



COMMONWEALTH OF VIRGINIA
Division of Legislative Services

ROBERT L. TAVENNER
DIRECTOR

November 3, 2015

The Honorable John C. Watkins
P.O. Box 159
Midlothian, VA 23113-0159

The Honorable Robert D. Orrock, Sr.
P.O. Box 458
Thornburg, VA 22565

Dear Senator Watkins and Delegate Orrock:

The 2015 Appropriation Act (§ 1-6) directed the formation of a technical staff working group, charged with developing draft legislation that reorganizes, clarifies and codifies, but does not substantively amend, the statutory responsibilities of the Virginia Information Technologies Agency (VITA). The group was formed to address concerns identified in JLARC's 2014 report on *Virginia's Information Technology Governance Structure*. The group was led by the Division of Legislative Services and included staff from VITA, JLARC, the Joint Commission on Technology and Science, the Office of the Attorney General, and the Office of the Secretary of Technology. The working group was directed to present proposed legislation to JLARC in November 2015.

This letter and its attachments constitute the working group's final report. The three attachments are:

- Attachment A: draft legislation to improve VITA statute
- Attachment B: summary of proposed changes to VITA statute
- Attachment C: options for additional changes to VITA statute

The draft legislation proposes several non-substantive changes to VITA's chapter of The Code of Virginia (Title 2, Chapter 20.1). The draft (1) improves the logical order of the chapter, (2) clarifies definitions, (3) eliminates redundancy, and (4) codifies key responsibilities, including those established in the 2003 Acts of Assembly that created VITA. The changes do not alter the existing powers and duties of VITA. Major changes are summarized in Attachment B.

The working group found that several sections of VITA's chapter of The Code used ambiguous terms or clauses. The group interpreted these terms and clauses based on the context of the original bills that enacted them and the statute that was in place at the time they were enacted. If the group reached

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unanimous consensus on how the term or clause should be interpreted, then a change was made in the draft legislation. If the group did not reach unanimous consensus, no change was made. Instances where the group has interpreted a term or clause are documented in Attachment B.

The working group identified several areas where substantive changes to VITA statute could be considered. These potential changes are not included in the working group's draft legislation because they would alter the existing powers and duties of VITA. Instead, these options for additional changes are separately documented in Attachment C.

The working group believes the changes proposed in this draft legislation will greatly improve VITA's statute, making it easier to determine the scope of the agency's responsibilities and the authority it has for enforcing compliance with central IT requirements. Please contact us at any time if you have questions regarding the proposed legislation or other aspects of the group's work. I can be reached at (804) 786-3591 ext. 223 or lwallmeyer@dls.virginia.gov, and Mr. Wade can be reached at (804) 786-3591 ext. 216 or awade@dls.virginia.gov.

Sincerely,

Lisa Wallmeyer
Senior Attorney
Division of Legislative Services

Amigo Wade
Senior Attorney
Division of Legislative Services

Cc: The Honorable Karen Jackson
Mr. Jason Powell
Mr. David Reynolds
Mr. Ashley Colvin
Mr. John Westrick
Mr. Mark Gribbin

Attachment A:

Draft Legislation to Improve VITA Statute

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 2.2-225, 2.2-1507, 2.2-2005, 2.2-2006, 2.2-2007, 2.2-2008, 2.2-2009,
2 2.2-2011, 2.2-2012, 2.2-2013, 2.2-2014, 2.2-2016, 2.2-2017, 2.2-2018.1, 2.2-2020, 2.2-2021,
3 2.2-2023, 2.2-2027, 2.2-2699.6, 2.2-3501, and 2.2-4343 of the Code of Virginia, to amend the
4 Code of Virginia by adding sections numbered 2.2-2007.1 and 2.2-2016.1, and to repeal §§ 2.2-
5 2008, 2.2-1010, and 2.2-2015 of the Code of Virginia, relating to the Chief Information Officer
6 of the Commonwealth; the Virginia Information Technologies Agency.

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

8 **1. That §§ 2.2-225, 2.2-1507, 2.2-2005, 2.2-2006, 2.2-2007, 2.2-2008, 2.2-2009, 2.2-2011, 2.2-2012,**
9 **2.2-2013, 2.2-2014, 2.2-2016, 2.2-2017, 2.2-2018.1, 2.2-2020, 2.2-2021, 2.2-2023, 2.2-2027, 2.2-**
10 **2699.6, 2.2-3501, and 2.2-4343 of the Code of Virginia are amended and reenacted and that the**
11 **Code of Virginia is amended by adding sections numbered 2.2-2007.1 and 2.2-2016.1 as follows:**

12 **§ 2.2-225. Position established; agencies for which responsible; additional powers.**

13 The position of Secretary of Technology (the Secretary) is created. The Secretary shall be
14 responsible to the Governor for the following agencies, councils, and boards: Information Technology
15 Advisory Council, Innovation and Entrepreneurship Investment Authority, Virginia Information
16 Technologies Agency, Virginia Geographic Information Network Advisory Board, and the E-911
17 Services Board. The Governor, by executive order, may assign any other state executive agency to the
18 Secretary, or reassign any agency listed in this section to another Secretary.

19 Unless the Governor expressly reserves such power to himself, the Secretary may, with regard to
20 strategy development, planning and budgeting for technology programs in the Commonwealth:

21 1. Monitor trends and advances in fundamental technologies of interest and importance to the
22 economy of the Commonwealth and direct and approve a stakeholder-driven technology strategy
23 development process that results in a comprehensive and coordinated view of research and development
24 goals for industry, academia and government in the Commonwealth. This strategy shall be updated

25 biennially and submitted to the Governor, the Speaker of the House of Delegates and the President Pro
26 Tempore of the Senate.

27 2. Work closely with the appropriate federal research and development agencies and program
28 managers to maximize the participation of Commonwealth industries and universities in these programs
29 consistent with agreed strategy goals.

30 3. Direct the development of plans and programs for strengthening the technology resources of
31 the Commonwealth's high technology industry sectors and for assisting in the strengthening and
32 development of the Commonwealth's Regional Technology Councils.

33 4. Direct the development of plans and programs for improving access to capital for technology-
34 based entrepreneurs.

35 5. Assist the Joint Commission on Technology and Science created pursuant to § 30-85 in its
36 efforts to stimulate, encourage, and promote the development of technology in the Commonwealth.

37 6. Continuously monitor and analyze the technology investments and strategic initiatives of other
38 states to ensure the Commonwealth remains competitive.

39 7. Strengthen interstate and international partnerships and relationships in the public and private
40 sectors to bolster the Commonwealth's reputation as a global technology center.

41 8. Develop and implement strategies to accelerate and expand the commercialization of
42 intellectual property created within the Commonwealth.

43 9. Ensure the Commonwealth remains competitive in cultivating and expanding growth
44 industries, including life sciences, advanced materials and nanotechnology, biotechnology, and
45 aerospace.

46 10. Monitor the trends in the availability and deployment of and access to broadband
47 communications services, which include, but are not limited to, competitively priced, high-speed data
48 services and Internet access services of general application, throughout the Commonwealth and
49 advancements in communications technology for deployment potential. The Secretary shall report
50 annually by December 1 to the Governor and General Assembly on those trends.

51 11. Designate specific projects as enterprise information technology projects, prioritize the
52 implementation of enterprise information technology projects, establish enterprise oversight committees
53 to provide ongoing oversight for enterprise information technology projects. At the discretion of the
54 Governor, the Secretary shall designate a state agency or public institution of higher education as the
55 business sponsor responsible for implementing an enterprise information technology project, and shall
56 define the responsibilities of lead agencies that implement enterprise information technology projects.
57 For purposes of this subdivision, "enterprise" means an organization with common or unifying business
58 interests. An enterprise may be defined at the Commonwealth level or Secretariat level for programs and
59 project integration within the Commonwealth, Secretariats, or multiple agencies.

60 12. Establish Internal Agency Oversight Committees and Secretariat Oversight Committees as
61 necessary and in accordance with § 2.2-2021.

62 13. Review and approve the Commonwealth strategic plan for information technology, as
63 developed and recommended by the Chief Information Officer pursuant to ~~§ 2.2-2007~~ subdivision A 3
64 of § 2.2-2007.1.

65 14. Communicate regularly with the Governor and other Secretaries regarding issues related to
66 the provision of information technology services in the Commonwealth, statewide technology
67 initiatives, and investments and other efforts needed to achieve the Commonwealth's information
68 technology strategic goals.

69 15. Provide consultation on guidelines, at the recommendation of the Innovation and
70 Entrepreneurship Investment Authority, for the application, review, and award of funds from the
71 Commonwealth Research Commercialization Fund pursuant to § 2.2-2233.1.

72 **§ 2.2-1507. Participation of certain agencies in budget development process of other**
73 **agencies.**

74 Agencies having responsibilities granted under §§ ~~2.2-2011~~ 2.2-2007.1, 2.2-2696, and 51.5-135
75 shall participate in the budget development process of relevant agencies and receive from these
76 agencies, prior to submission to the Department their proposed programs and budgets.
77 Recommendations to the appropriate agencies and the secretaries of the Governor on related matters

78 shall be made prior to budget submissions. § 2.2-1509.3. Budget bill to include appropriations for major
79 information technology projects.

80 A. For purposes of this section, unless the context requires a different meaning:

81 "Commonwealth Project Management Standard" means the same as that term is defined in § 2.2-
82 2006.

83 "Major information technology project" means the same as that term is defined in § 2.2-2006.

84 "Major information technology project funding" means an estimate of each funding source for a
85 major information technology project for the duration of the project.

86 B. In "The Budget Bill" submitted pursuant to § 2.2-1509, the Governor shall provide for the
87 funding of major information technology projects, as specified herein. Such funding recommendations
88 shall be for major information technology projects that have or are pending project initiation approval as
89 defined in the Commonwealth Project Management Standard.

90 The Governor shall include in "The Budget Bill" submitted pursuant to § 2.2-1509 a biennial
91 appropriation for major information technology projects and the following information for each such
92 project:

93 1. For major information technology projects that have been recommended for funding, a brief
94 statement explaining the business case for the project, the priority of the project in the Recommended
95 Technology Investment Projects Report as required by § 2.2-2007, and an explanation, if necessary, if
96 the Governor informed the Chief Information Officer (CIO) that an emergency existed as set forth in ~~§~~
97 2.2-2008 subdivision A 6 of § 2.2-2016.1;

98 2. Total estimated project costs, as defined by the Commonwealth Project Management
99 Standard, including the amount of the agency's or institution's operating appropriation that will support
100 the project;

101 3. All project costs incurred to date as defined by the Commonwealth Project Management
102 Standard;

103 4. Recommendations or comments of the Public-Private Partnership Advisory Commission, if
104 the project is part of a proposal under the Public-Private Education Facilities and Infrastructure Act of
105 2002 (§ 56-575.1 et seq.);

106 5. The CIO's assessment of the project and the status as of the date of the budget bill submission
107 to the General Assembly;

108 6. The planned project start and end dates as defined by the Commonwealth Project Management
109 Standard; and

110 7. Projected annual operations and maintenance expenditures, including but not limited to fees,
111 licenses, infrastructure, and agency and nonagency staff support costs, for information technology
112 delivered by major information technology projects for the first budget biennium after project
113 completion.

