



COMMONWEALTH *of* VIRGINIA

Department of General Services

Joseph F. Damico
Director

Sandra Gill
Deputy Director

Michael Bisogno
Assistant Director

1100 Bank Street
Suite 420
Richmond, Virginia 23219
Phone (804) 786-3311
FAX (804) 371-8305

October 31, 2023

The Honorable J. Chapman Petersen
Senate of Virginia
P.O. Box 1066
Fairfax, Virginia 22038

Subject: Public Body Procurement Workgroup's Final Report on Study of SB 954

Dear Senator Petersen:

During the 2023 General Assembly Session you carried SB 954 *Virginia Public Procurement Act; construction management and design-build contracting*, that was passed by indefinitely with a letter directing it to the Public Body Procurement Workgroup for study in the Finance and Appropriations Committee.

The Workgroup's final report on its study of SB 954 is attached. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to be "JF Damico", written over a horizontal line.

Joseph F. Damico

cc: The Honorable Janet D. Howell, Co-Chair, Senate Committee on Finance and Appropriations
The Honorable George L. Barker, Co-Chair, Senate Committee on Finance and Appropriations
The Honorable Susan Clarke Schaar, Clerk of the Senate

Public Body Procurement Workgroup

Report of the Public Body Procurement Workgroup on the Virginia Public Procurement Act; Construction Management and Design-Build Contracting (SB 954)

November 1, 2023

Table of Contents

I.	Introduction	3
II.	Background	3
	Overview of Public Body Procurement Workgroup Authority and Duties	3
	Overview of SB 954.....	4
	Study Participants/Stakeholders	4
III.	Workgroup Meetings on SB 954....	5
IV.	Summary of Information Presented to the Workgroup	7
V.	Workgroup Findings and Recommendations	20
VI.	Conclusion	23
	Appendix A. Letter Directing Study and Text of SB 954.....	11
	Appendix B. May 2, 2023 Meeting Materials	31
	1. Agenda	
	2. Meeting Materials	
	a. Public Body Procurement Workgroup 2023 Proposed Work Plan	
	3. Approved Meeting Minutes	
	Appendix C. July 18, 2023 Meeting Materials	43
	1. Agenda	

2. Meeting Materials	
a. Presentation on SB 954 by the Virginia Contractor Procurement Alliance (VCPA)	
b. Considerations for the Workgroup from the Associated General Contractors of Virginia (AGCVA)	
3. Approved Meeting Minutes	
4. Data provided after the meeting	
a. AGCVA data	
b. VCPA FOIA Data	
Appendix D. August 8, 2023 Meeting Materials	122
1. Agenda	
2. Meeting Materials	
a. Presentation by the Department of General Services on Construction Management and Design-Build Key Events	
b. Presentation by the Office of the Attorney General on Competitive Processes for Procurement of Construction	
c. Presentation by the Virginia Joint Legislative Audit and Review Commission on the 2016 Development and Management of State Contracts Report	
d. Legislation related to construction procurement by VASCUPP	
e. Letter from MBD Strategies on SB 954	
3. Approved Meeting Minutes	
Appendix E. August 22, 2023 Meeting Materials	176
1. Agenda	
2. Meeting Materials	
a. Letter from MDB Strategies on Proposed Recommendations	
b. Letter from AGCVA on Considerations on Procurement	
3. Approved Meeting Minutes	
Appendix F. September 14, 2023 Meeting Materials	202
1. Agenda	
2. Meeting Materials	
a. Draft Recommendations on SB 954	
3. Draft Meeting Minutes	
Appendix G. 2016 Development and Management of State Contract Report (JLARC)....	209
Appendix H. Secretary of Administration Procedures for CM and DB.....	364

I. Introduction

During the 2023 General Assembly session the Senate Finance and Appropriations Committee voted to pass-by-indefinitely SB 954, patroned by Senator J. Chapman Petersen, and refer it to the Department of General Services' (DGS') Public Body Procurement Workgroup (Workgroup) for study. The Workgroup was directed by letter to study SB 954 and submit a report by November 1, 2023 with its findings and recommendations to the Co-Chairs of the Senate Committee on Finance and Appropriations and Senator Petersen.

In response to this directive, stakeholders were identified, and five Workgroup meetings were held at which SB 954 was discussed. This report summarizes the information presented to the Workgroup by stakeholders and subject matter experts and the Workgroup's findings and recommendations.

II. Background

Overview of Public Body Procurement Workgroup Authority and Duties

Item 85 of the 2022 Appropriations Act directs DGS to lead, provide administrative support to, and convene an annual public body procurement workgroup to review and study proposed changes to the Code of Virginia in the areas of non-technology goods and services, technology goods and services, construction, transportation, and professional services procurements. The Appropriations Act language specifies that Workgroup's membership is comprised of the following individuals or their designees:

- Director of the Department of Small Business and Supplier Diversity (DSBSD)
- Director of the Department of General Services (DGS)
- Chief Information Officer of the Virginia Information Technologies Agency (VITA)
- Commissioner of the Virginia Department of Transportation (VDOT)
- Director of the Department of Planning and Budget (DPB)
- President of the Virginia Association of State Colleges and University Purchasing Professionals (VASCUPP)
- President of the Virginia Association of Governmental Procurement (VAGP)

Additionally, the Appropriations Act language requires that a representative from each of the following provide technical assistance to the Workgroup:

- Office of the Attorney General's Government Operations and Transactions Division
- Staff of the House Appropriations Committee
- Staff of the Senate Committee on Finance and Appropriations
- Division of Legislative Services

The Appropriations Act language outlines two avenues by which bills may be referred to the Workgroup for study. First, the Chairs of the House Committees on Rules, General Laws, and Appropriations, as well as the Senate Committees on Rules, General Laws and Technology, and Finance and Appropriations, can refer legislation by letter to the Workgroup for study. Second,

the Chairs of the House Committees on Rules and Appropriations, as well as the Senate Committees on Rules and Finance and Appropriations, can request that the Workgroup review procurement-related proposals in advance of an upcoming legislative session in order to obtain a better understanding of the legislation’s potential impacts. Additionally, the General Assembly can pass a bill that includes an enactment clause directing the Workgroup to study a particular topic.

Overview of SB 954

As introduced, SB 954 would amend Chapter 43.1 of Title 2.2, Construction Management and Design-Build Contracting. The bill as introduced would do the following:

- (i) Narrow the definition of “complex project” such that projects would be required to meet stricter criteria in order to be deemed complex and therefore appropriate for utilizing construction management and design-build (CM/DB) procurement methods
- (ii) Prohibit the use of CM/DB procurement methods for projects totaling less than \$5 million
- (iii) For projects totaling between \$5 million and \$125 million, require public bodies to:
 - a. Obtain approval from the Secretary of Administration to use CM/DB procurement methods
 - b. Conduct a two-step procurement process in which the public body must first award a contract for preconstruction services, and, upon completion of such contract, award a second contract for construction services using competitive sealed bidding

The Senate Finance and Appropriations Committee passed the bill by indefinitely¹ with a letter² directing the Workgroup to study it and report its findings and recommendations. During the 2023 session, SB 954 had a companion bill, HB 1957 patroned by Delegate James A. “Jay” Leftwich, which failed to pass in the House.

Study Participants/Stakeholders

The Workgroup’s Appropriations Act language directs it to hear from stakeholders identified by the patron of referred legislation and other interested individuals. As such, the Workgroup’s staff (Staff) contacted Senator Petersen, the patron of SB 954; Senator Adam Ebbin, Chair of the Senate Committee on General Laws and Technology; Senator Janet Howell and Senator George Barker, Co-Chairs of the Senate Committee on Finance and Appropriations; and Delegate Leftwich as the patron of the companion bill to SB 954 (HB 1957), to solicit their input regarding stakeholders they would like included in the Workgroup’s review. Staff compiled the names of the stakeholders identified into a stakeholder email distribution list, which it used to communicate information about the Workgroup’s study of SB 954 and opportunities for public comment. Staff also added any interested individual to the stakeholder email distribution list upon request by such individual.

¹ The Senate Finance and Appropriations Committee passed the bill by indefinitely with a letter by vote of 12Y, 4N

² Appendix A

The stakeholder email distribution list was comprised of the following individuals:

- The Honorable J. Chapman Petersen – Senate of Virginia
- The Honorable James A. “Jay” Leftwich – Virginia House of Delegates
- Scott Shufflebarger – Virginia Association of Roofing Professionals
- Matthew Benka – MDB Strategies & Virginia Contractor Procurement Alliance
- Patrick Cushing – Fall Line Strategies
- James Turpin – Independent Electrical Contractors
- Bill Hefty – Hefty & Wiley
- Courtney Mustin – Small Business and Supplier Diversity
- Robert Bohannon – Hunton Andrews Kurth LLP
- Christopher McDonald – Williams Mullen

III. Workgroup Meetings on SB 954

The Workgroup held five meetings at which it discussed SB 954. At its May 2, 2023, meeting, Staff gave an overview of the proposed 2023 work plan for the Workgroup highlighting the four bills that were referred to the Workgroup by the General Assembly during the 2023 session, which included SB 954. At its second meeting held on July 18, 2023, the Workgroup received a presentation on SB 954 from Tony Biller, President and CEO of Nielsen Builders, Inc. and member of the Virginia Contractor Procurement Alliance (VCPA), on behalf of Senator Petersen. Biller shared that VCPA was formed more than a decade ago and is comprised of mid-size general contractors and some subcontractors. Biller shared with the Workgroup that SB 954 was introduced to address what they believe to be the overuse of CM. Biller referred to the 2016 Joint Legislative and Review Commission report³ during his presentation.

Next, Biller presented procurement data⁴ from 2008 to 2021 collected from universities for projects valued over \$5 million and shared that he is gathering the same data from cities and counties. Although the threshold for capital projects was \$2 million during this timeframe, Biller explained that the \$5 million threshold was chosen for collecting data because most universities utilize the competitive sealed bid process for projects valued under \$5 million.

After the presentation from Biller, the Workgroup heard public comment on SB 954. Seven stakeholders spoke in support of SB 954. They included Jack Dyer with Gulf Seaboard General Contractors Inc.; Todd Morgan with MB Contractors; Cindy Shelor with John T. Morgan Roofing and Sheet Metal Company Inc.; Jack Avis with Avis Construction Company Inc.; Tom Evans with Southwood Building Systems Inc.; Sam Daniel with Daniel and Company Inc.; and Matt Benka with VCPA. Next, nine stakeholders spoke in opposition to SB 954. They included Rich Sliwoski with Virginia Commonwealth University (VCU); Brandon Robinson with the Associated General Contractors of Virginia (AGCVA); David Turner with Kjellstrom and Lee Construction; Taylor Brannan with F. Richard Wilton Jr. Inc.; Adam Smith with Virginia Tech (VT); James Patteson, retired from Fairfax County; Elizabeth Dooley with VAGP; Julia Hammond with Associated Builders and Contractors (ABC); and Travis Bowers with THC

³ Appendix G

⁴ Appendix C

Bowers on behalf of the Black Business Alliance of Virginia. Lastly, Chris Stone with Clark Nexsen spoke sharing his opposition to specific portions of SB 954. The second meeting concluded with the Workgroup requesting electronic copies of the data provided by Biller, the Workgroup was asked to review the 2016 JLARC report that was referenced, and the Workgroup asked the stakeholders to review the legislation and testimony to determine areas where all could agree on amendments.

At its third meeting on SB 954, held on August 8, 2023, the Workgroup heard three presentations, allowed for public comment, and then began discussing the information presented so far. The first presentation was from Sandra Gill, Deputy Director of DGS. Gill provided the Workgroup with a high-level overview of the legislative history of CM/DB, sharing that in 1982 the General Assembly passed the Virginia Public Procurement Act (VPPA) and in 1983 the VPPA was amended to include and allow the utilization of CM/DB. In 1996, a review board was created to review and approve local governments' use of CM/DB; however, this board was repealed in 2011. She explained that in 2006, the institutions of higher education began to receive autonomy through the Higher Education Restructure Act and no longer were subject to the VPPA. Then in 2014, the General Assembly created the General Laws Special Joint Subcommittee to study the VPPA, which resulted in no significant changes being made to CM/DB. Gill concluded her remarks stating that in 2017, after a complex work group of stakeholders that included construction communities, higher education, local public bodies, and state agencies, the VPPA was amended to create Chapter 43.1 of Title 2.2 of the Code, which is where the current laws on CM/DB are found.

The second presentation to the Workgroup was from Curtis Manchester, Senior Assistant Attorney in the Construction Section with the Office of the Attorney General. Manchester spoke on the competitive procurement process for CM and the competitive sealed bid procurement method, design-bid-build (DBB). Before beginning the presentation, he informed the Workgroup that there are variations in the procurement processes for institutions of higher education and local governments that were not included in the presentation, also noting that the materials provided for the presentation are not an official opinion by the attorney general.

The third presentation to the Workgroup was from Tracey Smith, Associate Director with the Virginia Joint Legislative Audit and Review Committee (JLARC). Smith provided the Workgroup with an overview of the 2016 Development and Management of State Contracts report that stakeholders referenced at a prior meeting. At the conclusion of the three presentations, the meeting allowed for public comment. There were six stakeholders who spoke in support of SB 954. They included Jack Dyer with Gulf Seaboard General Contractors Inc.; Tony Biller with Nielsen Builders Inc.; Greg Lionberger of Lionberger Construction; Mark Meland with Century Construction Company Inc.; Brandon Spencer with Kenbridge Construction; and Scott Shufflebarger representing the Virginia Association of Roofing Professionals. Next, the Workgroup heard from stakeholders in opposition to SB 954. There were two stakeholders who spoke: Burt Jones with the Virginia Community College System (VCCS) and Craig Short with James Madison University (JMU).

After hearing from the stakeholders, the Workgroup discussed the public comment, presentations, and other information it had received on SB 954 and began discussion on

developing its findings and recommendations. Through discussions, four possible recommendations for consideration were identified; however, the Workgroup concluded it should wait until the next meeting to discuss further in hopes that the contractor industry stakeholders would have time to meet outside of the Workgroup and to allow the Workgroup members time to digest the immense amount of information it had received.

At its fourth meeting for SB 954, the Workgroup reflected on the last meeting, noting that four possible recommendation options were offered for consideration. The Workgroup allowed for public comment again on SB 954. Nine stakeholders spoke in support of SB 954. They included Jack Dyer with Gulf Seaboard General Contractors; Matt Benka with the VCPA; Brandon Spencer with Kenbridge Construction; Tom Evans with Southwood Building Systems Inc.; Mark Meland with Century Construction Company Inc.; Todd Morgan with MB Contractors; Morris Cephas with Cephas NeXt Inc.; Scott Shufflebarger representing the Virginia Association of Roofing Professionals; and Tony Biller with Nielsen Builders Inc. Next, the Workgroup heard from eight stakeholders in opposition to SB 954. They included Colette Sheehy with the University of Virginia (UVA); Alex Iszard with George Mason University (GMU); Bob Broyden with Virginia Tech (VT); Dan Pisaniello with William and Mary (WM); Craig Short with James Madison University (JMU); Glenn Thompson with W.M. Jordan Company; Michelle Gowdy with the Virginia Municipal League (VML); and Brandon Robinson with the Associated General Contractors of Virginia (AGCVA).

After hearing public comment, the Workgroup continued its fourth meeting with discussion on SB 954 and the testimony to date. John McHugh shared with the Workgroup that VASCUPP submitted recommendations ahead of the meeting on behalf of institutions of higher education for consideration. The Workgroup then proposed recommendations for SB 954 and voted on which recommendations will move forward for finalization at the next meeting.

At its fifth and final meeting for SB 954 held on September 14, 2023, the Workgroup heard public comment on the proposed recommendations that moved forward from the last meeting. The only stakeholder to comment was Jack Dyer of Gulf Seaboard General Contractors, who spoke on behalf of VCPA sharing its full support of the recommendations. Next, the Workgroup finalized the recommendations and voted to approve the language for the five final recommendations on SB 954.

See Appendices B, C, D, E, F for the meeting materials, including meeting minutes for each of the five meetings held.

IV. Summary of Information Presented to the Workgroup

The Workgroup was directed to study SB 954 and report its findings and recommendations to the co-chairs of the Senate Committee on Finance and Appropriations and Senator Petersen by November 1, 2023. Below is a summary of the testimony and presentations the Workgroup received pertaining to this task.

SB 954; Virginia Public Procurement Act; construction management and design-build contracting

At its second meeting, the Workgroup was presented information that explained the purpose of SB 954. At Senator Petersen's request, Tony Biller, President and CEO of Nielsen Builders Inc. spoke on behalf of the Virginia Contractor Procurement Alliance (VCPA). Biller began his presentation stating that VCPA was formed because around 2008 construction projects began to move away from being procured via competitive sealed bidding and started utilizing alternative procurement methods more. Biller added that the focus of his presentation was primarily institutions of higher education construction procurements, but that the problem described throughout the presentation was moving into the public sector.

Biller explained that competitive sealed bidding is when a public body (owner) hires an architect to design a project for an intended use and once the design is complete the owner issues the project for bid on the open market and then the project is awarded to the lowest bidder. He shared that the original concept for alternative procurement methods was for projects that are unique and require a different procurement method than low bid, resulting in the creation of CM/DB. Biller provided two examples of when CM could be appropriate to use: (i) a \$150 million athletic facility, or (ii) a rotunda needing renovation where specific historic experience from the contractor is needed.

Next, Biller stated that VCPA is not against CM as a concept; however, they are concerned about overuse of CM. He shared that several years ago, JLARC did a study and issued a report about procurement that stated competitive sealed bidding is the only way to ensure the best quality and best price. Biller provided two reasons why he believes so many want to use CM over competitive sealed bidding: (i) it is easier and the owner can choose which vendor they want because competition is not the driving force and contractors are chosen based on their resume, and (ii) it saves time, although he believes this is a weak argument.

Biller discussed "complexity" on construction projects and that the definition of complex in Chapter 43.1 of title 2.2 of the Code should be revised, as anything can be considered complex and complexity is hard to define. Biller does not believe that a dormitory, recreation facility, or fire hall should be considered complex; however, a rotunda renovation or a \$125 million research facility, may be considered complex. Biller shared that some universities claim that because a project is on campus that it is complex and noted that every job at a university is on campus, which would make everything complex.

Before beginning the PowerPoint presentation⁵, Biller shared that his company has over 100 years of experience working at a university campus where his company has built over 100 projects using the competitive sealed bid process. Biller explained that when the university began using alternative procurement methods, his company was told they are qualified, but not as qualified as another company to work on buildings that his company built, sharing that this situation is not unique to his company.

Pointing to the data in the PowerPoint presentation, Biller stated that there may be claims that the data he is presenting is wrong and that 60-80% of the construction projects are done as competitive sealed bids, which is true for projects valued under \$5 million. Biller pointed out

⁵ See Appendix C

that over the last 13 years there had been \$6.3 billion spent on construction projects at Virginia universities and \$5.9 billion of that was procured using alternative methods, not competitive sealed bidding. He then provided the Workgroup paper copies of the raw FOIA data used to create the presentation. Biller explained that in the last 10 years the use of alternative procurements has gotten pervasively worse according to his data, which shows that no construction projects were bid out in 2021.

The next slides of the presentation focused on three universities' construction spend between 2008 and 2021. The first university was JMU. Biller informed the Workgroup that his company has built over 100 buildings at JMU and recently finished a \$15 million project at JMU. He stated that JMU spent \$789 million on construction and only 8.2% was competitively bid. Next, Biller presented data on Old Dominion University (ODU) and the College of William and Mary (WM) explaining that ODU spent \$327 million on construction and only 4.8% was competitively bid, while WM spent \$656 million on construction and none of those projects were competitively bid. Biller concluded the presentation speaking to SB 954, stating that he believed the bill was the best solution.

The Construction Management Process

At its third meeting, the Workgroup received two presentations regarding the construction management process. The first presentation was from Sandra Gill, Deputy Director of DGS. Gill provided a high-level overview of the legislative history regarding CM/DB and shared that in 1982 the General Assembly passed the VPPA, then during the 1983 session amended the VPPA to include allowing public bodies to utilize CM/DB. She stated that in 1996 the General Laws Committee issued a report on the utilization of CM/DB and made modifications to allow local public bodies to use CM/DB, resulting in the creation of a board to review and approve local governments' use of CM/DB. The review board was repealed in 2011. In 2006, the Higher Education Restructure Act was enacted, which allowed certain institutions of higher education autonomy and made them no longer subject to the VPPA. In 2014, the General Laws Special Joint Subcommittee was created to study the VPPA, which resulted in no significant changes being made to CM/DB. Then in 2017, stakeholders including construction industry representatives, higher education, local public bodies, and state agencies engaged in lengthy discussion and compromise, the VPPA was amended to create Chapter 43.1 of Title 2.2 of the Code.

The second presentation was from Curtis Manchester, Senior Assistant Attorney in the construction division with the Office of the Attorney General. Manchester spoke to the competitive procurement process for CM and the competitive sealed bid method of procurement, design-bid-build (DBB). He explained that in 1980 the General Assembly created a multifaceted taskforce that included public and private entities to study procurement, including construction. The taskforce stated that competition should be the goal of public bodies; however, it did not specify the kind of competition. Manchester explained that the General Assembly advocated to include competitive negotiation in the VPPA, pointing out that competitive negotiation allows the public body to consider factors other than cost that it deems important for the project without mandating an award based on the lowest cost. Next, he shared that construction management contracts are awarded by competitive negotiation and cited reasons why a public body may not

want to award to the lowest offeror, such as timing, qualifications, undeveloped specifications or plans. He explained that the General Assembly adopted most of the recommendations from the taskforce, touching on three: (i) public bodies obtain high-quality goods and services at reasonable cost, not lowest cost; (ii) competition be sought to the maximum degree feasible, but did not specify one type of competition; and (iii) individual public bodies have broad flexibility in fashioning details of such competition, resulting in the adoption of competitive sealed bidding and competitive negotiation in the VPPA.

Next, Manchester explained the process for competitive sealed bidding and shared that the VPPA mandates competitive sealed bidding for construction unless a public body uses competitive negotiation for CM. Through the competitive sealed bidding process, the owner has complete construction plans or specifications in place done by an architect, which included no consultation with the contractor on the plans or specifications. Next, the owner prepares and issues an invitation for bid (IFB). Once bids are received in response to the IFB, there is a public opening of the bids that are evaluated to determine the responsive and responsible bidder with the lowest price. He explained that bidders do not need to disclose experience, project team, the subcontractors that will be used, nor does the contractor have to publicly advertise their subcontracting work. Once these steps are complete, the owner posts a notice of intent to award, awards the contract, then begins coordinating with the contractor.

Manchester explained the process for CM, stating that it begins with the owner soliciting for a contractor to come on board before the project plans or specifications are finished to assist the owner and design team with finalizing the plans and specifications. When evaluating contractors for the first phase of the CM project, the owner will take into consideration contractors with demonstrated ability to perform, expertise of subcontractors and types of subcontractors the CM may bring, including small businesses. Manchester explained that the first part of the CM contract is for preconstruction services, which include sequencing and project schedule determination, plan development, materials, and cost estimating. The second part of the CM contract is for the construction phase, which is only entered into upon completion of the working drawings and the parties agreeing to a guaranteed maximum price (GMP) for the CM to perform the work. If there are remaining funds at the completion of the project, those funds are sent back to the state. Manchester explained that in the procurement process for a CM, for state agencies only, there is an evaluation committee comprised of at least three members to include a licensed design professional and an architect or engineer provided by the DGS Division of Engineering and Buildings. The evaluation committee proceeds with the prequalification of offerors, which can include the offerors' bonding capacity and proposed project team experience; however, there is no requirement to have past CM experience. Once the prequalification process is complete, the public body issues a request for proposals to the prequalified contractors and notifies the offerors that were not prequalified of their decision. Manchester explained the process of evaluating proposal responses and explained that the committee considers the proposed project approach, sequencing, method for handling risks, the subcontractors and small business participation plans, and fees for the CM services. Next, the evaluation committee conducts interviews to obtain clarifications on proposals and then ranks the proposals using combined scores from the request for qualifications (RFQ) and request for proposal (RFP). Once this is complete, the evaluation committee enters negotiations with the top two offerors and makes a recommendation to the agency head to award to one. The other offeror not selected for CM is notified in writing, which

provides a second opportunity for an offeror to protest if they feel they were treated unfairly. Manchester concluded his presentation noting that by statute, the CM can perform only 10% of the work and the remaining 90% must be subcontracted by competitive sealed bid.

Mike Tweedy asked about the process for offerors to protest or appeal an owner's decision to award to a particular contractor. Manchester explained that when an offeror is precluded from being prequalified to bid, that offeror generally has a right to protest to the public body first, then to a court. McHugh asked if an invitation for bid and competitive negotiation are both competitive procurement processes, to which Manchester confirmed they were. McHugh followed up by noting that in a previous meeting the Workgroup was told that invitation for bid is the only competitive option and asked if that is incorrect, to which Manchester stated that is not correct because both are a form of competition, just different types of competition. Damico asked when the subcontracting of the 90% of work occurs in the process, to which Manchester replied that it occurs prior to negotiation for the GMP and shared that the bids, bid tabs, and the subcontractor bid packages are provided to the owner as part of the GMP number proposed for phase two of the CM process.

2016 Development and Management of State Contracts Report

At its third meeting, Tracey Smith, Associate Director with JLARC, provided the Workgroup an overview of the 2016 Development and Management of State Contracts report, sharing that the study covered many topics and resulted in 30 recommendations for the General Assembly, DGS, VITA, and others to consider. Smith explained that during the course of the study, one issue brought to JLARC by former Delegate Steve Landis was the increasing use of alternative procurement methods by institutions of higher education for construction projects. Smith shared that she had watched the previous Workgroup meetings and noted that the JLARC report was referenced and wanted to provide clarification on some of the comments. She noted that at a previous meeting a stakeholder stated that JLARC found that competitive sealed bidding is the only way to guarantee the best quality and best price; however, she said this was not correct. She pointed to page 21 of the report, which states that purchasing goods and services from vendors offering the lowest price does not always maximize quality and because the quality of the goods or services is not a consideration under the competitive sealed bidding procurement method, agencies may purchase poor quality goods or services that do not meet agency expectations.

At the time of the JLARC study, there was not a centralized source of data on the performance of contracts and because of this, JLARC requested data on 28 construction projects from four institutions of higher education, Smith explained. The data received included 11 CM projects, 4 DB projects, and 13 DBB projects, and JLARC compared the contracts' change orders, schedule delays, and cost overrun. Smith stated that since the JLARC study there has been a lot of additional data collected and the information discussed during the presentation is not a reflection of the current state of what is known about the performance of contracts. Speaking to the report, Smith explained that universities used all three methods of procurement for costly projects but the median cost of projects using alternative methods substantially exceeded the cost of DBB projects. She noted that universities generally were satisfied with all three procurement methods.

Smith explained that during the study JLARC surveyed and interviewed procurement staff at state agencies and institutions of higher education to determine their satisfaction with project quality and project timeliness under DBB and CM. JLARC reported that (i) 78% were satisfied with the project quality under DBB and 88% were satisfied with the project quality under CM; and (ii) 9% were satisfied with the project timeliness under DBB while 81% were satisfied with project timeliness under CM. She further explained that projects procured under each method deviated from original contract provisions; at least some of each type of project experienced delays, cost overruns, and change orders. She noted that the data provided for this finding should not be used to compare the performance of contracts across the three methods because there were not enough contracts in the sample to make good comparisons. She stated that the purpose of this data is to show that regardless of the procurement method, cost overruns, delays and change orders occurred across all three methods; no method ensures a problem-free project.

Smith stated that during the study, vendors reported concerns about limited competition and transparency, some of which was corroborated by JLARC's research. During JLARC's research, they issued a survey to vendors and received about 1,400 responses, and of those, about one-fourth stated that winning vendors seem preselected or selection criteria prevented the vendor from qualifying to submit a bid or proposal. JLARC found that several institutions of higher education reported using narrow qualification criteria for CM and some institutions of higher education allow only pre-qualified vendors that have had experience with the project delivery method to submit proposals. She stated that while previous experience with the project delivery method is a valid consideration, using that criterion to prevent vendors from qualifying to submit a proposal appears to unnecessarily narrow the pool of potential vendors.

At the conclusion of the presentation, Workgroup members were able to ask questions regarding the JLARC study and research conducted. Tweedy asked if all entities are subject to the DGS Construction and Professional Services Manual (CPSM)., Smith replied institutions of higher education with autonomy are not subject to the CPSM and when JLARC brought this up during the study, the institutions stated they model their procurement activities to align with state policies. Gill noted that the JLARC report was completed before the legislative changes that created Chapter 43.1 in the Code of Virginia, which requires institutions to comply with the Secretary of Administration (SOA) procedures when adopting their own procedures.

Comments in Support of SB 954

Jack Dyer, owner of Gulf Seaboard General Contractors Inc., a certified minority and small business for over 42 years, shared that prior to the use of CM his company completed multiple successful construction projects with the University of Mary Washington (MW), Virginia Commonwealth University (VCU), Virginia State University (VSU), and J. Sargeant Reynolds Community College. Dyer said once the use of CM began, he was told that his company is qualified to do the work but did not score as high compared to multinational companies. He stated that SB 954 would adjust the Code to allow maximum feasible competition and open access, explaining that he believes the changes to the VPPA over the past decades have returned Virginia to a pre-1982 procurement condition with no respect for the Code, no uniform policies, no standards, application conflicts between public bodies, favoritism, and possible corruption. Dyer shared that the principles of the VPPA are that public procurement is characterized by

competitive bidding because the public perceives this method as ensuring equal access to public business, provides control over contracting officials, and implies cost savings along with establishing competition.

Dyer stated that he believes CM does not provide the best method of procurement for construction projects over \$5 million that are not historical, extremely large, or complex and said that CM is more expensive by 15-25%. Dyer spoke to a document provided by MDB Strategies that expanded on SB 954 and the need for the following changes: (i) to have one person responsible for pre-approving the use of CM at the local, state, and higher education level, adding that this should be done by the Secretary of Administration; (ii) increase the threshold to use CM to \$125 million and require pre-approval to use CM for any projects under this amount; and (iii) revise the definition for complex, noting that previous CM experience should not be a prequalification requirement.

Todd Morgan, the president and owner of MB Contractors, said his company has partnered with CMs before on projects and on numerous occasions his time is spent trying to keep the CM from hiring his employees. He asked why he should want to partner with a CM when his company is capable of doing the work on its own. He asked that the Workgroup take this issue seriously and keep competition in procurement and tax dollars in mind.

Cindy Shelor of John T. Morgan Roofing and Sheet Metal Company stated that her company is a subcontractor and, in her experience, competitiveness is not a part of CM projects. Shelor said there should be fair and open procurement in all aspects when tax dollars are spent.

Jack Avis, owner of Avis Construction Company Inc., explained that his company has completed projects at multiple institutions of higher education, such as Virginia Military Institute, VT, and several community colleges, but now has been shut out of those projects. Avis stated that his company was told it was not qualified to renovate a building that it built. He said CM is destroying more than just general contractors, and that subcontractors, architects and engineers, insurance companies, and bonding companies are being negatively impacted. He concluded his remarks sharing that his company renovated a major high school project valued at \$37 million during the COVID-19 pandemic that was procured by competitive sealed bid and his company completed the project on time even after being shut down for two weeks.

Tom Evans of Southwood Building Systems Inc. stated that his company was built on competitive sealed bidding and CM is hurting his company. Evans explained that there are four or five projects currently being procured as CM that are valued at \$15 million and that he believes no one is paying attention to the regulations.

Sam Daniel, primary owner of Daniel and Company Inc., explained that his business has grown through competitive sealed bid work and around the 2008-2010 timeframe is when he began to see his work at universities diminish. Daniel echoed previous comments made that CM and alternative procurement methods have impacted business negatively over the years and hopes that change can be made.

Matt Benka with the VCPA shared that its membership is comprised of midsize general contractors who have been shut out of the market for over a decade and a half. Benka shared that the data provided by Biller in the presentation on SB 954 has shown that institutions of higher education are overspending drastically, and contracts are being given to a handful of contractors. Benka concluded his remarks explaining that some of his members who have been in business for over 40 years, have been told by institutions of higher education that they are not qualified for the project, or are not as qualified as the larger company without explanation

Tony Biller of Nielsen Builders Inc. shared at the third meeting of the Workgroup that competitive sealed bids are advertised in the public and any contractor can respond if they meet the criteria, such as bonding, insurance, and licensing. Biller explained that with CM, when developing the GMP in his experience, there is no requirement to get competitive sealed bids from the trades for the subcontracted work.

Greg Lionberger of Lionberger Construction Company shared that he believes DBB is the best method for straightforward non-complex projects and believes the best price comes from competitive sealed bidding.

Brandon Spencer, Executive Vice President of Kenbridge Construction, shared that his company has been shut out of CM projects and asked for a fair chance at construction project opportunities.

Scott Shufflebarger, representing the Virginia Association of Roofing Professionals, shared that he believes that DBB is the primary method of procurement and should be for public construction projects. Shufflebarger added that he believes CM stifles competition and limits opportunities to the companies in his membership. He said he fully supports the bill and its intent to raise the threshold for using CM and implement more restrictive language for its use. He explained that he has not had the opportunity to compete for subcontractor work on CM projects because he is not on the general contractors list who seem to get the CM projects.

Comments in Opposition of SB 954

Rich Sliwoski, Vice President of Facilities Management at VCU, stated that each month a project is delayed it costs an additional \$1 million. He explained that early release packages, which are only available using the CM process, provide incentive for contractors to finish projects in a timely manner. Sliwoski stated that when using low bid, the public body has no oversight into the project management team assigned to the project, which could include someone who has never worked on the particular type of project. Sliwoski explained that institutions of higher education can use auxiliary funds for projects and those funds are not from the state but are from housing revenues and philanthropic efforts. He said for housing projects there is a time schedule that must be met, and CM is the best for providing that. Next, Sliwoski explained contingency funds on construction projects, specifically CM projects, stating that if the project's contingency funds are not used then those funds are returned to the owner (public body). He said that with VCU's last four projects, \$8 million was returned to the Commonwealth. In DBB projects, contingency funds not used are kept by the contractor. Sliwoski added that for VCCS, there are 33 construction project opportunities currently being

solicited and 30 of those are competitive sealed bids. Providing history on CM, he explained that CM came about in the early 2000s when concerns arose about minority contractors being frozen out of opportunities and that the use of CM has done away with this by expanding to all aspects of the community. He concluded his remarks noting that Century Construction has been given 27 opportunities to bid from VCU in the last year and has not provided a bid response to any of those.

Brandon Robinson representing the AGCVA shared that it represents 500 companies and 300 contractors in Virginia. He said some members support the bill and some members oppose the bill, but that the organization opposes the bill as introduced. He explained that there has been compelling testimony about the need for change because the market is skewed; however, he does not think the market is skewed. Robinson pointed to a comment made that in 2018 the statute changed requiring DGS to submit annual reports for construction projects \$2 million and greater, explaining that this reporting requirement was a part of the compromise in 2018 and the data since 2018 by project and amount shows that the majority are being procured via DBB (60-70%). Prior to the meeting, Robinson submitted written comments⁶ proposing areas where compromise could be achieved, explaining that the comments were compiled from a small group of its members with an equal number of support for the bill and opposition to the bill. He finalized his remarks by pointing out the considerations for review include: (i) procurement qualifications should be based on construction experience, not project delivery method; (ii) complexity of the project should be the primary determining factor for using alternative methods; and (iii) the industry would like to see an increase in transparency when choosing a method and selecting a contractor.

Robinson spoke at the Workgroup's fourth meeting, sharing that he submitted additional ideas for the Workgroup to consider that expand on the previous suggested considerations regarding transparency, complexity, and contractor experience. He added that AGCVA supports posting in eVA or on local public bodies' websites and has no issue with posting subcontracting opportunities on eVA to increase transparency.

David Turner, Vice President of Kjellstrom and Lee Construction, a midsize general contractor that works on public and private projects that are large, small, complex and not so complex, shared that most of the projects his company completes are CM. Turner explained that his company is a local company that works exclusively in Virginia and competes with many multistate, national, or international firms, yet his company still finds success. Turner explained that CM has contributed to his company's success and the success of its trade partners, particularly the ones in the SWaM community. Turner also shared that his company has participated in all methods of procurement for projects and in order to be competitive in bidding and on CM procurements, his company has worked hard to build relationships and deliver projects well.

Taylor Brannan, Vice President of F. Richard Wilton Jr. Inc., shared that he serves on the state board of contractors and on the board of AGCVA. Brannan stated that his company participates in all delivery methods for construction projects, including lump sum, CM, and design-build, and there are pros and cons to each. He explained that as a subcontractor his

⁶ Appendix C

estimates are lump sum and provided at no charge, which has benefits. If the general contractor already is chosen, Brannan said he often receives a scope of work that is very detailed about who is responsible for what so there are no scope gaps. CM also prevents bad bids because if something was left out and a bid is too low it can be fixed; whereas, that cannot be done on a hard bid job, forcing the subcontractor to suffer the loss. Brannan noted that part of the criteria to get on a subcontractor list is experience, manpower, and ability to do the job. He said it's beneficial in that it allows discussion and the ability to work through discrepancies in the drawings with the owner and CM, assist with value engineering to help with budget, and the coordination of products before building. Brannan shared additional benefits to using CM are allowances, and while preconstruction may take longer the job overall goes faster and more efficient.

Adam Smith, Associate Director of Procurement for Capital Construction at VT, spoke on behalf of VT and VASCUPP to express their deep concerns with SB 954. Smith stated that SB 954 will impact significantly the availability of an essential contracting tool. He explained that at VT, due to the size and scope of the campus and projects, it regularly uses all procurement methods and maintaining the authority to choose an appropriate method is critical to its ability to manage a capital program in excess of \$1 billion. Smith added that for some projects CM is the right solution, and for others it is not; however, the authority to make the decision on procurement method to ensure appropriate mitigation of project risk is important to allow them to stay within budget and schedule all while fulfilling the unique needs of the institution and respective project. Smith noted that the JLARC report is correct that the dollar threshold is not the most effective criteria to use in determining the best procurement method as cost does not reflect the project complexity or time sensitivity. He concluded by stating that all capital projects undergo significant review, both internal and external, and that the CM method provides better opportunities to utilize SWaM businesses.

James Patteson, retired Director of Public Works at Fairfax County, explained that the total value of a building is not only in the construction cost, but also the quality of the work. Patteson expressed his concerns about SB 954 limiting the use of CM for localities with the proposed threshold and complex definition changes. He explained that with CM the contractor is added to the team during preconstruction, which is valuable to have the contractor, architect/engineer, and the owner together early on for adding value engineering and ownership to the success of the project. He noted that CM is not the easiest method because it requires another partner at the table, but this results in better value in the end.

Elizabeth Dooley, representing VAGP, which is comprised of over 1,300 members in the procurement field, also spoke on behalf of VML and VACO, sharing their opposition for SB 954. Dooley explained that DGS reports show the majority of construction contracts at the state and local level are awarded through DBB and that CM is used where appropriate. Further, she explained that when public bodies use CM, it is a well-reasoned decision and not chosen arbitrarily. She shared that CM projects finish earlier than DBB projects for various reasons such as the ability to leverage options for early site work, constructability reviews, and value engineering. Dooley explained that CM allows for a guaranteed maximum price early on and the ability to secure better interest rates on bonds. She asked the Workgroup to advise the General

Assembly that no changes are necessary as the current process works well across the Commonwealth.

Travis Bowers, representing the Black Business Alliance of Virginia, strongly opposes SB 954 and shared that his company, THC Bowers, has participated in general contractor work, lump sum hard bid work, and CM. He shared that he puts his employees in DGS CPSM seminars and learns from other companies, which has helped his company adjust over the years. Bowers stated that CM is more inclusive for the community and allows the minority community to take better advantage of relationships, not just as a prime contractor but at a sub-tier approach, which is not there with low bid.

Burt Jones, Associate Vice Chancellor for the Virginia Community College System, shared that in his 35 years with the Commonwealth overseeing design and construction projects, he has used all possible methods for construction procurement. Jones shared that he is a member of the National Association of State Facility Administrators, which has worked closely with general contractors to produce documents on how to properly use CM, noting that Virginia is a leader in the country on how to use this procurement method. He stated that he was a part of the group that worked to make the 2018 changes to the Code for CM and the definition of complex project was included in that effort; however, when SB 954 was introduced it was the first time that he had seen proposed changes to the definition. Jones explained that the \$125 million threshold would remove the use of CM for most and out of 33 current capital projects at VCCS, none of them meet the criteria in the proposed bill. Jones stated that the manner in which the bill amends preconstruction services, requiring these services be bid through competitive sealed bidding, removes the advantages of having a CM.

Craig Short, Associate Vice President of Business Services at JMU, shared that over the last 20 years JMU has procured and managed over \$1 billion in construction projects that have utilized DBB, DB, and CM, noting that during this time JMU received no protests on the procurements. Short explained that internally JMU evaluates the projects based on specific risk and project complexity, overall contract value, time and schedule constraints, team expertise, and more, in order to determine which procurement method is best suited for the particular project. At the Workgroup's fourth meeting, Short provided and spoke to a handout comparing the performance on schedule compliance, competition, and executive order 35, between DBB and CM. He stated on the second page of the handout there is an illustration that shows logically how the CM method can help bring a project in on time or earlier. Short shared an example of a JMU project to build an athletics facility valued at \$15 million that finished 130 days late due to complex HVAC components and said that if the project had been procured via CM rather than DB, he is sure it would have been completed on time. Since 2002, JMU has had 41 construction projects, 19 of those were procured as alternative delivery methods and on average received nine proposals. The remaining 22 projects were procured using DBB and received only four bids on average. Short explained when using CM, 90% of the work is done by subcontractors and the CM holds subcontractor outreach events for the projects, not just to the general market but also SWaM vendors, sharing that they seek vendors who are eligible to be SWaM certified, too. Short explained that CM allows agencies to negotiate the terms of outreach, including the events held by the CM, and more, while with DBB bids are received and you get what you get.

Colette Sheehy, Senior Vice President for Operations and State Government Relations at UVA, shared that in 2005 Governor Warner and the General Assembly partnered with three institutions of higher education (VT, WM, and UVA) to change the relationship between those institutions and the Commonwealth. She explained that she is likely one of the few people still around who was involved in the legislation that was introduced and in the development of the Restructured Higher Education Financial and Administrative Operations Act and the management agreements that followed in the next year for these three institutions. Sheehy stated that more than 18 years ago Governor Warner, a private business executive, recognized the value, efficiency, and cost effectiveness of delegating to institutions with the appropriate expertise, the responsibility of transacting business at the local level without additional layers of approval by central agencies. She concluded her remarks stating that institutions remain accountable to the Commonwealth and their boards of visitors.

Alex Iszard, Assistant Vice President of Planning, Design, and Construction at George Mason University (GMU), explained that GMU has added over 4 million square feet during his 15-year tenure and has utilized both CM and DB effectively to accomplish this. He explained that the restructure act has three levels of autonomy and GMU was a level two, then in 2016 participated in a level 2.5 pilot program, ultimately obtaining level three in 2021. Iszard shared that in 2017 the new legislation that moved CM and DB to its own section of the Code also required covered institutions to have DGS' DEB review all CM/DB determinations. Since this change, GMU has requested review of three projects, two CM and one DB. Prior to any submission for review, GMU assesses each project and ensures the procurement method is suitable for the project and in all cases DGS has agreed with GMU's chosen method. Iszard explained that in an environment of ongoing escalation, having a contractor on board at the onset of the project allows for utilization of early release packages to manage schedules and budgets. GMU has been able to use real-time cost and schedule data to determine the most effective structural systems during design, hold the CM accountable for their original fee, despite ongoing escalation, and hold them accountable for preconstruction services. Iszard believes the existing language provides appropriate safeguards to ensure competition while allowing public bodies to make appropriate decisions related to procurement.

Bob Broyden with Virginia Tech (VT) has three decades of experience at VT overseeing capital financing and planning, design, construction, and real estate management. Broyden explained that it is critical for universities to maintain their authority to select appropriate capital delivery and procurement methods. He stated the university developed highly effective business practices to implement entire capital outlay programs, hundreds of millions of dollars over many projects, and have become experts at doing this since restructuring. He explained that VT's process includes multiple reviews and approvals by their board of visitors are essential to ensure projects are delivered on schedule and within budget. Broyden said a key activity is selecting the project delivery and procurement strategy and they do this very early in the process when the six-year capital outlay plan is identified. Starting in the budget requests submitted to the board or state they identify and disclose the intended project delivery method with a justification. He explained that since 2018 VT has initiated 23 projects, 12 have been DBB, 10 CM, and 1 DB. He concluded his remarks by asking the Workgroup to consider allowing higher education to continue their authority to choose the best procurement method for projects.

Dan Pisaniello, University Architect and Director of Facilities, Planning Design and Construction at William and Mary (WM), explained that projects procured through CM are required to have a minimum of 90% of the work competitively bid, stating that procurement is only one part of the equation. He said CM is a comprehensive project delivery method, not just an alternative delivery method, that includes the owner, design professionals, and contractors. During the design phase the CM is a fully integrated part of the team, allowing significant value added. He explained that under the first part of the contract the CM provides cost estimating, reviews documents for constructability, schedules and sequences activities, provides research and market analysis for material selection, and develops a comprehensive evaluation strategy. He concluded with, in the absence of a CM, agencies will still need these services and could incur an administrative burden, as those consultants may not be a fully integrated part of the design team.

Glenn Thompson of W.M. Jordan Company, a general contractor and construction manager based in Virginia, echoed the comments made by JMU about the process from a construction manager perspective. Thompson said his company casts a wide net on every project and wants as much competition as possible. He explained that a considerable amount of time is spent reviewing the bids with the owner, and together they work to maximize the scope of the competition on each project. He supports the recommendation regarding using eVA to advertise subcontracting opportunities and opposes SB 954.

Michelle Gowdy, Executive Director with the Virginia Municipal League (VML), said it opposes recommendations that require local public bodies to hold a separate hearing for project reviews and opposes mandates to use eVA. Requiring another public hearing is an additional administrative cost for localities, and she instead suggested a public notice that allows for input. She shared that a public notice work group is looking into best practices for localities' handling of public notices. Gowdy explained the process for local public bodies seeking funding for capital projects is done in the public view and that they do a five-year capital plan through their governing boards. When asked if there is an opportunity during the project development for the procurement method to be identified and allow for public comment, Gowdy stated that there are opportunities and explained that both the planning commission and approving body both vote in public and the board or council makes a vote on the final procurement method at public meetings.

Comments Reflecting both Support in Part and Opposition in Part

Chris Stone, Senior Principal with Clark Nexsen, one of Virginia's largest architect and engineering firms, shared his opposition to portions of SB 954, specifically lines 186-191 and lines 234-239. Stone explained that these portions of the bill break the CM services apart and when an owner hires a designer, the designer starts with planning, programming, and is a part of the process through schematics until the end of the project when the client hires a construction manager. At this point, the designer is able to develop a relationship and design the project with input from the construction manager. Stone explained that the proposed language would require preconstruction services to be bid out, but is not clear when those services would end. Stone concluded his remarks stating that the language has unintended consequences for a significant number of change orders as it would allow a contractor to build the project who wasn't involved in the design.

V. Workgroup Findings and Recommendations

After presentations from DGS, OAG, and JLARC at its third meeting the Workgroup heard additional public comment regarding SB 954. The Workgroup then moved into discussion on public comment, written comments, and other information that was received and began developing findings and potential recommendations. Saunders began by asking whether there is a process where DEB or DGS are involved in helping verify the procurement method chosen when public bodies wish to use CM. Damico explained that in accordance with Code of Virginia Chapter 43.1, state public bodies can make a determination on which procurement method to use for a particular construction project and if a method other than DBB is chosen, the state public body has to justify their choice to use CM and submit such justification to DEB for review. Once submitted, DEB carefully reviews the justification and project details and then makes a recommendation on whether the state public body has chosen an appropriate procurement method then the state public body can choose to comply with the DEB recommendation or proceed with the original selected procurement method. This process is the same for institutions of higher education.

Saunders followed up by asking how often the public body's chosen procurement method and the DEB recommendation align for construction projects. Damico answered that Chapter 43.1 in the Code of Virginia has a reporting requirement for institutions of higher education and state public bodies and the reported data shows eight instances out of approximately 55 projects since 2017 where DEB did not agree with the institution of higher education's selected procurement method but the institution proceeded anyway.

McHugh commented that the Workgroup has received a lot of information and noted that VASCUPP provided a listing of bills introduced since 2015 so the Workgroup can see the amount of effort that has gone into this topic. He shared that there are opportunities where stakeholders could come together to make legislative changes; however, SB 954 is an unreasonable change that would make CM not an option to be used on most construction projects. McHugh stated that he believes it is not appropriate for the Workgroup to recommend SB 954 to the General Assembly, but does believe there are possible options to move forward for change.

Peeks inquired as to whether the industry groups invested in this topic have had a chance to meet and come up with recommendations or suggestions as discussed at a prior Workgroup meeting. Dyer, of Gulf Seaboard Contractors, shared that the industry groups are working to find a time to meet and looks forward to bringing a consensus in the future. Tweedy echoed McHugh's comment regarding the amount of information that has been provided to the Workgroup, in writing and at the meetings. Tweedy suggested allowing the industry groups time to meet and the Workgroup time to give additional thought to possible recommendations for further discussion at the next Workgroup meeting.

Next, Damico explained that his proposed recommendations for consideration come as a result of what DGS has heard in the discussions and information presented by stakeholders. He stated that when the General Assembly took action in 2017 to pull CM/DB into its own section of the Code and include local public bodies, state public bodies, and institutions of higher

education, he believes it was to treat all three the same and standardize the use of CM/DB across government. Damico continued, noting that the Code of Virginia, Chapter 43.1 defines complexity and since 2017 when the definition was enacted, he has not heard of any issues with the definition until SB 954 was introduced. The General Assembly entrusted DGS' DEB to review state public bodies' and institutions of higher education's decisions to use CM/DB and make a recommendation of as to whether that method of procurement was appropriate and also sought transparency in the process by requiring reporting of CM/DB/DBB usage.

Damico echoed earlier comments that alternative procurement methods are beneficial and that a dollar threshold is not the most effective criteria as project cost does not always reflect complexity, as noted in the JLARC report. He explained that DGS looked at the data provided by VCPA that focused on higher education from 2008-2014, noting that it appears alternative methods of procurement were used on construction projects 86% of the time and DBB was used 14% of the time. The data also shows that from 2015-2017 there was a slight trend down in the use of alternative procurement methods. In looking at the data from 2018-2021, after Chapter 43.1 of Title 2.2 of the Code was enacted, it shows that the use of alternative procurement methods for construction projects was used 74.2% of the time and DBB was used 25.5%, which is trending away from alternative procurement methods. Damico explained that DGS also looked at the data provided by AGCVA, which is inclusive of all public bodies that report to DGDS annually, and that data shows the use of alternative procurement methods was 25.8% on construction projects and DBB was used 74.2% of the time between 2018-2021 for construction projects over \$3 million. This data shows that as a result of Chapter 43.1 of Title 2.2 of the Code, the use of DBB is trending upward.

After providing a thorough explanation of the information DGS has received and the thoughtful consideration taken, Damico offered the Workgroup four draft recommendations for consideration. The Workgroup decided to provide an opportunity to digest the lengthy discussions and information shared, along with the draft recommendations, and continue the discussion at the next meeting in case any additional recommendations arise.

At its fourth meeting, the Workgroup continued discussion on the proposed recommendations from the last meeting and also received additional recommendations for consideration from McHugh and Innocenti. The Workgroup decided to make formal recommendations and vote on which will move forward for final approval at the Workgroup's fifth meeting to allow all stakeholders another opportunity to have time to review and provide any comments prior to finalizing the recommendations from the Workgroup.

At its fifth and final meeting on SB 954, the Workgroup heard public comment on the draft recommendations before them. The only stakeholder to comment was Dyer, who spoke on behalf of VCPA, stating that they are in full support of the recommendations and thanked the Workgroup for its time and efforts on this matter. Damico asked Staff to read each recommendation before the Workgroup.

Recommendation #1:

The General Assembly consider prohibiting state agencies and covered institutions from listing previous construction management (CM) experience as a prerequisite or using such experience in the scoring process for prequalification or award of a contract.

Heslinga made a motion to approve recommendation one. Pride seconded the motion and it carried by a vote of 7-0.

Recommendation #2:

The General Assembly consider requiring all documents exchanged between agencies and covered institutions with the Department of General Services' Division of Engineering and Buildings (DEB) related to the current process of the selection of alternative methods, construction management or design-build (CM/DB), as a projects delivery method shall also be posted publicly to DGS' central electronic procurement system, known as eVA.

Morris made a motion to approve recommendation two. Heslinga seconded the motion and it carried by a vote of 6-0-1.

Recommendation #3:

The General Assembly consider stating in Chapter 43.1 of Title 2.2 of the Code that design-bid-build is the default method of procurement unless an alternative method, construction management or design-build (CM/DB) is approved by the Department of General Services' Division of Engineering and Buildings (DEB) for institutions of higher education and state public bodies, or in the case of local public bodies, the local governing board must approve the use of CM/DB in a public forum allowing for public comment on the proposed use of CM/DB.

Saunders made a motion to approve recommendation three. Morris seconded the motion and it carried by a vote of 6-1

Recommendation #4:

The General Assembly consider amending the Department of General Services' authority in Chapter 43.1 of Title 2.2 of the Code from evaluating the proposed use of construction management or design-build (CM/DB) by state public bodies and institutions of higher education to the Department of General Services Division of Engineering and Buildings (DEB) making a final decision as to the use of CM/DB on each project.

Morris made a motion to approve recommendation four. Pride seconded the motion and it carried by a vote of 5-2.

Recommendation #5:

The General Assembly consider requiring public bodies to advertise available subcontracting opportunities on the Department of General Services' central

electronic procurement website, known as eVA, for construction management and design-build (CM/DB) projects.

Morris made a motion to approve recommendation five. Heslinga seconded the motion and it carried by a vote of 5-1-1.

VI. Conclusion

The Workgroup would like to thank the stakeholders and interested parties for their participation, as well as the subject matter experts from JLARC, OAG, and DGS who provided presentations and technical expertise to assist the Workgroup in its deliberations.

Appendix A: Letter Directing Study and Text of SB 954

This appendix contains the letter from the Senate directing the Workgroup to study SB 954 and the text of SB 954.

COMMONWEALTH OF VIRGINIA

SUSAN CLARKE SCHAAR

CLERK OF THE SENATE
POST OFFICE BOX 396
RICHMOND, VIRGINIA 23218



SENATE

March 24, 2023

Mr. Joseph F. Damico
Director, Department of General Services
1100 Bank Street, Suite 420
Richmond, Virginia 23219

Dear Joe:

This is to inform you that, pursuant to Rule 20 (o) of the Rules of the Senate of Virginia, the Senate Committee on Finance and Appropriations has referred the subject matters contained in Senate Bill 912, Senate Bill 954, and Senate Bill 1115 to the Procurement Workgroup for study. It is requested that the appropriate committee co-chairs and bill patrons receive written reports, with copies to this office, by November 1, 2023.

With kind regards, I am

Sincerely yours,

A handwritten signature in black ink, appearing to read "Susan".

Susan Clarke Schaar

SCS:gc

cc: Sen. Janet D. Howell, Co-Chair, Senate Committee on Finance and Appropriations
Sen. George L. Barker, Co-Chair, Senate Committee on Finance and Appropriations
Sen. Frank M. Ruff, Jr., Patron of SB 912
Sen. J. Chapman Petersen, Patron of SB 954
Sen. Bill DeSteph, Patron of SB 1115
Amigo Wade, Director, Division of Legislative Services
April Kees, Director, Senate Finance and Appropriations Committee

2023 SESSION

SB 954 Virginia Public Procurement Act; construction management and design-build contracting.

Introduced by: **J. Chapman Petersen** | [all patrons](#) ... [notes](#) | [add to my profiles](#)

SUMMARY AS INTRODUCED:

Virginia Public Procurement Act; construction management and design-build contracting; applicability. Requires a two-step process consisting of (i) a preconstruction contract and (ii) competitive sealed bidding for construction services for certain projects totaling less than \$125 million. Complex projects, defined in the bill, may request an exemption from the provisions of the bill and relevant law from the Secretary of Administration. If a complex project totals more than \$125 million, the bill provides that an exemption from the provisions of the bill and relevant law is not required. Finally, the bill states that competitive sealed bidding is the preferred method of procurement for construction services in the Commonwealth.

FULL TEXT

01/06/23 Senate: Prefiled and ordered printed; offered 01/11/23 23100261D [pdf](#) | [impact statement](#)

HISTORY

01/06/23 Senate: Prefiled and ordered printed; offered 01/11/23 23100261D

01/06/23 Senate: Referred to Committee on General Laws and Technology

02/01/23 Senate: Reported from General Laws and Technology (9-Y 6-N)

02/01/23 Senate: Rereferred to Finance and Appropriations

02/02/23 Senate: Passed by indefinitely in Finance and Appropriations with letter (12-Y 4-N)

23100261D

SENATE BILL NO. 954

Offered January 11, 2023

Prefiled January 6, 2023

A BILL to amend and reenact §§ 2.2-4378 through 2.2-4382 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 43.1 of Title 2.2 a section numbered 2.2-4380.1, by adding in Article 3 of Chapter 43.1 of Title 2.2 a section numbered 2.2-4381.1, and by adding in Article 4 of Chapter 43.1 of Title 2.2 a section numbered 2.2-4382.1, relating to the Virginia Public Procurement Act; construction management and design-build contracting; applicability.

Patron—Petersen

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4378 through 2.2-4382 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 2 of Chapter 43.1 of Title 2.2 a section numbered 2.2-4380.1, by adding in Article 3 of Chapter 43.1 of Title 2.2 a section numbered 2.2-4381.1, and by adding in Article 4 of Chapter 43.1 of Title 2.2 a section numbered 2.2-4382.1 as follows:

§ 2.2-4378. Purpose; applicability.

A. The purpose of this chapter is to enunciate the public policies pertaining to governmental procurement of construction utilizing the construction management and design-build procurement methods. *Competitive sealed bidding is the preferred method of procurement for construction services.* Notwithstanding any other provision of law, the Commonwealth may enter into contracts on a fixed price design-build basis or construction management basis in accordance with the provisions of this chapter and § 2.2-1502.

B. Except as provided in subsection C, this chapter shall apply regardless of the source of financing, whether it is general fund, nongeneral fund, federal trust fund, state debt, or institutional debt.

C. The following shall be exempt from the provisions of this chapter:

1. *Projects totaling less than \$5 million;*

2. Projects of a covered institution that are to be funded exclusively by a foundation that (i) exists for the primary purpose of supporting the covered institution and (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue Code; and

2- 3. Transportation construction projects procured and awarded by the Commonwealth Transportation Board pursuant to subsection B of § 33.2-209; and

4. *Complex projects where an entity has received an exemption from the provisions of this chapter from the Secretary of Administration. If a project totals more than \$125 million, the entity shall not be required to obtain an exemption from the provisions of this chapter from the Secretary of Administration. The Secretary of Administration shall not combine projects or allow projects to surpass the \$125 million threshold.*

D. The provisions of this chapter shall supplement the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), which provisions shall remain applicable. In the event of any Restructured Higher Education Financial and Administrative Operations Act of 2005 (§ 23.1-1000 et seq.), or any other provision of law, this chapter shall control.

§ 2.2-4379. Definitions.

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

"Competitive sealed bidding" means the same as that term as described in § 2.2-4302.1.

"Complex project" means a construction project that includes ~~one~~ two or more of the following significant components: significantly difficult site location, ~~unique equipment~~, specialized unconventional building systems, ~~multifaceted program~~, accelerated schedule only due to federal or state regulatory mandates, registered historic designation, or substantial and intricate phasing or some other aspect that makes competitive sealed bidding not practical of an occupied building.

"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner and may also include, if provided in the contract, the furnishing of construction services to the owner.

"Covered institution" means a public institution of higher education operating (i) subject to a management agreement set forth in Article 4 (§ 23.1-1004 et seq.) of Chapter 10 of Title 23.1, (ii) under a memorandum of understanding pursuant to § 23.1-1003, or (iii) under the pilot program authorized in the appropriation act.

INTRODUCED

SB954

59 "Department" means the Department of General Services.

60 "Design-build contract" means a contract between a public body and another party in which the party
61 contracting with the public body agrees to both design and build the structure, or other item specified in
62 the contract.

63 *"Preconstruction contract" means a contract between a public body and another party in which the*
64 *party contracting with the public body agrees to provide preconstruction services for the benefit of the*
65 *public body.*

66 "Public body" means the same as that term is defined in § 2.2-4301.

67 "State public body" means any authority, board, department, instrumentality, agency, or other unit of
68 state government. "State public body" does not include any covered institution; any county, city, or
69 town; or any local or regional governmental authority.

70 **§ 2.2-4380. Construction management or design-build contracts for state public bodies**
71 **authorized; projects totaling more than \$125 million.**

72 A. Any state public body may enter into a contract for construction on a fixed price or not-to-exceed
73 price construction management or design-build basis *for a project totaling more than \$125 million*,
74 provided that such public body complies with the requirements of this article and the procedures adopted
75 by the Secretary of Administration for using construction management or design-build contracts.

76 B. Procedures adopted by a state public body pursuant to this article shall include the following
77 requirements:

78 1. A written determination is made in advance by the state public body that competitive sealed
79 bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the
80 determination to use construction management or design-build. The determination shall be included in
81 the Request for Qualifications and maintained in the procurement file;

82 2. Prior to making a determination as to the use of construction management or design-build for a
83 specific construction project, a state public body shall have in its employ or under contract a licensed
84 architect or engineer with professional competence appropriate to the project who shall (i) advise the
85 public body regarding the use of construction management or design-build for that project and (ii) assist
86 the public body with the preparation of the Request for Proposal and the evaluation of such proposals;

87 3. Public notice of the Request for Qualifications is posted on the Department's central electronic
88 procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification
89 proposals;

90 4. For construction management contracts, the contract is entered into no later than the completion of
91 the schematic phase of design, unless prohibited by authorization of funding restrictions;

92 5. Prior construction management or design-build experience or previous experience with the
93 Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of
94 a contract. However, in the selection of a contractor, a state public body may consider the experience of
95 each contractor on comparable projects;

96 6. Construction management contracts shall require that (i) no more than 10 percent of the
97 construction work, as measured by the cost of the work, be performed by the construction manager with
98 its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of
99 the work, be performed by subcontractors of the construction manager, which the construction manager
100 shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable; and

101 7. The procedures *shall* allow for a two-step competitive negotiation process.

102 C. The Department shall evaluate the proposed procurement method selected by the state public body
103 and make its recommendation as to whether the use of the construction management or design-build
104 procurement method is appropriate for the specific project. In its review, the Department shall also
105 consider:

106 1. The written determination of the state public body;

107 2. The compliance by the state public body with subdivisions B 1, 2, and 7;

108 3. The project cost, expected timeline, and use;

109 4. Whether the project is a complex project; and

110 5. Any other criteria established by the Department to evaluate the proposed procurement method for
111 the project.

112 D. The Department shall conduct its review within five working days after receipt of the written
113 determination and render its written recommendation within such five-working-day period. The written
114 recommendation of the Department shall be maintained in the procurement file.

115 E. If a state public body elects to proceed with the project using a construction management or
116 design-build procurement method despite the recommendation of the Department to the contrary, such
117 state public body shall state in writing its reasons therefor and any justification for not following the
118 recommendation of the Department and submit same to the Department. The written statement of a state
119 public body's decision to not follow the recommendation of the Department shall be maintained in the
120 procurement file.

§ 2.2-4380.1. Additional contract requirements for projects totaling less than \$125 million.

For all projects totaling less than \$125 million, in addition to the requirements outlined in subdivisions B 2, 3, and 5 of § 2.2-4380, a state public body that enters into a contract for construction management shall conduct a two-step process beginning with a preconstruction contract. Upon completion of the preconstruction contract, the state public body shall then obtain construction services for the project through competitive sealed bidding.

§ 2.2-4381. Construction management or design-build contracts for covered institutions authorized; projects totaling more than \$125 million.

A. Any covered institution may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis *for a project totaling more than \$125 million*, provided that such institution complies with the requirements of this article and with the procedures adopted by the Secretary of Administration for using construction management or design-build contracts.

B. Covered institutions shall:

1. Develop procedures for determining the selected procurement method which, at a minimum, shall consider cost, schedule, complexity, and building use;

2. Submit such procedures, and any subsequent changes to adopted procedures, to the Department for review and comment; and

3. Submit Department-reviewed procedures to its board of visitors for adoption.

C. Procedures adopted by a board of visitors pursuant to this article shall include the following requirements:

1. A written determination is made in advance by the covered institution that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to use construction management or design-build. The determination shall be included in the Request for Qualifications and maintained in the procurement file;

2. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a covered institution shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the covered institution regarding the use of construction management or design-build for that project and (ii) assist the covered institution with the preparation of the Request for Proposal and the evaluation of such proposals;

3. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

4. For construction management contracts, the contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

5. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, a covered institution may consider the experience of each contractor on comparable projects;

6. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable; and

7. The procedures *shall* allow for a two-step competitive negotiation process.

D. The Department shall evaluate the proposed procurement method selected by a covered institution and make its recommendation as to whether the use of the construction management or design-build procurement method is appropriate for the specific project. In its review, the Department shall also consider:

1. The written determination of the covered institution;

2. The compliance by the covered institution with subdivisions C 1, 2, and 7;

3. The project cost, expected timeline, and use;

4. Whether the project is a complex project; and

5. Any other criteria established by the Department to evaluate the proposed procurement method for the project.

E. The Department shall conduct its review within five working days after receipt of the written determination and render its written recommendation within such five-working-day period. The written recommendation of the Department shall be maintained in the procurement file.

F. If a covered institution elects to proceed with the project using a construction management or design-build procurement method despite the recommendation of the Department to the contrary, such

covered institution shall state in writing its reasons therefor and any justification for not following the recommendation of the Department and submit same to the Department. The written statement of a covered institution's decision to not follow the recommendation of the Department shall be maintained in the procurement file.

§ 2.2-4381.1. Additional contract requirements for projects totaling less than \$125 million.

For all projects totaling less than \$125 million, in addition to the requirements outlined in subsection B and subdivisions C 2, 3, and 5 of § 2.2-4381, a covered institution that enters into a contract for construction management shall conduct a two-step process beginning with a preconstruction contract. Upon completion of the preconstruction contract, the covered institution shall then obtain construction services for the project through competitive sealed bidding.

§ 2.2-4382. Design-build or construction management contracts for local public bodies authorized; projects totaling more than \$125 million.

A. Any local public body may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis for a project totaling more than \$125 million, provided that the local public body (i) complies with the requirements of this article and (ii) has by ordinance or resolution implemented procedures consistent with the procedures adopted by the Secretary of Administration for utilizing construction management or design-build contracts.

B. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a local public body shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise such public body regarding the use of construction management or design-build for that project and (ii) assist such public body with the preparation of the Request for Proposal and the evaluation of such proposals.

C. A written determination shall be made in advance by the local public body that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction management or design-build. The determination shall be included in the Request for Qualifications and be maintained in the procurement file.

D. Procedures adopted by a local public body for construction management pursuant to this article shall include the following requirements:

1. Construction management may be utilized on projects where the project cost is expected to be less than the project cost threshold established in the procedures adopted by the Secretary of Administration for utilizing construction management contracts, provided that (i) the project is a complex project and (ii) the project procurement method is approved by the local governing body. The written approval of the governing body shall be maintained in the procurement file;

2. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

3. The construction management contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

4. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, the local public body may consider the experience of each contractor on comparable projects;

5. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable;

6. The procedures shall allow for a two-step competitive negotiation process; and

7. Price is a critical basis for award of the contract.

E. Procedures adopted by a local public body for design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department for state public bodies.

§ 2.2-4382.1. Additional contract requirements for projects totaling less than \$125 million.

For all projects totaling less than \$125 million, in addition to the requirements outlined in subsection B and subdivisions D 2, 4, and 7 of § 2.2-4382, a local public body that enters into a contract for construction management shall conduct a two-step process beginning with a preconstruction contract. Upon completion of the preconstruction contract, the local public body shall then obtain construction services for the project through competitive sealed bidding.

Appendix B: May 2, 2023 Meeting Materials

This appendix contains the meeting materials from the May 2, 2023 Workgroup meeting.

1. Agenda
2. Meeting Materials
 - a. Public Body Procurement Workgroup 2023 Proposed Work Plan
3. Approved Meeting Minutes

Public Body Procurement Workgroup

<http://dgs.virginia.gov/dgs/directors-office/procurement-workgroup/>

Meeting # 1

Tuesday, May 2, 2023, 1:00 p.m.

House Room 1

The Virginia State Capitol

1000 Bank Street, Richmond, Virginia 23218

AGENDA

- I. **Call to Order; Remarks by Chair**
- II. **Introduction of Workgroup Members, Representatives, and Staff**
- III. **Approval of Meeting Minutes from the November 28, 2022 Workgroup Meeting**
- IV. **Recap of 2022 Work and Overview of Proposed 2023 Work Plan**
- V. **Consideration and Discussion of Public Comment, Presentations, and Other Information Received by the Workgroup on SB 272**
- VI. **Findings and Recommendations on SB 272**
- VII. **Public Comment**
- VIII. **Discussion**
- IX. **Adjournment**

Members

Department of General Services
Virginia Information Technologies Agency
Department of Planning and Budget
Virginia Association of State Colleges and
University Purchasing Professionals

Department of Small Business and Supplier Diversity
Virginia Department of Transportation
Virginia Association of Government Purchasing

Representatives

Office of the Attorney General
Senate Finance Committee

House Appropriations Committee
Division of Legislative Services

Staff

Jessica Budd, Legal Policy Analyst, DGS

Jessica Hendrickson, Director of Policy and Legislative Affairs, DGS

Public Body Procurement Workgroup

<http://dgs.virginia.gov/dgs/directors-office/procurement-workgroup/>

2023 PROPOSED WORK PLAN

Meeting #1 – May 2, 2023 at 1:00 p.m.

1. Introduction of Workgroup Members, Representatives, and Staff
2. Recap of 2022 Work and Overview of Proposed 2023 Work Plan

During the 2023 Session, the General Assembly unanimously passed two bills that implemented the recommendations from the Workgroup's study of SB 550 (2022) [Sen. Bell] – SB 1313, patroned by Sen. Bell, and SB 2500, patroned by Del. Wiley.

The Workgroup began studying SB 272 (2022) [Sen. Hashmi] at its last meeting on November 28, 2022. The Workgroup must complete this study and report its findings and recommendations by December 1, 2023.

Additionally, during the 2023 Session, the General Assembly referred the following four new bills to the Workgroup for study:

- *SB 859 (2023), patroned by Senator Cosgrove, which would remove the requirement that local public bodies publish notice of a Request for Proposal on DGS' central electronic procurement website (eVA) if they elect not to publish notice of the Request for Proposal in a newspaper of general circulation in the area in which the contract is to be performed. Currently, local public bodies must publish notice of a Request for Proposal either on eVA or in a newspaper of general circulation in the area in which the contract is to be performed. They may choose to also post such notice on an "appropriate website." The bill would allow local public bodies to satisfy the VPPA's notice requirements for a Request for Proposal by simply posting notice of the Request for Proposal on an "appropriate website."*
- *SB 912 (2023), patroned by Senator Ruff, which would prohibit public bodies, in the case of proposals for information technology, from requiring offerors to state in their proposal any exceptions they may have to any of the contractual terms and conditions, including any liability conditions, contained in the Request for Proposal. The bill would require such offerors to instead state any such exceptions in writing at the beginning of negotiations, and require public bodies to consider such exceptions during negotiation.*
- *SB 954 (2023), patroned by Senator Petersen, which appears to (i) narrow the definition of "complex project" such that projects would be required to meet stricter criteria in order to be deemed complex and therefor appropriate for utilizing construction management and design-build (CM/DB) procurement methods; (ii) prohibit the use of CM/DB procurement methods for projects totaling less than \$5*

million; and (iii) for projects totaling between \$5 million and \$125 million, require public bodies to (a) obtain approval from the Secretary of Administration to use CM/DB procurement methods and (b) conduct a two-step procurement process in which the public body must first award a contract for preconstruction services, and, upon completion of such contract, award a second contract for construction services using competitive sealed bidding.

- *SB 1115 (2023), patroned by Senator DeSteph, which would (i) require state public bodies to decrease the price of any bid offered by (a) seven percent for a “Virginia end product” and (b) two percent for a “U.S. end product”; (ii) require that when the lowest responsive and responsible bidder, after price preferences have been taken into account, who is a resident of Virginia is within five percent or \$10,000, whichever is less, of the lowest responsive and responsible bidder who is a resident of another state, the bidder who is a resident of Virginia be given the opportunity to match the price of the bidder who is a resident of another state; and (iii) provide that if a state public body receives three or more bids from manufacturers that use materials or product components made in Virginia or in the U.S., such public body may only select from among such bids.*

The Workgroup must complete its studies of each of these bills and report its findings and recommendations to the bills’ patrons and the appropriate committee chairmen by November 1, 2023.

3. SB 272 – Make preliminary findings and recommendations.

Meeting #2 – May 16, 2023 at 1:00 p.m.

1. SB 272 – Finalize findings and recommendations.
2. SB 859 –
 - a. Hear presentations and public comment.
 - b. Make preliminary findings and recommendations.
3. SB 912
 - a. Hear presentations and public comment.
 - b. Make preliminary findings and recommendations.

Meeting #3 – June 6, 2023 at 1:00 p.m.

1. SB 859 – Finalize findings and recommendations.
2. SB 912 – Finalize findings and recommendations.
3. SB 1115 –
 - a. Hear presentations and public comment.

Meeting #4 – June 27, 2023 at 1:00 p.m.

1. SB 1115 –
 - a. Review information received at previous meeting and receive any additional information.
 - b. Make preliminary findings and recommendations.

Meeting #5 – July 18, 2023 at 9:30 a.m.

4. SB 1115 – Finalize findings and recommendations.
5. SB 954 –
 - a. Hear presentations and public comment.

Meeting #6 – August 8, 2023 at 1:00 p.m.

2. SB 954 –
 - a. Review information received at previous meeting and receive any additional information.
 - b. Make preliminary findings and recommendations.

Meeting #7 – August 22, 2023 at 1:00 p.m.

1. SB 954 – Finalize findings and recommendations.

November 1, 2023

1. Reports on the Workgroup's findings and recommendations on SB 859, SB 912, SB 954, and SB 1115 due to the bills' patrons and committee chairmen.

