

**A STUDY OF
CONTRACTING PRACTICES OF
PLANNING DISTRICT COMMISSIONS**

**REPORTED TO
THE GOVERNOR
AND
GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 8

**COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
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**COMMONWEALTH OF VIRGINIA
OFFICE OF THE GOVERNOR**

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**Division of State Planning
and Community Affairs**
Charles A. Christophersen
Director

1010 James Madison Building
109 Governor Street
Richmond, Virginia 23219
Telephone (804) 770-3785

TO: The Honorable Mills E. Godwin
 Governor of Virginia
 and
 The General Assembly of Virginia

This report is pursuant to House Joint Resolution 262 which directed the Division of State Planning and Community Affairs to study the contracting practices of Planning District Commissions and to formulate, if feasible, uniform guidelines for Planning District Commissions to follow in developing written contracting procedures.

The findings and recommendations of the Division's study are contained in this document.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Charles A. Christophersen".

Charles A. Christophersen

CAC:pbh

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HOUSE JOINT RESOLUTION NO. 262

WHEREAS, the several planning districts of Virginia are often charged with duties which require that contracts be let with firms in the private sector; and

WHEREAS, frequently large sums of money are involved in such contract arrangements; and

WHEREAS, no uniformity exists in the policy and form of such contracts; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Division of State Planning and Community Affairs is requested to make a study of the contracting practices and procedures of planning districts and formulate, if feasible, uniform guidelines for the same.

The agency should report its findings and plans for implementation to the Governor and the General Assembly not later than December one, nineteen hundred seventy-five.

REPORT ON HOUSE JOINT RESOLUTION 262

HJR 262, enacted in 1975, directed the Division of State Planning and Community Affairs to study contracting practices and procedures of planning district commissions and to formulate, if feasible, uniform guidelines for all PDCs to follow.

Methodology

- The scope of this study was limited to PDC contracting procedures for hiring professional consultants since this involves the most complex procedures and the greatest expenditure of funds.
- PDCs were surveyed to determine how many use written contracting procedures.
- Information on contracting procedures was obtained from several organizations. Included were:
 - American Institute of Planners
 - Environmental Protection Agency
 - Department of Housing and Urban Development
 - Virginia State Board of Architects, Engineers and Land Surveyors
 - Virginia Department of Highways and Transportation
 - Virginia Society of Professional Engineers
 - Planning District Commissions 7, 8, 11, 14, 15, 16, 20, and 21
- Model contracting procedures were drafted and sent to each PDC and to the Virginia Society of Professional Engineers for review and comment.

Findings

- At the time of the survey, eight of the twenty-two PDCs used written procedures for hiring consultants.
- Five of the eight PDCs had developed their own procedures and the other three had adopted procedures furnished by the American Institute of Planners, the American Society of Civil Engineers, or the Virginia Society of Professional Engineers.
- The five PDCs which had developed their own written procedures did so because they felt a need for procedures tailored to meet their individual situation.
- Several PDCs suggested changes to the model procedures to adopt them to the Commissions' needs.
- The American Society of Professional Engineers had this to say about uniform procedures: *One major concern that we have is with the difficulty of prescribing the same procedures for organizations whose staffs vary as widely as do planning districts.*

- One PDC has developed written contracting procedures since July 1975.
- None of the thirteen PDCs without written procedures for hiring professional consultants objected to developing procedures, and eleven preferred to have any required procedures implemented administratively by the Division of State Planning and Community Affairs.

Recommendations

1. Each PDC should be required to develop written procedures and instructions for hiring professional consultants.
2. Each PDC should have the flexibility to formulate procedures which are appropriate to its policies and operations.
3. Written procedures should provide for 1) defining of a scope of work, 2) using a screening and selection process, and 3) executing a written contract between the consultant and the PDC.
4. It will not be necessary to amend the Code of Virginia in order to require all PDCs to develop written contracting procedures. The Division of State Planning and Community Affairs can implement this measure administratively.
5. The attached "Requirements for Securing Consultant Services" should be used by PDCs as a guide in formulating written procedures.

REQUIREMENTS FOR SECURING PROFESSIONAL CONSULTANT SERVICES

When a planning district commission needs to employ a professional consultant, each firm which competes for the job should receive the same information about the nature of the project and about what the commission expects from the firm in its proposal. To assure that uniform instructions are given, every commission should have written procedures for hiring professional consultants.

Written procedures, however, must be shaped to the individual needs of each planning district commission. A uniform regulation for hiring consultants would not be applicable to all commissions because they do not operate in a uniform manner. Their policies, procedures and work programs are determined by the commission members who are appointed by local governing bodies. State-imposed, uniform regulations for hiring consultants would tend to weaken local government control over the operation of planning district commissions.

To assist planning district commissions in developing written procedures or in assessing those which are in use, minimum requirements and guidelines are listed below.

1. **Minimum Requirement:** Each planning district commission shall adopt written procedures for hiring professional consultants.
2. **Minimum Requirement:** The written procedures shall provide for defining a scope of work.

Guideline: Defining the scope and nature of work to be performed assures that competing consultants know what the job entails. The scope of work may include:

description of study objectives and the nature and scope of the problem;

outline of a work program, by task or work elements;

- ° special considerations associated with the project such as public hearings, the need to meet federal/state requirements, etc.;
- ° number of copies needed to process the consultant's proposal;
- ° total number of copies of the final report;
- ° deadline for responding.