114 C. The CIO shall immediately notify each member of the Senate Finance Committee and the
115 House Appropriations Committee of any decision to terminate in accordance with ~~§ 2.2-2015~~ subsection
116 B of § 2.2-2016.1 any major information technology project in the budget bill. Such communication
117 shall include the CIO's reason for such termination.

118 **§ 2.2-2005. Creation of Agency; appointment of Chief Information Officer.**

119 A. There is hereby created the Virginia Information Technologies Agency (VITA), which shall
120 serve as the agency responsible for administration and enforcement of the provisions of this Chapter.

121 B. The Governor shall appoint a Chief Information Officer of the Commonwealth (the CIO) to
122 oversee the operation of VITA. The CIO shall exercise the powers and perform the duties conferred or
123 imposed upon him by law and perform such other duties as may be required by the Governor and the
124 Secretary of Technology.

125 **§ 2.2-2006. Definitions.**

126 As used in this chapter, unless the context requires a different meaning:

127 "Commonwealth information technology project" means any ~~state executive branch~~ agency
128 information technology project that is under Commonwealth governance and oversight.

129 "Commonwealth Project Management Standard" means a document developed and adopted by
130 the Chief Information Officer (CIO) pursuant to ~~§ 2.2-2008~~ § 2.2-2016.1 that describes the methodology
131 for conducting information technology projects, and the governance and oversight used to ensure project
132 success.

133 ~~"Communications services" includes telecommunications services; automated data processing~~
134 ~~services; local, wide area, metropolitan, and all other data networks; and management information~~
135 ~~systems that serve the needs of state agencies and institutions.~~

136 "Confidential data" means information made confidential by federal or state law that is
137 maintained ~~by a state agency~~ in an electronic format.

138 "Enterprise" means an organization with common or unifying business interests. An enterprise
139 may be defined at the Commonwealth level or secretariat level for program and project integration
140 within the Commonwealth, secretariats, or multiple agencies.

141 "Executive branch agency" or "agency" means any agency, institution, board, bureau,
142 commission, council, public institution of higher education, or instrumentality of state government in the
143 executive department listed in the appropriation act. However, the term shall not include the University
144 of Virginia Medical Center, a public institution of higher education to the extent exempt from this
145 chapter pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§
146 23-38.88 et seq.) or other law, or the Virginia Port Authority.

147 "Information technology" means communications, telecommunications, automated data
148 processing, applications, databases, data networks, the Internet, management information systems, and
149 related information, equipment, goods, and services. The provisions of this chapter shall not be
150 construed to hamper the pursuit of the missions of the institutions in instruction and research.

151 "ITAC" means the Information Technology Advisory Council created in § 2.2-2699.5.

152 "Major information technology project" means any Commonwealth information technology
153 project that has a total estimated cost of more than \$1 million or that has been designated a major
154 information technology project by the CIO pursuant to the Commonwealth Project Management
155 Standard developed under ~~§ 2.2-2008~~ § 2.2-2016.1.

156 ~~"Noncommercial telecommunications entity" means any public broadcasting station as defined in~~
157 ~~§ 22.1 20.1.~~

158 ~~"Public broadcasting services" means the acquisition, production, and distribution by public~~
159 ~~broadcasting stations of noncommercial educational, instructional, informational, or cultural television~~
160 ~~and radio programs and information that may be transmitted by means of electronic communications,~~
161 ~~and related materials and services provided by such stations.~~

162 ~~"Public telecommunications entity" means any public broadcasting station as defined in § 22.1~~
163 ~~20.1.~~

164 ~~"Public telecommunications facilities" means all apparatus, equipment and material necessary for~~
165 ~~or associated in any way with public broadcasting stations as defined in § 22.1 20.1 or public~~
166 ~~broadcasting services, including the buildings and structures necessary to house such apparatus,~~
167 ~~equipment and material, and the necessary land for the purpose of providing public broadcasting~~
168 ~~services, but not telecommunications services.~~

169 ~~"Public telecommunications services" means public broadcasting services.~~

170 "Secretary" means the Secretary of Technology.

171 ~~"State agency" or "agency" means any agency, institution, board, bureau, commission, council,~~
172 ~~or instrumentality of state government in the executive branch listed in the appropriation act. However,~~
173 ~~the terms "state agency," "agency," "institution," "public body," and "public institution of higher~~
174 ~~education," shall not include the University of Virginia Medical Center.~~

175 "Technology asset" means hardware and communications equipment not classified as traditional
176 mainframe-based items, including personal computers, mobile computers, and other devices capable of
177 storing and manipulating electronic data.

178 "Telecommunications" means any origination, transmission, emission, or reception of data,
179 signs, signals, writings, images, and sounds or intelligence of any nature, by wire, radio, television,
180 optical, or other electromagnetic systems.

~~"Telecommunications facilities" means apparatus necessary or useful in the production, distribution, or interconnection of electronic communications for state agencies or institutions including the buildings and structures necessary to house such apparatus and the necessary land.~~

§ 2.2-2007. Powers and duties of the CIO.

A. ~~In addition to such other duties as the Secretary may assign, the~~ The CIO shall:

~~1. Monitor trends and advances in information technology; develop a comprehensive six-year Commonwealth strategic plan for information technology to include: (i) specific projects that implement the plan; (ii) a plan for the acquisition, management, and use of information technology by state agencies; (iii) a report of the progress of any ongoing enterprise information technology projects, any factors or risks that might affect their successful completion, and any changes to their projected implementation costs and schedules; and (iv) a report on the progress made by state agencies toward accomplishing the Commonwealth strategic plan for information technology. The Commonwealth strategic plan for information technology shall be updated annually and submitted to the Secretary for approval.~~

~~2. Direct the formulation and promulgation of~~ promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under this chapter. The CIO shall also develop policies, ~~guidelines,~~ standards, and guidelines for the planning, budgeting, procurement, purchase, development, ~~and~~ maintenance, security, and operations of information technology for ~~state executive branch~~ agencies, ~~including, but not limited to,~~ Such policies, standards, and guidelines shall include those necessary to ~~(i) required to support:~~

1. Support state and local government exchange, acquisition, storage, use, sharing, and distribution of ~~geographic or base map~~ data and related technologies, ~~(ii) concerned with:~~

2. Support the development of electronic transactions including the use of electronic signatures as provided in § 59.1-496, ~~and (iii) necessary to support:~~

3. Support a unified approach to information technology across the totality of state government, thereby assuring that the citizens and businesses of the Commonwealth receive the greatest possible security, value, and convenience from investments made in technology;

208 4. Ensure that the costs of information technology systems, products, data, and services are
209 contained through the shared use of existing or planned equipment, data, or services; and

210 5. Provide for the effective management of information technology investments through their
211 entire lifecycles, including identification, business case development, selection, procurement,
212 implementation, operation, performance evaluation, and enhancement or retirement. Such policies,
213 standards, and guidelines shall include, at a minimum, the periodic review by the CIO of agency
214 Commonwealth information technology projects.

215 6. Establish an Information Technology Investment Management Standard based on acceptable
216 technology investment methods to ensure that all executive branch agency technology expenditures are
217 an integral part of the Commonwealth's performance management system, produce value for the agency
218 and the Commonwealth, and are aligned with (i) agency strategic plans, (ii) the Governor's policy
219 objectives, and (iii) the long-term objectives of the Council on Virginia's Future.

220 ~~3. Direct the development of policies and procedures, in consultation with the Department of~~
221 ~~Planning and Budget, that are integrated into the Commonwealth's strategic planning and performance~~
222 ~~budgeting processes, and that state agencies and public institutions of higher education shall follow in~~
223 ~~developing information technology plans and technology-related budget requests. Such policies and~~
224 ~~procedures shall require consideration of the contribution of current and proposed technology~~
225 ~~expenditures to the support of agency and institution priority functional activities, as well as current and~~
226 ~~future operating expenses, and shall be utilized by all state agencies and public institutions of higher~~
227 ~~education in preparing budget requests.~~

228 ~~4. Review budget requests for information technology from state agencies and public institutions~~
229 ~~of higher education and recommend budget priorities to the Secretary.~~

230 ~~Review of such budget requests shall include, but not be limited to, all data processing or other~~
231 ~~related projects for amounts exceeding \$250,000 in which the agency or institution has entered into or~~
232 ~~plans to enter into a contract, agreement or other financing agreement or such other arrangement that~~
233 ~~requires that the Commonwealth either pay for the contract by foregoing revenue collections, or allows~~
234 ~~or assigns to another party the collection on behalf of or for the Commonwealth any fees, charges, or~~

235 ~~other assessments or revenues to pay for the project. For each project, the agency or institution, with the~~
236 ~~exception of public institutions of higher education that meet the conditions prescribed in subsection B~~
237 ~~of § 23-38.88, shall provide the CIO (i) a summary of the terms, (ii) the anticipated duration, and (iii)~~
238 ~~the cost or charges to any user, whether a state agency or institution or other party not directly a party to~~
239 ~~the project arrangements. The description shall also include any terms or conditions that bind the~~
240 ~~Commonwealth or restrict the Commonwealth's operations and the methods of procurement employed~~
241 ~~to reach such terms.~~

242 ~~State agencies and institutions, with the exception of public institutions of higher education that~~
243 ~~meet the conditions prescribed in subsection B of § 23-38.88, shall submit to the CIO a projected~~
244 ~~biennial operations and maintenance budget for technology assets owned or licensed by the agency or~~
245 ~~institution, and submit a budget decision package for any shortfalls.~~

246 ~~5. Direct the development of policies and procedures for the effective management of~~
247 ~~information technology investments throughout their entire life cycles, including, but not limited to,~~
248 ~~identification, business case development, selection, procurement, implementation, operation,~~
249 ~~performance evaluation, and enhancement or retirement. Such policies and procedures shall include, at a~~
250 ~~minimum, the periodic review by the CIO of agency and public institution of higher education~~
251 ~~Commonwealth information technology projects.~~

252 ~~6. Provide technical guidance to the Department of General Services in the development of~~
253 ~~policies and procedures for the recycling and disposal of computers and other technology assets. Such~~
254 ~~policies and procedures shall include the expunging, in a manner as determined by the CIO, of all state~~
255 ~~confidential data and personal identifying information of citizens of the Commonwealth prior to such~~
256 ~~sale, disposal, or other transfer of computers or other technology assets.~~