December 1, 2023

1. Reports on the Workgroup's findings and recommendations on SB 272 due to the General Assembly.

Approved Meeting Minutes

Public Body Procurement Workgroup

Meeting # 1

Tuesday, May 2, 2023, 1:00 p.m.
House Room 1
The Virginia State Capitol
1000 Bank Street, Richmond, Virginia 23218

<http://dgs.virginia.gov/dgs/directors-office/procurement-workgroup/>

The Public Body Procurement Workgroup (the Workgroup) met in-person in House Room 1 in the Capitol in Richmond, Virginia, with Joe Damico, Director of the Department of General Services (DGS), presiding. The meeting began with remarks from Mr. Damico, followed by discussion and recommendations for SB 272, public comment, and further discussion by the Workgroup members. Materials presented at the meeting are available through the [Workgroup's website](#).

Workgroup members and representatives present at the meeting included Joe Damico (Department of General Services), Willis Morris (Department of Small Business and Supplier Diversity), Joshua Heslinga (Virginia Information Technologies Agency), Lisa Pride (Virginia Department of Transportation), Jonathan Howe (Department of Planning and Budget), Patricia Innocenti (Virginia Association of Governmental Procurement), John McHugh (Virginia Association of State Colleges and University Purchasing Professionals), Leslie Haley (Office of the Attorney General), Andrea Peeks (House Appropriations Committee), and Mike Tweedy (Senate Finance and Appropriations Committee), and Joanne Frye, representing the Division of Legislative Services.

I. Call to Order; Remarks by Chair

Joe Damico, Director
Department of General Services

Mr. Damico called the meeting to order and thanked the House Clerk's Office for allowing the Workgroup to hold its meetings in House Room 1 in the Capital Building. He informed the Workgroup that this year he and Sandra Gill, Deputy Director of the Department of General Services, will alternate as Chair of the Workgroup.

II. Introduction of Workgroup Members, Representatives, and Staff

III. Approval of Meeting Minutes from the November 28, 2022 Workgroup Meeting

Mr. Tweedy made a motion to approve the meeting minutes from the November 28, 2022 meeting of the Workgroup. The motion was seconded by Ms. Pride and unanimously approved by the Workgroup.

IV. Recap of 2022 Work and Overview of Proposed 2023 Work Plan

Next, Mr. Damico asked Ms. Gill to present a recap of the work accomplished by the Workgroup in 2022, as well as the proposed workplan for the Workgroup's 2023 studies.

Mr. Gill reminded the group that two bills were originally referred to the Workgroup by the General Assembly in 2022 (SB 550 and SB 575), and that a third bill was referred to the Workgroup later in the year (SB 272). Ms. Gill provided a summary of the work undertaken by the Workgroup related to SB 575 (which pertained to the use of a total cost of ownership calculator for medium-duty and heavy-duty vehicles) and SB 550 (which pertained to payment of subcontractors). Ms. Gill noted that two bills (SB 1313 and SB 2500) were introduced and passed by the General Assembly during the 2023 Session that implemented the Workgroup's recommendations on SB 550.

Moving to the proposed 2023 work plan, Ms. Gill provided an overview of the four new bills that were referred to the Workgroup by the General Assembly during the 2023 Session: SB 859, patroned by Senator Cosgrove; SB 912, patroned by Senator Ruff; SB 954, patroned by Senator Petersen; and SB 1115, patroned by Senator DeSteph. She stated that the proposed work plan includes tentative dates for six additional meetings for the workgroup to complete its studies of these four bills.

V. Consideration and Discussion of Public Comment, Presentations, and Other Information Received by the Workgroup on SB 272

Ms. Gill noted that workgroup began its study of SB 272 at its last meeting on November 28, 2022. She provided the Workgroup with an overview of the information that was shared with the Workgroup on SB 272 at that meeting by stakeholders and subject matter experts. She also noted that since the last meeting DGS staff conducted a survey of local governments to determine the amount of concrete they use, but only six responses to the survey were received.

She then presented the Workgroup with several considerations for it to discuss as possible recommendations on SB 272. Those consideration were: (1) codify procurement preferences and initiatives in the bill for low carbon concrete, (2) address the issue with policy through preferences or incentives, (3) not make changes to the law or implement

policy because the industry is already moving towards low carbon concrete, (4) create tax incentives for the industry to move towards low carbon concrete, or (5) consider whether the Virginia Department of Environmental Quality should regulate CO₂ emissions for cement and concrete.

Mr. Damico asked Ms. Gill to clarify which agencies would be impacted by the bill as introduced. She stated that the bill amends the DGS code section, therefore agencies under DGS purview would be impacted and it would be DGS' responsibility to establish policy. Mr. Damico asked Ms. Gill for clarification as to how the Virginia Department of Transportation (VDOT) would be impacted by the bill, and she responded that the bill does not specifically exclude roads and bridges, however based on DGS' enabling legislation there could be an interpretation that roads and bridges are not under DGS' authority. Mr. Damico then confirmed with Ms. Gill that testimony provided to the Workgroup at its previous meeting indicated that VDOT uses approximately six percent of the total amount of concrete used in Virginia each year, and that DGS uses approximately one-half of one percent of the total amount of concrete used in Virginia each year.

Mr. Damico asked the Workgroup if they have any thoughts or comments. Ms. Pride stated that VDOT has been working diligently for several years to allow the use of lower carbon concrete in its specifications and to work with the industry to continue to lower the amount of carbon associated with the concrete it uses in its projects. She indicated that she would like the Workgroup to move forward with the third recommendation presented by Ms. Gill, which was to not impose additional requirements on the industry because they are already making progress on this issue and VDOT has also been moving in the right direction. She also reiterated how small the amount of concrete used by state agencies is compared to the private sector.

Mr. Damico asked Ms. Gill about DEQ's testimony at the previous meeting and whether they stated that they currently monitor CO₂ emissions from the production of cement and concrete. She stated that DEQ testified that they do not current regulate CO₂ emissions from the production of cement and concrete. He then asked if there was any indication in the previous meeting as to whether DEQ is in a position to monitor the industry's commitment to move toward a CO₂ emissions-free cement and concrete manufacturing process. Ms. Gill stated the DEQ did not testify that they have any intent to regulate, monitor, or track CO₂ emissions from the production of cement and concrete. Mr. Damico asked the Workgroup members whether they feel that it would be appropriate to ask DEQ if they could monitor and report on the CO₂ emissions from the production of cement and concrete in order to track the industry's process toward moving towards lower carbon concrete. Mr. Heslinga sought clarification as to whether Mr. Damico is contemplating asking DEQ to monitor the industry's progress as opposed to affirmatively regulation the industry's CO₂ emissions. Mr. Damico answered in the affirmative.

VI. Findings and Recommendations on SB 272

Mr. Damico asked Ms. Pride to restate her recommendation. Ms. Pride stated that she recommends that the Workgroup allow VDOT to continue the work that has done regarding permitting the use of lower carbon concrete in its specifications and allow the industry to continue the progress that it has made in reducing the amount of carbon in concrete, allow those two things to be the drivers of the reduction of carbon in concrete. Mr. Heslinga stated he would second the recommendation and sought clarification on the process of finalizing the recommendation. Mr. Damico called for a vote of the Workgroup. Prior to the voting Mr. Morris asked for clarification as to whether there would be voluntary reporting by VDOT and/or the industry on progress towards this initiative. Ms. Pride stated VDOT does not currently do such reporting, but they keep track of their specifications and could report on those changes. The Workgroup voted in favor of the recommendation made by Ms. Pride¹. Next, Mr. Damico asked the Workgroup for approval to engage DEQ regarding its capacity to monitor the industry's progress towards producing emissions-free cement. The Workgroup unanimously approved his request.

VII. Public Comment

The first stakeholder to comment was Walton Shephard with the Natural Resources Defense Council. Mr. Shephard stated that he wanted to clarify that the bill never contemplated imposing any requirements and that it only contemplated rewarding voluntary actions that the industry is indeed already taking. He asked the state to recognize those actions by codifying provisions that would use the state's purchasing power to show a preference for cleaner concrete or cement similar to provisions implemented in New Jersey. He acknowledged that Virginia does allow the use of cleaner cement and concrete but stressed that he would like the state proactively encourage its use.

Mr. Morris asked Mr. Shelton for clarification regarding the voluntary rewards system. Mr. Shephard responded that when bids come in and a particular bidder's concrete is verified to be cleaner than average, such bidder would receive a slight bonus in the bid stack. Mr. Damico asked for clarification as to how such a preference would work if there is one cement manufacturer in Virginia, and further asked about the potential cost impacts of bringing in lower carbon concrete from manufacturers located outside of Virginia. Mr. Shelton responded that he is not sure of the answers to such questions, but that he assumes that theoretically such procurement preference would still incentivize Virginia's one manufacturer to clean up its production process because the state could purchase cement from a producer in Maryland or North Carolina instead of the one manufacturer in Virginia.

¹ The votes on recommendation the recommendation were as follows: Yes – Patricia Innocenti, John McHugh, Jonathan Howe, Joe Damico, Lisa Pride, and Joshua Heslinga, Willis Morris; Abstain – Andrea Peeks, Mike Tweedy, Leslie Haley, and Joanne Frye

The second stakeholder to comment was Kisia Kimmons, a technical services manager with Roanoke Cement. Ms. Kimmons confirmed that Roanoke Cement is the only cement manufacturer in Virginia, but there are also several producers from outside of the state that deliver product within the state that also provide lower carbon cement products. She stated that such other products come from places such as South Carolina and various locations in the North East, and that some are imported.

Mr. McHugh asked whether low carbon concrete is more expensive than traditional concrete. Ms. Kimmons responded that typically in many markets Type IL cement has cost the same as traditional Type I/II concrete and that it has been a one-to-one replacement. Ms. Frye asked whether the low carbon cement produced by Roanoke Cement is lower in carbon than the other low carbon cement products on the market. Ms. Kimmons responded that it can vary depending on the product. Mr. Heslinga asked if there are existing reporting on the adoption of lower carbon cement. Ms. Kimmons stated that she is not aware of any required reporting, however from a manufacturing perspective it is not difficult for them to provide replacement factor information. Mr. Morris asked Ms. Kimmons for clarification that Roanoke Cement is the only cement manufacturer in Virginia, which she confirmed, and asked whether they have experienced any supply chain challenges. Ms. Kimmons responded that they are not experiencing any such challenges at this time, and reiterated that the state has resources from other facilities as well that feed into this market.

The third stakeholder to comment was Phil Abraham with the Vectre Corporation. Mr. Abraham spoke to the Workgroup concerning its study of SB 550 last year and the legislation subsequently passed by the General Assembly during the 2023 Session (SB 1313 and HB 2500) implementing recommendations made by the Workgroup on SB 550. He expressed concern that SB 1313 and SB 2500 require contractors on public construction contracts to make payment to their subcontractors within 60 days of completion of their work regardless of whether such a contractor has received payment from the state or local government, as applicable, for such work. He shared that general contractors are concerned about how this requirement would impact them in situations in which they have not been paid by the state or local government and in which there has been no fault on the part of the contractor that would justify the state or local government to withhold such payment. Mr. Abraham stated that he would like to work with the Workgroup on a tweak to the law to address this concern.

Ms. Peeks asked Mr. Abraham whether the issue he described has occurred, or whether he is looking to address this potential situation in the event that it might occur. He stated that it is rare, but it has occurred.

Mr. Shephard, the first stakeholder to comment, spoke to the Workgroup again to clarify that cement is a component of concrete, so while the concrete used on a specific project is usually made locally to a project's location, the cement used in such concrete does not necessarily have to have been produced locally to the project's location.

VIII. Discussion

Mr. Tweedy asked if either VDOT or DGS track how much low carbon concrete they use. Both DGS and VDOT stated that they do not currently track this information.

IX. Adjournment

Mr. Damico adjourned the meeting at 1:53 p.m. and noted that the Workgroup's next meeting is tentatively scheduled for May 23, 2023. He stated, however, that this date may change and that once staff has finalized the meeting date and location such information will be announced to the Workgroup members and stakeholders.

For more information, see the [Workgroup's website](#) or contact that Workgroup's staff at pwg@dgs.virginia.gov.

Appendix C: July 18, 2023 Meeting Materials

This appendix contains the meeting materials from the July 18, 2023 Workgroup meeting.

1. Agenda
2. Meeting Materials
 - a. Presentation on SB 954 by the Virginia Contractor Procurement Alliance (VCPA)
 - b. Considerations for the Workgroup from the Associated General Contractors of Virginia (AGCVA)
3. Approved Meeting Minutes
4. Data provided after the meeting
 - a. AGCVA
 - b. VCAP FOIA data

Public Body Procurement Workgroup

<https://dgs.virginia.gov/dgs/directors-office/pwg/>

Meeting # 5

Tuesday, July 18, 2023, 9:30 a.m.

House Committee Room

Pocahontas Building

900 E. Main St, Richmond, Virginia

AGENDA

- I. **Call to Order; Remarks by Chair**
- II. **Approval of Meeting Minutes from the June 27, 2023 Workgroup Meeting**
- III. **Update on SB 1115**
- IV. **Presentation on SB 954**

*Virginia Contractor Procurement Alliance, on behalf of The Honorable J.
Chapman Petersen, Patron
Senate of Virginia*

- V. **Public Comment on SB 954**
- VI. **Public Comment**
- VII. **Discussion**
- VIII. **Adjournment**

Members

Department of General Services
Virginia Information Technologies Agency
Department of Planning and Budget
Virginia Association of State Colleges and
University Purchasing Professionals

Department of Small Business and Supplier Diversity
Virginia Department of Transportation
Virginia Association of Governmental Procurement

Representatives

Office of the Attorney General
Senate Finance Committee

House Appropriations Committee
Division of Legislative Services

Staff

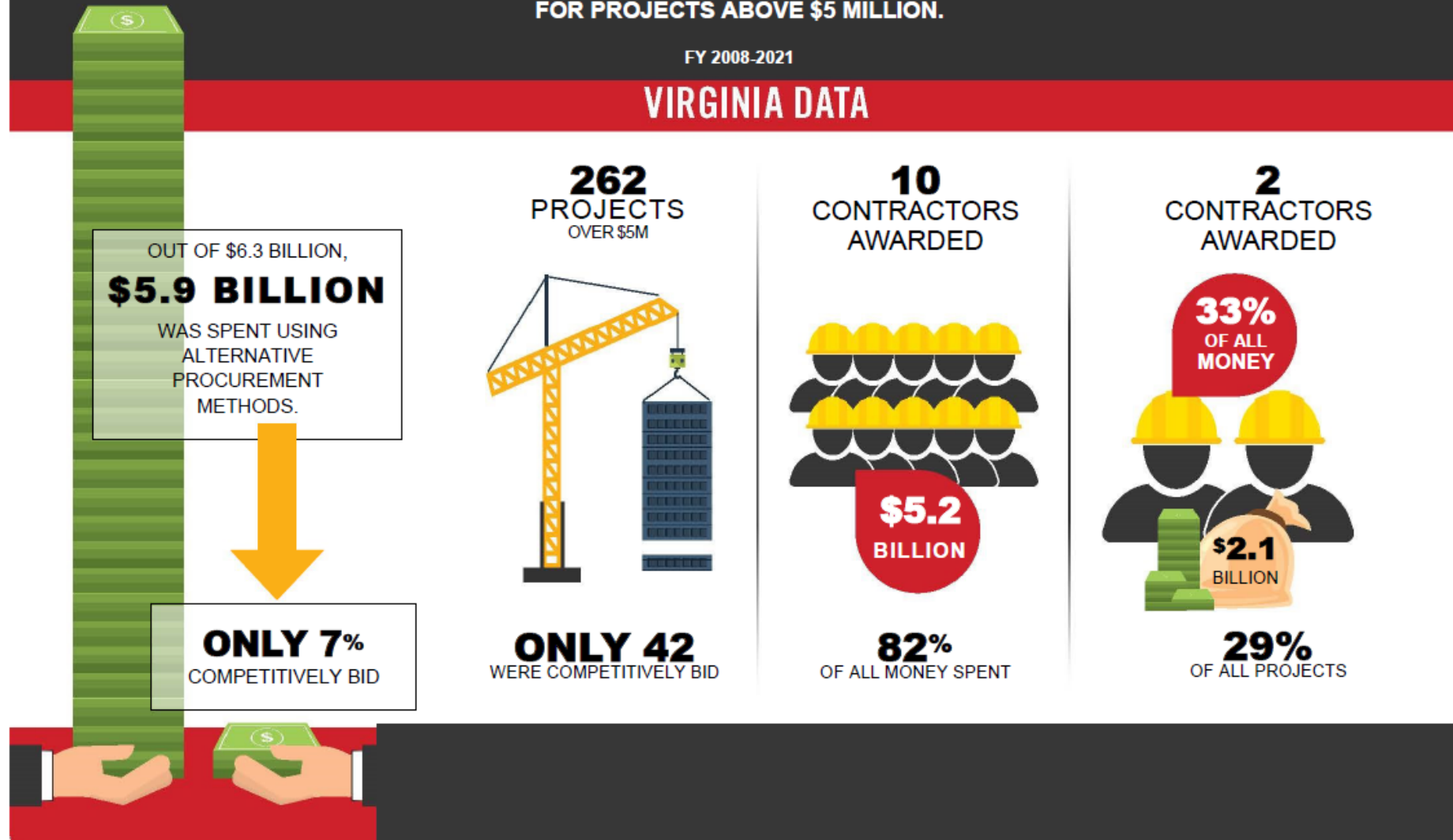
Sandra Gill, Deputy Director, DGS
Jessica Hendrickson, Director of Policy and Legislative Affairs, DGS



THE FOLLOWING REFLECTS 13 YEARS OF FOIA DATA
FROM ALL VIRGINIA FOUR YEAR UNIVERSITIES & NINE COMMUNITY COLLEGES
FOR PROJECTS ABOVE \$5 MILLION.

FY 2008-2021

VIRGINIA DATA



JAMES MADISON UNIVERSITY

\$789million
TOTAL SPEND ON CONSTRUCTION

ONLY **8.2%** (or \$64.6 million)
OF TOTAL SPEND WAS COMPETITIVELY BID

3 CONTRACTORS
ACCOUNTED FOR
57%
OF TOTAL MONEY SPENT

Contractor 1..... \$171.7 million
Contractor 2..... \$147.0 million
Contractor 3..... \$135.0 million

\$453.7 million
COMBINED

**All data stated on this page is compiled from 13 years of information provided directly by the specific university under the guidelines of the Freedom of Information Act (FOIA).

OLD DOMINION UNIVERSITY

\$327 million
TOTAL SPEND ON CONSTRUCTION

ONLY **4.8%** (or \$15.6 million)
OF TOTAL SPEND WAS COMPETITIVELY BID

2 CONTRACTORS
ACCOUNTED FOR
88%
OF TOTAL MONEY SPENT

Contractor 1..... \$168.0 million

Contractor 2..... \$121.2 million

\$289.2 million
COMBINED

**All data stated on this page is compiled from 13 years of information provided directly by the specific university under the guidelines of the Freedom of Information Act (FOIA).

\$656million
TOTAL SPEND ON CONSTRUCTION

ZERO%
OF TOTAL SPEND WAS COMPETITIVELY BID

23 OUT OF **23** PROJECTS
WERE NOT COMPETITIVELY BID

100%
OF TOTAL PROCUREMENT WAS NOT COMPETITIVELY BID

ZERO PROJECTS WERE
COMPETITIVELY BID

BUILDER RANKINGS

TOP 10 CONTRACTORS BY EARNED \$ (2008-2021)					
Rank	Company	Amount	# of Contracts	% of Total Projects	% of Total \$
1	Whiting-Turner Contracting Co	\$1,168,712,844	34	12.98%	18.49%
2	W.M. Jordan Company, Inc.	\$932,766,934	42	16.03%	14.76%
3	Skanska USA Building	\$596,417,401	16	6.11%	9.44%
4	S.B. Ballard Construction Company	\$589,345,019	16	6.11%	9.32%
5	Kjellstrom & Lee, Inc.	\$445,660,881	17	6.49%	7.05%
6	Donley's LLC.	\$364,610,936	15	5.73%	5.77%
7	Barton Malow Company	\$332,600,234	10	3.82%	5.26%
8	Gilbane Building Company	\$288,039,067	9	3.44%	4.56%
9	Branch & Associates, Inc.	\$246,279,492	15	5.73%	3.90%
10	Holder Construction Group, LLC.	\$203,276,732	4	1.53%	3.22%
Collective Totals		\$5,167,709,540	178		81.75%

CM Dorms - Actual Cost versus Virginia Building Construction Cost Database

University	Project Name	Project Cost	Year	Actual Cost/SF	Virginia Building Construction Cost Database Cost/SF	% over budgeted database cost	Cost over budgeted amount
JMU	Village Student Housing Phase 1	\$60,604,862	2023	418.33	336.00	24.50%	\$ 11,926,862.00
JMU	Paul Jennings Dorm/East Campus	\$49,503,463	2018	327.84	248.00	32.19%	\$ 12,055,463.00
ODU	Construct New Residence Hall - Owens House	\$47,095,425	2018	294.35	248.00	18.69%	\$ 7,415,425.00
Virginia Tech	Upper Quad Residential	\$69,704,066	2014	331.92	215.00	54.38%	\$ 24,554,066.00
Totals		\$226,907,816				24.66%	\$ 55,951,816.00

Recent Municipal CMAR Projects

Project	Owner	Date	Type	Budget
Downtown Renewal Program	City of Lynchburg	6/27/2023	RFP	\$ 8,000,000
Preston Park Elementary	Roanoke City Public Schools	5/16/2023	RFQ	\$ 33,800,000
Fay Towers	Richmond RHA	3/24/2023	RFP	\$ 15,000,000
New Brunswick County Elementary/Middle School	Brunswick County Public Schools	10/21/2022	RFQ	not noted
Administration Building on Campbell Ave.	Roanoke City Public Schools	6/28/2022	RFQ	not noted
New King George County Courthouse	King George County	11/1/2021	RFP	not noted
ACPS Middle School Capital Project	Augusta County Public Schools	7/14/2021	RFP	\$ 40,420,000
FCPS School Renovation Capital Project	Frederick County Public Schools	3/31/2021	RFQ	\$ 12,020,000
Courts Complex Additions and Renovations	County of Albemarle	3/15/2021	RFQ	\$ 35,000,000
Mason District Police Station	County of Fairfax	7/26/2019	RFQ	\$ 15,000,000



Considerations for DGS Public Procurement Workgroup on Alternative Delivery Methods in Public Procurement

The Associated General Contractors of Virginia (AGCVA) is the leading voice representing commercial construction in the Commonwealth. AGCVA proudly counts as its members a broad cross-section of the contracting community ranging from some of the largest general contractors and construction management firms in Virginia to some of the smallest local specialty contractors, and all contractor sizes in between. This broad base of membership allows AGCVA to bring together a wide range of ideas on important topics like alternative delivery methods in public procurement.

Recently, AGCVA convened a group of general contractors and construction managers to discuss the current public procurement landscape for construction, and what, if any, changes could be made to laws and regulations governing alternative delivery methods. This group represented a myriad of company sizes, markets, and preferred delivery methods. We recognize that while alternative delivery methods like construction management at risk (CMAR) and design-build (DB) have grown in use by some public owners, design-bid-build (DBB) remains the prominent delivery method in public procurement. As evidenced in the annual “Project Delivery Method Reviews” by the Department of General Services from 2018 – 2022, DBB projects outnumber alternative delivery method projects in both number of projects and total project cost.¹

AGCVA’s position remains that competition in public procurement should be fair and open. Accordingly, owners should select the delivery method based on the circumstances of the project. This past session, AGCVA opposed SB 954 because it created a strong statutory preference for one method and was opposed by a large group of stakeholders in public procurement. It did not represent any consensus or compromise ideas. Further, AGCVA’s position is that owners should select the contractor based on the contractor’s ability and experience in constructing similar types of projects. Consistent with the express requirement in Virginia law, disqualification should not be placed on a contractor’s prior experience with a specific delivery method. Finally, any decisions on delivery methods and the selection of contractors should be transparent.

Within these guidelines, AGCVA has considered the current statutes and regulations governing alternative delivery methods and recommends consideration of the following. It should be noted that these considerations, unless otherwise noted, apply equally to all categories of public owner, covered institutions, localities, and state agencies.

- **Procurement qualifications should be based on construction experience, not project delivery method.** Virginia law prohibits the use of prior CMAR or DB experience as prerequisite for award of a contract, but this often appears to be a significant factor for awards by agencies, institutions, and localities. AGCVA supports stricter adherence to existing law that only a contractor’s

¹ <https://rga.lis.virginia.gov/Published/2022/RD686>, <https://rga.lis.virginia.gov/Published/2021/RD657>, <https://rga.lis.virginia.gov/Published/2020/RD549>, <https://rga.lis.virginia.gov/Published/2019/RD551>, <https://rga.lis.virginia.gov/Published/2018/RD541>

experience with a similar project or building, not the procurement delivery method, should be considered for award of a project.

- **The complexity of a project should be the primary driving factor in determining eligibility for alternative delivery methods, and statute should clearly define what constitutes complexity.** As stated in the current statute, a complex project is a more suitable candidate for alternative delivery methods. While the cost of a project may sometimes relate to a project's complexity, that is not always the case. Small projects can be complex and large projects not very complex. Current regulations and statutes governing the selection of CMAR largely equate complexity with cost by setting a threshold above which CMAR is permitted without further consideration. There are instances where a very complex project is below the current threshold, or a non-complex project is above the current threshold. AGCVA would suggest the workgroup consider a clearer definition of a complex project as opposed to a monetary threshold set in code or regulation. AGCVA understands the difficulty in clearly defining a complex project in statute, and what may be complex for one owner may not be for another owner. Therefore, in lieu of a better definition of complex, AGCVA could suggest updating the threshold amount and having a clearly defined process for any projects seeking exemptions from the threshold. Regardless of the specific path, complexity should be the primary determining factor in the selection of an alternative project delivery method.
- **There should be increased transparency from public owners when choosing a delivery method and when selecting a contractor.** It is important in public procurement work for the public owner to be transparent and consistent in its selection criteria, especially in situations where alternative delivery methods are involved. Increased transparency both before and after contractor selection would encourage more consistent application of selection criteria. AGCVA is concerned about differing justifications or standards. AGCVA supports efforts that provide a consistent and level playing field for the contracting community across the Commonwealth.

As the DGS Public Procurement Workgroup considers changes to the statute regarding alternative delivery methods in public procurement, we submit that the above considerations represent a set of principles derived via a compromise among a group of contractors, though these ideas are not an official policy position of AGCVA. In contrast, the ideas considered in the original text of SB 954 do not represent any compromise. They seek to roll back years of progress and do not take into consideration the evolution of delivery methods in the market.

AGCVA appreciates the opportunity to submit these comments and looks forward to continuing to work collaboratively towards a compromise that respects both the current state of the market and addresses any current or future challenges.

Approved Meeting Minutes

Public Body Procurement Workgroup

Meeting # 5

Tuesday, July 18, 2023, 9:30 a.m.
House Committee Room
The Pocahontas Building
900 E. Main Street, Richmond, Virginia 23219

<https://dgs.virginia.gov/dgs/directors-office/pwg/>

The Public Body Procurement Workgroup (the Workgroup) met in-person in the House Committee Room in the Pocahontas Building in Richmond, Virginia, with Joe Damico, Director of the Department of General Services (DGS), presiding. The meeting began with remarks from Mr. Damico, followed by an update on SB 1115, a presentation on SB 954, public comment and concluded with discussion among the Workgroup members. Materials presented at the meeting are available through the [Workgroup's website](#). A recording of the meeting is available on the [House of Delegates video streaming site](#).

Workgroup members and representatives present at the meeting included Joe Damico (Department of General Services), Lisa Pride (Virginia Department of Transportation), Patricia Innocenti (Virginia Association of Governmental Procurement), John McHugh (Virginia Association of State Colleges and University Purchasing Professionals), Leslie Haley (Office of the Attorney General), Jason Saunders (Department of Planning and Budget), Willis Morris (Department of Small Business and Supplier Diversity), Joanne Frye (the Division of Legislative Services), Kim McKay (House Appropriations Committee), and Mike Tweedy (Senate Finance and Appropriations Committee). A member from the Virginia Information Technologies Agency (VITA) did not attend.

I. Call to Order; Remarks by Chair

Joe Damico, Director
Department of General Services

Mr. Damico called the meeting to order and shared that Josh Heslinga with the VITA is not in attendance.

II. Approval of Meeting Minutes from the June 27, 2023 Workgroup Meeting

Mr. Morris made a motion to approve the meeting minutes from the June 27, 2023 meeting of the Workgroup. The motion was seconded by Mr. Saunders and unanimously approved by the Workgroup.

III. Update on SB 1115

Mr. Damico shared with the Workgroup that further discussion on this bill will be held at the next meeting scheduled for August 8, 2023.

IV. Presentation on SB 954

Mr. Damico began by informing the Workgroup that Senator Petersen is unable to attend to introduce SB 954 to the Workgroup, however, Senator Petersen requested the Virginia Contractor Procurement Alliance (VCPA) speak on his behalf.

Tony Biller, President and CEO of Nielsen Builders, Inc. spoke on behalf of the VCPA to the Workgroup. Mr. Biller shared with the Workgroup that the VCPA was formed almost more than a decade ago to look at procurement issues and is comprised of general contractors, ranging from \$20 million to \$100 million dollars which are considered mid-size contractors, and some subcontractor members. He stated that VCPA was formed because around 2008 – 2010, almost all construction projects were procured via competitive sealed bidding and that began to change with the allowance of alternative procurements. Mr. Biller stated that his focus is primarily on universities, however the problem he will describe is now moving into the public sector and other projects. He explained that competitive sealed bidding is when the owner hires an architect to design a project for an intended use and once the design is complete, the project is put out to bid on the open market, then the lowest bidder wins the project.

He explained that the original concept for alternative procurements was for projects that are unique and required a different method other than low bid, so construction management (CM) and design-build (DB) were created. He provided two examples of when CM would be appropriate to use, (i) a \$150 million athletic facility, or (ii) a rotunda that needs renovation where specific historic experience from the contractor who would handle this project is needed.

Mr. Biller stated that his group is not against CM as a concept, however they are concerned about the overuse of CM. He shared that several years ago, the Joint Legislative Audit and Review Commission (JLARC) did a study about procurement and in the study it stated that competitive sealed bidding is the only way to ensure the best quality and best price. Mr. Biller shared that CM, for the taxpayers, is not necessarily the best value or the lowest price.

Mr. Biller continued by providing two reasons why he believes everyone wants to use alternative procurement methods over competitive sealed bidding; (i) it is easy because you just issue a request for proposals or request for qualifications and then choose which vendor you want because competition isn't the driving force and contractors are chosen based on their resume and, (ii) it saves time because first a study is done, then the concept, then ask the state for money for design, hire a designer, design the project, then ask the state for construction money, then there is a two-three year construction period, concluding that this process is easily a five year process at best. He stated the claim being made that using CM saves time is a weak argument, however, he provided a hypothetical case of a federal requirement that all buildings be ADA accessible within six months is a good example for the use of CM because of the time constraint.

Mr. Biller provided the Workgroup an explanation on "complexity", stating that anything can be complex, and that complexity is hard to define. He shared that he does not believe a dorm, recreation facility, or a firehall, should be considered complex, however a rotunda renovation or a \$125 million research facility, may be considered complex. He stated that some universities make the claim that because something is on campus that makes it complex, however, every job at the university is on campus which would make everything complex.

Mr. Biller addressed change orders to the Workgroup. He explained the process for design-bid-build (DBB) as, first design the project, then bid the project, then build the project. Mr. Biller explained that change orders are generated by the owner when the owner or architect want to change something, left something out of the project, or an unknown was discovered, but not because the contractor left something out in their bid. He explained that CM projects have change orders and with a CM contract there is a contingency included that is often millions of dollars so when change orders are needed, they are funded from the contingency.

Mr. Biller explained that the pandemic and supply chain challenges are being cited as reasons to use CM. He shared that pre-pandemic equipment orders were filled quickly and now it is taking months or even years without explanation to fill orders. He stated that some claim that using CM will cure or help this problem but eliminating competition by using CM allows contractors to raise their prices.

Next, Mr. Biller began his PowerPoint presentation to the Workgroup and shared that his company has over 100 years of experience working at a university campus where his company built over 100 projects using the competitive sealed bid process. He shared that when the university began using alternative procurement methods his company was told that they are qualified but not as qualified as another company to work on buildings that his company built. He shared that this situation is not unique to his company. Mr. Biller explained that he started gathering procurement data over \$5 million from the universities and is beginning to gather the same data from cities and counties. He explained that he chose the \$5 million project amount because most universities use the bid process for projects valued under \$5 million.

Mr. Biller pointed to data on his PowerPoint presentation, stating that some may claim the data presented today is wrong and that 60-80% of the projects are bid out, which is true, but those projects are under \$5 million. He shared that when you look at dollars spent, the numbers are very different and the information on the presentation is for capital projects over \$5 million. Mr. Biller pointed out that over the last 13 years there had been \$6.3 billion spent on construction projects at Virginia universities and \$5.9 billion of that was procured using alternative methods, not competitive bidding. He added that he has the raw FOIA data used to develop the information being shared today and he brought paper copies for the Workgroup. He stated that in the last ten years the use of alternative procurements has gotten pervasively worse and the 2021 data shows there are no projects bid. He further explained the first slide, stating that of the 262 projects over \$5 million only 42 were competitively bid, noting that 10 contractors received awards using alternative methods. He shared that two contractors did one-third of the work and had these projects been competitively bid, there is no way this would have happened. Mr. Biller finished the first slide stating that if companies like his, and others, would have been allowed to compete then a lot more people would have gotten opportunities that the mid-size companies have been eliminated from.

Next, Mr. Biller presented slides that focused on three universities construction spend. Before explaining the data on the first university, James Madison University, he informed the Workgroup that his company has built over 100 buildings at JMU and recently finished a \$15 million project there. He stated that JMU spent \$789 million on construction and only 8.2% was competitively bid, adding that the three contractors that received 57% of the total money spent are capable of bidding on projects rather than being subjectively awarded projects. Mr. Biller presented data on Old Dominion University (ODU) and William and Mary (WM), stating that ODU spent \$327 million on construction and only 4.8% was competitively bid, and WM spent \$656 million on construction and none of those projects were competitively bid.

Mr. Biller presented a slide that listed the top ten contractors by earnings between 2008-2021 and noted that his company ranks around 15th. He stated that a lot of universities, when asked why they use CM, they respond “because its allowed and we like it”. He shared that his company has done CM projects at University of Virginia (UVA) and at JMU and he would do another CM project tomorrow because he makes more money on CM projects than bid projects.

Next, Mr. Biller addressed cost and the argument that the CM method saves money. He shared that legislators have asked him to compare the most recent dormitory project that was bid to a dormitory project that was CM and he cannot do the comparison because a dormitory project has not been bid in 15 years. He shared that the City of Richmond raised meals taxes to build four new schools in the last couple of years and because the City used CM rather than the competitive bid process the City was able to only build three schools.

Mr. Biller shared with the Workgroup that DGS keeps a listing of what construction is supposed to cost on their website which is updated each year. He stated that he sampled

four dormitory projects comparing the cost of the project to the DGS listing of project costs and he calculated that the four projects cost almost \$56 million more than they should have cost. Mr. Biller pointed to the next slide that outlined recent municipal projects that are being procured using CM, such as schools, towers, and police stations.

Mr. Biller concluded his remarks speaking to SB 954. He stated that the bill had what he believed was the best solution and that it boils down to a couple of things that the legislation addressed; (i) projects over \$125 million are most likely large and complex so use whatever procurement method you want, (ii) complexity and all factors that a waiver is needed for in the cases where projects are under \$125 million and should be done CM. He also addressed the purpose of the preconstruction services language in the bill stating that public bodies should be able to hire for those services but after those services are complete, the project goes out to bid.

Mr. Damico thanked Mr. Biller for his presentation on behalf of VCPA and Senator Petersen and asked if the Workgroup members have any questions.

John McHugh asked Mr. Biller who did the analysis of the FOIA data collected? Mr. Biller stated that the analysis was done internally at Nielsen.

Mr. McHugh asked Mr. Biller why \$5 million and above was selected for projects to analyze if the capital project threshold during this timeframe was \$2 million? Mr. Biller explained that there was nothing magical about the \$5 million other than trying to exclude non-capital projects like sewer projects and smaller projects that are typically bid.

Mr. McHugh asked if the JLARC study that Mr. Biller referenced is the 2016 JLARC study and asked that the Workgroup look at the study. Mr. Biller shared that there is a table in the report that states the only method that is best quality and lowest price is design-bid-build.

Mr. McHugh asked Mr. Biller about his statement that CM is destroying small and mid-size businesses and asked if that is from Mr. Biller's perspective or from the small/women/minority community? Mr. Biller responded that a mid-size contractor cannot get through the filters of the complex packages to get any work sharing that only the large companies get the work.

Mr. McHugh asked Mr. Biller about the data he presented and if he was successful in changing law in 2018? Mr. Biller responded that yes, the law has changed but it hasn't fixed the problems. Mr. McHugh followed stating that the data should be looked at since the 2018 law change.

Mr. McHugh concluded by asking Mr. Biller what the bonding capacity of his company is. Mr. Biller stated that their single contract is \$150 million and cap is \$200 million.

V. Public Comment on SB 954

Next, the Workgroup heard public comment from stakeholders on SB 954, first hearing comments from the stakeholders in support of SB 954.

The first stakeholder to comment in support of SB 954 was Jack Dyer, owner of Gulf Seaboard General Contractors, a certified minority and small business for over 42 years. He first provided an overview of his company experience stating that he has built projects over \$100 million such as schools, courthouses, complex projects, new buildings, old buildings, and multi-phased projects. Mr. Dyer shared that prior to CM being used his company did multiple projects with Mary Washington, Virginia Commonwealth University, Virginia State University, and J. Sargeant Reynolds Community College and was very successful, however, once the use of CM began, he was told that his company is qualified to do the work but did not score high enough compared to the multinational companies. Mr. Dyer stated that it is a shame to have to fight for business with our own government and that the elected representatives seem determined to put medium size businesses out of business with their actions, not maliciously but because they do not know any better. He stated that SB 954 is not a repeal of the present code and that it is adjusting the code to allow maximum feasible competition and open access. He stated that the changes to the Virginia Public Procurement Act (VPPA) over the decades has brought on negative aspects and as such, has returned us to a pre-1982 procurement condition with no respect for the code, no uniform policies, no standards, application conflicts between public bodies, favoritism, and questionable corruption. Mr. Dyer shared that small and medium size companies and subcontractors are in jeopardy of going out of business. He stated that the VPPA principles are that public procurement is characterized by competitive bidding because the public perceives that this method ensures equal access to public business, provides control over contracting officials, and implies cost savings, and clearly establishes competition. He concluded his remarks by addressing an earlier question posed by Mr. McHugh, who asked why companies do not partner with larger companies on CM projects to gain more experience. Mr. Dyer asked why he should have to partner on a project he is clearly capable of doing, providing an example of a \$105 million high school bid project that his company completed on time. Mr. McHugh asked Mr. Dyer the bonding capacity of his company, to which Mr. Dyer shared about \$155 million for single projects and about \$200 million aggregate. Mr. McHugh asked if Mr. Dyer recently won an award with VCCS, to which Mr. Dyer stated yes.

The second stakeholder to speak was Todd Morgan, the president and owner of MB Contractors, a 111 year old company. He began his remarks sharing that his company has completed K-12 projects, millions of square feet, across Virginia. Mr. Morgan pointed to the PowerPoint presentation VCPA shared earlier, specifically Roanoke County and Roanoke City, stating that his company has done work for both and now they are moving towards more CM projects. He stated that he has partnered with CM's before on projects and on numerous occasions he spends his time trying to keep the CM from hiring his employees, asking why he would want to partner with someone when he can do the work himself. He concluded his remarks by stating that if the Workgroup truly cares about

competition in procurement and tax dollars, take this issue seriously. Mr. McHugh asked Mr. Morgan what his company bonding capacity is, to which Mr. Morgan stated \$50 million for single projects and \$80 million for combined.

The third stakeholder to speak was Cindy Shelor, owner of John T. Morgan Roofing and Sheet Metal Company, a 90-year-old company. She stated that she is a subcontractor, and competitiveness is not there in CM projects. She supports this legislation and Virginia Association of Roofing Professionals also supports this legislation. She concluded her remarks stating that there needs to be fair and open procurement in all aspects when tax dollars are spent. Mr. McHugh asked Ms. Shelor what her company bonding capacity is, to which Ms. Shelor stated less than \$10 million on single projects because she is a subcontractor.

The fourth stakeholder to speak was Jack Avis, owner of Avis Construction. He began by stating that his company has completed projects at Virginia Military Institute, VA Tech, Radford, and several Community colleges but have been shut out of those projects and now K-12 projects are using CM and PPEA. Mr. Avis shared that it is unique that so many from Roanoke are here today, stating that it is because businesses out there are getting destroyed due to not as much work out that way. He stated he was told that his company was not qualified to renovate a building that his company previously built and this is destroying more than just general contractors, it's hurting subcontractors, architects and engineers, insurance companies, bonding companies, etc. He continued by stating that he wants to know why these projects can't be bid out and hire a pre-construction consultant then bid the project, sharing that he renovated a major high school project bid, valued at \$37 million during COVID that was shut down for two weeks and still finished on time. Mr. McHugh asked Mr. Avis what is company bonding capacity is, to which Mr. Avis stated \$80 million for single projects and \$110-\$120 million aggregate.

The fifth stakeholder to speak was Tom Evans of Southwood Building Systems. He shared that he started the company 48 years ago and built the company on competitive sealed bidding. He shared that his company has been hurt by the use of CM. He stated that today, there are 4-5 projects out as CM projects that are \$15 million, so no one is paying attention to the regulations and the local governments and higher education say they do not care because it is their money and they will spend it how they want. He concluded his remarks stating that there is no reason why these projects cannot be bid. Mr. McHugh asked Mr. Evans what his company bonding capacity is, to which Mr. Evans stated \$75 million for single projects and \$125 million aggregate.

The sixth stakeholder to speak was Sam Daniel, primary owner of Daniel and Company. He stated that he has grown his business through competitive sealed bid work sharing that around the 2008-2010 timeframe is when he began to see his work at the universities diminish. Mr. Daniel echoed the previous comments made and stated that CM and alternative procurement methods have negatively impacted business over the years, and he hopes that a change can be made. He concluded his remarks by providing the bonding capacity of his company, stating that it is \$30 million for single projects and \$60 million

aggregate. Mr. McHugh asked Mr. Daniel if his company has a term contract with VCU, to which Mr. Daniel responded yes and that he just submitted for one at UVA.

The seventh stakeholder to speak was Matt Benka with the VCPA. He shared that their membership is significantly larger than just the companies that spoke today and their membership is comprised of midsize general contractors. He stated that they have been shut out of the market for over a decade and a half and he hopes they have proven that today. Mr. Benka stated that it is important to remember that this is the states money that the colleges are spending and are overspending dramatically as shown with DGS data and contracts are being given to a handful of contractors.

Mr. Damico thanked Mr. Benka and his members for coming today and testifying, stating that he would like a better understanding on some of the testimony today, specifically regarding his members being told they are not qualified to do the work because if a company has been in business for 40 years or 111 years, they have the experience to do the work. Mr. Damico asked Mr. Benka to share what the public bodies are saying to the contractors when being told they are not qualified to do the work. Mr. Benka stated that is a hard question to answer because this happened all of a sudden when procurement officers realized they can pick whichever contractor they want. Mr. Benka explained that his members would receive letters saying they are not as qualified as the larger companies or being told that they are not qualified enough to get out of the prequalification phase on buildings they constructed themselves.

Next, the Workgroup heard comments from stakeholders in opposition to SB 954.

The first stakeholder to speak was Rich Sliwoski, Vice President of Facilities Management at VCU. He began his remarks by reading an excerpt from Nielsen's website, which he said describe the benefits of using CM. Mr. Sliwoski shared regarding time on projects, that every month a project is delayed, it costs an additional million dollars and early release packages are only available with CM. He stated that when using low bid the agency has no oversight into the project management team assigned to the project, which could include someone who has never worked on the type of project. He stated that auxiliary funds are not funds from the state, instead they are funds from housing revenues and philanthropic efforts. Mr. Sliwoski stated for housing projects, there is a time schedule that has to be met and CM is the best for providing that. Mr. Sliwoski addressed contingency funds on CM projects and explained if the contingency funds are not used then the funds are returned back to the owner, adding that with his last four projects, he has returned \$8 million back to the Commonwealth. He shared that under design-bid-build, that contingency is retained in the pocket of the contractor. Mr. Sliwoski shared that at the Virginia Community College System (VCCS), there have been 33 opportunities out, and 30 of those are bids. He stated that CM came about in the early 2000's when concerns arose about minority contractors being frozen out, and CM has done away with this by expanding to all aspects of the community. Mr. Sliwoski concluded his remarks by stating that Century Construction, who he believes is a member of VCPA, has been given 27 opportunities to bid from VCU in the last year and VCU has received no responses.

The second stakeholder to speak was Brandon Robinson of Associated General Contractors of Virginia (AGCVA), the construction association that represents 500 companies and 300 contractors in Virginia. He shared that some members support the bill and members oppose the bill, however they oppose the bill as it was introduced. Mr. Robinson stated there has been compelling testimony today about the need for change because the market is skewed, but the market is not skewed. He stated that earlier it was brought up that in 2018 the statute changed and requires DGS to submit annual reports for projects \$2 million and greater, which was part of the compromise in 2018, and the data since 2018 by projects and amount, the majority are DBB (60-70%). Mr. Robinson stated that CM is an important tool in the toolbox and the JLARC report is a great resource that explains how CM is advantageous. He shared that he submitted written comments for consideration by the Workgroup, if the Workgroup decides a change is needed. He stated that AGCVA compiled a small group of their members with an equal number of people that support the bill and oppose the bill to come to common ground compromise. He finalized his remarks by pointing out the considerations for review, (i) procurement qualifications should be based on construction experience, no project delivery method, (ii) complexity of the project should be the primary determining factor for using alternative methods, and (iii) they would like to see an increase in transparency when choosing a method and selecting a contractor.

The third stakeholder to speak was David Turner, Vice President of Kjellstrom and Lee, a midsize general contractor that works on public and private projects that are both large, small, complex and not so complex. He shared that most of the projects his company completes are CM and that they do a significant amount of CM work with the Commonwealth, while being a local company that works exclusively in Virginia. Mr. Turner stated that his company competes with many firms that are multistate firms, national, or international firms, yet his company still finds success. He shared that his company has grown about three to four times over the last 20 years, in employee count and annual revenues. He stated he has seen first hand how CM has contributed to his success and the success of their trade partners, particularly the ones in the SWaM community. He shared that the bonding capacity for his company is \$150 single and \$250 aggregate. He concluded his remarks stating that he is speaking as a representative of AGCVA today and has spent much time over the years on legislative efforts surrounding construction procurement issues, which are complex, and even within AGCVA their members have differing views stating that the considerations shared with the Workgroup represent a good first step towards a consensus within the AGCVA. Mr. Damico asked Mr. Turner when his company first started if CM was the main procurement method or were there other procurement methods used? Mr. Turner stated that the company was formed in 1961 and over the years his company has done every method in existence, however, the period discussed today was primarily bid work and private industry CM work which has grown into public CM work. Mr. Damico followed up by asking Mr. Turner how his company transitioned their expertise in bid work to being competitive with CM? Mr. Turner stated that it was not really a transition, that it was a different approach to the process and a lot of sweat equity and building relationships and delivering the projects well.

The fourth stakeholder to speak was Taylor Brannan, Vice President of F. Richard Wilton Jr. Inc, a Richmond company for 70 years. Mr. Brannan shared he also serves on the state board of contractors and on the board of AGCVA. He stated his company does all delivery methods for projects including lump sum, CM, design-build, and there are pros and cons to each. He shared as a subcontractor, all of his estimates are lump sum and provided at no charge and one might think as a subcontractor that he would not want to bid a job multiple times but there are benefits to doing this. He expanded on the benefits, stating that if (i) there is a GC already chosen, he will often receive a scope sheet that is very detailed about who is responsible for which work, so there are no scope gaps, (ii) ability to avoid bad bids because if a bid is too low because something was left out then there is an opportunity to fix it, which cannot be done on a hard bid job and the subcontractor would have to deal with it, (iii) part of the criteria to get on a subcontractor list is experience, manpower, ability to do the job, and (iv) can discuss and work through discrepancies in the drawings with the owner and CM. He also shared more benefits to CM are the allowances, ability to assist with value engineering to help with budget, coordinate products before building, and which preconstruction can take longer but the job goes faster, more efficient, and the project team is usually better and more qualified. Mr. McHugh asked Mr. Brannan how his company finds out about work on major projects? Mr. Brannan stated he is invited to bid by the CM. Mr. McHugh followed up asking what his company bonding capacity is, which Mr. Brannan stated that as a subcontractor they are not usually required to carry bonds.

The fifth stakeholder to speak was Adam Smith, Associate Director of Procurement for Capital Construction at VA Tech, speaking on behalf of VA Tech and VASCUPP to express deep concerns with SB 954. He stated SB 954 will significantly impact the availability of an essential contracting tool and at VA Tech, due to the size and scope of the campus and projects, VA Tech regularly uses all procurement methods and that maintaining the authority to choose such appropriate method is critically important as they manage a capital program in excess of one billion dollars. Mr. Smith stated that sometimes CM is the right solution, and sometimes it is not, however the authority to make the decision on procurement methods to ensure appropriate mitigation of project risk is important so they can stay within budget and schedule, all while fulfilling the unique needs of the institution and respective projects. He shared the concerns brought up today is a significant departure from the best procurement practices, referencing the JLARC report, he stated that the report is correct in that dollar threshold is not the most effective criteria to use to determine the best procurement method as cost does not reflect the projects complexity or time sensitivity. He concluded his remarks by stating that all capital projects undergo significant review, both internal and externally, and that the CM method provides better opportunities to utilize SWaM businesses over DBB stating that for all these reasons it is not in the best interest of the Commonwealth to adopt SB 954.

The sixth stakeholder to speak was James Patteson, retired Director of Pubic Works at Fairfax County. He shared his past experience, stating that the total value of a building is not only in the construction but also the quality of the work. Mr. Patteson stated that he is concerned about SB 954 limiting the use of CM for localities with the proposed threshold

and complex definition changes. He shared that in CM the contractor is added to the team during preconstruction and is valuable to have the contractor, A/E, and the owner at the table for adding value engineering and ownership. He addressed remarks made earlier about CM being used because it is easy, explaining that CM is actually harder because it requires another partner at the table and at the end of the project it delivers better value because of the partnership. He addressed the suggestion to hire a constructability professional to work with agencies through design explaining that is very different than working with the contractor that will be responsible for delivering the project and taking on the project risk. He concluded his remarks stating that with CM, 90% of the work is performed by subcontractors, it is competitively bid, and can add qualitative criteria to this approach which adds value.

The seventh stakeholder to speak was Elizabeth Dooley representing VAGP which has over 1300 members working in the procurement field. She stated she is also speaking on behalf of VML and VACO, who also oppose the bill. Ms. Dooley shared that the DGS report shows a majority of construction contracts at the state and local level are awarded through DBB and that CM is used where appropriate. She explained when public bodies use CM, it is a well-reasoned decision and not chosen arbitrarily, explaining that CM projects finish earlier than DBB for various reasons, such as the ability to leverage options for early site work, constructability reviews, and value engineering. She explained that CM allows for a guaranteed maximum price early on and the ability to secure better interest rates on bonds. She stated that she does not agree that CM cost more than DBB or is less competitive and that it is difficult to compare DBB and CM because only one method is used on each procurement. She concluded her remarks by asking the Workgroup to advise the General Assembly that no changes are necessary and the current processes work well across the Commonwealth.

The eighth stakeholder to speak was Julia Hammond, on behalf of the Associated Builders and Contractors which is Virginia's largest construction association representing general contractors, subcontractors, and skilled trades across the Commonwealth. She stated she is also representing the Federation of Independent Business Virginia, a small business trade association. She stated the vast majority of Virginia's contractors, their associations, subcontractors, and skilled trades, oppose this legislation both during the General Assembly session and here today. Ms. Hammond stated that there are things that we can work on, such as change orders or prequalification, but this legislation is not the way to do it. She stated that during 2018 everyone worked very hard on the changes that were enacted, which was not easy and required a lot of negotiation and study. She concluded her remarks by stating that from the DGS data, the changes enacted in 2018 are working and more procurement methods are being used and more contractors are a part of the process.

The final stakeholder to speak was Travis Bowers, representing the Black Business Alliance of Virginia. He shared the bonding limit of his company is more than zero but substantially less than the other businesses that previously spoke. Mr. Bowers explained that his company, THC Bowers, has done GC work, lump sum hard bid work, and has also gone the CM approach, putting his employees in the CPSM seminars and learn from

other companies. He stated that his company has learned and adjusted over the years, sharing that CM is a more inclusive route for the community. Mr. Bowers stated that during COVID, everyone experienced supply chain issues and that going forward, everyone has to work smarter. He concluded his remarks sharing that CM allows the minority community to take better advantage of relationship, not just as a prime but at a sub-tier approach, and that these relationships are not there with low bid. He strongly opposes SB 954.

Support in part/oppose in part:

The first stakeholder to speak was Chris Stone, Senior Principal with Clark Nexsen, one of Virginia's largest A/E firms. Mr. Stone stated his opposition to a portion of SB 954, specifically lines 186-191 and lines 234-239, explaining these sections in the bill break the CM services apart. He explained that when a client hires a designer, the designer starts with planning, programming, and is a part of the process through schematics and until the end of the project and when a client hires a construction manager, the designer is able to develop a relationship and design the project with input from the construction manager. He stated the proposed language would allow for the project to be bid at some point and has preconstruction services, but it is not clear when those services would end. He shared that this proposed process would be like changing horses in the middle of a race. He concluded his remarks by stating that this language has unintended consequences for a significant number of change orders because a contractor would build the project who wasn't involved in the design.

Neutral: none

VI. Public Comment

None.

VII. Discussion

Mr. McHugh requested an electronic copy of the FOIA data that Mr. Benka provided in hard copy format. Mr. Benka agreed to provide that data electronically, adding that he has submitted FOIA requests to higher education institutions for new data and asks if the colleges would share their information as well.

Mr. Damico requested that the Workgroup review the 2016 JLARC report that was mentioned today prior to the next meeting.

Mr. Tweedy stated that during the discussion today, competition was brought up a lot. He requested that for the next meeting if the Workgroup could have a better understanding of the process of how a CM is chosen to help gauge if the process is competitive.

Mr. Damico concluded by stating that today we heard that VCPA, AGCVA, and ABC, have all studied the issue and asked that they review the legislation again, AGCVA's

considerations, and determine if there is any changes that everyone could be in agreement with, prior to the next meeting.

VIII. Adjournment

Mr. Damico adjourned the meeting at 11:38 a.m. and noted that the next Workgroup meeting is scheduled for August 8, 2023 at 1:00 p.m. in the House Committee Room located in the Pocahontas Building.

For more information, see the [Workgroup's website](#) or contact that Workgroup's staff at pwg@dgs.virginia.gov.

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2022	Alexandria City Public Schools		Design-Bid-Build	\$ 2,892,847	\$ 2,920,000	300	450	
2022	Arlington County Government		Design-Bid-Build	\$ 6,080,941	\$ 5,945,562	270	722	N/A
2022	Blue Ridge Resource Authority	Phase 1 Closure	Design-Bid-Build	\$ 2,946,328	\$ 3,342,981	240	361	This project was started and then stopped due to issues with the contractor chosen to perform the work. The amount paid out to this contractor totaled \$744,258, which included a settlement of \$416,213. Initial engineering costs were estimated to be \$128,916. It was then rebid and another contractor was chosen to complete the project. The actual construction costs reported are for the rebid only ! That figure does not include first bid costs.
2022	Bristol Virginia Utilities Authority	Basin Area 1107 Sewer Replacement Phase 1	Design-Bid-Build	\$ 3,272,209	\$ 3,448,216	210	464	
2022	Capital Region Airport Commission	Cargo Apron Eastside	Design-Bid-Build	\$ 10,500,000	\$ 8,838,853	270	270	none
2022	Capital Region Airport Commission	East Side Apron Expansion	Design-Bid-Build	\$ 4,000,000	\$ 2,147,881	150	150	none
2022	Charlottesville City	INVITATION FOR BID # CIRCUIT COURTHOUSE RENOVATION & ADDITION/18-26	Design-Bid-Build	\$ 5,332,994	\$ 4,113,326	403	1,029	Very slow performance of contractor in remedying punchlist items. Plumbing issues which required corrective action. Electrical issues (lighting) which required corrective action.
2022	Chesapeake Bay Bridge and Tunnel District	Mill and Repave Trestles, Replace End Dams	Design-Bid-Build	\$ 27,000,000	\$ 26,721,706	343	724	No
2022	Chesterfield County	River City Sportsplex Restroom Concessions	Design-Bid-Build	\$ 4,683,700	\$ 4,391,701	180	230	No
2022	Chesterfield County	Fire Station #25	Design-Bid-Build	\$ 6,149,804	\$ 6,410,057	495	510	Yes
2022	Chesterfield County	Johnson Creek Sewer and Water Line	Design-Bid-Build	\$ 4,400,000	\$ 4,400,000	300	325	No
2022	Chesterfield County Public Schools	Manchester Middle School Construction	Design-Bid-Build	\$ 41,283,593	\$ 41,283,593	857	857	
2022	Chesterfield County Public Schools	Crestwood Elementary School Construction	Design-Bid-Build	\$ 24,178,807	\$ 24,219,539	660	660	
2022	Chesterfield County Public Schools	Matoaca Elementary School Construction	Design-Bid-Build	\$ 24,861,832	\$ 25,140,543	477	478	
2022	Chesterfield County Public Schools	Matoaca Middle School Addition	Design-Bid-Build	\$ 10,786,253	\$ 10,583,541	385	377	
2022	City of Fairfax	Chain Bridge Road Sidewalk	Design-Bid-Build	\$ 4,467,755	\$ 5,062,734	365	730	
2022	City of Harrisonburg	Project #256.2B Eastern City Limits to Port Republic Road (City Contract 2019019-PU-B)	Design-Bid-Build	\$ 5,000,000	\$ 2,522,128	560	820	None reported in the procurement file ITB 2019019-PU-B Notice to Proceed: 09/16/2019 Completion Date: 12/08/21 Final Payment Amount: \$2,522,127.56
2022	City of Newport News	Oak Avenue Sanitary Sewer Rehabilitation 23rd Street to 18th St, Section One	Other	\$ 2,037,090	\$ 2,483,130	548	522	
2022	City of Newport News	Main Street Drainage Improvements	Other	\$ 3,428,625	\$ 3,946,439	374	220	
2022	City of Newport News	Parking Garage, City Center, Phase Four	Other	\$ 21,593,000	\$ 22,531,879	503	595	
2022	City of Staunton	STAUNTON HIGH School additions and renovations	Design-Bid-Build	\$ 43,130,335	\$ 44,041,818	639	640	MAIN AND AUX gym flooring issues to be resolved
2022	City of Virginia Beach	BioPark Phase I	Design-Bid-Build	\$ 3,734,928	\$ 3,734,869	180	342	N/A
2022	City of Virginia Beach	North Lake Holly Section IIIA	Design-Bid-Build	\$ 25,351,135	\$ 27,874,216	548	711	N/A
2022	City of Virginia Beach	Sherwood Lakes Drainage Impr.	Design-Bid-Build	\$ 3,400,000	\$ 3,132,290	270	337	N/A
2022	City of Virginia Beach	South Lake Holly Section IV	Design-Bid-Build	\$ 16,009,587	\$ 15,681,839	913	1,066	N/A
2022	City of Virginia Beach	Police 4th Precinct Bldg	Design-Bid-Build	\$ 9,051,779	\$ 7,103,996	405	624	N/A
2022	City of Virginia Beach	Central Plant Generator Bldg	Design-Bid-Build	\$ 4,975,585	\$ 4,910,716	300	723	N/A
2022	City of Virginia Beach	Royal Palm Arch Sanitary Sewer Rehab	Design-Bid-Build	\$ 5,300,000	\$ 5,536,819	450	582	N/A
2022	City of Williamsburg	Monticello Ave PPTA	Design-Build	\$ 5,000,000	\$ 3,850,113	334	632	Long Completion date was due to material availability, weather along with Covid19 delays.
2022	City of Winchester	Handley Library Improvements	Design-Bid-Build	\$ 2,600,000	\$ 2,578,857	300	480	
2022	City of Winchester	Trails at the Museum of the Shenandoah Valley	Design-Bid-Build	\$ 2,800,000	\$ 2,605,666	270	480	
2022	City of Winchester	Water Meter Replacements	Design-Bid-Build	\$ 4,000,000	\$ 3,588,297	365	270	
2022	City of Winchester	Water Storage Tank Replacement	Design-Bid-Build	\$ 3,500,000	\$ 39,737	270	450	
2022	County of Fairfax	Scotts Run at Old Meadow Road Park	Design-Bid-Build	\$ 2,214,820	\$ 2,337,048	390	457	NA
2022	County of Fairfax	Massey Demo	Design-Bid-Build	\$ 18,682,000	\$ 6,941,108	615	689	NA
2022	County of Fairfax	Crisis Care	Design-Bid-Build	\$ 2,700,000	\$ 2,646,000	352	387	NA
2022	County of Fairfax	Woodlawn Fire Station	Design-Bid-Build	\$ 9,933,000	\$ 9,492,613	644	531	NA
2022	County of Fairfax	Edsall Road Fire Station Temp	Design-Bid-Build	\$ 2,743,981	\$ 2,306,134	198	378	NA
2022	County of Fairfax	Murraygate Village Apartments	Design-Bid-Build	\$ 11,973,575	\$ 15,440,928	571	749	NA
2022	County of Loudoun	Construction of the Public Safety Firing Range	Design-Bid-Build	\$ 20,398,000	\$ 21,360,506	460	658	none

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2022	County of Loudoun	Construction of the Lovettesville Community Center	Design-Bid-Build	\$ 10,808,400	\$ 1,283,305	912	193	Terminated for convenience after phase 1 completed
2022	County of Loudoun	Leesburg Fire and Rescue Station 20 Expansion	Design-Bid-Build	\$ 4,263,000	\$ 4,790,258	456	613	none
2022	County of Loudoun	Construction of the New Loudoun County Animal Services Facility	Design-Bid-Build	\$ 17,975,850	\$ 18,311,445	540	791	none
2022	County of Loudoun	Potomac Green Park Improvement	Design-Bid-Build	\$ 3,275,000	\$ 3,413,886	240	321	NONE
2022	County of Loudoun	Construction of the DC United Training Site	Design-Bid-Build	\$ 3,612,858	\$ 3,747,373	180	180	Post Construction Issue with Storm Water Basin which was resolved with Shirley Contracting at no additional cost to the County.
2022	County of Loudoun	Construction of the Leachate Pump Station	Design-Bid-Build	\$ 2,586,790	\$ 2,807,159	450	540	none
2022	County of Loudoun	Construction of CCD Unit Cell A1 Bottom Liner System for SWMF	Design-Bid-Build	\$ 4,596,000	\$ 4,738,025	244	307	NONE
2022	Department of Military Affairs	DSCR State Headquarters Administrative Conversion Restoration/Repair	Design-Bid-Build	\$ 3,000,000	\$ 3,025,855	365	436	
2022	Fairfax County Schools	McLean High School Modular	Design-Bid-Build	\$ 1,948,400	\$ 2,312,765	182	547	NA
2022	Fairfax County Schools	Belle View Elementary School Renovation	Design-Bid-Build	\$ 20,790,000	\$ 20,957,526	791	1,156	NA
2022	Fairfax County Schools	Silverbrook Elementary School Renovation	Design-Bid-Build	\$ 19,994,000	\$ 20,032,321	615	980	NA
2022	Fairfax County Schools	Mount Vernon Woods Elementary School Renovation	Design-Bid-Build	\$ 16,750,000	\$ 17,044,085	851	1,216	NA
2022	Frederick County	Crossover Blvd	Design-Bid-Build	\$ 17,593	\$ 16,886,121	27	27	no issues; completed on time and under budget
2022	Frederick County Public Schools	12th Elementary School Construction	Design-Bid-Build	\$ 28,500,000	\$ 27,227,401	731	520	commissioning issues on lighting
2022	Frederick County Sanitation Authority	Orchardview Well- Water Expansion	Design-Bid-Build	\$ 4,772,750	\$ 4,925,464	210	326	There are no post project issues
2022	Galax City Public Schools	Galax Elementary School Renovation Project	Design-Bid-Build	\$ 15,552,000	\$ 1,710,000	973	1,187	None
2022	Hampton Roads Sanitation District	Pump Station Generator & Stand- By Pump Upgrades	Design-Bid-Build	\$ 3,823,000	\$ 3,887,792	485	524	None
2022	Hampton Roads Sanitation District	Pressure Reducing Station Reliability Upgrades	CM@Risk	\$ 33,282,000	\$ 30,454,524	1,135	1,135	None
2022	Hampton Roads Sanitation District	Deep Creek Interceptor Force Main	Design-Bid-Build	\$ 4,388,122	\$ 4,967,945	320	358	None
2022	Hampton Roads Sanitation District	Providence Road Offline Storage Facility	Design-Build	\$ 29,953,000	\$ 31,131,582	855	881	None
2022	Hampton Roads Sanitation District	Boat Harbor Treatment Plant Switchgear & Controls	Design-Bid-Build	\$ 6,893,065	\$ 6,821,171	580	580	None
2022	Hampton Roads Sanitation District	Mathews Main Vacuum Pump Station Replacement	Design-Bid-Build	\$ 2,251,210	\$ 2,454,272	330	561	None
2022	Hampton Roads Sanitation District	Williamsburg Treatment Plant Generator & Switchgear Replacement	Design-Bid-Build	\$ 13,992,672	\$ 14,115,477	690	698	None
2022	Hampton Roads Sanitation District	Jefferson Avenue Extension Gravity Improvements	Design-Bid-Build	\$ 2,248,120	\$ 2,088,603	270	274	Extended warranty on certain items.
2022	Hampton Roads Sanitation District	Huxley to Middle Ground Blvd IFM	Design-Bid-Build	\$ 3,943,409	\$ 4,115,878	480	584	Warranty repair effort underway on valve.
2022	Hampton Roads Sanitation District	Manhole & Siphon Rehab - North Shore System	Design-Bid-Build	\$ 7,260,921	\$ 6,905,511	490	760	Extended warranty on certain items.
2022	Hampton Roads Sanitation District	Nansemond Treatment Plant Land Stabilization & Improvements	Design-Bid-Build	\$ 3,091,750	\$ 3,210,270	365	365	Warranty item to replace trees still unresolved.
2022	Hanover County	Sliding Hill road	Design-Build	\$ 7,000,000	\$ 6,836,855	487	438	
2022	Hanover County	Atlee High School HVAC	Design-Build	\$ 3,500,000	\$ 3,984,558	76	76	
2022	Harrisonburg- Rockingham Regional Sewer Authority	Blacks Run Interceptor Improvements	Design-Bid-Build	\$ 8,210,000	\$ 6,537,674	550	469	
2022	Henrico County Government	Dorey Park Baseball Field Improvements	Design-Bid-Build	\$ 3,320,748	\$ 3,320,748	330	372	NONE
2022	Henrico County Government	Woodman Road Roundabout	Design-Bid-Build	\$ 3,561,238	\$ 4,409,428	540	580	NONE
2022	Henrico County Government	Montrose Terrace Area Sewer and Water Rehabilitation	Design-Bid-Build	\$ 2,607,267	\$ 2,757,043	360	405	NONE
2022	Henry County	Philpott Water Filtration Plant Upgrade to 6.0 MGD	Design-Bid-Build	\$ 13,626,557	\$ 13,626,557	730	1,095	One of the raw water pumps and finished water pumps having issues.
2022	James Madison University	New Construction Convocation Hall	CM@Risk	\$ 113,900,000	\$ 115,675,841	938	907	
2022	James Madison University	Jackson Hall Renovation	Design-Bid-Build	\$ 5,497,000	\$ 6,164,000	407	408	Covid; building wasn't able to be fully occupied until almost summer of 2021.
2022	James Madison University	Construct New College of Business	CM@Risk	\$ 70,822,168	\$ 72,641,206	1,106	1,078	
2022	Longwood University	New Academic Building	Design-Bid-Build	\$ 16,115,400	\$ 16,530,511	630	1,425	Non
2022	Loudoun County Public Schools	Lightridge High Schools (HS-9) new construction	Design-Bid-Build	\$ 110,399,300	\$ 114,043,778	699	973	None
2022	Loudoun County Public Schools	Tuscarora High School Entry Modification and Renovation (GMP 3 under CMaR contract 19-476)	CM@Risk	\$ 4,403,103	\$ 4,403,106	699	973	None
2022	Loudoun County Public Schools	Entry Modifications for 24 ES and MS (group 2a and 2B- (GMP 2 under CMaR contract 18-474)	CM@Risk	\$ 6,713,879	\$ 4,008,476	334	516	None
2022	Nelson County	Nelson Memorial Library Expansion & Renovation	Design-Bid-Build	\$ 2,337,424	\$ 2,448,834	365	461	
2022	NRV Regional Water Authority	Plum Creek Transmission Main Phase 1 and Phase 2	Design-Bid-Build	\$ 9,168,000	\$ 9,892,500	595	585	None
2022	Old Dominion University	Improvements: Convert Gymnasium into a Competition Women's Volleyball Facility	Design-Bid-Build	\$ 2,788,000	\$ 2,910,708	448	502	None
2022	Prince William County	Construction of Fire and Rescue Station 22	Design-Bid-Build	\$ 16,970,713	\$ 16,766,731	112,020	42,022	Occupancy December 2020, Project Closeout Completed April 2022
2022	Prince William County Schools	Potomac Shores Middle School	Design-Bid-Build	\$ 54,104,420	\$ 52,542,298	867	929	None

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2022	Richmond Metropolitan Transportation Authority	Miscellaneous Repairs 2020	Design-Bid-Build	\$ 2,691,923	\$ 2,109,176	365	426	None
2022	Shenandoah County	Phase IV Landfill Cell	Design-Bid-Build	\$ 3,025,000	\$ 2,864,373	7,302,021	8,312,021	n/a
2022	Spotsylvania County	Animal Shelter Expansion, Renovation	Other	\$ 7,002,486	\$ 7,069,945	780	977	none
2022	Stafford County Public Schools	Energy Performance Contract for Stafford County Public Schools	Other	\$ 10,650,651	\$ 10,650,651	995	1,025	
2022	University of Mary Washington	Renovate Residence Halls - Phase II (Virginia Hall)	CM@Risk	\$ 17,901,616	\$ 19,041,679	343	357	
2022	University of Virginia	University Hall (U- Hall) Abatement & Demolition	Design-Build	\$ 9,800,000	\$ 6,518,658	289	1,010	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2022	University of Virginia	Carr's Hill Renovation	CM@Risk	\$ 11,700,000	\$ 1,036,433	537	1,393	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2022	University of Virginia	Athletics Complex Phase 1 Early Site Package	Design-Bid-Build	\$ 8,400,000	\$ 11,871,111	242	847	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2022	University of Virginia	East Range Stormwater Improvement	Design-Bid-Build	\$ 2,300,000	\$ 2,664,165	248	1,393	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2022	University of Virginia	North Chiller Plant Switchgear Replacement	Design-Bid-Build	\$ 2,800,000	\$ 3,221,399	302	721	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2022	University of Virginia	Memorial to Enslaved Laborers	Design-Bid-Build	\$ 4,000,000	\$ 54,889,873	348	1,278	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2022	University of Virginia	New Softball Stadium	CM@Risk	\$ 13,000,000	\$ 19,641,061	528	1,409	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2022	University of Virginia	UH Fire Alarm Notification Upgrade PH 1 & Sprinkler Ph 1	Other	\$ 3,348,302	\$ 3,348,302	554	855	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center - A246 College at Wise. This report is for A209 Medical Center
2022	University of Virginia	ECCCC 4th Floor Fit Out	CM@Risk	\$ 7,950,000	\$ 10,488,253	780	1,647	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center - A246 College at Wise. This report is for A209 Medical Center
2022	University of Virginia	652 Peter Jefferson Parkway, 2nd Floor Renovation - Breast Care Center	Design-Bid-Build	\$ 7,000,000	\$ 4,284,848	301	997	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center - A246 College at Wise. This report is for A209 Medical Center
2022	University of Virginia	Southwest Virginia Higher Education Center Service Corridor - Storage Addition Generator Replacement	Design-Bid-Build	\$ 2,360,000	\$ 2,097,130	266	899	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center - A246 College at Wise. This report is for A246 College at Wise.
2022	Virginia Polytechnic Institute and State University	Student Athlete Performance Center	Design-Bid-Build	\$ 17,059,490	\$ 16,763,923	487	487	
2022	Virginia Port Authority	Dredging IFB - Public Opening	Design-Bid-Build	\$ 10,190,110	\$ 9,534,520	532	532	Sealed Competitive Bidding via an IFB
2022	Warren County Public Schools	AS Rhodes Elementary School	Design-Bid-Build	\$ 3,096,300	\$ 4,807,918	185	221	
2022	Washington County Service Authority	Galvanized Waterline Replacement Project Phase 3 Division 1	Design-Bid-Build	\$ 4,522,426	\$ 4,322,915	365	244	N/A
2022	Washington County Service Authority	Galvanized Waterline Replacement Project Phase 3 Division 2	Design-Bid-Build	\$ 2,179,520	\$ 2,074,997	365	320	N/A
2022	Western Virginia Water Authority	Airport Road to Palm Valley Road SS Replacement	Design-Bid-Build	\$ 2,233,042	\$ 2,244,405	270	306	None
2022	Western Virginia Water Authority	Crystal Spring Pump Relocation	Design-Bid-Build	\$ 4,931,027	\$ 4,771,046	300	339	None