3. **Minimum Requirement:** The written procedures shall include a process for screening and selecting consultants.

Guideline: The commission may wish to develop criteria for announcing that it is seeking consultant services, including which or how many consultant firms will be contacted and how the contacts will be made. Channels for making contacts include:

- ° advertisements in newspapers, radio, etc.;

- notices in professional publications;
 - letter of invitation to selected firms;
- contacting state or national professional societies for recommendations.

Guideline: If a selection committee is to be used, it should be appointed as provided for in the commission bylaws and, if possible, should have some persons with expertise in the topic to be studied. If the commission desires, the selection committee could have some members who are not members of the commission or its staff. In performing its duties, the selection committee may wish to call upon the commission staff for assistance.

A selection committee has three basic responsibilities:

- a. to contact professional consultant firms to determine their interest in the project;
- b. to review the qualifications of firms which express interest and to select those which will be asked to submit proposals;
- c. to interview prospective firms and recommend them to the commission in order of preference.

Guideline: When reviewing project proposals and conducting interviews, a selection committee may wish to consider:

past performance of the consultant;

- ability of the firm to meet deadline requirements;
 - proposed approach and program in addressing the problem;
 - the firm's ability to understand the nature and scope of the problem;
- qualifications of the persons who will perform the work;
- current and projected workload of the firm;
 - the volume of work previously awarded to the firm by the commission and the quality of the product.

Guideline: the procedures should contain a list of items to be included in the consultants project proposal. These may include:

- a detailed description of the work to be performed;
- an explanation of any possible conflicts of interest;
- samples of similar work performed for other clients.

Guideline: The final responsibility for selecting a consultant should rest with the full commission.

4. Minimum Requirement: The written procedures must specify items which are to be included in a contract between a consultant and the planning district commission.

Guideline: The contract requirements may include:

- detailed description of work to be performed;
- the time required to perform the proposed work and the sequence in which the work elements will be performed;
- manpower assignments;
- method of payment;
- interim progress report requirements;
- obligations of the commission to provide assistance to the consultant;
- all agreements for subcontracting;
- the number of copies of the final report to be printed;
- specific delineation of commission responsibility, if any, for associated work elements, in terms of maps, reports, studies, plans or other documentation and time, manpower, and cost;
- special agreements connected with the project such as the preparation of impact statements;
- Equal Employment Opportunity assurances;
- rights of both parties to terminate the contract prior to completion of the work;
- publication credits.

Other Considerations

The Planning District Commission may want to develop policies for other contingencies which relate to hiring professional consultants. Two such topics are listed for consideration:

1. Small projects At times a consultant may be needed for a job which will cost a relatively small amount. For projects which will cost no more than a few thousand dollars, the commission may not wish to appoint a selection committee and go through the full process of screening and selection. If the commission makes this decision, it should determine the financial limits for contracts to be handled in this manner and explain the process in its procedures for hiring consultants. It may want to give the executive director the authority to interview consultants, rate them in order of preference and make recommendations.

to the executive committee or the full commission for final approval. In such cases, the executive director may wish to provide the commission with a full history of the selection process.

2. Pricing Asking consultants to include a cost estimate with their proposals is a practice which is discouraged by most professional consultants. However, project cost can be a crucial factor for planning district commissions with limited budgets.

Professional societies which include consultants as members generally recommend that the selection process be conducted without discussing costs. When a firm is selected, then the price is negotiated. If agreement cannot be reached on an acceptable cost, then the next ranked firm should be contacted.

Another method is to ask each firm which submits a proposal to include a sealed cost estimate. The firms are then ranked on the basis of their proposals. The sealed estimate from the top ranked firm is examined. If the cost estimate is acceptable, the firm is selected to do the job. If the cost estimate is unacceptable, the selection committee has the option of negotiating with the consultant or dealing with the next ranked firm and, if necessary, with the next until a consultant is hired. However, the codes of ethics of some professional societies caution their members against any kind of price bidding, including the submission of sealed estimates.

APPENDIX A

PDC Contracting Procedures Study:

Resource Organizations and Documents

American Institute of Planners and American Society of Consulting Planners

- Selecting a Professional Planning Consultant and Administration of the Request for a Proposal.

American Society of Civil Engineers

Consulting Engineer, A Guide for the Engagement of Engineering Services.

Environmental Protection Agency (EPA)

- Contracts Management Manual (E.P.A. 9/24/74).
- Contract Officers Course (E.P.A. - Ohio State Univ.).

Department of Housing and Urban Development (HUD)

- HUD Guidelines - Circular 604.1 REV. (7/1/73).
- How To Get The Best Results From Management Consultants.

Virginia Department of Highways and Transportation

- Policy Memorandum: Contractors, Contracts and Suppliers.

Virginia State Board of Architects, Engineers and Land Surveyors

- Proposed Rules and Regulations.

Virginia Society of Professional Engineers

- Guide for the Selection and Compensation of Consulting Engineers in Virginia.
- The Federal Brooks Law, P.L. 92-582 October 27, 1972.
- Hampton Roads Water Quality Agency, Procedures for Consultant Selection.

Planning District Commissions Which Submitted Written Procedures

- Central Virginia PDC. (11)
- Lord Fairfax PDC. (7)

- New River Valley PDC. (4)
- Northern Virginia PDC. (8)
- Peninsula PDC. (21)
- Piedmont PDC. (14)
- RADCO PDC. (16)
- Richmond Regional PDC. (15)
- Southeastern Virginia PDC. (20)