257 B. In addition to other such duties as the Secretary may assign, the CIO shall:

258 7-1. ~~Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to §~~
259 ~~2.2-2023.~~

260 ~~8. Periodically evaluate the feasibility of outsourcing information technology resources and~~
261 ~~services, and outsource those resources and services that are feasible and beneficial to the~~
262 ~~Commonwealth.~~

263 ~~9. Have the authority to enter into contracts with one or more other public bodies, or public~~
264 ~~agencies or institutions or localities of the several states, of the United States or its territories, or the~~
265 ~~District of Columbia for the provision of information technology services.~~

266 ~~10.~~2. Report annually to the Governor, the Secretary, and the Joint Commission on Technology
267 and Science created pursuant to § 30-85 on the use and application of information technology by ~~state~~
268 ~~executive branch~~ agencies ~~and public institutions of higher education~~ to increase economic efficiency,
269 citizen convenience, and public access to state government. ~~The CIO shall prepare an annual~~

270 3. Prepare annually a report for submission to the Secretary, the Information Technology
271 Advisory Council, and the Joint Commission on Technology and Science on a prioritized list of
272 Recommended Technology Investment Projects (RTIP Report) based upon major information
273 technology projects submitted for business case approval pursuant to this chapter. As part of the RTIP
274 Report, the CIO shall develop and regularly update a methodology for prioritizing projects based upon
275 the allocation of points to defined criteria. The criteria and their definitions shall be presented in the
276 RTIP Report. For each project recommended for funding in the RTIP Report, the CIO shall indicate the
277 number of points and how they were awarded. For each listed project, the CIO shall also report (i) all
278 projected costs of ongoing operations and maintenance activities of the project for the next three biennia
279 following project implementation; (ii) a justification and description for each project baseline change;
280 and (iii) whether the project fails to incorporate existing standards for the maintenance, exchange, and
281 security of data. This report shall also include trends in current projected information technology
282 spending by ~~state~~ executive branch agencies and secretariats, including spending on projects, operations
283 and maintenance, and payments to VITA. Agencies shall provide all project and cost information
284 required to complete the RTIP Report to the CIO prior to May 31 immediately preceding any budget
285 biennium in which the project appears in the Governor's budget bill.

286 ~~11. Direct the development of policies and procedures that require the Division of Project~~
287 ~~Management established pursuant to § 2.2-2016, on behalf of the CIO, to review and recommend~~
288 ~~Commonwealth information technology projects proposed by state agencies and institutions. Such~~
289 ~~policies and procedures shall be based on the criteria outlined within § 2.2-2017.~~

290 ~~12.~~ 4. Provide oversight for ~~state~~ executive branch agency ~~or public institution of higher~~
291 ~~education~~ efforts to modernize the planning, development, implementation, improvement, operations
292 and maintenance, and retirement of Commonwealth information technology, including oversight for the
293 selection, development and management of enterprise information technology.

294 ~~13.~~ 5. Develop statewide technical and data standards and specifications for information
295 technology and related systems, including (i) the efficient exchange of electronic information and
296 technology, including infrastructure, between the public and private sectors in the Commonwealth and
297 (ii) the utilization of nationally recognized technical and data standards for health information
298 technology systems or software purchased by ~~a state~~ an executive branch agency of the Commonwealth.

299 6. Direct the compilation and maintenance of an inventory of information technology, including,
300 but not limited to, personnel, facilities, equipment, goods, and contracts for services.

301 7. Provide for the centralized marketing, provision, leasing, and executing of licensing
302 agreements for electronic access to public information and government services through the Internet,
303 wireless devices, personal digital assistants, kiosks, or other such related media on terms and conditions
304 as may be determined to be in the best interest of the Commonwealth. VITA may fix and collect fees
305 and charges for (i) public information, media, and other incidental services furnished by it to any private
306 individual or entity, notwithstanding the charges set forth in § 2.2-3704 and (ii) such use and services it
307 provides to any executive branch agency or local government. Nothing in this subdivision authorizing
308 VITA to fix and collect fees for providing information services shall be construed to prevent access to
309 the public records of any public body pursuant to the provisions of the Virginia Freedom of Information
310 Act (§ 2.2-2700 et seq.). VITA is authorized, subject to the approval by the Secretary of Technology,
311 and any other affected Secretariat, to delegate the powers and responsibilities granted in this subdivision
312 to any agency within the executive branch.

313 8. Periodically evaluate the feasibility of outsourcing information technology resources and
314 services, and outsource those resources and services that are feasible and beneficial to the
315 Commonwealth.

316 9. Have the authority to enter into and amend contracts, including contracts with one or more
317 other public bodies, or public agencies or institutions or localities of the several states, of the United
318 States or its territories, or the District of Columbia, for the provision of information technology services.

319 ~~14. Establish Internal Agency Oversight Committees and Secretariat Oversight Committees as~~
320 ~~necessary and in accordance with § 2.2-2021.~~

321 ~~B. C.~~ Consistent with § 2.2-2012, the CIO may enter into public-private partnership contracts to
322 finance or implement information technology programs and projects. The CIO may issue a request for
323 information to seek out potential private partners interested in providing programs or projects pursuant
324 to an agreement under this subsection. The compensation for such services shall be computed with
325 reference to and paid from the increased revenue or cost savings attributable to the successful
326 implementation of the program or project for the period specified in the contract. The CIO shall be
327 responsible for reviewing and approving the programs and projects and the terms of contracts for same
328 under this subsection. The CIO shall determine annually the total amount of increased revenue or cost
329 savings attributable to the successful implementation of a program or project under this subsection and
330 such amount shall be deposited in the Virginia Technology Infrastructure Fund created in § 2.2-2023.
331 The CIO is authorized to use moneys deposited in the Fund to pay private partners pursuant to the terms
332 of contracts under this subsection. All moneys in excess of that required to be paid to private partners, as
333 determined by the CIO, shall be reported to the Comptroller and retained in the Fund. The CIO shall
334 prepare an annual report to the Governor, the Secretary, and General Assembly on all contracts under
335 this subsection, describing each information technology program or project, its progress, revenue
336 impact, and such other information as may be relevant.

337 ~~C. The CIO shall develop a technology investment management standard based on acceptable~~
338 ~~technology investment methods to ensure that all state agency or public institution of higher education~~
339 ~~technology expenditures are an integral part of the Commonwealth's performance management system;~~

340 ~~produce value for the agency and the Commonwealth, and are aligned with (i) agency strategic plans,~~
341 ~~(ii) the Governor's policy objectives, and (iii) the long term objectives of the Council on Virginia's~~
342 ~~Future.~~

343 ~~D. The CIO shall have the authority to enter into and amend contracts for the provision of~~
344 ~~information technology services.~~

345 D. Executive branch agencies shall cooperate with VITA in identifying the development and
346 operational requirements of proposed information technology systems, products, data, and services,
347 including the proposed use, functionality, capacity and the total cost of acquisition, operation, and
348 maintenance.

349 § 2.2-2007.1. Additional duties of the CIO relating to information technology planning
350 and budgeting.

351 A. The CIO shall have the following duties relating to information technology planning:

352 1. Monitor trends and advances in information technology, plan and forecast future needs for
353 information technology, and conduct studies and surveys of organizational structures and best
354 management practices of information technology systems and procedures;

355 2. Evaluate the needs of executive branch agencies in the Commonwealth with regard to (i) a
356 consistent, reliable, and secure information technology infrastructure, (ii) existing capabilities with
357 regard to building and supporting that infrastructure, and (iii) recommend approaches to ensure the
358 future development, maintenance, and financing of an information technology infrastructure befitting
359 the needs of executive branch agencies and the service level requirements of its citizens.

360 3. Develop a comprehensive six-year Commonwealth strategic plan for information technology
361 to include: (i) specific projects that implement the plan; (ii) a plan for the acquisition, management, and
362 use of information technology by executive branch agencies; (iii) a report of the progress of any ongoing
363 enterprise information technology projects, any factors or risks that might affect their successful
364 completion, and any changes to their projected implementation costs and schedules; and (iv) a report on
365 the progress made by executive branch agencies toward accomplishing the Commonwealth strategic

366 plan for information technology. The Commonwealth strategic plan for information technology shall be
367 updated annually and submitted to the Secretary for approval.

368 B. The CIO shall have the following duties relating to budgeting for information technology
369 programs:

370 1. Develop policies, standards, and guidelines, in consultation with the Department of Planning
371 and Budget, that are integrated into the Commonwealth's strategic planning and performance budgeting
372 processes, and that executive branch agencies shall follow in developing information technology plans
373 and technology-related budget requests. Such policies and procedures shall require consideration of the
374 contribution of current and proposed technology expenditures to the support of executive branch agency
375 priority functional activities, as well as current and future operating expenses, and shall be utilized by all
376 state agencies in preparing budget requests.

377 2. Assist executive branch agencies in the development of information technology strategic plans
378 pursuant to § 2.2-2014 and the preparation of budget requests for information technology that are
379 consistent with the policies, standards, and guidelines developed pursuant to this subsection;

380 3. Review budget requests for information technology from executive branch agencies and
381 recommend budget priorities to the Secretary. Review of such budget requests shall include all
382 information technology projects for amounts exceeding \$250,000 for which the contract or proposed
383 contract, would, as a means of payment for the project, require the Commonwealth to forego certain
384 revenue collections or would allow another party to collect fees, charges, or other revenues on behalf of
385 the Commonwealth, in which the agency or institution has entered into or plans to enter into a contract,
386 agreement or other financing agreement or such other arrangement that requires that the Commonwealth
387 either pay for the contract by foregoing revenue collections, or allows or assigns to another party the
388 collection on behalf of or for the Commonwealth any fees, charges, or other assessments or revenues to
389 pay for the project. For each information technology project, the agency shall provide the CIO (i) a
390 summary of the terms, (ii) the anticipated duration, and (iii) the cost or charges to any user, whether a
391 state agency or other party not directly a party to the project arrangements. The description shall also
392 include any terms or conditions that bind the Commonwealth or restrict the Commonwealth's operations

393 and the methods of procurement employed to reach such terms. Executive branch agencies and
394 institutions shall submit to the CIO a projected biennial operations and maintenance budget for
395 technology assets owned or licensed by the agency or institution, and submit a budget decision package
396 for any shortfalls.

397 The provisions of this subdivision shall not apply to public institutions of higher education that
398 meet the conditions prescribed in subsection B of § 23-38.88.