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2021	Albemarle County	Hollymead Dam Spillway Improvement	Design-Bid-Build	\$ 6,910,200	\$ 6,927,836	571	1,407	
2021	Arlington County Government	Washington Boulevard Bike Trail Phase II	Design-Bid-Build	\$ 2,535,251	\$ 2,140,307	365	221	N/A
2021	Arlington County Government	Head Start Project	Design-Bid-Build	\$ 3,680,000	\$ 4,130,000	190	379	N/A
2021	Arlington County Government	Neighborhood Conservation Streetscape Infrastructure Project	Design-Bid-Build	\$ 2,415,808	\$ 2,383,000	510	540	N/A
2021	Arlington Public Schools	Randolph Elementary School HVACImprovement Project	Design-Bid-Build	\$ 6,200,000	\$ 5,136,445	441	468	Construction commenced June 22, 2018. Warranty period expired October 3, 2020. The budget information provided for the two projects includes both construction costs and soft costs.
2021	Arlington Public Schools	Gunston Middle School HVAC Improvement Project	Design-Bid-Build	\$ 10,655,000	\$ 8,723,689	442	467	Construction commenced June 21, 2018. Warranty period expired October 15, 2020. The budget information provided for the two projects includes both construction costs and soft costs.
2021	Charlottesville City	EMMET-IVY WATER MAIN REPLACEMENT	CM@Risk	\$ 1,995,140	\$ 2,329,944	210	384	Procurement Method for line item 1 was an IFB.
2021	Chesterfield County	Robious Road Widening – Powhatan County Line to Robious	Design-Bid-Build	\$ 5,175,000	\$ 4,635,711	204	371	None
2021	Chesterfield County Public Schools	Construction, Falling Creek Middle School Improvements	Design-Bid-Build	\$ 5,959,801	\$ 3,450,457	118	420	None
2021	City of Chesapeake	Centerville Rehabilitation	Design-Bid-Build	\$ 7,793,596	\$ 7,911,739	9	9	NONE
2021	City of Colonial Heights	Dupuy Avenue Street Improvements	Design-Bid-Build	\$ 3,575,140	\$ 3,528,546	8	11	Manholes were not to grade, Documentation for buy America and water meters box lids, Sewer line clean nout collars not to 6" depth This project was a Sealed Bid.
2021	City of Harrisonburg	I-81 Exit 245 NBOff-Ramp Realignment (City Contract 2020006)	Design-Bid-Build	\$ 3,000,000	\$ 2,667,664	9	9	Procurement Method: ITB (2020006-PW-B) Projected Timeline: Completed by 9/18/2020 (9 Months) Actual Completion Time: Completed on 9/18/2020 (9 Months), Final Payment Made 9/30/2020
2021	City of Lynchburg	Indian Hill Road Bridge over Ivy Creek	Design-Bid-Build	\$ 2,028,719	\$ 2,012,748	270	240	NONE
2021	City of Newport News	SCOT Center PPEA	CM@Risk	\$ 38,811,692	\$ 39,348,167	412	576	Project indicated as Other were issued as Invitation for Bids.
2021	City of Newport News	Residential Roadway Resurfacing	Other	\$ 1,762,000	\$ 2,845,560	306	480	Project indicated as Other were issued as Invitation for Bids.
2021	City of Newport News	Huntington Avenue Bridge	Other	\$ 2,134,586	\$ 2,222,817	266	458	Project indicated as Other were issued as Invitation for Bids.
2021	City of Newport News	Lee Hall Water Reclamation	Other	\$ 2,000,000	\$ 2,024,365	281	537	Project indicated as Other were issued as Invitation for Bids.
2021	City of Norfolk	Wards Corner Pump Station No. 150 Water & Sewer Improvement	Design-Bid-Build	\$ 3,332,819	\$ 3,968,445	829	849	None
2021	City of Norfolk	Pump Station No. 17 Service Area Water & Sewer Replacement	Design-Bid-Build	\$ 2,396,749	\$ 2,139,064	698	519	None
2021	City of Norfolk	Pump Station No. 23, Phase 7 Water & Sewer Replacement	Design-Bid-Build	\$ 2,354,595	\$ 2,354,595	681	691	None
2021	City of Norfolk	East Ocean View Pump Station No. 88 Water & Sewer Improvement	Design-Bid-Build	\$ 2,249,886	\$ 1,827,299	527	537	None
2021	City of Virginia Beach	Central Plant Generator Building	Design-Bid-Build	\$ 2,300,000	\$ 2,754,070	300	279	Project closeout issues
2021	City of Virginia Beach	Indian River Road & Kempsville Road Intersection Improvement	Design-Bid-Build	\$ 8,337,746	\$ 11,022,818	640	575	
2021	City of Virginia Beach	South Lake Holly Watershed Improvements	Design-Bid-Build	\$ 10,260,485	\$ 9,039,817	913	1,066	
2021	City of Virginia Beach	Virginia Beach Sports Center	Other	\$ 65,804,076	\$ 65,365,758	863	820	
2021	City of Williamsburg	Monticello Ave PPTA	Design-Build	\$ 3,850,144	\$ 3,531,954	610	912	Covid-related - signal poles delay, weather condition delay
2021	City of Winchester	Handley Library Improvements	Other	\$ 2,600,000	\$ 2,578,857	300	480	None
2021	City of Winchester	Trails at the Museum of the Shenandoah Valley	Other	\$ 2,800,000	\$ 2,605,666	270	480	none
2021	City of Winchester	Water Meter Replacements	Other	\$ 4,000,000	\$ 3,588,297	365	270	none
2021	City of Winchester	Water Storage Tank Replacement	Other	\$ 3,500,000	\$ 3,973,792	270	450	none
2021	County of Fairfax	Bailey's Shelter & Supportive Housing	Design-Bid-Build	\$ 8,843,000	\$ 9,272,447	518	599	
2021	County of Fairfax	DVS Facilities Upgrades West Ox Facility	Design-Bid-Build	\$ 4,020,000	\$ 4,597,804	545	660	
2021	County of Fairfax	Reston Temporary Fire Station	Design-Bid-Build	\$ 2,479,000	\$ 2,820,966	210	340	
2021	County of Fairfax	Reston Community Center Aquatics Facility	Design-Bid-Build	\$ 4,539,000	\$ 4,651,642	305	315	
2021	County of Fairfax	Court Rooms, Phase II A&B	Design-Bid-Build	\$ 2,463,000	\$ 2,525,233	345	425	
2021	County of Fairfax	Hayfield Road Pipe Conveyance System	Design-Bid-Build	\$ 6,956,900	\$ 7,146,984	420	355	
2021	County of Fairfax	Hunting Creek @ Fairchild	Design-Bid-Build	\$ 1,911,007	\$ 2,116,875	420	318	
2021	County of Fairfax	Old Courthouse Spring Branch Valley Park	Design-Bid-Build	\$ 5,886,798	\$ 6,140,875	450	459	
2021	County of Fairfax	Solids Processing Rehabilitation, Phase II	Design-Bid-Build	\$ 16,750,000	\$ 18,433,980	915	844	
2021	County of Loudoun	Interior Construction of 742 Miller Drive	Design-Bid-Build	\$ 2,099,000	\$ 2,158,453	120	165	None
2021	County of Loudoun	751 Miller Drive Interior Buildout	Design-Bid-Build	\$ 2,850,084	\$ 2,885,443	120	180	None
2021	County of Loudoun	Construction of the DC United Training Site	Design-Bid-Build	\$ 3,747,372	\$ 3,688,754	150	195	None

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2021	County of York	CONSTRUCTION OF FIRE STATION #1 (GRAFTON AREA)	Design-Bid-Build	\$ 6,197,980	\$ 6,636,484	395	513	DRAINAGE IMPROVEMENT PROJECT (IFB Y-10157-FS), AWARDED TO WALTER C VIA. FOR \$26,900.00 THE PROCUREMENT METHOD FOR THE CONSTRUCTION OF FIRE STATION #1 WAS DONE THROUGH AN INVITATION FOR BIDS (IFB# 2075 - WHICH WAS POSTED ON EVA ON 1/3/2018)
2021	Department of Military Affairs	Renovate & Convert DSCR - Warehouse	Design-Bid-Build	\$ 3,761,000	\$ 3,512,271	315	336	Decorative signage delivery delays after substantial completion
2021	Department of Military Affairs	Training Aids Support Center - Fort Pickett	Design-Bid-Build	\$ 4,207,000	\$ 4,154,814	365	536	Geothermal system will not maintain pressure
2021	Greene County Public Schools	L618GCPS -DEB_CCP_William Monroe Middle and High Sch	CM@Risk	\$ 23,975,800	\$ 24,489,225	532	868	Slope issues on the loading dock at the Middle School. Repaired by contractor. Drain line issues at the MS causing back up in cafeteria and restrooms. Had to pull up a section of terrazzo and slab to repair.
2021	Greensville County	Otterdam Road Phase II	Design-Bid-Build	\$ 2,203,902	\$ 2,164,577	285	273	n/a
2021	Henrico County Government	Meredith Branch Force Main	Design-Bid-Build	\$ 8,500,000	\$ 706,382	730	1,308	Late completion
2021	Henrico County Government	Chamberlayne Farms and Chamberlayne Hills Area Sanitary S	Design-Bid-Build	\$ 4,935,015	\$ 4,935,015	670	769	n/a
2021	Henrico County Government	Enterprise Parkway & Broad Street Area (SH-15 Part 1, Phas	Design-Bid-Build	\$ 2,775,200	\$ 3,362,284	330	553	n/a
2021	Henrico County Government	High School Athletic Field Improvements - Phase 3 (Deep Ru	Design-Bid-Build	\$ 7,500,000	\$ 7,263,059	250	300	n/a
2021	Henrico County Government	Henrico County Police Annex Building	Design-Bid-Build	\$ 3,065,000	\$ 3,172,316	395	395	n/a
2021	Loudoun County Public Schools	Security Vestibule and Associated Renovations	CM@Risk	\$ 4,465,155	\$ 5,210,141	15	16	Punchlist and scope completion after occupancy - contractor compliance with contract in regards to proper documentation - COVID pandemic
2021	Old Dominion University	New Construction - Campus Dining Improvements - Webb Un	Design-Bid-Build	\$ 2,494,000	\$ 3,130,057	305	670	The 670 calendar days cover the 1-Year Warranty Period.
2021	Prince Edward County	STEPS Center - Renovation	Design-Bid-Build	\$ 2,778,541	\$ 2,327,264	365	732	
2021	Prince Edward County	DSS Building - Construction	Design-Bid-Build	\$ 4,018,086	\$ 3,891,973	365	735	
2021	Prince Edward County	Courthouse - Renovation	Design-Bid-Build	\$ 4,518,016	\$ 4,796,681	365	741	
2021	Radford University	Renovate Curie and Reed Halls	CM@Risk	\$ 22,708,530	\$ 22,706,892	602	1,080	
2021	Roanoke City Government	E911 VA 811Facility	Other	\$ 10,741,087	\$ 11,160,233			None provided
2021	Roanoke City Government	Fire Station 7 Memorial	Other	\$ 5,570,000	\$ 6,021,345	420	545	None provided
2021	Rockingham County	Port Road Emergency Response Station	Design-Bid-Build	\$ 5,277,000	\$ 5,396,912	18	18	None
2021	Rockingham County Public Schools	John C. Myers Elementary School	Other	\$ 14,110,630	\$ 13,610,153	536	596	
2021	Shenandoah County	Sheriff's Office	Design-Bid-Build	\$ 8,500,000	\$ 9,678,345	7,302,020	#####	n/a
2021	University of Mary Washington	Improvements - Renovate Residence Halls (Willard Hall Reno	CM@Risk	\$ 18,400,780	\$ 19,311,522	286	376	
2021	University of Virginia	Main Heating Plant Boiler #6	CM@Risk	\$ 6,400,000	\$ 7,285,505	670	837	Approved - also confirmed by Martin West and Jenn Glassman here at UVA
2021	Virginia Polytechnic Institute and State Unive	Athletic Weight Room	Design-Bid-Build	\$ 3,490,000	\$ 3,437,991	180	180	none
2021	Virginia Polytechnic Institute and State Unive	Student Athlete Performance Center	Design-Bid-Build	\$ 17,059,490	\$ 16,763,923	450	450	none
2021	Virginia State University	WHITING HALL HVAC REPLACEMENT	Design-Bid-Build	\$ 2,199,000	\$ 2,382,243	120	137	Service area constraints and operations and maintenance training of staff; compressor failures
2021	Western Virginia Water Authority	Muse Spring Water Treatment Plant	Design-Bid-Build	\$ 3,385,526	\$ 3,665,110	300	688	none
2021	Western Virginia Water Authority	Summit View Sewer	Design-Bid-Build	\$ 5,207,217	\$ 3,758,862	210	336	none
2020	Arlington County	South Clark Demolition and Traffic Signal Project	Other	\$ 4,499,320	\$ 4,699,750	176	534	
2020	Arlington County	Chiller Plant replacement	Other	\$ 3,685,275	\$ 3,360,192	457	488	
2020	Arlington County	Clarendon circle government	Other	\$ 2,112,200	\$ 2,299,973	365	635	Post-Project issues with utilities and as-builts
2020	Arlington County	Madison Manor Park	Other	\$ 2,820,615	\$ 2,586,569	320	404	
2020	Charlottesville City	Sanitary storm sewer	Design-Bid-Build	\$ 4,397,808	\$ 4,493,982	730	730	Procurement Method: Invitation for Bid This project (term contract) being reported had a duration of 2 fiscal years, 2018-2019 and 2019-2020.
2020	Chesterfield County	Fuel farm replacement	Design-Bid-Build	\$ 2,900,000	\$ 2,343,951	180	357	THIS PROJECT WAS DONE AS AN INVITATION FOR BID (IFB)
2020	Chesterfield County	Improvement at Falling Creek Middle School	Design-Bid-Build	\$ 2,300,000	\$ 3,450,457	118	296	issue over a damaged Air Handling Unit in the cafeteria/kitchen during the project and likely extended completion time
2020	City of Chesapeake	Sunray Overpass Rehab	Design-Bid-Build	\$ 3,200,000	\$ 2,776,518	410	407	Procurement Method : Other -- Invitation for Bids (IFB)

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2020	City of Chesapeake	Centerville Turnpike Bridge Rehab	Design-Bid-Build	\$ 8,100,000	\$ 7,992,721	515	508	Procurement Method : Other -- Invitation for Bids (IFB)
2020	City of Fairfax	Police Firing Range	Other	\$ 3,999,000	\$ 4,449,482	365	511	
2020	City of Fairfax	Northfax Intersection & Drainage Improvement Project	Other	\$ 23,848,500	\$ 23,848,500	730	730	Traffic signal was damaged in vehicular accident before punch list was completed.
2020	City of Hampton	Salt Ponds Inlet Improvement	Other	\$ 2,381,286	\$ 3,002,203	240	236	
2020	City of Harrisonburg	Grace St Extension Project	Design-Bid-Build	\$ 3,000,926	\$ 2,968,383	272	272	None
2020	City of Lynchburg	MAIN STREET BRIDGE	Design-Bid-Build	\$ 7,131,385	\$ 7,008,357	450	540	NONE
2020	City of Lynchburg	WWTP OPERATIONS BUILDING RENOVATION	Design-Bid-Build	\$ 3,504,328	\$ 3,504,328	605	765	NONE
2020	City of Lynchburg	5TH STREET UTILITY REPLACEMENT - PHASE III	Design-Bid-Build	\$ 4,652,668	\$ 4,297,198	434	487	NONE
2020	City of Lynchburg	LIBERTY MOUNTAIN DR - PHASE III	Design-Bid-Build	\$ 4,158,018	\$ 4,158,018	430	460	NONE
2020	City of Lynchburg	DENVER/YANCEY UTILITY REPLACEMENT	Design-Bid-Build	\$ 2,532,178	\$ 2,532,178	365	259	NONE
2020	City of Newport News	2019 Residential Resurfacing and Concrete Program	Design-Bid-Build	\$ 1,416,317	\$ 2,677,703	240	390	
2020	City of Newport News	UPC #107271 Patrick Henry Drive Extended	Design-Bid-Build	\$ 3,202,814	\$ 3,410,617	564	563	
2020	City of Norfolk	Pump Station 17 Service Area was replacement - PH 10	Other	\$ 2,330,221	\$ 2,139,064	360	285	N/A
2020	City of Suffolk	Rosewood/Old Sumerton Water Main Extension Project	Design-Bid-Build	\$ 2,615,044	\$ 2,541,442	348	370	None
2020	City of Virginia Beach	Northgate Ditch Improvements	Design-Bid-Build	\$ 1,878,000	\$ 2,035,079	240	731	
2020	City of Virginia Beach	North Lake Holly Watershed Improvements	Design-Bid-Build	\$ 5,814,176	\$ 4,612,895	548	715	
2020	City of Winchester	Woodstock Lane Infrastructure Improvements	Other	\$ 6,200,000	\$ 6,035,963	365	365	
2020	County of Fairfax	Flatlick Branch Phase III Stream Restoration	Design-Bid-Build	\$ 2,068,420	\$ 2,314,440	435	375	NA
2020	County of Fairfax	Pike Branch Tributary at Ridgeview Park	Design-Bid-Build	\$ 2,804,150	\$ 2,392,893	425	468	NA
2020	County of Fairfax	Difficult Run Tributary at Brittenford Stream Restoration	Design-Bid-Build	\$ 3,155,064	\$ 3,398,232	450	433	NA
2020	County of Fairfax	Lee Chapel Road Walkway	Design-Bid-Build	\$ 2,276,700	\$ 2,311,156	240	241	NA
2020	County of Fairfax	Reston Community Center Aquatics	Design-Bid-Build	\$ 5,922,000	\$ 5,481,320	305	315	NA
2020	County of Fairfax	Reston Temporary Fire Station	Design-Bid-Build	\$ 3,320,000	\$ 3,304,003	210	340	NA
2020	County of Fairfax	DVS – West Ox Facility	Design-Bid-Build	\$ 5,109,756	\$ 5,538,471	545	660	NA
2020	County of Fairfax	Herndon Station Existing Garage Repairs	Design-Bid-Build	\$ 800,000	\$ 2,606,075	180	241	NA
2020	County of Fairfax	Innovation Center Station Parking Garage	Design-Bid-Build	\$ 51,639,920	\$ 49,512,692	700	850	NA
2020	County of Loudoun	Construction of the DC United Stadium Site	Design-Bid-Build	\$ 5,573,333	\$ 7,626,449	473	548	Warranty issues related to landscaping and a delay in a bus shelter drip edge. However, all issues have been resolved.
2020	County of Loudoun	Interior Construction 742 Miller Drive	Design-Bid-Build	\$ 2,099,000	\$ 2,158,453	255	255	None
2020	County of Loudoun	751 Miller Drive Interior Buildout	Design-Bid-Build	\$ 2,850,084	\$ 3,140,354	182	182	None
2020	County of York	HVAC REPLACEMENT, METAL ROOF & EXTERIOR WIND	Design-Bid-Build	\$ 6,804,231	\$ 7,254,875	548	820	
2020	County of York	CONSTRUCTION, FIRE STATION	Design-Bid-Build	\$ 6,500,000	\$ 6,636,484	441	539	
2020	Department of Military Affairs	Renovate & Convert DSCR- Warehouse	Design-Bid-Build	\$ 3,418,000	\$ 3,512,271	315	336	
2020	Department of Military Affairs	Construct Ft Pickett Training Aids Center	Design-Bid-Build	\$ 4,161,000	\$ 4,154,814	365	536	
2020	Dickenson County	Social Services Offices	Design-Build	\$ 2,413,051	\$ 2,674,812	221	221	Included partial demolition of old school and renovation of remainder into office space
2020	Eastern Virginia Medical School	Hofheimer Hall 4th & 5th Floors and Roof Renovations.	Design-Bid-Build	\$ 3,899,066	\$ 3,321,071	390	470	(1) Operation & Maintenance Manuals are still outstanding, (2) Quality issues with workmanship, (3) Contractor was late in substantial completion by approximately 10 weeks.
2020	Frederick County Sanitation Authority	Stonewall Ballfields	Design-Bid-Build	\$ 2,027,733	\$ 2,181,075	242	355	There are no post project issues
2020	Frederick County Sanitation Authority	Western Water Loop	Design-Bid-Build	\$ 3,934,005	\$ 4,656,688	338	368	There are no post project issues
2020	Greensville County Water & Sewer Authority	Raw Water Intake Facility - Contract F	Design-Bid-Build	\$ 3,610,000	\$ 3,679,698	395	640	None
2020	Greensville County Water & Sewer Authority	Raw Water Supply Project - Contract H	Design-Bid-Build	\$ 2,164,992	\$ 2,139,741	390	626	None
2020	Halifax County Service Authority	Sutphin Road Sewer Interceptor	Design-Bid-Build	\$ 3,134,505	\$ 3,145,000	395	410	None
2020	Halifax County Service Authority	Cowford Road WWTP Conversion	Design-Bid-Build	\$ 3,059,034	\$ 2,995,700	720	790	E & S due to season
2020	Hampton Roads Sanitation District	Orcutt Ave & Mercury Blvd GS Improvements	Design-Bid-Build	\$ 7,763,168	\$ 7,600,000	554	584	None
2020	Hampton Roads Sanitation District	Lucas Creek-Woodhaven IFM Replacement Phase I	Design-Bid-Build	\$ 2,655,506	\$ 2,622,283	411	411	None
2020	Hanover County	Airport Hanger	Design-Bid-Build	\$ 2,400,000	\$ 2,323,575	270	324	None
2020	Harrisonburg- Rockingham Regional Sewer	Enhanced Biosolids Reuse and Reduction Project	Design-Bid-Build	\$ 11,222,933	\$ 11,320,842	600	644	None
2020	Henrico County Government	Water Reclamation Facility Administration/Laboratory and Dig	Design-Bid-Build	\$ 2,390,000	\$ 2,474,880	330	731	None
2020	Henrico County Government	Chamberlayne Elementary School Renovations	Design-Bid-Build	\$ 10,892,301	\$ 8,270,524	738	858	None
2020	Henrico County Government	Glen Allen Elementary School Addition	Design-Bid-Build	\$ 5,010,139	\$ 4,875,127	699	701	None
2020	Henrico County Government	Pemberton Elementary School Renovation	Design-Bid-Build	\$ 10,829,171	\$ 10,131,210	699	824	None
2020	Henrico County Government	Crestview Elementary School Renovations	Design-Bid-Build	\$ 9,283,941	\$ 8,425,497	484	736	None
2020	Henrico County Government	Tuckahoe Middle School Renovation	Design-Bid-Build	\$ 22,632,393	\$ 27,796,552	700	777	None
2020	Henrico County Government	Fire Training Facility	Design-Bid-Build	\$ 2,902,524	\$ 2,778,645	326	543	None
2020	Henrico County Government	High School Athletic Field Improvements – Phase 2	Design-Bid-Build	\$ 1,953,556	\$ 2,143,582	243	243	None

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2020	Henry County	Commonwealth Crossing Business Centre 1 Million Gallon El	Design-Bid-Build	\$ 2,781,000	\$ 2,801,827	451	591	None
2020	James Madison University	Wilson Hall Renovation	CM@Risk	\$ 20,008,990	\$ 20,186,612	378	366	
2020	James Madison University	East Campus Student Housing	CM@Risk	\$ 47,850,000	\$ 49,503,462	414	504	Tremendous workmanship and system errors from Contractor.
2020	James Madison University	East Campus Parking Deck	CM@Risk	\$ 34,676,293	\$ 35,369,303	1,039	521	
2020	James Madison University	Phillips Dining Hall	CM@Risk	\$ 25,112,184	\$ 25,826,276	542	595	Extensive Contractor delays and quality issues.
2020	Longwood University	Construct Admissions Office	Design-Bid-Build	\$ 8,561,000	\$ 7,858,846	450	614	project closeout issues
2020	Louisa County	Construction of Cell 2 and Related Infrastructure at the Louisa	Design-Bid-Build	\$ 2,398,827	\$ 2,464,059	451	453	Computer control board for leach aid pump had an issue, but was resolved by contractor under warranty.
2020	Montgomery County Public Schools	Christiansburg High School Athletic Fields Renovation	Other	\$ 2,915,600	\$ 2,799,042	200	330	Signage for fields was delayed due to COVID-19 issues.
2020	New Kent County	New Kent County Fire Station #5	Design-Build	\$ 2,825,453	\$ 2,961,359	455	413	No issues noted.
2020	Old Dominion University	SB Ballard Stadium Renovations	CM@Risk	\$ 53,653,240	\$ 5,960,724	445	445	Warranty
2020	Old Dominion University	Koch Hall HVAC/Roof Replacement	Design-Bid-Build	\$ 2,100,000	\$ 2,229,354	367	307	Warranty
2020	Old Dominion University	WEBB Center Cafe' 1201 Renovations	Design-Bid-Build	\$ 3,300,000	\$ 3,130,057	242	281	None
2020	Prince William County Service Authority	Sudley Rd 14-inch Replacement, Loop Closures and Realignm	Other	\$ 2,326,294	\$ 2,326,294	630	730	
2020	Prince William County Service Authority	Colchester Interceptor and Pump Station	Other	\$ 10,519,327	\$ 11,027,426	547	630	Change Order
2020	Richmond Metropolitan Transportation Autho	Protective Coatings 2018	Other	\$ 9,400,000	\$ 6,509,460	543	620	None
2020	Richmond Metropolitan Transportation Autho	Miscellaneous Repairs - 2018	Other	\$ 3,100,000	\$ 2,450,996	321	429	None
2020	Rockingham County	Massanetta Springs Road Project	Design-Bid-Build	\$ 3,485,250	\$ 2,520,525	250	268	None. Timeline is in Days.
2020	Rockingham County Public Schools	Fulks Run Elementary School - Renovation	Other	\$ 5,521,427	\$ 5,454,636	330	270	
2020	Stafford County Public Schools	North Star-ECSE	Design-Bid-Build	\$ 3,452,000	\$ 3,283,988	175	233	There were punch list and close out issues and the contractor asked for additional days and general conditions and we settled on 11 days for an additional \$28,776.29. That agreement was signed 07/23/2019
2020	Stafford County Public Schools	AGWMS-GES Renovation	Design-Bid-Build	\$ 3,896,059	\$ 3,810,811	487	486	
2020	Town of Christiansburg	Falling Branch Intersectin Improvements	Design-Bid-Build	\$ 1,842,968	\$ 2,050,589	270	477	no post closure issues. Project scope expanded from original due to unforeseen utility movement and cross walk
2020	Town of Front Royal	Police Department Construction	Design-Bid-Build	\$ 9,000,000	\$ 8,719,314	450	1,410	Architectural deficiencies Weather delays Network Cables Painted Settlement of Claims, Project Closeout issues
2020	Town of South Hill	US Route 1 at Route 138 Intersection Improvements	Other	\$ 2,227,194	\$ 2,205,847	250	415	
2020	Virginia Community College System - Syster	BRCC - New Const - Construct Parking Garage	Design-Bid-Build	\$ 4,581,224	\$ 4,603,105	275	296	
2020	Virginia Community College System - Syster	JSRCC-DowntownImprovements to Phase I Facility - (CM)	Other	\$ 5,991,880	\$ 4,849,431	690	1,171	
2020	Virginia Community College System - Syster	PDCCC - Major Mechanical Renovation, Hobbs Campus	Other	\$ 3,065,538	\$ 2,962,538	270	617	
2020	Virginia Community College System - Syster	Renovate Main Hall, Middletown Campus, Lord Fairfax	CM@Risk	\$ 11,824,291	\$ 12,514,549	690	659	
2020	Virginia Polytechnic Institute and State Unive	Renovations for Undergraduate Science Laboratories	Design-Bid-Build	\$ 6,552,944	\$ 5,907,114	360	360	none
2020	Virginia Polytechnic Institute and State Unive	Commonwealth Ballroom Improvements	Design-Bid-Build	\$ 2,202,985	\$ 2,197,871	236	251	none
2020	Western Virginia Water Authority	Carvins Cove Filter	Design-Bid-Build	\$ 3,845,809	\$ 3,584,576	300	300	None
2020	Wythe County Public Schools	George Wythe High School Renovation and Addition	Design-Bid-Build	\$ 12,250,000	\$ 12,738,849	540	630	
2019	Albemarle County	Woodbrook E.S. Additions and Renovations	Design-Bid-Build	\$ 17,531,381	\$ 16,707,272	422	438	None
2019	Albemarle County	Henley Middle School Addition and Renovations	Design-Bid-Build	\$ 2,598,640	\$ 2,590,999	207	374	HVAC issue currently under correction
2019	Albemarle County	Hydraulic Road/Barracks Road Sidewalks	Design-Bid-Build	\$ 2,531,036	\$ 2,528,338	137	169	None
2019	Arlington County Government	Four Mile Run Sanitary Sewer Relief Line Relining	Other	\$ 2,322,870	\$ 2,262,120	180	120	After project complete, damage to a newly relined 48" Sanitary Sewer (below this project's location) was discovered. Communicating with insurance and other entities to resolve.
2019	Arlington County Government	Washington Blvd Bike Trail Construction	Other	\$ 2,112,709	\$ 2,140,307	365	291	
2019	Bedford County Public Schools	New Liberty Middle School	Design-Bid-Build	\$ 35,884,233	\$ 35,135,750	620	620	
2019	Bedford County Public Schools	New Gym at Liberty High School	Design-Bid-Build	\$ 5,615,997	\$ 5,487,982	434	434	
2019	Charlottesville City	CONSTRUCTION OF LIGHTED SKATE PARK	Design-Bid-Build	\$ 2,019,493	\$ 2,094,991	235	243	none
2019	City of Newport News	Operations Warehouse	Design-Bid-Build	\$ 2,276,000	\$ 2,066,233	240	298	None
2019	City of Staunton	Johnson Street and New Street Parking Garage Repairs	Design-Bid-Build	\$ 1,698,952	\$ 2,045,266	365	365	
2019	County of Accomack	Invitation for Bids #709 - Runway 3-21 Pavement Rehabilitation	Design-Build	\$ 4,240,000	\$ 3,812,281	60	59	small section of concrete to be repaired after it raised.
2019	County of Fairfax	Burkholder Building Renovations	Other	\$ 3,265,000	\$ 3,257,205	250	290	NA
2019	County of Fairfax	Pohick Creek at Queen Victoria	Design-Bid-Build	\$ 2,177,561	\$ 2,374,329	479	401	NA

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2019	County of Fairfax	Pohick Creek at Greentree Village	Design-Bid-Build	\$ 2,589,872	\$ 2,271,611	419	435	NA
2019	County of Fairfax	Dead Run Stream Restoration	Design-Bid-Build	\$ 2,295,000	\$ 2,390,271	381	372	NA
2019	County of Loudoun	Interior Buildout for 742 Miller Drive	Design-Bid-Build	\$ 2,099,000	\$ 2,158,543	110	141	None
2019	Department of Forestry	JUDGE MATTHEWS AND ALICE HOUSE: RENOVATIONS	Design-Bid-Build	\$ 2,627,097	\$ 2,450,000	365	380	No major issues
2019	Fort Monroe Authority	Renovation of Building 96 for DGS	Design-Bid-Build	\$ 2,350,000	\$ 2,752,382	172	284	Still trying to get complete as-builts and close-out documents.
2019	Hampton Roads Sanitation District	Lucas Creek - Woodhaven IFM Replacement Phase I	Design-Bid-Build	\$ 2,655,506	\$ 2,622,283	300	411	Final change order has been slow to resolve.
2019	Henrico County Government	High School Athletic Field Improvements	Design-Bid-Build	\$ 5,727,670	\$ 5,727,670	243	303	None
2019	Henrico County Government	Human Services Ground Floor Renovation Project	Design-Bid-Build	\$ 2,180,824	\$ 1,925,323	210	250	None
2019	Henrico County Government	Henrico Area Mental Health & Developmental Services East C	Design-Bid-Build	\$ 8,798,938	\$ 7,180,033	377	377	None
2019	Henrico County Government	High School Athletic Field Improvements – Phase 2	Design-Bid-Build	\$ 2,143,582	\$ 2,143,582	243	243	None
2019	James Madison University	CONSTRUCT WEST CAMPUS PARKING DECK	Design-Build	\$ 11,498,000	\$ 11,789,957	473	386	Landscaping Lighting Adding Electric Spaces
2019	Newport News Public Schools	Hines Elementary School HVAC R2	Design-Bid-Build	\$ 2,295,000	\$ 2,295,000	488	380	None
2019	Newport News Public Schools	Lee Hall Elementary School HVAC R2	Design-Bid-Build	\$ 2,584,934	\$ 2,584,934	457	522	Had to construct one (1) hour fire rated wall around mechanical room.
2019	NRV Regional Water Authority	Prices Fork Pump Station and Water Transmission Main	Design-Bid-Build	\$ 3,093,900	\$ 4,102,785	300	616	N/A
2019	Town of Luray	West Main Street Bridge	Design-Build	\$ 3,856,020	\$ 4,124,142	385	415	Two minor construction repairs
2018	City of Covington	Peter's Mountain Landfill	Design-Bid-Build	\$ 2,390,500	\$ 2,307,347	120	90	
TOTAL				\$ 2,568,775,067	\$ 2,555,644,271			

	Budget by method	Actual by method	Difference by method	% of total	Average \$ over/under budget
Design-Bid-Build	\$ 1,627,557,749	\$ 1,660,300,912	32,743,163	63.4%	\$ 142,983
Design-Build	\$ 83,935,668	\$ 81,216,271	(2,719,397)	3.3%	\$ (247,218)
CM@Risk	\$ 589,554,861	\$ 547,432,901	(42,121,960)	23.0%	\$ (1,914,635)
Other	\$ 267,726,789	\$ 266,694,187	(1,032,602)	10.4%	\$ (27,174)
TOTAL	\$ 2,568,775,067	\$ 2,555,644,271	(13,130,796)		

	Count	Percentage	Average Project cost
Design-Bid-Build	229	76.3%	7,107,239
Design-Build	11	3.7%	7,630,515
CM@Risk	22	7.3%	26,797,948
Other	38	12.7%	7,045,442
TOTAL	300		

	Hard bid	Alternative
Design-Bid-Build	\$ 1,627,557,749	
Design-Build		\$ 83,935,668
CM@Risk		\$ 589,554,861
Other		\$ 267,726,789

	Hard bid	Alternative
Design-Bid-Build	229	
Design-Build		11
CM@Risk		22
Other		38

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2021	City of Harrisonburg	Project #256.2B Eastern City Limits to Port Republic Road (City Contract 2019019-PU-B)	Design-Bid-Build	\$ 5,000,000	\$ 2,522,128	560	820	None reported in the procurement file ITB 2019019-PU-B Notice to Proceed: 09/16/2019 Completion Date: 12/08/21 Final Payment Amount: \$2,522,127.56
2021	City of Williamsburg	Monticello Ave PPTA	Design-Build	\$ 5,000,000	\$ 3,850,113	334	632	Long Completion date was due to material availability, weather along with Covid19 delays.
2020	Henrico County Government	Glen Allen Elementary School Addition	Design-Bid-Build	\$ 5,010,139	\$ 4,875,127	699	701	None
2020	County of Fairfax	DVS – West Ox Facility	Design-Bid-Build	\$ 5,109,756	\$ 5,538,471	545	660	NA
2020	Chesterfield County	Robious Road Widening – Powhatan County Line to Robious	Design-Bid-Build	\$ 5,175,000	\$ 4,635,711	204	371	None
2020	Western Virginia Water Authority	Summit View Sewer	Design-Bid-Build	\$ 5,207,217	\$ 3,758,862	210	336	none
2020	Rockingham County	Port Road Emergency Response Station	Design-Bid-Build	\$ 5,277,000	\$ 5,396,912	18	18	None
2020	City of Virginia Beach	Royal Palm Arch Sanitary Sewer Rehab	Design-Bid-Build	\$ 5,300,000	\$ 5,536,819	450	582	N/A
2020	Charlottesville City	INVITATION FOR BID # CIRCUIT COURTHOUSE RENOVATION & ADDITION/18-26	Design-Bid-Build	\$ 5,332,994	\$ 4,113,326	403	1,029	Very slow performance of contractor in remedying punchlist items. Plumbing issues which required corrective action. Electrical issues (lighting) which required corrective action.
2020	James Madison University	Jackson Hall Renovation	Design-Bid-Build	\$ 5,497,000	\$ 6,164,000	407	408	Covid; building wasn't able to be fully occupied until almost summer of 2021.
2020	Rockingham County Public Schools	Fulks Run Elementary School - Renovation	Other	\$ 5,521,427	\$ 5,454,636	330	270	
2020	Roanoke City Government	Fire Station 7 Memorial	Other	\$ 5,570,000	\$ 6,021,345	420	545	None provided
2020	County of Loudoun	Construction of the DC United Stadium Site	Design-Bid-Build	\$ 5,573,333	\$ 7,626,449	473	548	Warranty issues related to landscaping and a delay in a bus shelter drip edge. However, all issues have been resolved.
2020	Bedford County Public Schools	New Gym at Liberty High School	Design-Bid-Build	\$ 5,615,997	\$ 5,487,982	434	434	
2020	City of Virginia Beach	North Lake Holly Watershed Improvements	Design-Bid-Build	\$ 5,814,176	\$ 4,612,895	548	715	
2020	County of Fairfax	Old Courthouse Spring Branch Valley Park	Design-Bid-Build	\$ 5,886,798	\$ 6,140,875	450	459	
2020	County of Fairfax	Reston Community Center Aquatics	Design-Bid-Build	\$ 5,922,000	\$ 5,481,320	305	315	NA
2020	Chesterfield County Public Schools	Construction, Falling Creek Middle School Improvements	Design-Bid-Build	\$ 5,959,801	\$ 3,450,457	118	420	None
2020	Virginia Community College System - System	JSRCC-DowntownImprovements to Phase I Facility - (CM)	Other	\$ 5,991,880	\$ 4,849,431	690	1,171	
2020	Arlington County Government		Design-Bid-Build	\$ 6,080,941	\$ 5,945,562	270	722	N/A
2020	Chesterfield County	Fire Station #25	Design-Bid-Build	\$ 6,149,804	\$ 6,410,057	495	510	Yes
2020	County of York	CONSTRUCTION OF FIRE STATION #1 (GRAFTON AREA)	Design-Bid-Build	\$ 6,197,980	\$ 6,636,484	395	513	DRAINAGE IMPROVEMENT PROJECT (IFB Y-10157-FS), AWARDED TO WALTER C VIA. FOR \$26,900.00 THE PROCUREMENT METHOD FOR THE CONSTRUCTION OF FIRE STATION #1 WAS DONE THROUGH AN INVITATION FOR BIDS (IFB# 2075 - WHICH WAS POSTED ON EVA ON 1/3/2018)
2020	Arlington Public Schools	Randolph Elementary School HVACImprovement Project	Design-Bid-Build	\$ 6,200,000	\$ 5,136,445	441	468	Construction commenced June 22, 2018. Warranty period expired October 3, 2020. The budget information provided for the two projects includes both construction costs and soft costs.
2020	City of Winchester	Woodstock Lane Infrastructure Improvements	Other	\$ 6,200,000	\$ 6,035,963	365	365	
2020	University of Virginia	Main Heating Plant Boiler #6	CM@Risk	\$ 6,400,000	\$ 7,285,505	670	837	Approved - also confirmed by Martin West and Jenn Glassman here at UVA
2020	County of York	CONSTRUCTION, FIRE STATION	Design-Bid-Build	\$ 6,500,000	\$ 6,636,484	441	539	
2020	Virginia Polytechnic Institute and State University	Renovations for Undergraduate Science Laboratories	Design-Bid-Build	\$ 6,552,944	\$ 5,907,114	360	360	none
2020	Loudoun County Public Schools	Entry Modifications for 24 ES and MS (group 2a and 2B- (GMP 2 under CMaR contract 18-474)	CM@Risk	\$ 6,713,879	\$ 4,008,476	334	516	None
2020	County of York	HVAC REPLACEMENT, METAL ROOF & EXTERIOR WIND	Design-Bid-Build	\$ 6,804,231	\$ 7,254,875	548	820	
2020	Hampton Roads Sanitation District	Boat Harbor Treatment Plant Switchgear & Controls	Design-Bid-Build	\$ 6,893,065	\$ 6,821,171	580	580	None
2020	Albemarle County	Hollymead Dam Spillway Improvement	Design-Bid-Build	\$ 6,910,200	\$ 6,927,836	571	1,407	
2020	County of Fairfax	Hayfield Road Pipe Conveyance System	Design-Bid-Build	\$ 6,956,900	\$ 7,146,984	420	355	
2020	Hanover County	Sliding Hill road	Design-Build	\$ 7,000,000	\$ 6,836,855	487	438	
2020	University of Virginia	652 Peter Jefferson Parkway, 2nd Floor Renovation - Breast Care Center	Design-Bid-Build	\$ 7,000,000	\$ 4,284,848	301	997	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center - A246 College at Wise. This report is for A209 Medical Center
2020	Spotsylvania County	Animal Shelter Expansion, Renovation	Other	\$ 7,002,486	\$ 7,069,945	780	977	none
2020	City of Lynchburg	MAIN STREET BRIDGE	Design-Bid-Build	\$ 7,131,385	\$ 7,008,357	450	540	NONE
2020	Hampton Roads Sanitation District	Manhole & Siphon Rehab - North Shore System	Design-Bid-Build	\$ 7,260,921	\$ 6,905,511	490	760	Extended warranty on certain items.

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2020	Henrico County Government	High School Athletic Field Improvements - Phase 3 (Deep Run)	Design-Bid-Build	\$ 7,500,000	\$ 7,263,059	250	300	n/a
2020	Hampton Roads Sanitation District	Orcutt Ave & Mercury Blvd GS Improvements	Design-Bid-Build	\$ 7,763,168	\$ 7,600,000	554	584	None
2020	City of Chesapeake	Centerville Rehabilitation	Design-Bid-Build	\$ 7,793,596	\$ 7,911,739	9	9	NONE
2020	University of Virginia	ECCCC 4th Floor Fit Out	CM@Risk	\$ 7,950,000	\$ 10,488,253	780	1,647	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center - A246 College at Wise. This report is for A209 Medical Center
2020	City of Chesapeake	Centerville Turnpike Bridge Rehab	Design-Bid-Build	\$ 8,100,000	\$ 7,992,721	515	508	Procurement Method : Other -- Invitation for Bids (IFB)
2020	Harrisonburg- Rockingham Regional Sewer Authority	Blacks Run Interceptor Improvements	Design-Bid-Build	\$ 8,210,000	\$ 6,537,674	550	469	
2020	City of Virginia Beach	Indian River Road & Kempsville Road Intersection Improvement	Design-Bid-Build	\$ 8,337,746	\$ 11,022,818	640	575	
2020	University of Virginia	Athletics Complex Phase 1 Early Site Package	Design-Bid-Build	\$ 8,400,000	\$ 11,871,111	242	847	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2020	Henrico County Government	Meredith Branch Force Main	Design-Bid-Build	\$ 8,500,000	\$ 706,382	730	1,308	Late completion
2020	Shenandoah County	Sheriff's Office	Design-Bid-Build	\$ 8,500,000	\$ 9,678,345	7,302,020	#####	n/a
2020	Longwood University	Construct Admissions Office	Design-Bid-Build	\$ 8,561,000	\$ 7,858,846	450	614	project closeout issues
2020	Henrico County Government	Henrico Area Mental Health & Developmental Services East Campus	Design-Bid-Build	\$ 8,798,938	\$ 7,180,033	377	377	None
2020	County of Fairfax	Bailey's Shelter & Supportive Housing	Design-Bid-Build	\$ 8,843,000	\$ 9,272,447	518	599	
2020	Town of Front Royal	Police Department Construction	Design-Bid-Build	\$ 9,000,000	\$ 8,719,314	450	1,410	Architectural deficiencies Weather delays Network Cables Painted Settlement of Claims, Project Closeout issues
2020	City of Virginia Beach	Police 4th Precinct Bldg	Design-Bid-Build	\$ 9,051,779	\$ 7,103,996	405	624	N/A
2020	NRV Regional Water Authority	Plum Creek Transmission Main Phase 1 and Phase 2	Design-Bid-Build	\$ 9,168,000	\$ 9,892,500	595	585	None
2020	Henrico County Government	Crestview Elementary School Renovations	Design-Bid-Build	\$ 9,283,941	\$ 8,425,497	484	736	None
2020	Richmond Metropolitan Transportation Authority	Protective Coatings 2018	Other	\$ 9,400,000	\$ 6,509,460	543	620	None
2020	University of Virginia	University Hall (U- Hall) Abatement & Demolition	Design-Build	\$ 9,800,000	\$ 6,518,658	289	1,010	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2020	County of Fairfax	Woodlawn Fire Station	Design-Bid-Build	\$ 9,933,000	\$ 9,492,613	644	531	NA
2020	Virginia Port Authority	Dredging IFB - Public Opening	Design-Bid-Build	\$ 10,190,110	\$ 9,534,520	532	532	Sealed Competitive Bidding via an IFB
2020	City of Virginia Beach	South Lake Holly Watershed Improvements	Design-Bid-Build	\$ 10,260,485	\$ 9,039,817	913	1,066	
2020	Capital Region Airport Commission	Cargo Apron Eastside	Design-Bid-Build	\$ 10,500,000	\$ 8,838,853	270	270	none
2020	Prince William County Service Authority	Colchester Interceptor and Pump Station	Other	\$ 10,519,327	\$ 11,027,426	547	630	Change Order
2020	Stafford County Public Schools	Energy Performance Contract for Stafford County Public Schools	Other	\$ 10,650,651	\$ 10,650,651	995	1,025	
2020	Arlington Public Schools	Gunston Middle School HVAC Improvement Project	Design-Bid-Build	\$ 10,655,000	\$ 8,723,689	442	467	Construction commenced June 21, 2018. Warranty period expired October 15, 2020. The budget information provided for the two projects includes both construction costs and soft costs.
2020	Roanoke City Government	E911 VA 811Facility	Other	\$ 10,741,087	\$ 11,160,233			None provided
2020	Chesterfield County Public Schools	Matoaca Middle School Addition	Design-Bid-Build	\$ 10,786,253	\$ 10,583,541	385	377	
2020	County of Loudoun	Construction of the Lovettesville Community Center	Design-Bid-Build	\$ 10,808,400	\$ 1,283,305	912	193	Terminated for convenience after phase 1 completed
2020	Henrico County Government	Pemberton Elementary School Renovation	Design-Bid-Build	\$ 10,829,171	\$ 10,131,210	699	824	None
2020	Henrico County Government	Chamberlayne Elementary School Renovations	Design-Bid-Build	\$ 10,892,301	\$ 8,270,524	738	858	None
2020	Harrisonburg- Rockingham Regional Sewer	Enhanced Biosolids Reuse and Reduction Project	Design-Bid-Build	\$ 11,222,933	\$ 11,320,842	600	644	None
2020	James Madison University	CONSTRUCT WEST CAMPUS PARKING DECK	Design-Build	\$ 11,498,000	\$ 11,789,957	473	386	Landscaping Lighting Adding Electric Spaces
2020	University of Virginia	Carr's Hill Renovation	CM@Risk	\$ 11,700,000	\$ 1,036,433	537	1,393	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2020	Virginia Community College System - System	Renovate Main Hall, Middletown Campus, Lord Fairfax	CM@Risk	\$ 11,824,291	\$ 12,514,549	690	659	
2020	County of Fairfax	Murraygate Village Apartments	Design-Bid-Build	\$ 11,973,575	\$ 15,440,928	571	749	NA
2020	Wythe County Public Schools	George Wythe High School Renovation and Addition	Design-Bid-Build	\$ 12,250,000	\$ 12,738,849	540	630	

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2020	University of Virginia	New Softball Stadium	CM@Risk	\$ 13,000,000	\$ 19,641,061	528	1,409	The University of Virginia is comprised of (3) three agencies: - A207 Academic - A209 Medical Center- A246 College at Wise. This is or A207 Academic
2020	Henry County	Philpott Water Filtration Plant Upgrade to 6.0 MGD	Design-Bid-Build	\$ 13,626,557	\$ 13,626,557	730	1,095	One of the raw water pumps and finished water pumps having issues.
2020	Hampton Roads Sanitation District	Williamsburg Treatment Plant Generator & Switchgear Replacement	Design-Bid-Build	\$ 13,992,672	\$ 14,115,477	690	698	None
2020	Rockingham County Public Schools	John C. Myers Elementary School	Other	\$ 14,110,630	\$ 13,610,153	536	596	
2020	Galax City Public Schools	Galax Elementary School Renovation Project	Design-Bid-Build	\$ 15,552,000	\$ 1,710,000	973	1,187	None
2020	City of Virginia Beach	South Lake Holly Section IV	Design-Bid-Build	\$ 16,009,587	\$ 15,681,839	913	1,066	N/A
2020	Longwood University	New Academic Building	Design-Bid-Build	\$ 16,115,400	\$ 16,530,511	630	1,425	Non
2020	Fairfax County Schools	Mount Vernon Woods Elementary School Renovation	Design-Bid-Build	\$ 16,750,000	\$ 17,044,085	851	1,216	NA
2020	County of Fairfax	Solids Processing Rehabilitation, Phase II	Design-Bid-Build	\$ 16,750,000	\$ 18,433,980	915	844	
2020	Prince William County	Construction of Fire and Rescue Station 22	Design-Bid-Build	\$ 16,970,713	\$ 16,766,731	112,020	42,022	Occupancy December 2020, Project Closeout Completed April 2022
2020	Virginia Polytechnic Institute and State University	Student Athlete Performance Center	Design-Bid-Build	\$ 17,059,490	\$ 16,763,923	487	487	
2020	Virginia Polytechnic Institute and State University	Student Athlete Performance Center	Design-Bid-Build	\$ 17,059,490	\$ 16,763,923	450	450	none
2020	Albemarle County	Woodbrook E.S. Additions and Renovations	Design-Bid-Build	\$ 17,531,381	\$ 16,707,272	422	438	None
2020	University of Mary Washington	Renovate Residence Halls - Phase II (Virginia Hall)	CM@Risk	\$ 17,901,616	\$ 19,041,679	343	357	
2020	County of Loudoun	Construction of the New Loudoun County Animal Services Facility	Design-Bid-Build	\$ 17,975,850	\$ 18,311,445	540	791	none
2020	University of Mary Washington	Improvements - Renovate Residence Halls (Willard Hall Renovation)	CM@Risk	\$ 18,400,780	\$ 19,311,522	286	376	
2020	County of Fairfax	Massey Demo	Design-Bid-Build	\$ 18,682,000	\$ 6,941,108	615	689	NA
2020	Fairfax County Schools	Silverbrook Elementary School Renovation	Design-Bid-Build	\$ 19,994,000	\$ 20,032,321	615	980	NA
2020	James Madison University	Wilson Hall Renovation	CM@Risk	\$ 20,008,990	\$ 20,186,612	378	366	
2020	County of Loudoun	Construction of the Public Safety Firing Range	Design-Bid-Build	\$ 20,398,000	\$ 21,360,506	460	658	none
2019	Fairfax County Schools	Belle View Elementary School Renovation	Design-Bid-Build	\$ 20,790,000	\$ 20,957,526	791	1,156	NA
2019	City of Newport News	Parking Garage, City Center, Phase Four	Other	\$ 21,593,000	\$ 22,531,879	503	595	
2019	Henrico County Government	Tuckahoe Middle School Renovation	Design-Bid-Build	\$ 22,632,393	\$ 27,796,552	700	777	None
2019	Radford University	Renovate Curie and Reed Halls	CM@Risk	\$ 22,708,530	\$ 22,706,892	602	1,080	
2019	City of Fairfax	Northfax Intersection & Drainage Improvement Project	Other	\$ 23,848,500	\$ 23,848,500	730	730	Traffic signal was damaged in vehicular accident before punch list was completed.
2019	Greene County Public Schools	L618GCPs -DEB_CCP_William Monroe Middle and High School	CM@Risk	\$ 23,975,800	\$ 24,489,225	532	868	Slope issues on the loading dock at the Middle School. Repaired by contractor. Drain line issues at the MS causing back up in cafeteria and restrooms. Had to pull up a section of terrazzo and slab to repair.
2019	Chesterfield County Public Schools	Crestwood Elementary School Construction	Design-Bid-Build	\$ 24,178,807	\$ 24,219,539	660	660	
2019	Chesterfield County Public Schools	Matoaca Elementary School Construction	Design-Bid-Build	\$ 24,861,832	\$ 25,140,543	477	478	
2019	James Madison University	Phillips Dining Hall	CM@Risk	\$ 25,112,184	\$ 25,826,276	542	595	Extensive Contractor delays and quality issues.
2019	City of Virginia Beach	North Lake Holly Section IIIA	Design-Bid-Build	\$ 25,351,135	\$ 27,874,216	548	711	N/A
2019	Chesapeake Bay Bridge and Tunnel District	Mill and Repave Trestles, Replace End Dams	Design-Bid-Build	\$ 27,000,000	\$ 26,721,706	343	724	No
2019	Frederick County Public Schools	12th Elementary School Construction	Design-Bid-Build	\$ 28,500,000	\$ 27,227,401	731	520	commissioning issues on lighting
2019	Hampton Roads Sanitation District	Providence Road Offline Storage Facility	Design-Bid-Build	\$ 29,953,000	\$ 31,131,582	855	881	None
2019	Hampton Roads Sanitation District	Pressure Reducing Station Reliability Upgrades	CM@Risk	\$ 33,282,000	\$ 30,454,524	1,135	1,135	None
2019	James Madison University	East Campus Parking Deck	CM@Risk	\$ 34,676,293	\$ 35,369,303	1,039	521	
2019	Bedford County Public Schools	New Liberty Middle School	Design-Bid-Build	\$ 35,884,233	\$ 35,135,750	620	620	
2019	City of Newport News	SCOT Center PPEA	CM@Risk	\$ 38,811,692	\$ 39,348,167	412	576	Project indicated as Other were issued as Invitation for Bids.
2019	Chesterfield County Public Schools	Manchester Middle School Construction	Design-Bid-Build	\$ 41,283,593	\$ 41,283,593	857	857	
2019	City of Staunton	STAUNTON HIGH School additions and renovations	Design-Bid-Build	\$ 43,130,335	\$ 44,041,818	639	640	MAIN AND AUX gym flooring issues to be resolved
2019	James Madison University	East Campus Student Housing	CM@Risk	\$ 47,850,000	\$ 49,503,462	414	504	Tremendous workmanship and system errors from Contractor.
2019	County of Fairfax	Innovation Center Station Parking Garage	Design-Bid-Build	\$ 51,639,920	\$ 49,512,692	700	850	NA
2019	Old Dominion University	SB Ballard Stadium Renovations	CM@Risk	\$ 53,653,240	\$ 5,960,724	445	445	Warranty
2019	Prince William County Schools	Potomac Shores Middle School	Design-Bid-Build	\$ 54,104,420	\$ 52,542,298	867	929	None

Year	Agency Name	Project	Construction Method	Budget	Actual	Timeline	Actual	Comments
2019	City of Virginia Beach	Virginia Beach Sports Center	Other	\$ 65,804,076	\$ 65,365,758	863	820	
2019	James Madison University	Construct New College of Business	CM@Risk	\$ 70,822,168	\$ 72,641,206	1,106	1,078	
2019	Loudoun County Public Schools	Lightridge High Schools (HS-9) new construction	Design-Bid-Build	\$ 110,399,300	\$ 114,043,778	699	973	None
2019	James Madison University	New Construction Convocation Hall	CM@Risk	\$ 113,900,000	\$ 115,675,841	938	907	
			TOTAL	\$ 2,037,550,613	\$ 1,939,837,580			

	Budget by method	Actual by method	Difference by method	% of total	Average \$ over/under budget
Design-Bid-Build	\$ 1,198,655,086	\$ 1,150,085,325	(48,569,761)	58.8%	\$ (578,211)
Design-Build	\$ 63,251,000	\$ 60,127,165	(3,123,835)	3.1%	\$ (624,767)
CM@Risk	\$ 578,691,463	\$ 535,489,710	(43,201,753)	28.4%	\$ (2,273,776)
Other	\$ 196,953,064	\$ 194,135,380	(2,817,684)	9.7%	\$ (216,745)
TOTAL	\$ 2,037,550,613	\$ 1,939,837,580	(97,713,033)		

	Count	Percentage	Average Project cost
Design-Bid-Build	84	69.4%	14,269,703
Design-Build	5	4.1%	12,650,200
CM@Risk	19	15.7%	30,457,445
Other	13	10.7%	15,150,236
TOTAL	121		

	Hard bid	Alternative
Design-Bid-Build	\$ 1,198,655,086	
Design-Build		\$ 63,251,000
CM@Risk		\$ 578,691,463
Other		\$ 196,953,064

	Hard bid	Alternative
Design-Bid-Build	84	
Design-Build		5
CM@Risk		19
Other		13

Procurement Dollars DGS Report on Project

\$1,800,000,000

\$1,600,000,000

\$1,400,000,000

\$1,200,000,000

\$1,000,000,000



Competitive Sealed Bids DGS Report on Project

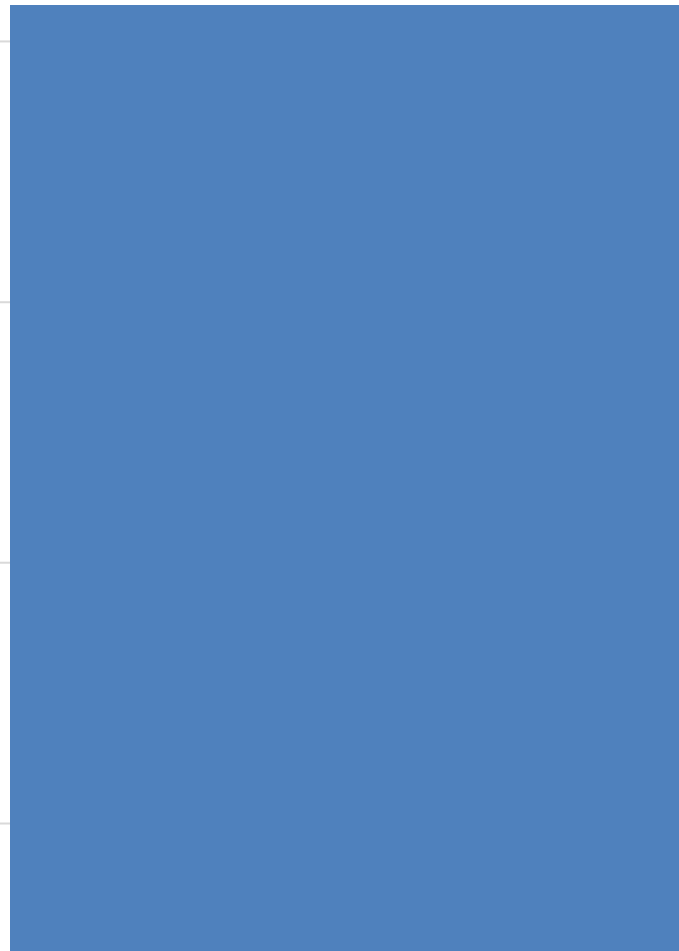
\$1,800,000,000

\$1,600,000,000

\$1,400,000,000

\$1,200,000,000

\$1,000,000,000

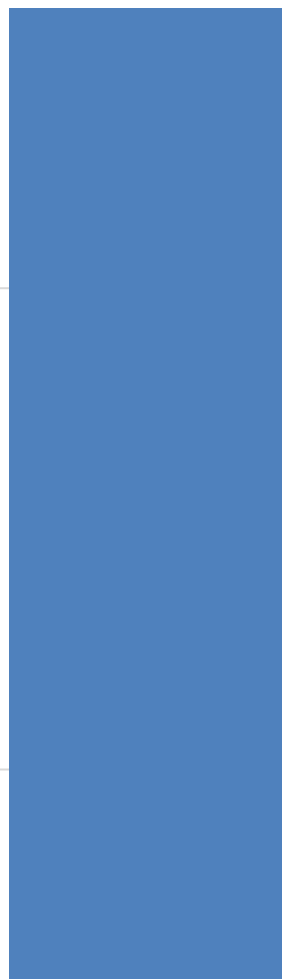


Procurement Project DGS Report on Project

250

200

150

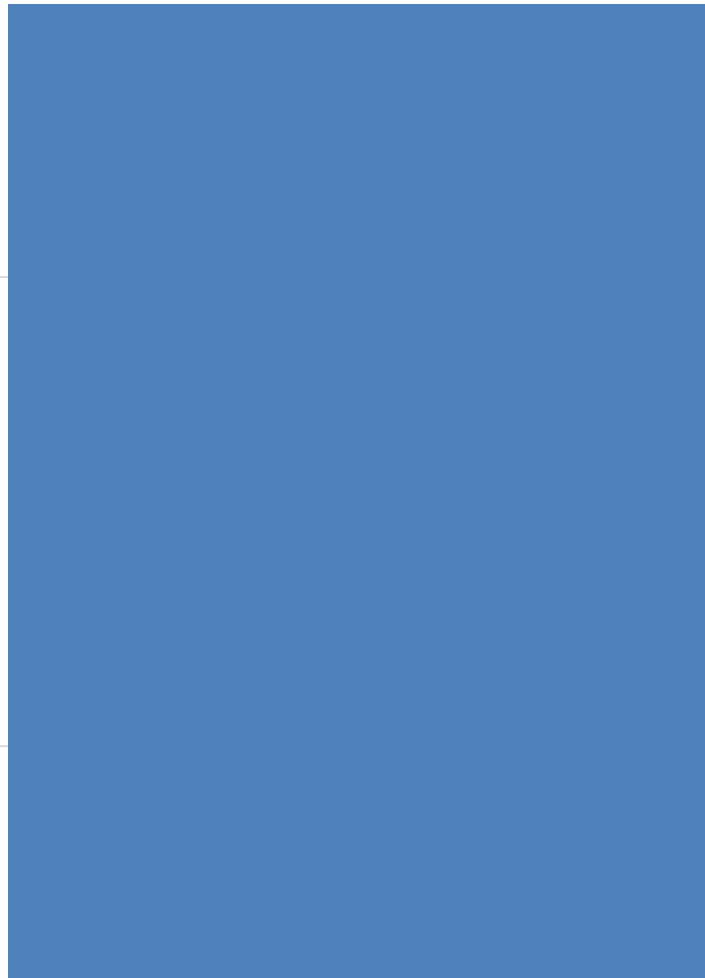


Competitive Sealed Bid vs DGS Report on Project

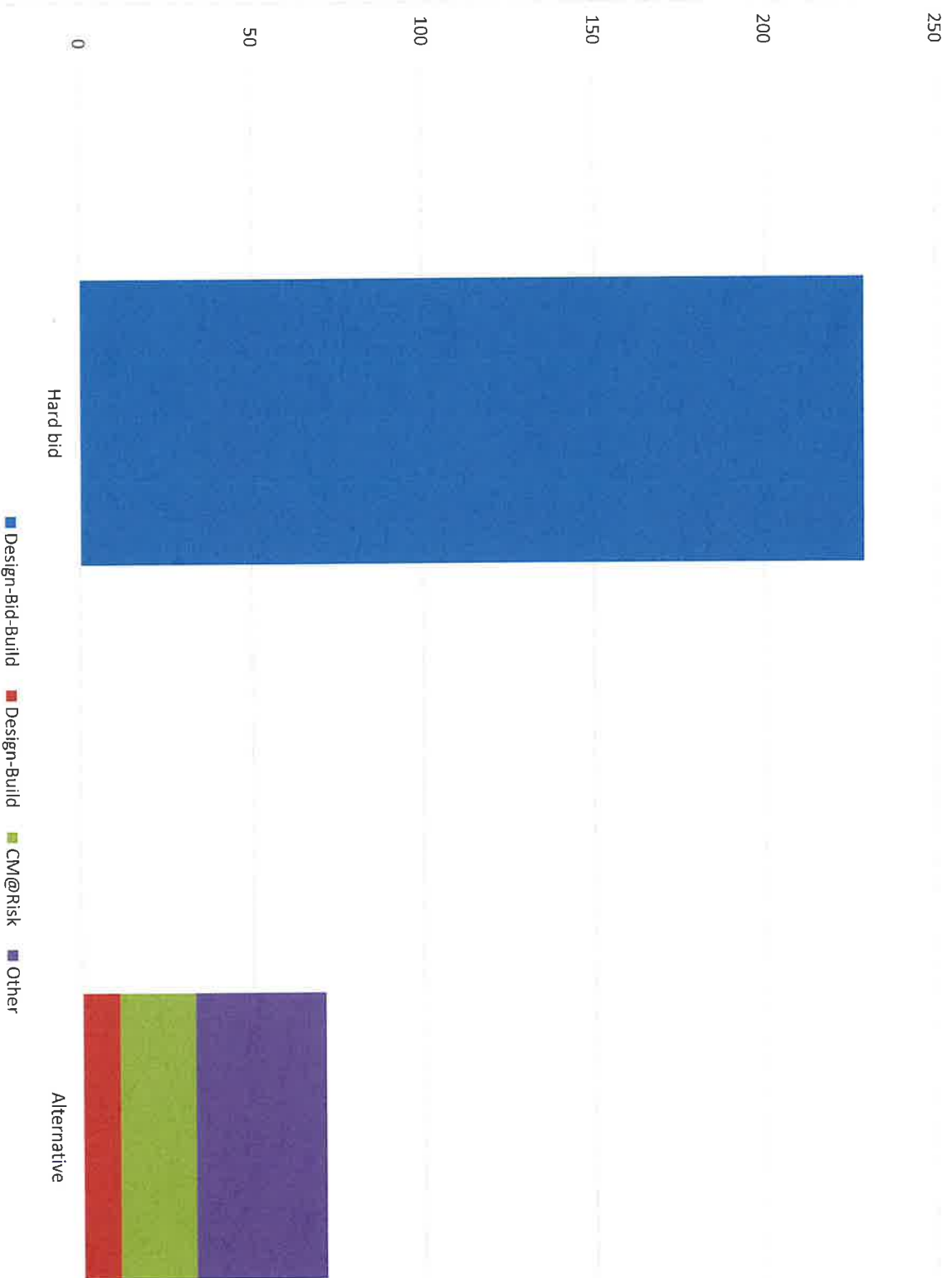
250

200

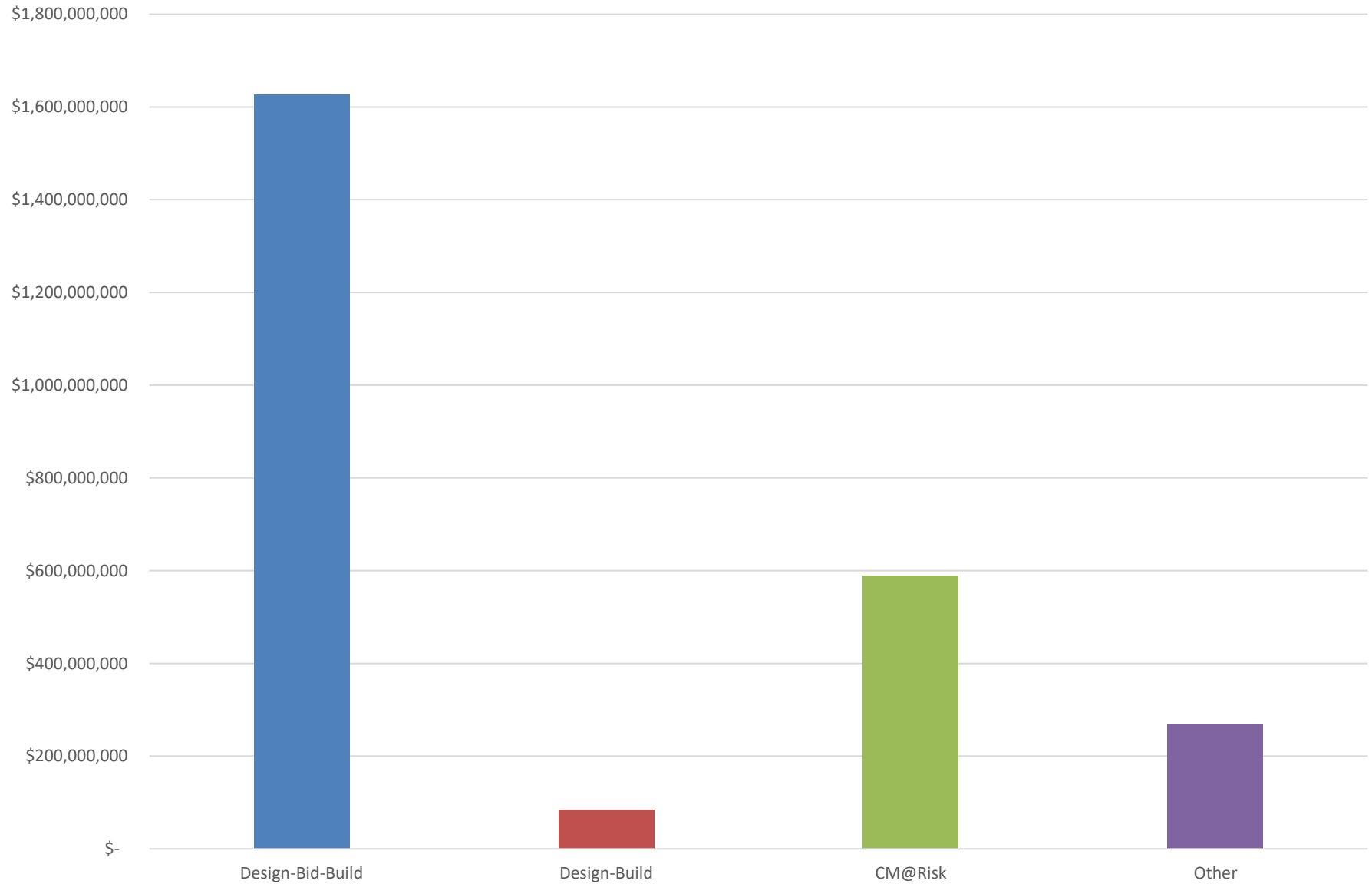
150



Competitive Sealed Bid vs. Others (# or projects) DGS Report on Projects >\$2M (FYs '18-'22)

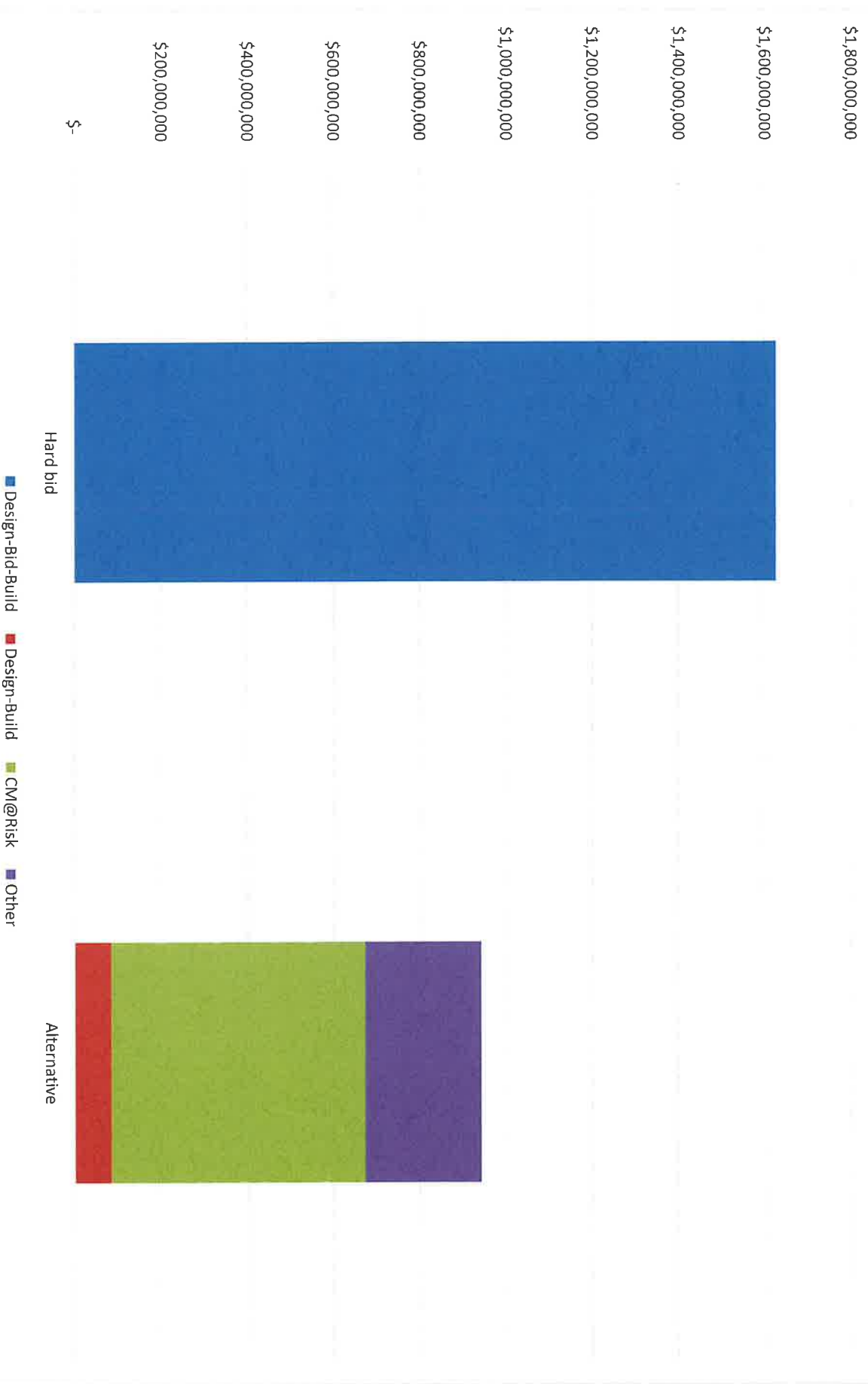


Procurement Dollars by Method DGS Report on Projects >\$2M (FYs '18-'22)



Competitive Sealed Bid vs. Others (\$\$)

DGS Report on Projects >\$2M (FYs '18-'22)



Procurement Projects by Method DGS Report on Projects >\$2M (FYs '18-'22)



MASTER LIST OF PROJECTS

KEY

	-	Identifies projects from second data request of years 2015-2017
	-	Identifies projects from third data request of years 2018-2021

College	Year	Project	Method	Successful Bidder/Proposer	Amount	College Total
CNU	2010	Freeman Center	CMAR	W.M. Jordan Company, Inc.	\$27,800,000	
CNU	2010	Forbes Hall Phase 1	CMAR	Whiting-Turner Contracting Co	\$58,700,000	
CNU	2011	Forbes Hall Phase II	CMAR	Whiting-Turner Contracting Co	\$16,400,000	
CNU	2011	Luter Hall	CMAR	Whiting-Turner Contracting Co	\$45,100,000	
CNU	2012	Warwick River Hall	CMAR	W.M. Jordan Company, Inc.	\$33,100,000	
CNU	2012	Pope Chapel	CMAR	W.M. Jordan Company, Inc.	\$6,400,000	
CNU	2014	Christopher Newport Hall	CMAR	Whiting-Turner Contracting Co	\$42,000,000	
CNU	2016	Library Phase II Construction	CMAR	W.M. Jordan Company, Inc.	\$43,418,000	
CNU	2016	Alumni House Construction	Competitive Bid	Whiting-Turner Contracting Co	\$5,835,000	
CNU	2016	Regattas Dining Expansion	Competitive Bid	E.T. Gresham Company	\$9,500,000	
CNU	2017	Fine Arts & Band Rehersal Construction/Renovation	CMAR	Whiting-Turner Contracting Co	\$50,464,532	
						\$338,717,532
GMU	2012	Science & Tech II Renovation	CMAR	Donley's LLC.	\$40,567,069	
GMU	2014	Fenwick Library Renovation Phase II	CMAR	Whiting-Turner Contracting Co	\$40,509,946	
GMU	2011	Thompson Hall Renovation	Competitive Bid	Keller Brothers, Inc.	\$6,877,000	
GMU	2012	Fine Arts Building Renovation	Competitive Bid	Tuckman-Barbee Construction Co	\$5,825,000	
GMU	2014	Shenandoah ("Ike's") Dining	Competitive Bid	Balfour Beatty Construction, LLC.	\$8,603,478	
GMU	2009	Sub I Addition/Renovation	Design/Build	Hess Construction Company	\$17,550,000	
GMU	2010	Krasnow Institute Addition Phase II	Design/Build	Whiting-Turner Contracting Co	\$8,140,138	
GMU	2010	Housing VIIIA	Design/Build	Balfour Beatty Construction, LLC.	\$47,457,000	
GMU	2011	Smithsonian-Mason CSP	Design/Build	W.M. Jordan Company, Inc.	\$11,798,750	
GMU	2012	University Commons Renovation	Design/Build	Dustin Construction, Inc.	\$12,080,000	
GMU	2013	Taylor Hall (Housing VIIIB1)	Design/Build	Balfour Beatty Construction, LLC.	\$15,878,554	
GMU	2013	Campus Drive (West Campus Connector)	Design/Build	Branch Highways	\$15,056,821	
GMU	2009	Hotel & Conference Center	PPEA	University Hotel Partners, LLC.	\$50,292,000	
GMU	2016	Peterson Family Health Sciences Hall	CMAR	Whiting-Turner Contracting Co	\$54,797,710	
GMU	2019	Hylton Performing Arts Center Addition	CMAR	James G. Davis Construction	\$11,729,047	
GMU	2018	Improve Utility Distribution System	CMAR	Whiting-Turner Contracting Co	\$45,552,547	
GMU	2021	Robinson Hall (Horizon Hall)	CMAR	Whiting-Turner Contracting Co	\$97,578,892	
						\$490,293,952

