sex or national origin  
346 of the bidder or offeror in the solicitation or award of contracts, shall incorporate the prompt payment  
347 principles of §§ 2.2-4350 and 2.2-4354, and shall consider the impact on correctional enterprises under §  
348 53.1-47.

349 B. Such policies may, among other things, (i) provide for consideration of the dollar amount of  
350 the intended procurement, the term of the anticipated contract, and the likely extent of competition; (ii)  
351 implement a prequalification procedure for contractors or products; and (iii) include provisions for  
352 cooperative arrangements with other covered institutions, other public or private educational institutions,  
353 other public or private organizations or entities, including public-private partnerships, public bodies,  
354 charitable organizations, health care provider alliances or purchasing organizations or entities, state  
355 agencies or institutions of the Commonwealth or the several states, the District of Columbia, the  
356 territories and the United States, and any combination thereof. Nothing in this section shall preclude a  
357 covered institution from requesting and utilizing, and covered institutions are hereby encouraged to  
358 utilize, the assistance of the Virginia Information Technologies Agency in information technology  
359 procurements.

360 C. In the solicitation and awarding of contracts, no covered institution shall discriminate against  
361 a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis  
362 prohibited by state or federal law. The procurement policies of a covered institution shall provide that,  
363 whenever solicitations are made seeking competitive procurement of goods or services, it shall be a  
364 priority of the institution to provide for fair and reasonable consideration of small, women-owned, and  
365 minority-owned businesses and to promote and encourage a diversity of suppliers. The institution shall  
366 post on the Department of General Services' central electronic procurement website all Invitations to  
367 Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility  
368 and access to the Commonwealth's procurement opportunities on one website.

369 D. As part of any procurement provisions of a management agreement, the governing board of a  
370 covered institution shall identify the public, educational, and operational interests served by any  
371 procurement rule or rules that deviate from those in the Virginia Public Procurement Act.

372 **2. That by July 1, 2016, the Department of General Services, the Department of Small Business**  
373 **and Supplier Diversity, public institutions of higher education having level 2 or 3 authority under**  
374 **the Restructured Higher Education Financial and Administrative Operations Act of 2005 (§ 23-**  
375 **38.88 et seq. of the Code of Virginia), and the Virginia Association of Counties and the Virginia**  
376 **Municipal League on behalf of local public bodies, shall report their respective experiences and**  
377 **findings relating to the appropriateness or sufficiency of the job order contract project cost**  
378 **limitations set forth in subsections B and C of § 2.2-4303.1 of this act to the Chairmen of the House**  
379 **Committee on General Laws and the Senate Committee on General Laws and Technology.**

380 **3. That the provisions of this act shall not apply to any solicitation issued or contract awarded**  
381 **before July 1, 2015, except that the provisions of subsection B of § 2.2-4303.2 of this act shall apply**  
382 **to any renewal of a job order contract.**

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