399 **§ 2.2-2009. Additional duties of the CIO relating to security of government information.**

400 A. To provide for the security of state government electronic information from unauthorized
401 uses, intrusions or other security threats, the CIO shall direct the development of policies, ~~procedures~~
402 ~~and~~ standards, and guidelines for assessing security risks, determining the appropriate security measures
403 and performing security audits of government electronic information. Such policies, ~~procedures, and~~
404 standards, and guidelines ~~will shall~~ apply to the Commonwealth's executive, legislative, and judicial
405 branches, and independent agencies ~~and institutions of higher education~~. The CIO shall work with
406 representatives of the Chief Justice of the Supreme Court and Joint Rules Committee of the General
407 Assembly to identify their needs. Such policies, standards, and guidelines shall, at a minimum:

408 ~~B. 1. The CIO shall also develop policies, procedures, and standards that shall address~~ Address
409 the scope and frequency of security audits ~~and the frequency of such security audits~~. In developing and
410 updating such policies, ~~procedures, and~~ standards, and guidelines the CIO shall designate a government
411 entity to oversee, plan and coordinate the conduct of periodic security audits of all executive branch
412 agencies and independent agencies ~~and institutions of higher education~~. The CIO ~~will shall~~ coordinate
413 these audits with the Auditor of Public Accounts and the Joint Legislative Audit and Review
414 Commission. The Chief Justice of the Supreme Court and the Joint Rules Committee of the General
415 Assembly shall determine the most appropriate methods to review the protection of electronic
416 information within their branches;

417 2. Control unauthorized uses, intrusions, or other security threats;

418 3. Provide for the protection of confidential data maintained by state agencies against
419 unauthorized access and use in order to ensure the security and privacy of citizens of the Commonwealth

420 in their interaction with state government. Such policies, standards, and guidelines shall include
421 requirements that (i) any state employee or other authorized user of a state technology asset provide
422 passwords or other means of authentication to use a technology asset and access a state-owned or
423 operated computer network or database, and (ii) a digital rights management system or other means of
424 authenticating and controlling an individual's ability to access electronic records be utilized to limit
425 access to and use of electronic records that contain confidential data to authorized individuals;

426 4. Address the creation and operation of a risk management program designed to identify
427 information technology security gaps and develop plans to mitigate the gaps. All agencies in the
428 Commonwealth shall cooperate with the CIO, including (i) providing the CIO with information required
429 to create and implement a Commonwealth risk management program, (ii) creating an agency risk
430 management program, and (ii) complying with all other risk management activities.

431 ~~C. B. 1.~~ The CIO shall annually report to the Governor, the Secretary, and General Assembly the
432 results of security audits, the extent to which security policy, standards, and guidelines have been
433 adopted by executive branch and independent agencies, and a list of those executive branch agencies and
434 independent agencies ~~and institutions of higher education~~ that have not implemented acceptable security
435 and risk management regulations, policies, ~~procedures, and~~ standards, and guidelines to control
436 unauthorized uses, intrusions, or other security threats. For any executive branch agency or independent
437 agency ~~or institution of higher education~~ whose security audit results and plans for corrective action are
438 unacceptable, the CIO shall report such results to (i) the Secretary, (ii) any other affected cabinet
439 secretary, (iii) the Governor, and (iv) the Auditor of Public Accounts. Upon review of the security audit
440 results in question, the CIO may take action to suspend the ~~public body's~~ executive branch agency's or
441 independent agency's information technology projects pursuant to ~~§ 2.2-2015~~ subsection B of § 2.2-
442 2016.1, limit additional information technology investments pending acceptable corrective actions, and
443 recommend to the Governor and Secretary any other appropriate actions.

444 ~~The CIO shall also include in this report (a) results of security audits, including those state~~
445 ~~agencies, independent agencies, and institutions of higher education that have not implemented~~
446 ~~acceptable regulations, standards, policies, and guidelines to control unauthorized uses, intrusions, or~~

447 ~~other security threats and (b) the extent to which security standards and guidelines have been adopted by~~
448 ~~state agencies.~~

449 ~~D. 2. All public bodies~~ Executive branch agencies and independent agencies subject to such
450 audits as required by this section shall fully cooperate with the entity designated to perform such audits
451 and bear any associated costs. Public bodies that are not required to but elect to use the entity designated
452 to perform such audits shall also bear any associated costs.

453 ~~E. C.~~ The provisions of this section shall not infringe upon responsibilities assigned to the
454 Comptroller, the Auditor of Public Accounts, or the Joint Legislative Audit and Review Commission by
455 other provisions of the Code of Virginia.

456 ~~F. To ensure the security and privacy of citizens of the Commonwealth in their interactions with~~
457 ~~state government, the CIO shall direct the development of policies, procedures, and standards for the~~
458 ~~protection of confidential data maintained by state agencies against unauthorized access and use. Such~~
459 ~~policies, procedures, and standards shall include, but not be limited to:~~

460 ~~1. Requirements that any state employee or other authorized user of a state technology asset~~
461 ~~provide passwords or other means of authentication to (i) use a technology asset and (ii) access a state-~~
462 ~~owned or operated computer network or database; and~~

463 ~~2. Requirements that a digital rights management system or other means of authenticating and~~
464 ~~controlling an individual's ability to access electronic records be utilized to limit access to and use of~~
465 ~~electronic records that contain confidential data to authorized individuals.~~

466 ~~G. D.~~ The CIO shall promptly receive reports from directors of departments in the executive
467 branch of state government made in accordance with § 2.2-603 and shall take such actions as are
468 necessary, convenient or desirable to ensure the security of the Commonwealth's electronic information
469 and confidential data.

470 ~~H. The CIO shall also develop policies, procedures, and standards that shall address the creation~~
471 ~~and operation of a risk management program designed to identify information technology security gaps~~
472 ~~and develop plans to mitigate the gaps. All agencies in the Commonwealth shall cooperate with the CIO.~~
473 ~~Such cooperation includes, but is not limited to, (i) providing the CIO with information required to~~

474 ~~create and implement a Commonwealth risk management program; (ii) creating an agency risk~~
475 ~~management program; and (iii) complying with all other risk management activities.~~

476 I. E. The CIO shall provide technical guidance to the Department of General Services in the
477 development of policies, standards, and guidelines for the recycling and disposal of computers and other
478 technology assets. Such policies, standards, and guidelines shall include the expunging, in a manner as
479 determined by the CIO, of all confidential data and personal identifying information of citizens of the
480 Commonwealth prior to such sale, disposal, or other transfer of computers or other technology assets.

481 F. The CIO shall provide all directors of agencies and departments with all such information,
482 guidance, and assistance required to ensure that agencies and departments understand and adhere to the
483 policies, ~~procedures, and~~ standards, and guidelines developed pursuant to this section.

484 **§ 2.2-2011. Additional powers and duties relating to development, management, and**
485 **operation of information technology.**

486 A. Unless specifically exempted by law, VITA shall be responsible for the development,
487 operation, and management of information technology for every executive branch agency, pursuant to
488 the provisions of this chapter.

489 ~~VITA shall have the following additional powers and duties concerning the planning, budgeting,~~
490 ~~acquiring, using, and disposing of communications goods and services:~~

491 ~~1. Formulate specifications for telecommunications, automated data processing, and management~~
492 ~~information systems;~~

493 ~~2. Analyze and approve all procurements of interconnective telecommunications facilities,~~
494 ~~telephones, automated data processing, and other communications equipment and goods;~~

495 ~~3. Review and approve all agreements and contracts for communications services prior to~~
496 ~~execution between a state agency and another public or private agency;~~

497 ~~4. Develop and administer a system to monitor and evaluate executed contracts and billing and~~
498 ~~collection systems; and~~

499 ~~5. Exempt from review requirements, but not from the Commonwealth's competitive~~
500 ~~procurement process, any state agency that establishes, to the satisfaction of VITA, (i) its ability and~~

501 ~~willingness to administer efficiently and effectively the procurement of communications services or (ii)~~
502 ~~that it has been subjected to another review process coordinated through or approved by VITA.~~

503 B. ~~VITA~~ The CIO shall have the following powers and duties concerning the development,
504 operation and management of ~~communications services~~ information technology:

505 1. Manage, ~~and~~ coordinate, and provide the ~~various telecommunications facilities and~~
506 ~~communications services, centers, and operations used by the Commonwealth~~ information technology
507 used by executive branch agencies;

508 2. Acquire, lease, or construct such land, facilities, and equipment as necessary to deliver
509 comprehensive ~~communications~~ information technology services, and to maintain such land, facilities,
510 and equipment owned or leased; and

511 3. Provide technical assistance to ~~state~~ executive branch agencies in ~~such areas as: (i) designing~~
512 ~~management information systems; (ii) performing systems development services, including design,~~
513 ~~application programming, and maintenance; (iii) conducting research and sponsoring demonstration~~
514 ~~projects pertaining to all facets of telecommunications and communications services; (iv) effecting~~
515 ~~economies in telephone systems and equipment; and (v) planning and forecasting for future needs in~~
516 ~~communications services~~ the planning, development, operation, and management of information
517 technology; and.

518 4. ~~Develop and implement information, billing, and collections systems that will aid state~~
519 ~~agencies in forecasting their needs and managing their operations.~~

520 **§ 2.2-2012. Additional duties related to the procurement of information technology.**

521 A. The CIO shall develop policies, standards, and guidelines for the procurement of information
522 technology of every description.

523 B. 1. Information technology ~~and telecommunications goods and services of every description~~
524 shall be procured by (i) VITA for its own benefit or on behalf of other ~~state~~ executive branch agencies
525 ~~and institutions~~ or (ii) such other agencies ~~or institutions~~ to the extent authorized by VITA. Such
526 procurements shall be made in accordance with the Virginia Public Procurement Act (§ 2.2-4300 et
527 seq.), regulations that implement the electronic and information technology accessibility standards of the

528 Rehabilitation Act of 1973 (29 U.S.C. § 794d), as amended, and any regulations-, policies, procedures,
529 standards, and guidelines of VITA as may be prescribed by VITA. In no case shall such procurements
530 exceed the requirements of the regulations that implement the electronic and information technology
531 accessibility standards of the Rehabilitation Act of 1973, as amended.

532 2. The CIO shall review, and approve or disapprove, all executive branch agency procurements
533 of information technology, including approval of all agreements and contracts prior to the execution of
534 the procurement. The CIO may exempt from review requirements, but not from the Commonwealth's
535 competitive procurement process, any executive branch agency that establishes, to the satisfaction of the
536 CIO, (i) its ability and willingness to administer efficiently and effectively the procurement of
537 information technology, or (ii) that it has been subjected to another review process coordinated through
538 or approved by the CIO.

539 3. The CIO shall develop and administer a system to monitor and evaluate executed information
540 technology contracts and billing and collection systems.