MASTER LIST OF PROJECTS

JMU	2008 CISAT Dining Hall	CMAR	Donley's LLC.	\$18,768,000
JMU	2009 Bridgeforth Stadium Renovation	CMAR	Donley's LLC.	\$53,950,000
JMU	2010 Bio Science Building	CMAR	Skanska USA Building	\$32,926,354
JMU	2010 Wayland Hall Renovation	CMAR	Donley's LLC.	\$11,394,000
JMU	2012 West Wing RMH Renovation	CMAR	W.M. Jordan Company, Inc.	\$43,577,799
JMU	2012 Duke Hall Addition/Renovation	CMAR	Skanska USA Building	\$32,646,335
JMU	2012 New Student Health Center/East Wing Construction	CMAR	W.M. Jordan Company, Inc.	\$7,936,662
JMU	2013 Grace Street Student Housing	CMAR	Donley's LLC.	\$38,996,387
JMU	2014 UREC Expansion	CMAR	Kjellstrom & Lee, Inc.	\$42,712,270
JMU	2014 East Tower	CMAR	Skanska USA Building	\$48,789,838
JMU	2008 Softball/Baseball Complex	Competitive Bid	Nielsen Builders, Inc.	\$8,618,208
JMU	2010 University Park	Competitive Bid	Nielsen Builders, Inc.	\$36,200,718
JMU	2010 Boiler & Infrastructure Phase I	Competitive Bid	Lantz Construction Company	\$7,698,400
JMU	2016 Madison Hall Renovation	CMAR	W.M. Jordan Company, Inc.	\$19,543,856
JMU	2016 University Services Annex	Competitive Bid	Harrisonburg Construction, Inc.	\$5,869,548
JMU	2016 New Dining Hall Construction (West Campus Dining Hall)	CMAR	Skanska USA Building	\$57,312,163
JMU	2017 New Convocation Center/East Campus Parking Deck (Atlantic Union Bank Center)	CMAR	S.B. Ballard Construction Company	\$99,000,000
JMU	2017 Phillips Dining Hall Replacement Construction	CMAR	W.M. Jordan Company, Inc.	\$26,228,125
JMU	2017 School of Business	CMAR	Kjellstrom & Lee, Inc.	\$72,835,614
JMU	2017 Wilson Hall Renovations	CMAR	Nielsen Builders, Inc.	\$20,409,000
JMU	2017 Paul Jennings Hall	CMAR	W.M. Jordan Company, Inc.	\$49,740,352
JMU	2018 Chesapeake Parking Deck	Design/Build	Branch & Associates, Inc.	\$12,075,000
JMU	2018 Jackson Hall Renovation	Competitive Bid	Nielsen Builders, Inc.	\$6,164,000
JMU	2018 East Campus Parking Deck	CMAR	S.B. Ballard Construction Company	\$36,010,447
				\$789,403,076
Longwood	2008 Steam Plant Upgrade Phase II	Competitive Bid	Branch & Associates, Inc.	\$12,143,450
Longwood	2009 Bedford Hall Addition/Renovation	Competitive Bid	Costello Construction, Inc.	\$16,519,000
Longwood	2013 Stubbs Hall Renovation	Competitive Bid	C.L. Lewis & Co., Inc.	\$6,905,660
Longwood	2013 French Hall Renovation	Competitive Bid	English Construction Co., Inc.	\$12,325,000
Longwood	2013 Cox Renovations	Competitive Bid	J.E. Jamerson & Sons	\$7,933,000
Longwood	2016 Student Success Center Construction	Competitive Bid	Hailey Builders, Inc.	\$6,556,593
Longwood	2013 University Center Construction	CMAR	Skanska USA Building	\$28,635,950
Longwood	2017 Additional Biomass Boiler	Competitive Bid	WACO, Inc.	\$5,192,800
Longwood	2018 Construct Admission Office	Competitive Bid	Jamerson-Lewis Construction, Inc.	\$7,858,846
Longwood	2018 Construct New Academic Building	Competitive Bid	Jamerson-Lewis Construction, Inc.	\$16,279,217
Longwood	2020 Wheeler Mall Steam Distribution System Replacement	Competitive Bid	Faulconer Construction Company, Inc.	\$5,192,800
				\$125,542,316
NSU	2015 Brown Hall Replacement	CMAR	S.B. Ballard Construction Company	\$60,584,000

MASTER LIST OF PROJECTS

NSU	2010 Brooks Library	CMAR	S.B. Ballard Construction Company	\$37,079,649
NSU	2010 Godwin Student Center	CMAR	W.M. Jordan Company, Inc.	\$38,633,403
NSU	2013 New Nusring & General Classroom Building	CMAR	S.B. Ballard Construction Company	\$37,374,141
NSU	2018 New Residential Complex	Design/Build	S.B. Ballard Construction Company	\$50,619,880
				\$224,291,073
ODU	2011 New Systems Research & Academic Building Construction	CMAR	Skanska USA Building	\$14,289,497
ODU	2013 New Arts Building Construction	CMAR	S.B. Ballard Construction Company	\$13,000,000
ODU	2014 New Art Studio Building Construction	CMAR	S.B. Ballard Construction Company	\$6,000,000
ODU	2014 Darden College of Education Building	CMAR	S.B. Ballard Construction Company	\$42,600,000
ODU	2008 Quad Student Housing Phase II (Buildings D, E, & F)	CMAR	W.M. Jordan Company, Inc.	\$51,016,300
ODU	2012 Systems Research and Academic Building	CMAR	Skanska USA Building	\$17,000,000
ODU	2012 Monarch Theater Phase of Diehn Performing and Fine Arts Building Phase II	Competitive Bid	W.M. Jordan Company, Inc.	\$9,000,000
ODU	2015 Basketball Practice Facility	Competitive Bid	P. G. Harris Construction Co.	\$6,592,833
ODU	2017 Construct New Residence Hall - Owens House	CMAR	W.M. Jordan Company, Inc.	\$47,788,191
ODU	2017 Construct Chemistry Building	CMAR	W.M. Jordan Company, Inc.	\$60,236,552
ODU	2017 Stadium at Foreman Field	CMAR	S.B. Ballard Construction Company	\$59,609,247
				\$327,132,620
Radford	2010 College of Business and Economics Construction	CMAR	Whiting-Turner Contracting Co	\$35,657,770
Radford	2012 Computational Sciences Building Construction	CMAR	W.M. Jordan Company, Inc.	\$40,632,041
Radford	2013 Student Fitness Center Construction	CMAR	Skanska USA Building	\$27,750,000
Radford	2014 New Academic Building - Humanities Construction	CMAR	S.B. Ballard Construction Company	\$40,214,071
Radford	2011 Moffet Hall Renovations	Competitive Bid	Thor, Inc.	\$10,280,000
Radford	2012 Washington Hall Renovations	Competitive Bid	G&H Contracting	\$7,800,000
Radford	2014 Residence Halls Umbrella Project Renovations	Competitive Bid	G&H Contracting	\$23,275,715
Radford	2014 New Intramural Fields Construction	Competitive Bid	Price Building & MB Contracting	\$6,424,000
Radford	2010 Madison & Jefferson Hall Renovations	Design/Build	Thor, Inc.	\$8,481,000
Radford	2016 Whitt Hall Renovations	Design/Build	G&H Contracting	\$5,643,936
Radford	2016 Residence Hall Renovations	Design/Build	G&H Contracting	\$6,380,309
Radford	2018 Complete Renovation of Reed and Curie Halls	CMAR	Branch & Associates, Inc.	\$22,708,530
Radford	2021 New CAIC Building - Abatement, Demolition, and Construction of New Four Story Building	CMAR	Skanska USA Building	\$80,500,000
				\$315,747,372
UMW	2011 Dahlgren Campus Construction	Competitive Negotiation	Kjellstrom & Lee, Inc.	\$13,631,733
UMW	2013 Residence Halls (Mason & Randolph) Renovations	Competitive Negotiation	W.M. Jordan Company, Inc.	\$26,938,797
UMW	2014 Information and Technology Convergence Center	Competitive Negotiation	W.M. Jordan Company, Inc.	\$25,698,255
UMW	2012 Monroe Hall Renovation	Competitive Bid	Sigal Construction Corp.	\$6,985,000
UMW	2009 Convocation Center	Competitive Bid	A.D. Whittaker Construction Corp.	\$11,146,300
UMW	2010 Campus Center Construction	PPEA	Donley's LLC.	\$44,642,328
UMW	2017 Jepson Science Center Addition	CMAR	Donley's LLC.	\$24,280,680

MASTER LIST OF PROJECTS

UMW	2019 Willard Hall Renovation	CMAR	Kjellstrom & Lee, Inc.	\$19,311,522
UMW	2020 Seacobeck Hall Renovation	CMAR	Whiting-Turner Contracting Co	\$23,201,260
UMW	2020 Virginia Hall Renovation	CMAR	Kjellstrom & Lee, Inc.	\$17,901,615
				\$213,737,490
UVA	2008 College at Wise: Residence Hall Package 6	CMAR	The Christman Company	\$5,424,879
UVA	2008 College at Wise: Dining Hall Package 6	CMAR	The Christman Company	\$6,059,233
UVA	2009 ITE Research Building (Rice Hall) - Core and Shell Package Construction	CMAR	W.M. Jordan Company, Inc.	\$8,570,989
UVA	2009 CAS Research Building - Core and Shell Package Construction	CMAR	W.M. Jordan Company, Inc.	\$5,629,170
UVA	2010 College at Wise: Multipurpose Center Package #01D - Final Building Package	CMAR	Quesenberry's Construction	\$13,352,272
UVA	2010 CAS Research Building - Interior Package	CMAR	W.M. Jordan Company, Inc.	\$8,085,128
UVA	2010 Garrett Hall Renovation - General Construction	CMAR	The Christman Company	\$5,822,481
UVA	2010 ITE Research Building (Rice Building) - Interior Package	CMAR	W.M. Jordan Company, Inc.	\$6,208,697
UVA	2010 Old Jordan Hall HVAC Replacement Project - Construction Phase	CMAR	DPR Construction, Inc.	\$19,198,486
UVA	2011 New Cabell Hall Renovation - Proc&Const Phase Services & Complete Const. Pkg	CMAR	Barton Malow Company	\$42,436,184
UVA	2011 Thrust Theater Expansion Construction	CMAR	Nielsen Builders, Inc.	\$7,543,056
UVA	2012 East Chiller Plant & Lee Street Realignment - Construction Phase II	CMAR	Gilbane Building Company	\$9,134,220
UVA	2012 East Chiller Plant & Lee Street Realignment - Construction Phase III	CMAR	Gilbane Building Company	\$11,307,704
UVA	2013 Alderman Road Residence Hall #6 - Building Construction Package	CMAR	Donley's LLC.	\$17,418,193
UVA	2014 North Grounds Mechanical Plant Full Trade Construction	CMAR	Martin Horn, Inc.	\$7,940,472
UVA	2014 Rotunda Renovations - Package 1 (Including CM Services Fee)	CMAR	Whiting-Turner Contracting Co	\$7,995,068
UVA	2014 Rotunda Renovations - Package 2	CMAR	Whiting-Turner Contracting Co	\$7,151,160
UVA	2014 Rotunda Renovations - Package 3	CMAR	Whiting-Turner Contracting Co	\$12,565,643
UVA	2014 ERC - Construction Phase Services & Building Construction	CMAR	Donley's LLC.	\$20,687,149
UVA	2012 Indoor Practice Facility - Field House (Building Package)	CMAR	Barton Malow Company	\$5,238,422
UVA	2012 North Grounds Recreation Center Expansion - Complete Working Drawings Documents	CMAR	Donley's LLC.	\$8,457,224
UVA	2012 Ruffner Hall Renovation - Construction Phase Services & Construction Package	CMAR	Donley's LLC.	\$11,826,727
UVA	2013 College at Wise: New Library Main Construction Package	CMAR	Quesenberry's Construction	\$22,774,649
UVA	2008 South Lawn Site Improvements (Package 16 - RFP #: 07-118)	CMAR	Faulconer Construction Co., Inc.	\$6,958,920
UVA	2008 College at Wise: Science Building Renovation	CMAR	Quesenberry's Construction	\$6,387,770
UVA	2008 Bavaro Hall - Curry School of Education Building Project	CMAR	Donley's LLC.	\$25,897,000
UVA	2008 Emily Couric Cancer Center - Mechanical Package 007	CMAR	Sullivan Mechanical Contractors, Inc.	\$7,542,100
UVA	2008 Emily Couric Cancer Center - Electrical Package 010	CMAR	M.C. Dean, Inc.	\$5,775,000
UVA	2008 SEAS Information Tech & Engineering Building - Construction Phase & Site Utilities	CMAR	W.M. Jordan Company, Inc.	\$5,879,274
UVA	2008 CAS Research Building - Construction Phase & Site Utilities	CMAR	W.M. Jordan Company, Inc.	\$6,568,767
UVA	2008 College at Wise: Smiddy Hall/New IT Facility	CMAR	The Christman Company	\$8,173,387
UVA	2008 AFC Chiller Plant Expansion - Buy Out Package	CMAR	Martin Horn, Inc.	\$6,321,025
UVA	2009 Hospital Bed Expansion - Electrical Package 010	CMAR	Design Electric, Inc.	\$10,833,637
UVA	2009 Hospital Bed Expansion - Mechanical Package 011	CMAR	Riddleberger Brothers, Inc.	\$10,413,942

MASTER LIST OF PROJECTS

UVA	2009 CAS Research Building - MEP & Fire Protection Package	CMAR	W.M. Jordan Company, Inc.	\$13,624,746
UVA	2009 SEAS Information Tech & Engineering Buiding - MEP & Fire Protection Package	CMAR	W.M. Jordan Company, Inc.	\$9,180,208
UVA	2010 ITC Data Center	Competitive Bid	Holder Construction Group, LLC.	\$6,962,228
UVA	2009 Alderman Road Residence Hall #1 - Package #1B, Site/Utility/Landscape and Construction	Design/Build	W.M. Jordan Company, Inc.	\$12,511,436
UVA	2009 Alderman Road Residence Hall #2 - Package #2B, Site/Utility/Landscape and Construction	Design/Build	W.M. Jordan Company, Inc.	\$10,759,429
UVA	2010 Alderman Road Residences: Phase III, Design/Build Services - Package 2 - Construction	Design/Build	W.M. Jordan Company, Inc.	\$26,667,697
UVA	2011 Alderman Road Residence Hall #5: Phase IV - Package 2 - Construction	Design/Build	W.M. Jordan Company, Inc.	\$19,078,457
UVA	2011 Newcomb Hall Dining Expansion - Construction Phase	Sole Source	R.E. Lee & Sons, Inc.	\$8,080,574
UVA	2016 McCormick Road Houses Renovations	CMAR	Barton Malow Company	\$70,304,737
UVA	2017 International Residence College Renovation	CMAR	Gilbane Building Company	\$10,394,947
UVA	2017 Gilmer Hall & Chemistry Building Renovation	CMAR	Whiting-Turner Contracting Co	\$43,051,269
UVA	2017 Carr's Hill Renovation	CMAR	Alexander Nicholson, Inc.	\$6,042,602
UVA	2017 University Hall (U-Hall) Abatement & Demolition	Design/Build	Renascent, Inc.	\$6,518,658
UVA	2017 Main Heating Plant Boiler #6	CMAR	Greenland Enterprises, Inc.	\$7,285,505
UVA	2018 ECCCC 4th Floor Fit Out	CMAR	Kjellstrom & Lee, Inc.	\$10,513,253
UVA	2018 New Softball Stadium	CMAR	Jamerson-Lewis Construction, Inc.	\$19,654,061
UVA	2019 Athetics Complex Phase 1 Early Site Package	Competitive Bid	Barton Malow Company	\$11,871,111
UVA	2019 Memorial to Enslaved Laborers	Competitive Bid	Team Henry Enterprises	\$5,489,874
				\$669,568,820
VA State Univ.	2013 Lockett Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$7,760,889
VA State Univ.	2018 Addition to MT Carter Building	CMAR	Branch & Associates, Inc.	\$7,336,670
				\$15,097,559
VA Tech	2008 Basketball Practice Facility	CMAR	Whiting-Turner Contracting Co	\$16,190,706
VA Tech	2009 AJ Renovation	CMAR	Barton Malow Company	\$50,388,670
VA Tech	2009 ICTAS II	CMAR	Skanska USA Building	\$24,134,503
VA Tech	2009 McComas Addition	CMAR	Whiting-Turner Contracting Co	\$8,360,843
VA Tech	2010 Visitor & Admissions Center	CMAR	BE&K Building Group, LLC.	\$7,052,618
VA Tech	2010 Infectious Disease Research Lab	CMAR	Branch & Associates, Inc.	\$6,648,316
VA Tech	2011 Performing Arts Center	CMAR	Holder Construction Group, LLC.	\$71,990,000
VA Tech	2011 Academic & Student Affairs Building	CMAR	Skanska USA Building	\$33,376,000
VA Tech	2011 West End Market Renovation	CMAR	Branch & Associates, Inc.	\$5,246,503
VA Tech	2011 Veterinary Medicine Instruction Addition	CMAR	W.M. Jordan Company, Inc.	\$9,500,000
VA Tech	2011 Signature Engineering Building	CMAR	Gilbane Building Company	\$66,358,823
VA Tech	2011 Human & Agricultural Biosciences Building I	CMAR	Skanska USA Building	\$42,084,845
VA Tech	2012 Davidson Hall Renovations Phase I	CMAR	Barton Malow Company	\$23,879,669
VA Tech	2012 Chiller Plant Phase I	CMAR	Whiting-Turner Contracting Co	\$15,382,088
VA Tech	2014 Upper Quad Residential Facilities	CMAR	Barton Malow Company	\$69,704,066
VA Tech	2008 Henderson Hall Renovations & Black Box	Competitive Bid	Avis Construction	\$11,559,955

MASTER LIST OF PROJECTS

VA Tech	2008 Parking Structure	Design/Build	The Christman Company	\$19,548,000
VA Tech	2009 Addition to Jamerson/Football Locker Room	Design/Build	Barton Malow Company	\$12,558,008
VA Tech	2011 VTCRI 3rd Floor Upfit	Design/Build	DPR Construction, Inc.	\$10,780,000
VA Tech	2014 Indoor Athletic Training Facility	Design/Build	W.M. Jordan Company, Inc.	\$18,000,000
VA Tech	2012 Unified Communications & Network Renewal	Internal	Internal Forces	\$16,508,000
VA Tech	2013 Dairy Science Relocation	Lease Capital	Capitol Lease	\$14,000,000
VA Tech	2009 VT/Carillon School of Medicine	PPEA	n/a	\$59,000,000
VA Tech	2011 Technology Research / Innovation Center	PPEA	n/a	\$9,600,000
VA Tech	2015 Classroom Building	CMAR	W.M. Jordan Company, Inc.	\$30,600,000
VA Tech	2017 Renovation/Renew Academic Buildings	CMAR	Branch & Associates, Inc.	\$25,605,000
VA Tech	2017 Athletic Improvements - Baseball Construction	Design/Build	Whiting-Turner Contracting Co	\$14,329,153
VA Tech	2017 Athletic Improvements - Rector Construction	CMAR	Branch & Associates, Inc.	\$14,144,099
VA Tech	2017 O'Shaughnessy Hall Renovation	CMAR	W.M. Jordan Company, Inc.	\$15,968,301
\$722,498,166				
VCCS	2017 BRCC - Biotechnology Building	CMAR	Kjellstrom & Lee, Inc.	\$15,394,218
VCCS	2017 ESCC - Replace Phase I Academic Building	Competitive Bid	McKenzie Construction Corporation	\$14,713,173
VCCS	2017 J. Sargeant Reynolds CC - Building B Renovations (Parham Road Campus)	CMAR	Hourigan Construction	\$13,150,000
VCCS	2017 J. Tyler CC - Bird Hall Renovations/Nicholas Center Renovations/Expansion	CMAR	Donley's LLC.	\$26,416,758
VCCS	2017 LFCC - Academic Building	CMAR	Kjellstrom & Lee, Inc.	\$20,613,000
VCCS	2009 NVCC - Academic Building Construction Phase VI (Annandale Campus)	CMAR	Barton Malow Company	\$24,140,648
VCCS	2010 NVCC - Academic Buildings Construction Phase III (Loudoun Campus)	CMAR	Gilbane Building Company	\$22,719,587
VCCS	2010 NVCC - Academic Building Phase III (Manassas Campus)	CMAR	Hess Construction Company	\$18,237,546
VCCS	2011 NVCC - Academic Building Construction Phase III (Woodbridge Campus)	CMAR	Whiting-Turner Contracting Co	\$27,386,900
VCCS	2014 NVCC - Workforce Development Center (Woodbridge Campus)	CMAR	Whiting-Turner Contracting Co	\$18,887,949
VCCS	2013 NVCC - Higher Education Center (Loudoun Campus)	Competitive Bid	Sigal Construction Corp.	\$11,674,470
VCCS	2014 NVCC - Brault Building Expansion (Annandale Campus)	Competitive Bid	Grunley Construction Company, Inc.	\$11,109,600
VCCS	2014 NVCC - Tyler Academic Building Replacement	Competitive Bid	Branch & Associates, Inc.	\$24,698,825
VCCS	2018 NVCC - Renovate Reynolds Academic Building (Loudoun Campus)	Competitive Bid	Grunley Construction Company, Inc.	\$18,702,000
VCCS	2018 SsVCC - Student Services/LRC Building (Christanna Campus)	Competitive Bid	Kenbridge Construction Co., Inc.	\$12,136,212
VCCS	2009 Tidewater CC - Norfolk Student Center Construction	CMAR	S.B. Ballard Construction Company	\$15,439,851
VCCS	2009 Tidewater CC - Regional Health Professions Center (Virginia Beach)	CMAR	Whiting-Turner Contracting Co	\$19,512,264
VCCS	2010 Tidewater CC - Learning Resource Center Construction (Virginia Beach)	CMAR	Gilbane Building Company	\$36,000,000
VCCS	2010 Tidewater CC - Student Center Construction (Virginia Beach)	CMAR	Skanska USA Building	\$16,395,401
VCCS	2011 Tidewater CC - Academic Building & Student Center Construction (Chesapeake)	CMAR	S.B. Ballard Construction Company	\$38,736,573
VCCS	2014 Tidewater CC - Bayside Building Renovations (Virginia Beach)	CMAR	Hourigan Construction	\$12,151,212
VCCS	2014 Tidewater CC - Parking Garage Construction (Chesapeake)	CMAR	S.B. Ballard Construction Company	\$18,956,502
VCCS	2011 Tidewater CC - Student Center Construction (Portsmouth)	Competitive Bid	S.B. Ballard Construction Company	\$10,573,813
VCCS	2018 VWCC - Replace Anderson Hall (New STEM Building)	CMAR	Branch & Associates, Inc.	\$23,058,000

MASTER LIST OF PROJECTS

					\$470,804,502
VCU	2009 Medical Sciences Building	CMAR	Skanska USA Building	\$62,700,392	
VCU	2009 Monroe Park & MCV Campus Recreational Facilities (Cary St.)	CMAR	Kjellstrom & Lee, Inc.	\$39,486,474	
VCU	2009 Monroe Park & MCV Campus Recreational Facilities (Larrick)	CMAR	Kjellstrom & Lee, Inc.	\$14,193,696	
VCU	2009 School of Dentistry Addition	CMAR	Hourigan Construction	\$15,808,053	
VCU	2010 School of Medicine - McGlothlin Building	CMAR	Gilbane Building Company	\$97,010,971	
VCU	2012 University Learning Center - New Classroom Building	CMAR	Hourigan Construction	\$29,794,180	
VCU	2013 Institute of Contemporary Art	CMAR	Gilbane Building Company	\$29,852,815	
VCU	2013 Massey Cancer Center - Vivarium - Lab Support	CMAR	Skanska USA Building	\$7,962,123	
VCU	2014 Information Commons & Libraries	CMAR	W.M. Jordan Company, Inc.	\$37,092,578	
VCU	2014 Virginia Treatment Center for Children	CMAR	Balfour Beatty Construction, LLC.	\$12,058,600	
VCU	2014 Sanger Hall Renovation of 4th Floor Phase II	CMAR	Branch & Associates, Inc.	\$5,468,139	
VCU	2013 West Grace/West Broad/Ryland St. Housing	Design/Build	W.M. Jordan Company, Inc.	\$33,247,088	
VCU	2011 Belvidere & Grace St. Parking Decks	Design/Build	Donley's LLC.	\$12,684,274	
VCU	2011 West Grace Street Housing & Lauren Deck South	Design/Build	Whiting-Turner Contracting Co	\$33,205,861	
VCU	2013 West Grace Street Housing North	Design/Build	S.B. Ballard Construction Company	\$23,546,845	
VCU	2016 Sanger Hall Renovations	Competitive Bid	SRC, Inc.	\$13,840,000	
VCU	2015 School of Allied Health Professions	CMAR	Whiting-Turner Contracting Co	\$61,494,549	
VCU	2017 Engineering Research Building	CMAR	Kjellstrom & Lee, Inc.	\$61,500,000	
VCU	2017 Scott House Renovations	CMAR	Kjellstrom & Lee, Inc.	\$5,340,786	
VCU	2019 Rice Center Research Facility	Competitive Bid	SRC, Inc.	\$5,699,751	
VCU	2020 STEM Teaching Laboratory Building	CMAR	Hourigan Construction	\$94,248,688	
VCU	2019 Trani Life Sciences Building; Roof & HVAC Replacement	Competitive Bid	Warwick Mechanical	\$5,550,474	
					\$701,786,337
VMI	2009 Military & Leadership Field Training Grounds	CMAR	Branch & Associates, Inc.	\$11,216,304	
VMI	2009 Science Building Renovations	CMAR	Branch & Associates, Inc.	\$13,853,380	
VMI	2012 CPTF Phase I	CMAR	Whiting-Turner Contracting Co	\$66,737,161	
VMI	2014 CPTF Phase II	CMAR	Branch & Associates, Inc.	\$28,876,276	
VMI	2015 Preston Library Renovation	CMAR	W.M. Jordan Company, Inc.	\$19,521,343	
VMI	2015 Post Infrastructure	CMAR	Branch & Associates, Inc.	\$33,201,000	
VMI	2017 Scott Schipp Hall	CMAR	Whiting-Turner Contracting Co	\$43,275,000	
VMI	2018 Corps Physical Training Facility Phase III (Aquatic Center)	CMAR	Whiting-Turner Contracting Co	\$44,188,000	
					\$260,868,464
W&M	2008 Tucker Hall Renovations	CMAR	Donley's LLC.	\$8,625,147	
W&M	2009 Cohen Career Center Construction	CMAR	Whiting-Turner Contracting Co	\$5,881,832	
W&M	2011 ISC 3 Construction	CMAR	Whiting-Turner Contracting Co	\$53,526,409	
W&M	2011 Historic Campus Utilities Improvements	CMAR	Mid-Atlantic Infrastructure	\$11,469,095	
W&M	2011 Historic Campus Utilities Improvements Phase II	CMAR	Mid-Atlantic Infrastructure	\$7,475,220	

MASTER LIST OF PROJECTS

W&M	2012 New Dorm Construction (Fraternities)	CMAR	W.M. Jordan Company, Inc.	\$20,014,505	
W&M	2012 Sadler Center Improvements	CMAR	Whiting-Turner Contracting Co	\$7,334,710	
W&M	2012 Tyler Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$11,770,972	
W&M	2012 Chandler Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$7,577,000	
W&M	2013 Marshall Wythe School of Law Improvements	CMAR	Gilbane Building Company	\$5,260,000	
W&M	2014 Zable Stadium Renovations/Expansion (+18,112)	CMAR	Barton Malow Company	\$22,078,719	
W&M	2014 One Tribble Place Renovations	CMAR	Kjellstrom & Lee, Inc.	\$5,600,000	
W&M	2016 Landrum Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$19,463,177	
W&M	2016 Construct Integrative Wellness Center	CMAR	Whiting-Turner Contracting Co	\$15,600,000	
W&M	2016 Construct West Utility Plant	CMAR	n/a	\$30,254,000	
W&M	2017 Fine Arts Phase 1 & Phase 2	CMAR	Holder Construction Group, LLC.	\$118,503,000	
W&M	2017 Alumni House Expansion	CMAR	Kjellstrom & Lee, Inc.	\$22,613,000	
W&M	2018 Fine & Performing Arts Complex-PBK (Holder)	CMAR	Holder Construction Group, LLC.	\$5,821,504	
W&M	2020 Fine & Performing Arts Complex-PBK (Whiting)	CMAR	Whiting-Turner Contracting Co	\$122,718,484	
W&M	2020 Sadler Center West Addition	CMAR	Kjellstrom & Lee, Inc.	\$33,738,315	
W&M	2019 One Tribe Place Remediation	CMAR	Kjellstrom & Lee, Inc.	\$15,775,385	
W&M	2021 Integrative Science Center IV	CMAR	Skanska USA Building	\$69,914,000	
W&M	2021 Muscarelle Museum Renovations	CMAR	Kjellstrom & Lee, Inc.	\$34,500,000	
					\$655,514,474
				\$6,321,003,753	\$6,321,003,753
				Total Projects: 262	

FORMER DATA vs. NEW DATA

DATA (2008-2014)					
College	Year	Project	Method	Successful Bidder/Proposer	Amount
CNU	2010	Freeman Center	CMAR	W.M. Jordan Company, Inc.	\$27,800,000
CNU	2010	Forbes Hall Phase 1	CMAR	Whiting-Turner Contracting Co	\$58,700,000
CNU	2011	Forbes Hall Phase II	CMAR	Whiting-Turner Contracting Co	\$16,400,000
CNU	2011	Luter Hall	CMAR	Whiting-Turner Contracting Co	\$45,100,000
CNU	2012	Warwick River Hall	CMAR	W.M. Jordan Company, Inc.	\$33,100,000
CNU	2012	Pope Chapel	CMAR	W.M. Jordan Company, Inc.	\$6,400,000
CNU	2014	Christopher Newport Hall	CMAR	Whiting-Turner Contracting Co	\$42,000,000
GMU	2012	Science & Tech II Renovation	CMAR	Donley's LLC.	\$40,567,069
GMU	2014	Fenwick Library Renovation Phase II	CMAR	Whiting-Turner Contracting Co	\$40,509,946
GMU	2011	Thompson Hall Renovation	Competitive Bid	Keller Brothers, Inc.	\$6,877,000
GMU	2012	Fine Arts Building Renovation	Competitive Bid	Tuckman-Barbee Construction Co	\$5,825,000
GMU	2014	Shenandoah ("Ike's") Dining	Competitive Bid	Balfour Beatty Construction, LLC.	\$8,603,478
GMU	2009	Sub I Addition/Renovation	Design/Build	Hess Construction Company	\$17,550,000
GMU	2010	Krasnow Institute Addition Phase II	Design/Build	Whiting-Turner Contracting Co	\$8,140,138
GMU	2010	Housing VIIIA	Design/Build	Balfour Beatty Construction, LLC.	\$47,457,000
GMU	2011	Smithsonian-Mason CSP	Design/Build	W.M. Jordan Company, Inc.	\$11,798,750
GMU	2012	University Commons Renovation	Design/Build	Dustin Construction, Inc.	\$12,080,000
GMU	2013	Taylor Hall (Housing VIIIB1)	Design/Build	Balfour Beatty Construction, LLC.	\$15,878,554
GMU	2013	Campus Drive (West Campus Connector)	Design/Build	Branch Highways	\$15,056,821
GMU	2009	Hotel & Conference Center	PPEA	University Hotel Partners, LLC.	\$50,292,000
JMU	2008	CISAT Dining Hall	CMAR	Donley's LLC.	\$18,768,000
JMU	2009	Bridgeforth Stadium Renovation	CMAR	Donley's LLC.	\$53,950,000
JMU	2010	Bio Science Building	CMAR	Skanska USA Building	\$32,926,354
JMU	2010	Wayland Hall Renovation	CMAR	Donley's LLC.	\$11,394,000
JMU	2012	West Wing RMH Renovation	CMAR	W.M. Jordan Company, Inc.	\$43,577,799
JMU	2012	Duke Hall Addition/Renovation	CMAR	Skanska USA Building	\$32,646,335
JMU	2012	New Student Health Center/East Wing Construction	CMAR	W.M. Jordan Company, Inc.	\$7,936,662
JMU	2013	Grace Street Student Housing	CMAR	Donley's LLC.	\$38,996,387
JMU	2014	UREC Expansion	CMAR	Kjellstrom & Lee, Inc.	\$42,712,270
JMU	2014	East Tower	CMAR	Skanska USA Building	\$48,789,838
JMU	2008	Softball/Baseball Complex	Competitive Bid	Nielsen Builders, Inc.	\$8,618,208
JMU	2010	University Park	Competitive Bid	Nielsen Builders, Inc.	\$36,200,718
JMU	2010	Boiler & Infrastructure Phase I	Competitive Bid	Lantz Construction Company	\$7,698,400
Longwood	2008	Steam Plant Upgrade Phase II	Competitive Bid	Branch & Associates, Inc.	\$12,143,450
Longwood	2009	Bedford Hall Addition/Renovation	Competitive Bid	Costello Construction, Inc.	\$16,519,000
Longwood	2013	Stubbs Hall Renovation	Competitive Bid	C.L. Lewis & Co., Inc.	\$6,905,660
Longwood	2013	French Hall Renovation	Competitive Bid	English Construction Co., Inc.	\$12,325,000
Longwood	2013	Cox Renovations	Competitive Bid	J.E. Jamerson & Sons	\$7,933,000
NSU	2010	Brooks Library	CMAR	S.B. Ballard Construction Company	\$37,079,649
NSU	2010	Godwin Student Center	CMAR	W.M. Jordan Company, Inc.	\$38,633,403
NSU	2013	New Nusring & General Classroom Building	CMAR	S.B. Ballard Construction Company	\$37,374,141
ODU	2011	New Systems Research & Academic Building Construction	CMAR	Skanska USA Building	\$14,289,497
ODU	2013	New Arts Building Construction	CMAR	S.B. Ballard Construction Company	\$13,000,000
ODU	2014	New Art Studio Building Construction	CMAR	S.B. Ballard Construction Company	\$6,000,000
ODU	2014	Darden College of Education Building	CMAR	S.B. Ballard Construction Company	\$42,600,000
ODU	2008	Quad Student Housing Phase II (Buildings D, E, & F)	CMAR	W.M. Jordan Company, Inc.	\$51,016,300
ODU	2012	Systems Research and Academic Building	CMAR	Skanska USA Building	\$17,000,000
ODU	2012	Monarch Theater Phase of Diehn Performing and Fine Arts Building Phase II	Competitive Bid	W.M. Jordan Company, Inc.	\$9,000,000
Radford	2010	College of Business and Economics Construction	CMAR	Whiting-Turner Contracting Co	\$35,657,770
Radford	2012	Computational Sciences Building Construction	CMAR	W.M. Jordan Company, Inc.	\$40,632,041
Radford	2013	Student Fitness Center Construction	CMAR	Skanska USA Building	\$27,750,000

FORMER DATA	RESULTS DATA (2008-2014)				
		\$ Amount	% OF PROJECTS	% OF TOTAL \$	
	Total Projects	176	\$3,714,051,213		
	Other Method Projects	152	\$3,432,912,393	86.36%	92.43%
	Competitive Bid Projects	24	\$281,138,820	13.64%	7.57%
				100.00%	100.00%
	RESULTS DATA (2015-2017)				
		\$ Amount	% OF PROJECTS	% OF TOTAL \$	
	Total Projects	43	\$1,331,797,409		
	Other Method Projects	36	\$1,278,410,635	83.72%	95.99%
	Competitive Bid Projects	7	\$53,386,774	16.28%	4.01%
				100.00%	100.00%

RESULTS NEW DATA (2018-2021)				
	\$ Amount	% OF PROJECTS	% OF TOTAL \$	
Total Projects	43	\$1,275,155,131		
Other Method Projects	32	\$1,165,497,673	74.42%	91.40%
Competitive Bid Projects	11	\$109,657,458	25.58%	8.60%
			100.00%	100.00%

RESULTS COMBINED (OVERALL LOOK)				
	\$ Amount	% OF PROJECTS	% OF TOTAL \$	
Total Projects	262	\$6,321,003,753		
Other Method Projects	220	\$5,876,820,701	83.97%	92.97%
Competitive Bid Projects	42	\$444,183,052	16.03%	7.03%
			100.00%	100.00%

FORMER DATA vs. NEW DATA

Radford	2014 New Academic Building - Humanities Construction	CMAR	S.B. Ballard Construction Company	\$40,214,071
Radford	2011 Moffet Hall Renovations	Competitive Bid	Thor, Inc.	\$10,280,000
Radford	2012 Washington Hall Renovations	Competitive Bid	G&H Contracting	\$7,800,000
Radford	2014 Residence Halls Umbrella Project Renovations	Competitive Bid	G&H Contracting	\$23,275,715
Radford	2014 New Intramural Fields Construction	Competitive Bid	Price Building & MB Contracting	\$6,424,000
Radford	2010 Madison & Jefferson Hall Renovations	Design/Build	Thor, Inc.	\$8,481,000
UMW	2011 Dahlgren Campus Construction	Competitive Negotiation	Kjellstrom & Lee, Inc.	\$13,631,733
UMW	2013 Residence Halls (Mason & Randolph) Renovations	Competitive Negotiation	W.M. Jordan Company, Inc.	\$26,938,797
UMW	2014 Information and Technology Convergence Center	Competitive Negotiation	W.M. Jordan Company, Inc.	\$25,698,255
UMW	2012 Monroe Hall Renovation	Competitive Bid	Sigal Construction Corp.	\$6,985,000
UMW	2009 Convocation Center	Competitive Bid	A.D. Whittaker Construction Corp.	\$11,146,300
UMW	2010 Campus Center Construction	PPEA	Donley's LLC.	\$44,642,328
UVA	2008 College at Wise: Residence Hall Package 6	CMAR	The Christman Company	\$5,424,879
UVA	2008 College at Wise: Dining Hall Package 6	CMAR	The Christman Company	\$6,059,233
UVA	2009 ITE Research Building (Rice Hall) - Core and Shell Package Construction	CMAR	W.M. Jordan Company, Inc.	\$8,570,989
UVA	2009 CAS Research Building - Core and Shell Package Construction	CMAR	W.M. Jordan Company, Inc.	\$5,629,170
UVA	2010 College at Wise: Multipurpose Center Package #01D - Final Building Package	CMAR	Quesenberry's Construction	\$13,352,272
UVA	2010 CAS Research Building - Interior Package	CMAR	W.M. Jordan Company, Inc.	\$8,085,128
UVA	2010 Garrett Hall Renovation - General Construction	CMAR	The Christman Company	\$5,822,481
UVA	2010 ITE Research Building (Rice Building) - Interior Package	CMAR	W.M. Jordan Company, Inc.	\$6,208,697
UVA	2010 Old Jordan Hall HVAC Replacement Project - Construction Phase	CMAR	DPR Construction, Inc.	\$19,198,486
UVA	2011 New Cabell Hall Renovation - Proc&Const Phase Services & Complete Const. Pkg	CMAR	Barton Malow Company	\$42,436,184
UVA	2011 Thrust Theater Expansion Construction	CMAR	Nielsen Builders, Inc.	\$7,543,056
UVA	2012 East Chiller Plant & Lee Street Realignment - Construction Phase II	CMAR	Gilbane Building Company	\$9,134,220
UVA	2012 East Chiller Plant & Lee Street Realignment - Construction Phase III	CMAR	Gilbane Building Company	\$11,307,704
UVA	2013 Alderman Road Residence Hall #6 - Building Construction Package	CMAR	Donley's LLC.	\$17,418,193
UVA	2014 North Grounds Mechanical Plant Full Trade Construction	CMAR	Martin Horn, Inc.	\$7,940,472
UVA	2014 Rotunda Renovations - Package 1 (Including CM Services Fee)	CMAR	Whiting-Turner Contracting Co	\$7,995,068
UVA	2014 Rotunda Renovations - Package 2	CMAR	Whiting-Turner Contracting Co	\$7,151,160
UVA	2014 Rotunda Renovations - Package 3	CMAR	Whiting-Turner Contracting Co	\$12,565,643
UVA	2014 ERC - Construction Phase Services & Building Construction	CMAR	Donley's LLC.	\$20,687,149
UVA	2012 Indoor Practice Facility - Field House (Building Package)	CMAR	Barton Malow Company	\$5,238,422
UVA	2012 North Grounds Recreation Center Expansion - Complete Working Drawings Documents	CMAR	Donley's LLC.	\$8,457,224
UVA	2012 Ruffner Hall Renovation - Construction Phase Services & Construction Package	CMAR	Donley's LLC.	\$11,826,727
UVA	2013 College at Wise: New Library Main Construction Package	CMAR	Quesenberry's Construction	\$22,774,649
UVA	2008 South Lawn Site Improvements (Package 16 - RFP #: 07-118)	CMAR	Faulconer Construction Co., Inc.	\$6,958,920
UVA	2008 College at Wise: Science Building Renovation	CMAR	Quesenberry's Construction	\$6,387,770
UVA	2008 Bavaro Hall - Curry School of Education Building Project	CMAR	Donley's LLC.	\$25,897,000
UVA	2008 Emily Couric Cancer Center - Mechanical Package 007	CMAR	Sullivan Mechanical Contractors, Inc.	\$7,542,100
UVA	2008 Emily Couric Cancer Center - Electrical Package 010	CMAR	M.C. Dean, Inc.	\$5,775,000
UVA	2008 SEAS Information Tech & Engineering Building - Construction Phase & Site Utilities	CMAR	W.M. Jordan Company, Inc.	\$5,879,274
UVA	2008 CAS Research Building - Construction Phase & Site Utilities	CMAR	W.M. Jordan Company, Inc.	\$6,568,767
UVA	2008 College at Wise: Smiddy Hall/New IT Facility	CMAR	The Christman Company	\$8,173,387
UVA	2008 AFC Chiller Plant Expansion - Buy Out Package	CMAR	Martin Horn, Inc.	\$6,321,025
UVA	2009 Hospital Bed Expansion - Electrical Package 010	CMAR	Design Electric, Inc.	\$10,833,637
UVA	2009 Hospital Bed Expansion - Mechanical Package 011	CMAR	Riddleberger Brothers, Inc.	\$10,413,942
UVA	2009 CAS Research Building - MEP & Fire Protection Package	CMAR	W.M. Jordan Company, Inc.	\$13,624,746
UVA	2009 SEAS Information Tech & Engineering Buiding - MEP & Fire Protection Package	CMAR	W.M. Jordan Company, Inc.	\$9,180,208
UVA	2010 ITC Data Center	Competitive Bid	Holder Construction Group, LLC.	\$6,962,228
UVA	2009 Alderman Road Residence Hall #1 - Package #1B, Site/Utility/Landscape and Construction	Design/Build	W.M. Jordan Company, Inc.	\$12,511,436
UVA	2009 Alderman Road Residence Hall #2 - Package #2B, Site/Utility/Landscape and Construction	Design/Build	W.M. Jordan Company, Inc.	\$10,759,429
UVA	2010 Alderman Road Residences: Phase III, Design/Build Services - Package 2 - Construction	Design/Build	W.M. Jordan Company, Inc.	\$26,667,697
UVA	2011 Alderman Road Residence Hall #5: Phase IV - Package 2 - Construction	Design/Build	W.M. Jordan Company, Inc.	\$19,078,457
UVA	2011 Newcomb Hall Dining Expansion - Construction Phase	Sole Source	R.E. Lee & Sons, Inc.	\$8,080,574
VA Tech	2008 Basketball Practice Facility	CMAR	Whiting-Turner Contracting Co	\$16,190,706

FORMER DATA vs. NEW DATA

VA Tech	2009 AJ Renovation	CMAR	Barton Malow Company	\$50,388,670
VA Tech	2009 ICTAS II	CMAR	Skanska USA Building	\$24,134,503
VA Tech	2009 McComas Addition	CMAR	Whiting-Turner Contracting Co	\$8,360,843
VA Tech	2010 Visitor & Admissions Center	CMAR	BE&K Building Group, LLC.	\$7,052,618
VA Tech	2010 Infectious Disease Research Lab	CMAR	Branch & Associates, Inc.	\$6,648,316
VA Tech	2011 Performing Arts Center	CMAR	Holder Construction Group, LLC.	\$71,990,000
VA Tech	2011 Academic & Student Affairs Building	CMAR	Skanska USA Building	\$33,376,000
VA Tech	2011 West End Market Renovation	CMAR	Branch & Associates, Inc.	\$5,246,503
VA Tech	2011 Veterinary Medicine Instruction Addition	CMAR	W.M. Jordan Company, Inc.	\$9,500,000
VA Tech	2011 Signature Engineering Building	CMAR	Gilbane Building Company	\$66,358,823
VA Tech	2011 Human & Agricultural Biosciences Building I	CMAR	Skanska USA Building	\$42,084,845
VA Tech	2012 Davidson Hall Renovations Phase I	CMAR	Barton Malow Company	\$23,879,669
VA Tech	2012 Chiller Plant Phase I	CMAR	Whiting-Turner Contracting Co	\$15,382,088
VA Tech	2014 Upper Quad Residential Facilities	CMAR	Barton Malow Company	\$69,704,066
VA Tech	2008 Henderson Hall Renovations & Black Box	Competitive Bid	Avis Construction	\$11,559,955
VA Tech	2008 Parking Structure	Design/Build	The Christman Company	\$19,548,000
VA Tech	2009 Addition to Jamerson/Football Locker Room	Design/Build	Barton Malow Company	\$12,558,008
VA Tech	2011 VTCRI 3rd Floor Upfit	Design/Build	DPR Construction, Inc.	\$10,780,000
VA Tech	2014 Indoor Athletic Training Facility	Design/Build	W.M. Jordan Company, Inc.	\$18,000,000
VA Tech	2012 Unified Communications & Network Renewal	Internal	Internal Forces	\$16,508,000
VA Tech	2013 Dairy Science Relocation	Lease Capital	Capital Lease	\$14,000,000
VA Tech	2009 VT/Carillion School of Medicine	PPEA	n/a	\$59,000,000
VA Tech	2011 Technology Research / Innovation Center	PPEA	n/a	\$9,600,000
VCCS	2009 NVCC - Academic Building Construction Phase VI (Annandale Campus)	CMAR	Barton Malow Company	\$24,140,648
VCCS	2010 NVCC - Academic Buildings Construction Phase III (Loudoun Campus)	CMAR	Gilbane Building Company	\$22,719,587
VCCS	2010 NVCC - Academic Building Phase III (Manassas Campus)	CMAR	Hess Construction Company	\$18,237,546
VCCS	2011 NVCC - Academic Building Construction Phase III (Woodbridge Campus)	CMAR	Whiting-Turner Contracting Co	\$27,386,900
VCCS	2014 NVCC - Workforce Development Center (Woodbridge Campus)	CMAR	Whiting-Turner Contracting Co	\$18,887,949
VCCS	2013 NVCC - Higher Education Center (Loudoun Campus)	Competitive Bid	Sigal Construction Corp.	\$11,674,470
VCCS	2014 NVCC - Brault Building Expansion (Annandale Campus)	Competitive Bid	Grunley Construction Company, Inc.	\$11,109,600
VCCS	2014 NVCC - Tyler Academic Building Replacement	Competitive Bid	Branch & Associates, Inc.	\$24,698,825
VCCS	2009 Tidewater CC - Norfolk Student Center Construction	CMAR	S.B. Ballard Construction Company	\$15,439,851
VCCS	2009 Tidewater CC - Regional Health Professions Center (Virginia Beach)	CMAR	Whiting-Turner Contracting Co	\$19,512,264
VCCS	2010 Tidewater CC - Learning Resource Center Construction (Virginia Beach)	CMAR	Gilbane Building Company	\$36,000,000
VCCS	2010 Tidewater CC - Student Center Construction (Virginia Beach)	CMAR	Skanska USA Building	\$16,395,401
VCCS	2011 Tidewater CC - Academic Building & Student Center Construction (Chesapeake)	CMAR	S.B. Ballard Construction Company	\$38,736,573
VCCS	2014 Tidewater CC - Bayside Building Renovations (Virginia Beach)	CMAR	Hourigan Construction	\$12,151,212
VCCS	2014 Tidewater CC - Parking Garage Construction (Chesapeake)	CMAR	S.B. Ballard Construction Company	\$18,956,502
VCCS	2011 Tidewater CC - Student Center Construction (Portsmouth)	Competitive Bid	S.B. Ballard Construction Company	\$10,573,813
VCU	2009 Medical Sciences Building	CMAR	Skanska USA Building	\$62,700,392
VCU	2009 Monroe Park & MCV Campus Recreational Facilities (Cary St.)	CMAR	Kjellstrom & Lee, Inc.	\$39,486,474
VCU	2009 Monroe Park & MCV Campus Recreational Facilities (Larrick)	CMAR	Kjellstrom & Lee, Inc.	\$14,193,696
VCU	2009 School of Dentistry Addition	CMAR	Hourigan Construction	\$15,808,053
VCU	2010 School of Medicine - McGlothlin Building	CMAR	Gilbane Building Company	\$97,010,971
VCU	2012 University Learning Center - New Classroom Building	CMAR	Hourigan Construction	\$29,794,180
VCU	2013 Institute of Contemporary Art	CMAR	Gilbane Building Company	\$29,852,815
VCU	2013 Massey Cancer Center - Vivarium - Lab Support	CMAR	Skanska USA Building	\$7,962,123
VCU	2014 Information Commons & Libraries	CMAR	W.M. Jordan Company, Inc.	\$37,092,578
VCU	2014 Virginia Treatment Center for Children	CMAR	Balfour Beatty Construction, LLC.	\$12,058,600
VCU	2014 Sanger Hall Renovation of 4th Floor Phase II	CMAR	Branch & Associates, Inc.	\$5,468,139
VCU	2013 West Grace/West Broad/Ryland St. Housing	Design/Build	W.M. Jordan Company, Inc.	\$33,247,088
VCU	2011 Belvidere & Grace St. Parking Decks	Design/Build	Donley's LLC.	\$12,684,274
VCU	2011 West Grace Street Housing & Lauren Deck South	Design/Build	Whiting-Turner Contracting Co	\$33,205,861
VCU	2013 West Grace Street Housing North	Design/Build	S.B. Ballard Construction Company	\$23,546,845
VMI	2009 Military & Leadership Field Training Grounds	CMAR	Branch & Associates, Inc.	\$11,216,304

FORMER DATA vs. NEW DATA

VMI	2009 Science Building Renovations	CMAR	Branch & Associates, Inc.	\$13,853,380
VMI	2012 CPTF Phase I	CMAR	Whiting-Turner Contracting Co	\$66,737,161
VMI	2014 CPTF Phase II	CMAR	Branch & Associates, Inc.	\$28,876,276
W&M	2008 Tucker Hall Renovations	CMAR	Donley's LLC.	\$8,625,147
W&M	2009 Cohen Career Center Construction	CMAR	Whiting-Turner Contracting Co	\$5,881,832
W&M	2011 ISC 3 Construction	CMAR	Whiting-Turner Contracting Co	\$53,526,409
W&M	2011 Historic Campus Utilities Improvements	CMAR	Mid-Atlantic Infrastructure	\$11,469,095
W&M	2011 Historic Campus Utilities Improvements Phase II	CMAR	Mid-Atlantic Infrastructure	\$7,475,220
W&M	2012 New Dorm Construction (Fraternities)	CMAR	W.M. Jordan Company, Inc.	\$20,014,505
W&M	2012 Sadler Center Improvements	CMAR	Whiting-Turner Contracting Co	\$7,334,710
W&M	2012 Tyler Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$11,770,972
W&M	2012 Chandler Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$7,577,000
W&M	2013 Marshall Wythe School of Law Improvements	CMAR	Gilbane Building Company	\$5,260,000
W&M	2014 Zable Stadium Renovations/Expansion (+18,112)	CMAR	Barton Malow Company	\$22,078,719
W&M	2014 One Tribble Place Renovations	CMAR	Kjellstrom & Lee, Inc.	\$5,600,000
		176		\$3,714,051,213

DATA (2015-2017)					
College	Year	Project	Method	Successful Bidder/Proposer	Amount
CNU	2016	Library Phase II Construction	CMAR	W.M. Jordan Company, Inc.	\$43,418,000
CNU	2016	Alumni House Construction	Competitive Bid	Whiting-Turner Contracting Co	\$5,835,000
CNU	2016	Regattas Dining Expansion	Competitive Bid	E.T. Gresham Company	\$9,500,000
CNU	2017	Fine Arts & Band Rehersal Construction/Renovation	CMAR	Whiting-Turner Contracting Co	\$50,464,532
GMU	2016	Peterson Family Health Sciences Hall	CMAR	Whiting-Turner Contracting Co	\$54,797,710
JMU	2016	Madison Hall Renovation	CMAR	W.M. Jordan Company, Inc.	\$19,543,856
JMU	2016	University Services Annex	Competitive Bid	Harrisonburg Construction, Inc.	\$5,869,548
JMU	2016	New Dining Hall Construction (West Campus Dining Hall)	CMAR	Skanska USA Building	\$57,312,163
JMU	2017	New Convocation Center/East Campus Parking Deck (Atlantic Union Bank Center)	CMAR	S.B. Ballard Construction Company	\$99,000,000
JMU	2017	Phillips Dining Hall Replacement Construction	CMAR	W.M. Jordan Company, Inc.	\$26,228,125
JMU	2017	School of Business	CMAR	Kjellstrom & Lee, Inc.	\$72,835,614
JMU	2017	Wilson Hall Renovations	CMAR	Nielsen Builders, Inc.	\$20,409,000
Longwood	2016	Student Success Center Construction	Competitive Bid	Hailey Builders, Inc.	\$6,556,593
Longwood	2013	University Center Construction	CMAR	Skanska USA Building	\$28,635,950
Longwood	2017	Additional Biomass Boiler	Competitive Bid	WACO, Inc.	\$5,192,800
NSU	2015	Brown Hall Replacement	CMAR	S.B. Ballard Construction Company	\$60,584,000
ODU	2015	Basketball Practice Facility	Competitive Bid	P. G. Harris Construction Co.	\$6,592,833
Radford	2016	Whitt Hall Renovations	Design/Build	G&H Contracting	\$5,643,936
Radford	2016	Residence Hall Renovations	Design/Build	G&H Contracting	\$6,380,309
UVA	2016	McCormick Road Houses Renovations	CMAR	Barton Malow Company	\$70,304,737
UVA	2017	International Residence College Renovation	CMAR	Gilbane Building Company	\$10,394,947
UVA	2017	Gilmer Hall & Chemistry Building Renovation	CMAR	Whiting-Turner Contracting Co	\$43,051,269
VA State Univ.	2013	Lockett Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$7,760,889
VA Tech	2015	Classroom Building	CMAR	W.M. Jordan Company, Inc.	\$30,600,000
VA Tech	2017	Renovation/Renew Academic Buildings	CMAR	Branch & Associates, Inc.	\$25,605,000
VA Tech	2017	Athletic Improvements - Baseball Construction	Design/Build	Whiting-Turner Contracting Co	\$14,329,153
VA Tech	2017	Athletic Improvements - Rector Construction	CMAR	Branch & Associates, Inc.	\$14,144,099
VA Tech	2017	O'Shaughnessy Hall Renovation	CMAR	W.M. Jordan Company, Inc.	\$15,968,301
VCCS	2017	BRCC - Biotechnology Building	CMAR	Kjellstrom & Lee, Inc.	\$15,394,218
VCCS	2017	J. Sargeant Reynolds CC - Building B Renovations (Parham Road Campus)	CMAR	Hourigan Construction	\$13,150,000
VCCS	2017	J. Tyler CC - Bird Hall Renovations/Nicholas Center Renovations/Expansion	CMAR	Donley's LLC.	\$26,416,758
VCCS	2017	LFCC - Academic Building	CMAR	Kjellstrom & Lee, Inc.	\$20,613,000
VCU	2016	Sanger Hall Renovations	Competitive Bid	SRC, Inc.	\$13,840,000
VCU	2015	School of Allied Health Professions	CMAR	Whiting-Turner Contracting Co	\$61,494,549
VCU	2017	Engineering Research Building	CMAR	Kjellstrom & Lee, Inc.	\$61,500,000

DATA (2015-2017)				
		\$ Amount	% OF PROJECTS	% OF TOTAL \$
Total Projects	43	\$1,331,797,409		
Other Method Projects	36	\$1,278,410,635	83.72%	95.99%
Competitive Bid Projects	7	\$53,386,774	16.28%	4.01%
		0	100.00%	100.00%

FORMER DATA vs. NEW DATA					
VMI	2015	Preston Library Renovation	CMAR	W.M. Jordan Company, Inc.	\$19,521,343
VMI	2015	Post Infrastructure	CMAR	Branch & Associates, Inc.	\$33,201,000
VMI	2017	Scott Schipp Hall	CMAR	Whiting-Turner Contracting Co	\$43,275,000
W&M	2016	Landrum Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$19,463,177
W&M	2016	Construct Integrative Wellness Center	CMAR	Whiting-Turner Contracting Co	\$15,600,000
W&M	2016	Construct West Utility Plant	CMAR	DPR Construction	\$30,254,000
W&M	2017	Fine Arts Phase 1 & Phase 2	CMAR	Holder Construction Group, LLC.	\$118,503,000
W&M	2017	Alumni House Expansion	CMAR	Kjellstrom & Lee, Inc.	\$22,613,000
			43		\$1,331,797,409
			219		\$5,045,848,622

NEW DATA (2018-2021)					
College	Year	Project	Method	Successful Bidder/Proposer	Amount
VMI	2018	Corps Physical Training Facility Phase III (Aquatic Center)	CMAR	Whiting-Turner Contracting Co	\$44,188,000
Radford	2018	Complete Renovation of Reed and Curie Halls	CMAR	Branch & Associates, Inc.	\$22,708,530
Radford	2021	New CAIC Building - Abatement, Demolition, and Construction of New Four Story Building	CMAR	Skanska USA Building	\$80,500,000
NSU	2021	New Residential Complex	Design/Build	S.B. Ballard Construction Company	\$50,619,880
GMU	2019	Hylton Performing Arts Center Addition	CMAR	James G. Davis Construction	\$11,729,047
GMU	2018	Improve Utility Distribution System	CMAR	Whiting-Turner Contracting Co	\$45,552,547
GMU	2021	Robinson Hall (Horizon Hall)	CMAR	Whiting-Turner Contracting Co	\$97,578,892
VA State Univ.	2018	Addition to MT Carter Building	CMAR	Branch & Associates, Inc.	\$7,336,670
VCCS	2018	NVCC - Renovate Reynolds Academic Building (Loudoun Campus)	Competitive Bid	Grunley Construction Company, Inc.	\$18,702,000
VCCS	2018	SsVCC - Student Services/LRC Building (Christanna Campus)	Competitive Bid	Kenbridge Construction Co., Inc.	\$12,136,212
VCCS	2018	VWCC - Replace Anderson Hall (New STEM Building)	CMAR	Branch & Associates, Inc.	\$23,058,000
VCCS	2017	ESCC - Replace Phase I Academic Building	Competitive Bid	McKenzie Construction Corporation	\$14,713,173
JMU	2017	Paul Jennings Hall	CMAR	W.M. Jordan Company, Inc.	\$49,740,352
JMU	2018	Chesapeake Parking Deck	Design/Build	Branch & Associates, Inc.	\$12,075,000
JMU	2018	Jackson Hall Renovation	Competitive Bid	Nielsen Builders, Inc.	\$6,164,000
JMU	2018	East Campus Parking Deck	CMAR	S.B. Ballard Construction Company	\$36,010,447
UMW	2017	Jepson Science Center Addition	CMAR	Donley's LLC.	\$24,280,680
UMW	2019	Willard Hall Renovation	CMAR	Kjellstrom & Lee, Inc.	\$19,311,522
UMW	2020	Seacobeck Hall Renovation	CMAR	Whiting-Turner Contracting Co	\$23,201,260
UMW	2020	Virginia Hall Renovation	CMAR	Kjellstrom & Lee, Inc.	\$17,901,615
W&M	2018	Fine & Performing Arts Complex-PBK (Holder)	CMAR	Holder Construction Group, LLC.	\$5,821,504
W&M	2020	Fine & Performing Arts Complex-PBK (Whiting)	CMAR	Whiting-Turner Contracting Co	\$122,718,484
W&M	2020	Sadler Center West Addition	CMAR	Kjellstrom & Lee, Inc.	\$33,738,315
W&M	2019	One Tribe Place Remediation	CMAR	Kjellstrom & Lee, Inc.	\$15,775,385
W&M	2021	Integrative Science Center IV	CMAR	Skanska USA Building	\$69,914,000
W&M	2021	Muscarelle Museum Renovations	CMAR	Kjellstrom & Lee, Inc.	\$34,500,000
ODU	2017	Construct New Residence Hall - Owens House	CMAR	W.M. Jordan Company, Inc.	\$47,788,191
ODU	2017	Construct Chemistry Building	CMAR	W.M. Jordan Company, Inc.	\$60,236,552
ODU	2017	Stadium at Foreman Field	CMAR	S.B. Ballard Construction Company	\$59,609,247
VCU	2017	Scott House Renovations	CMAR	Kjellstrom & Lee, Inc.	\$5,340,786
VCU	2019	Rice Center Research Facility	Competitive Bid	SRC, Inc.	\$5,699,751
VCU	2020	STEM Teaching Laboratory Building	CMAR	Hourigan Construction	\$94,248,688
VCU	2019	Trani Life Sciences Building; Roof & HVAC Replacement	Competitive Bid	Warwick Mechanical	\$5,550,474
Longwood	2018	Construct Admission Office	Competitive Bid	Jamerson-Lewis Construction, Inc.	\$7,858,846
Longwood	2018	Construct New Academic Building	Competitive Bid	Jamerson-Lewis Construction, Inc.	\$16,279,217
Longwood	2020	Wheeler Mall Steam Distribution System Replacement	Competitive Bid	Faulconer Construction Company, Inc.	\$5,192,800
UVA	2017	Carr's Hill Renovation	CMAR	Alexander Nicholson, Inc.	\$6,042,602
UVA	2017	University Hall (U-Hall) Abatement & Demolition	Design/Build	Renascent, Inc.	\$6,518,658
UVA	2017	Main Heating Plant Boiler #6	CMAR	Greenland Enterprises, Inc.	\$7,285,505
UVA	2018	ECCCC 4th Floor Fit Out	CMAR	Kjellstrom & Lee, Inc.	\$10,513,253

NEW DATA (2018-2021)				
		\$ Amount	% OF PROJECTS	% OF TOTAL \$
Total Projects	43	\$1,275,155,131		
Other Method Projects	32	\$1,165,497,673	74.42%	91.40%
Competitive Bid Projects	11	\$109,657,458	25.58%	8.60%
			100.00%	100.00%

FORMER DATA vs. NEW DATA

UVA	2018 New Softball Stadium	CMAR	Jamerson-Lewis Construction, Inc.	\$19,654,061
UVA	2019 Athletics Complex Phase 1 Early Site Package	Competitive Bid	Barton Malow Company	\$11,871,111
UVA	2019 Memorial to Enslaved Laborers	Competitive Bid	Team Henry Enterprises	\$5,489,874
		43		\$1,275,155,131
		262		\$6,321,003,753

YEAR TOTALS - OTHER METHOD (O.M.) % USE AND TOTAL MONEY (\$) OF

College	Year	Total Projects	Other Method Used %	# Other Method Projects	Successful Bidder/Proposer	Total Project \$	Total Other Method \$	% Other Method \$
JMU	2008	CISAT Dining Hall	CMAR		Donley's LLC.	\$18,768,000		
JMU	2008	Softball/Baseball Complex	Competitive Bid		Nielsen Builders, Inc.	\$8,618,208		
Longwood	2008	Steam Plant Upgrade Phase II	Competitive Bid		Branch & Associates, Inc.	\$12,143,450		
ODU	2008	Quad Student Housing Phase II (Buildings D, E, & F)	CMAR		W.M. Jordan Company, Inc.	\$51,016,300		
UVA	2008	College at Wise: Residence Hall Package 6	CMAR		The Christman Company	\$5,424,879		
UVA	2008	College at Wise: Dining Hall Package 6	CMAR		The Christman Company	\$6,059,233		
UVA	2008	South Lawn Site Improvements (Package 16 - RFP #: 07-118)	CMAR		Faulconer Construction Co., Inc.	\$6,958,920		
UVA	2008	College at Wise: Science Building Renovation	CMAR		Quesenberry's Construction	\$6,387,770		
UVA	2008	Bavaro Hall - Curry School of Education Building Project	CMAR		Donley's LLC.	\$25,897,000		
UVA	2008	Emily Couric Cancer Center - Mechanical Package 007	CMAR		Sullivan Mechanical Contractors, Inc.	\$7,542,100		
UVA	2008	Emily Couric Cancer Center - Electrical Package 010	CMAR		M.C. Dean, Inc.	\$5,775,000		
UVA	2008	SEAS Information Tech & Engineering Building - Construction Phase & Site Utilities	CMAR		W.M. Jordan Company, Inc.	\$5,879,274		
UVA	2008	CAS Research Building - Construction Phase & Site Utilities	CMAR		W.M. Jordan Company, Inc.	\$6,568,767		
UVA	2008	College at Wise: Smiddy Hall/New IT Facility	CMAR		The Christman Company	\$8,173,387		
UVA	2008	AFC Chiller Plant Expansion - Buy Out Package	CMAR		Martin Horn, Inc.	\$6,321,025		
VA Tech	2008	Basketball Practice Facility	CMAR		Whiting-Turner Contracting Co	\$16,190,706		
VA Tech	2008	Henderson Hall Renovations & Black Box	Competitive Bid		Avis Construction	\$11,559,955		
VA Tech	2008	Parking Structure	Design/Build		The Christman Company	\$19,548,000		
W&M	2008	Tucker Hall Renovations	CMAR		Donley's LLC.	\$8,625,147		
	2008 Total	19	84.21%	16		\$237,457,121	\$205,135,508	86.39%
GMU	2009	Sub I Addition/Renovation	Design/Build		Hess Construction Company	\$17,550,000		
GMU	2009	Hotel & Conference Center	PPEA		University Hotel Partners, LLC.	\$50,292,000		
JMU	2009	Bridgeforth Stadium Renovation	CMAR		Donley's LLC.	\$53,950,000		
Longwood	2009	Bedford Hall Addition/Renovation	Competitive Bid		Costello Construction, Inc.	\$16,519,000		
UMW	2009	Convocation Center	Competitive Bid		A.D. Whittaker Construction Corp.	\$11,146,300		
UVA	2009	ITE Research Building (Rice Hall) - Core and Shell Package Construction	CMAR		W.M. Jordan Company, Inc.	\$8,570,989		
UVA	2009	CAS Research Building - Core and Shell Package Construction	CMAR		W.M. Jordan Company, Inc.	\$5,629,170		
UVA	2009	Hospital Bed Expansion - Electrical Package 010	CMAR		Design Electric, Inc.	\$10,833,637		
UVA	2009	Hospital Bed Expansion - Mechanical Package 011	CMAR		Riddleberger Brothers, Inc.	\$10,413,942		
UVA	2009	CAS Research Building - MEP & Fire Protection Package	CMAR		W.M. Jordan Company, Inc.	\$13,624,746		
UVA	2009	SEAS Information Tech & Engineering Buiding - MEP & Fire Protection Package	CMAR		W.M. Jordan Company, Inc.	\$9,180,208		
UVA	2009	Alderman Road Residence Hall #1 - Package #1B, Site/Utility/Landscape and Construction	Design/Build		W.M. Jordan Company, Inc.	\$12,511,436		
UVA	2009	Alderman Road Residence Hall #2 - Package #2B, Site/Utility/Landscape and Construction	Design/Build		W.M. Jordan Company, Inc.	\$10,759,429		
VA Tech	2009	AJ Renovation	CMAR		Barton Malow Company	\$50,388,670		
VA Tech	2009	ICTAS II	CMAR		Skanska USA Building	\$24,134,503		
VA Tech	2009	McComas Addition	CMAR		Whiting-Turner Contracting Co	\$8,360,843		
VA Tech	2009	Addition to Jamerson/Football Locker Room	Design/Build		Barton Malow Company	\$12,558,008		
VA Tech	2009	VT/Carillion School of Medicine	PPEA		n/a	\$59,000,000		
VCCS	2009	NVCC - Academic Building Construction Phase VI (Annandale Campus)	CMAR		Barton Malow Company	\$24,140,648		
VCCS	2009	Tidewater CC - Norfolk Student Center Construction	CMAR		S.B. Ballard Construction Company	\$15,439,851		
VCCS	2009	Tidewater CC - Regional Health Professions Center (Virginia Beach)	CMAR		Whiting-Turner Contracting Co	\$19,512,264		

YEAR TOTALS - OTHER METHOD (O.M.) % USE AND TOTAL MONEY (\$) OF

VCU	2009	Medical Sciences Building	CMAR	Skanska USA Building	\$62,700,392			
VCU	2009	Monroe Park & MCV Campus Recreational Facilities (Cary St.)	CMAR	Kjellstrom & Lee, Inc.	\$39,486,474			
VCU	2009	Monroe Park & MCV Campus Recreational Facilities (Larrick)	CMAR	Kjellstrom & Lee, Inc.	\$14,193,696			
VCU	2009	School of Dentistry Addition	CMAR	Hourigan Construction	\$15,808,053			
VMI	2009	Military & Leadership Field Training Grounds	CMAR	Branch & Associates, Inc.	\$11,216,304			
VMI	2009	Science Building Renovations	CMAR	Branch & Associates, Inc.	\$13,853,380			
W&M	2009	Cohen Career Center Construction	CMAR	Whiting-Turner Contracting Co	\$5,881,832			
	2009 Total	28	92.86%	26	\$607,655,775	\$579,990,475	95.45%	
CNU	2010	Freeman Center	CMAR	W.M. Jordan Company, Inc.	\$27,800,000			
CNU	2010	Forbes Hall Phase 1	CMAR	Whiting-Turner Contracting Co	\$58,700,000			
GMU	2010	Krasnow Institute Addition Phase II	Design/Build	Whiting-Turner Contracting Co	\$8,140,138			
GMU	2010	Housing VIIIA	Design/Build	Balfour Beatty Construction, LLC.	\$47,457,000			
JMU	2010	Bio Science Building	CMAR	Skanska USA Building	\$32,926,354			
JMU	2010	Wayland Hall Renovation	CMAR	Donley's LLC.	\$11,394,000			
JMU	2010	University Park	Competitive Bid	Nielsen Builders, Inc.	\$36,200,718			
JMU	2010	Boiler & Infrastructure Phase I	Competitive Bid	Lantz Construction Company	\$7,698,400			
NSU	2010	Brooks Library	CMAR	S.B. Ballard Construction Company	\$37,079,649			
NSU	2010	Godwin Student Center	CMAR	W.M. Jordan Company, Inc.	\$38,633,403			
Radford	2010	College of Business and Economics Construction	CMAR	Whiting-Turner Contracting Co	\$35,657,770			
Radford	2010	Madison & Jefferson Hall Renovations	Design/Build	Thor, Inc.	\$8,481,000			
UMW	2010	Campus Center Construction	PPEA	Donley's LLC.	\$44,642,328			
UVA	2010	College at Wise: Multipurpose Center Package #01D - Final Building Package	CMAR	Quesenberry's Construction	\$13,352,272			
UVA	2010	CAS Research Building - Interior Package	CMAR	W.M. Jordan Company, Inc.	\$8,085,128			
UVA	2010	Garrett Hall Renovation - General Construction	CMAR	The Christman Company	\$5,822,481			
UVA	2010	ITE Research Building (Rice Building) - Interior Package	CMAR	W.M. Jordan Company, Inc.	\$6,208,697			
UVA	2010	Old Jordan Hall HVAC Replacement Project - Construction Phase	CMAR	DPR Construction, Inc.	\$19,198,486			
UVA	2010	ITC Data Center	Competitive Bid	Holder Construction Group, LLC.	\$6,962,228			
UVA	2010	Alderman Road Residences: Phase III, Design/Build Services - Package 2 - Construction	Design/Build	W.M. Jordan Company, Inc.	\$26,667,697			
VA Tech	2010	Visitor & Admissions Center	CMAR	BE&K Building Group, LLC.	\$7,052,618			
VA Tech	2010	Infectious Disease Research Lab	CMAR	Branch & Associates, Inc.	\$6,648,316			
VCCS	2010	NVCC - Academic Buildings Construction Phase III (Loudoun Campus)	CMAR	Gilbane Building Company	\$22,719,587			
VCCS	2010	NVCC - Academic Building Phase III (Manassas Campus)	CMAR	Hess Construction Company	\$18,237,546			
VCCS	2010	Tidewater CC - Learning Resource Center Construction (Virginia Beach)	CMAR	Gilbane Building Company	\$36,000,000			
VCCS	2010	Tidewater CC - Student Center Construction (Virginia Beach)	CMAR	Skanska USA Building	\$16,395,401			
VCU	2010	School of Medicine - McGlothlin Building	CMAR	Gilbane Building Company	\$97,010,971			
	2010 Total	27	88.89%	24	\$685,172,188	\$634,310,842	92.58%	
CNU	2011	Forbes Hall Phase II	CMAR	Whiting-Turner Contracting Co	\$16,400,000			
CNU	2011	Luter Hall	CMAR	Whiting-Turner Contracting Co	\$45,100,000			
GMU	2011	Thompson Hall Renovation	Competitive Bid	Keller Brothers, Inc.	\$6,877,000			
GMU	2011	Smithsonian-Mason CSP	Design/Build	W.M. Jordan Company, Inc.	\$11,798,750			
ODU	2011	New Systems Research & Academic Building Construction	CMAR	Skanska USA Building	\$14,289,497			
Radford	2011	Moffet Hall Renovations	Competitive Bid	Thor, Inc.	\$10,280,000			
UMW	2011	Dahlgren Campus Construction	Competitive Negotiation	Kjellstrom & Lee, Inc.	\$13,631,733			
UVA	2011	New Cabell Hall Renovation - Proc&Const Phase Services & Complete Const. Pkg	CMAR	Barton Malow Company	\$42,436,184			

YEAR TOTALS - OTHER METHOD (O.M.) % USE AND TOTAL MONEY (\$) OF

UVA	2011	Thrust Theater Expansion Construction	CMAR		Nielsen Builders, Inc.	\$7,543,056		
UVA	2011	Alderman Road Residence Hall #5: Phase IV - Package 2 - Construction	Design/Build		W.M. Jordan Company, Inc.	\$19,078,457		
UVA	2011	Newcomb Hall Dining Expansion - Construction Phase	Sole Source		R.E. Lee & Sons, Inc.	\$8,080,574		
VA Tech	2011	Performing Arts Center	CMAR		Holder Construction Group, LLC.	\$71,990,000		
VA Tech	2011	Academic & Student Affairs Building	CMAR		Skanska USA Building	\$33,376,000		
VA Tech	2011	West End Market Renovation	CMAR		Branch & Associates, Inc.	\$5,246,503		
VA Tech	2011	Veterinary Medicine Instruction Addition	CMAR		W.M. Jordan Company, Inc.	\$9,500,000		
VA Tech	2011	Signature Engineering Building	CMAR		Gilbane Building Company	\$66,358,823		
VA Tech	2011	Human & Agricultural Biosciences Building I	CMAR		Skanska USA Building	\$42,084,845		
VA Tech	2011	VTCRI 3rd Floor Upfit	Design/Build		DPR Construction, Inc.	\$10,780,000		
VA Tech	2011	Technology Research / Innovation Center	PPEA		n/a	\$9,600,000		
VCCS	2011	NVCC - Academic Building Construction Phase III (Woodbridge Campus)	CMAR		Whiting-Turner Contracting Co	\$27,386,900		
VCCS	2011	Tidewater CC - Academic Building & Student Center Construction (Chesapeake)	CMAR		S.B. Ballard Construction Company	\$38,736,573		
VCCS	2011	Tidewater CC - Student Center Construction (Portsmouth)	Competitive Bid		S.B. Ballard Construction Company	\$10,573,813		
VCU	2011	Belvidere & Grace St. Parking Decks	Design/Build		Donley's LLC.	\$12,684,274		
VCU	2011	West Grace Street Housing & Lauren Deck South	Design/Build		Whiting-Turner Contracting Co	\$33,205,861		
W&M	2011	ISC 3 Construction	CMAR		Whiting-Turner Contracting Co	\$53,526,409		
W&M	2011	Historic Campus Utilities Improvements	CMAR		Mid-Atlantic Infrastructure	\$11,469,095		
W&M	2011	Historic Campus Utilities Improvements Phase II	CMAR		Mid-Atlantic Infrastructure	\$7,475,220		
	2011 Total	27	88.89%	24		\$639,509,567	\$611,778,754	95.66%
CNU	2012	Warwick River Hall	CMAR		W.M. Jordan Company, Inc.	\$33,100,000		
CNU	2012	Pope Chapel	CMAR		W.M. Jordan Company, Inc.	\$6,400,000		
GMU	2012	Science & Tech II Renovation	CMAR		Donley's LLC.	\$40,567,069		
GMU	2012	Fine Arts Building Renovation	Competitive Bid		Tuckman-Barbee Construction Co	\$5,825,000		
GMU	2012	University Commons Renovation	Design/Build		Dustin Construction, Inc.	\$12,080,000		
JMU	2012	West Wing RMH Renovation	CMAR		W.M. Jordan Company, Inc.	\$43,577,799		
JMU	2012	Duke Hall Addition/Renovation	CMAR		Skanska USA Building	\$32,646,335		
JMU	2012	New Student Health Center/East Wing Construction	CMAR		W.M. Jordan Company, Inc.	\$7,936,662		
ODU	2012	Systems Research and Academic Building	CMAR		Skanska USA Building	\$17,000,000		
ODU	2012	Monarch Theater Phase of Diehn Performing and Fine Arts Building Phase II	Competitive Bid		W.M. Jordan Company, Inc.	\$9,000,000		
Radford	2012	Computational Sciences Building Construction	CMAR		W.M. Jordan Company, Inc.	\$40,632,041		
Radford	2012	Washington Hall Renovations	Competitive Bid		G&H Contracting	\$7,800,000		
UMW	2012	Monroe Hall Renovation	Competitive Bid		Sigal Construction Corp.	\$6,985,000		
UVA	2012	East Chiller Plant & Lee Street Realignment - Construction Phase II	CMAR		Gilbane Building Company	\$9,134,220		
UVA	2012	East Chiller Plant & Lee Street Realignment - Construction Phase III	CMAR		Gilbane Building Company	\$11,307,704		
UVA	2012	Indoor Practice Facility - Field House (Building Package)	CMAR		Barton Malow Company	\$5,238,422		
UVA	2012	North Grounds Recreation Center Expansion - Complete Working Drawings Documents	CMAR		Donley's LLC.	\$8,457,224		
UVA	2012	Ruffner Hall Renovation - Construction Phase Services & Construction Package	CMAR		Donley's LLC.	\$11,826,727		
VA Tech	2012	Davidson Hall Renovations Phase I	CMAR		Barton Malow Company	\$23,879,669		
VA Tech	2012	Chiller Plant Phase I	CMAR		Whiting-Turner Contracting Co	\$15,382,088		
VA Tech	2012	Unified Communications & Network Renewal	Internal		Internal Forces	\$16,508,000		
VCU	2012	University Learning Center - New Classroom Building	CMAR		Hourigan Construction	\$29,794,180		
VMI	2012	CPTF Phase I	CMAR		Whiting-Turner Contracting Co	\$66,737,161		
W&M	2012	New Dorm Construction (Fraternities)	CMAR		W.M. Jordan Company, Inc.	\$20,014,505		

YEAR TOTALS - OTHER METHOD (O.M.) % USE AND TOTAL MONEY (\$) OF

W&M	2012	Sadler Center Improvements	CMAR		Whiting-Turner Contracting Co	\$7,334,710		
W&M	2012	Tyler Hall Renovations	CMAR		W.M. Jordan Company, Inc.	\$11,770,972		
W&M	2012	Chandler Hall Renovations	CMAR		W.M. Jordan Company, Inc.	\$7,577,000		
	2012 Total	27	85.19%	23		\$508,512,488	\$478,902,488	94.18%
GMU	2013	Taylor Hall (Housing VIII B1)	Design/Build		Balfour Beatty Construction, LLC.	\$15,878,554		
GMU	2013	Campus Drive (West Campus Connector)	Design/Build		Branch Highways	\$15,056,821		
JMU	2013	Grace Street Student Housing	CMAR		Donley's LLC.	\$38,996,387		
Longwood	2013	Stubbs Hall Renovation	Competitive Bid		C.L. Lewis & Co., Inc.	\$6,905,660		
Longwood	2013	French Hall Renovation	Competitive Bid		English Construction Co., Inc.	\$12,325,000		
Longwood	2013	Cox Renovations	Competitive Bid		J.E. Jamerson & Sons	\$7,933,000		
Longwood	2013	University Center Construction	CMAR		Skanska USA Building	\$28,635,950		
NSU	2013	New Nusring & General Classroom Building	CMAR		S.B. Ballard Construction Company	\$37,374,141		
ODU	2013	New Arts Building Construction	CMAR		S.B. Ballard Construction Company	\$13,000,000		
Radford	2013	Student Fitness Center Construction	CMAR		Skanska USA Building	\$27,750,000		
UMW	2013	Residence Halls (Mason & Randolph) Renovations	Competitive Negotiation		W.M. Jordan Company, Inc.	\$26,938,797		
UVA	2013	Alderman Road Residence Hall #6 - Building Construction Package	CMAR		Donley's LLC.	\$17,418,193		
UVA	2013	College at Wise: New Library Main Construction Package	CMAR		Quesenberry's Construction	\$22,774,649		
VA State Univ.	2013	Lockett Hall Renovations	CMAR		W.M. Jordan Company, Inc.	\$7,760,889		
VA Tech	2013	Dairy Science Relocation	Lease Capital		Captial Lease	\$14,000,000		
VCCS	2013	NVCC - Higher Education Center (Loudoun Campus)	Competitive Bid		Sigal Construction Corp.	\$11,674,470		
VCU	2013	Institute of Contemporary Art	CMAR		Gilbane Building Company	\$29,852,815		
VCU	2013	Massey Cancer Center - Vivarium - Lab Support	CMAR		Skanska USA Building	\$7,962,123		
VCU	2013	West Grace/West Broad/Ryland St. Housing	Design/Build		W.M. Jordan Company, Inc.	\$33,247,088		
VCU	2013	West Grace Street Housing North	Design/Build		S.B. Ballard Construction Company	\$23,546,845		
W&M	2013	Marshall Wythe School of Law Improvements	CMAR		Gilbane Building Company	\$5,260,000		
	2013 Total	21	80.95%	17		\$404,291,382	\$365,453,252	90.39%
CNU	2014	Christopher Newport Hall	CMAR		Whiting-Turner Contracting Co	\$42,000,000		
GMU	2014	Fenwick Library Renovation Phase II	CMAR		Whiting-Turner Contracting Co	\$40,509,946		
GMU	2014	Shenandoah ("Ike's") Dining	Competitive Bid		Balfour Beatty Construction, LLC.	\$8,603,478		
JMU	2014	UREC Expansion	CMAR		Kjellstrom & Lee, Inc.	\$42,712,270		
JMU	2014	East Tower	CMAR		Skanska USA Building	\$48,789,838		
ODU	2014	New Art Studio Building Construction	CMAR		S.B. Ballard Construction Company	\$6,000,000		
ODU	2014	Darden College of Education Building	CMAR		S.B. Ballard Construction Company	\$42,600,000		
Radford	2014	New Academic Building - Humanities Construction	CMAR		S.B. Ballard Construction Company	\$40,214,071		
Radford	2014	Residence Halls Umbrella Project Renovations	Competitive Bid		G&H Contracting	\$23,275,715		
Radford	2014	New Intramural Fields Construction	Competitive Bid		Price Building & MB Contracting	\$6,424,000		
UMW	2014	Information and Technology Convergence Center	Competitive Negotiation		W.M. Jordan Company, Inc.	\$25,698,255		
UVA	2014	North Grounds Mechanical Plant Full Trade Construction	CMAR		Martin Horn, Inc.	\$7,940,472		
UVA	2014	Rotunda Renovations - Package 1 (Including CM Services Fee)	CMAR		Whiting-Turner Contracting Co	\$7,995,068		
UVA	2014	Rotunda Renovations - Package 2	CMAR		Whiting-Turner Contracting Co	\$7,151,160		
UVA	2014	Rotunda Renovations - Package 3	CMAR		Whiting-Turner Contracting Co	\$12,565,643		
UVA	2014	ERC - Construction Phase Services & Building Construction	CMAR		Donley's LLC.	\$20,687,149		
VA Tech	2014	Upper Quad Residential Facilities	CMAR		Barton Malow Company	\$69,704,066		
VA Tech	2014	Indoor Athletic Training Facility	Design/Build		W.M. Jordan Company, Inc.	\$18,000,000		

YEAR TOTALS - OTHER METHOD (O.M.) % USE AND TOTAL MONEY (\$) OF

VCCS	2014	NVCC - Workforce Development Center (Woodbridge Campus)	CMAR	Whiting-Turner Contracting Co	\$18,887,949			
VCCS	2014	NVCC - Brault Building Expansion (Annandale Campus)	Competitive Bid	Grunley Construction Company, Inc.	\$11,109,600			
VCCS	2014	NVCC - Tyler Academic Building Replacement	Competitive Bid	Branch & Associates, Inc.	\$24,698,825			
VCCS	2014	Tidewater CC - Bayside Building Renovations (Virginia Beach)	CMAR	Hourigan Construction	\$12,151,212			
VCCS	2014	Tidewater CC - Parking Garage Construction (Chesapeake)	CMAR	S.B. Ballard Construction Company	\$18,956,502			
VCU	2014	Information Commons & Libraries	CMAR	W.M. Jordan Company, Inc.	\$37,092,578			
VCU	2014	Virginia Treatment Center for Children	CMAR	Balfour Beatty Construction, LLC.	\$12,058,600			
VCU	2014	Sanger Hall Renovation of 4th Floor Phase II	CMAR	Branch & Associates, Inc.	\$5,468,139			
VMI	2014	CPTF Phase II	CMAR	Branch & Associates, Inc.	\$28,876,276			
W&M	2014	Zable Stadium Renovations/Expansion (+18,112)	CMAR	Barton Malow Company	\$22,078,719			
W&M	2014	One Tribble Place Renovations	CMAR	Kjellstrom & Lee, Inc.	\$5,600,000			
	2014 Total	29	82.76%	24	\$667,849,531	\$593,737,913	88.90%	
NSU	2015	Brown Hall Replacement	CMAR	S.B. Ballard Construction Company	\$60,584,000			
ODU	2015	Basketball Practice Facility	Competitive Bid	P. G. Harris Construction Co.	\$6,592,833			
VA Tech	2015	Classroom Building	CMAR	W.M. Jordan Company, Inc.	\$30,600,000			
VCU	2015	School of Allied Health Professions	CMAR	Whiting-Turner Contracting Co	\$61,494,549			
VMI	2015	Preston Library Renovation	CMAR	W.M. Jordan Company, Inc.	\$19,521,343			
VMI	2015	Post Infrastructure	CMAR	Branch & Associates, Inc.	\$33,201,000			
	2015 Total	6	83.33%	5	\$211,993,725	\$205,400,892	96.89%	
CNU	2016	Library Phase II Construction	CMAR	W.M. Jordan Company, Inc.	\$43,418,000			
CNU	2016	Alumni House Construction	Competitive Bid	Whiting-Turner Contracting Co	\$5,835,000			
CNU	2016	Regattas Dining Expansion	Competitive Bid	E.T. Gresham Company	\$9,500,000			
GMU	2016	Peterson Family Health Sciences Hall	CMAR	Whiting-Turner Contracting Co	\$54,797,710			
JMU	2016	Madison Hall Renovation	CMAR	W.M. Jordan Company, Inc.	\$19,543,856			
JMU	2016	University Services Annex	Competitive Bid	Harrisonburg Construction, Inc.	\$5,869,548			
JMU	2016	New Dining Hall Construction (West Campus Dining Hall)	CMAR	Skanska USA Building	\$57,312,163			
Longwood	2016	Student Success Center Construction	Competitive Bid	Hailey Builders, Inc.	\$6,556,593			
Radford	2016	Whitt Hall Renovations	Design/Build	G&H Contracting	\$5,643,936			
Radford	2016	Residence Hall Renovations	Design/Build	G&H Contracting	\$6,380,309			
UVA	2016	McCormick Road Houses Renovations	CMAR	Barton Malow Company	\$70,304,737			
VCU	2016	Sanger Hall Renovations	Competitive Bid	SRC, Inc.	\$13,840,000			
W&M	2016	Landrum Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$19,463,177			
W&M	2016	Construct Integrative Wellness Center	CMAR	Whiting-Turner Contracting Co	\$15,600,000			
W&M	2016	Construct West Utility Plant	CMAR	DPR Construction, Inc.	\$30,254,000			
	2016 Total	15	66.67%	10	\$364,319,029	\$322,717,888	88.58%	
CNU	2017	Fine Arts & Band Rehersal Construction/Renovation	CMAR	Whiting-Turner Contracting Co	\$50,464,532			
JMU	2017	New Convocation Center/East Campus Parking Deck (Atlantic Union Bank Center)	CMAR	S.B. Ballard Construction Company	\$99,000,000			
JMU	2017	Phillips Dining Hall Replacement Construction	CMAR	W.M. Jordan Company, Inc.	\$26,228,125			
JMU	2017	School of Business	CMAR	Kjellstrom & Lee, Inc.	\$72,835,614			
JMU	2017	Wilson Hall Renovations	CMAR	Nielsen Builders, Inc.	\$20,409,000			
JMU	2017	Paul Jennings Hall	CMAR	W.M. Jordan Company, Inc.	\$49,740,352			
Longwood	2017	Additional Biomass Boiler	Competitive Bid	WACO, Inc.	\$5,192,800			
UVA	2017	International Residence College Renovation	CMAR	Gilbane Building Company	\$10,394,947			
UVA	2017	Gilmer Hall & Chemistry Building Renovation	CMAR	Whiting-Turner Contracting Co	\$43,051,269			

YEAR TOTALS - OTHER METHOD (O.M.) % USE AND TOTAL MONEY (\$) OF

UVA	2017	Carr's Hill Renovation	CMAR	Alexander Nicholson, Inc.	\$6,042,602			
UVA	2017	University Hall (U-Hall) Abatement & Demolition	Design/Build	Renascent, Inc.	\$6,518,658			
UVA	2017	Main Heating Plant Boiler #6	CMAR	Greenland Enterprises, Inc.	\$7,285,505			
VA Tech	2017	Renovation/Renew Academic Buildings	CMAR	Branch & Associates, Inc.	\$25,605,000			
VA Tech	2017	Athletic Improvements - Baseball Construction	Design/Build	Whiting-Turner Contracting Co	\$14,329,153			
VA Tech	2017	Athletic Improvements - Rector Construction	CMAR	Branch & Associates, Inc.	\$14,144,099			
VA Tech	2017	O'Shaughnessy Hall Renovation	CMAR	W.M. Jordan Company, Inc.	\$15,968,301			
VCU	2017	Engineering Research Building	CMAR	Kjellstrom & Lee, Inc.	\$61,500,000			
VCU	2017	Scott House Renovations	CMAR	Kjellstrom & Lee, Inc.	\$5,340,786			
VCCS	2017	BRCC - Biotechnology Building	CMAR	Kjellstrom & Lee, Inc.	\$15,394,218			
VCCS	2017	ESCC - Replace Phase I Academic Building	Competitive Bid	McKenzie Construction Corporation	\$14,713,173			
VCCS	2017	J. Sargeant Reynolds CC - Building B Renovations (Parham Road Campus)	CMAR	Hourigan Construction	\$13,150,000			
VCCS	2017	J. Tyler CC - Bird Hall Renovations/Nicholas Center Renovations/Expansion	CMAR	Donley's LLC.	\$26,416,758			
VCCS	2017	LFCC - Academic Building	CMAR	Kjellstrom & Lee, Inc.	\$20,613,000			
VMI	2017	Scott Schipp Hall	CMAR	Whiting-Turner Contracting Co	\$43,275,000			
W&M	2017	Fine Arts Phase 1 & Phase 2	CMAR	Holder Construction Group, LLC.	\$118,503,000			
W&M	2017	Alumni House Expansion	CMAR	Kjellstrom & Lee, Inc.	\$22,613,000			
UMW	2017	Jepson Science Center Addition	CMAR	Donley's LLC.	\$24,280,680			
ODU	2017	Construct New Residence Hall - Owens House	CMAR	W.M. Jordan Company, Inc.	\$47,788,191			
ODU	2017	Construct Chemistry Building	CMAR	W.M. Jordan Company, Inc.	\$60,236,552			
ODU	2017	Stadium at Foreman Field	CMAR	S.B. Ballard Construction Company	\$59,609,247			
	2017 Total	30	93.33%	28	\$1,000,643,562	\$980,737,589	98.01%	
VMI	2018	Corps Physical Training Facility Phase III (Aquatic Center)	CMAR	Whiting-Turner Contracting Co	\$44,188,000			
Radford	2018	Complete Renovation of Reed and Curie Halls	CMAR	Branch & Associates, Inc.	\$22,708,530			
GMU	2018	Improve Utility Distribution System	CMAR	Whiting-Turner Contracting Co	\$45,552,547			
VA State Univ.	2018	Addition to MT Carter Building	CMAR	Branch & Associates, Inc.	\$7,336,670			
VCCS	2018	NVCC - Renovate Reynolds Academic Building (Loudoun Campus)	Competitive Bid	Grunley Construction Company, Inc.	\$18,702,000			
VCCS	2018	SsVCC - Student Services/LRC Building (Christanna Campus)	Competitive Bid	Kenbridge Construction Co., Inc.	\$12,136,212			
VCCS	2018	VWCC - Replace Anderson Hall (New STEM Building)	CMAR	Branch & Associates, Inc.	\$23,058,000			
JMU	2018	Chesapeake Parking Deck	Design/Build	Branch & Associates, Inc.	\$12,075,000			
JMU	2018	Jackson Hall Renovation	Competitive Bid	Nielsen Builders, Inc.	\$6,164,000			
JMU	2018	East Campus Parking Deck	CMAR	S.B. Ballard Construction Company	\$36,010,447			
W&M	2018	Fine & Performing Arts Complex-PBK (Holder)	CMAR	Holder Construction Group, LLC.	\$5,821,504			
Longwood	2018	Construct Admission Office	Competitive Bid	Jamerson-Lewis Construction, Inc.	\$7,858,846			
Longwood	2018	Construct New Academic Building	Competitive Bid	Jamerson-Lewis Construction, Inc.	\$16,279,217			
UVA	2018	ECCCC 4th Floor Fit Out	CMAR	Kjellstrom & Lee, Inc.	\$10,513,253			
UVA	2018	New Softball Stadium	CMAR	Jamerson-Lewis Construction, Inc.	\$19,654,061			
	2018 Total	15	66.67%	10	\$288,058,287	\$226,918,012	78.78%	
GMU	2019	Hylton Performing Arts Center Addition	CMAR	James G. Davis Construction	\$11,729,047			
UMW	2019	Willard Hall Renovation	CMAR	Kjellstrom & Lee, Inc.	\$19,311,522			
W&M	2019	One Tribe Place Remediation	CMAR	Kjellstrom & Lee, Inc.	\$15,775,385			
VCU	2019	Rice Center Research Facility	Competitive Bid	SRC, Inc.	\$5,699,751			
VCU	2019	Trani Life Sciences Building; Roof & HVAC Replacement	Competitive Bid	Warwick Mechanical	\$5,550,474			
UVA	2019	Athletics Complex Phase 1 Early Site Package	Competitive Bid	Barton Malow Company	\$11,871,111			

YEAR TOTALS - OTHER METHOD (O.M.) % USE AND TOTAL MONEY (\$) OF

UVA	2019	Memorial to Enslaved Laborers	Competitive Bid		Team Henry Enterprises	\$5,489,874			
	2019 Total	7	42.86%	3		\$75,427,164	\$46,815,954	62.07%	
UMW	2020	Seacobeck Hall Renovation	CMAR		Whiting-Turner Contracting Co	\$23,201,260			
UMW	2020	Virginia Hall Renovation	CMAR		Kjellstrom & Lee, Inc.	\$17,901,615			
W&M	2020	Fine and Performing Arts Complex-PBK (Whiting)	CMAR		Whiting-Turner Contracting Co	\$122,718,484			
W&M	2020	Sadler Center West Addition	CMAR		Kjellstrom & Lee, Inc.	\$33,738,315			
VCU	2020	STEM Teaching Laboratory Building	CMAR		Hourigan Construction	\$94,248,688			
Longwood	2020	Wheeler Mall Steam Distribution System Replacement	Competitive Bid		Faulconer Construction Company, Inc.	\$5,192,800			
	2020 Total	6	83.33%	5		\$297,001,162	\$291,808,362	98.25%	
Radford	2021	New CAIC Building - Abatement, Demolition, and Construction of New Four Story Building	CMAR		Skanska USA Building	\$80,500,000			
NSU	2021	New Residential Complex	Design/Build		S.B. Ballard Construction Company	\$50,619,880			
GMU	2021	Robinson Hall (Horizon Hall)	CMAR		Whiting-Turner Contracting Co	\$97,578,892			
W&M	2021	Integrative Science Center IV	CMAR		Skanska USA Building	\$69,914,000			
W&M	2021	Muscarelle Museum Renovations	CMAR		Kjellstrom & Lee, Inc.	\$34,500,000			
	2021 Total	5	100.00%	5		\$333,112,772	\$333,112,772	100.00%	
GRAND TOTAL		262	83.97%	220		\$6,321,003,753	\$5,876,820,701	92.97%	

COLLEGE TOTALS INDIVIDUALIZED

College	Project Year	Successful Bidder/Proposer	Project	Method Used	Project Amount	Contractor Subtotals	# of Contracts	# Comp. Bid Projects	# Other Method Projects	% Other Method Projects	Competitive Bid % of \$	% of \$ per Contractor by School
CNU Total					\$338,717,532	\$338,717,532	11	2	9	81.82%	4.53%	100.00%
GMU Total					\$490,293,952	\$490,293,952	17	3	14	82.35%	4.35%	100.00%
JMU	2018	Branch & Associates, Inc.	Chesapeake Parking Deck	Design/Build	\$12,075,000	\$12,075,000	1					1.53%
JMU	2008	Donley's LLC.	CISAT Dining Hall	CMAR	\$18,768,000							
JMU	2009	Donley's LLC.	Bridgeforth Stadium Renovation	CMAR	\$53,950,000							
JMU	2010	Donley's LLC.	Wayland Hall Renovation	CMAR	\$11,394,000							
JMU	2013	Donley's LLC.	Grace Street Student Housing	CMAR	\$38,996,387	\$123,108,387	4					15.60%
JMU	2016	Harrisonburg Construction, Inc.	University Services Annex	Competitive Bid	\$5,869,548	\$5,869,548	1					0.74%
JMU	2014	Kjellstrom & Lee, Inc.	UREC Expansion	CMAR	\$42,712,270							
JMU	2017	Kjellstrom & Lee, Inc.	School of Business	CMAR	\$72,835,614	\$115,547,884	2					14.64%
JMU	2010	Lantz Construction Company	Boiler & Infrastructure Phase I	Competitive Bid	\$7,698,400	\$7,698,400	1					0.98%
JMU	2008	Nielsen Builders, Inc.	Softball/Baseball Complex	Competitive Bid	\$8,618,208							
JMU	2010	Nielsen Builders, Inc.	University Park	Competitive Bid	\$36,200,718							
JMU	2017	Nielsen Builders, Inc.	Wilson Hall Renovations	CMAR	\$20,409,000							9.04%
JMU	2018	Nielsen Builders, Inc.	Jackson Hall Renovation	Competitive Bid	\$6,164,000	\$71,391,926	4					
JMU	2017	S.B. Ballard Construction Company	New Convocation Center/East Campus Parking Deck (Atlantic Union Bank Center)	CMAR	\$99,000,000							17.10%
JMU	2018	S.B. Ballard Construction Company	East Campus Parking Deck	CMAR	\$36,010,447	\$135,010,447	2					
JMU	2010	Skanska USA Building	Bio Science Building	CMAR	\$32,926,354							
JMU	2012	Skanska USA Building	Duke Hall Addition/Renovation	CMAR	\$32,646,335							
JMU	2014	Skanska USA Building	East Tower	CMAR	\$48,789,838							
JMU	2016	Skanska USA Building	New Dining Hall Construction (West Campus Dining Hall)	CMAR	\$57,312,163	\$171,674,690	4					21.75%
JMU	2012	W.M. Jordan Company, Inc.	West Wing RMH Renovation	CMAR	\$43,577,799							
JMU	2012	W.M. Jordan Company, Inc.	New Student Health Center/East Wing Construction	CMAR	\$7,936,662							
JMU	2016	W.M. Jordan Company, Inc.	Madison Hall Renovation	CMAR	\$19,543,856							
JMU	2017	W.M. Jordan Company, Inc.	Phillips Dining Hall Replacement Construction	CMAR	\$26,228,125							
JMU	2017	W.M. Jordan Company, Inc.	Paul Jennings Hall	CMAR	\$49,740,352	\$147,026,794	5					18.63%
JMU Total					\$789,403,076	\$789,403,076	24	5	19	79.17%	8.18%	100.00%
Longwood Total					\$125,542,316	\$125,542,316	11	10	1	9.09%	77.19%	100.00%
NSU Total					\$224,291,073	\$224,291,073	5	0	5	100.00%	0.00%	100.00%
ODU Total					\$327,132,620	\$327,132,620	11	2	9	81.82%	4.77%	100.00%
Radford Total					\$315,747,372	\$315,747,372	13	4	9	69.23%	15.13%	100.00%
UMW Total					\$213,737,490	\$213,737,490	10	2	8	80.00%	8.48%	100.00%
UVA Total					\$669,568,820	\$669,568,820	52	3	49	94.23%	3.63%	100.00%
VA State Univ. Total					\$15,097,559	\$15,097,559	2	0	2	100.00%	0.00%	100.00%
VA Tech Total					\$722,498,166	\$722,498,166	29	1	28	96.55%	1.60%	100.00%
VCCS Total					\$470,804,502	\$470,804,502	24	7	17	70.83%	22.01%	100.00%
VCU Total					\$701,786,337	\$701,786,337	22	3	19	86.36%	3.58%	100.00%
VMI Total					\$260,868,464	\$260,868,464	8	0	8	100.00%	0.00%	100.00%
W&M Total					\$655,514,474	\$655,514,474	23	0	23	100.00%	0.00%	100.00%
Grand Total					\$6,321,003,753	\$6,321,003,753	262	42	220			

COLLEGE PROJECTS BY YEAR

College	Year	Project	Method	% of Projects = Other Methods	Successful Bidder/Proposer	Amount	% of \$ = Other Methods
JMU	2008	CISAT Dining Hall	CMAR		Donley's LLC.	\$18,768,000	
JMU	2008	Softball/Baseball Complex	Competitive Bid		Nielsen Builders, Inc.	\$8,618,208	
JMU Total	2008			50.00%		\$27,386,208	68.53%
Longwood	2008	Steam Plant Upgrade Phase II	Competitive Bid		Branch & Associates, Inc.	\$12,143,450	
Longwood Total	2008			0.00%		\$12,143,450	0.00%
ODU	2008	Quad Student Housing Phase II (Buildings D, E, & F)	CMAR		W.M. Jordan Company, Inc.	\$51,016,300	
ODU Total	2008			100.00%		\$51,016,300	100.00%
UVA	2008	College at Wise: Residence Hall Package 6	CMAR		The Christman Company	\$5,424,879	
UVA	2008	College at Wise: Dining Hall Package 6	CMAR		The Christman Company	\$6,059,233	
UVA	2008	South Lawn Site Improvements (Package 16 - RFP #: 07-118)	CMAR		Faulconer Construction Co., Inc.	\$6,958,920	
UVA	2008	College at Wise: Science Building Renovation	CMAR		Quesenberry's Construction	\$6,387,770	
UVA	2008	Bavaro Hall - Curry School of Education Building Project	CMAR		Donley's LLC.	\$25,897,000	
UVA	2008	Emily Couric Cancer Center - Mechanical Package 007	CMAR		Sullivan Mechanical Contractors, Inc.	\$7,542,100	
UVA	2008	Emily Couric Cancer Center - Electrical Package 010	CMAR		M.C. Dean, Inc.	\$5,775,000	
UVA	2008	SEAS Information Tech & Engineering Building - Construction Phase & Site Utilities	CMAR		W.M. Jordan Company, Inc.	\$5,879,274	
UVA	2008	CAS Research Building - Construction Phase & Site Utilities	CMAR		W.M. Jordan Company, Inc.	\$6,568,767	
UVA	2008	College at Wise: Smiddy Hall/New IT Facility	CMAR		The Christman Company	\$8,173,387	
UVA	2008	AFC Chiller Plant Expansion - Buy Out Package	CMAR		Martin Horn, Inc.	\$6,321,025	
UVA Total	2008			100.00%		\$90,987,355	100.00%
VA Tech	2008	Basketball Practice Facility	CMAR		Whiting-Turner Contracting Co	\$16,190,706	
VA Tech	2008	Henderson Hall Renovations & Black Box	Competitive Bid		Avis Construction	\$11,559,955	
VA Tech	2008	Parking Structure	Design/Build		The Christman Company	\$19,548,000	
VA Tech Total	2008			66.67%		\$47,298,661	75.56%
W&M	2008	Tucker Hall Renovations	CMAR		Donley's LLC.	\$8,625,147	
W&M Total	2008			100.00%		\$8,625,147	100.00%
GMU	2009	Sub I Addition/Renovation	Design/Build		Hess Construction Company	\$17,550,000	
GMU	2009	Hotel & Conference Center	PPEA		University Hotel Partners, LLC.	\$50,292,000	
GMU Total	2009			100.00%		\$67,842,000	100.00%
JMU	2009	Bridgeforth Stadium Renovation	CMAR		Donley's LLC.	\$53,950,000	
JMU Total	2009			100.00%		\$53,950,000	100.00%
Longwood	2009	Bedford Hall Addition/Renovation	Competitive Bid		Costello Construction, Inc.	\$16,519,000	
Longwood Total	2009			0.00%		\$16,519,000	0.00%
UMW	2009	Convocation Center	Competitive Bid		A.D. Whittaker Construction Corp.	\$11,146,300	
UMW Total	2009			0.00%		\$11,146,300	0.00%
UVA	2009	ITE Research Building (Rice Hall) - Core and Shell Package Construction	CMAR		W.M. Jordan Company, Inc.	\$8,570,989	
UVA	2009	CAS Research Building - Core and Shell Package Construction	CMAR		W.M. Jordan Company, Inc.	\$5,629,170	
UVA	2009	Hospital Bed Expansion - Electrical Package 010	CMAR		Design Electric, Inc.	\$10,833,637	
UVA	2009	Hospital Bed Expansion - Mechanical Package 011	CMAR		Riddleberger Brothers, Inc.	\$10,413,942	
UVA	2009	CAS Research Building - MEP & Fire Protection Package	CMAR		W.M. Jordan Company, Inc.	\$13,624,746	

COLLEGE PROJECTS BY YEAR						
UVA	2009	SEAS Information Tech & Engineering Buiding - MEP & Fire Protection Package	CMAR	W.M. Jordan Company, Inc.	\$9,180,208	
UVA	2009	Alderman Road Residence Hall #1 - Package #1B, Site/Utility/Landscape and Construction	Design/Build	W.M. Jordan Company, Inc.	\$12,511,436	
UVA	2009	Alderman Road Residence Hall #2 - Package #2B, Site/Utility/Landscape and Construction	Design/Build	W.M. Jordan Company, Inc.	\$10,759,429	
UVA Total	2009			100.00%	\$81,523,557	100.00%
VA Tech	2009	AJ Renovation	CMAR	Barton Malow Company	\$50,388,670	
VA Tech	2009	ICTAS II	CMAR	Skanska USA Building	\$24,134,503	
VA Tech	2009	McComas Addition	CMAR	Whiting-Turner Contracting Co	\$8,360,843	
VA Tech	2009	Addition to Jamerson/Football Locker Room	Design/Build	Barton Malow Company	\$12,558,008	
VA Tech	2009	VT/Carillion School of Medicine	PPEA	n/a	\$59,000,000	
VA Tech Total	2009			100.00%	\$154,442,024	100.00%
VCCS	2009	NVCC - Academic Building Construction Phase VI (Annandale Campus)	CMAR	Barton Malow Company	\$24,140,648	
VCCS	2009	Tidewater CC - Norfolk Student Center Construction	CMAR	S.B. Ballard Construction Company	\$15,439,851	
VCCS	2009	Tidewater CC - Regional Health Professions Center (Virginia Beach)	CMAR	Whiting-Turner Contracting Co	\$19,512,264	
VCCS Total	2009			100.00%	\$59,092,763	100.00%
VCU	2009	Medical Sciences Building	CMAR	Skanska USA Building	\$62,700,392	
VCU	2009	Monroe Park & MCV Campus Recreational Facilities (Cary St.)	CMAR	Kjellstrom & Lee, Inc.	\$39,486,474	
VCU	2009	Monroe Park & MCV Campus Recreational Facilities (Larrick)	CMAR	Kjellstrom & Lee, Inc.	\$14,193,696	
VCU	2009	School of Dentistry Addition	CMAR	Hourigan Construction	\$15,808,053	
VCU Total	2009			100.00%	\$132,188,615	100.00%
VMI	2009	Military & Leadership Field Training Grounds	CMAR	Branch & Associates, Inc.	\$11,216,304	
VMI	2009	Science Building Renovations	CMAR	Branch & Associates, Inc.	\$13,853,380	
VMI Total	2009			100.00%	\$25,069,684	100.00%
W&M	2009	Cohen Career Center Construction	CMAR	Whiting-Turner Contracting Co	\$5,881,832	
W&M Total	2009			100.00%	\$5,881,832	100.00%
CNU	2010	Freeman Center	CMAR	W.M. Jordan Company, Inc.	\$27,800,000	
CNU	2010	Forbes Hall Phase 1	CMAR	Whiting-Turner Contracting Co	\$58,700,000	
CNU Total	2010			100.00%	\$86,500,000	100.00%
GMU	2010	Krasnow Institute Addition Phase II	Design/Build	Whiting-Turner Contracting Co	\$8,140,138	
GMU	2010	Housing VIIIA	Design/Build	Balfour Beatty Construction, LLC.	\$47,457,000	
GMU Total	2010			100.00%	\$55,597,138	100.00%
JMU	2010	Bio Science Building	CMAR	Skanska USA Building	\$32,926,354	
JMU	2010	Wayland Hall Renovation	CMAR	Donley's LLC.	\$11,394,000	
JMU	2010	University Park	Competitive Bid	Nielsen Builders, Inc.	\$36,200,718	
JMU	2010	Boiler & Infrastructure Phase I	Competitive Bid	Lantz Construction Company	\$7,698,400	
JMU Total	2010			50.00%	\$88,219,472	50.24%
NSU	2010	Brooks Library	CMAR	S.B. Ballard Construction Company	\$37,079,649	
NSU	2010	Godwin Student Center	CMAR	W.M. Jordan Company, Inc.	\$38,633,403	
NSU Total	2010			100.00%	\$75,713,052	100.00%
Radford	2010	College of Business and Economics Construction	CMAR	Whiting-Turner Contracting Co	\$35,657,770	
Radford	2010	Madison & Jefferson Hall Renovations	Design/Build	Thor, Inc.	\$8,481,000	
Radford Total	2010			100.00%	\$44,138,770	100.00%
UMW	2010	Campus Center Construction	PPEA	Donley's LLC.	\$44,642,328	

COLLEGE PROJECTS BY YEAR

UMW Total	2010		100.00%	\$44,642,328	100.00%
UVA	2010	College at Wise: Multipurpose Center Package #01D - Final Building Package	CMAR	Quesenberry's Construction	\$13,352,272
UVA	2010	CAS Research Building - Interior Package	CMAR	W.M. Jordan Company, Inc.	\$8,085,128
UVA	2010	Garrett Hall Renovation - General Construction	CMAR	The Christman Company	\$5,822,481
UVA	2010	ITE Research Building (Rice Building) - Interior Package	CMAR	W.M. Jordan Company, Inc.	\$6,208,697
UVA	2010	Old Jordan Hall HVAC Replacement Project - Construction Phase	CMAR	DPR Construction, Inc.	\$19,198,486
UVA	2010	ITC Data Center	Competitive Bid	Holder Construction Group, LLC.	\$6,962,228
UVA	2010	Alderman Road Residences: Phase III, Design/Build Services - Package 2 - Construction	Design/Build	W.M. Jordan Company, Inc.	\$26,667,697
UVA Total	2010		85.71%	\$86,296,989	91.93%
VA Tech	2010	Visitor & Admissions Center	CMAR	BE&K Building Group, LLC.	\$7,052,618
VA Tech	2010	Infectious Disease Research Lab	CMAR	Branch & Associates, Inc.	\$6,648,316
VA Tech Total	2010		100.00%	\$13,700,934	100.00%
VCCS	2010	NVCC - Academic Buildings Construction Phase III (Loudoun Campus)	CMAR	Gilbane Building Company	\$22,719,587
VCCS	2010	NVCC - Academic Building Phase III (Manassas Campus)	CMAR	Hess Construction Company	\$18,237,546
VCCS	2010	Tidewater CC - Learning Resource Center Construction (Virginia Beach)	CMAR	Gilbane Building Company	\$36,000,000
VCCS	2010	Tidewater CC - Student Center Construction (Virginia Beach)	CMAR	Skanska USA Building	\$16,395,401
VCCS Total	2010		100.00%	\$93,352,534	100.00%
VCU	2010	School of Medicine - McGlothlin Building	CMAR	Gilbane Building Company	\$97,010,971
VCU Total	2010		100.00%	\$97,010,971	100.00%
CNU	2011	Forbes Hall Phase II	CMAR	Whiting-Turner Contracting Co	\$16,400,000
CNU	2011	Luter Hall	CMAR	Whiting-Turner Contracting Co	\$45,100,000
CNU Total	2011		100.00%	\$61,500,000	100.00%
GMU	2011	Thompson Hall Renovation	Competitive Bid	Keller Brothers, Inc.	\$6,877,000
GMU	2011	Smithsonian-Mason CSP	Design/Build	W.M. Jordan Company, Inc.	\$11,798,750
GMU Total	2011		50.00%	\$18,675,750	63.18%
ODU	2011	New Systems Research & Academic Building Construction	CMAR	Skanska USA Building	\$14,289,497
ODU Total	2011		100.00%	\$14,289,497	100.00%
Radford	2011	Moffet Hall Renovations	Competitive Bid	Thor, Inc.	\$10,280,000
Radford Total	2011		0.00%	\$10,280,000	0.00%
UMW	2011	Dahlgren Campus Construction	Competitive Negotiation	Kjellstrom & Lee, Inc.	\$13,631,733
UMW Total	2011		100.00%	\$13,631,733	100.00%
UVA	2011	New Cabell Hall Renovation - Proc&Const Phase Services & Complete Const. Pkg	CMAR	Barton Malow Company	\$42,436,184
UVA	2011	Thrust Theater Expansion Construction	CMAR	Nielsen Builders, Inc.	\$7,543,056
UVA	2011	Alderman Road Residence Hall #5: Phase IV - Package 2 - Construction	Design/Build	W.M. Jordan Company, Inc.	\$19,078,457
UVA	2011	Newcomb Hall Dining Expansion - Construction Phase	Sole Source	R.E. Lee & Sons, Inc.	\$8,080,574
UVA Total	2011		100.00%	\$77,138,271	100.00%
VA Tech	2011	Performing Arts Center	CMAR	Holder Construction Group, LLC.	\$71,990,000
VA Tech	2011	Academic & Student Affairs Building	CMAR	Skanska USA Building	\$33,376,000
VA Tech	2011	West End Market Renovation	CMAR	Branch & Associates, Inc.	\$5,246,503
VA Tech	2011	Veterinary Medicine Instruction Addition	CMAR	W.M. Jordan Company, Inc.	\$9,500,000
VA Tech	2011	Signature Engineering Building	CMAR	Gilbane Building Company	\$66,358,823
VA Tech	2011	Human & Agricultural Biosciences Building I	CMAR	Skanska USA Building	\$42,084,845

COLLEGE PROJECTS BY YEAR					
VA Tech	2011 VTCRI 3rd Floor Upfit	Design/Build	DPR Construction, Inc.	\$10,780,000	
VA Tech	2011 Technology Research / Innovation Center	PPEA	n/a	\$9,600,000	
VA Tech Total	2011		100.00%	\$248,936,171	100.00%
VCCS	2011 NVCC - Academic Building Construction Phase III (Woodbridge Campus)	CMAR	Whiting-Turner Contracting Co	\$27,386,900	
VCCS	2011 Tidewater CC - Academic Building & Student Center Construction (Chesapeake)	CMAR	S.B. Ballard Construction Company	\$38,736,573	
VCCS	2011 Tidewater CC - Student Center Construction (Portsmouth)	Competitive Bid	S.B. Ballard Construction Company	\$10,573,813	
VCCS Total	2011		66.67%	\$76,697,286	86.21%
VCU	2011 Belvidere & Grace St. Parking Decks	Design/Build	Donley's LLC.	\$12,684,274	
VCU	2011 West Grace Street Housing & Lauren Deck South	Design/Build	Whiting-Turner Contracting Co	\$33,205,861	
VCU Total	2011		100.00%	\$45,890,135	100.00%
W&M	2011 ISC 3 Construction	CMAR	Whiting-Turner Contracting Co	\$53,526,409	
W&M	2011 Historic Campus Utilities Improvements	CMAR	Mid-Atlantic Infrastructure	\$11,469,095	
W&M	2011 Historic Campus Utilities Improvements Phase II	CMAR	Mid-Atlantic Infrastructure	\$7,475,220	
W&M Total	2011		100.00%	\$72,470,724	100.00%
CNU	2012 Warwick River Hall	CMAR	W.M. Jordan Company, Inc.	\$33,100,000	
CNU	2012 Pope Chapel	CMAR	W.M. Jordan Company, Inc.	\$6,400,000	
CNU Total	2012		100.00%	\$39,500,000	100.00%
GMU	2012 Science & Tech II Renovation	CMAR	Donley's LLC.	\$40,567,069	
GMU	2012 Fine Arts Building Renovation	Competitive Bid	Tuckman-Barbee Construction Co	\$5,825,000	
GMU	2012 University Commons Renovation	Design/Build	Dustin Construction, Inc.	\$12,080,000	
GMU Total	2012		66.67%	\$58,472,069	90.04%
JMU	2012 West Wing RMH Renovation	CMAR	W.M. Jordan Company, Inc.	\$43,577,799	
JMU	2012 Duke Hall Addition/Renovation	CMAR	Skanska USA Building	\$32,646,335	
JMU	2012 New Student Health Center/East Wing Construction	CMAR	W.M. Jordan Company, Inc.	\$7,936,662	
JMU Total	2012		100.00%	\$84,160,796	100.00%
ODU	2012 Systems Research and Academic Building	CMAR	Skanska USA Building	\$17,000,000	
ODU	2012 Monarch Theater Phase of Diehn Performing and Fine Arts Building Phase II	Competitive Bid	W.M. Jordan Company, Inc.	\$9,000,000	
ODU Total	2012		50.00%	\$26,000,000	65.38%
Radford	2012 Computational Sciences Building Construction	CMAR	W.M. Jordan Company, Inc.	\$40,632,041	
Radford	2012 Washington Hall Renovations	Competitive Bid	G&H Contracting	\$7,800,000	
Radford Total	2012		50.00%	\$48,432,041	83.89%
UMW	2012 Monroe Hall Renovation	Competitive Bid	Sigal Construction Corp.	\$6,985,000	
UMW Total	2012		0.00%	\$6,985,000	0.00%
UVA	2012 East Chiller Plant & Lee Street Realignment - Construction Phase II	CMAR	Gilbane Building Company	\$9,134,220	
UVA	2012 East Chiller Plant & Lee Street Realignment - Construction Phase III	CMAR	Gilbane Building Company	\$11,307,704	
UVA	2012 Indoor Practice Facility - Field House (Building Package)	CMAR	Barton Malow Company	\$5,238,422	
UVA	2012 North Grounds Recreation Center Expansion - Complete Working Drawings Documents	CMAR	Donley's LLC.	\$8,457,224	
UVA	2012 Ruffner Hall Renovation - Construction Phase Services & Construction Package	CMAR	Donley's LLC.	\$11,826,727	
UVA Total	2012		100.00%	\$45,964,297	100.00%
VA Tech	2012 Davidson Hall Renovations Phase I	CMAR	Barton Malow Company	\$23,879,669	
VA Tech	2012 Chiller Plant Phase I	CMAR	Whiting-Turner Contracting Co	\$15,382,088	
VA Tech	2012 Unified Communications & Network Renewal	Internal	Internal Forces	\$16,508,000	

COLLEGE PROJECTS BY YEAR

VA Tech Total	2012		100.00%	\$55,769,757	100.00%
VCU	2012	University Learning Center - New Classroom Building	CMAR	Hourigan Construction	\$29,794,180
VCU Total	2012		100.00%	\$29,794,180	100.00%
VMI	2012	CPTF Phase I	CMAR	Whiting-Turner Contracting Co	\$66,737,161
VMI Total	2012		100.00%	\$66,737,161	100.00%
W&M	2012	New Dorm Construction (Fraternities)	CMAR	W.M. Jordan Company, Inc.	\$20,014,505
W&M	2012	Sadler Center Improvements	CMAR	Whiting-Turner Contracting Co	\$7,334,710
W&M	2012	Tyler Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$11,770,972
W&M	2012	Chandler Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$7,577,000
W&M Total	2012		100.00%	\$46,697,187	100.00%
GMU	2013	Taylor Hall (Housing VIII B1)	Design/Build	Balfour Beatty Construction, LLC.	\$15,878,554
GMU	2013	Campus Drive (West Campus Connector)	Design/Build	Branch Highways	\$15,056,821
GMU Total	2013		100.00%	\$30,935,375	100.00%
JMU	2013	Grace Street Student Housing	CMAR	Donley's LLC.	\$38,996,387
JMU Total	2013		100.00%	\$38,996,387	100.00%
Longwood	2013	University Center Construction	CMAR	Skanska USA Building	\$28,635,950
Longwood	2013	Stubbs Hall Renovation	Competitive Bid	C.L. Lewis & Co., Inc.	\$6,905,660
Longwood	2013	French Hall Renovation	Competitive Bid	English Construction Co., Inc.	\$12,325,000
Longwood	2013	Cox Renovations	Competitive Bid	J.E. Jamerson & Sons	\$7,933,000
Longwood Total	2013		25.00%	\$55,799,610	51.32%
NSU	2013	New Nursing & General Classroom Building	CMAR	S.B. Ballard Construction Company	\$37,374,141
NSU Total	2013		100.00%	\$37,374,141	100.00%
ODU	2013	New Arts Building Construction	CMAR	S.B. Ballard Construction Company	\$13,000,000
ODU Total	2013		100.00%	\$13,000,000	100.00%
Radford	2013	Student Fitness Center Construction	CMAR	Skanska USA Building	\$27,750,000
Radford Total	2013		100.00%	\$27,750,000	100.00%
UMW	2013	Residence Halls (Mason & Randolph) Renovations	Competitive Negotiation	W.M. Jordan Company, Inc.	\$26,938,797
UMW Total	2013		100.00%	\$26,938,797	100.00%
UVA	2013	Alderman Road Residence Hall #6 - Building Construction Package	CMAR	Donley's LLC.	\$17,418,193
UVA	2013	College at Wise: New Library Main Construction Package	CMAR	Quesenberry's Construction	\$22,774,649
UVA Total	2013		100.00%	\$40,192,842	100.00%
VA State Univ.	2013	Lockett Hall Renovations	CMAR	W.M. Jordan Company, Inc.	\$7,760,889
VA State Univ. Total	2013		100.00%	\$7,760,889	100.00%
VA Tech	2013	Dairy Science Relocation	Lease Capital	Captial Lease	\$14,000,000
VA Tech Total	2013		100.00%	\$14,000,000	100.00%
VCCS	2013	NVCC - Higher Education Center (Loudoun Campus)	Competitive Bid	Sigal Construction Corp.	\$11,674,470
VCCS Total	2013		0.00%	\$11,674,470	0.00%
VCU	2013	Institute of Contemporary Art	CMAR	Gilbane Building Company	\$29,852,815
VCU	2013	Massey Cancer Center - Vivarium - Lab Support	CMAR	Skanska USA Building	\$7,962,123
VCU	2013	West Grace/West Broad/Ryland St. Housing	Design/Build	W.M. Jordan Company, Inc.	\$33,247,088
VCU	2013	West Grace Street Housing North	Design/Build	S.B. Ballard Construction Company	\$23,546,845
VCU Total	2013		100.00%	\$94,608,871	100.00%

COLLEGE PROJECTS BY YEAR

W&M	2013	Marshall Wythe School of Law Improvements	CMAR	Gilbane Building Company	\$5,260,000	
W&M Total	2013		100.00%	\$5,260,000	100.00%	
CNU	2014	Christopher Newport Hall	CMAR	Whiting-Turner Contracting Co	\$42,000,000	
CNU Total	2014		100.00%	\$42,000,000	100.00%	
GMU	2014	Fenwick Library Renovation Phase II	CMAR	Whiting-Turner Contracting Co	\$40,509,946	
GMU	2014	Shenandoah ("Ike's") Dining	Competitive Bid	Balfour Beatty Construction, LLC.	\$8,603,478	
GMU Total	2014		50.00%	\$49,113,424	82.48%	
JMU	2014	UREC Expansion	CMAR	Kjellstrom & Lee, Inc.	\$42,712,270	
JMU	2014	East Tower	CMAR	Skanska USA Building	\$48,789,838	
JMU Total	2014		100.00%	\$91,502,108	100.00%	
ODU	2014	New Art Studio Building Construction	CMAR	S.B. Ballard Construction Company	\$6,000,000	
ODU	2014	Darden College of Education Building	CMAR	S.B. Ballard Construction Company	\$42,600,000	
ODU Total	2014		100.00%	\$48,600,000	100.00%	
Radford	2014	New Academic Building - Humanities Construction	CMAR	S.B. Ballard Construction Company	\$40,214,071	
Radford	2014	Residence Halls Umbrella Project Renovations	Competitive Bid	G&H Contracting	\$23,275,715	
Radford	2014	New Intramural Fields Construction	Competitive Bid	Price Building & MB Contracting	\$6,424,000	
Radford Total	2014		33.33%	\$69,913,786	57.52%	
UMW	2014	Information and Technology Convergence Center	Competitive Negotiation	W.M. Jordan Company, Inc.	\$25,698,255	
UMW Total	2014		100.00%	\$25,698,255	100.00%	
UVA	2014	North Grounds Mechanical Plant Full Trade Construction	CMAR	Martin Horn, Inc.	\$7,940,472	
UVA	2014	Rotunda Renovations - Package 1 (Including CM Services Fee)	CMAR	Whiting-Turner Contracting Co	\$7,995,068	
UVA	2014	Rotunda Renovations - Package 2	CMAR	Whiting-Turner Contracting Co	\$7,151,160	
UVA	2014	Rotunda Renovations - Package 3	CMAR	Whiting-Turner Contracting Co	\$12,565,643	
UVA	2014	ERC - Construction Phase Services & Building Construction	CMAR	Donley's LLC.	\$20,687,149	
UVA Total	2014		100.00%	\$56,339,492	100.00%	
VA Tech	2014	Upper Quad Residential Facilities	CMAR	Barton Malow Company	\$69,704,066	
VA Tech	2014	Indoor Athletic Training Facility	Design/Build	W.M. Jordan Company, Inc.	\$18,000,000	
VA Tech Total	2014		100.00%	\$87,704,066	100.00%	
VCCS	2014	NVCC - Workforce Development Center (Woodbridge Campus)	CMAR	Whiting-Turner Contracting Co	\$18,887,949	
VCCS	2014	NVCC - Brault Building Expansion (Annandale Campus)	Competitive Bid	Grunley Construction Company, Inc.	\$11,109,600	
VCCS	2014	NVCC - Tyler Academic Building Replacement	Competitive Bid	Branch & Associates, Inc.	\$24,698,825	
VCCS	2014	Tidewater CC - Bayside Building Renovations (Virginia Beach)	CMAR	Hourigan Construction	\$12,151,212	
VCCS	2014	Tidewater CC - Parking Garage Construction (Chesapeake)	CMAR	S.B. Ballard Construction Company	\$18,956,502	
VCCS Total	2014		60.00%	\$85,804,088	58.27%	
VCU	2014	Information Commons & Libraries	CMAR	W.M. Jordan Company, Inc.	\$37,092,578	
VCU	2014	Virginia Treatment Center for Children	CMAR	Balfour Beatty Construction, LLC.	\$12,058,600	
VCU	2014	Sanger Hall Renovation of 4th Floor Phase II	CMAR	Branch & Associates, Inc.	\$5,468,139	
VCU Total	2014		100.00%	\$54,619,317	100.00%	
VMI	2014	CPTF Phase II	CMAR	Branch & Associates, Inc.	\$28,876,276	
VMI Total	2014		100.00%	\$28,876,276	100.00%	
W&M	2014	Zable Stadium Renovations/Expansion (+18,112)	CMAR	Barton Malow Company	\$22,078,719	
W&M	2014	One Tribble Place Renovations	CMAR	Kjellstrom & Lee, Inc.	\$5,600,000	

COLLEGE PROJECTS BY YEAR						
W&M Total	2014			100.00%		\$27,678,719 100.00%
NSU	2015	Brown Hall Replacement	CMAR		S.B. Ballard Construction Company	\$60,584,000
NSU Total	2015			100.00%		\$60,584,000 100.00%
ODU	2015	Basketball Practice Facility	Competitive Bid		P. G. Harris Construction Co.	\$6,592,833
ODU Total	2015			0.00%		\$6,592,833 0.00%
VA Tech	2015	Classroom Building	CMAR		W.M. Jordan Company, Inc.	\$30,600,000
VA Tech Total	2015			100.00%		\$30,600,000 100.00%
VCU	2015	School of Allied Health Professions	CMAR		Whiting-Turner Contracting Co	\$61,494,549
VCU Total	2015			100.00%		\$61,494,549 100.00%
VMI	2015	Preston Library Renovation	CMAR		W.M. Jordan Company, Inc.	\$19,521,343
VMI	2015	Post Infrastructure	CMAR		Branch & Associates, Inc.	\$33,201,000
VMI Total	2015			100.00%		\$52,722,343 100.00%
CNU	2016	Library Phase II Construction	CMAR		W.M. Jordan Company, Inc.	\$43,418,000
CNU	2016	Alumni House Construction	Competitive Bid		Whiting-Turner Contracting Co	\$5,835,000
CNU	2016	Regattas Dining Expansion	Competitive Bid		E.T. Gresham Company	\$9,500,000
CNU Total	2016			33.33%		\$58,753,000 73.90%
GMU	2016	Peterson Family Health Sciences Hall	CMAR		Whiting-Turner Contracting Co	\$54,797,710
GMU Total	2016			100.00%		\$54,797,710 100.00%
JMU	2016	Madison Hall Renovation	CMAR		W.M. Jordan Company, Inc.	\$19,543,856
JMU	2016	University Services Annex	Competitive Bid		Harrisonburg Construction, Inc.	\$5,869,548
JMU	2016	New Dining Hall Construction (West Campus Dining Hall)	CMAR		Skanska USA Building	\$57,312,163
JMU Total	2016			66.67%		\$82,725,567 92.90%
Longwood	2016	Student Success Center Construction	Competitive Bid		Hailey Builders, Inc.	\$6,556,593
Longwood Total	2016			0.00%		\$6,556,593 0.00%
Radford	2016	Whitt Hall Renovations	Design/Build		G&H Contracting	\$5,643,936
Radford	2016	Residence Hall Renovations	Design/Build		G&H Contracting	\$6,380,309
Radford Total	2016			100.00%		\$12,024,245 100.00%
UVA	2016	McCormick Road Houses Renovations	CMAR		Barton Malow Company	\$70,304,737
UVA Total	2016			100.00%		\$70,304,737 100.00%
VCU	2016	Sanger Hall Renovations	Competitive Bid		SRC, Inc.	\$13,840,000
VCU Total	2016			0.00%		\$13,840,000 0.00%
W&M	2016	Landrum Hall Renovations	CMAR		W.M. Jordan Company, Inc.	\$19,463,177
W&M	2016	Construct Integrative Wellness Center	CMAR		Whiting-Turner Contracting Co	\$15,600,000
W&M	2016	Construct West Utility Plant	CMAR		DPR Construction, Inc.	\$30,254,000
W&M Total	2016			100.00%		\$65,317,177 100.00%
CNU	2017	Fine Arts & Band Rehersal Construction/Renovation	CMAR		Whiting-Turner Contracting Co	\$50,464,532
CNU Total	2017			100.00%		\$50,464,532 100.00%
JMU	2017	New Convocation Center/East Campus Parking Deck (Atlantic Union Bank Center)	CMAR		S.B. Ballard Construction Company	\$99,000,000
JMU	2017	Phillips Dining Hall Replacement Construction	CMAR		W.M. Jordan Company, Inc.	\$26,228,125
JMU	2017	Paul Jennings Hall	CMAR		W.M. Jordan Company, Inc.	\$49,740,352
JMU	2017	School of Business	CMAR		Kjellstrom & Lee, Inc.	\$72,835,614

COLLEGE PROJECTS BY YEAR					
JMU	2017	Wilson Hall Renovations	CMAR	Nielsen Builders, Inc.	\$20,409,000
JMU Total	2017		100.00%	\$268,213,091	100.00%
Longwood	2017	Additional Biomass Boiler	Competitive Bid	WACO, Inc.	\$5,192,800
Longwood Total	2017		0.00%	\$5,192,800	0.00%
ODU	2017	Construct New Residence Hall - Owens House	CMAR	W.M. Jordan Company, Inc.	\$47,788,191
ODU	2017	Construct Chemistry Building	CMAR	W.M. Jordan Company, Inc.	\$60,236,552
ODU	2017	Stadium at Foreman Field	CMAR	S.B. Ballard Construction Company	\$59,609,247
ODU Total	2017		100.00%	\$167,633,990	100.00%
VA Tech	2017	Renovation/Renew Academic Buildings	CMAR	Branch & Associates, Inc.	\$25,605,000
VA Tech	2017	Athletic Improvements - Baseball Construction	Design/Build	Whiting-Turner Contracting Co	\$14,329,153
VA Tech	2017	Athletic Improvements - Rector Construction	CMAR	Branch & Associates, Inc.	\$14,144,099
VA Tech	2017	O'Shaughnessy Hall Renovation	CMAR	W.M. Jordan Company, Inc.	\$15,968,301
VA Tech Total	2017		100.00%	\$70,046,553	100.00%
UMW	2017	Jepson Science Center Addition	CMAR	Donley's LLC.	\$24,280,680
UMW Total	2017		100.00%	\$24,280,680	100.00%
UVA	2017	International Residence College Renovation	CMAR	Gilbane Building Company	\$10,394,947
UVA	2017	Gilmer Hall & Chemistry Building Renovation	CMAR	Whiting-Turner Contracting Co	\$43,051,269
UVA	2017	Carr's Hill Renovation	CMAR	Alexander Nicholson, Inc.	\$6,042,602
UVA	2017	University Hall (U-Hall) Abatement & Demolition	Design/Build	Renascent, Inc.	\$6,518,658
UVA	2017	Main Heating Plant Boiler #6	CMAR	Greenland Enterprises, Inc.	\$7,285,505
UVA Total	2017		100.00%	\$73,292,981	100.00%
VCCS	2017	BRCC - Biotechnology Building	CMAR	Kjellstrom & Lee, Inc.	\$15,394,218
VCCS	2017	ESCC - Replace Phase I Academic Building	Competitive Bid	McKenzie Construction Corporation	\$14,713,173
VCCS	2017	J. Sargeant Reynolds CC - Building B Renovations (Parham Road Campus)	CMAR	Hourigan Construction	\$13,150,000
VCCS	2017	J. Tyler CC - Bird Hall Renovations/Nicholas Center Renovations/Expansion	CMAR	Donley's LLC.	\$26,416,758
VCCS	2017	LFCC - Academic Building	CMAR	Kjellstrom & Lee, Inc.	\$20,613,000
VCCS Total	2017		80.00%	\$90,287,149	83.70%
VCU	2017	Engineering Research Building	CMAR	Kjellstrom & Lee, Inc.	\$61,500,000
VCU	2017	Scott House Renovations	CMAR	Kjellstrom & Lee, Inc.	\$5,340,786
VCU Total	2017		100.00%	\$66,840,786	100.00%
VMI	2017	Scott Schipp Hall	CMAR	Whiting-Turner Contracting Co	\$43,275,000
VMI Total	2017		100.00%	\$43,275,000	100.00%
W&M	2017	Fine Arts Phase 1 & Phase 2	CMAR	Holder Construction Group, LLC.	\$118,503,000

COLLEGE PROJECTS BY YEAR					
W&M	2017	Alumni House Expansion	CMAR	Kjellstrom & Lee, Inc.	\$22,613,000
W&M Total	2017		100.00%	\$141,116,000	100.00%
JMU	2018	Chesapeake Parking Deck	Design/Build	Branch & Associates, Inc.	\$12,075,000
JMU	2018	Jackson Hall Renovation	Competitive Bid	Nielsen Builders, Inc.	\$6,164,000
JMU	2018	East Campus Parking Deck	CMAR	S.B. Ballard Construction Company	\$36,010,447
JMU Total	2018		66.67%	\$54,249,447	88.64%
Longwood	2018	Construct Admission Office	Competitive Bid	Jamerson-Lewis Construction, Inc.	\$7,858,846
Longwood	2018	Construct New Academic Building	Competitive Bid	Jamerson-Lewis Construction, Inc.	\$16,279,217
Longwood Total	2018		0.00%	\$24,138,063	0.00%
UVA	2018	ECCCC 4th Floor Fit Out	CMAR	Kjellstrom & Lee, Inc.	\$10,513,253
UVA	2018	New Softball Stadium	CMAR	Jamerson-Lewis Construction, Inc.	\$19,654,061
UVA Total	2018		100.00%	\$30,167,314	100.00%
VCCS	2018	NVCC - Renovate Reynolds Academic Building (Loudoun Campus)	Competitive Bid	Grunley Construction Company, Inc.	\$18,702,000
VCCS	2018	VWCC - Replace Anderson Hall (New STEM Building)	CMAR	Branch & Associates, Inc.	\$23,058,000
VCCS	2018	SsVCC - Student Services/LRC Building (Christanna Campus)	Competitive Bid	Kenbridge Construction Co., Inc.	\$12,136,212
VCCS Total	2018		33.33%	\$53,896,212	42.78%
VMI	2018	Corps Physical Training Facility Phase III (Aquatic Center)	CMAR	Whiting-Turner Contracting Co	\$44,188,000
VMI Total	2018		100.00%	\$44,188,000	100.00%
GMU	2018	Improve Utility Distribution System	CMAR	Whiting-Turner Contracting Co	\$45,552,547
GMU Total	2018		100.00%	\$45,552,547	100.00%
Radford	2018	Complete Renovation of Reed and Curie Halls	CMAR	Branch & Associates, Inc.	\$22,708,530
Radford Total	2018		100.00%	\$22,708,530	100.00%
VA State Univ.	2018	Addition to MT Carter Building	CMAR	Branch & Associates, Inc.	\$7,336,670
VA State Univ. Total	2018		100.00%	\$7,336,670	100.00%
W&M	2018	Fine & Performing Arts Complex-PBK (Holder)	CMAR		\$5,821,504
W&M Total	2018		100.00%	\$5,821,504	100.00%
GMU	2019	Hylton Performing Arts Center Addition	CMAR	James G. Davis Construction	\$11,729,047
GMU Total	2019		100.00%	\$11,729,047	100.00%
VCU	2019	Rice Center Research Facility	Competitive Bid	SRC, Inc.	\$5,699,751
VCU	2019	Trani Life Sciences Building; Roof & HVAC Replacement	Competitive Bid	Warwick Mechanical	\$5,550,474

COLLEGE PROJECTS BY YEAR

VCU Total	2019		0.00%	\$11,250,225	0.00%
UMW	2019	Willard Hall Renovation	CMAR	Kjellstrom & Lee, Inc.	\$19,311,522
UMW Total	2019		100.00%	\$19,311,522	100.00%
UVA	2019	Athetics Complex Phase 1 Early Site Package	Competitive Bid	Barton Malow Company	\$11,871,111
UVA	2019	Memorial to Enslaved Laborers	Competitive Bid	Team Henry Enterprises	\$5,489,874
UVA Total	2019		0.00%	\$17,360,985	0.00%
W&M	2019	One Tribe Place Remediation	CMAR	Kjellstrom & Lee, Inc.	\$15,775,385
W&M Total	2019		100.00%	\$15,775,385	100.00%
Longwood	2020	Wheeler Mall Steam Distribution System Replacement	Competitive Bid	Faulconer Construction Company, Inc.	\$5,192,800
Longwood Total	2020		0.00%	\$5,192,800	0.00%
VCU	2020	STEM Teaching Laboratory Building	CMAR	Hourigan Construction	\$94,248,688
VCU Total	2020		100.00%	\$94,248,688	100.00%
UMW	2020	Seacobeck Hall Renovation	CMAR	Whiting-Turner Contracting Co	\$23,201,260
UMW	2020	Virginia Hall Renovation	CMAR	Kjellstrom & Lee, Inc.	\$17,901,615
UMW Total	2020		100.00%	\$41,102,875	100.00%
W&M	2020	Fine & Performing Arts Complex-PBK (Whiting)	CMAR	Whiting-Turner Contracting Co	\$122,718,484
W&M	2020	Sadler Center West Addition	CMAR	Kjellstrom & Lee, Inc.	\$33,738,315
W&M Total	2020		100.00%	\$156,456,799	100.00%
GMU	2021	Robinson Hall (Horizon Hall)	CMAR	Whiting-Turner Contracting Co	\$97,578,892
GMU Total	2021		100.00%	\$97,578,892	100.00%
NSU	2021	New Residential Complex	Design/Build	S.B. Ballard Construction Company	\$50,619,880
NSU Total	2021		100.00%	\$50,619,880	100.00%
Radford	2021	New CAIC Building - Abatement, Demolition, and Construction of New Four Story Building	CMAR	Skanska USA Building	\$80,500,000
Radford Total	2021		100.00%	\$80,500,000	100.00%
W&M	2021	Integrative Science Center IV	CMAR	Skanska USA Building	\$69,914,000
W&M	2021	Muscarelle Museum Renvoations	CMAR	Kjellstrom & Lee, Inc.	\$34,500,000
W&M Total	2021		100.00%	\$104,414,000	100.00%

BUILDER FACT SHEET

Succesful Bidder/Proposer	Amount	# of Contracts	% of Total Projects	% of Total \$	Ranking
A.D. Whittaker Construction Corp.	\$11,146,300	1	0.38%	0.18%	39
Alexander Nicholson, Inc.	\$6,042,602	1	0.38%	0.10%	55
Avis Construction	\$11,559,955	1	0.38%	0.18%	38
Balfour Beatty Construction, LLC.	\$83,997,632	4	1.53%	1.33%	12
Barton Malow Company	\$332,600,234	10	3.82%	5.26%	7
BE&K Building Group, LLC.	\$7,052,618	1	0.38%	0.11%	48
Branch & Associates, Inc.	\$246,279,492	15	5.73%	3.90%	9
Branch Highways	\$15,056,821	1	0.38%	0.24%	29
C.L. Lewis & Co., Inc.	\$6,905,660	1	0.38%	0.11%	49
Capital Lease	\$14,000,000	1	0.38%	0.22%	32
Costello Construction, Inc.	\$16,519,000	1	0.38%	0.26%	27
Design Electric, Inc.	\$10,833,637	1	0.38%	0.17%	40
Donley's LLC.	\$364,610,936	15	5.73%	5.77%	6
DPR Construction, Inc.	\$60,232,486	3	1.15%	0.95%	15
Dustin Construction, Inc.	\$12,080,000	1	0.38%	0.19%	36
E.T. Gresham Company	\$9,500,000	1	0.38%	0.15%	42
English Construction Co., Inc.	\$12,325,000	1	0.38%	0.19%	33
Faulconer Construction Co., Inc.	\$12,151,720	2	0.76%	0.19%	34
G&H Contracting	\$43,099,960	4	1.53%	0.68%	19
Gilbane Building Company	\$288,039,067	9	3.44%	4.56%	8
Greenland Enterprise, Inc.	\$7,285,505	1	0.38%	0.12%	47
Grunley Construction Company, Inc.	\$29,811,600	2	0.76%	0.47%	22
Hailey Builders, Inc.	\$6,556,593	1	0.38%	0.10%	52
Harrisonburg Construction, Inc.	\$5,869,548	1	0.38%	0.09%	56
Hess Construction Company	\$35,787,546	2	0.76%	0.57%	21
Holder Construction Group, LLC.	\$203,276,732	4	1.53%	3.22%	10
Hourigan Construction	\$165,152,133	5	1.91%	2.61%	11
Internal Forces	\$16,508,000	1	0.38%	0.26%	28
J.E. Jamerson & Sons	\$7,933,000	1	0.38%	0.13%	44
Jamerson-Lewis Construction, Inc.	\$43,792,124	3	1.15%	0.69%	18
James G. Davis Construction	\$11,729,047	1	0.38%	0.19%	37
Keller Brothers, Inc.	\$6,877,000	1	0.38%	0.11%	50
Kenbridge Construction Co., Inc.	\$12,136,212	1	0.38%	0.19%	35
Kjellstrom & Lee, Inc.	\$445,660,881	17	6.49%	7.05%	5
Lantz Construction Company	\$7,698,400	1	0.38%	0.12%	45
M.C. Dean, Inc.	\$5,775,000	1	0.38%	0.09%	58
Martin Horn, Inc.	\$14,261,497	2	0.76%	0.23%	31
McKenzie Construction Corporation	\$14,713,173	1	0.38%	0.23%	30
Mid-Atlantic Infrastructure	\$18,944,315	2	0.76%	0.30%	24
n/a	\$68,600,000	2	0.76%	1.09%	14
Nielsen Builders, Inc.	\$78,934,982	5	1.91%	1.25%	13
P. G. Harris Construction Co.	\$6,592,833	1	0.38%	0.10%	51
Price Building & MB Contracting	\$6,424,000	1	0.38%	0.10%	54
Quesenberry's Construction	\$42,514,691	3	1.15%	0.67%	20
R.E. Lee & Sons, Inc.	\$8,080,574	1	0.38%	0.13%	43
Renascent, Inc.	\$6,518,658	1	0.38%	0.10%	53
Riddleberger Brothers, Inc.	\$10,413,942	1	0.38%	0.16%	41
S.B. Ballard Construction Company	\$589,345,019	16	6.11%	9.32%	4
Sigal Construction Corp.	\$18,659,470	2	0.76%	0.30%	26
Skanska USA Building	\$596,417,401	16	6.11%	9.44%	3
SRC, Inc.	\$19,539,751	2	0.76%	0.31%	23
Sullivan Mechanical Contractors, Inc.	\$7,542,100	1	0.38%	0.12%	46
Team Henry Enterprises	\$5,489,874	1	0.38%	0.09%	60
The Christman Company	\$45,027,980	5	1.91%	0.71%	17
Thor, Inc.	\$18,761,000	2	0.76%	0.30%	25
Tuckman-Barbee Construction Co	\$5,825,000	1	0.38%	0.09%	57
University Hotel Partners, LLC.	\$50,292,000	1	0.38%	0.80%	16
W.M. Jordan Company, Inc.	\$932,766,934	42	16.03%	14.76%	2
WACO, Inc.	\$5,192,800	1	0.38%	0.08%	61
Warwick Mechanical	\$5,550,474	1	0.38%	0.09%	59
Whiting-Turner Contracting Co	\$1,168,712,844	34	12.98%	18.49%	1
Totals	\$6,321,003,753	262	100.00%	100.00%	

BUILDER RANKINGS

Succesful Bidder/Proposer	Amount	# of Contracts	% of Total Projects	% of Total \$	Ranking
Whiting-Turner Contracting Co	\$1,168,712,844	34	12.98%	18.49%	1
W.M. Jordan Company, Inc.	\$932,766,934	42	16.03%	14.76%	2
Skanska USA Building	\$596,417,401	16	6.11%	9.44%	3
S.B. Ballard Construction Company	\$589,345,019	16	6.11%	9.32%	4
Kjellstrom & Lee, Inc.	\$445,660,881	17	6.49%	7.05%	5
Donley's LLC.	\$364,610,936	15	5.73%	5.77%	6
Barton Malow Company	\$332,600,234	10	3.82%	5.26%	7
Gilbane Building Company	\$288,039,067	9	3.44%	4.56%	8
Branch & Associates, Inc.	\$246,279,492	15	5.73%	3.90%	9
Holder Construction Group, LLC.	\$203,276,732	4	1.53%	3.22%	10
Hourigan Construction	\$165,152,133	5	1.91%	2.61%	11
Balfour Beatty Construction, LLC.	\$83,997,632	4	1.53%	1.33%	12
Nielsen Builders, Inc.	\$78,934,982	5	1.91%	1.25%	13
n/a	\$68,600,000	2	0.76%	1.09%	14
DPR Construction, Inc.	\$60,232,486	3	1.15%	0.95%	15
University Hotel Partners, LLC.	\$50,292,000	1	0.38%	0.80%	16
The Christman Company	\$45,027,980	5	1.91%	0.71%	17
Jamerson-Lewis Construction, Inc.	\$43,792,124	3	1.15%	0.69%	18
G&H Contracting	\$43,099,960	4	1.53%	0.68%	19
Quesenberry's Construction	\$42,514,691	3	1.15%	0.67%	20
Hess Construction Company	\$35,787,546	2	0.76%	0.57%	21
Grunley Construction Company, Inc.	\$29,811,600	2	0.76%	0.47%	22
SRC, Inc.	\$19,539,751	2	0.76%	0.31%	23
Mid-Atlantic Infrastructure	\$18,944,315	2	0.76%	0.30%	24
Thor, Inc.	\$18,761,000	2	0.76%	0.30%	25
Sigal Construction Corp.	\$18,659,470	2	0.76%	0.30%	26
Costello Construction, Inc.	\$16,519,000	1	0.38%	0.26%	27
Internal Forces	\$16,508,000	1	0.38%	0.26%	28
Branch Highways	\$15,056,821	1	0.38%	0.24%	29
McKenzie Construction Corporation	\$14,713,173	1	0.38%	0.23%	30
Martin Horn, Inc.	\$14,261,497	2	0.76%	0.23%	31
Captial Lease	\$14,000,000	1	0.38%	0.22%	32
English Construction Co., Inc.	\$12,325,000	1	0.38%	0.19%	33
Faulconer Construction Co., Inc.	\$12,151,720	2	0.76%	0.19%	34
Kenbridge Construction Co., Inc.	\$12,136,212	1	0.38%	0.19%	35
Dustin Construction, Inc.	\$12,080,000	1	0.38%	0.19%	36
James G. Davis Construction	\$11,729,047	1	0.38%	0.19%	37
Avis Construction	\$11,559,955	1	0.38%	0.18%	38
A.D. Whittaker Construction Corp.	\$11,146,300	1	0.38%	0.18%	39
Design Electric, Inc.	\$10,833,637	1	0.38%	0.17%	40
Riddleberger Brothers, Inc.	\$10,413,942	1	0.38%	0.16%	41
E.T. Gresham Company	\$9,500,000	1	0.38%	0.15%	42
R.E. Lee & Sons, Inc.	\$8,080,574	1	0.38%	0.13%	43
J.E. Jamerson & Sons	\$7,933,000	1	0.38%	0.13%	44

TOP 10 CONTRACTORS BY EARNED \$ (2008-2021)					
Rank	Company	Amount	# of Contracts	% of Total Projects	% of Total \$
1	Whiting-Turner Contracting Co	\$1,168,712,844	34	12.98%	18.49%
2	W.M. Jordan Company, Inc.	\$932,766,934	42	16.03%	14.76%
3	Skanska USA Building	\$596,417,401	16	6.11%	9.44%
4	S.B. Ballard Construction Company	\$589,345,019	16	6.11%	9.32%
5	Kjellstrom & Lee, Inc.	\$445,660,881	17	6.49%	7.05%
6	Donley's LLC.	\$364,610,936	15	5.73%	5.77%
7	Barton Malow Company	\$332,600,234	10	3.82%	5.26%
8	Gilbane Building Company	\$288,039,067	9	3.44%	4.56%
9	Branch & Associates, Inc.	\$246,279,492	15	5.73%	3.90%
10	Holder Construction Group, LLC.	\$203,276,732	4	1.53%	3.22%
Collective Totals		\$5,167,709,540	178		81.75%

FACTS					
Top 10 Total \$		\$5,167,709,540			
Overall Total \$		\$6,321,003,753			
Top 10 Total \$ %		81.75%			
Top 5		\$3,732,903,079	125	47.71%	59.06%
Top 6		\$4,097,514,015	140	53.44%	64.82%
Top 7		\$4,430,114,249	150	57.25%	70.09%

BUILDER RANKINGS

Lantz Construction Company	\$7,698,400	1	0.38%	0.12%	45
Sullivan Mechanical Contractors, Inc.	\$7,542,100	1	0.38%	0.12%	46
Greenland Enterprise, Inc.	\$7,285,505	1	0.38%	0.12%	47
BE&K Building Group, LLC.	\$7,052,618	1	0.38%	0.11%	48
C.L. Lewis & Co., Inc.	\$6,905,660	1	0.38%	0.11%	49
Keller Brothers, Inc.	\$6,877,000	1	0.38%	0.11%	50
P. G. Harris Construction Co.	\$6,592,833	1	0.38%	0.10%	51
Hailey Builders, Inc.	\$6,556,593	1	0.38%	0.10%	52
Renascent, Inc.	\$6,518,658	1	0.38%	0.10%	53
Price Building & MB Contracting	\$6,424,000	1	0.38%	0.10%	54
Alexander Nicholson, Inc.	\$6,042,602	1	0.38%	0.10%	55
Harrisonburg Construction, Inc.	\$5,869,548	1	0.38%	0.09%	56
Tuckman-Barbee Construction Co	\$5,825,000	1	0.38%	0.09%	57
M.C. Dean, Inc.	\$5,775,000	1	0.38%	0.09%	58
Warwick Mechanical	\$5,550,474	1	0.38%	0.09%	59
Team Henry Enterprises	\$5,489,874	1	0.38%	0.09%	60
WACO, Inc.	\$5,192,800	1	0.38%	0.08%	61
Totals	\$6,321,003,753	262	100.00%	100.00%	

Appendix D: August 8, 2023 Meeting Materials

This appendix contains the meeting materials from the August 8, 2023 Workgroup meeting.