541 The CIO shall disapprove any procurement that does not conform to the Commonwealth
542 strategic plan for information technology developed and approved pursuant to ~~§ 2.2-2007~~ subdivision A
543 3 of § 2.2-2007.1 or to the individual strategic plans of state agencies ~~or public institutions of higher~~
544 education developed and approved pursuant to § 2.2-2014.

545 3. The CIO shall require that before any executive branch agency procures any computer system,
546 equipment or software, it shall consider whether the proposed system, equipment or software is capable
547 of producing products that facilitate the rights of the public to access official records under the Freedom
548 of Information Act (§ 2.2-3700 et seq.) or other applicable law.

549 B. All statewide contracts and agreements made and entered into by VITA for the purchase of
550 ~~communications services, telecommunications facilities, and~~ information technology ~~goods and services~~
551 shall provide for the inclusion of counties, cities, and towns in such contracts and agreements. Counties,
552 cities, and towns, and local school divisions are authorized to purchase information technology goods
553 and services of every description from VITA and its vendors, provided that such purchases are not
554 prohibited by the terms and conditions of the contracts for such goods and services. Notwithstanding the

555 provisions of § 2.2-4302.1, 2.2-4302.2, 2.2-4303.1, or 2.2-4303.2, VITA may enter into multiple vendor
556 contracts for the referenced services, facilities, and goods and services.

557 C. VITA may establish contracts for the purchase of personal computers and related devices by
558 licensed teachers employed in a full-time teaching capacity in Virginia public schools or in state
559 educational facilities for use outside the classroom. The computers and related devices shall not be
560 purchased with public funds, but shall be paid for and owned by teachers individually provided that no
561 more than one such computer and related device per year shall be so purchased.

562 D. If VITA, or any executive branch agency ~~or institution~~ authorized by VITA, elects to procure
563 personal computers and related peripheral equipment pursuant to any type of blanket purchasing
564 arrangement under which public bodies, as defined in § 2.2-4301, may purchase such goods from any
565 vendor following competitive procurement but without the conduct of an individual procurement by or
566 for the using agency or institution, it shall establish performance-based specifications for the selection of
567 equipment. Establishment of such contracts shall emphasize performance criteria including price,
568 quality, and delivery without regard to "brand name." All vendors meeting the Commonwealth's
569 performance requirements shall be afforded the opportunity to compete for such contracts.

570 E. VITA shall allow private institutions of higher education that are (i)(a) chartered in Virginia
571 or (b) chartered by an Act of Congress in 1821 and that have owned and operated since 1991 a campus
572 with a significant presence in the Commonwealth and (ii) granted tax-exempt status under § 501(c)(3) of
573 the Internal Revenue Code to purchase directly from contracts established for state agencies and public
574 bodies by VITA.

575 F. This section shall not be construed or applied so as to infringe upon, in any manner, the
576 responsibilities for accounting systems assigned to the Comptroller under § 2.2-803.

577 G. The Comptroller shall not issue any warrant upon any voucher issued by ~~a state~~ an executive
578 branch agency covering the purchase of any information technology ~~and telecommunications goods and~~
579 ~~services~~ when such purchases are made in violation of any provision of this chapter or the Virginia
580 Public Procurement Act (§ 2.2-4300 et seq.).

581 H. Intentional violations of centralized purchasing requirements for information technology ~~and~~
582 ~~technology and telecommunications goods and services~~ pursuant to this chapter by ~~a state~~ an executive
583 branch agency, continued after notice from the Governor to desist, shall constitute malfeasance in office
584 and shall subject the officer responsible for the violation to suspension or removal from office, as may
585 be provided in law in other cases of malfeasance.

586 **§ 2.2-2013. Internal service and special funds.**

587 A. There is established the Information Technology and Management Internal Service Fund to be
588 administered by VITA.

589 B. There is established the Acquisition Services Special Fund to be administered by VITA and
590 used to finance procurement and contracting activities and programs unallowable for federal fund
591 reimbursement.

592 C. Upon written request of the ~~Chief Information Officer~~ CIO, the Joint Legislative Audit and
593 Review Commission may direct the Comptroller to establish internal service fund accounts on his books
594 and record the receipts and expenditures for appropriate functions of VITA. Charges for services
595 rendered sufficient to offset costs involved in these operations shall be established.

596 D. All users of services provided for in this chapter administered by VITA shall be assessed a
597 surcharge, which shall be deposited in the appropriate fund. This charge shall be an amount sufficient to
598 allow VITA to finance the operations and staff of the services offered.

599 E. Additional moneys necessary to establish these funds or provide for the administration of the
600 activities of VITA may be advanced from the general account of the state treasury.

601 F. The CIO shall direct that the following activities be conducted with respect to VITA's internal
602 service funds:

603 1. VITA shall establish fee schedules for the collection of fees from users when general fund
604 appropriations are not available for the services rendered.

605 2. VITA shall develop and implement information, billing, and collections methods that will
606 assist state agencies in analyzing and effectively managing their use of VITA's services, and which will
607 allow VITA to forecast service demands and balances of its internal service funds.

608 3. By September 1 of each year, VITA shall submit biennial projections of future revenues and
609 expenditures for each internal service fund and estimates of any anticipated changes to fee schedules to
610 the Joint Legislative Audit and Review Commission and the Department of Planning and Budget.

611 4. In the event that changes to fee schedules or rates are required, the CIO shall submit
612 documentation to the Joint Legislative Audit and Review Commission and the Department of Planning
613 and Budget no later than September 1 prior to the fiscal year in which the new or revised rates are to
614 take effect so that the impact of the rate changes can be considered for inclusion in the executive budget
615 submitted to the General Assembly pursuant to § 2.2-1508. In emergency circumstances, deviations
616 from this approach shall be approved in advance by the Joint Legislative Audit and Review
617 Commission.

618 **§ 2.2-2014. Submission of information technology plans by executive branch agencies;**
619 **designation of technology resource.**

620 A. All ~~state executive branch~~ agencies ~~and public institutions of higher education~~ shall prepare
621 and submit information technology strategic plans to the CIO for review and approval. All ~~state~~
622 ~~executive branch~~ agencies ~~and public institutions of higher education~~ shall maintain current information
623 technology strategic plans that have been approved by the CIO.

624 B. The head of each ~~state executive branch~~ agency shall designate an existing employee to be the
625 agency's information technology resource who shall be responsible for compliance with the ~~procedures;~~
626 policies, standards, and guidelines established by the CIO.

627 **§ 2.2-2016. Division of Project Management established.**

628 There is established within VITA a Division of Project Management (the Division). The CIO and
629 the Division shall exercise the powers and duties conferred in this article.

630 **§ 2.2-2016.1. Additional duties of the CIO relating to project management. (Section moved**
631 **from 2.2-2008)**

632 A. The CIO shall have the following duties relating to the management of information
633 technology projects:

634 1. Develop policies, standards, and guidelines that require the Division to review and recommend
635 to the CIO Commonwealth information technology projects proposed by executive branch agencies.
636 Such policies, procedures, and guidelines shall include in the review an assessment of the (i) degree to
637 which the project is consistent with the Commonwealth's overall strategic plan; (ii) technical feasibility
638 of the project; (iii) benefits to the Commonwealth of the project, including customer service
639 improvements; (iv) risks associated with the project; (v) continued funding requirements and (vi) past
640 performance by the executive branch agency on other projects.

641 2. Develop a Commonwealth Project Management Standard for information technology projects
642 by executive branch agencies that establishes a methodology for the initiation, planning, execution, and
643 closeout of information technology projects and related procurements. Such methodology shall include
644 the establishment of appropriate oversight for information technology projects. The basis for the
645 governance and oversight of information technology projects shall include, but not necessarily be
646 limited to, an assessment of the project's risk and complexity. The Commonwealth Project Management
647 Standard shall require that all such projects conform to the Commonwealth strategic plan for
648 information technology developed and approved pursuant to subdivision A 3 of § 2.2-2007.1 and the
649 strategic plans of agencies developed and approved pursuant to 2.2-2014. All executive branch agencies
650 shall conform to the requirements of the Commonwealth Project Management Standard.

651 3. Establish minimum qualifications and training standards for project managers.

652 4. Establish an information clearinghouse that identifies best practices and new developments
653 and contains detailed information regarding the Commonwealth's previous experiences with the
654 development of major information technology projects.

655 6. Review and approve or disapprove the selection or termination of any Commonwealth
656 information technology project. The CIO shall disapprove any executive branch agency request to
657 initiate a major information technology project or related procurement if funding for such project has not
658 been included in the budget bill in accordance with § 2.2-1509.3, unless the Governor has determined
659 that an emergency exists and a major information technology project is necessary to address the
660 emergency. The CIO shall disapprove any Commonwealth information technology projects that do not

661 conform to the Commonwealth strategic plan for information technology developed and approved
662 pursuant to subdivision A 3 of § 2.2-2007.1 or to the strategic plans of executive branch agencies
663 developed and approved pursuant to § 2.2-2014.

664 8. Establish Internal Agency Oversight Committees and Secretariat Oversight Committees as
665 necessary and in accordance with § 2.2-2021.

666 B. The CIO may direct the modification, termination, or suspension of any Commonwealth
667 information technology project that, as the result of a periodic review authorized by subdivision A 5 of §
668 2.2-2007, has not met the performance measures agreed to by the CIO and the sponsoring executive
669 branch agency, or if he otherwise deems such action appropriate and consistent with the terms of any
670 affected contracts.

671 Nothing in this subsection shall be construed to supersede the responsibility of a board of visitors
672 for the management and operation of a public institution of higher education.

673 The provisions of this subsection shall not apply to research projects, research initiatives, or
674 instructional programs at public institutions of higher education. However, technology investments in
675 research projects, research initiatives, or instructional programs at such institutions estimated to cost \$1
676 million or more of general fund appropriations may be reviewed as provided in subdivision A 5 of § 2.2-
677 2007. The CIO and the Secretary of Education, in consultation with public institutions of higher
678 education, shall develop and provide to such institution criteria to be used in determining whether
679 projects are mission-critical.