1. Agenda
2. Meeting Materials
 - a. Presentation by the Department of General Services on Construction Management and Design-Build Key Events
 - b. Presentation by the Office of the Attorney General on Competitive Processes for Procurement of Construction
 - c. Presentation by the Virginia Joint Legislative Audit and Review Commission on the 2016 Development and Management of State Contracts Report
 - d. Legislation related to construction procurement by VASCUPP
 - e. Letter from MBD Strategies on SB 954
3. Approved Meeting Minutes

Public Body Procurement Workgroup

<https://dgs.virginia.gov/dgs/directors-office/pwg/>

Meeting # 6

Tuesday, August 8, 2023, 1:00 p.m.

House Committee Room

Pocahontas Building

900 E. Main St, Richmond, Virginia

AGENDA

- I. **Call to Order; Remarks by Chair**
- II. **Approval of Meeting Minutes from the July 18, 2023 Workgroup Meeting**
- III. **Public Comment on SB 1115**
- IV. **Findings and Recommendations on SB 1115**
- V. **Presentation on Construction Management Process**

Sandra Gill, Deputy Director
Department of General Services

Curtis Manchester, Assistant Attorney General
Office of the Attorney General
- VI. **Presentation on the 2016 Development and Management of State Contracts Report**

Tracey Smith, Associate Director
Virginia Joint Legislative Audit & Review Commission
- VII. **Public Comment on SB 954**
- VIII. **Consideration and Discussion of Public Comment, Written Comments, and Other Information Received by the Workgroup on SB 954**
- IX. **Findings and Recommendations on SB 954**
- X. **Public Comment**
- XI. **Discussion**
- XII. **Adjournment**

Members

Department of General Services
Virginia Information Technologies Agency
Department of Planning and Budget
Virginia Association of State Colleges and
University Purchasing Professionals

Department of Small Business and Supplier Diversity
Virginia Department of Transportation
Virginia Association of Governmental Procurement

Representatives

Office of the Attorney General
Senate Finance Committee

House Appropriations Committee
Division of Legislative Services

Staff

Sandra Gill, Deputy Director, DGS
Jessica Hendrickson, Director of Policy and Legislative Affairs, DGS

Construction Management (CM) and Design-Build (D-B) Key Events		Applies to:		
Year	Event	State Public Bodes	Higher Education	Local Public Bodies
1982	VPPA passes with an effective date of 01/01/1983 - Permits procurement of construction, with a written notice	Yes	Yes	Yes
1983	(41.2)2.2-4306 adds provision for Construction Management (CM) and Design-Build (D-B)	Yes	Yes	
1996	(41.2.02) 2.2-4307 adds DJJ provision to award with "not to exceed price" on CM and D-B	Only DJJ		
1996	Report on the effect of Authorizing DB and CM			
1996	(41.2.2)2.2-4308 adds CM and D-B eligibility requirements for CM and D-B for public bodies other than the Commonwealth (local public bodies)			Yes
1996	Creates the Design-Build/Construction Management Review Board same bill directs The Director of the Division of Engineering and Buildings or his designee shall serve as a member of the Design-Build/Construction Management Review Board and shall provide staff support to the Review Board.			Yes
2006	Higher Education Restructure act - beginning of agencies being exempt from VPPA and SOA Procedures			
2009	2.2-4308 amended the requirement for individual project review to make a one-time determination that a locality with a population in excess of 100,000 has the personnel, procedures, and expertise necessary to enter into contracts for construction on either a fixed price or not-to-exceed price design-build or construction management basis without the approval of the Review Board.			Yes
2011	Repealed the Design-Build/Construction Management Review Board			Yes
2014	General Laws Special Joint Subcommittee Studying the Virginia Public Procurement Act Final Report			
2016	Appropriation Act - requirement for reporting on CM and D-B	Yes	Yes	Yes
2017	Creates 43.1 Construction Management and Design-Build Contracting (Applicable to State, Higher Education, and Local	Yes	Yes	Yes

COMPETITIVE PROCESSES FOR PROCUREMENT OF CONSTRUCTION

PUBLIC BODY PROCUREMENT WORKGROUP

August 8, 2023

Concerning Senate Bill 954

Curtis G. Manchester, Senior Asst. Attorney General
Construction Section
Office of the Attorney General
202 North 9th Street
Richmond, Virginia 23219

TOPICS

1. MULTI-YEAR TASK FORCE RECOMMENDATION TO INCLUDE PROCUREMENT OF CONSTRUCTION MANAGEMENT BY COMPETITIVE NEGOTIATION IN VPPA
2. THE VIRGINIA PUBLIC PROCUREMENT ACT
3. PROCESS FOR COMPETITIVE SEALED BIDDING (VA. CODE §2.2-4302.1)
4. DIFFERENT NATURE OF CONTRACT FOR CONSTRUCTION MANAGEMENT
5. COMPETITIVE NEGOTIATION TO PROCURE CONSTRUCTION MANAGEMENT

MULTI-YEAR TASK FORCE RECOMMENDATION TO INCLUDE PROCUREMENT OF CONSTRUCTION MANAGEMENT BY COMPETITIVE NEGOTIATION IN VPPA

Prior to passage of the Virginia Public Procurement Act (VPPA) in 1982, the General Assembly created a task force to study Virginia procurement laws and practices. The Task Force was chaired by the Department of General Services and was comprised of members representing the private sector, state, local and federal government entities. The Task Force issued its Final Report in 1980. The two-year study involved an examination of the statutes under which all public agencies purchased materials, services and construction.¹

The Task Force stated the true hallmark of public procurement must be competition.² Regarding procurement of construction, however, the Task Force found the existing Virginia statutes “invariably mention only one method of procurement, competitive bidding...and furnish no guidance on any method to be used if competitive bidding is not practicable.”³

The Task Force noted that “frequently, competition is seen as a shorthand expression for competitive bidding.” However, there are other methods of procurement by competition. “Competition means access to consideration by a public body, and comparison of salient features of an offer by the public body. Competitive bidding is one form of competitive procurement, but not the only one.” The proposed legislation [VPPA] describes two methods of procurement featuring competition: competitive sealed bidding and competitive negotiation.⁴

¹ Virginia Procurement Law Study, Final Report at 1 (Nov. 1, 1980) (Final Report).

² Final Report at 3.

³ Final Report at 1-2.

⁴ Final Report at 3.

To provide flexibility for state entities, competitive negotiation allows the body to consider whatever factors it deems important for the procurement; does not mandate award to the low offer or that cost be considered. It requires only that the availability of the work be made public and that the body identify the factors it will be considering in its evaluation of offers. Construction management contracts are awarded by competitive negotiation.⁵

The Task Force explained that “the essence of competitive negotiation is comparison of proposals from several offerors. It differs from competitive bidding in several important respects. First, while price maybe a factor, it is not necessarily the determinative factor, since quality, service, experience, time of performance or other factors may be sufficient justification for entering a contract for more than the lowest proposal... Second, the specifications are not detailed, since the purpose it to solicit a variety of approaches or alternatives. Third, this method envisions face-to-face discussions and negotiation, unlike competitive bidding.... This definition allows the public body to determine the weight to be given all factors in the selection process.”⁶

⁵ Final Report at 3.

⁶ Final Report at 32-33.

THE VIRGINIA PUBLIC PROCUREMENT ACT

Declaration of Intent (Va. Code §2.2-4300.C) includes:

“That public bodies in the Commonwealth obtain high quality goods and services at reasonable cost.”

“That competition be sought to the maximum feasible degree.”

“That individual public bodies enjoy broad flexibility in fashioning details of such competition.”

Two Competitive Methods of Procurement Generally

Process for Competitive Sealed Bidding (Va. Code §2.2-4302.1)

Process for Competitive Negotiation (Va. Code §2.2-4302.2)

Methods of Procurement of Construction (Va. Code §2.2-4303.D)

Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used by a public body to procure construction management pursuant to Chapter 43.1, Va. Code §2.2-4378, et seq.

Implementation (Va. Code §2.2-4302)

Public bodies may enact ordinances and regulations consistent with the VPPA to implement the Act’s statutory requirements.

Some state entities are exempt from the requirements of the VPPA, if they adopt procedures designed to procure goods and services upon competitive principles.

The Department of General Services has issued its Construction and Professional Services Manual (CPSM) (2022, Rev. 1), providing its policies and procedures to implement the VPPA provisions and to be followed by state agencies regarding design and construction on property owned by the Commonwealth. The CPSM includes procedures issued by the Secretary of Administration (Jan. 1, 2020) regarding procurement of construction management. Local government entities and some higher education institutions are not subject to the CPSM.

PROCESS FOR COMPETITIVE SEALED BIDDING (VA. CODE §2.2-4302.1)

1. Owner obtains completed construction plans and specifications from its retained architectural and engineering professionals (the A/E).
2. Owner prepares Invitation for Bid (IFB). The IFB is a written solicitation to the public requesting qualified bidders to submit competitive prices or bids for providing the described Work on a Project. The IFB includes or incorporates by reference: (a) the construction plans; (b) specifications regarding the materials and work to be provided; (c) the contract terms and conditions; (d) instructions to bidders about preparing their bids and deadlines for submission; (e) a bid form; and (f) a statement of any requisite qualifications of contractors, unless they were prequalified for the bidding.
3. Owner issues IFB with response period no earlier than 10 days prior to deadline of receipt of bids. Owner posts notice of IFB on procurement website of DGS or as otherwise required by statute regarding type of owner.
4. A pre-bid conference providing access to the site or to answer questions may be held. The A/E is to respond in writing to questions received verbally or in writing from potential bidders and publish its responses to all potential bidders.
5. There is no negotiation concerning any of the desired work, the plans, materials, timing or otherwise.
6. Public opening and announcement of all sealed bids received.
7. Evaluation of bids based on requirements set forth in the IFB to determine the responsive and responsible bidder with lowest bid price. Per Va. Code §2.2-4301, “responsive bidder” means one who has submitted a bid that conforms in all material respects to the IFB. “Responsible bidder” means one who has the capability in all respects to perform fully the contract requirements; the business integrity and reliability to assure good faith performance; and who has been prequalified if necessary. Bidders do not disclose experience, project team, subcontractors to be used.
8. Owner posts notice of intent to award to the low bidder prior to award.
9. Owner awards contract to general contractor, who may perform 100% of the work and obtain subcontracts without public competitive bidding.

DIFFERENT NATURE OF CONTRACT FOR CONSTRUCTION MANAGEMENT

Procurement of construction using construction management differs from procuring construction to be performed by a general contractor, including:

- “Construction management contract” means a contract in which one is retained by the project owner to coordinate and administer contracts for construction services for the benefit of the owner and may include furnishing of construction services to the owner. (Va. Code §2.2-4379)
- No more than 10% of the value of construction work may be performed by the CM. At least 90% must be performed by subcontractors of the CM procured via publicly advertised competitive sealed bidding to the extent practical. Owner has input on qualifications for subcontractors. (Va. Code §2.2-4380.B.6)
- Part 1 of the CM Contract for Pre-Construction services must be awarded no later than completion of the schematic phase of design. It includes services to be given to assist the owner and design team in developing the plans, specifications and project approach within a budget. Services may include ongoing review of plans for constructability, consideration of project duration and sequencing, comment on materials to be utilized for development of the specifications and cost estimating. (Va. Code §2.2-4380.B.4; CPSM §7.2.1)
- Part 2 of the CM Contract for Construction Services is entered only if the agency and CM, upon completion of the working drawings, agree to a Guaranteed Maximum Price within an approved budget for the CM to continue as CM for the construction phase. The CM is “at risk” to complete the project scope on time and within the GMP. The final cost may not reach the GMP and remaining funds are retained by the agency.
- Agency procurement is subject to requirements of Va. Code §2.2-4380. A body’s implementing procedures shall comply with procedures of the Secretary of Administration, which provide for a two-step competitive negotiation process.

COMPETITIVE NEGOTIATION TO PROCURE CONSTRUCTION MANAGEMENT SERVICES (VA. CODE §§2.2-4302.2; 2.2-4380 [State Bodies], CPSM §7.2)

1. The Agency shall appoint an Evaluation Committee ("Committee") with at least three members from the Agency, including a licensed design professional, if possible, and a licensed professional engineer or architect provided by the Division of Engineering and Buildings.
2. Conduct a two-step selection process: (Step I) Prequalification via evaluation of responses to Request for Qualifications (RFQ) to determine which offerors shall receive Requests for Proposals (RFP); then (Step II) evaluate RFPs and negotiation with offerors.
3. (Step I). The Committee shall prepare the RFQ to include the agency's project overview, project requirements, site and building criteria, justification for use of CM services. Committee to include a list of qualification criteria to be evaluated, and numerical scoring for each criteria. At a minimum, the qualification criteria shall include the following: 1. Appropriately licensed and in good standing as a Class A General Contractor in the Commonwealth of Virginia; 2. Ability to obtain appropriate insurance coverage for the project; 3. Appropriate bonding capacity; 4. A listing of company and proposed project team members' experience of at least three (3) projects of similar scope and complexity within the past ten (10) years, including construction cost, schedule, and Owner or architect representative's contact information; and 5. A list of at least three (3) professional references including contact information.
4. Committee issues RFQ, which is publicly posted.
5. Committee evaluates RFQ responses via numerical scoring for the greatest conformance with the requirements set forth in the RFQ. Committee creates a short list of between three (3) and five (5) offerors best suited to receive Request for Proposals, including a Certified Small Business that met minimum requirements contained in RFQ.
6. Agency advises in writing offerors who were not prequalified and the reasons for such denial.
7. (Step II). Committee prepares RFP, including evaluation criteria and scoring to be used. Prior CM or Bureau of Capital Outlay Management experience are not requirements for award.

8. At a minimum, all RFP's shall request the following information: 1. A lump sum fee for Pre-construction Services in accordance with the scope of services included in the RFP. 2. A General Conditions Fee based upon an anticipated duration set by the agency detailed in a specific listing of General Conditions items and their associated cost. 3. The Insurance and Taxes Fee which shall be stated as a percentage of the Cost of the Construction Work, for general liability insurance, builders risk insurance, payment and performance bonds, local business licenses, any local municipal taxes, and any other similar costs identified in the definition of the Insurance and Taxes Fee per the General Conditions. 4. A CM/GC Fee to include all home office expenses, overhead and profit during the construction phase of the Contract. RFPs request project approach and subcontractor/SWAM participation plan.
9. Agency prohibited from requesting budget estimates in RFP.
10. Committee issues RFPs to short-listed offerors and posts per law.
11. Committee evaluates RFPs, conducts interviews and ranks proposals using combined scores of RFQ and RFP.
12. Committee negotiates with two or more offerors submitting highest ranked proposals.
13. Based on evaluations and negotiations, Committee recommends selection of one offeror to the agency head.
14. CM contract, Part 1 for pre-construction services is awarded to offeror which is fully qualified and determined to be providing best value.
15. Agency advises other offerors submitting proposals of the CM selected.
16. Part 2 of the CM Contract for Construction Services is entered only if the agency and CM, upon completion of the working drawings, agree to a Guaranteed Maximum Price within an approved budget for the CM to continue as CM for the construction phase. GMP proposal includes all subcontractor bids, breakdown of bids and material estimates and specific SWAM participation rates. The parties negotiate to reach GMP.
17. Agency requests DEB approval to award CM Contract for Construction.
18. Agency awards CM Contract Part 2 if approved.



Review of state contracts: Findings on construction procurement methods

Recap from 2016 study

JLARC staff reviewed use of alternative construction procurement methods

- Requested data on 28 construction projects from 4 higher education institutions
 - CMAR (N=11)
 - DB (N=4)
 - DBB (N=13)
- Compared change orders, schedule delays, cost overruns

*

Finding

Universities used all three methods for costly projects, but median cost of projects using alternative methods substantially exceeded cost of DBB projects.

Costs of construction projects in JLARC sample

Method	Range (\$M)	Average (\$M)	Median (\$M)
DBB (N=11)	\$0.71 -- \$22.1	\$5.6	\$2.6
DB (N=4)	\$1.5 -- \$19.1	\$10.5	\$10.6
CMAR (N=13)	\$9.9 -- \$66.4	\$32.2	\$31.7

Finding

Institutions were generally satisfied with all 3 procurement methods.

JLARC surveyed & interviewed procurement staff at state agencies and higher ed institutions

- Included procurement officers & project managers
- Most expressed satisfaction with project quality under DBB and CMAR
 - 78% satisfied with DBB*
 - 88% satisfied with CMAR
- Most expressed satisfaction with project timeliness under DBB and CMAR
 - 69% satisfied with DBB
 - 81% satisfied with CMAR

* Based on survey responses from 59 procurement officers who had conducted construction procurement

Finding

Projects procured under each method deviated from original contract provisions; at least some of each type of project experienced delays, cost overruns, change orders.

Cost overruns

Method	AVG %*	Median %	Range
DBB (N=11)	8.7%	6.5%	(0.5%) – 22.7%
DB (N=4)	13%	10%	0.9% - 30.9%
CMAR (N=13)	\$4.2%	2.8%	0.9% - 14.8%

* % of total original cost of the project

Schedule delays

Method	AVG days	Median days	Range
DBB (N=11)	41	9	(7) – 161
DB (N=4)	76	85	0 – 132
CMAR (N=13)	23	0	(25) – 155

Change orders

Method	AVG %	Median %	Range
DBB (N=11)	9%	6.9%	(0.5) – 22.7%
DB	n/a	n/a	n/a
CMAR (N=13)	4.5%	2.6%	1.2 – 14.8%

* % of total original cost of the project

No method ensures problem-free projects

Critics of the design-bid-build construction method assert that projects delivered in this way are more susceptible to schedule delays, cost overruns, and poor-quality products.

The contracts in this sample suggest that design-bid-build projects can indeed experience these performance problems, and potentially more so than other methods, and should therefore be procured and managed as effectively as possible.

However, these problems are also evident in projects constructed using the design-build and construction-manager-at-risk methods. This suggests that these alternative methods will not allow users to entirely avoid some of the problems that users of design-bid-build projects have experienced.

– JLARC report, p. 110

Finding

Vendors reported concerns about limited competition and transparency, some of which was corroborated by JLARC research.

Vendors reported concerns about competition

- 1/4 of vendors responding to JLARC survey reported
 - Winning vendors seem preselected OR
 - Selection criteria prevented vendor from qualifying to submit bid or proposal

* Based on approximately 1,400 survey responses

Staff at several higher ed institutions reported using narrow qualification criteria for CMAR

In some cases, universities allow only pre-qualified vendors that have had experience with this project delivery method to submit proposals.

Some higher education institutions have imposed even stricter criteria on vendors, requiring them to have been involved in projects nearly identical to the project being advertised in order to qualify for the contract.

While previous experience with this project delivery method is a valid consideration, using this criterion to prevent vendors from qualifying to even submit a proposal appears to unnecessarily narrow the pool of potential vendors for the contract.

– JLARC report, p. 33

JLARC recommended that DGS clarify qualifications to submit proposals/bids

- JLARC: DGS should clarify in the Construction and Professional Services Manual (CPSM) that agencies shall not automatically disqualify vendors during the Request for Qualifications stage of a procurement because of a lack of direct experience with the specific project delivery method to be used.
- CPSM (current): When evaluating the RFQ, successful completion of at least 3 projects of similar size and scope within the past 10 years, by any delivery method, meets the experience criteria. Prior CMAR experience shall not be a prerequisite for award.



August 7, 2023

Joe Damico
Director
Department of General Services
1100 Bank Street, Suite 420
Richmond, Virginia 23219

Mr. Damico,

The member institutions of VASCUPP respectfully request that the following information is shared with the Procurement Working Group. This attached, is a list of the legislation related to construction procurement introduced to the General Assembly since 2015.

Best Regards,
John McHugh
VASCUPP President

2015 General Assembly Session

[HB1540](#) (Albo) – Did not pass

- **Virginia Public Procurement Act (VPPA); methods of procurement; job order contracting and cooperative procurement.** Clarifies that small purchase procedures include the procurement of construction and that any such procedures shall not waive compliance with the Uniform State Building Code. The bill also increases contract amounts for job order contracting and provides that (i) order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed is prohibited, (ii) no public body shall issue or use a job order solely for the purpose of providing professional architectural or engineering services that constitute the practice of architecture or the practice of engineering; however, professional architectural or engineering services may be included on a job order where such professional services are (a) incidental and directly related to the job and (b) no more than 25 percent of the construction cost, not to exceed \$60,000, and (iii) job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. The bill removes the provision that allows a public body to discuss nonbinding estimates of total project costs, life-cycle costing, and, where appropriate, nonbinding estimates of price for services. The bill provides that negotiations may be held on proposed terms and conditions set out in the Request for Proposal. The bill also clarifies the provisions of the VPPA related to cooperative procurement and requires that by October 1, 2017, the Department of Small Business and Supplier Diversity; public institutions of higher education having level 2 or 3 authority under the Restructured Higher Education Financial and Administrative Operations Act of 2005; any state agency utilizing job order contracting; and the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Association of Governmental Purchasing, on behalf of local public bodies working cooperatively, report their respective experiences and findings relating to (1) the appropriateness and effectiveness of job order contracting in general, (2) the project cost limitations set forth in subsections B and D of § 2.2-4303.1 as added by this bill, and (3) the architectural and professional engineering term contract limits set forth in § 2.2-4303.1 to the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology. The bill further provides that its provisions shall not apply to any solicitation issued or contract awarded before July 1, 2015, except that the provisions of subsection B of § 2.2-4303.2, as added by this bill, shall apply to any renewal of a job order contract. The bill contains numerous technical amendments.

[HB1835](#) (Gilbert) / [SB1371](#) (Ruff) – Passed

- **Virginia Public Procurement Act (VPPA); methods of procurement; job order contracting and cooperative procurement.** Clarifies that small purchase procedures include the procurement of non-transportation-related construction and that any such procedures shall not waive compliance with the Uniform State Building Code. The bill adds independent agencies of the Commonwealth to the definition of public body under the VPPA. The bill also increases contract amounts for job order contracting and provides that (i) order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed is prohibited; (ii) no public body shall issue or use a job order, under a job order contract, solely for the purpose of receiving professional architectural or

engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in § 54.1-400; however, professional architectural or engineering services may be included on a job order where such professional services are (a) incidental and directly related to the job, (b) do not exceed \$25,000 per job order, and (c) do not exceed \$75,000 per contract term; and (iii) job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass. The bill clarifies the provisions of the VPPA relating to cooperative procurement and requires that by October 1, 2017, the Department of Small Business and Supplier Diversity, public institutions of higher education having level 2 or 3 authority under the Restructured Higher Education Financial and Administrative Operations Act of 2005, any state agency utilizing job order contracting, and the Virginia Association of Counties, the Virginia Municipal League, and the Virginia Association of Governmental Purchasing, on behalf of local public bodies, working cooperatively, report their respective experiences and findings relating to the appropriateness and effectiveness of job order contracting in general, the job order project cost limitations as added by this bill, and the architectural and professional engineering term contract limits to the Chairmen of the House Committee on General Laws and the Senate Committee on General Laws and Technology. The bill also requires, for construction projects in excess of \$2 million, that a public body, including public institutions of higher education, provide its justification for use of any procurement method other than competitive sealed bidding to the Director of the Department of General Services. The bill requires the State Corporation Commission (SCC) to develop a process for the administrative review of its procurement decisions that is consistent with the Constitution of Virginia. The bill further provides that its provisions shall not apply to any solicitation issued or contract awarded before July 1, 2015, except that the provisions of subsection B of § 2.2-4303.2, as added by the bill, shall apply to any renewal of a job order contract. The bill contains numerous technical amendments and is a recommendation of the General Laws Special Joint Subcommittee Studying the Virginia Public Procurement Act.

2016 General Assembly Session

[HB887](#) (Albo) / [SB586](#) (Ruff) – Did not pass

- **Virginia Public Procurement Act; requirements for use of construction management.** Restricts the use of construction management procurements by public bodies unless (i) the total project cost is \$50 million or more, (ii) a written determination is provided stating that competitive sealed bidding is not practicable or fiscally advantageous, (iii) the contract is entered into prior to the schematic phase of design, (iv) construction management experience is not required or considered as part of the award, (v) price is the primary determining factor for award of the contract, and (vi) proposers provide for the participation of small, women-owned, and minority-owned businesses in the project. The bill provides that for projects where the total project cost is not expected to exceed \$50 million, a public body may use competitive negotiation to procure construction on a construction management basis if (i) the above requirements are met; (ii) the project is (a) of substantial historical value or interest or (b) significantly unique or extremely complex in nature; (iii) prior to any solicitation for such project, the public

body notifies in writing the Director of the Department of General Services in the case of state public bodies, or the local governing body in the case of a local public body, of its intent to procure construction on a construction management basis; and (iv) the Director of the Department of General Services or the local governing body, as the case may be, makes a finding that the public body is in compliance with the requirements of this subsection, which finding shall be on a per project basis and shall be in writing. The findings for state public bodies shall be made by the Director under existing regulations and guidelines established by the Department of General Services. In addition, the bill defines "public body" for the purposes of the use of construction management for construction to include (i) public institutions of higher education that have executed a valid management agreement under the Restructured Higher Education Financial and Administrative Operations Act of 2005 (§ 23-38.88 et seq.) and (ii) localities and school divisions that were previously exempt based on the adoption of alternative policies and procedures based on competitive principles and generally applicable to procurement of goods and services by the locality or school division.

[HB888](#) (Albo) – Stricken

- **Public procurement; requirements for certain construction projects; use of construction management.** Restricts the use of construction management procurements by public bodies to contracts of \$50 million or more, provided that such contracts involve projects that, among other requirements, are (i) of substantial historical value or interest or (ii) significantly unique or extremely complex in nature. State public bodies may request a waiver from the restriction on a project-by-project basis from the Director of the Department of General Services. In the case of procurement by localities, a waiver may be granted by the local governing body. The bill defines "public body" for the purposes of the use of construction management for construction to include public institutions of higher education under the Restructured Higher Education Financial and Administrative Operations Act of 2005 (§ 23-38.88 et seq.) and any public body that has implemented the provisions of the Virginia Public Procurement Act pursuant to § 2.2-4302.

2017 General Assembly Session

[HB887](#) (Albo) / [SB586](#) (Ruff) – Did not pass

- **Virginia Public Procurement Act; requirements for use of construction management.** Restricts the use of construction management procurements by public bodies unless (i) the total project cost is \$50 million or more, (ii) a written determination is provided stating that competitive sealed bidding is not practicable or fiscally advantageous, (iii) the contract is entered into prior to the schematic phase of design, (iv) construction management experience is not required or considered as part of the award, (v) price is the primary determining factor for award of the contract, and (vi) proposers provide for the participation of small, women-owned, and minority-owned businesses in the project. The bill provides that for projects where the total project cost is not expected to exceed \$50 million, a public body may use competitive negotiation to procure construction on a construction management basis if (i) the above requirements are met; (ii) the project is (a) of substantial historical value or interest or (b) significantly unique or extremely complex in nature; (iii) prior to any solicitation for such project, the public body notifies in writing the Director of the Department of General Services in the case of

state public bodies, or the local governing body in the case of a local public body, of its intent to procure construction on a construction management basis; and (iv) the Director of the Department of General Services or the local governing body, as the case may be, makes a finding that the public body is in compliance with the requirements of this subsection, which finding shall be on a per project basis and shall be in writing. The findings for state public bodies shall be made by the Director under existing regulations and guidelines established by the Department of General Services. In addition, the bill defines "public body" for the purposes of the use of construction management for construction to include (i) public institutions of higher education that have executed a valid management agreement under the Restructured Higher Education Financial and Administrative Operations Act of 2005 (§ 23-38.88 et seq.) and (ii) localities and school divisions that were previously exempt based on the adoption of alternative policies and procedures based on competitive principles and generally applicable to procurement of goods and services by the locality or school division.

[HB2366](#) (Albo) / [SB1129](#) (Ruff) – Passed

- **Public procurement; requirements for use of construction management and design-build procurement methods.** Establishes requirements for the procurement of construction using the construction management and design-build procurement methods by state and local public bodies and covered institutions of higher education, as defined in the bill, and the conditions under which such methods may be used. Public bodies must comply with procedures adopted by the Secretary of Administration for construction management or design-build projects. State public bodies and covered institutions must adopt procedures that include, among other things, a requirement that the state public body or covered institution make a written determination in advance that competitive sealed bidding is not practicable or fiscally advantageous and document the basis for the determination to use the construction management or design-build procurement method. The bill requires the Department of General Services (DGS) to evaluate the proposed procurement method of state public bodies and covered institutions and provide a recommendation regarding the procurement method within five days of receipt of the written determination. If a state public body or covered institution elects to proceed with the project using a construction management or design-build contract despite a DGS recommendation to the contrary, the state public body or covered institution must provide to DGS in writing its reasons for doing so. For local public bodies, construction management contracts may be used for projects whose cost is expected to be less than \$10 million, provided that the project is a complex project and the project procurement method is approved by the local governing body. The bill also requires DGS to report to the Governor and certain General Assembly committees annually by December 1 information pertaining to (i) the agency's evaluation of projects submitted by state public bodies and covered institutions and (ii) all completed capital projects in excess of \$2 million.

[HB2392](#) (James) – Stricken

- **Virginia Public Procurement Act; preferred procurement method for construction.** Eliminates competitive sealed bidding as the preferred method for procuring construction.

2018 General Assembly Session

[HB774](#) (Landes) / [SB317](#) (Ruff) – Did not pass

- **Public procurement; contracting for construction on a construction management basis.** Authorizes state public bodies and public institutions of higher education to enter into contracts for construction on a construction management basis where the estimated cost is expected to be greater than \$40 million of actual construction costs without following certain statutory procedures. Under current law, such bodies are required to comply with the procedures whenever such bodies determine to use construction management. The bill also changes the threshold for local public bodies to contract for construction using construction management from \$10 million to \$40 million. The bill also amends the components of the definition "complex project" by (i) removing references to multifaceted program, unique equipment, and specialized building systems, (ii) adding unconventional building systems, (iii) clarifying that the accelerated schedule component of the definition must be due to regulatory mandates, and (iv) requiring that any historic designation be properly registered.

[HB1271](#) (Sickles) – Did not pass

- **Public procurement; construction management and transportation construction services.** Authorizes state public bodies and public institutions of higher education to enter into contracts for construction on a construction management basis and without following certain statutory procedures when the estimated cost is expected to be greater than \$40 million. Under current law, such bodies are required to comply with the procedures whenever they use construction management. The bill also increases from \$10 million to \$40 million the threshold of expected actual construction costs above which local public bodies may contract for construction on a construction management basis. The bill amends the components of the definition of "complex project" by (i) removing references to unique equipment and specialized building systems, (ii) adding unconventional building systems, (iii) specifying that the accelerated schedule component of a project must be due to regulatory mandates, and (iv) requiring that any historic designation be properly registered.

2019 General Assembly Session

[HB2308](#) (Fowler) / [SB1688](#) (Ruff) – Did not pass

- **Virginia Public Procurement Act; public institutions of higher education; disclosure required by certain offerors.** Requires every offeror who submits a proposal to a public institution of higher education for any construction project that (i) has a total cost of \$5 million or more and (ii) uses a procurement method other than competitive sealed bidding to disclose any contributions the offeror has made to the public institution of higher education or any private foundation that exists solely to support the public institution of higher education within the previous five-year period.

2020 General Assembly Session

[HB890](#) (Sickles) / [SB341](#) (Locke) – Passed

- **Construction management contracts; use by local public bodies.** Removes the provision limiting the use of construction management contracts by local public bodies to projects with a cost expected to exceed \$10 million and provides that construction management may be utilized on projects where the project cost is expected to be less than the project threshold established in the procedures adopted by the Secretary of Administration for using construction management contracts.

2021 General Assembly Session

- N/A

2022 General Assembly Session

[HB19](#) (Fowler) / [SB210](#) (Petersen)

- **Virginia Public Procurement Act; public institutions of higher education; disclosure required by certain offerors; civil penalty.** Requires every offeror who is awarded a contract by a public institution of higher education for any construction project that has a total cost of \$5 million or more to disclose any contributions the offeror has made within the previous five-year period totaling \$25,000 or more to the public institution of higher education or any private foundation that exists solely to support the public institution of higher education. The bill provides that no protest of an award shall lie for a claim that the selected offeror was awarded a contract solely based on such offeror's contribution to the public institution of higher education. The bill imposes a \$500 civil penalty on any offeror that knowingly fails to submit the required disclosure. The provisions of the bill relating to such disclosure of gifts made by an offeror to a public institution of higher education or any private foundation that exists solely to support the public institution of higher education expire on June 30, 2027.

2023 General Assembly Session

[HB2450](#) (J. Campbell) / [SB1491](#) (Bell) – Passed

- **Virginia Public Procurement Act; construction management; contract requirements.** Excludes construction management contracts involving infrastructure projects from the requirement that no more than 10 percent of the construction work be performed by the construction manager with its own forces and that the remaining 90 percent of the construction work be performed by subcontractors of the construction manager.

[HB1957](#) (Leftwich) / [SB954](#) (Petersen) – Did not pass (W/ Letter)

- **Virginia Public Procurement Act; construction management and design-build contracting; applicability.** Requires a two-step process consisting of (i) a preconstruction contract and (ii) competitive sealed bidding for construction services for certain projects totaling less than \$125 million. Complex projects, defined in the bill, may request an exemption from the provisions of the bill and relevant law from the Secretary of Administration. If a complex project totals more than \$125 million, the bill provides that an exemption from the provisions of the bill and relevant law is not required. Finally,

the bill states that competitive sealed bidding is the preferred method of procurement for construction services in the Commonwealth.



August 6, 2023

The Honorable Members, Public Body Procurement Workgroup
Via Email

RE: SB 954, Construction Management

Dear Public Body Procurement Workgroup:

On behalf of the Virginia Contractor Procurement Alliance (VCPA) I am writing to thank you all for listening to our presentation and meeting with us separately to discuss the disturbing and long-term misuse of the Construction Management (CM) method of procurement.

In our presentation we shared facts that prove without question the following:

- 1) CM does not provide the best method of procurement for construction projects over \$5 million which are not historical, extremely large or extremely complex in nature. Historic usage of CM in higher education proves that for projects that are not fit for CM, higher education has over spent at least 15 – 25% or more based on DGS's own annually published cost data base.
- 2) CM is a subjective, non-competitive method of procurement which over the course of its usage has excluded a large portion of mostly mid-sized General Contractors from competing for Virginia higher education, state and local construction projects over \$5 million.

After years of thoughtful consideration, we are confident the below changes will allow CM to be continued to use for appropriate projects while at the same time protecting Virginia's taxpayers from projects that are not suited for CM. Our recommendations are as follows:

1) CM Pre-Approval Requirement

Empower one person to be responsible for pre-approving any CM project in Virginia at the state and higher ed level, including tier 3 schools. The Secretary of Administration (SOA) is the only person suited for that responsibility.

2) Increase the CM Threshold

Increase the threshold for CM approval from \$26 million to \$125 million. If a project is above the threshold any entity may use CM without SOA approval. If the project is under the threshold the owner must receive pre-approval from the SOA or the project may not move forward as funding will be withheld. Please remember that

higher education projects, except those funded by their foundations are paid for by the Commonwealth of Virginia.

3) CM Criteria for Usage

Revise the CM language for complex and historical to be significantly more prohibitive. Also, ensure that CM experience shall not be a prerequisite or used in the scoring process for prequalification or award of a contract.

Thank you very much for your time and consideration to this issue which incredibly important to Virginia's taxpayers. If at any time you wish to meet, we will make ourselves available at your request.

Sincerely,


Matt Benka

CC: The Honorable Glenn Youngkin
 The Honorable Winsome Sears
 The Honorable Jason Miyares
 The Honorable Members of the House Appropriations Committee
 The Honorable Members of the Senate Finance Committee
 The Honorable Members of the House General Laws Committees
 The Honorable Members of the Senate General Laws Committee

Approved Meeting Minutes

Public Body Procurement Workgroup

Meeting # 6

Tuesday, August 8, 2023, 1:00 p.m.
House Committee Room
The Pocahontas Building
900 E. Main Street, Richmond, Virginia 23219

<https://dgs.virginia.gov/dgs/directors-office/pwg/>

The Public Body Procurement Workgroup (the Workgroup) met in-person in the House Committee Room in the Pocahontas Building in Richmond, Virginia, with Joe Damico, Director of the Department of General Services (DGS), presiding. The meeting began with remarks from Mr. Damico, followed by public comment, presentations, and concluded with discussion among the Workgroup members. Materials presented at the meeting are available through the [Workgroup's website](#). A recording of the meeting is available on the [House of Delegates video streaming site](#).

Workgroup members and representatives present at the meeting included Joe Damico (Department of General Services), Kerry Bates (Virginia Department of Transportation), Joshua Heslinga (Virginia Information Technologies Agency), Patricia Innocenti (Virginia Association of Governmental Procurement), John McHugh (Virginia Association of State Colleges and University Purchasing Professionals), Andrew MacDonald (Office of the Attorney General), Jason Saunders (Department of Planning and Budget), Willis Morris (Department of Small Business and Supplier Diversity), Joanne Frye (the Division of Legislative Services), Andrea Peeks (House Appropriations Committee), and Mike Tweedy (Senate Finance and Appropriations Committee).

I. Call to Order; Remarks by Chair

Joe Damico, Director
Department of General Services

Mr. Damico called the meeting to order and stated that during all public comment opportunities there will be a three minute time limit per person.

II. Approval of Meeting Minutes from the July 18, 2023 Workgroup Meeting

Mr. McHugh stated that at the last meeting there was a comment made regarding corruption that is not addressed in the meeting and asked what the process is to have that comment addressed in the minutes. Mr. Damico stated that the minutes for this meeting can reflect such comment from the prior meeting unless Mr. McHugh has an amendment to the July 18, 2023 minutes.

Mr. Damico shared that he believes the claim of corruption made at the last meeting was addressed, however, if someone believes corruption is occurring then the appropriate agencies should be notified, such as the Virginia State Police and the Office of the Inspector General.

Mr. Morris made a motion to approve the meeting minutes from the July 18, 2023 meeting of the Workgroup. The motion was seconded by Mr. Saunders and unanimously approved by the Workgroup.

Note: The comment regarding corruption made during the July 18, 2023 meeting by Jack Dyer, owner of Gulf Seaboard General Contractors. Mr. Dyer spoke in support of the SB 954 explaining that over the years the revisions to the VPPA have resulted in negative aspects and returned us to a pre 1982 status. Mr. Dyer stated that there is no respect for the code, no uniform policies, no standards, application conflicts between public bodies, favoritism, and questionable corruption.

III. Public Comment on SB 1115

Mr. Damico invited the public to provide comment on SB 1115. The only stakeholder to comment was Dillon Bishop on behalf of the Heavy Construction Contractors Association. Mr. Bishop stated that they support the bill.

IV. Findings and Recommendations on SB 1115

Next, Mr. Damico asked the Workgroup for recommendations for SB 1115. Hearing none, Mr. Damico shared that §2.2-4324 allows that in the event of a tie bid that preference shall be given to goods produced in Virginia or goods, services, and construction provided by Virginia persons, firms or corporations. He noted that the patron of the bill expressed interest in providing additional preference opportunities for Virginia businesses and products produced in the United States. At the Workgroup meeting on June 27, 2023, the Workgroup discussed allowing a Virginia resident to match the price of the lowest responsive and responsible bidder who is a resident of another state. Mr. Damico stated that there was also discussion previously regarding if this would impact competition, explaining that this would still be a competitive sealed bid so it should not impact the competitive process.

Mr. Damico shared two recommendations for the Workgroup to consider for SB 1115. The first recommendation is to amend §2.2-4324 to allow in the instance of a tie bid for goods, as long as the Virginia tie bid requirements are not met, that an award preference shall be given to goods that are manufactured in the United States. Mr. Damico asked the Workgroup if there are any questions about the recommendation. Hearing none, Mr. Heslinga made a motion to move the recommendation forward. The motion was seconded by Mr. Morris and carried by a unanimous vote.

The second recommendation is to amend §2.2-4324 to allow, in the case of bids for goods that a Virginia resident or Virginia company has the opportunity to match the price of the lowest responsive and responsible bidder who is a resident of another other state. Hearing no questions on the second recommendation, Mr. Heslinga made a motion to move the recommendation forward. The motion was seconded by Mr. Morris and carried by a unanimous vote.

No other recommendations were offered.

V. Presentation on Construction Management Process

Next, Mr. Damico introduced Sandra Gill, Deputy Director of the Department of General Services, to provide a high-level overview of the legislative history regarding construction management and design-build (CM/DB). Ms. Gill shared that in 1982 the General Assembly passed the Virginia Public Procurement Act (VPPA) and in the 1983 session amended the VPPA to include the utilization of CM/DB. She stated that in 1996 General Laws issued a report on the utilization of CM/DB and made modifications to allow local public bodies to use CM/DB. She noted that a review board was created in 1996 to review and approve local governments use of CM/DB which was then repealed in 2011. In 2006, institutions of higher education autonomy began and those institutions were no longer subject to the VPPA. In 2014, General Laws created another group to review the VPPA which resulted in no significant changes being made to CM/DB. In 2017, after a complex work group of stakeholders, including construction communities, higher education, local public bodies, and state agencies, the VPPA was amended to create 43.1. Ms. Gill concluded her remarks by stating that this is a high-level overview of a complex topic.

The second presentation to the Workgroup was from Curtis Manchester, Senior Assistant Attorney in the construction division with the Office of the Attorney General who spoke on the competitive processes involved with CM and design-bid-build (DBB). Before proceeding, Mr. Manchester shared that there are variations in the processes for institutions of higher education and local governments which will not be discussed today and explained that VDOT projects will not be discussed as they do not use CM for their projects. He stated that the materials provided today are his materials and are not an official opinion by the attorney general. Mr. Manchester began with the background and shared that in 1980 the general assembly created a multifaceted taskforce that included public and provide entities to study procurement, which included construction, and in looking at the statutes at the time, the taskforce stated that competition should be the goal

and did not specify one kind of competition. They also advocated for the VPPA to include competitive negotiation, pointing out that competitive negotiation allows the public body to consider important factors it deems important for the project without mandating an award to the lowest cost. He stated that construction management contracts are awarded by competitive negotiation and cited many reasons why one may not want to award to the lowest offeror, such as timing, qualifications, undeveloped specifications or plans. He explained that the general assembly took the recommendations from the taskforce and adopted most of them stating that in the VPPA there is a declaration of intent, and touched on three of many items; (i) that public bodies obtain high quality goods and services at reasonable cost, not lowest cost (II) competition be sought to max degree feasible, but didn't discuss a specific type of competition, (iii) individual public bodies have broad flexibility in fashioning details of such competition, resulting in the adoption of competitive sealed bidding and competitive negotiation in the VPPA.

Mr. Manchester pointed out that the code mandates competitive sealed bidding for construction, unless you use competitive negotiation for CM explaining that SB 954 makes a preference for competitive sealed bidding, however the code already mandates this. He explained that in the competitive sealed bidding process the owner has completed construction plans/specifications, there is no consultation with the contractor, the owner prepares and issues an invitation for bid (IFB), and explained that there is no negotiation and then bids are received. Once bids are received, there is a public opening of the bids then an evaluation to determine the responsive and responsible bidder with the lowest price. He explained that bidders do not need to disclose experience, project team, which subcontractors will be used and that contractors do not have to publicly advertise their subcontracting work. After posting a notice of intent to award, the owner awards the contract and coordination begins with the contractor.

Mr. Manchester then explained the process for CM. He stated that with CM the owner is looking for someone to come on board before the project plans/specifications are finished to help the owner and design team to develop the plans and specifications. The owner is looking for contractors with demonstrated ability to perform, expertise of subcontractors and types of subcontractors that the CM may bring, including small businesses. He shared that the first part of a CM contract is for preconstruction services, which include sequencing and project schedule, plan development, materials, and cost estimating. The second part of a CM contract is for the construction phase and which is only entered into upon completion of the working drawings and the parties agreeing to a guaranteed maximum price (GMP) that the CM will perform within, then if there are any remaining funds at the completion of the project are sent back to the state. He shared that in procuring a CM, for state agencies only, there is an evaluation committee comprised of at least three members to include a licensed design professional and an architect/engineer provided by DEB. The evaluation committee proceeds with prequalification of offerors, which can include the offerors bonding capacity and proposed project team experience, however, there is no requirement to have past CM experience. Once the prequalification is complete the owner then issues request for proposals to the prequalified contractors and notifies the offerors that were not prequalified. He explained the process of evaluating the prequalified contractors proposal responses and that the committee looks

at the proposed project approach, sequencing, method for handling risks, the subcontractors and small business participation plans, and fees for the CM services. The evaluation committee conducts interviews to obtain clarifications on proposals and then ranks the proposals using combined scores from the RFQ and RFP. Then the evaluation committee enters into negotiations with the top two offerors and makes a recommendation to award to one offeror to the agency head. The other offerors not selected for CM are notified in writing which provides a second opportunity for an offeror to protest if they feel they were treated unfairly. Mr. Manchester concluded his remarks noting that by statute the CM can only perform 10% of the work and the remaining 90% of the work has to be subcontracted by competitive sealed bid.

Mr. Tweedy asked for an explanation on the process when an offeror protests or appeals? Mr. Manchester provided a high level response that when an offeror is precluded from being prequalified to bid the offeror generally has a right to protest to the entity first, then to a court.

Mr. McHugh asked if both an invitation for bid and competitive negotiation are competitive processes? Mr. Manchester stated that is correct. Mr. McHugh followed up that previously the Workgroup was told that invitation for bid is the only competitive option and asked if that is incorrect. Mr. Manchester stated that is not correct because both are form of competition but two different types of competition.

Mr. Damico asked when the subcontracting of the 90% of work occur? Mr. Manchester stated that this occurs prior to negotiation for the GMP and shared that the owner gets to see the bids, bid tabs, and the subcontractor big packages go to the owner as a part of the GMP number proposed for part two. Mr. Damico followed up asking if the subcontractor bidding process looks like the Commonwealth's bidding process, or is is more like competitive negotiation? Mr. Manchester believes that the process is more like the bidding process however, there are exceptions in cases of specialty contractors.

VI. Presentation on the 2016 Development and Management of State Contracts Report

Next, Tracey Smith, Associate Director with the Virginia Joint Legislative Audit and Review Committee (JLARC) provided the Workgroup an overview of the 2016 Development and Management of State Contracts report. She stated that the study covered a lot of topics and resulted in 30 recommendations for the general assembly, DGS, VITA and others to consider. During the course of the study, one issue brought to JLARC by former Delegate Landis, was the increasing use of alternative procurement methods by institutions of higher education for construction projects. Ms. Smith shared that she watched the previous Workgroup meeting and noted that the JLARC report was referenced a lot. She provided clarification on comments made at the last meeting, explaining that someone stated that JLARC found that competitive sealed bidding is the only way to guarantee the best quality and best price, however, this is not correct. She stated on page 21 of the report states that purchasing goods and services from vendors offering the lowest price does not always maximize quality and because the quality of the goods or services is not a consideration under the competitive sealed bidding

procurement method, agencies may purchase poor quality goods or services that do not meet agency expectations. Additionally, at the previous meeting there were references to a table on page 108 in the report and that table was only designed to describe the basis of the contract award and not the ultimate outcome of the project.

Ms. Smith explained that at the time of the JLARC study, there was not a centralized source of data on the performance of contracts for higher education and because of this JLARC requested data on 28 construction projects from four higher education institutions. The data received included 11 CM projects, 4 DB projects, and 13 DBB projects and JLARC compared change orders, schedule delays, and cost overruns. She noted that since the JLARC study a lot of additional data has been collected and the information discussed today is not a reflection of the current state of what we know about the performance of the contracts. She shared a finding from the report that universities used all three methods of procurement for costly projects but the median cost of projects using alternative methods substantially exceeded cost of DBB projects and that higher education institutions were generally satisfied with all three procurement methods. Next, she explained that JLARC surveyed and interviewed procurement staff at state agencies and institutions of higher education to determine their satisfaction with project quality and project timeliness under DBB and CM explaining that (i) 78% were satisfied with the project quality under DBB, and 88% were satisfied with the project quality under CM and (ii) 69% were satisfied with the project timeliness under DBB, with 81% satisfied with project timeliness under CM.

She shared another finding from the JLARC report that projects procured under each method deviated from original contract provisions; at least some of each type of project experienced delays, cost overruns, and change orders. The data provided for this finding, she explained, should not be used to compare the performance of contracts across the three methods because there were not enough contracts in the sample to make such comparisons. She explained the purpose is to show that regardless of the procurement method, cost overruns, delays, and change orders occurred across all three methods, sharing that no method ensures a problem free project.

Another finding Ms. Smith addressed is during the study vendors reported concerns about limited competition and transparency, some of which was corroborated by JLARC research. She shared that about 1400 vendors responded to JLARC's survey and about one-fourth responded stating that winning vendors seem preselected or selection criteria prevented the vendor from qualifying to submit a bid or proposal. JLARC did find that several institutions of higher education reported using narrow qualification criteria for CM, explaining that some institutions of higher education allow only pre-qualified vendors that have had experience with this project delivery method to submit proposals. She explained that while previous experience with the project delivery method is a valid consideration, using this criterion to prevent vendors from qualifying to submit a proposal appears to unnecessarily narrow the pool of potential vendors for the contract. She concluded her presentation stating that JLARC made a recommendation for DGS to clarify in the CPSM that agencies shall not disqualify vendors during the request for

qualifications stage because of a lack of direct experience with a specific project delivery method.

Mr. Tweedy asked if all entities are subject to the DGS CPSM? Ms. Smith responded that there are institutions of higher education that are not subject to the CPSM and when JLARC brought this up during the study, the institutions of higher education stated that they model their procurement activities to align with state policies. Ms. Gill added that the JLARC report was completed before the legislative changes that created 43.1 which requires higher education to comply with the SOA procedures when adopting their own procedures.

Mr. Damico asked if (i) alternative methods may be beneficial for complex or time sensitive construction projects, (ii) a dollar threshold is not the most effective criteria for deciding which method to use because a projects costs does not necessarily reflect the complexity or time sensitivity of the project, and (iii) the design bid build process is the default method is correct in the report. Ms. Smith stated those statements are correct.

VII. Public Comment on SB 954

Public comments in support of SB 954.

The first stakeholder to speak was Jack Dyer owner of Gulf Seaboard General Contractors and President of the Virginia Contractor Procurement Alliance (VCPA) shared that they believe CM does not provide the best method of procurement for construction projects over \$5M that are not historical, extremely large, or complex and that CM is a more expensive route by 15-25%. He offered recommendations that are reflected SB 954 explaining (i) the need to have one person responsible for pre-approving the use of CM at the local, state, and higher education level, adding that approval should be done by the Secretary of Administration, (ii) increase the threshold to \$125 million which would require pre-approval to use CM for any projects under this amount, and (iii) revise the definition for complex, noting that previous CM experience should not be a prequalification requirement. He concluded his remarks by sharing that the declaration of intent of the VPPA is that all procurement procedures be conducted in a fair and impartial manner with the avoidance or appearance of impropriety, that all qualified vendors shall have access to public business, and the code requires written advance determination that competitive sealed bidding is not practical or physically advantageous and shall document the basis for that determination to utilize CM or DB.

Mr. Damico asked Mr. Dyer if the document provided prior to the meeting by MDB Strategies documents the recommendations that he just described, to which Mr. Dyer replied yes.

The second stakeholder to speak was Tony Biller of Nielsen Builders. Mr. Biller spoke to competition in IFBs stating that they are advertised in the public and anyone can respond as long as they meet the criteria, such as bonding, insurance, licensing. He explained that

contractors can bid for subcontractors and that is a wide open process. He shared for CM, when putting together the GMP, in his experience of doing 5 projects with the state, there was no requirement that he get competitive sealed bids from the trades. He said that they go out and get bids and proposals for subcontractors but it is not the lowest bid and not open to everyone who is qualified to be a responder so yes, there is competition but the processes are different.

The third stakeholder to speak was Greg Lionberger of Lionberger Construction. He shared that he believes DBB is the best method for straightforward non-complex projects and believes the best price comes from competitive sealed bidding.

Mr. Morris asked for clarification on non-complex projects versus complex projects and how his company makes a determination on this. Mr. Lionberger responded that renovating a coliseum can be a very complex project but a dormitory is not complex.

The fourth stakeholder to speak was Mark Meland, President of Century Construction. He stated that he supports the legislation and at the last meeting someone brought up his company having a contract with VCU. He explained that his company does have a contract with VCU however the contract has multiple other companies on it for small projects.

The fifth stakeholder to speak was Brandon Spencer, Executive Vice President of Kembridge Construction. He stated that he has been shut out of CM projects. He spoke to bonding requirements and asked for a fair chance at projects.

The sixth stakeholder to speak was Scott Shufflebarger, representing Virginia Association of Roofing Professionals stating that he believes DBB is the primary method and should be for public construction. He said that he believes CM stifles competition and limits opportunities to his membership. He concluded his remarks sharing that he fully supports SB 954 and its intent to raise the threshold for CM and implement more restrictive language for its use.

Mr. Damico asked if Mr. Shufflebarger has competed for subcontractor work on a CM project. Mr. Shufflebarger shared that he has never had the opportunity. Mr. Damico asked if he did had the opportunity would he compete? Mr. Shufflebarger replied, yes. Mr. Damico then asked why he thinks he has never had the opportunity? Mr. Shufflebarger stated that certain general contractors seem to get the CM projects and his company is not on those contractors bid list, even though they are qualified.

Mr. McHugh asked the size of the roofing associations membership. Mr. Shufflebarger stated they are comprised of approximately 170 members. Mr. McHugh followed up by asking if all of the members have trouble getting bids for CM work? Mr. Shufflebarger stated that some members do participate in the process.

Mr. Morris asked if for an explanation on the comment of not being allowed to participate in CM? Mr. Shufflebarger said he doesn't believe they are being specifically

excluded but when CM is used, the general contractors use a smaller pool of roofers based on their experience and connections and provided an example stating that in the Richmond area if there are 150 roof contractors, one general contractor probably works with 4-5 roof contractors on a regular basis and those 4-5 would get the opportunity.

Ms. Peeks asked for clarification regarding the code requirement that 90% of the CM subcontracts are bid out competitively and if the law requires use of competitive sealed bidding to the maximum extent practicable. Mr. Manchester approached and responded that his remarks are based on SOA procedures for CM which expressly state that the CM must procure by publicly advertised sealed bidding 90% of the work, if practicable.

Mr. Morris asked if there is a broad and narrow interpretation on practicable and if that language is being narrowly interpreted as the roofing comments indicate there isn't a lot of competition. Mr. Coppa replied that he does not know but the CMs could be surveyed and on how they interpret the term "practicable".

Mr. Tweedy asked Mr. Manchester if the SOA procedures say that it is on the owner of the project to enforce the procedures? Mr. Manchester said ultimately the owners are required to enforce their procedures.

Public comments in opposition of SB 954:

The first stakeholder to speak was Burt Jones, Associate Vice Chancellor for the Virginia Community College System (VCCS), sharing that he has 35 years with the Commonwealth overseeing design and construction of projects and he has used all possible methods for construction procurement. He shared that he is a member of the National Association of State Facility Administrators that has worked closely with general contractors to produce documents on how to properly use CM, noting that Virginia is a leader in the country on how CM is used. Mr. Jones stated that he was a part of the group mentioned earlier that worked on the definition of complex projects and when SB 954 was introduced it was the first time he saw the definition changes. He said the \$125 million threshold would remove the use of CM for most and out of 33 current capital projects, none of them meet the criteria in the proposed bill. He concluded his remarks discussing that the bill has preconstruction services requirements with the CM then requires procuring construction through competitive sealed bidding which will completely remove the advantages of having a CM and resulting in a loss of the knowledge of the CM.

The second stakeholder to speak was Craig Short, Associate Vice President of Business Services at James Madison University (JMU). He shared that over the last 20 years JMU has procured and managed over a billion dollars in construction projects that utilized DBB, DB, and CM, noting that during this time no procurements have been protested. He explained the process that JMU goes through to choose the appropriate delivery method and ensure it is in alignment with state code. He stated that internally JMU evaluates based on project specific risk and project complexity, sharing that the overall contract value is one component also looking at time / schedule constraints, team expertise, and more. He concluded his remarks explaining that JMU's use of CM has increased on large

projects due to the ability to mitigate risks for everyone, its collaborative, more efficient, helps avoid cost overages, allows early start packages, and other pitfalls often associated with DBB.

Mr. Saunders asked if JMU has used CM for dormitory projects? Mr. Short replied, yes.

Ms. Peeks asked if the operations of a university factor into the decision of complexity? Mr. Short provided an example of an addition to the college of business building that had to be scheduled between semesters and included doing demolitions between semesters where the contractor had to figure out how to stage and schedule that work so operations were not disrupted.

Mr. McHugh asked if when defining the risks and concerns if funding and financing is a part of the complex determination? Mr. Short responded that it depends on the project.

Mr. Morris asked if there is a grey area in the decision matrix JMU uses to decide on which method to use? Mr. Short responded that there is grey area in the entire construction industry, a lot of judgement calls, and considering the environment being worked in, but it becomes obvious which method is best for the project and avoiding risk pitfalls.

Public Comments for support in part or oppose in part:

No comments

Public Comments that are Neutral:

No comments

VIII. Consideration and Discussion of Public Comment, Written Comments, and Other Information Received by the Workgroup on SB 954

Mr. Damico stated the Workgroup has received information verbally and in writing from stakeholders, including the contractor community, institutions of higher education, state agencies, local governments, and also the report from JLARC, and at this time the Workgroup can begin discussion and see if there are any recommendations from the Workgroup members.

Mr. Saunders asked if there is currently a process where DEB or DGS are involved in helping verify the procurement method when agencies want to use CM and if so, how does that work? Mr. Damico explained in accordance with 43.1 state public bodies can make a determination on which procurement method to use for a particular construction project, and if a method other than DBB is chosen, the state public body has to justify and submit to DEB for review. Next DEB makes a recommendation on whether the state public bodies chosen method is an appropriate method for the project. Mr. Damico explained that the state public body can choose to comply with the DEB recommendation

or proceed with the originally selected method. This process is the same for institutions of higher education.

Mr. Saunders then asked how often the owners choice procurement method and DEB recommendation align for construction projects? Mr. Damico shared that 43.1 includes a reporting requirement for institutions of higher education and state public bodies and that data appears to show eight instances where DEB did not agree with the institution of higher education's selected method but they proceeded anyway, noting that this is eight out of approximately 55 projects since 2017.

Mr. McHugh stated that a lot of information has been exchanged over the last two meetings, sharing that VASCUUP introduced a listing of bills introduced since 2015 to show the Workgroup the amount of effort that has gone into this topic. He explained there are opportunities where the parties, if they would come together, could make changes legislatively and that SB 954 is not a reasonable suggestion. As heard today, there is conflict created by doing the two part process proposed in SB 954 and very few projects that would qualify for the use of CM with the proposed threshold. He said the bill would make CM not an option and believes it is not appropriate to recommend this bill to the general assembly but believes there are possibly some options to move forward.

Mr. Heslinga noted that a lot of people are seeking to increase competition or believing that have not been a part of the competition, so if the Workgroup does not bring forward any particular legislative recommendation, it may be valuable to bring up this as a key issue and should focus on how we get the most competition we can.

Ms. Peeks shared her experience with the House members on this topic and understood that some of the industry groups invested in this were supposed to have met and come up with recommendations or suggestions, asking if the industry groups have met yet. Mr. Dyer stated that he spoke with AGC and they are working to find a time to meet, acknowledging that as a former chair of AGC he understands the constraints of their summer conference. He stated that the letter the AGC offered at the last meeting included three areas that echo some of the recommendations that have been presented. Brandon Robinson with AGC came forward and echoed Mr. Dyer's comments and confirmed they have been working to find a time to meet and come up with some ideas and look forward to bringing a consensus in the future.

Ms. Innocenti proposed as a part of the solution to look at modifying the existing SOA procedures rather than making legislative changes. Mr. Damico asked if there are any recommendations on the proposed changes to the SOA procedures either at this meeting or at next meeting. No recommendations were offered.

Mr. Tweedy stated that a lot of additional information was provided today, through email over the past few weeks, and if the stakeholders plan to get together, he suggested giving more thought to recommendations and asked if we are bringing that up at the next meeting for further discussion? Mr. Damico said he will discuss more in item nine,

sharing that he has a number of recommendations for the workgroup to consider at the appropriate time and the next meeting would be the opportunity to discuss further.

Mr. Jones with VCCS approached and asked that the interest groups from 2017 be included in the industry group discussion.

IX. Findings and Recommendations on SB 954

Mr. Saunders shared his hesitation to include a dollar threshold in the code because it can quickly become obsolete and in lieu of a dollar threshold, if there is a determination by the workgroup that the current process is not working as intended or best it could, perhaps the Workgroup could explore the definition of complex project. He said it sounds like the process is working as set out in the code but questioned if this accomplishing the goals our elected officials want.

Mr. Damico stated that his proposed recommendations are a result of what DGS has heard for over ten years and in the discussions from last week and again today from stakeholders. He explained there have been a lot of good comments and right perspectives from everyone and as we all know, through legislation it is never perfect for a single person or single group and we do our best to compromise and move on. He provided background on how DGS came up with the recommendations, explained when the general assembly took action on CM/DB in 2017 that the general assembly deliberately pulled local/state/higher education into 43.1 to treat them all the same rather than this topic residing in the VPPA where it would apply to some and not all. He shared his perspective that the intent was to standardize CM/DB use across government.

Mr. Damico continued, noting that 43.1 defines complexity and since 2017 when 43.1 was enacted, he has not heard of any issues with the definition as it exists today until the proposed changes in SB 954. He explained the code requires DEB, because of their expertise, has been entrusted by the general assembly to review each project ensuring the right method is selected. He stated that 43.1 requires state agencies, higher education, and local government to report their performance in CM/DB/DBB for transparency purposes because the general assembly wanted to better see and understand how public bodies are performing in these areas.

He shared that the JLARC study confirms that DEB sets the standards for building construction and related professional services and that JLARC reported that DBB is the default method and that state public bodies and higher education are to obtain approval to use CM/DB, however 43.1 does not implement that DGS/DEB should make that call. He shared that it appears alternative methods are beneficial and that a dollar threshold is not the most effective criteria because project cost does not always reflect complexity. DGS looked at the data provided by the VCPA which was focused on higher education from 2008-2014, noting that it appears other methods of procurement were used 86%, and 14% of the time DBB was used. Then from 2015-2017, the data shows a slight trend down in the use of other procurement methods. This data was used by the general assembly with

the JLARC study, to enact 43.1. After 43.1 was enacted the VCPA data from 2018-2021 shows the use of other procurement methods was 74.2% and use of DBB 25.5%, roughly a 9% move away from other procurement methods and trending down. He explained that DGS also looked at the data provided by AGC that is inclusive of all public bodies that reported to DGS for annual reports and that data shows the use of other procurement methods was 25.8% and DBB 74.2% for 2018-2021 for projects over \$3M, which is the capital outlay threshold determined by DPB. It appears that as a result of 43.1 the use of DBB is trending up and other methods trending down. He noted that the Workgroup also heard from small businesses at last meeting that CM has helped provide them business opportunities and helped them grow.

Next, Mr. Damico offered the following recommendations for the Workgroup to consider; (i) the general assembly consider stating in 43.1 that DBB is the default method of procurement for construction unless an alternative method (CM/DB) is approved by DEB for state agencies and institutions of higher education, and for local government the local governing board. This approach would eliminate the cost threshold requirement as all of DBB will be the default unless otherwise determined by DEB or local governing board, (ii) the general assembly consider amending DEBs authority in 43.1 from evaluating the proposed procurement method selected by a public body or institution of higher education and making a recommendation if it's appropriate, to DEB making a final decision on method to be used, (iii) the general assembly require local public bodies obtain approval to use CM/DB by its local governing board and for transparency purposes approval shall be made at a public meeting of the governing board to allow stakeholders to comment, and (iv) after hearing concerns about subcontracting under the CM process and that subcontractors have not been adequately informed of opportunities that the general assembly consider requiring public bodies use eVA to advertise the subcontractor opportunities available for CM/DB projects

Mr. McHugh thanked Mr. Damico for explaining the background and asked if the data discussed matches the data the Workgroup received from the VCPA? Mr. Damico stated the data was pulled from the VCPA and AGC data provided to the Workgroup and that he filtered on \$3M plus projects.

Mr. McHugh shared that he represents 14 different restructured institutions of higher education, all of which have own governing boards and management agreements. He asked if the proposed requirement to advertise CM/DB subcontractor opportunities would be considered a unilateral change to the management agreements if this potential change is made? Mr. Damico suggested that legal is best suited to answer, but the intent is that this would not impact or require management agreements changes since 43.1 is outside of the management agreements.

Mr. McHugh stated the data illustrated shows a downturn in the use of alternative methods, so it appears that the changes legislatively made in 2017 actually are working. The downward trend indicates that institutions of higher education have heard the concerns and have responded appropriately and consider when DBB could be used as the procurement method. He explained, when looking at a project, one option to consider is

do nothing, but he is not suggesting that today, although the changes that were in effect five years ago may have made the impact that was intended, therefore a recommendation could be to go back and confirm that the results of the 2017 legislation are making the changes necessary. The data the VCPA provided goes back to 2008 but what has not been shown is what has happened since the 2017 legislative change. He stated that the extreme statements and recommendations have been shared instead of a thoughtful and inclusive approach that identifies potential future opportunities to change the law. Mr. Damico welcomed the idea for someone to pull together the data from 2017 to show how public bodies are performing since 2017.

Mr. Morris stated at a recent meeting a small business stakeholder spoke about being favorably impacted by one method over another, and asked if it is reasonable to look at how the small business community has been impacted? Mr. Damico said that construction procurement requires a level of participation by small businesses and believes that there is a reporting requirement for small business participation on construction projects. Mr. Coppa shared that there is a reporting requirement in construction contracts as required in EO-35 by each agency and explained that the data is reported to the agency procurement office and project manager, in addition to being reported to DSBSD by the agency through the self-reporting portal.

Mr. Damico stated that hearing the legislative desire to hear from the contractor industry, he does not believe we are in a position to move forward with a recommendation today and would like to give an opportunity to digest what has been discussed as well as give the stakeholders a chance to meet. He shared that at next meeting we can continue the discussion on the offered recommendations and any others that may come up at the next meeting. Mr. Morris and Mr. McHugh both agreed.

Mr. McHugh clarified if we are looking for industry to come together and possibly make a recommendation? Ms. Peeks replied yes and asked that the industry stakeholders include higher education, too.

X. Public Comment

None

XI. Discussion

None

XII. Adjournment

Mr. Damico adjourned the meeting at 3:43 p.m. and noted that the next Workgroup meeting is scheduled for August 22, 2023 at 1:00 p.m. in the House Room 1 located in the Capitol.

For more information, see the [Workgroup's website](#) or contact that Workgroup's staff at pwg@dgs.virginia.gov.

Public Body Procurement Workgroup meeting #6 on August 8, 2023

Draft considerations for SB 954

1. The General Assembly consider stating in 43.1 that design-bid-build is the default method of procurement unless an alternative method (CM/DB) is approved by DGS' Division of Engineering and Buildings (DEB) for institutions of higher education and state public bodies, or in the case of local public bodies, the local governing board must approve the use of CM/DB in a public hearing allowing for public comments on the proposed use of CM/DB.
2. The General Assembly consider amending DGS' authority in 43.1 from evaluating the proposed use of CM/DB by state public bodies and institutions of higher education to DGS' DEB making a final decision as to the use of CM/DB on each project.
3. The General Assembly consider requiring public bodies to advertise available subcontracting opportunities on the DGS central electronic procurement website, known as eVA, for CM/DB projects.

Note: during the meeting four considerations were offered, however two of the considerations have been combined into item #1 above.

Appendix E: August 22, 2023 Meeting Materials

This appendix contains the meeting materials from the August 22, 2023 Workgroup meeting.

1. Agenda
2. Meeting Materials
 - a. Letter from MDB Strategies on Proposed Recommendations
 - b. Letter from AGCVA on Considerations on Procurement
3. Approved Meeting Minutes

Public Body Procurement Workgroup

<https://dgs.virginia.gov/dgs/directors-office/pwg/>

Meeting # 7

Tuesday, August 22, 2023, 1:00 p.m.