680 **§ 2.2-2017. Powers and duties of the Division.**

681 The Division shall have the power and duty to:

682 1. Implement the approval process for information technology projects developed in accordance
683 with the Commonwealth Project Management Standard;

684 2. Assist the CIO in the development and implementation of project management policies,
685 standards, and guidelines ~~and methodologies~~ to be used for information technology projects in
686 accordance with this article;

- 687 3. Provide ongoing assistance and support to ~~state executive branch~~ agencies ~~and public~~
688 ~~institutions of higher education~~ in the development of information technology projects;
- 689 4. Establish a program providing cost-effective training to executive branch agency project
690 managers;
- 691 5. Review information management and information technology plans submitted by executive
692 branch agencies ~~and public institutions of higher education~~ and recommend to the CIO the approval of
693 such plans and any amendments thereto;
- 694 6. Monitor the implementation of information management and information technology plans
695 and periodically report its findings to the CIO;
- 696 7. Review and recommend to the CIO information technology projects based on ~~criteria the~~
697 ~~policies, standards, and guidelines~~ developed pursuant to ~~§ 2.2-2007 subdivision A 1 § 2.2-2016.1 that~~
698 ~~assess the (i) degree to which the project is consistent with the Commonwealth's overall strategic plan;~~
699 ~~(ii) technical feasibility of the project; (iii) benefits to the Commonwealth of the project, including~~
700 ~~customer service improvements; (iv) risks associated with the project; (v) continued funding~~
701 ~~requirements; and (vi) past performance by the agency on other projects; (criteria integrated into 2.2-~~
702 ~~2016.1)~~
- 703 8. Provide oversight for ~~state executive branch~~ agency information technology projects; and
- 704 9. Report on a quarterly basis to the CIO, the Secretary, the Governor, the Information
705 Technology Advisory Council, the Joint Legislative Audit and Review Commission, the Auditor of
706 Public Accounts, the House Appropriations Committee, the Senate Finance Committee, and the Joint
707 Commission on Technology and Science the status and performance of each major information
708 technology project and related procurement conducted by any state agency ~~or institution~~.

709 **§ 2.2-2018.1. Project and procurement investment business case approval.**

- 710 A. ~~State Executive branch~~ agencies ~~and public institutions of higher education~~ shall obtain CIO
711 approval prior to the initiation of any Commonwealth information technology project or procurement.
712 When selecting an information technology investment, ~~state executive branch~~ agencies and public
713 institutions of higher education shall submit to the Division an investment business case, outlining the

714 business value of the investment, the proposed technology solution, if known, and an explanation of how
715 the project will support the agency strategic plan, the agency's secretariat's strategic plan, and the
716 Commonwealth strategic plan for information technology developed and approved pursuant to ~~§ 2.2-~~
717 ~~2007 subdivision A 3 of § 2.2-2007.1~~. The Division may require the submission of additional
718 information if needed to adequately review any such proposal.

719 B. The Division shall review each investment business case submitted in accordance with this
720 section and recommend its approval or rejection to the CIO pursuant to the policies and procedures
721 developed in ~~§ 2.2-2007 § 2.2-2016.1~~.

722 C. In accordance with policies and standards outlined in the Commonwealth Project
723 Management Standard, the CIO shall review the business case for any Commonwealth information
724 technology project or procurement and approve or disapprove.

725 **§ 2.2-2020. Procurement approval for information technology projects.**

726 ~~The~~ An executive branch agency shall submit a copy of any Invitation for Bid (IFB) or Request
727 for Proposal (RFP) for a procurement related to an information technology project to the Division. The
728 Division shall review the IFB or RFP and recommend its approval or rejection to the CIO. The agency
729 shall submit a copy of any proposed contract or final contract to the Division. The Division shall review
730 the proposed contract or final contract and recommend its approval or rejection to the CIO. A project
731 shall be granted project initiation approval as provided by the Commonwealth Project Management
732 Standard before the award of any contract.

733 **§ 2.2-2021. Project oversight committees.**

734 A. Whenever the project charter has been approved for an enterprise information technology
735 project, the Secretary shall establish an Internal Agency Oversight Committee (IAOC) and a Secretariat
736 Oversight Committee (SOC). ~~Whenever the project charter has been approved for any other~~
737 ~~Commonwealth information technology project, the CIO shall establish an IAOC.~~ The IAOC shall
738 represent all business or functional stakeholders of the project including stakeholders in other agencies,
739 assure that all stakeholders have the opportunity to work together toward a mutually beneficial
740 integrated solution, have the authority to approve or reject any changes in the project's scope, schedule,

741 or budget, provide oversight and direction to the project, and review and approve the schedule baseline
742 and all project documentation. The SOC shall represent all business or functional stakeholders of the
743 project including stakeholders in other secretariats, validate the proposed project business case, review
744 and make recommendations on changes in the project's scope, schedule or budget, and review
745 Independent Verification and Validation reports and recommend corrective actions if needed.

746 B. ~~Whenever the project charter has been approved for an enterprise information technology~~
747 ~~project, the Secretary shall establish a Secretariat Oversight Committee (SOC). Whenever the project~~
748 ~~charter has been approved for any other Commonwealth information technology project, the CIO shall~~
749 ~~establish an SOC. The SOC shall represent all business or functional stakeholders of the project~~
750 ~~including stakeholders in other secretariats, validate the proposed project business case, review and~~
751 ~~make recommendations on changes in the project's scope, schedule or budget, and review Independent~~
752 ~~Verification and Validation reports and recommend corrective actions if needed~~ For all other projects,
753 other than enterprise information technology projects, the CIO shall establish an IAOC and an SOC in
754 accordance with the Commonwealth Project Management Standard.

755 **§ 2.2-2023. Virginia Technology Infrastructure Fund created; contributions.**

756 A. The Virginia Technology Infrastructure Fund (the Fund) is created in the state treasury. The
757 Fund is to be used to fund major information technology projects or to pay private partners as authorized
758 in subsection B_C of § 2.2-2007.

759 B. The Fund shall consist of: (i) the transfer of general and nongeneral fund appropriations from
760 ~~state~~ executive branch agencies which represent savings that accrue from reductions in the cost of
761 information technology and communication services, (ii) the transfer of general and nongeneral fund
762 appropriations from ~~state~~ executive branch agencies which represent savings from the implementation of
763 information technology enterprise projects, (iii) funds identified pursuant to subsection B_C of § 2.2-
764 2007, (iv) such general and nongeneral fund fees or surcharges as may be assessed to executive branch
765 agencies for enterprise technology projects, (v) gifts, grants, or donations from public or private sources,
766 and (vi) such other funds as may be appropriated by the General Assembly. Savings shall be as
767 identified by the CIO through a methodology reviewed by the ITAC and approved by the Secretary of

768 Finance. The Auditor of Public Accounts shall certify the amount of any savings identified by the CIO.
769 For public institutions of higher education, however, savings shall consist only of that portion of total
770 savings that represent general funds. The State Comptroller is authorized to transfer cash consistent with
771 appropriation transfers. Appropriated funds from federal sources are exempted from transfer. Except for
772 funds to pay private partners as authorized in subsection ~~B~~C of § 2.2-2007, moneys in the Fund shall
773 only be expended as provided by the appropriation act.

774 Interest earned on the Fund shall be credited to the Fund. The Fund shall be permanent and
775 nonreverting. Any unexpended balance in the Fund at the end of the biennium shall not be transferred to
776 the general fund of the state treasury.

777 **§ 2.2-2027. Powers and duties of the Division; Division coordinator.**

778 A. The powers and duties of the Division shall include:

779 1. Requesting the services, expertise, supplies and facilities of VITA from the CIO on issues
780 concerning the Division;

781 2. Accepting grants from the United States government and agencies and instrumentalities
782 thereof and any other source. To those ends, the Division shall have the power to comply with such
783 conditions and execute such agreements as may be necessary or desirable;

784 3. Fixing, altering, charging, and collecting rates, rentals, and other charges for the use or sale of
785 products of, or services rendered by, the Division, at rates which reflect the fair market value;

786 4. Soliciting, receiving, and considering proposals for funding projects or initiatives from any
787 state or federal agency, local or regional government, public institution of higher education, nonprofit
788 organization, or private person or corporation;

789 5. Soliciting and accepting funds, goods and in-kind services that are part of any accepted project
790 proposal;

791 6. Establishing ad hoc committees or project teams to investigate related technology or technical
792 issues and providing results and recommendations for Division action; and

793 7. Establishing such bureaus, sections or units as the Division deems appropriate to carry out its
794 powers and duties.

795 B. The Coordinator shall:

796 1. Oversee the development of and recommend to VITA the promulgation development of those
797 policies, standards, and guidelines required to support state and local government exchange, acquisition,
798 storage, use, sharing and distribution of geographic or base map data and related technologies;

799 2. Foster the development of a coordinated comprehensive system for providing ready access to
800 electronic state government geographic data products for individuals, businesses, and other entities;

801 3. Initiate and manage projects or conduct procurement activities relating to the development or
802 acquisition of geographic data or statewide base map data or both;

803 4. Plan for and coordinate the development or procurement of priority geographic base map data;

804 5. Develop, maintain, and provide, in the most cost-effective manner, access to the catalog of
805 Virginia geographic data and governmental geographic data users;

806 6. Provide, upon request, advice and guidance on all agreements and contracts from all branches
807 of state government for geographic data acquisition and design and the installation and maintenance of
808 geographic information systems;

809 7. Compile a data catalog consisting of descriptions of GIS coverages maintained by individual
810 state executive branch and local government agencies;

811 Nothing in this article shall be construed to require that GIS data be physically delivered to the
812 Division. All state executive state agencies that maintain GIS databases shall report to the Division the
813 details of the data that they develop, acquire, and maintain. Each agency shall submit quarterly reports to
814 the Division specifying all updates to existing data as well as all data development and acquisition
815 currently in progress. Data exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.)
816 need not be reported to the Division.

817 8. Identify and collect information and technical requirements to assist the Division in setting
818 priorities for the development of state digital geographic data and base maps that meet the needs of state
819 agencies, institutions of higher education, and local governments;

820 9. Provide services, geographic data products, and access to the repository at rates established by
821 the Division; and

822 10. Ensure the compliance of those policies, standards, and guidelines developed by VITA
823 required to support and govern the security of state and local government exchange, acquisition, storage,
824 use, sharing, and distribution of geographic or base map data and related technologies.

825 **§ 2.2-2699.6. Powers and duties of the ITAC.**

826 A. The ITAC shall have the power and duty to:

827 1. Adopt rules and procedures for the conduct of its business;

828 2. Advise the CIO on the development of all major information technology projects as defined in
829 § 2.2-2006;

830 3. Advise the CIO on strategies, standards, and priorities for the use of information technology
831 for ~~state executive branch~~ agencies ~~in the executive branch of state government~~;

832 4. Advise the CIO on developing the ~~two-year~~ six-year plan for information technology projects;

833 5. Advise the CIO on statewide technical and data standards for information technology and
834 related systems, including the utilization of nationally recognized technical and data standards for health
835 information technology systems or software purchased by a state agency of the Commonwealth;

836 6. Advise the CIO on statewide information technology architecture and related system technical
837 and data standards;

838 7. Advise the CIO on assessing and meeting the Commonwealth's business needs through the
839 application of information technology;

840 8. Advise the CIO on the prioritization, development, and implementation of enterprise-wide
841 technology applications; annually review all executive branch agency technology applications budgets;
842 and advise the CIO on infrastructure expenditures; and

843 9. Advise the CIO on the development, implementation, and execution of a technology
844 applications governance framework for executive branch agencies. Such framework shall establish the
845 categories of use by which technology applications shall be classified, including but not limited to
846 enterprise-wide, multiagency, or agency-specific. The framework shall also provide the policies and
847 procedures for determining within each category of use (i) the ownership and sponsorship of
848 applications, (ii) the proper development of technology applications, (iii) the schedule for maintenance

849 or enhancement of applications, and (iv) the methodology for retirement or replacement of applications.
850 ITAC shall include the participation of executive branch agency leaders who are necessary for defining
851 agency business needs, as well as agency information technology managers who are necessary for
852 overseeing technology applications performance relative to agency business needs. Agency
853 representatives shall assist ITAC in determining the potential information technology solutions that can
854 meet agency business needs, as well as how those solutions may be funded.