House Room 1

The Virginia State Capitol

1000 Bank Street, Richmond, Virginia 23218

AGENDA

- I. **Call to Order; Remarks by Chair**
- II. **Approval of Meeting Minutes from the August 8, 2023 Workgroup Meeting**
- III. **Public Comment on Draft Recommendation for SB 1115**
- IV. **Finalize Recommendations on SB 1115**
- V. **Public Comment on SB 954**
- VI. **Findings and Recommendations on SB 954**
- VII. **Public Comment**
- VIII. **Discussion**
- IX. **Adjournment**

Members

Department of General Services
Virginia Information Technologies Agency
Department of Planning and Budget
Virginia Association of State Colleges and
University Purchasing Professionals

Department of Small Business and Supplier Diversity
Virginia Department of Transportation
Virginia Association of Governmental Procurement

Representatives

Office of the Attorney General
Senate Finance Committee

House Appropriations Committee
Division of Legislative Services

Staff

Sandra Gill, Deputy Director, DGS
Jessica Hendrickson, Director of Policy and Legislative Affairs, DGS



August 18, 2023

The Honorable Members of the DGS, Procurement Workgroup

By email

RE: Senate Bill 954, Construction Management

Dear Procurement Workgroup Members:

On behalf of the Virginia Contractor Procurement Alliance (VCPA), we thank you for your attention to the discussion in support of the rationale behind Senate Bill 954.

The VCPA fully and unanimously supports the Department of General Services (DGS) recommendations with the following suggestions:

- 1) The VCPA supports DGS recommendation (1) and (2) to reinstate DBB as the default and preferred method of procurement for all state, local bodies and tier three institutions as well as require all state entities including tier three institutions of higher education to obtain approval from DEB for use of CM or DB on every project. These items are critical to protecting the interests of Virginia's taxpayers.
- 2) The VCPA supports DGS recommendation (1) which includes the requirement that all local public bodies hold a public hearing of its governing body to approve the use of CM or DB on each project and as a separate agenda item at least 45 days before issuance of any request for proposal.
- 3) The VCPA supports DGS recommendation (3) requiring all, "public bodies to advertise available subcontracting opportunities." The VCPA also requests an amendment to Code that clarifies that all subcontracting opportunities must be competitively-sealed-bid and all invitations and received proposals be reviewed and evaluated by the public body along with the CM or General Contractor in establishing the GMP.

The VCPA asks that the Workgroup fully support and vote for the DGS recommendations.

We look forward to further opportunities to work together with all the stakeholders to develop consensus legislation including the following matters:

- a) VCPA recommends that CM experience shall not be a prerequisite or used for either prequalification or award of a CM or DB project. Procurement qualifications and award should be based on construction experience not project delivery method.

- b) VCPA requests that all public bodies send information to DGS regarding the use of CM or DB which shall be made available by DGS to the public on its website.
- c) VCPA requests that the definition of complexity of projects be refined.
- d) VCPA requests that the threshold and other requirements under which DEB or local public bodies determines approval of CM or DB usage be adjusted and clarified.

Thank you very much and please feel free to contact me at any time.

Sincerely,



Matt Benka

CC: The Honorable Glenn Youngkin
The Honorable Lyn McDermid
The Honorable Members of the House Appropriations Committee
The Honorable Members of the Senate Finance Committee
The Honorable Members of the House General Laws Committees
The Honorable Members of the Senate General Laws Committee



MEMO

To: DGS Public Procurement Workgroup
From: Associated General Contractors of Virginia (AGCVA)
Date: August 21, 2023
Re: Considerations on Procurement

AGCVA's position on the issue of alternative delivery methods used in public procurement remains that competition should be fair and open. Accordingly, owners should select the delivery method based on the circumstances of the project. This past session, AGCVA opposed SB 954 because it created a strong statutory preference for one method and was opposed by a large group of stakeholders in public procurement. It did not represent any consensus or compromise ideas. Further, AGCVA's position is that owners should select the contractor based on the contractor's ability and experience in constructing similar types of projects. Consistent with the express requirement in Virginia law, disqualification should not be placed on a contractor's prior experience with a specific delivery method. AGCVA supports current recommendations that strengthen this statutory requirement. Finally, any decisions on delivery methods and the selection of contractors should be transparent.

Within these guidelines, AGCVA has considered the current statutes and regulations governing alternative delivery methods and recommends consideration of the following. These considerations follow the previous comments AGCVA made at the workgroup on this issue and are combined with the suggestion to eliminate the current dollar threshold of \$26M contained in the DGS Construction Management and Design-Build procedures.

Chapter 43.1. Construction Management and Design-Build Contracting.

Article 1. General Provisions.

§ 2.2-4378. Purpose; applicability.

A. The purpose of this chapter is to enunciate the public policies pertaining to governmental procurement of construction utilizing the construction management and design-build procurement methods. Notwithstanding any other provision of law, the Commonwealth may enter into contracts on a fixed price design-build basis or construction management basis in accordance with the provisions of this chapter and [§ 2.2-1502](#).

B. Except as provided in subsection C, this chapter shall apply regardless of the source of financing, whether it is general fund, nongeneral fund, federal trust fund, state debt, or institutional debt.

C. The following shall be exempt from the provisions of this chapter:

1. Projects of a covered institution that are to be funded exclusively by a foundation that (i) exists for the primary purpose of supporting the covered institution and (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue Code; and

2. Transportation construction projects procured and awarded by the Commonwealth Transportation Board pursuant to subsection B of § [33.2-209](#).

D. The provisions of this chapter shall supplement the provisions of the Virginia Public Procurement Act (§ [2.2-4300](#) et seq.), which provisions shall remain applicable. In the event of any conflict between this chapter and the Virginia Public Procurement Act (§ [2.2-4300](#) et seq.), the Restructured Higher Education Financial and Administrative Operations Act of 2005 (§ [23.1-1000](#) et seq.), or any other provision of law, this chapter shall control.

2017, cc. [699](#), [704](#).

§ 2.2-4379. Definitions.

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

"Complex project" means a construction project that includes ~~one~~ two or more of the following significant components: ~~difficult site location, unique equipment, specialized building systems, multifaceted program, accelerated schedule, historic designation, or intricate phasing or some other aspect that makes competitive sealed bidding not practical.~~

- The project *involves multiple jurisdictions*, such as federal, state, local, tribal, or foreign entities, and may raise issues of conflict of laws.
- The project *requires specialized or unique equipment, building systems, technology, or expertise* that is not readily available or widely used in the industry.
- The project has a *multifaceted program, intricately phased, or accelerated schedule* that poses challenges for planning, coordination, execution, and a significant financial cost for the owner.
- The project has a *high level of uncertainty or risk*, such as significantly challenging site locations or conditions.
- The project has a *historical significance that requires preservation or restoration* of existing historic structures or features.

"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner and may also include, if provided in the contract, the furnishing of construction services to the owner.

"Covered institution" means a public institution of higher education operating (i) subject to a management agreement set forth in Article 4 (§ [23.1-1004](#) et seq.) of Chapter 10 of Title 23.1, (ii) under a memorandum of understanding pursuant to § [23.1-1003](#), or (iii) under the pilot program authorized in the appropriation act.

"Department" means the Department of General Services.

"Design-build contract" means a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, or other item specified in the contract.

"Public body" means the same as that term is defined in § 2.2-4301.

"State public body" means any authority, board, department, instrumentality, agency, or other unit of state government. "State public body" does not include any covered institution; any county, city, or town; or any local or regional governmental authority.

2017, cc. 699, 704.

Article 2. Procedures for State Public Bodies.

§ 2.2-4380. Construction management or design-build contracts for state public bodies authorized.

A. Any state public body may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that (i) the project is a complex project, (ii) such public body complies with the requirements of this article, and (iii) the procedures adopted by the Secretary of Administration for using construction management or design-build contracts.

B. Procedures adopted by a state public body pursuant to this article shall include the following requirements:

1. A written determination is made in advance by the state public body that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to use construction management or design-build including the determination of the project's complexity. The determination shall be included in the Request for Qualifications and maintained in the procurement file;

2. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a state public body shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the public body regarding the use of construction management or design-build for that project and (ii) assist the public body with the preparation of the Request for Proposal and the evaluation of such proposals;

3. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

4. For construction management contracts, the contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

5. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, a state public body may consider the experience of each contractor on comparable projects;

6. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own

forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable; ~~and~~

7. The procedures allow for a two-step competitive negotiation process; ~~and~~

8. The procedures require the state public body to provide documentation of the processes used for the final selection to all the unsuccessful proposers, upon request.

C. The Department shall evaluate the proposed procurement method selected by the state public body and make its recommendation as to whether the use of the construction management or design-build procurement method is appropriate for the specific project. In its review, the Department shall also consider:

1. The written determination of the state public body;
2. The compliance by the state public body with subdivisions B 1, 2, and 7;
3. The project cost, expected timeline, and use;
4. Whether the project is a complex project; and
5. Any other criteria established by the Department to evaluate the proposed procurement method for the project.

D. The Department shall conduct its review within five working days after receipt of the written determination and render its written recommendation within such five-working-day period. The written recommendation of the Department shall be maintained in the procurement file.

E. If a state public body elects to proceed with the project using a construction management or design-build procurement method despite the recommendation of the Department to the contrary, such state public body shall state in writing its reasons therefor and any justification for not following the recommendation of the Department and submit same to the Department. The written statement of a state public body's decision to not follow the recommendation of the Department shall be maintained in the procurement file.

2017, cc. [699](#), [704](#).

Article 3. Procedures for Covered Institutions.

§ 2.2-4381. Construction management or design-build contracts for covered institutions authorized.

A. Any covered institution may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that (i) the project is a complex project, (ii) such institution complies with the requirements of this article, and (iii) with the procedures adopted by the Secretary of Administration for using construction management or design-build contracts.

B. Covered institutions shall:

1. Develop procedures for determining the selected procurement method which, at a minimum, shall consider cost, schedule, complexity, and building use;

2. Submit such procedures, and any subsequent changes to adopted procedures, to the Department for review and comment; and

3. Submit Department-reviewed procedures to its board of visitors for adoption.

C. Procedures adopted by a board of visitors pursuant to this article shall include the following requirements:

1. A written determination is made in advance by the covered institution that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to use construction management or design-build including the determination of the project's complexity. The determination shall be included in the Request for Qualifications and maintained in the procurement file;

2. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a covered institution shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the covered institution regarding the use of construction management or design-build for that project and (ii) assist the covered institution with the preparation of the Request for Proposal and the evaluation of such proposals;

3. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

4. For construction management contracts, the contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

5. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, a covered institution may consider the experience of each contractor on comparable projects;

6. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable; ~~and~~

7. The procedures allow for a two-step competitive negotiation process; ~~and-~~

8. The procedures require the state public body to provide documentation of the processes used for the final selection to all the unsuccessful proposers, upon request.

D. The Department shall evaluate the proposed procurement method selected by a covered institution and make its recommendation as to whether the use of the construction management or design-build procurement method is appropriate for the specific project. In its review, the Department shall also consider:

1. The written determination of the covered institution;

2. The compliance by the covered institution with subdivisions C 1, 2, and 7;
3. The project cost, expected timeline, and use;
4. Whether the project is a complex project; and
5. Any other criteria established by the Department to evaluate the proposed procurement method for the project.

E. The Department shall conduct its review within five working days after receipt of the written determination and render its written recommendation within such five-working-day period. The written recommendation of the Department shall be maintained in the procurement file.

F. If a covered institution elects to proceed with the project using a construction management or design-build procurement method despite the recommendation of the Department to the contrary, such covered institution shall state in writing its reasons therefor and any justification for not following the recommendation of the Department and submit same to the Department. The written statement of a covered institution's decision to not follow the recommendation of the Department shall be maintained in the procurement file.

2017, cc. [699](#), [704](#).

Article 4. Procedures for Local Public Bodies.

§ 2.2-4382. Design-build or construction management contracts for local public bodies authorized.

A. Any local public body may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that the local public body (i) complies with the requirements of this article and (ii) has by ordinance or resolution implemented procedures consistent with the procedures adopted by the Secretary of Administration for utilizing construction management or design-build contracts.

B. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a local public body shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise such public body regarding the use of construction management or design-build for that project and (ii) assist such public body with the preparation of the Request for Proposal and the evaluation of such proposals.

C. A written determination shall be made in advance by the local public body that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction management or design-build including the determination of the project's complexity. The determination shall be included in the Request for Qualifications and be maintained in the procurement file.

D. Procedures adopted by a local public body for construction management pursuant to this article shall include the following requirements:

1. Construction management may be utilized on projects ~~where the project cost is expected to be less than the project cost threshold established in the procedures adopted by the Secretary of Administration for utilizing construction management contracts,~~ provided that (i) the project is a complex project and (ii)

the project procurement method is approved by the local governing body. The written approval of the governing body shall be maintained in the procurement file;

2. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

3. The construction management contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

4. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, the local public body may consider the experience of each contractor on comparable projects;

5. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. The provisions of this subdivision shall not apply to construction management contracts involving infrastructure projects;

6. The procedures allow for a two-step competitive negotiation process;~~and~~

7. Price is a critical basis for award of the contract; ~~and~~

8. The procedures require the state public body to provide documentation of the processes used for the final selection to all the unsuccessful proposers, upon request.

E. Procedures adopted by a local public body for design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department for state public bodies.

2017, cc. [699](#), [704](#); 2020, cc. [162](#), [163](#); 2023, cc. [726](#), [727](#).

Article 5. Reporting Requirements for All Public Bodies.

§ 2.2-4383. Reporting requirements.

A. The Department shall report by December 1 of each year to the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on General Laws, the Senate Committee on Finance and Appropriations, and the Senate Committee on General Laws and Technology the following information: (i) the number of projects reviewed pursuant to Articles 2 (§ [2.2-4380](#)) and 3 (§ [2.2-4381](#)) and (ii) for each project (a) the identity of the state public body or covered institution and a description of each such project, (b) the estimated cost of the project at the time of the Department's review, (c) the recommendation made by the Department concerning the proposed procurement method, (d) the qualifications that made the project complex for all construction management and design-build projects, and ~~(ed)~~ the final procurement method used by the state public body or covered institution.

B. All public bodies subject to the provisions of this chapter shall report no later than November 1 of each year to the Director of the Department on all completed capital projects in excess of \$2 million, which report shall include at a minimum (i) the procurement method utilized, (ii) the project budget, (iii) the actual project cost, (iv) the expected timeline, (v) the actual completion time, (vi) the qualifications that made the project complex for all construction management and design-build projects, and (vii) any post-project issues.

The Department shall consolidate received report data and submit the consolidated data to the Governor and Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations by December 1 of each year.

2017, cc. [699](#), [704](#).

Approved Meeting Minutes

Public Body Procurement Workgroup

Meeting # 7

Tuesday, August 22, 2023, 1:00 p.m.

House Room 1

The Capitol Building

1000 Bank Street, Richmond, Virginia 23218

<https://dgs.virginia.gov/dgs/directors-office/pwg/>

The Public Body Procurement Workgroup (the Workgroup) met in-person in House Room 1 in the Capitol in Richmond, Virginia, with Joe Damico, Director of the Department of General Services (DGS), presiding. The meeting began with remarks from Mr. Damico, followed by public comment, discussion, and concluded with draft recommendations by the Workgroup members. Materials presented at the meeting are available through the [Workgroup's website](#). A recording of the meeting is available on the [House of Delegates video streaming site](#).

Workgroup members and representatives present at the meeting included Joe Damico (Department of General Services), Kerry Bates (Virginia Department of Transportation), Joshua Heslinga (Virginia Information Technologies Agency), Patricia Innocenti (Virginia Association of Governmental Procurement), John McHugh (Virginia Association of State Colleges and University Purchasing Professionals), Leslie Haley (Office of the Attorney General), Jason Saunders (Department of Planning and Budget), Willis Morris (Department of Small Business and Supplier Diversity), and Joanne Frye (the Division of Legislative Services). Andrea Peek (House Appropriations Committee) and Mike Tweedy (Senate Finance and Appropriations Committee) were absent.

I. Call to Order; Remarks by Chair

Joe Damico, Director

Department of General Services

Mr. Damico called the meeting to order and thanked the Workgroup members for their hard work this year stating that today the Workgroups focus is on SB 1115 and SB 954.

II. Approval of Meeting Minutes from the August 8, 2023 Workgroup Meeting

Mr. McHugh requested a correction to his comment made at the last meeting in section II of the draft minutes, replacing reflected with addressed, and replacing included with addressed.

Mr. Morris made a motion to approve the meeting minutes from the July 8, 2023 meeting as amended. The motion was seconded by Mr. Heslinga and unanimously approved by the Workgroup.

III. Public Comment on Draft Recommendation for SB 1115

Mr. Damico invited the public to provide comment on the draft recommendations for SB 1115 and reminded everyone that there is a three-minute limit for each person speaking.

No comments were made.

IV. Finalize Recommendations on SB 1115

Mr. Damico welcomed Senator DeSteph, patron of SB 1115, to the meeting and asked if the Senator would like to share any remarks before the Workgroup begins discussion to finalize recommendations. Senator DeSteph introduced Brett Vassey, President and CEO of the Virginia Manufacturers Association, and invited Mr. Vassey to speak.

Mr. Vassey thanked the Workgroup for their continued work on competitiveness of state procurement policy as it pertains to manufactured goods and thanked Senator DeSteph for two consecutive years of introducing legislation on this topic. Mr. Vassey stated that the two recommendations before the Workgroup for consideration will get the manufacturers where they want to be. He stated that one of the recommendations makes sure if an out of state bidder has an absolute or percentage preference that it is mandatorily applied in the state bid, and second, an artful solution rather than a point system of preference, is to allow a tie bid breaking option which has been utilized successfully in North Carolina. He concluded his remarks stating his support for the recommendations for consideration today.

Next, Senator DeSteph provided final remarks to the Workgroup. He shared that all states around Virginia have preferences for companies within their states and he wants to give preference to Virginia companies. He added that he appreciates the work done with tie bids where a Virginia business would be given the opportunity to match the lowest bidder from another state. Senator DeSteph mentioned that he has spoken to the Secretary of Transportation about this too and anything he can do to help Virginia businesses, he will. He concluded that he appreciates the recommendations provided and will incorporate them into the bill he moves forward this year.

Mr. Damico thanked the Senator for coming in and his collaboration.

Mr. Damico read the first recommendation before the Workgroup: The Workgroup recommends that the General Assembly consider amending subsection (A) of §2.2-4324 to allow in the instance of a tie bid for goods when there is not a resident of Virginia that an award preference shall then be given to goods that are manufactured in the United States. Mr. Heslinga made a motion to approve the recommendation. The motion was seconded by Ms. Innocenti and carried by a vote of 6-0¹.

Next, Mr. Damico read the second recommendation before the Workgroup: The Workgroup recommends that the General Assembly consider amending §2.2-4324 to allow the next lowest responsive and responsible bidder who is a resident of Virginia, or a Virginia company, be given the option to match the price of the lowest responsive and responsible bidder in a procurement for goods who is a resident of another state. Mr. Morris made a motion to approve the recommendation. The motion was seconded by Mr. Heslinga and carried by a vote of 6-0².

V. Public Comment on SB 954

Mr. Damico began by summarizing where the Workgroup left off at the last meeting. He stated that the last meeting resulted in four considerations for the Workgroup to review and that Ms. Peek was interested in hearing back from the industry on their efforts to meet and further discuss SB 954. Moving into public comment, Mr. Damico reminded everyone of the three-minute limit per person.

Public comments in support of SB 954.

The first stakeholder to speak was Jack Dyer, owner of Gulf Seaboard General Contractors and President of the Virginia Contractor Procurement Alliance (VCPA). He thanked the Workgroup for the time put into SB 954 this summer and supports the recommendations before the Workgroup. Mr. Dyer referenced a letter sent on August 18, 2023 that has been provided to the Workgroup that included clarity on the recommendations.

The second stakeholder to speak was Matt Benka with the Virginia Contractor Procurement Alliance (VCPA). He shared their support for the recommendations before the Workgroup. Mr. Benka shared that the industry groups did meet and found some common ground on some issues and will continue to work together on the other issues.

The third stakeholder to speak was Brandon Spencer, Executive Vice President of Kembridge Construction. He stated that he supports the recommendations and appreciates the hard work put into this.

¹ Yes: Ms. Innocenti, Mr. Morris, Mr. Heslinga, Mr. McHugh, Mr. Bates, Mr. Damico

² Yes: Ms. Innocenti, Mr. Morris, Mr. Heslinga, Mr. McHugh, Mr. Bates, Mr. Damico

The fourth stakeholder to speak was Tom Evans of Southwood Building Systems, sharing that he is a member of VCPA. He thanked the Workgroup for their hard work and that the recommendations are the best he has seen in 15 years of working on procurement issues and hopes they will move forward.

The fifth stakeholder to speak was Mark Meland, President of Century Construction. He shared that he fully supports the recommendations made by DGS.

The sixth stakeholder to speak was Todd Morgan, President and owner of MB Contractors in Roanoke, VA. He thanked the Workgroup for their hard work on SB 954 and as a member of VCPA and AGC, he hopes the Workgroup will support the recommendations as written.

The seventh stakeholder to speak was Morris Cephas, President of Cephas NeXt in Richmond, stated that he supports the recommendations and appreciates all of the hard work.

The eighth stakeholder to speak was Scott Shufflebarger, representing Virginia Association of Roofing Professionals. He commended the Workgroup on their hard work and efforts highlighting recommendation three and appreciates the efforts to have subcontractor work bid out as part of construction management.

The ninth stakeholder to speak was Tony Biller, President and CEO of Nielsen Builders. He stated that he fully supports DGS recommendations and has a few small tweaks/clarifications for consideration. He highlighted the reinstatement of design-bid-build as the default method of procurement for construction. He stated that he is happy to see a review process in place and likes that local public bodies would have a public hearing, and more opportunities for subcontractors.

Public comments in opposition.

The first stakeholder to speak in opposition was Colette Sheehy, Senior Vice President for Operations and State Government Relations at the University of Virginia (UVA). She stated that in 2005 Governor Warner and the General Assembly partnered with three institutions of higher education (Virginia Tech, William and Mary, and UVA) to change the relationship between those institutions and the Commonwealth. She stated she is probably one of the few people still around that was involved in that legislation and development of the restructured higher education financial and administrative operations act and the management agreements that followed in the next year for these three institutions. She stated the act and the management agreements set the context for higher education's position on this particular bill. She further explained that more than 18 years ago, Governor Warner as a private business executive saw the value and efficiency and cost effectiveness of delegating to institutions with the appropriate expertise the responsibility of transacting business at the local level without additional layers of approval by central agencies. She said she likes to think that Governor Youngkin, a private business executive, is focused on the same objectives of efficiency and cost

effectiveness and would support the continued ability of institutions to make decisions about key operational issues on their campuses. Ms. Sheehy stated that for those not familiar with the restructuring act, it is a very complex piece of legislation that requires accountability on the part of institutions in exchange for autonomy over certain business operations. She stated that everyone appreciates and recognizes the expertise that sits with DEB staff but no one knows a college campus better than those who work there every day. Concluding her remarks stating that institutions remain accountable to the Commonwealth and their board of visitors.

The second stakeholder to speak was Alex Iszard, the Assistant Vice President of Planning, Design and Construction at George Mason University (GMU). He shared that GMU has added over four million square feet during his fifteen year tenure and has utilized both CM and DB effectively to do so. The restructure act has three levels of autonomy and GMU was a level two at the onset of this. He shared that in 2016 GMU moved to level 2.5, a pilot program, and achieved level three in 2021. He explained in July 2017 the new legislation moved CM and DB to its own section of the code and required covered institutions to review all CM/DB procurements. Since this, GMU has requested review of three projects, 2 CM and 1 DB, and prior to any submission they assess projects and ensure the procurement method truly suits the project and in all cases DGS has agreed with GMU's chosen method. He explained the GMU team and their lengthy experience, sharing that dozens of projects have been procured via DBB. Mr. Iszard explained that in an environment of ongoing escalation having a contractor onboard from the onset of the project allows for the use of early release packages to manage schedules and budgets, that GMU has been able to use real time cost and schedule data to determine the most effective structural systems during design, hold the CM accountable for their original fee, despite ongoing escalation, and hold them accountable for preconstruction services. He believes the current language provides appropriate safeguards to ensure competition and while still allowing state agencies to make appropriate decisions related to procurement.

The third stakeholder to speak was Bob Broyden with Virginia Tech (VT), sharing that he has been at VT for three decades overseeing capital financing and planning, design, construction and real estate management. He explained that it is critical that universities be able to maintain the authority to select capital delivery and procurement methods. He stated that for approximately the last two decades, the university has developed highly effective business practices to implement entire capital outlay programs, hundreds of millions of dollars over many projects, and have become experts at doing this at the local level since restructuring. He explained that this includes multiple reviews and approvals by their board of visitors and the reviews and approvals are essential to ensure we deliver the projects on schedule and on budget. Mr. Broyden said a key activity is selecting the project delivery and procurement strategy and they do this very early in the process when the six-year capital outlay plan is identified. Starting in the budget requests submitted to the board or state they identify and disclose the intended project delivery method with a justification. He explained that since VT has been doing this in 2018 under current code, VT has initiated 23 projects, 12 have been DBB, 10 CM, and 1 DB. He concluded his

remarks by asking the Workgroup to consider higher education to continue their authority to maintain for project delivery and procurement methods.

The fourth stakeholder to speak was Dan Pisaniello, the University Architect and Director of Facilities, Planning Design and Construction at William and Mary (WM). He explained that projects procured through CM are required to have a minimum of 90% of the work competitively bid, stating that procurement is only one part of the equation. He said CM is a comprehensive project delivery method, not just an alternative delivery method that includes the owner, design professionals, and contractors. During the design phase the CM becomes a fully integrated part of the team allowing significant value added. He explained that under part one of the contract the CM provides cost estimating, reviews documents for constructability, schedule and sequences activities, research and market analysis for material selection, and a comprehensive evaluation strategy. He concluded with, in the absence of a CM, agencies will still need these services and could incur an administrative burden as those consultants may not be a fully integrated part of the design team.

The fifth stakeholder to comment was Craig Short, Associate Vice President of Business Services at James Madison University (JMU). Mr. Short pointed to the higher education handouts provided that explain the delivery method on compliance, competition, and executive order 35. He stated on the second page of the handout there is an illustration that shows logically how the CM method can help bring a project in on time or earlier. Time is money and the CM method is hugely important to complete projects on time. He explained that JMU had a athletics facility project valued at \$15 million that finished 130 days late due to complex HVAC components and if the project had been a CM instead of DBB he is 100% sure the project would have been completed on time. Since 2002, JMU has had 41 projects, 19 have been alternative delivery methods and they received nine offerors on average, with 22 DBB projects receiving only four bids on average. He pointed out that CM has more competition. He explained with CM, 90% of the work is done by subcontractors and there are outreach on the projects, not just to the general market but also SWaM vendors, sharing that they seek vendors who are eligible to be SWaM certified, too. He concluded his remarks sharing that of seven solicitations via alternative methods, five of those were awarded to small businesses.

Mr. McHugh asked Mr. Short for more detail on the outreach events and how effective they are for receiving more interest and more responses to the competitive subcontract packages issued. Mr. Short stated that CM allows agencies to negotiate the terms of outreach, the events the CM has to do, and more. In DBB, bids come back, and you get what you get, there are no provisions for things like this. He stated that in his experience it is an open book process explaining that the CM gets proposals from subcontractors and everyone evaluates and ensures the best value for project. One component is price but there are other components looked at when evaluating the subcontractors. He added that the outreach events are widely attended and advertised, and that social media is used, along with other platforms. He said there is no harm in using eVA to post notices and that would help get the word out and that the CM process allows for a much wider net to be cast for subcontractors than DBB allows.

Mr. Damico asked Mr. Short if he can describe how the small business opportunities are pursued under design-bid-build? Mr. Short replied, when a DBB is advertised it is advertised on the open market and small businesses can bid on the project. Mr. Damico followed up asking if when awarding to a prime contractor is there any outreach done by the prime contractor? Mr. Short stated that there are goals for the prime contractor to meet but no outreach occurs like it does with CM, explaining that in DBB that outreach has already taken place prior to the bid submission.

Mr. McHugh commented that that the intent of the Code of Virginia is that competition is sought to the maximum degree and with the alternative delivery methods there have been almost more than double the responses than with DBB.

The sixth stakeholder to speak was Glenn Thompson of W.M. Jordan Company, a general contractor and construction manager based in Virginia. He echoed the comments by JMU about the process from a construction manager perspective. Mr. Thompson said that they cast a wide net on every project and want as much competition as possible explaining that a considerable amount of time is spent as the bids come in and reviewing the bids with the client, and work to maximize the scope of the competition on each project. He supports the recommendation regarding using eVA to advertise subcontracting opportunities and opposes SB 954.

Mr. Damico asked Mr. Thompson if he bids on any work and if so, when he wins the job does his company do any small business outreach after award or is that done prior to bidding? Mr. Thompson replied that yes that he bids on work, explaining that the small business outreach occurs prior to submitting the bid with CM and with DBB he tries but cannot always maximize small business utilization.

The seventh stakeholder to speak was Michelle Gowdy, Executive Director with the Virginia Municipal League (VML). Ms. Gowdy spoke regarding local government, stating that they oppose recommendation one and three because adding another public hearing requirement is an additional administrative cost for localities and instead suggested a public notice that allows for input. She shared that there is currently a public notice work group that is looking into best practices for localities handling of public notices. She stated that VML opposes state mandates such as the requirement to use eVA.

Mr. Damico asked Ms. Gowdy if the process for local public bodies seeking funding for a capital project is done in public? She replied yes, explaining that they do a five-year capital plan through their governing boards and once a project is funded it will go out to bid with all appropriate public notices. Mr. Damico asked if there is an opportunity during the project development for the procurement method to be identified and allow for public comment to avoid having to hold a special hearing? Ms. Gowdy stated that there are opportunities and explained that both the planning commission and approving body both vote in public and the board or council makes a vote on the final procurement method at public meetings.

Mr. Saunders asked if it would be more in line with the local public body process to recommend that the procurement method be advertised and available for public comment during a regularly scheduled board meeting or public meeting? Ms. Gowdy stated that they can post the type of procurement on their website with the agenda so interested parties are aware of the procurement method being voted on at the meeting.

Mr. McHugh asked if local public bodies are required to use eVA? Ms. Gowdy replied that they are not required but many choose to use eVA and/or their website. She said that VAGP would prefer to have the option to continue to use eVA and use their own locality driven website. Mr. McHugh clarified that the concern from local public bodies is the mandate to use eVA, not the public notice itself? Ms. Gowdy stated that is correct.

The eighth stakeholder to speak was Brandon Robinson with the Association General Contractors (AGC). Mr. Robinson stated that he submitted additional ideas for the Workgroup to consider which is included in the meeting materials. He explained that the considerations AGC has put forward follow what he presented about two meetings ago which focused on transparency, the definition of complexity, and not using past CM experience during the scoring process. Mr. Robinson stated that he understands there is concern about amending the definition of complexity. He said that AGC supports posting in eVA or on local public bodies websites and has no issue with posting subcontracting opportunities on eVA to increase transparency.

There were no public comments for support or oppose in part, or neutral.

VI. Findings and Recommendations on SB 954

Before moving into formal recommendations and voting, the Workgroup had an opportunity to discuss SB 954 and the testimony heard.

Mr. McHugh stated that VASCUPP submitted recommendations to the Workgroup that are a result of information heard today and over the summer. He explained that today the Workgroup heard the intent of the restructuring act and managements agreements, why they are relevant to the choice of project delivery methods for institutions, and how institutions have been delegated the authority to make fully informed decisions for themselves. Mr. McHugh stated that we learned how institutions administer their processes, have fair and equal access to funds, and shared how institutions engage their governing boards and how the governing boards hold institutions accountable for timely delivery of projects within budget. He added that the Workgroup learned about the benefits to small and diverse contractor communities also.

Mr. McHugh paraphrased from the VASCUPP handout included in the meeting materials stating; they heard the concerns about qualifications and recommend prohibiting listing previous CM experience as a prerequisite to the scoring process, transparency of the decisions for the project delivery method and recommend that all DEB related documents related to the advisory process be publicly posted on eVA, and recommend addressing

decisions made regarding the project delivery method for general funded projects to align with the DGS recommendation for local public bodies by modifying 43.1 to add the institutions governing board approval is required.

Mr. Damico asked Mr. McHugh about recommendation two that requires all DEB related documents related to the advisory process to be publicly posted on eVA. Mr. Damico explained that currently DEB has a form that institutions are required to complete that supports the institutions decision on the delivery method chosen which is then submitted to DEB for review. He explained that the document and justification is posted on the DGS website as a complete package. Mr. Damico asked Mr. McHugh for an understanding of what other documents he is looking at having posted? Mr. McHugh suggested that the documents that DEB posts should also be posted in eVA. Ms. Gill asked Mr. McHugh if he is proposing that institutions post these documents as an attachment when the institution posts a solicitation? Mr. McHugh replied that he wants to add more transparency to the process, the details and the decision behind the choice of alternative methods. Ms. Gill followed up asking if Mr. McHugh sees this posting of documents occurring when institutions solicit for preconstruction services? Mr. McHugh replied, yes.

Mr. Saunders inquired about recommendation three, asking Mr. McHugh if this recommendation would allow institutions in the case of general funded projects to have the institutions governing board overrule the recommendation by DEB on the project delivery method? Mr. McHugh stated that it would be any appropriated projects. Mr. Saunders asked if there is a sense of how many capital projects are general funded verses non-general funded? Mr. McHugh stated that the majority of funding is non-general fund.

Ms. Innocenti offered a recommendation for consideration from VAGP explaining that the eVA participation by local public bodies is inclusive of cities, counties, towns, and K-12 throughout the Commonwealth. She explained that they do use eVA for public notice because it is an effective tool. She stated that she supports the recommendation from VML which allows the option to post CM/DB opportunities on eVA or on the local public bodies local website. She indicated that she opposes the concept of having a required public hearing.

Next, Mr. Damico offered recommendations for the Workgroup to consider. Before proposing the recommendations, he explained that 43.1 of the Code was introduced by the General Assembly to make an attempt to bring state public bodies, institutions of higher education, and local public bodies into conformance with processes related to how CM/DB is procured. He explained that it is his understanding that 43.1 was purposely created because of the autonomy that institutions of higher education have and where the CM/DB language resided, in the VPPA, institutions of higher education were excluded because their autonomy and MOU/MOA's excluded them. He stated that his understanding of the intent of 43.1 is to have a set of criteria and processes that the industry can expect from public bodies when procuring these delivery methods, providing some common standards that the contractor community can rely on. Mr. Damico touched on the 2016 JLARC report and stated that DEB probably has the most experienced

number of professionals that are involved in the review of design documents that includes the building code official standpoint and their expertise on inspections. JLARC indicated that DBB is the default method, which they testified to at the last Workgroup meeting, and said that alternative methods may be beneficial for more complex and time sensitive projects, including that a dollar threshold is not the most effective criteria to use when determining a delivery method. He shared that today the Workgroup heard from JMU that a \$15 million project done as DBB may not have encountered significant delays had CM been used.

Mr. Damico stated that the complex definition was approved in 2017 by the General Assembly and has not heard any concerns by the industry or public bodies that changes to the definition are needed. Through testimony he has heard that there may be a desire to make changes to the complex definition and if this is the case, the stakeholders can address this but DGS will not recommend amending the definition.

Mr. Damico summarized the data provided to the Workgroup from the VCPA, citing that the data shows a trend towards DBB being used more. The AGC data provided shows that DBB is used 74% of the time over the other procurement methods being used 26% of the time. He said that DBB is being used the majority of the time and he concludes from the data sets that there is consideration being given by the public bodies as to the method being selected. The small business community told the Workgroup that CM is more helpful to them and provides more business opportunities.

Mr. Damico spoke to transparency, sharing that the data the General Assembly requires DEB to report is to provide them the opportunity to see what is going on as it relates to public bodies decisions on procurement methods. This data shows that when DEB has reviewed a decision by state agencies on an alternative method of delivery, DEB has agreed with the chosen method 100% of the time. The data shows that when DEB has reviewed a decision by institutions of higher education, there have been eight instances where DEB did not agree with the chosen delivery method but the institution proceeded anyway, which is within their authority to do. He shared that DEB is current required to review the proposed method of delivery and make a decision if DEB agrees, or not, within five days. Mr. Damico stated that this information sets the stage and background as to what has been considered by DGS in offering the following three recommendations.

Mr. Damico offered three recommendations for the Workgroups consideration: the first recommendation is the General Assembly consider stating in 43.1 that DBB is the default method of procurement unless an alternative method (CM/DB) is approved by DGS/DEB for institutions of higher education and state public bodies, or in the case of local public bodies, the local governing board must approve the use of CM/DB in a public forum allowing for public comment on the use of CM/DB. The second recommendation is the General Assembly consider amending DGS authority in 43/1 from evaluating the proposed use of CM/DB by state public bodies and institutions of higher education to DGS/DEB making a final decision as to the use of CM/DB on each project. The third recommendation is that the General Assembly consider requiring public bodies to

advertise available subcontracting opportunities on the DGS central electronic procurement website, known as eVA, for CM/DB projects.

Mr. McHugh thanked Mr. Damico for going through the recommendations and asked if the intent of the recommendations today would result in potentially removing the threshold from the existing 43.1? Mr. Damico replied that he believes the responsibilities of the Workgroup are to make recommendations for the General Assembly to consider as they are the policy makers for the Commonwealth and if the decision by the General Assembly is that DBB is the default method and CM/DB requires DGS/DEB approval, then yes, DGS would work with the SOA to remove the dollar threshold as it relates to the selection of delivery method.

Mr. McHugh pointed to the first recommendation from Mr. Damico that states that DBB is the default method unless an alternative method is approved by DGS, explaining that in the Attorney General's testimony the Workgroup heard that this language is already in the Code, asking if it is necessary to make the same statement in another section of the Code. He continued his remarks sharing that the recommendation for local public bodies to go to their local governing board essentially aligns with the VACUPP recommendation and asked for consideration of modifying the recommendation. He explained that institutions of higher education governing boards consider more complicated things other than construction method and how it fits into the master plan, such as negotiations and discussions with multiple jurisdictions, funding and financing of buildings, and all of these are non-construction considerations that the board is aware of and made aware of during various meetings. He stated that he does not dispute that DEB is the right resource to rely on for advising the proper method but their review is isolated to construction and does not take the other important factors into consideration. He concluded his remarks on the DGS recommendations stating that in terms of the eVA posting requirement, he is not opposed to this and supports competition to the maximum degree, adding that today the Workgroup heard testimony on how outreach events are conducted.

Mr. Damico thanked Mr. McHugh for his comments, stating that he doesn't see the Workgroup as the policy making group but instead a group that informs the General Assembly that we have discussed the topic and provide considerations for their review as they address the issue going forward in the General Assembly. He stated that he will propose the DGS recommendations as written and acknowledged that there could be multiple recommendations for the General Assembly to consider as they determine the proper use of these alternative methods.

Next the Workgroup made formal recommendations and voted on which will move forward.

Recommendation 1: [Consider] Prohibit state agencies and covered institutions from listing previous CM experience as a prerequisite or using such experience in the scoring process for prequal or award of a contract. Local governments are purposely left out. Mr.

McHugh made a motion move this recommendation forward. The motion was seconded by Mr. Bates and carried by a vote of 6-1³.

Recommendation 2: [Consider] all documents exchanged between agencies and covered institutions with the Division of Engineering and Buildings related to the advisory process of the selection of alternative methods (CM/DB) as a projects delivery method shall be also posted publicly to eVA. Mr. McHugh made a motion to move this recommendation forward. The motion was seconded by Ms. Innocenti. Prior to voting, Mr. Heslinga requested clarification on the wording, suggesting the removal of the word “advisory”. McHugh suggested changing advisory to current in the recommendation so it would read “consider all documents exchanged between agencies and covered institutions with the Division of Engineering and Buildings related to the current process of the selection of alternative methods (CM/DB) as a projects delivery method shall also be posted publicly to eVA. Mr. McHugh made a motion to move the recommendation forward as amended. The motion was seconded by Mr. Heslinga and carried by a vote of 6-1⁴.

Mr. Damico, having voted on the prevailing side of recommendation 1, would like to propose adding “consider” in front of that recommendation. Mr. McHugh made a motion to accept the addition. The motion was seconded by Mr. Heslinga and carried by a vote of 6-1⁵.

Recommendation 3: “Consider modifying 2.2-4381(F) as bolded: “If a covered institution elects to proceed with the project using a construction management or design-build procurement method despite the recommendation of the Department to the contrary, **for general fund funded projects, covered institutions shall request a review by its governing board and may proceed with construction management or design-build procurement method only upon receiving approval by tis governing board to not accept the recommendation of the Department. The covered institution should include the written statement of a covered institution’s Governing Board’s approval to not follow the recommendation of the Department in the procurement file. For all other projects,** if a covered institution elects to proceed with the project using a construction management or design-build procurement method despite the recommendation of the Department to the contrary, such covered institution shall state in writing its reasons therefor and any justification for not following the recommendation of the Department and submit same to the Department. The written statement of a covered institution’s decision to not follow the recommendation of the Department shall be maintained in the procurement file.” Mr. McHugh made a motion to move the recommendation forward. The motion was seconded by Ms. Innocenti and carried by a vote of 4-2-1⁶.

³ Yes; Innocenti, Morris, Heslinga, McHugh, Bates, Damico. Abstain: Saunders

⁴ Yes; Innocenti, Morris, Heslinga, McHugh, Bates, Damico. Abstain: Saunders

⁵ Yes; Innocenti, Morris, Heslinga, McHugh, Bates, Damico. Abstain: Saunders

⁶ Yes; Innocenti, Morris, McHugh, Bates. No: Damico, Saunders. Abstain: Heslinga,

Recommendation 4: Workgroup recommend that local public bodies be required to post notice on eVA or their local website at least 14 days prior to the governing body making a decision to use either CM or DB on a particular project but that no public hearing be required. Ms. Innocenti made a motion to move the recommendation forward. The motion was seconded by Mr. McHugh, The motion did not carry by a vote of 2-4-1⁷.

Recommendation 5: The General Assembly consider stating in 43.1 that design-bid-build is the default method of procurement unless an alternative method (CM/DB) is approved by DGS' Division of Engineering and Buildings (DEB) for institutions of higher education and state public bodies, or in the case of local public bodies, the local governing board must approve the use of CM/DB in a public forum allowing for public comments on the proposed use of CM/DB. Mr. Morris made a motion to move the recommendation forward. The motion was seconded by Ms. Innocenti and carried by a vote of 6-1⁸.

Recommendation 6: The General Assembly consider amending DGS' authority in 43.1 from evaluating the proposed use of CM/DB by state public bodies and institutions of higher education to DGS' DEB making a final decision as to the use of CM/DB on each project. Mr. Saunders made a motion to move the recommendation forward. The motion was seconded by Mr. Morris and carried by a vote of 5-2⁹.

Recommendation 7: The General Assembly consider requiring public bodies to advertise available subcontracting opportunities on the DGS central electronic procurement website, known as eVA, for CM/DB projects. Mr. Morris made a motion to move the recommendation forward. The motion was seconded by Mr. Heslinga and carried by a vote of 4-1-1¹⁰.

The Workgroup tabled a previously provided consideration to modify any SOA procedures rather than making legislative changes and provide a statement in the report that the SOA procedures would be modified as necessary in response to legislative changes made during the General Assembly session.

Mr. Morris, having voted on the prevailing side of recommendation 3, made a motion to reconsideration of the vote. Mr. Heslinga seconded the motion and carried by a vote of 4-3¹¹. Recommendation 3 was before the Workgroup again for voting. Mr. Morris made a motion to move recommendation 3 forward. The motion was seconded by Mr. Damico and failed to carry by a vote of 4-3¹².

Ms. Innocenti made a motion to move forward a recommendation that the General Assembly consider requiring public bodies advertise available subcontracting

⁷ Yes: Innocenti, McHugh. No: Morris, Heslinga, Bates, Damico. Abstain: Saunders

⁸ Yes: Innocenti, Morris, Heslinga, Bates, Damico, Saunders. No: McHugh

⁹ Yes: Morris, Heslinga, Bates, Damico, Saunders. No: Innocenti, McHugh

¹⁰ Yes: Morris, Heslinga, Bates, Damico, Saunders. No: Innocenti. Abstain: McHugh

¹¹ Yes: Morris, Heslinga, Damico, Saunders. No: Innocenti, McHugh, Bates

¹² Yes: Innocenti, McHugh, Bates. No: Morris, Heslinga, Damico, Saunders

opportunities on the DGS' central electronic procurement website, known as eVA, or the local government website for CM/DB projects. The motion was seconded by Mr. McHugh and failed by a vote of 4-2-1¹³

Mr. McHugh asked if there will be another opportunity to provide a recommendation for consideration. Mr. Damico stated that the recommendations voted on today will allow staff to put them into writing for the next meeting the Workgroup will have a final vote on the recommendations to include in the report and if at this time a member would like to propose another recommendation for the Workgroup to vote on, they can.

VII. Public Comment

None.

VIII. Discussion

None.

IX. Adjournment

Mr. Damico adjourned the meeting at 3:13 p.m. and noted that the next Workgroup meeting is scheduled for September 14, 2023 at 1:00 p.m. in the James Monroe Building, conference room C.

For more information, see the [Workgroup's website](#) or contact that Workgroup's staff at pwg@dgs.virginia.gov.

¹³ Yes: Innocenti, McHugh. No: Morris, Heslinga, Bates, Damico. Abstain: Saunders

Appendix F: September 14, 2023 Meeting Materials

This appendix contains the meeting materials from the September 14, 2023 Workgroup meeting.

1. Agenda
2. Meeting Materials
 - a. Draft Recommendations on SB 954
3. Draft Meeting Minutes

Public Body Procurement Workgroup

<https://dgs.virginia.gov/dgs/directors-office/pwg/>

Meeting # 8

Thursday, September 14, 2023, 1:00 p.m.

Conference Room C

James Monroe Building

101 North 14th Street, Richmond, Virginia 23219

AGENDA

- I. **Call to Order; Remarks by Chair**
- II. **Approval of Meeting Minutes from the August 22, 2023 Workgroup Meeting**
- III. **Public Comment on Draft Recommendations for SB 954**
- IV. **Finalize Recommendations on SB 954**
- V. **Public Comment**
- VI. **Discussion**
- VII. **Adjournment**

Members

Department of General Services
Virginia Information Technologies Agency
Department of Planning and Budget
Virginia Association of State Colleges and
University Purchasing Professionals

Department of Small Business and Supplier Diversity
Virginia Department of Transportation
Virginia Association of Governmental Procurement

Representatives

Office of the Attorney General
Senate Finance Committee

House Appropriations Committee
Division of Legislative Services

Staff

Sandra Gill, Deputy Director, DGS
Jessica Hendrickson, Director of Policy and Legislative Affairs, DGS

Public Body Procurement Workgroup

Draft Recommendations SB 954

Recommendation 1:

The General Assembly consider prohibiting state agencies and covered institutions from listing previous construction management (CM) experience as a prerequisite or using such experience in the scoring process for prequalified or award of a contract.

Recommendation 2:

The General Assembly consider requiring all documents exchanged between agencies and covered institutions with the DGS Department of Engineering and Buildings (DEB) related to the current process of the selection of alternative methods, construction management or design-build (CM/DB), as a project's delivery method shall also be posted publicly to DGS' central electronic procurement system, known as eVA.

Recommendation 3:

The General Assembly consider stating in Chapter 43.1 of Title 2.2 of the Code that design-bid-build is the default method of procurement unless an alternative method (CM/DB) is approved by DGS' Division of Engineering and Buildings (DEB) for institutions of higher education and state public bodies, or in the case of local public bodies, the local governing board must approve the use of CM/DB in a public forum allowing for public comment on the proposed use of CM/DB.

Recommendation 4:

The General Assembly consider amending DGS' authority in Chapter 43.1 of Title 2.2 of the Code from evaluating the proposed use of CM/DB by state public bodies and institutions of higher education to DGS' DEB making a final decision as to the use of CM/DB on each project.

Recommendation 5:

The General Assembly consider requiring public bodies to advertise available subcontracting opportunities on the DGS central electronic procurement website, known as eVA, for CM/DB projects.

DRAFT Meeting Minutes

Public Body Procurement Workgroup

Meeting # 8

Thursday, September 14, 2023, 1:00 p.m.
Conference Room C
James Monroe Building
101 North 14th Street, Richmond, Virginia 23219

<https://dgs.virginia.gov/dgs/directors-office/pwg/>

The Public Body Procurement Workgroup (the Workgroup) met in-person in Conference Room C in the James Monroe Building in Richmond, Virginia, with Joe Damico, Director of the Department of General Services (DGS), presiding. The meeting began with remarks from Mr. Damico, followed by public comment, and the Workgroup finalizing recommendations on SB 954. Materials presented at the meeting are available through the [Workgroup's website](#).

Workgroup members and representatives present at the meeting included Joe Damico (Department of General Services), Lisa Pride (Virginia Department of Transportation), Joshua Heslinga (Virginia Information Technologies Agency), Patricia Innocenti (Virginia Association of Governmental Procurement), Mary Helmick (Virginia Association of State Colleges and University Purchasing Professionals), Leslie Haley (Office of the Attorney General), Jason Saunders (Department of Planning and Budget), Willis Morris (Department of Small Business and Supplier Diversity), Mike Tweedy (Senate Finance and Appropriations Committee) and Joanne Frye (the Division of Legislative Services). Andrea Peeks (House Appropriations Committee) was absent.

I. Call to Order; Remarks by Chair

Joe Damico, Director
Department of General Services

Mr. Damico called the meeting to order and thanked the members of the Workgroup for their efforts over the last six months studying the five bills assigned to the Workgroup. He stated that this is the eighth meeting this year and acknowledged the members commitment. Mr. Damico concluded opening remarks by reminding members and attendees of the website dedicated to the Public Body Procurement Workgroup and all meeting materials and reports can be found there.

II. Approval of Meeting Minutes from the August 22, 2023 Workgroup Meeting

Mr. Damico began by asking staff to read proposed amendments to the August 22, 2023 meeting minutes. On page 11, the third paragraph down, the sentence that reads as follows in the draft minutes:

“He stated that he will propose the DGS recommendations as written and if there is the desire to move forward different versions, the Workgroup has the discretion to do so. recommendations that DGS will move forward are being moved forward as written as there could be multiple recommendations for the GA to consider as they determine the proper use of these alternative methods.”

Is amended to read as follows:

“He stated that he will propose the DGS recommendations as written and acknowledged that there could be multiple recommendations for the General Assembly to consider as they determine the proper use of these alternative methods.”

Ms. Helmick requested amendments to page five of the draft minutes as follows: the end of the first paragraph states “bord of supervisors” which should be “board of visitors” and the last paragraph refers to “Bob Gordon” which should be “Bob Broyden”.

Ms. Innocenti requested amendments as follows: (i) on page five in the last paragraph “stating” should be “starting”, (ii) on page six, the first paragraph states “constructures” which should be “contractors” and states “equitation” which should be “equation”.

Mr. Heslinga made a motion to approve the minutes from the August 22, 2023 meeting as amended. The motion was seconded by Mr. Morris and unanimously approved by the Workgroup.

III. Public Comment on Draft Recommendations for SB 954

Mr. Damico invited the public to provide comment on the draft recommendations for SB 954 and reminded everyone that there is a three-minute limit for each person speaking.

The only stakeholder to comment was Jack Dyer, owner of Gulf Seaboard General Contractors and President of the Virginia Contractor Procurement Alliance (VCPA) spoke on behalf of the VCPA sharing that they are in full support of the recommendations. He thanked the Workgroup for their time and efforts and shared that he looks forward to working with stakeholders.

IV. Finalize Recommendations on SB 954

Mr. Damico began by explaining that the last meeting the Workgroup shared and voted on recommendations for staff to draft. He asked staff to read those recommendations that are now before the Workgroup and that the recommendations that pass today will be

included in the final report. Staff read the following recommendations and each recommendation was voted on after reading:

Recommendation 1:

The General Assembly consider prohibiting state agencies and covered institutions from listing previous construction management (CM) experience as a prerequisite or using such experience in the scoring process for prequalified or award of a contract.

Upon reading the recommendation, Mr. Damico suggested that prequalified be changed to prequalification and asked staff to re-read the recommendation.

Amended Recommendation 1:

The General Assembly consider prohibiting state agencies and covered institutions from listing previous construction management (CM) experience as a prerequisite or using such experience in the scoring process for prequalification or award of a contract.

Mr. Heslinga made a motion to approve recommendation one as amended. The motion was seconded by Ms. Pride and carried by a vote of 7-0¹.

Recommendation 2:

The General Assembly consider requiring all documents exchanged between agencies and covered institutions with the Department of General Services' Division of Engineering and Buildings (DEB) related to the current process of the selection of alternative methods, construction management or design-build (CM/DB), as a projects delivery method shall also be posted publicly to DGS' central electronic procurement system, known as eVA.

Mr. Morris made a motion to approve recommendation two. The motion was seconded by Mr. Heslinga and carried by a vote of 6-0-1².

Recommendation 3:

The General Assembly consider stating in Chapter 43.1 of Title 2.2 of the Code that design-bid-build is the default method of procurement unless an alternative method, construction management or design-build (CM/DB) is approved by the Department of General Services' Division of Engineering and Buildings (DEB) for institutions of higher education and state public bodies, or in the case of local public bodies, the local governing board must approve the use of CM/DB in a public forum allowing for public comment on the proposed use of CM/DB.

Mr. Saunders made a motion to approve recommendation three. The motion was seconded by Mr. Morris and carried by a vote of 6-1³.

¹ Yes; Saunders, Helmick, Heslinga, Morris, Pride, Damico, Innocenti

² Yes; Helmick, Heslinga, Morris, Pride, Damico, Innocenti. Abstain: Saunders

³ Yes; Saunders, Heslinga, Morris, Pride, Damico, Innocenti. No; Helmick

Recommendation 4:

The General Assembly consider amending the Department of General Services' authority in Chapter 43.1 of Title 2.2 of the Code from evaluating the proposed use of construction management or design-build (CM/DB) by state public bodies and institutions of higher education to the Department of General Services Division of Engineering and Buildings (DEB) making a final decision as to the use of CM/DB on each project.

Mr. Morris made a motion to approve recommendation four. The motion was seconded by Ms. Pride and carried by a vote of 5-2⁴

Recommendation 5:

The General Assembly consider requiring public bodies to advertise available subcontracting opportunities on the Department of General Services central electronic procurement website, known as eVA, for construction management and design-build (CM/DB) projects.

Mr. Morris made a motion to approve recommendation five. The motion was seconded by Mr. Heslinga and carried by a vote of 5-1-1⁵

V. Public Comment

None.

VI. Discussion

None.

VII. Adjournment

Mr. Damico adjourned the meeting at 1:23 p.m.

For more information, see the [Workgroup's website](#) or contact that Workgroup's staff at pwg@dgs.virginia.gov.

⁴ Yes; Saunders, Heslinga, Morris, Pride, Damico. No; Helmick, Innocenti

⁵ Yes; Helmick, Heslinga, Morris, Pride, Damico. No; Innocenti. Abstain: Saunders

Appendix G: 2016 Development and Management of State Contracts Report (JLARC)

This appendix contains a copy of the 2016 Development and Management of State Contracts Report issued by the Joint Legislative Audit and Review Commission

Report to the Governor and the General Assembly of Virginia

Development and Management of State Contracts in Virginia

2016



Joint Legislative Audit and Review Commission

Chair

Delegate Robert D. Orrock, Sr.

Vice-Chair

Senator Thomas K. Norment, Jr.

Delegate David B. Albo

Delegate M. Kirkland Cox

Senator Emmett W. Hanger, Jr.

Senator Janet D. Howell

Delegate S. Chris Jones

Delegate R. Steven Landes

Delegate James P. Massie III

Senator Ryan T. McDougle

Delegate John M. O'Bannon III

Delegate Kenneth R. Plum

Senator Frank M. Ruff, Jr.

Delegate Lionell Spruill, Sr.

Martha S. Mavredes, Auditor of Public Accounts

Director

Hal E. Greer

JLARC staff for this report

Nathalie Molliet-Ribet, Senior Associate Director

Tracey Smith, Project Leader

Lauren Axselle

Nicole Gaffen

Michael Mehen

Mark Gribbin

Joe McMahon

Information graphics: Nathan Skreslet



COMMONWEALTH of VIRGINIA

Joint Legislative Audit and Review Commission
201 North 9th Street, General Assembly Building, Suite 1100
Richmond, Virginia 23219

Hal E. Greer
Director

(804) 786-1258

July 15, 2016

The Honorable Robert D. Orrock Sr., Chair
Joint Legislative Audit and Review Commission
General Assembly Building
Richmond, Virginia 23219

Dear Delegate Orrock:

In 2014, the Joint Legislative Audit and Review Commission (JLARC) passed a resolution directing the staff to review state contracting in Virginia. Our report, *Development and Management of State Contracts in Virginia*, was briefed to the Commission and authorized for printing on June 13, 2016.

On behalf of the JLARC study team, I would like to thank the Department of General Services, the Virginia Information Technologies Agency, the Office of the Attorney General, the Auditor of Public Accounts, the Virginia Department of Transportation, the Department of Small Business and Supplier Diversity, Virginia Correctional Enterprises, Virginia Industries for the Blind, and the many other agencies that provided contracting information to the study team for their cooperation and assistance with this study.

Sincerely,

A handwritten signature in cursive script that reads "Hal E. Greer".

Hal E. Greer
Director

Contents

Summary	i
Recommendations	v
Chapters	
1. State Contracting in Virginia	1
2. Performance of State Contracts	15
3. Maximizing Contract Value	21
4. Protecting the State from Contract-Related Risk	39
5. Monitoring and Enforcing Contracts	53
6. Vendors' Experiences with State Contracting	69
7. Oversight and Administration of State Agency Contracting	77
Appendixes	
A: Study mandate	87
B: Research activities and methods	89
C: Characteristics of contracts analyzed for this study	99
D: "Fair and reasonable" formula	105
E: Construction project delivery methods	108
F: VDOT contracting	112
G: Agency responses	118

Summary

Development and Management of State Contracts in Virginia

WHAT WE FOUND

Some contracts deviated from original expectations

Approximately 10 percent of contracts analyzed for this study—12 contracts valued at \$1.8 billion—fell significantly short of meeting agencies’ original expectations. Some less significant deviation from original expectations is to be expected, especially with complex contracts. Almost two-thirds of the contracts were at least slightly behind schedule, over budget, or did not meet agencies’ needs. These contracts were procured under different state statutes and therefore under the authority of different oversight agencies. In some cases, the public was negatively impacted. Most performance problems appear to be within the control of agencies or vendors and may therefore be preventable through more robust contracting processes.

Some policies can limit agencies’ ability to make quality purchases at reasonable cost

Certain procurement policies do not help agencies maximize contract value because they do not factor in both cost and quality, or do not provide sufficient guidance on how to use the policies effectively. As a result, state agencies may overpay or receive poor quality goods and services from some contracts. In some cases, agencies have awarded contracts even when they knew the vendor would be unable to provide high-quality goods or services.

Purchases made through the small business set-aside program had a modest fiscal impact on the state. Agencies may spend more than necessary on the program because state policies do not provide sufficient guidance on how agencies should evaluate cost when making contract awards. Agencies may also be overpaying for purchases from mandatory sources, which, according to staff of multiple agencies, are not always of acceptable quality or competitively priced.

Some agencies limit competition for some state contracts, potentially increasing the cost or reducing the quality of what they purchase; without competition, businesses have less incentive to maximize quality and minimize price.

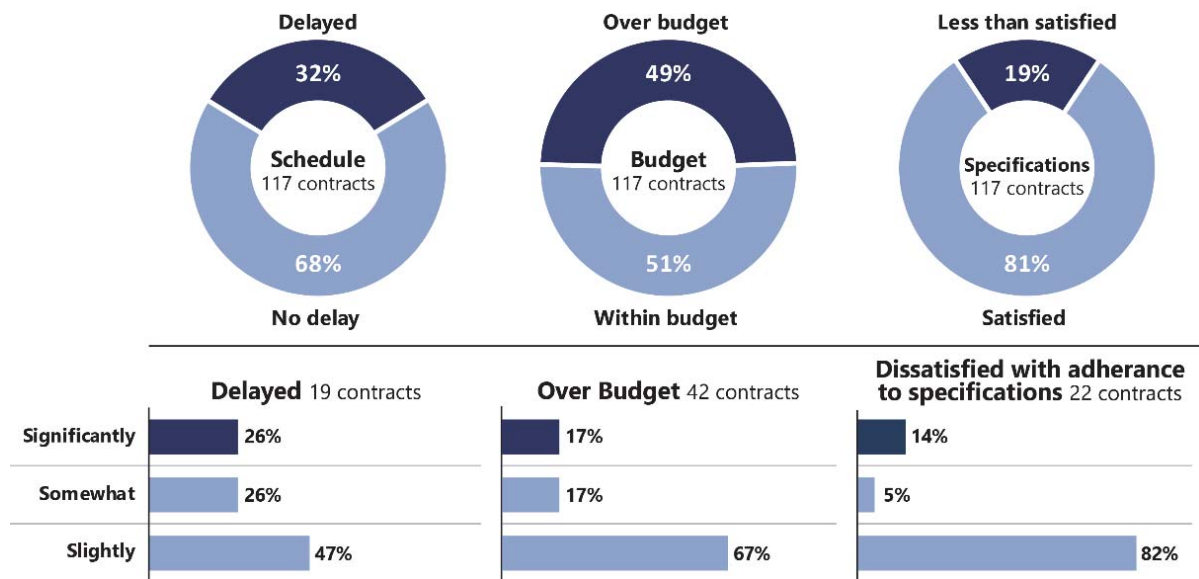
WHY WE DID THIS STUDY

In 2014 the Joint Legislative Audit and Review Commission (JLARC) directed its staff to review the development and management of state contracts. Interest in this topic was prompted by problems that arose from several recent high-profile contracts. Staff were directed to evaluate whether the state’s policies ensure that contracts provide good value to the state and mitigate the risks to agencies and the public.

ABOUT STATE CONTRACTING

State entities in Virginia spent more than \$6 billion through contracts in fiscal year 2015, mostly for goods and services related to transportation, construction, and information technology. Several laws and policies govern how agencies procure and use contracts, but the most prominent is the Virginia Public Procurement Act. The contracting process is decentralized, as most contracts are procured, developed, and managed by individual agencies.

Contracts deviated from original agency expectations in various ways



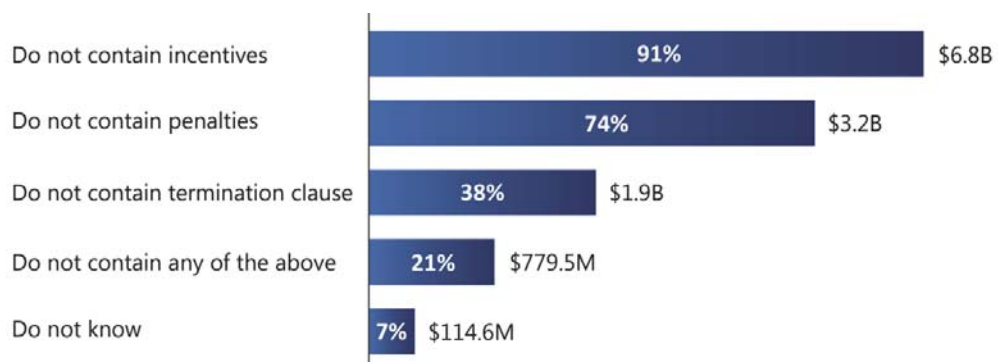
SOURCE: JLARC survey of contract administrators, 2015.

NOTE: Numbers may not add due to rounding. Pie charts include all analyzed contracts, dividing contracts between those that met expectations in each category as reported by the contract administrator and those that fell short of original expectations. Contracts in bar graphs are limited to contracts where contract administrators reported the extent of delays, budget overruns, or satisfaction with specifications.

Risk management is not sufficiently emphasized to adequately protect the state

The state is exposed to risk when something could go wrong with a contract that could negatively affect the state. State policies do not require agencies to formally manage contract-related risks, and state training courses on risk management are not widely available. As a result, procurement staff at most agencies do not adequately plan for contract-related risks. According to agencies' contract administrators, many of the state's highest-value contracts lack the penalties and incentives necessary to enforce contract provisions. Such contract provisions would give agencies more leverage to address poor contract performance in a manner that benefits the state.

Many contracts do not contain provisions to allow for contract enforcement



SOURCE: JLARC staff analysis of a survey of state agency contract administrators, 2015.

NOTE: Based on a sample of 117 contracts totaling \$8.1 billion.

Lack of focus on contract administration policies undermines adequate contract monitoring and enforcement

State contracting policies focus largely on the *procurement* of contracts and do not provide agencies with sufficient requirements or guidance regarding the effective *administration* of contracts. Agencies are therefore ill-equipped to monitor and enforce some of the state's largest and most complex contracts, which increases the likelihood of contract performance problems.

Agency staff are not monitoring contract performance and enforcing contract provisions effectively or consistently, within and across agencies. Vendors are not consistently held accountable for poor performance, and some complex, high-dollar contracts are administered by inexperienced and unprepared staff. The amount of time dedicated to contract administration varies widely and is often only a small percentage of a workweek, even for high-value contracts. Many agencies lack standard procedures for raising awareness about contract-related problems and do not have a clear sense for how their contracts are performing.

Vendors are generally satisfied with state contracting but have difficulties filing complaints when warranted

Most vendors expressed satisfaction with their general experience contracting with state entities but identified challenges with the complaint process. The Virginia Public Procurement Act sets out a formal complaint process for vendors, but it is used infrequently. Many vendors either are not aware of the complaint process or do not understand how to use it. Some vendors are reluctant to file complaints because they fear it could damage their chances of successfully competing for state contracts in the future.

Centralized oversight of state agency contracting is too limited

Contracting in Virginia is largely decentralized, as most agencies conduct contracting on their own. The Department of General Services (DGS) and the Virginia Information Technologies Agency (VITA) exercise oversight over agencies' contracting activities, but this oversight is focused on relatively few contracts and does not concentrate on certain aspects of contracting that pose significant risk to the state.

Comprehensive information on contract performance is lacking

Even though contracts account for a significant portion of state spending, the state does not maintain comprehensive information on how contracts are performing. This prevents individual agencies and state-level decision makers from assessing whether their investments in individual contracts have provided value to the state. It also prevents agency staff from avoiding problematic vendors and developing and administering contracts in a way that takes into account previous "lessons learned" at their own agency or other agencies.

WHAT WE RECOMMEND

Legislative action

- Develop criteria for identifying high-risk contracts and implement a process to oversee them.
- Direct DGS and VITA to develop a centralized approach to tracking contract performance.
- Direct DGS and VITA to develop a comprehensive training program on effective contract administration.

Executive action

- Develop tools and policies that allow agencies to balance cost with the quality of goods and services purchased.
- Develop mandatory training on effective risk management.
- Develop guidelines for assigning staff to administer contracts, particularly those that are high risk or high value.
- Develop guidelines for monitoring vendor performance, reporting performance problems, and using enforcement measures.
- Improve awareness of the vendor complaint process and make it easier to use.

The complete list of recommendations is available on page v.

Recommendations

Development and Management of State Contracts in Virginia

RECOMMENDATION 1

The Department of General Services and the Virginia Information Technologies Agency should provide guidance in their statewide procurement policy manuals and training on (i) the nature of performance problems relevant to declaring a vendor “non-responsible” during the procurement process, (ii) the specific types of documentation that can be used to declare a vendor “non-responsible,” and (iii) how agencies should document vendor performance problems. (Chapter 3)

RECOMMENDATION 2

The Department of General Services should modify its statewide procurement policy manuals to include the following requirements: (i) that criteria used to evaluate proposals include at least one measure of quality and (ii) that agencies include subject-matter experts as members of their proposal evaluation committees. The policy manuals should be modified to include a list of commonly used criteria for evaluating proposals, and guidance on how to select and weight criteria in order to balance cost and quality. (Chapter 3)

RECOMMENDATION 3

The Department of Small Business and Supplier Diversity (DSBSD) should develop regulations to require each agency to develop a formula to determine whether the cost of goods and services offered by a small business is “fair and reasonable” when compared to the same goods and services offered by other businesses. The formula would apply to purchases under \$100,000 that are set aside for small businesses. The Department of General Services and the Virginia Information Technologies Agency should collaborate with DSBSD to develop the regulations and guidance for agencies that request assistance in developing a “fair and reasonable” formula. (Chapter 3)

RECOMMENDATION 4

The General Assembly may wish to include language in the Appropriation Act directing the Department of General Services and the Department of Small Business and Supplier Diversity to collect data on awards made through competitive negotiations. The departments should use the data to evaluate the impact of the small business criterion on agencies’ use of certified small businesses, as well as on procurement more broadly, to determine whether the 20 percent criterion weight requirement should be adjusted or eliminated. (Chapter 3)

RECOMMENDATION 5

The Department of General Services should convene a working group made up of the director of the department's Division of Purchases and Supply and representatives from each state entity identified as a mandatory source for the purchase of goods and services. The working group should develop goals for quality control and price setting, and policies and procedures for granting exemptions to agencies, that will be used by all mandatory source entities. (Chapter 3)

RECOMMENDATION 6

The Department of General Services should modify the Construction and Professional Services Manual to clarify the requirement that vendor experience with project delivery method, such as construction-manager-at-risk or design-build, be considered by state agencies and higher education institutions when qualifying vendors to compete for construction contracts. The policy should state that agencies shall not automatically disqualify vendors during the Request for Qualifications stage of a procurement because of a lack of direct experience with the specific project delivery method to be used for the project. (Chapter 3)

RECOMMENDATION 7

The Department of Small Business and Supplier Diversity should prioritize certifying businesses as "micro" or "small" over certifying businesses as only "women-owned" or "minority-owned." The department should study the feasibility of automatically certifying businesses as "women-owned" or "minority-owned" if the business has been certified as such by other states, the federal government, or third-party certification entities. (Chapter 3)

RECOMMENDATION 8

The Department of Small Business and Supplier Diversity should send electronic notification of renewal to businesses certified as small, women-owned, or minority-owned at least 60 days prior to the expiration of their certification. (Chapter 3)

RECOMMENDATION 9

The Department of General Services should develop mandatory training for certified procurement staff on identifying, mitigating, and controlling contract-related risk through effective contract development and administration. (Chapter 4)

RECOMMENDATION 10

The Department of General Services and Virginia Information Technologies Agency should modify their statewide procurement policy manuals to state that agencies should implement a formal mechanism for identifying and managing contract-related risk. Manuals should be modified by July 1, 2017. (Chapter 4)

RECOMMENDATION 11

The Department of General Services and Virginia Information Technologies Agency should modify their statewide procurement policy manuals to state that contracts should contain the following provisions: (i) performance measures, to be used in contracts for services; (ii) quality assurance measures, to be used in contracts for goods; and (iii) penalties to impose when a vendor does not perform according to contract provisions. (Chapter 4)

RECOMMENDATION 12

The Office of the Attorney General should develop and publish information for agencies about the legal services it offers to assist with contract procurement. Information should include the types of assistance available to agencies and procedures for obtaining assistance. (Chapter 4)

RECOMMENDATION 13

The Office of the Attorney General should conduct a comprehensive legal review of all standard contract provisions that have been developed or recommended for agencies' use by the Department of General Services, the Virginia Information Technologies Agency, the Virginia Department of Transportation, and the Virginia Association of State College and University Purchasing Professionals. Reviews should be undertaken every five years, with the initial review to be completed by January 1, 2017. (Chapter 4)

RECOMMENDATION 14

The Virginia Information Technologies Agency (VITA) should identify the number of additional staff needed by its Supply Chain Management Division to effectively assist agencies with the planning and execution of procurements for IT contracts. The agency should submit a report to the Secretary of Technology, Department of Planning and Budget, and House Appropriations and Senate Finance Committees regarding its additional staffing needs. The report should include a description of the nature and scope of the assistance that VITA will provide to agency staff as well as a timeline that it will follow for having new VITA staff in place to provide such assistance. (Chapter 4)

RECOMMENDATION 15

The Virginia Information Technologies Agency (VITA) should seek the assistance of the Department of General Services to design a comprehensive training program for procurement and administration of IT contracts, which would be administered by VITA. (Chapter 4)

RECOMMENDATION 16

The General Assembly may wish to consider amending the Code of Virginia to add a definition of high-risk contracts and require that, before execution, all contracts that meet the definition of high risk be reviewed and approved by the Office of the Attorney General (all contracts), the Department of General Services (contracts for goods and non-professional and professional services that are not for information technology or road construction or design), and the Virginia Information Technologies Agency (IT contracts). (Chapter 4)

RECOMMENDATION 17

The Department of General Services and the Virginia Information Technologies Agency should modify their statewide procurement policy manuals to include guidelines for agencies on staffing the administration of contracts, particularly contracts identified as high risk. (Chapter 5)

RECOMMENDATION 18

The General Assembly may wish to include language in the Appropriation Act directing the Department of General Services (DGS) and the Virginia Information Technologies Agency (VITA) to (i) develop a comprehensive training program on the effective administration of contracts and (ii) modify their statewide procurement policy manuals to require the training for all agency staff who have primary responsibility for administering contracts identified as high risk. The language should direct DGS and VITA to develop an estimate of the cost of administering the program. (Chapter 5)

RECOMMENDATION 19

The Department of General Services and the Virginia Information Technologies Agency should collaborate to develop a certification program for contract administrators. Certification would require that agency staff complete contract administration training and demonstrate competence in effective contract administration practices. (Chapter 5)

RECOMMENDATION 20

The Department of General Services and the Virginia Information Technologies Agency should modify their statewide procurement policy manuals to include procedures for transferring responsibilities from procurement staff to contract administrators and orienting contract administrators to the contract and their responsibilities. Agencies should be required to use the procedures but allowed to supplement them with agency-specific procedures. (Chapter 5)

RECOMMENDATION 21

The Department of General Services and Virginia Information Technologies Agency should modify their statewide procurement policy manuals to state that agencies should include in all high-risk contracts, and contracts above a certain dollar value (as determined by individual agencies), an explanation of how performance monitoring will be conducted and an explanation of how vendor performance will be documented. (Chapter 5)

RECOMMENDATION 22

The Department of General Services and the Virginia Information Technologies Agency should modify their statewide procurement policy manuals to state that agencies should establish a formal process for contract administrators to regularly report to their agency's procurement office on the status and performance of their contracts. (Chapter 5)

RECOMMENDATION 23

The Department of General Services (DGS) and the Virginia Information Technologies Agency (VITA) should provide guidance in their statewide procurement policy manuals and staff training programs on how to effectively document unsatisfactory vendor performance, under which circumstances such problems should be brought to the attention of other staff in the agency or staff in the Office of the Attorney General, DGS, or VITA, and under which circumstances enforcement measures should be pursued. (Chapter 5)

RECOMMENDATION 24

The Department of General Services and the Virginia Information Technologies Agency should strengthen their ability to assist prospective and current vendors. The departments should assign to their staff clearly defined responsibilities that include (i) responding to vendor inquiries about state contracting policies and procedures; (ii) assisting vendors and agencies with the resolution of complaints; and (iii) recommending improvements to the contracting process based on vendor inquiries and complaints. (Chapter 6)

RECOMMENDATION 25

The Department of General Services and Virginia Information Technologies Agency should modify their statewide procurement policy manuals to state that agencies should include complaint procedures in each contract and with all written notifications of agency decisions that are not in a vendor's favor. Their statewide procurement policy manuals should be modified to include (i) guidance for agencies on the type and level of detail to include in their responses to vendor complaints and (ii) a detailed description of the process to be followed when vendors file complaints about ongoing contracts. (Chapter 6)

RECOMMENDATION 26

The Department of General Services should prioritize for Procurement Management Reviews agencies that frequently use (i) high-value contracts; (ii) IT, construction, or services contracts; and (iii) sole source procurements. The department should ensure that agencies identified as high priority are reviewed at least once every three years. (Chapter 7)

RECOMMENDATION 27

The Department of General Services should broaden its focus, and the focus of its Procurement Management Reviews, toward ensuring agency compliance with state laws and policies regarding the development and administration of contracts and implementation of best practices for all aspects of contracting, including professional services and construction contracts. The department should collaborate with the Auditor of Public Accounts (APA) to ensure that the elements of its reviews, and the review schedule, do not unnecessarily duplicate the work of APA staff. (Chapter 7)

RECOMMENDATION 28

The Department of General Services should identify the number of additional staff needed to effectively assist agencies with the development and administration of contracts and to include these aspects of contracting in their Procurement Management Reviews. The agency should submit a report to the Secretary of Administration, Department of Planning and Budget, and House Appropriations and Senate Finance Committees regarding its additional staffing needs. (Chapter 7)

RECOMMENDATION 29

The Virginia Information Technologies Agency (VITA) should identify, in its reviews of IT procurement proposals by agencies, procurements that appear to be high risk, regardless of dollar value. VITA should require that all contracts associated with these high-risk procurements be submitted to VITA for review before they are finalized. VITA's reviews should focus on ensuring that the contract provisions adequately protect the interests of the agency and the state. (Chapter 7)

RECOMMENDATION 30

The General Assembly may wish to include language in the Appropriation Act to require the Department of General Services, the Virginia Information Technologies Agency, and the Office of the Attorney General to collaborate on the development of a central database to collect information about high-risk state contracts. The information aggregated should be quantifiable, objective, and applicable to all contracts, so that it can be used to track the performance of high-risk contracts. The system would also act as a repository of documentation related to the performance of all vendors. The departments should provide a report to the House Appropriations and the Senate Finance Committees no later than September 1, 2017, that includes recommendations for the design of the system, implementation considerations, and a description of the resources that will be necessary to develop and implement it. (Chapter 7)

1 State Contracting in Virginia

SUMMARY State contracting is the purchase of goods and services from a third party through a contract. In Virginia, the contracting process is composed of four phases: planning, procurement and development, administration, and close-out. State entities spent more than \$6 billion through contracts in FY15. The majority of these contracting dollars were spent in the areas of transportation and education. State contracting in Virginia is governed by various statutes, regulations, and policies. For state agencies, the primary statute is the Virginia Public Procurement Act. Multiple agencies have administrative roles in state contracting, most prominently the Department of General Services and the Virginia Information Technologies Agency. However, because contracting in Virginia is largely decentralized, all agencies are directly involved in procuring and administering contracts. Contracting is typically done through procurement methods that seek to maximize competition. Non-competitive procurement methods are used under special circumstances, and some state policies require or encourage state entities to use specific vendors.