855 B. Definitions.

856 As used in this section, ~~the term "technology:~~

857 "Executive branch agency" has the same meaning as set forth in § 2.2-2006.

858 "Technology applications" includes, but is not limited to, hardware, software, maintenance,
859 facilities, contractor services, goods, and services that promote business functionality and facilitate the
860 storage, flow, use or processing of information by executive branch agencies of the Commonwealth in
861 the execution of their business activities.

862 **§ 2.2-3501. Definitions.**

863 As used in this chapter, unless the context requires a different meaning:

864 "Access" means the ability to receive, use, and manipulate data and operate controls included in
865 information technology.

866 "Blind" or "visually impaired" individual means an individual who has: (i) a visual acuity of
867 20/200 or less in the better eye with correcting lenses or has a limited field of vision so that the widest
868 diameter of the visual field subtends an angle no greater than 20 degrees; (ii) a medically indicated
869 expectation of visual deterioration; or (iii) a medically diagnosed limitation in visual functioning that
870 restricts the individual's ability to read and write standard print at levels expected of individuals of
871 comparable ability.

872 "Covered entity" means all state agencies, public institutions of higher education, and political
873 subdivisions of the Commonwealth.

874 "Information technology" means all electronic information processing hardware and software,
875 including telecommunications.

876 "Nonvisual" means synthesized speech, Braille, and other output methods not requiring sight.

877 "Public broadcasting services" means the acquisition, production, and distribution by public
878 broadcasting stations of noncommercial educational, instructional, informational, or cultural television
879 and radio programs and information that may be transmitted by means of electronic communications,
880 and related materials and services provided by such stations.

881 "Telecommunications" means the transmission of information, images, pictures, voice or data by
882 radio, video, or other electronic or impulse means, but shall not include public broadcasting services ~~as~~
883 ~~defined in § 2.2-2006.~~

884 **§ 2.2-4343. Exemption from operation of chapter for certain transactions.**

885 A. The provisions of this chapter shall not apply to:

886 1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10
887 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation adopted by
888 the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of
889 goods and services and in the administration of its capital outlay program. This exemption shall be
890 applicable only so long as such policies and procedures meeting the requirements remain in effect.

891 2. The Virginia Retirement System for selection of services related to the management, purchase
892 or sale of authorized investments, actuarial services, and disability determination services. Selection of
893 these services shall be governed by the standard set forth in § 51.1-124.30.

894 3. The State Treasurer in the selection of investment management services related to the external
895 management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to
896 competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by
897 the Department of General Services.

898 4. The Department of Social Services or local departments of social services for the acquisition
899 of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

900 5. The College of William and Mary in Virginia, Virginia Commonwealth University, the
901 University of Virginia, and Virginia Polytechnic Institute and State University in the selection of
902 services related to the management and investment of their endowment funds, endowment income, gifts,

903 all other nongeneral fund reserves and balances, or local funds of or held by the College or Universities
904 pursuant to § 23-44.1, 23-50.10:01, 23-76.1, or 23-122.1. However, selection of these services shall be
905 governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.) as
906 required by §§ 23-44.1, 23-50.10:01, 23-76.1, and 23-122.1.

907 6. The Board of the Virginia College Savings Plan for the selection of services related to the
908 operation and administration of the Plan, including, but not limited to, contracts or agreements for the
909 management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting
910 services. However, such selection shall be governed by the standard set forth in § 23-38.80.

911 7. Public institutions of higher education for the purchase of items for resale at retail bookstores
912 and similar retail outlets operated by such institutions. However, such purchase procedures shall provide
913 for competition where practicable.

914 8. The purchase of goods and services by agencies of the legislative branch that may be
915 specifically exempted therefrom by the Chairman of the Committee on Rules of either the House of
916 Delegates or the Senate. Nor shall the contract review provisions of ~~§ 2.2-2011~~ § 2.2-2012 apply to
917 such procurements. The exemption shall be in writing and kept on file with the agency's disbursement
918 records.

919 9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 2.2-
920 4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367
921 through 2.2-4377.

922 10. Any county, city or town whose governing body has adopted, by ordinance or resolution,
923 alternative policies and procedures which are (i) based on competitive principles and (ii) generally
924 applicable to procurement of goods and services by such governing body and its agencies, except as
925 stipulated in subdivision 12.

926 This exemption shall be applicable only so long as such policies and procedures, or other policies
927 and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town.
928 Such policies and standards may provide for incentive contracting that offers a contractor whose bid is
929 accepted the opportunity to share in any cost savings realized by the locality when project costs are

930 reduced by such contractor, without affecting project quality, during construction of the project. The fee,
931 if any, charged by the project engineer or architect for determining such cost savings shall be paid as a
932 separate cost and shall not be calculated as part of any cost savings.

933 11. Any school division whose school board has adopted, by policy or regulation, alternative
934 policies and procedures that are (i) based on competitive principles and (ii) generally applicable to
935 procurement of goods and services by the school board, except as stipulated in subdivision 12.

936 This exemption shall be applicable only so long as such policies and procedures, or other policies
937 or procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This
938 provision shall not exempt any school division from any centralized purchasing ordinance duly adopted
939 by a local governing body.

940 12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of
941 subsections C and D of § 2.2-4303, and §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330,
942 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 shall apply to all counties, cities
943 and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

944 The method for procurement of professional services through competitive negotiation set forth in
945 §§ 2.2-4303.1 and 2.2-4303.2 shall also apply to all counties, cities and school divisions, and to all
946 towns having a population greater than 3,500, where the cost of the professional service is expected to
947 exceed \$60,000 in the aggregate or for the sum of all phases of a contract or project. A school board that
948 makes purchases through its public school foundation or purchases educational technology through its
949 educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be
950 exempt from the provisions of this chapter, except, relative to such purchases, the school board shall
951 comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

952 13. A public body that is also a utility operator may purchase services through or participate in
953 contracts awarded by one or more utility operators that are not public bodies for utility marking services
954 as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of
955 services under this subdivision may deviate from the procurement procedures set forth in this chapter
956 upon a determination made in advance by the public body and set forth in writing that competitive

957 sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is
958 awarded based on competitive principles.

959 14. Procurement of any construction or planning and design services for construction by a
960 Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the
961 planning, design or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia
962 nonprofit corporation or organization is obligated to conform to procurement procedures that are
963 established by federal statutes or regulations, whether those federal procedures are in conformance with
964 the provisions of this chapter.

965 15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and
966 Interpreting the Executive Mansion.

967 16. The Eastern Virginia Medical School in the selection of services related to the management
968 and investment of its endowment and other institutional funds. The selection of these services shall,
969 however, be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et
970 seq.).

971 17. The Department of Corrections in the selection of pre-release and post-incarceration services.

972 18. The University of Virginia Medical Center to the extent provided by subdivision B 3 of § 23-
973 77.4.

974 19. The purchase of goods and services by a local governing body or any authority, board,
975 department, instrumentality, institution, agency or other unit of state government when such purchases
976 are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or
977 by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

978 20. The contract by community services boards or behavioral health authorities with an
979 administrator or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

980 21. [Expired].

981 B. Where a procurement transaction involves the expenditure of federal assistance or contract
982 funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws
983 or regulations not in conformance with the provisions of this chapter, a public body may comply with

984 such federal requirements, notwithstanding the provisions of this chapter, only upon the written
985 determination of the Governor, in the case of state agencies, or the governing body, in the case of
986 political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in
987 the public interest. Such determination shall state the specific provision of this chapter in conflict with
988 the conditions of the grant or contract.

989 **2. That §§ 2.2-2008, 2.2-2010, and 2.2-2015 of the Code of Virginia are repealed.**

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Attachment B:

Summary of Proposed Changes to VITA Statute

Summary of Proposed Changes to VITA Statute

The 2015 Appropriation Act (§ 1-6) formed a staff working group and charged it with developing draft legislation that “reorganizes, clarifies and codifies, but does not substantively amend, the statutory responsibilities of VITA.” This document summarizes the major changes proposed in the draft legislation that was developed by the group.

The draft legislation proposes several non-substantive changes to VITA’s chapter of The Code of Virginia (Title 2.2 Chapter 20.1). The proposed changes do not alter the existing powers and duties of VITA. The draft (1) improves the logical order of the chapter, (2) clarifies definitions, (3) eliminates redundancy, and (4) codifies key responsibilities.

Most of VITA’s powers and duties are established under articles 1 and 2 of its chapter. The draft proposes restructuring these articles to improve the logical order of the chapter. The draft uses most of the chapter’s existing sections, but proposes moving many provisions from one section to another, or to a new location within their current section. A new section has been created for the CIO’s planning and budgeting powers and duties. Provisions for the CIO’s project oversight duties and VITA’s general responsibilities have been moved to other locations, and their existing sections are repealed (§ 2.2-2008, § 2.2-2010, & § 2.2-2015). Under the draft, all major powers and duties are now captured in the following sections:

- Creation of agency; appointment of Chief Information Officer (§ 2.2-2005)
- Definitions (§ 2.2-2006)
- Powers and duties of the CIO (§ 2.2-2007)
- Planning & budgeting (§ 2.2-2007.1)
- Security (§ 2.2-2009)
- Development, management, and operation of information technology (§ 2.2-2011)
- Procurement of information technology § 2.2-2012
- Internal service and special funds (§ 2.2-2013)
- Submission of IT plans by executive branch agencies (§ 2.2-2014)
- Division of project management (Article 2, §§ 2.2-2016-2.2-2021)
- Virginia Technology Infrastructure Fund (Article 3, §§ 2.2-2022-2.2-2024)
- Virginia Geographic Information Network (Article 4, §§ 2.2-2025-2.2-2030)
- Division of Public Safety Communications (Article 5, §§ 2.2-2031)

Creation of agency (§ 2.2-2005). Draft proposes clarifying the CIO’s title.

Definitions (§ 2.2-2006). The major change proposed for this section is to the definition of a “State Agency.” The existing definition of “State agency” includes all executive branch agencies, including public institutions of higher education. It does not include independent, judicial, or legislative agencies. However the meaning is not always clear in the context of the chapter. The draft proposes a few changes aimed at clarifying what the term encompasses.

The term “state agency” may not be clear because it is not consistently used throughout the chapter. For example, sometimes the chapter grants authority over “state agencies” and other times it grants authority over “state agencies and public institutions of higher education.” Depending on how it is used, the term “state agency” could incorrectly be viewed as broadly referring to all agencies in all branches of government or as not including public institutions of higher education.

To better clarify the scope of VITA’s authority, the definition of “state agency” was changed to “executive branch agency.” The definition was also changed to specifically list “public institutions of higher education” as falling under the definition. (These institutions were already covered under the existing definition, which says that any “institution” of state government in the executive branch listed in the appropriation act is included.) In practice, many public institutions of higher education are exempted from VITA services and oversight under other provisions of law. The definition was therefore amended to note that some of these institutions may be exempted elsewhere.

The draft proposes changing the definition of “communications services.” As defined in the existing statute, “communications services” encompasses a wide range of information technology services, including telecommunications, computing, and data network services. The group interpreted this to mean that “communications services” was intended to cover what is more commonly referred to as “information technology.” The group also determined that the term “information technology” more accurately described the scope of VITA’s authority, based on codified and uncodified statutes. The group therefore moved the definition of “communications services” into the definition of “information technology,” and replaced references to “communications services” in § 2.2-2011 and § 2.2-2012 with references to “information technology.”

The draft also eliminates several definitions, related to public broadcasting, which are not used in the chapter.

Powers and duties of the CIO (§ 2.2-2007). The CIO is vested with a wide range of powers and duties. These powers and duties are spread throughout the chapter, and some similar powers are vested with “VITA” instead of “the CIO.” This arrangement makes it challenging to determine the breadth of their combined general powers and duties. The draft makes two changes to address this issue. First, VITA’s powers and duties that were similar to the CIO’s were transferred to the CIO. (The CIO is the director of VITA, and so powers and duties vested with VITA are also vested with the CIO.) In some cases, VITA and the CIO held the same powers and duties, and so redundant VITA duties were stricken. Second, several of the CIO’s powers and duties are related to a specific area, such as project oversight. Powers and duties related to a specific area were moved into the part of the chapter that focuses on that area. For example, the CIO’s project oversight duties were moved to Article 2, which is entirely focused on project oversight. These actions result in a single opening section of the chapter that describes the general powers and duties of the CIO.

One of the main general powers and duties of the CIO is to establish policies, standards, and guidelines for all areas of state IT. However, there is no general provision that encompasses all of the CIO's authority in this area. Provisions describing these powers and duties are spread throughout the chapter. The draft consolidates the CIO's broad policy, standard, and guideline authorities into a single provision within this section.

The CIO's ability to carry out the assigned powers and duties is contingent on cooperation of state agencies. The draft therefore codifies the requirement for state agencies to "cooperate with VITA in identifying the development and operational requirements of proposed information technology..." This duty is established in Part 4 of the 2015 Appropriation Act (§ 4-5.04).

Planning and budgeting (§2.2-2007.1). The CIO has several duties related to planning and budgeting, including (a) planning and budgeting for statewide needs, and (b) reviewing agency IT plans and budgets. These powers and duties were spread throughout the chapter. The draft consolidates them into a new section.

Security (§ 2.2-2009). The CIO is responsible for establishing an IT security and risk management program and several specific types of security policies, standards, and guidelines. Unlike most of the other powers and duties in the chapter, these authorities apply to independent agencies and other branches of government. In the existing section of The Code, the different types of security policies, standards, and guidelines were listed out of order, making it difficult to determine the scope of the CIO's authority. The draft consolidated the different types of security policies, standards, and guidelines together in the beginning of the section. IT security "risk management" policies were interpreted as applying to independent agencies and other branches of government, just like the other security policies.

Development, management, and operation of information technology (§2.2-2011). VITA has been vested with powers and duties to provide executive branch agencies with IT services, most notably central IT infrastructure services. However, VITA's main statutory authority in this area is not codified, and existing language in The Code does not clearly describe the scope of authority. The draft addresses both of these issues.

First, the draft proposes codifying VITA's responsibility "for the procurement and operation of information technology for every executive branch agency." This language gives VITA its broad authority to provide central IT services to state agencies, including central infrastructure services. The authority was established in the 2003 Acts of Assembly that created VITA (Chapters 981 and 1021), but is not codified.

Second, the draft proposes changing one of the key terms used to define the scope of VITA's authority. Under existing statute, VITA has the broad authority to develop, operate, and manage "communications services." "Communications services" are defined to include a wide range of what is generally considered "information technology," such as computing and data network services. The draft therefore changes the term "communications services" to "information technology" to more accurately reflect the scope of VITA's statutorily-defined authority.

Finally, the existing section vests all of these authorities with VITA instead of the CIO. The draft proposes transferring some of these authorities from VITA to the CIO to ensure consistency with the rest of the article.

Procurement of information technology (§2.2-2012). VITA has been vested with powers and duties to (a) procure IT for executive branch agencies and (b) approve procurements made by executive branch agencies. However, these powers and duties are spread across multiple sections of The Code. The draft consolidates VITA’s procurement authority into one section. The term “communications services” is also changed to “information technology” to more accurately reflect the scope of VITA’s statutorily-defined authority. The draft also proposes transferring some of the procurement authorities from VITA to the CIO to ensure consistency with the rest of the article.

Internal service and special funds (§ 2.2-2013). No changes were made to this section, other than the title. The title was changed to reflect that one of the funds established in the section, the Acquisitions and Sourcing Special Fund, is not an internal services fund.

Submission of IT plans by executive branch agencies (§ 2.2-2014). The draft proposes clarifying that this section refers to agency’s IT strategic plans, as referenced elsewhere in the chapter.

Division of project management (Article 2). The CIO, VITA, and its project management division are vested with powers and duties for oversight of agency IT projects. Most of these powers and duties are established under Article 2. However, several of the CIO’s project oversight powers and duties were established under Article 1 (§ 2.2-2007, § 2.2-2008, & § 2.2-2015). The draft consolidates and moves the CIO’s powers and duties into new or existing sections within Article 2 (§ 2.2-2016.1 & § 2.2-2021).

Virginia Technology Infrastructure Fund (Article 3); Virginia Geographic Information Network (Article 4); Division of Public Safety Communications (Article 5). No major changes made.

Other notes.

The draft proposes standardizing several terms that are used throughout the chapter. For example, the phrase “policies, standards, and guidelines” is now used in place of other variations of the phrase, such as “policies and procedures.” Any reference to “state agencies and public institutions of higher education” now simply reads “executive branch agencies.”

The existing chapter includes many instances where redundant powers and duties are assigned. The draft consolidates or strikes redundant language. For example, the draft consolidated redundant powers and duties related to the development of:

- statewide technical and data standards,
- security reports,
- fee collection, and
- policies, standards and guidelines.

Attachment C:

Options for Additional Changes to VITA Statute

Options for Additional Change

The 2015 Appropriation Act (§ 1-6) formed a staff working group and charged it with developing draft legislation that “reorganizes, clarifies and codifies, but does not substantively amend, the statutory responsibilities of VITA.” In the course of its work, the group identified several areas where substantive changes to VITA statute could be considered. These potential changes are not included in the working group’s draft legislation because they would alter the existing powers and duties of VITA. Instead, these options for additional change are documented here.

- Consider exempting, or creating a way for exempting, certain entities from VITA services and oversight. The definition of “executive branch agency” includes any agency, institution, board, bureau, commission, council, public institution of higher education, or instrumentality of state government in the executive branch listed in the appropriation act. This encompasses a number of entities which on their face appear to be legally in the scope of VITA’s authority but were not included in the consolidation of central IT services following the creation of VITA in 2003. For example, the appropriation act lists the Virginia Economic Development Partnership (VEDP) as part of the executive branch. However, VEDP was created in statute as a political subdivision and hence is not a state agency. Accordingly, VEDP was not included in the consolidation of central services. To add clarity in similar situations, or address other instances where a strict application of the definition is impractical, The Code could be amended to expressly exclude those entities or to give the CIO, the governor, or another executive entity the power to administratively exempt them from some or all elements of VITA services and oversight.
- Consider amending project oversight sections to focus on powers and duties instead of organization and processes (Title 2.2 Chapter 20.1 Article 2). Article 2 of the VITA chapter discusses powers and duties related to oversight of agency IT projects. The article establishes a Project Management Division within VITA, and describes the project management process that agencies must follow. Continuing to have the division and project management process described in The Code limits the ability of VITA to adapt its organizational structure and oversight processes. The Code could be amended to focus Article 2 on the project oversight powers and duties vested with the CIO and VITA, and remove requirements that particular organizations and processes must be used to carry them out.
- Consider amending procurement statutes, including the Virginia Public Procurement Act (Title 2.2 Chapter 43) and the Department of General Services (Title 2.2 Chapter 11), to identify areas of VITA responsibility. Procurement authorities established in the VPPA and DGS chapters of The Code may conflict with VITA’s procurement authorities and may not identify when VITA has procurement authority. The Code could be amended to resolve these differences.

- Consider allowing exceptions to the requirement that the CIO disapprove agency procurements that do not conform to state or agency IT strategic plans (§ 2.2-2012). Current statute requires the CIO to disapprove agency procurements that are not a part of the state's IT strategic plan or the agency's IT strategic plan, with no exceptions. Administratively, VITA has found this can create bureaucratic delays. For example, an agency may be given new responsibilities under federal or state law. To implement the new responsibilities, the agency may need to quickly procure a new IT application or service. This new investment may not be in the current IT strategic plans, and the agency's procurement can be delayed while the plans are updated. The Code could be amended to allow the CIO to approve procurements that are not in state and agency IT strategic plans, under certain circumstances.
- Consider eliminating requirements for VITA to produce a RTIP plan (§ 2.2-2007) and technology applications governance framework (§ 2.2-2699.6). Section 2.2-2007 of The Code requires VITA to develop a Recommended Technology Investment Projects (RTIP) plan on an annual basis. However, the appropriation act has relieved VITA of this duty since 2013. Section 2.2-2699.6 of The Code requires the Information Technology Advisory Council to advise the CIO on the development of a technology applications governance framework for state agencies. However, no other statute tasks the CIO with developing such a framework, and it does not appear that such a framework has been developed in the past. The Code could be amended to eliminate these two requirements.