In September 2014 the Joint Legislative Audit and Review Commission (JLARC) adopted a resolution to review the development and management of state contracts (Appendix A). The resolution directs staff to evaluate whether the state's policies ensure that contracts provide good value to the state and mitigate the risks to which agencies and the public are exposed.

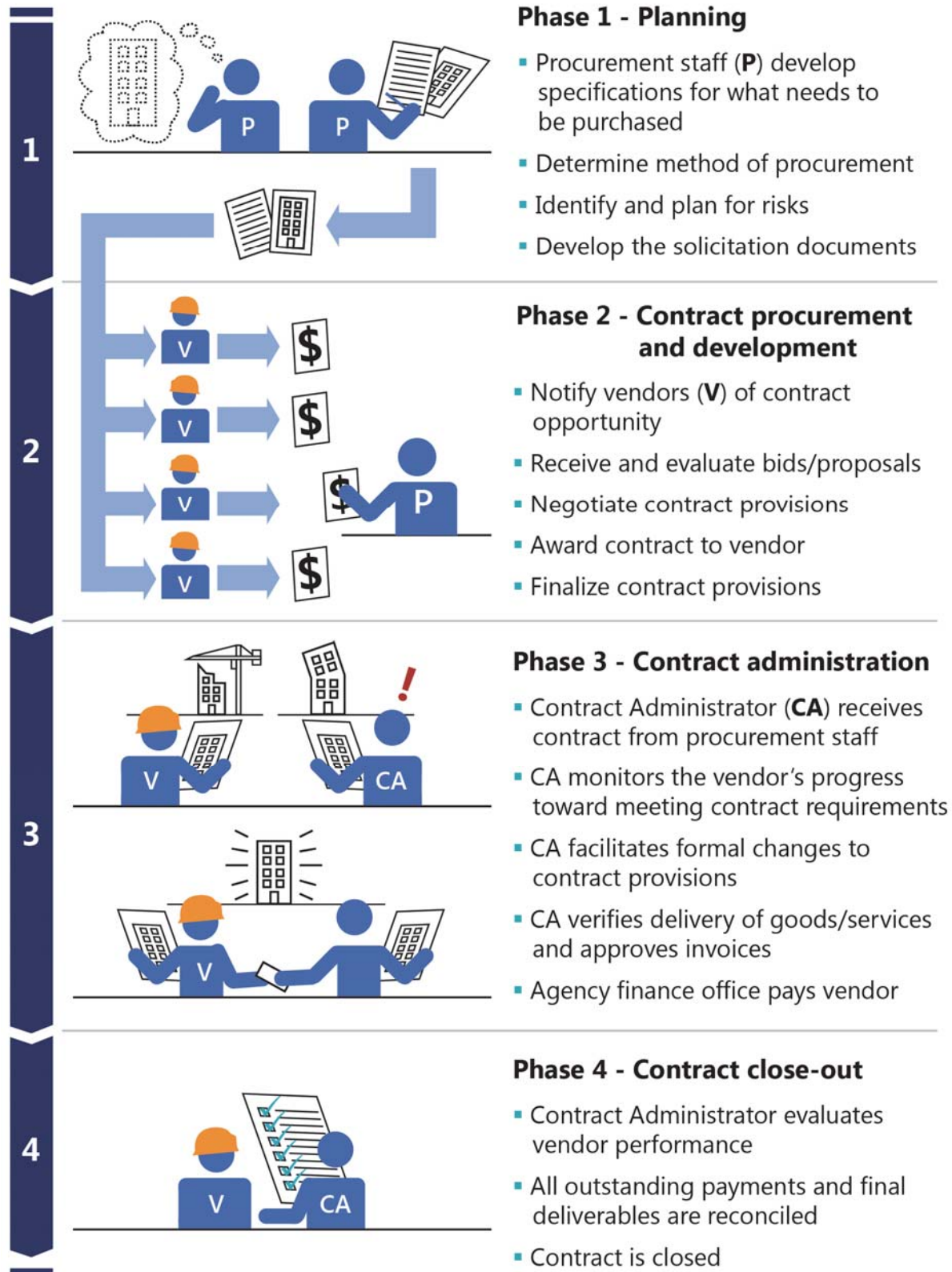
To address the mandate, interviews were conducted with procurement and contract administration staff at numerous state agencies with the greatest contracting activity and vendors who have recently contracted with the state or competed for state contracts. In addition, surveys were conducted of state procurement staff, state contract administration staff, procurement staff from other states, and vendors. Contracts and contracting data from state agencies were collected and analyzed. (See Appendix B for more detail on research methods used for this study.)

State contracting process and participants

State contracting involves the purchase of goods and services by state entities through contracts with third-party vendors, most frequently private-sector vendors. State contracting typically progresses through the same four phases regardless of the type of good or service being purchased or the procuring agency (Figure 1-1).

Different agency staff are involved to varying degrees in each of these phases. In most cases, procurement staff are responsible for planning and executing the procurement of

FIGURE 1-1
Four phases of a contract



the contract, and the ultimate users of the goods or services are responsible for administering the contract. Contract administration is usually the longest phase of the process.

In each phase of the contracting process, circumstances can arise that may affect how well contracts are executed and whether they produce good value for the state at a minimal degree of risk. Many of the state's contracting policies and practices are designed to help agency staff manage or avoid circumstances that could affect the success of a contract.

Spending on state contracting

State contracts are used in numerous areas of government, including transportation, health care and information technology (IT), and are developed for a broad array of commodities, including capital construction and maintenance, consulting services, as well as health care and medical services, among many others. The sizes of state contracts vary widely and depend largely on the good or service procured and the specific entity procuring it.

The spending figures that follow show data collected by the Department of General Services (DGS) through its electronic procurement system, eVA. eVA provides useful information about where the bulk of contracting dollars are likely spent, but it does have limitations. Because not all state agencies use eVA, the data is not comprehensive. In addition, eVA data shows dollar amounts *committed* by state entities to contracts, but does not show actual expenditures against those contracts. This is because the state's system for tracking agency expenditures, Cardinal, does not link agencies' expenditures to their contracts.

eVA – Virginia's eProcurement system

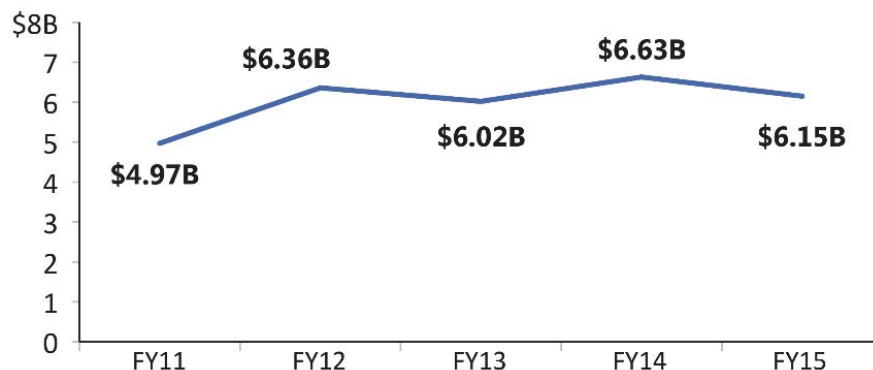
eVA is a web-based purchasing system that most state entities in Virginia use to conduct purchasing activities and post solicitations for goods and services.

State entities procured more than \$6 billion in contracts in FY15

State spending on contracts has increased slightly over time. In FY15, state entities procured goods and services through contracts worth \$6.2 billion, up from \$5.0 billion in FY11 (Figure 1-2).

FIGURE 1-2

State contracting commitments FY11–FY15 (\$B)



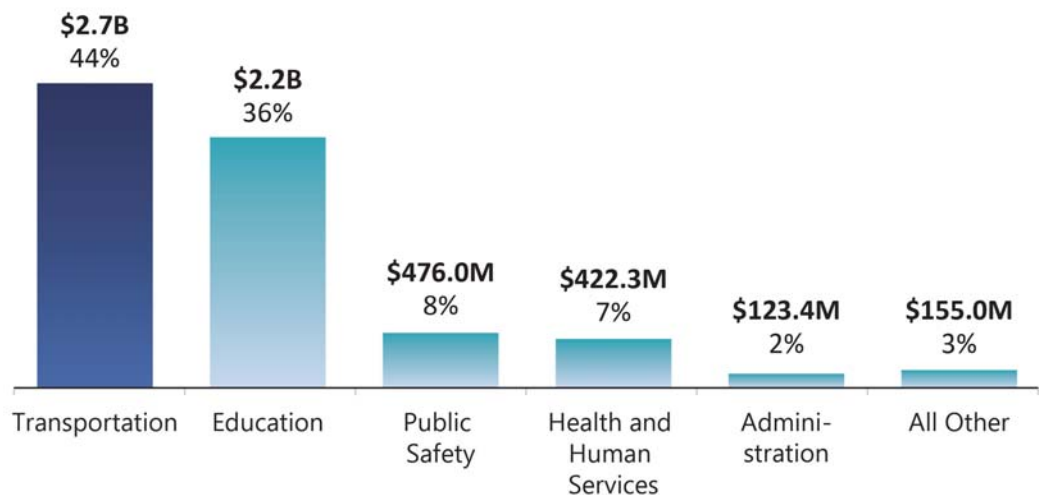
SOURCE: JLARC staff analysis of eVA data from DGS, FY15.

In FY15, most purchases made through contracts were low cost, with a median value of just \$88. Agencies do make high-cost purchases through contracts, but contract purchases valued at greater than \$50,000 represented only one percent of contract purchases in FY15. While high-cost purchases account for a small minority of contract purchases, they constitute about 80 percent of contract expenditures.

Transportation and education agencies spend the most in state contracts

The areas of transportation and education consistently have the greatest overall share of contracting expenditures. In FY15, agencies within the transportation and education secretariats accounted for approximately \$5 billion, or roughly 80 percent of contracting dollars spent by the state. The Virginia Department of Transportation (VDOT) and the state's higher education institutions spent the large majority of these contracting dollars (Figure 1-3).

FIGURE 1-3
State contracting by secretariat, FY15



SOURCE: JLARC staff analysis of eVA data from DGS, FY15.

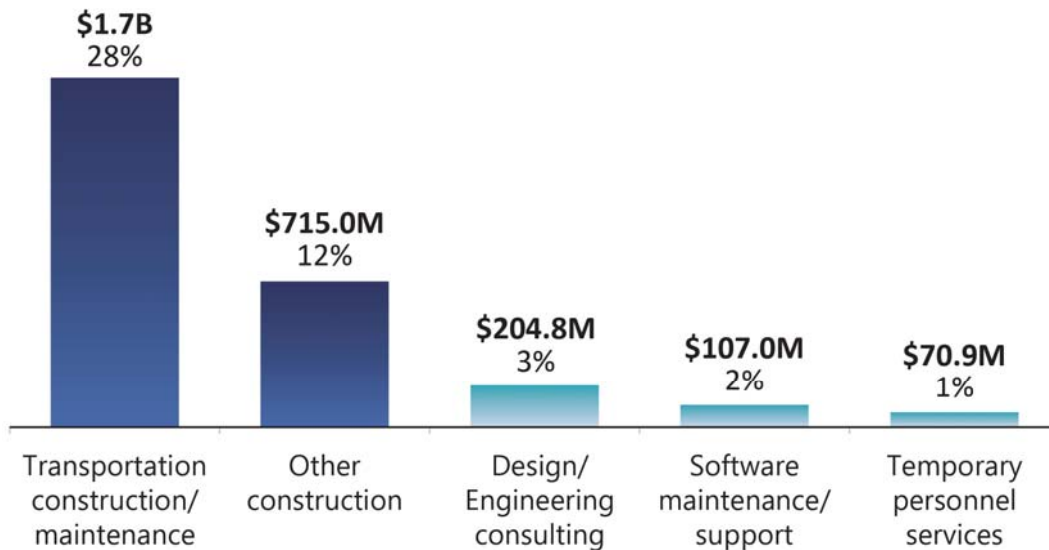
NOTE: Education spending includes contracting done by higher education institutions.

Majority of contracting dollars are spent on road and building construction, consulting services, and IT

The majority of contracting dollars are spent on several commodity types in the areas of transportation, construction, engineering consulting, IT services, and temporary personnel services (Figure 1-4). These commodity areas consistently ranked among the top 10 by contracting dollar commitments in each year between FY11 and FY15. Authority for these categories of contracts is exercised by VDOT (for transportation construction and maintenance), DGS (for other types of construction), and the Virginia Information

Technologies Agency (VITA) (IT services). VDOT, DGS, and VITA have separate policies related to the procurement of each type of commodity.

FIGURE 1-4
State contracting by commodity type, FY15



SOURCE: JLARC staff analysis of eVA data from DGS, FY15.

NOTE: Percentages do not add to 100 because these are only the top five commodity types purchased. The state's largest IT contract, with Northrop Grumman for IT infrastructure, is not available in eVA, but the value of this contract exceeds \$250 million.

Governance and administration of state contracting

Several statutes in the Code of Virginia govern the various procurement methods used by state entities. Most contracting is governed by the Virginia Public Procurement Act (VPPA); other laws govern contracting executed through public-private partnerships. Contracting policies and procedures are set out in several central documents according to the type of good or service to be procured. Procurement authority lies primarily with DGS for non-IT goods and services, and with the Virginia Information Technologies Agency (VITA) for IT goods and services. Several other agencies have oversight roles in the contracting process, including VDOT for contracts related to road construction and design.

Several state laws govern contracting

The VPPA governs the contracting done by most state entities. In setting out the state's policy regarding the purchase of goods and services by state entities, the VPPA articulates several primary goals:

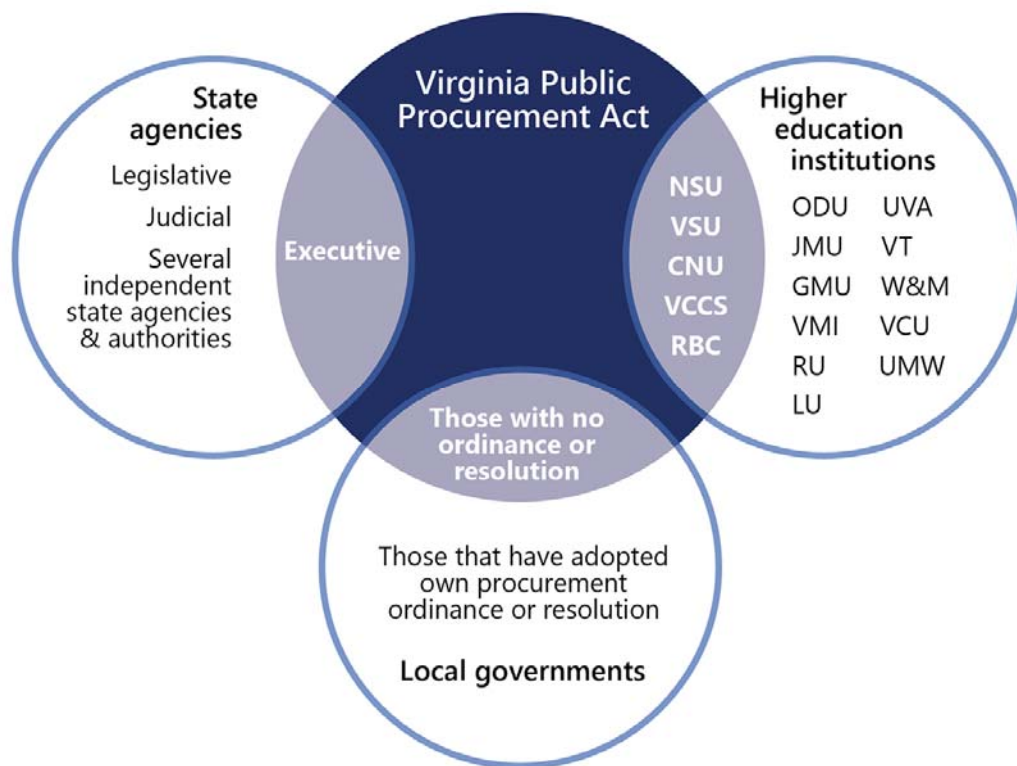
- that public bodies obtain high quality goods and services at reasonable cost;
- that competition be sought to the maximum feasible degree;

- that procurement procedures involve openness and administrative efficiency;
- that procurement procedures are conducted in a fair and impartial manner; and
- that qualified bidders have access to public business and no vendor is arbitrarily or capriciously excluded.

These primary goals guide the rules that the VPPA sets out for most state entities to follow when acquiring goods and services from non-governmental sources.

A number of state agencies and localities are exempt from the provisions of the VPPA, and therefore from oversight by DGS and VITA. These exempted agencies include several independent state agencies, such as the Virginia Retirement System, state authorities, such as the Virginia Port Authority, and agencies in the legislative and judicial branches (Figure 1-5). The Virginia Retirement System is exempted specifically for its

FIGURE 1-5
Summary of state entities covered by or exempt from the VPPA



SOURCE: Code of Virginia and information provided by DGS, 2015.

NOTE: According to a survey of local governments by DGS, 31 percent of local governments are subject to the VPPA. Norfolk State University and Virginia State University are the only two higher education institutions that are subject to VITA procurement authority.

procurement of investment services, actuarial services, and disability determination services. The Virginia Port Authority is exempted under the condition that it implements procedures to ensure fairness and competitiveness in its procurements and in the administration of its capital outlay program. The large majority of states exempt judicial and legislative agencies from their central procurement laws, as indicated by a 2015 survey conducted by the National Association of State Procurement Officials (NASPO). In addition, localities may become exempt from the VPPA by adopting alternative policies and procedures based on competitive principles, but they remain subject to certain portions of the VPPA. Finally, after enactment of the Restructured Higher Education Financial and Administrative Operations Act of 2005, certain higher education institutions were granted exemptions from the VPPA. These include William and Mary, Virginia Commonwealth University, the University of Virginia, Virginia Tech, Radford University, and Christopher Newport University, among others. In addition to being exempt from VPPA requirements related to competitive and transparent procurements, exempt agencies are not required to purchase goods and services through statewide contracts (sidebar).

Two laws, the Public-Private Education Facilities and Infrastructure Act and the Public-Private Transportation Act, were created to give state agencies the ability to engage in public-private partnerships on large projects, such as road and building construction. These two public-private partnership laws provide for unsolicited private-sector proposals to be presented to the state for projects that private entities believe will benefit the state. While these laws contain provisions to encourage a competitive process for awarding contracts, they lack the VPPA's prevailing emphasis on competition and transparency.

Authority over state agencies' contracting

Authority over the contracting performed by state agencies and institutions of higher education rests with different state entities. Analysis of eVA data on contracting expenditures and volume shows that DGS and VITA contracting regulations and policies apply to the majority of state agencies' contracting activities. However, the remainder of contracts are not subject to DGS and VITA authority, and these include those procured by the institutions of higher education that are exempt from the VPPA as well as the contracts procured by VDOT's construction division.

The policies that govern state agencies' contracting activities are dispersed among several different statewide policy manuals. DGS issues separate manuals that address contracting for non-IT goods and services, and for construction, while VITA has a manual for IT goods and services (Table 1-1). DGS also issues a manual that serves as a guide for vendors on contracting with the state. VDOT has two manuals for the management of road design and construction contracts.

The policy manuals focus primarily on the procurement side of contracting, and give comparatively little attention to the policies and procedures for the actual administration of contracts after they have been awarded to a vendor.

Statewide contracts

Contracts negotiated by DGS and VITA for state agency use and that are intended to leverage the state's buying power. Statewide contracts cover a broad range of goods and services and can be mandatory or optional.

TABLE 1-1
State-level policy manuals on contracting

Policy manual	Good and services covered	Issuing agency
Agency Procurement and Surplus Property Manual (APSPM)	Non-IT goods and services	DGS
IT Procurement Manual (BUY IT)	IT goods and services	VITA
Construction and Professional Service Manual (CPSM)	Professional design and construction services	DGS
Vendors Manual	Non-IT goods and services to state	DGS
VDOT Road and Bridge Specifications Design Build Procurement Manual Manual for Procurement and Management of Professional Services	Road design and construction	VDOT
Purchasing Manual for Institutions of Higher Education and their Vendors	Goods and services purchased by higher education institutions with procurement authority	VASCUPP

SOURCE: Various state-level policy manuals on the procurement and management of contracts.

NOTE: The APSPM and Vendors Manual have been adopted as regulations.

Procurement authority in Virginia is divided between DGS and VITA, for non-IT and IT goods and services, respectively. DGS has statutory authority to develop the policies and guidelines for the purchase of non-IT goods and services. DGS also establishes statewide contracts, manages eVA, trains state procurement staff, and conducts reviews of agencies' procurement activities to ensure compliance with state procurement laws and policies. In addition, DGS sets standards for building construction and related professional services and administers the state's capital outlay program. DGS does not, however, have the authority to procure such contracts for agencies. VITA has statutory authority to direct the policies and guidelines for the purchase of IT and telecommunications goods and services. VITA also establishes statewide IT contracts and reviews and approves agencies' IT procurements over \$250,000, as well as agencies' IT contracts over \$1 million. Several other agencies play significant roles in state contracting:

- Virginia's Office of Public-Private Partnerships is responsible for the development of projects through the Public-Private Transportation Act.
- The Office of the Attorney General represents the state in contract-related legal disputes, and reviews some contracts at the request of agencies.
- The Auditor of Public Accounts reviews agencies' procurement and contract administration practices, including the details of selected contracts, as part of their individual agency audits.
- The Department of Small Business and Supplier Diversity certifies vendors as small businesses so that they can qualify for contracts under the state's small business set-aside program.

Table 1-2 summarizes the key state government entities with state contracting authority and the relevant statutes.

TABLE 1-2
State procurement laws and oversight/authority entities

Agency	Procurement statute	Contracting responsibilities
DGS	Virginia Public Procurement Act	<ul style="list-style-type: none"> ▪ Conducts centralized procurement of non-IT goods and non-IT non-professional services ▪ Establishes statewide contracts ▪ Manages eVA ▪ Sets standards for building construction and related professional services ▪ Administers state's capital outlay program
VDOT	Virginia Public Procurement Act Public-Private Transportation Act	<ul style="list-style-type: none"> ▪ Conducts procurement of road and bridge construction and related architectural and engineering services
VITA	VITA statute Virginia Public Procurement Act	<ul style="list-style-type: none"> ▪ Conducts procurement of IT and telecommunication goods and non-professional services ▪ Establishes IT statewide contracts
Office of Public-Private Partnerships	Public-Private Transportation Act	<ul style="list-style-type: none"> ▪ Works with transportation agencies to develop projects that operate based on a public-private partnership
Individual colleges & universities exempt from VPPA	Higher Education Restructuring Act	<ul style="list-style-type: none"> ▪ Establish own procurement and contract management policies (Level II and Level III)
State and local entities	Public-Private Education Facilities & Infrastructure Act	<ul style="list-style-type: none"> ▪ Create public-private partnerships for a wide range of projects, including public buildings, facilities and infrastructure

SOURCE: DGS's "Procurement in the Commonwealth: A Primer," state agency websites, and Code of Virginia.

Contracting is largely decentralized

The state's two central contracting agencies, DGS and VITA, procure and manage only a small portion of the state's contracts because most contracting is performed by individual agencies. The Code of Virginia allows DGS and VITA to grant agencies the authority to procure certain types of contracts on their own, and all agencies have some degree of procurement authority. Agencies are also responsible for conducting all contract administration activities on their own. This model of central contracting agencies delegating contracting authority to individual state agencies is typical among other states.

The level of procurement authority that agencies have is based on the dollar value of contracts. For example, most agencies are authorized to procure their own non-IT goods contracts valued at less than \$50,000 on their own, but agencies routinely request and are granted the authority to independently procure higher-value contracts. In addition, most agencies have the authority to procure their own services contracts, regardless of

dollar value. (The exception is IT services contracts—agencies have been given authority from VITA to purchase IT services contracts valued at \$100,000 or less.)

Procurement of state contracts

The procurement method chosen to make a purchase depends on the type of good or service and the extent to which the state entity can precisely articulate its specifications. The Code of Virginia defines several procurement methods available to agencies and sets parameters for the circumstances under which they should be used (Table 1-3). The procurement method chosen by the entity affects a number of aspects of the contracting process, including its duration and the responsible parties involved.

Contracts are typically procured through competition, with some exceptions

In general, agencies are required to use procurement methods that allow multiple vendors to compete for state contracts, with two of the most common methods being Invitations for Bids (IFB) and Requests for Proposals (RFP). IFBs award contracts entirely on the basis of cost, while RFPs award contracts based on multiple factors, each of which is assigned a specific weight by the agency.

Under special circumstances state entities may employ procurement methods that require little or no competition among potential vendors, such as sole source procurements and emergency procurements. Sole source procurements are used when the good or service a state entity seeks is practicably available from only one vendor. For smaller sole source procurements, special approval must be obtained from the entity's head or a designee, in addition to documentation verifying that only one practicable source for the given good or service exists. Sole source procurements for non IT goods and services over \$50,000 must be submitted to DGS for approval.

TABLE 1-3
Primary procurement methods authorized by the Code of Virginia

Competitive procurement methods	
Invitations for Bids (IFB)	Sealed bids publicly opened simultaneously and awarded to the lowest bidder. IFBs are used when an agency can precisely describe the specifications or scope of work for the good or service it is buying.
Requests for Proposals (RFP)	Sealed bids resulting in negotiations and awarded based on initial criteria established in RFP. RFPs are used when precise specifications or scope of work cannot be prepared.
Public-Private Partnerships (P3)	Long-term contracts in which private entities develop, build, or maintain a public transportation, infrastructure, or building construction project

TABLE 1-3, *continued***Primary procurement methods authorized by the Code of Virginia**

Non-competitive procurement methods	
Emergency	Used when a serious and urgent need must be resolved immediately. Buyer must obtain competition where practicable and agency head or designee must approve in writing that emergency procurement was necessary.
Sole source	Product or service must be practicably available from only one business. Buyers must obtain and document quotes up to \$50,000, and approval by DGS is required for non-IT purchases over this threshold. IT sole-source procurements over \$100,000 must be submitted to VITA for approval.

SOURCE: Virginia Public Procurement Act.

Emergency procurements may be used when a serious and urgent need must be resolved immediately. As with sole source procurement, an emergency procurement requires approval from the entity's head or its designee. Competition still should be sought to the fullest extent possible given the conditions of the emergency. Documentation must be made of the nature of the emergency, as well as the basis for the selection of the particular vendor.

State entities can also enter into contracts through public-private partnerships (P3s), which are governed by Virginia's public-private partnership laws. In general, P3s are long-term contracts in which private entities develop, build, or maintain a public transportation, infrastructure, or building construction project. P3s differ from traditional procurement methods in that vendors can submit unsolicited proposals, and projects can be financed partially by users (such as through toll roads) or by the private entity in the contract, rather than entirely by the state. Overall, proponents of P3s assert that this ability to diversify funding sources lessens the effects of transportation and construction projects on the state's debt capacity and allows projects to move forward despite budget constraints. P3s can involve competition between vendors, but because P3s can arise from an unsolicited vendor proposal, they fall outside the guidelines on competition set forth in the VPPA.

Some statutes and policies require or encourage agencies to use certain vendors

The state has several policies and statutes in place to either require or encourage state entities to use certain vendors. For example, statewide contracts, which are negotiated by DGS, cover a broad variety of goods and services, and are either mandatory or optional for state agencies, depending on the contract. Agencies are also required to use mandatory sources for specific goods and services. The state's small business set-aside requirement (referenced in the Agency Procurement and Surplus Property Manual as the "Small Business Enhancement Award Priority") requires the use of certain types of vendors for procurements below certain dollar thresholds.

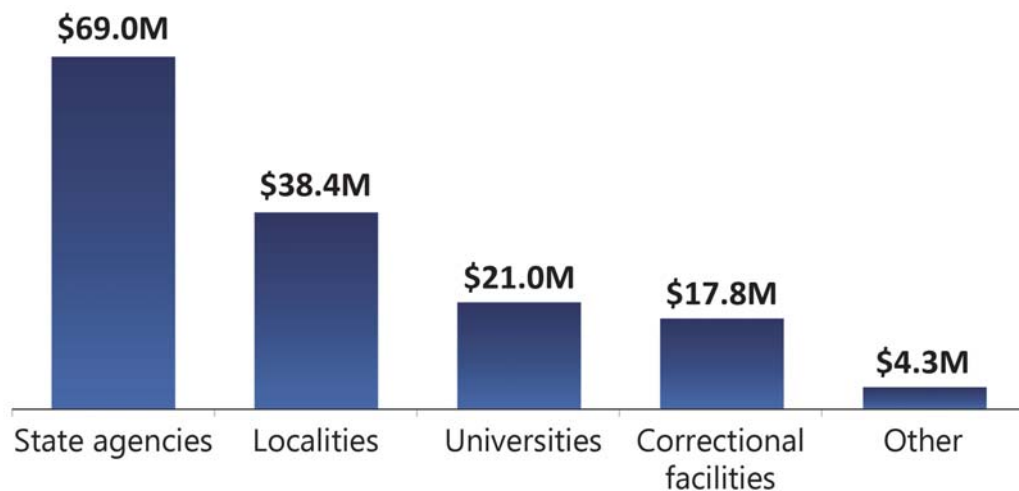
Statewide contracts

In addition to procuring goods and services through their own agency-specific contracts, agencies can procure goods and services through statewide contracts that have already been awarded to vendors through DGS and VITA, for non-technology and IT goods, respectively. The increased buying power resulting from aggregating multiple agencies' purchases into a single contract tends to reduce the costs of goods and services. In FY15, state entities purchased approximately \$150 million in goods and services from statewide contracts maintained by DGS. (Figure 1-7). In FY15, agencies spent the most on mandatory DGS statewide contracts for automobiles (31 percent), temporary personnel services (18 percent), and fuel (13 percent).

FIGURE 1-7

Expenditures on mandatory DGS statewide contracts in FY15

Expenditures by state entity type (\$M)



SOURCE: JLARC staff analysis of DGS data, FY15.

Mandatory sources

State agencies are required by statute to procure certain goods and services from mandatory sources (Table 1-4). These goods and services are procured outside the customary competitive procurement process. In FY15, agencies spent \$88 million on goods and services from mandatory sources.

TABLE 1-4
Mandatory sources listed by goods and services and total sales in FY15

Mandatory source	Primary goods and services	Sales to state FY15
Virginia Correctional Enterprises	Wooden and metal furniture, clothing, printing services, office systems	\$42.6M
Virginia Distribution Center	Staple goods, canned and frozen foods, cleaning supplies, paper products	\$25.2M
DGS/Office of Fleet Management	Purchase or lease of motor vehicles	\$15.9M
Virginia Industries for the Blind	Gloves, pens, spices, mattresses, mops	\$4.4M
DGS Office of Graphic Communications	Graphic design and production services	\$0.15M
Total		\$88.25M

SOURCE: JLARC staff analysis of eVA data from DGS, and sales data from Virginia Correctional Enterprises, Virginia Industries for the Blind, and DGS Office of Fleet Management, FY15.

"Small business," for purposes of this section, refers to businesses certified by the state as either small or "micro." Small businesses may also be certified as women- and minority-owned.

Small business: 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over three years.

Micro business: certified small business with no more than 25 employees and no more than \$3 million average annual revenue over three years prior to certification.

Small business set-aside and state goal

The state has two policies designed to help small businesses compete for state contracts: (i) a small business set-aside and (ii) a state goal to make 42 percent of its contracting expenditures from small businesses. Virginia's small business policies are established in the Code of Virginia as well as by executive order.

Virginia's small business set-aside policy requires that purchases below specific dollar thresholds be procured from businesses certified by the state as "small" or "micro" businesses, if available (sidebar). Agencies can award contracts to certified businesses under the small business set-aside, even if they cost more than other businesses, as long as procurement staff consider their prices to be fair and reasonable. Businesses pursue certification through the Department of Small Business and Supplier Diversity. The small business set-aside applies to all agency procurements for goods and non-professional services under \$100,000, and professional services under \$50,000. Purchases under \$10,000 are set aside for "micro" businesses specifically.

Although businesses can be certified as only "women-owned" or "minority-owned," the state's small business set-aside does not apply to these types of businesses. Instead, the state's small business set-aside is race- and gender-neutral to comply with existing case law. The state tracks awards to businesses that are certified as only "women-owned" or "minority-owned," but a business must have at least a "small" or "micro" business certification to qualify for the small business set-aside.

Executive Order 20 (2014) implemented several changes to small business policies:

(i) increased set-aside threshold to \$100,000 for non-professional services and \$50,000 for professional services, (ii) created "micro" designation, and (iii) increased state goal to 42%, which was the highest percentage of agency expenditures on small, women-, or minority-owned businesses attained since 2004.

In 2014 the state's small business policies were modified by executive order (sidebar), which established a goal that agencies purchase 42 percent of their goods and services from certified small businesses. Similar to the procurement set-aside, this policy applies to businesses certified by the state as "small" or "micro" businesses.

Agencies submit a report every year to the Department of Small Business and Supplier Diversity to document their progress towards meeting the state's 42 percent goal. Agencies also set internal goals for the percentage of goods and services that they intend to purchase from small businesses, which can be higher or lower than the state's goal.

In recent years, state agencies have fallen short of the state's 42 percent goal. In FY15 agencies spent approximately \$1.4 billion on contracts with small businesses, according to data reported to the Department of Small Business and Supplier Diversity. The proportion of agency spending with small businesses has decreased from 27 percent in FY11 to 25 percent in FY15. Because the state's goal is only aspirational, agencies are not penalized for not meeting it.

2 Performance of State Contracts

SUMMARY Contract performance is subject to many factors and can therefore be expected to deviate from original expectations to some extent, especially for complex or long contracts. Several contracts analyzed for this study deviated significantly from expectations. Poor contract performance undermines the efficiency and effectiveness of agencies and may, in some cases, negatively impact the health and safety of the public. Most of the circumstances that cause contracts to deviate from original expectations appear preventable. However, shortcomings in the state's contracting practices and policies routinely allow preventable problems to negatively affect contract performance.

When a state contract meets the original expectations of the agency, goods and services are delivered on schedule, on budget, and according to specifications. But contracts do not always meet original expectations. When this happens, agencies experience project delays, end up spending more than they had planned, or receive goods or services that do not meet their needs.

Some contracts fell significantly short of original performance expectations

Successful contract performance depends on meeting expectations for time, cost, and quality. Approximately 10 percent of the contracts analyzed for this study (sidebar) fell significantly short of meeting the original expectations of the agency. Some deviation from original expectations is to be expected. At least a slight deviation was experienced by approximately two-thirds of analyzed contracts. Most often, contracts that did not perform as expected deviated at least slightly from original schedules and budgets (Figure 2-1). (See Appendix C for more information on individual contracts.)

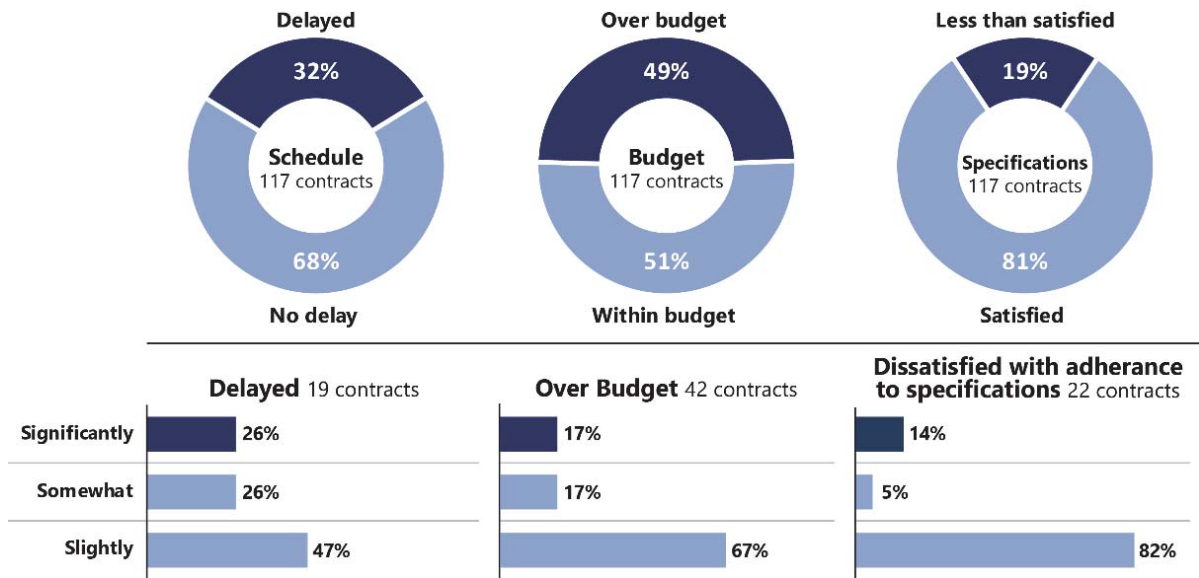
The 12 contracts that fell significantly short of meeting agency expectations were valued at \$1.8 billion (Table 2-1). Many of these contracts are for information technology, road and facility construction, or health care services. These types of services and projects tend to be more complex and have longer durations, making them more prone to schedule and cost changes than other types of contracts.

Contract performance may negatively affect agencies and the public, and consequences can be serious. Examples of impacts that have occurred during the course of state agency contracts include the inability to implement mission-critical software or telecommunications systems, delay in the opening of public facilities, and excess tolls charged to commuters. An agency may still receive quality goods or services, albeit at a higher price or over a longer time frame than initially expected.

Data on contract performance was collected by JLARC staff through a survey of contract administrators responsible for high-value contracts at 23 state agencies. The 117 high-value contracts, totaling approximately \$8 billion, were either active at the time of review or had ended during 2015. (See Appendix B.)

FIGURE 2-1

Delays and cost overruns are the most common type of deviation from original agency expectations



SOURCE: JLARC survey of contract administrators, 2015.

NOTE: Numbers may not add due to rounding. Pie charts include all analyzed contracts, dividing contracts between those that met expectations in each category as reported by the contract administrator and those that fell short of original expectations. Contracts in bar graphs are limited to contracts where contract administrators reported the extent of delays, budget overruns, or satisfaction with specifications.

Nearly one-third of analyzed contracts—38 contracts valued at approximately \$2.4 billion—experienced at least a slight delay or were not expected by contract administrators to be completed on time. Contract administrators were able to estimate the magnitude of delay for 19 contracts and characterized five contracts as significantly delayed. Significant delays affected contracts for facility construction (three months behind schedule), road construction (at least three months behind schedule), and software development (two years behind schedule).

To mitigate the impact of a contract delay, an agency may have to expend additional financial and staffing resources, or the public may be inconvenienced if access to services is impeded. In one example, construction of a state university dormitory was delayed, preventing student occupancy at the start of the academic year. The delay required university staff to arrange temporary housing until the dormitory was completed. In another example, a vendor providing software development and implementation missed three important delivery milestones, resulting in a two-year delay of contract deliverables. The agency eventually terminated the contract and is providing contractual services in-house until another contract can be implemented.

Table 2-1 includes contracts that were procured under different state statutes and therefore the authority of different oversight agencies.

TABLE 2-1**Several contracts did not meet original expectations by significant margins**

Value (\$M)	Purpose	Delayed schedule	Over budget	Unmet specifications	Contributing circumstances
\$485.0	Equipment maintenance and road maintenance supplies		✓		Statewide expansion of contract
\$378.2	Road construction		✓		Intentional increase in scope of contract due to availability of agency resources
\$367.5	Information technology, fiscal agent services		✓		Increase in scope of contract due to federal mandates
\$206.8	Road construction		✓		Intentional increase in scope of contract due to availability of agency resources
\$107.0	Information technology, case management system		✓		Increase in scope of contract due to stakeholder requests Modifications requested by vendor
\$95.0	Road construction	✓	✓		Increase in scope of contract due to stakeholder requests Vendor unable to obtain permits
\$74.1	Health care services		✓		Increase in number of individuals covered by the contract
\$72.0	Facility construction	✓		✓	Vendor provided a foundation that did not meet requirements, had to redo
\$5.0	Architectural and engineering services			✓	Vendor provided facility designs that did not meet building codes
\$0.3	Road construction and maintenance	✓			Agency's needs changed Modifications requested by vendor Weather affected schedule
\$0.3	Facility construction	✓			Agency's needs changed Vendor recommended change
\$0.3	Information technology, software development	✓		✓	Vendor unable to develop and deliver agreed-upon software
\$1,791.6		5	7	3	
<i>% of total</i>		<i>% of total</i>	<i>% of total</i>	<i>% of total</i>	
22%		4%	6%	3%	

SOURCE: JLARC staff analysis of survey of contract administrators, 2015 and contract administrator interviews.

NOTE: (1) Table includes only contracts that were significantly delayed or over budget or where contract administrators were "not at all" satisfied with specifications. Contract status (delayed or over budget) is as of June 30, 2015. (2) In addition to the significant deviations from performance expectations highlighted, some contracts included in table were also delayed, over budget, or had specifications that were unmet but not significantly so. (3) Other contracts were delayed, over budget, or had unmet specifications but are not included in table because contract administrators either indicated that performance deviated by a less significant margin or did not report the extent to which the contract was delayed or over budget. (4) Percentages are out of the total number and dollar value of all 117 analyzed contracts.

Nearly half of analyzed contracts—57 contracts valued at approximately \$5.3 billion—were at least slightly over the budget stipulated in the original contract or were not expected by contract administrators to be completed within the original budget. Of those, contract administrators were able to estimate the extent to which contracts exceeded their original budgets for 42 contracts and characterized seven contracts as significantly over budget. Significant cost increases affected several high-value road construction contracts, including one contract originally valued at \$236.4 million that was \$20.8 million over budget when the contract was closed. (The agency holding this contract does not consider the contract to be over budget based on internal allowances for cost overruns under certain circumstances.)

To mitigate the impact of cost increases, agencies may have to reduce the contract's scope and may not obtain all needed goods or services. In one example, a telecommunications contract incurred significant cost overruns, causing the agency to eliminate several components of the telecommunications system, reduce the use of new technologies, and take over some of the vendor's responsibilities. Agencies may not always take such steps, however. In another example, the contract administrator noted that more construction work was added to the contract at the request of other stakeholders, and the agency was unable to offset higher costs.

While vendors often adhere to contract specifications, contract administrators were at least partly dissatisfied with vendors' adherence to specifications for nearly one-fifth of contracts—22 contracts valued at approximately \$2 billion. Contract administrators reported being "moderately" satisfied with vendors' adherence to specifications for 18 of these contracts, however, and "not at all" satisfied for only three contracts.

Contracts that do not meet specifications may affect agencies financially, because agencies may still have to pay for goods or services that do not meet their needs if contract language is not sufficient to protect them. For example, one agency paid approximately \$25,000 for materials that a vendor never used and work that was never initiated, while another agency paid \$325,000 to a vendor for faulty equipment.

Several agencies expressed dissatisfaction with the ability of vendors to meet contract specifications for information technology contracts. Agency staff indicated that vendors might promise to deliver software with specific capabilities that they cannot ultimately provide. For example, a vendor hired to deliver a \$17 million telecommunications system originally agreed to (1) encrypt agency voicemails to enhance IT security and (2) provide a secure online chat feature that would allow agency staff to provide efficient, timely service to the public. However, the vendor has been unable to implement either functionality, even though the contract has been in effect for three years, and the agency is using its own resources to protect the security of communications.

More robust contracting policies and practices could help agencies prevent many contract problems

Contract performance may be affected by factors beyond the control of the agency or vendor. Among the contracts analyzed for this review, however, most deviations from original performance expectations were attributed by contract administrators to circumstances that were within the control of agencies or vendors and therefore preventable. For example, some contracts were delayed due to changes in agencies' needs. This happened during the course of a road construction contract that incurred higher costs because the agency requested that additional turning lanes be included. Some contracts failed to meet expectations because of problems with agencies' contract management practices or problems with vendor performance. For example, one state agency struggled with holding a vendor accountable to the specifications of an information technology contract, and the project was delayed by two years.

During each phase of the contracting process, problems may arise that will affect a contract's performance. More robust policies and processes during all phases may help prevent delays, budget overruns, and unmet specifications (Table 2-2, page 20). For example, in the procurement phase, careful planning could reduce the likelihood that an agency's needs will change during the course of the contract. More thorough review of vendor qualifications during this phase could prevent the awarding of contracts to unqualified vendors. In the contract administration phase, effective monitoring of vendor performance could contribute to earlier correction of performance problems and increase the likelihood that agency needs are met. This report identifies ways in which each phase of contracting can be made more effective through more robust state policies and agency practices so that contracts are more likely to be fulfilled on time, within budget, and according to agency specifications (Chapters 3, 4, and 5).

TABLE 2-2

Agencies have opportunities to prevent problems in each contracting phase

Contract deviation	<i>Illustrative</i>		Contracting phase	Report chapter
	Cause and impact	Prevention strategy		
Delayed schedule	Agency changes needs or expectations, causing project delay	Agency should develop accurate and comprehensive specifications	Procurement	3
Unmet specification	Vendor unable to perform, causing agency to procure new contract or perform work on its own	Agency should evaluate vendor qualifications comprehensively	Procurement	3
		Contract should include penalties for underperformance	Contract development	4
Over budget	Agency does not closely monitor vendor or enforce contract, causing agency to shift resources away from other priorities	Agency should ensure that contract administrators are familiar with the contract and able to monitor it	Contract administration	5

SOURCE: JLARC staff analysis of contracts with performance problems, 2015.

NOTE: Circumstances listed in the "Cause and impact" column could cause a contract to deviate from its original provisions in multiple ways. For example, unmet contract specifications or cost overruns may occur because an agency changed its needs or expectations.

3 Maximizing Contract Value

SUMMARY Agencies do not always procure contracts that produce high-quality goods and services at reasonable costs, although this is a contracting goal established in state statute. Some state policies do not provide agencies with the necessary tools or information to make contracting decisions that balance cost and quality. Further, state statute and state policies require agencies to contract with certain vendors, and in some cases agencies have been dissatisfied with the cost and quality of these purchases. Agencies' own practices have limited competition among vendors and have potentially kept them from maximizing the value of their contracts.

The Virginia Public Procurement Act directs agencies to “obtain high quality goods and services at a reasonable cost,” committing agencies to contract with vendors that provide the state with the best value. Maximizing contract value is a first-order priority in state contracting and begins during the procurement process. Various aspects of the procurement process can affect contract value, including the type of procurement method that agencies use and the level of vendor competition that they incorporate into procurement. Agencies are best able to maximize contract value when procurement staff are provided with the necessary guidelines and tools to purchase high-quality goods and services at a reasonable cost, and when agencies maximize vendor competition for contracts.

State procurement statutes and policies do not ensure agencies maximize contract value

Some procurement methods and policies do not enable agencies to purchase high-quality goods and services at a reasonable cost. The state has several procurement methods to fit different circumstances and numerous policies to help agencies determine when and how to use each method. Certain procurement methods and policies do not help agencies maximize contract value because they do not factor in both cost and quality, and some policies do not provide procurement staff with clear guidelines for making purchasing decisions.

Policies designed to protect against poor quality are not used effectively

Purchasing goods or services from vendors offering the lowest price does not always maximize quality. Statute requires agencies to award contracts to the lowest bidder when using competitive sealed bidding to purchase goods or services. Because the

quality of the goods or services is not a consideration under this procurement method, agencies may purchase poor quality goods or services that do not meet agency expectations.

Statute provides agencies with safeguards against poor quality purchases when they use competitive sealed bidding, but these safeguards are not always effective. Procurement staff are required to restrict contract awards to vendors they determine to be “responsible” (sidebar), but in practice this does not appear to enable agencies to avoid purchasing poor quality goods or services. Several agencies reported that they are sometimes unable to declare vendors to be non-responsible and exclude them from contract awards. In some instances, they have awarded contracts even when they knew the vendor would be unable to provide high-quality goods or services. According to procurement staff, these awards have resulted in poor contract value for the state.

Procurement staff underutilize their ability to declare vendors to be non-responsible for several reasons, including that agencies typically have insufficient evidence of poor vendor performance. According to the Department of General Services (DGS), formal documentation of poor vendor performance can consist of emails, cure letters, formal complaints, or contract terminations. These documents do not always exist, however, because many agency staff address performance issues verbally or fail to formally document issues when they arise. In addition, state policy is unclear regarding the type of documentation necessary to provide evidence of poor vendor performance. Without clear guidance, agencies interpret this state policy differently and underutilize it.

Agencies also currently lack a way to access other agencies’ documents related to vendor performance because the state does not have a central repository of data on contract performance. The lack of information on contract performance is discussed more fully in Chapter 7. Chapter 7 includes a recommendation for staff from DGS, the Virginia Information Technologies Agency, and the Office of the Attorney General to collaborate on the development of an IT system that can be used to measure the performance of vendors and contracts. Having such a resource could help agencies avoid problems like those illustrated in the following case study.

CASE STUDY

Agency could not avoid selecting a vendor with low-quality services

Background

In 2011, an agency procured roofing services valued at \$89,500 using competitive sealed bidding.

Problem

When procurement staff checked the references provided for the vendor that submitted the lowest bid, they learned through experiences shared by other agencies that the vendor likely would not be able to meet their contract requirements.

However, agency experiences, unless formally documented, are insufficient to declare a vendor

Responsible vendor

State policy defines a “responsible” vendor as

- (i) a regular dealer of the intended goods/services,
- (ii) able to comply with the required delivery or performance schedule,
- (iii) having a satisfactory record of performance and integrity, and
- (iv) having the necessary facilities, expertise, and financial resources.

Documentation to declare vendors unable to bid

In Nebraska, the receipt of two Vendor Performance Reports may be used to suspend a vendor from bidding on future solicitations for a set period of time.

“non-responsible.” Procurement staff were unable to declare the vendor “non-responsible” because the vendor met the requirements of the solicitation and there was insufficient documentation of past poor performance.

Consequences

Procurement staff had to award the contract to the vendor with the lowest bid, and the vendor failed to perform the requested roofing services.

Procurement staff had to cancel the contract and hire another vendor to complete the roofing services. The fiscal impact to the agency of canceling the contract was over \$12,000.

How problems could have been avoided

If the state had a central repository of data on vendor performance that was accessible to all procurement staff, and if agencies had clear guidance about how and when to document vendor performance problems, the agency would have had a central tool to research vendor performance prior to making contract awards. The agency would have the documentation necessary to provide evidence of past poor performance and exclude the vendor from competing for the contract.

According to procurement staff, there are several other safeguards against poor quality purchases, but these tools do not help in all circumstances. Statute allows agencies to prequalify vendors for certain contracts, but this requires procurement staff to spend additional time establishing qualification requirements and evaluating potential vendors. Statute also allows agencies to debar certain vendors due to poor performance, but this requires an agency to have sufficient evidence of poor performance and is therefore rarely used.

RECOMMENDATION 1

The Department of General Services and the Virginia Information Technologies Agency should provide guidance in their statewide procurement policy manuals and training on (i) the nature of performance problems relevant to declaring a vendor “non-responsible” during the procurement process, (ii) the specific types of documentation that can be used to declare a vendor “non-responsible,” and (iii) how agencies should document vendor performance problems.

Policies aimed at balancing cost and quality provide insufficient guidance

Agencies use competitive negotiation to select vendors based on the cost and quality of their goods or services, but they may not always use the most effective approach to evaluating competing proposals. When using competitive negotiation, procurement staff determine the criteria used to evaluate proposals and assign each criterion an evaluation weight. Procurement staff also select an evaluation committee to review proposals and make awards.

State policies do not provide sufficient guidance on which criteria to include for competitive negotiations. For purchases of goods and non-professional services, state pol-

Recommendation applicability

Many of this report's recommendations are directed at DGS and VITA because they are the state's central procurement agencies and oversee the majority of contracting transactions and expenditures.

Contracts procured by agencies that do not follow DGS's and VITA's contracting regulations and policies would not be impacted by these recommendations.

Examples include the higher education institutions that are exempt from the Virginia Public Procurement Act and the contracts procured by VDOT's construction division, which are governed by different policies.

Small business criterion

State policy refers to this as the “Small Business Subcontracting Plan” criterion. Vendors receive evaluation points based on whether the primary vendor or any of their subcontractors are certified “small” or “micro” business. Vendors document this information in a small business subcontracting plan for all procurements over \$100,000 unless agencies have determined that no subcontractor opportunities exist.

Other entities’ evaluation policies

The Federal Acquisition Regulations (§ 15.304) have five requirements that apply to proposal evaluation, including that every proposal have at least one quality criterion. Criteria weights are set to balance cost and quality.

VDOT’s Consultant Procurement Office has internal policies that guide the type and number of staff who participate in evaluation committees and require staff to be trained on evaluating proposals.

icy requires agencies to consider only the price and the small business status of vendors (primary and subcontractors) when evaluating proposals. Agencies are not required to include criteria related to quality, but they can do so at their discretion. Moreover, the state procurement policy manual for non-IT goods and non-professional services features only a few examples of criteria that are typically used for competitive negotiation.

State policy also provides minimal guidance on assigning weights to criteria. State policy leaves assignments of criteria weights to individual procurement staff, except for the 20 percent weight required for the small business criterion (sidebar). Therefore, agencies may assign weights to criteria that do not maximize contract value, as illustrated in the following case study.

CASE STUDY**Agency did not maximize contract value due to selection of criteria weights****Background**

In 2013, an agency conducted a \$76 million competitive negotiation to procure health care services. Procurement staff assigned a 20 percent weight to the small business criterion (as required by state policy), a 40 percent weight to the cost criterion, and a combined weight of 40 percent to the two criteria measuring quality.

Problem

The vendor that offered the lowest cost compared to the other vendors that had submitted proposals did not also offer the highest-quality services. However, because of the weight of the cost criterion, this vendor ranked highest among other vendors.

Consequences

Because of the weight given to the cost criterion, procurement staff awarded the contract to the lowest-cost vendor. However, the vendor was ultimately unable to provide high-quality services at the agreed-upon cost. The vendor terminated the contract, leaving the agency to re-procure the services under an emergency procurement.

How problems could have been avoided

If state procurement policy had clearer guidance on assigning weights to evaluation criteria, the weights assigned to quality may have been higher, and the agency may have chosen a vendor that would have delivered higher quality services.

State policy on the procurement of non-IT goods and non-professional services also provides very little guidance on selection of evaluation committee members, specifying only that the panel should have three to five members, to include a buyer or someone knowledgeable about the Virginia Public Procurement Act and state procurement policy manuals. It does not require a subject matter expert to participate in the evaluation panel. In the absence of specific requirements, evaluation committees could exclude key agency staff whose participation would help to ensure that the best proposal is selected.

By contrast, the statewide policy manual for the purchase of IT goods and services does recommend that subject-matter experts be included on evaluation panels, and it also includes a list of commonly-used evaluation criteria. This manual could be a resource to DGS.

RECOMMENDATION 2

The Department of General Services should modify its statewide procurement policy manuals to include the following requirements: (i) that criteria used to evaluate proposals include at least one measure of quality and (ii) that agencies include subject-matter experts as members of their proposal evaluation committees. The policy manuals should be modified to include a list of commonly used criteria for evaluating proposals, and guidance on how to select and weight criteria in order to balance cost and quality.

Policies aimed at supporting small businesses had a modest fiscal impact on agencies

The state's requirement that agencies award certain contracts to small businesses has a modest negative fiscal impact on the state because it results in higher spending for some purchases. For certain purchases, the state gives preference to businesses certified by the state as "small businesses" or "micro businesses" (sidebar). The requirement is intended to increase contracting opportunities for small businesses even though they may cost more than other businesses in some cases. Agencies are permitted to spend more on purchases from certified small businesses than they would on purchases from other businesses, but only in cases where they consider the additional amount to be "fair and reasonable."

Purchases through small business set-aside had modest fiscal impact on the state

The majority of purchases (58 percent) from certified small businesses cost less than what agencies would have spent on the same purchases from other businesses that submitted bids. The remaining purchases were higher by about 25 percent (Figure 3-1). This caused a modest fiscal impact to the state of approximately \$1.3 million over nearly two years, or approximately four percent of the cost of purchases for which agencies received bids from both certified small businesses and other businesses.

Agencies lack guidance on how much more they can spend on small businesses

Agencies typically receive bids from multiple vendors for a contract. The bids submitted by certified small businesses tend to be higher than those submitted by other businesses, and this creates the potential for agencies to spend more on contracts with small businesses. On average, small businesses' bids were nine percent higher than bids from other businesses across all purchases between July 2013 and March 2015. Bids submitted by small businesses were higher than bids submitted by other businesses for the same goods or services for a majority (62 percent) of purchases.

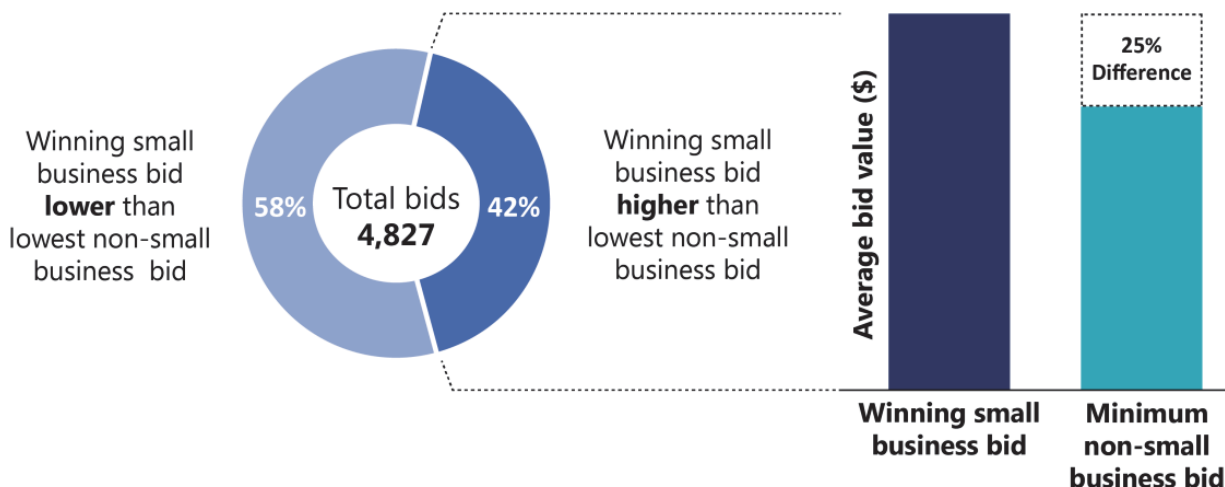
Small business refers to businesses certified by the state as "small" or "micro." Small businesses may also be certified as women-owned and minority-owned.

Small business: 250 or fewer employees, or average annual gross receipts of \$10M or less averaged over three years.

Micro business: certified small business with no more than 25 employees and no more than \$3M average annual revenue over three years prior to certification.

JLARC analysis of cost of set-aside

No Virginia state agencies appear to have formally assessed the cost of the small business set-aside. JLARC staff analyzed vendors' bids submitted for set-aside purchases from July 2013 through March 2015. JLARC staff analyzed 7,823 purchases that received bids from small businesses *and* non-small businesses.

FIGURE 3-1**State spent more on goods and services from small businesses in 42 percent of purchases**

SOURCE: JLARC staff analysis of purchases processed through Quick Quote from July 2013 through March 2015. NOTE: Small businesses may have a “micro” designation and may also be certified as women-owned and minority-owned. The difference in the average bid value was calculated by determining the difference between the winning small business’s bid and the minimum bid submitted by other businesses for each purchase and then averaging the difference across all purchases. Analysis conducted on 4,827 purchases that were designated as set-asides, received bids from both small businesses and other businesses, and were awarded to small businesses.

“Fair and reasonable” is determined by procurement staff based on several types of analyses, including comparisons of prices previously paid, and comparisons of prices charged for similar items.

Agencies are permitted to spend more with a certified small business if the business’s bid is deemed by agency staff to be “fair and reasonable,” but state policy does not provide practical guidance for making this determination. State procurement policy manuals provide direction on the type of analyses that can be conducted to assess what is “fair and reasonable,” but they do not specify how to calculate it. The federal government, the National Institute of Governmental Purchasing, and many other states provide similarly broad guidance on determining whether bids are “fair and reasonable,” providing no specific dollar value or percentage for procurement staff to reference.

In the absence of a standardized formula, agencies take different approaches to interpreting what constitutes “fair and reasonable,” and this can affect the cost of the small business set-aside requirement. Agencies interpret “fair and reasonable” differently, as shown by variations in the additional funds they are willing to spend to contract with small businesses. One reason that agencies select higher-cost bids from small businesses is to meet the state’s goal of expending 42 percent of contracting dollars with small businesses. Some agencies report considering their overall budgets and the time of year before deciding how much they can spend beyond the lowest bid. Others establish formulas for determining “fair and reasonable” that allow them to pay a set percentage above other bids. Procurement staff at several agencies have expressed the need for more guidance when determining how much more they should spend to contract with a small business. Such guidance could effectively stabilize or decrease the cost of the small business set-aside requirement.

“How do we as an agency define reasonable pricing? . . . It is hard to determine reasonable if an agency thinks they will be dinged on an audit.”

— Staff
Agency procurement office

To help agencies get the most value from contracts with businesses while furthering the state's small business set-aside requirement, agencies could be required to develop formulas to be consistently applied by their procurement staff for determining "fair and reasonable." This would allow each agency to develop a formula based on the unique nature of their purchases and budgets. The formulas should have (i) a lower limit based on the percentage difference between bids from certified small businesses and other businesses and (ii) an upper limit based on the dollar difference between bids. For example, the formula could be set so that the winning small business's bid should be within 25 percent or \$2,000 (whichever is lower) of the lowest bid submitted by a responsible non-small business. These parameters encompass the majority of purchases made by agencies under the set-aside requirement between July 2013 and March 2015. (Appendix D provides data to inform formula options for agencies.) DGS, VITA, and DSBSD should collaborate to develop guidance that can be provided to agencies that request assistance.

RECOMMENDATION 3

The Department of Small Business and Supplier Diversity (DSBSD) should develop regulations to require each agency to develop a formula to determine whether the cost of goods and services offered by a small business is "fair and reasonable" when compared to the same goods and services offered by other businesses. The formula would apply to purchases under \$100,000 that are set aside for small businesses. The Department of General Services and the Virginia Information Technologies Agency should collaborate with DSBSD to develop the regulations and guidance for agencies that request assistance in developing a "fair and reasonable" formula.

Weight of small business criterion can skew evaluations toward lower quality, and cost impact is unknown

The small business status of the primary vendor or its subcontractors is also considered for larger contracts, including those valued above \$100,000. It is one of two criteria that agencies are required to include in proposal evaluations for non-IT goods and services, and it is the only criterion with a prescribed weight (20 percent) in state policy manuals. The small business requirement is designed to help agencies reach the state's goal of making 42 percent of purchase expenditures from small businesses.

Assigning a required weight to any aspect of a proposal that is not related to cost or quality, including small business status, could impact the value of awards. Although 83 percent of respondents to JLARC's survey of state procurement staff expressed satisfaction with the quality of goods or services they purchased from small businesses, procurement staff at several agencies reported that applying a 20 percent weight to the small business criterion can skew awards toward less qualified vendors. As shown in the following case study, the weight of the small business criterion can result in the selection of a poor quality vendor because it can outweigh other quality-related criteria.

North Carolina's preference policy allows businesses whose bids are within five percent or \$10,000 (whichever is lower) of the lowest qualified bid to price-match the lowest qualified bid and secure the contract award. The preference applies to in-state vendors, and only to purchases of goods. Although it is not structured like Virginia's small business set-aside, this preference is another approach to providing an advantage to a subset of businesses.

JLARC staff surveyed procurement staff at all state agencies and higher education institutions. Procurement staff were asked about various topics, including their approach to contract development and their satisfaction with the cost and quality of certain types of purchases. 382 procurement staff from 134 agencies and institutions responded to the survey, a response rate of 62 percent.

(See Appendix B.)

CASE STUDY

Weight of small business criterion negatively affected agency's competitive negotiation

Background

An agency conducted a \$7,000 competitive negotiation to procure video production services.

Problem

Procurement staff assigned a 20 percent weight to the small business criterion (as required by state policy). A small business won the award even though the vendor did not appear to have the expertise necessary to perform the required services.

Consequences

The vendor's performance ultimately did not meet the agency's expectations.

How problems could have been avoided

If state policy had not required the agency to apply a 20 percent weight to the small business criterion, the agency could have assigned it a lower weight and possibly selected another vendor.

The state collects limited data on awards made to certified small businesses through competitive negotiations, and no data on the costs of proposals submitted by certified small businesses compared to those submitted by other businesses. It is therefore not possible to evaluate the fiscal impact of the small business criterion on the state or agencies' performance related to the state's 42 percent goal. DGS could collect data on agencies' awards to certified small businesses through competitive negotiations in order to assess the impact and necessity of this requirement, as well as determine whether the 20 percent weight is effective and reasonable.

RECOMMENDATION 4

The General Assembly may wish to include language in the Appropriation Act directing the Department of General Services and the Department of Small Business and Supplier Diversity to collect data on awards made through competitive negotiations. The departments should use the data to evaluate the impact of the small business criterion on agencies' use of certified small businesses, as well as on procurement more broadly, to determine whether the 20 percent criterion weight requirement should be adjusted or eliminated.

Mandatory source programs have not developed standard policies for setting prices and controlling quality of goods and services

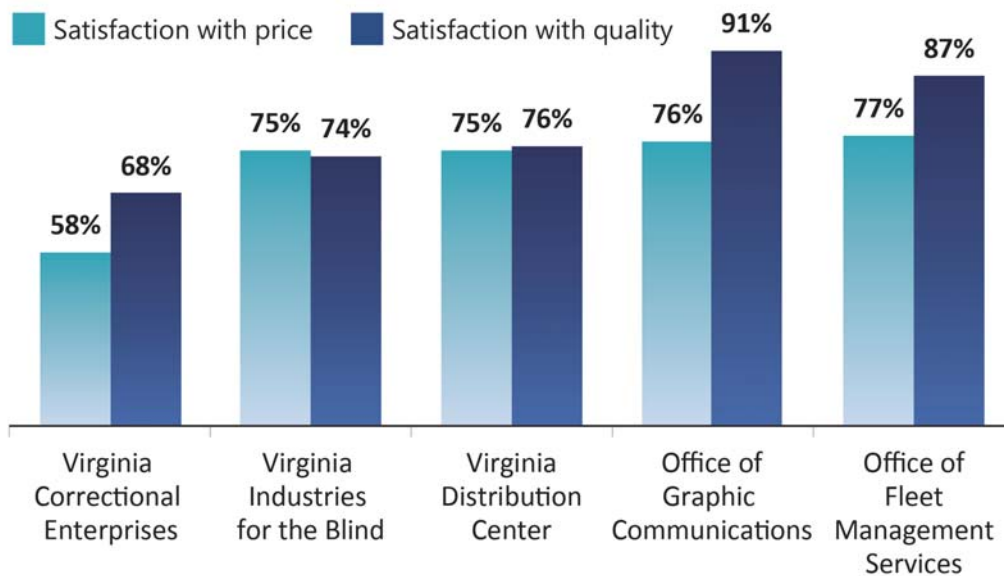
The Code of Virginia requires state agencies to purchase certain goods and services from several mandatory sources. (See Chapter 1.) Two such mandatory sources are Virginia Correctional Enterprises (VCE) and Virginia Industries for the Blind (VIB).

While the majority of agency staff were satisfied with the goods and services purchased from mandatory sources (Figure 3-2), many agency procurement staff expressed dissatisfaction, particularly with VCE and VIB.

Unlike most traditional vendors, VCE and VIB serve a two-fold purpose: to furnish state agencies with goods and services and to provide certain groups with economic or vocational-training opportunities they would otherwise lack. VCE and VIB have comparable goals and production processes, and each is self-funded and dependent on revenue from its own sales. VCE provides work and job training opportunities to incarcerated offenders within the Department of Corrections. These opportunities are intended to minimize recidivism rates because the skills acquired by incarcerated offenders through VCE's operations can assist them with obtaining post-release employment. VIB provides gainful employment to Virginians who are blind or visually impaired. In many cases, the individuals employed by VIB's facilities play a role in manufacturing the final products that are sold to state agencies. Despite the similarities in their vocational aims, however, the policies for pricing and quality control differ between the two entities.

FIGURE 3-2

Majority of agency staff expressed satisfaction with the price and quality of purchases from mandatory sources



SOURCE: JLARC survey of procurement staff from Virginia state agencies and select higher education institutions.
NOTE: "Satisfied" combines respondents who answered that they were either "satisfied" or "very satisfied" and who had purchased from mandatory sources within the past 12 months.

Virginia Correctional Enterprises

State agency procurement staff expressed lower levels of satisfaction with the price and quality of VCE goods and services compared to other mandatory sources. A number of staff expressed complaints regarding the price and quality of a wide range of VCE's goods and services, as well as VCE's slow delivery times and poor responsiveness to customer service inquiries. State procurement staff perceived VCE's prices to be 50 to 100 percent higher than market prices for comparable products. However, it may be difficult to find products that exactly match VCE's. In some cases, therefore, procurement staff's perceptions that VCE's prices are higher may not be based on accurate comparisons.

VCE does not apply a uniform policy for quality control to all of the goods and services it sells. VCE does reportedly apply quality control measures at various stages of its production processes, but these measures vary across products and across facilities. Variation may be reasonable due to product and facility differences. However, given the level of dissatisfaction expressed by procurement staff and the nature of complaints they expressed, VCE's approach to quality control could be improved.

To set its prices, VCE relies on a formula derived from materials and labor costs, overhead costs, administrative costs, and a profit margin (Table 3-1). VCE states that it is "exploring transforming our pricing strategy" by introducing market price research and keeping its prices within five percent of those of its competitors. However, VCE does not benchmark its prices against the broader marketplace, leading to agencies' complaints about high costs.

State agencies can request a release from purchasing from VCE and do so in high volume. Releases are processed by VCE and the DGS Division of Purchases and Supply. In FY15, VCE processed 2,031 release requests, 93 percent of which were approved. Fifty-two percent of justifications were based on VCE's inability to provide the sought-after goods, while 23 percent deemed VCE's products incompatible with the agency's needs. The release is useful to agencies, because it allows them to avoid purchasing products that do not meet their needs, but it creates an administrative burden that could be partially addressed through improvements to VCE's quality control and pricing policies.

Virginia Industries for the Blind

Agency procurement staff were about as satisfied with purchases made from VIB as they were with purchases from other mandatory sources, but procurement staff had specific complaints about some of VIB's goods. The majority of respondents to JLARC's survey of state procurement staff expressed satisfaction with the price (75 percent) and quality (74 percent) of the goods and services they purchased from VIB. However, some agency procurement staff had specific complaints about VIB's pens and examination gloves, which accounted for \$2.5 million (57 percent) of its sales to state agencies in FY15.

ISO 9001 quality certification

The International Organization for Standardization (ISO) is a Geneva-based body that establishes international industrial and commercial standards. The ISO 9001 is a standard for quality management systems. Certifications are conducted by accredited independent auditing bodies.

The quality control measures used by VIB appear to be more structured and effective than those used at VCE. The measures are established through VIB's ISO 9001 quality assurance rating certification for its production facilities in Charlottesville and Richmond, which is updated annually. VIB sends out customer surveys twice a year and tries to identify widespread agency complaints and respond to these accordingly. In addition, VIB employs a quality supervisor and customer service staff who are accessible to customers by a toll-free number.

Unlike VCE, VIB has practices in place to ensure that its product prices are market competitive. VIB managers conduct a "market basket study" by comparing online prices charged by other sources, including large retailers. Each product price is in turn approved by VIB's general manager. To set its prices, VIB accounts for material and labor costs, overhead costs, and a mark-up (Table 3-1). VIB strives to keep its product prices below market price.

As with VCE, agencies can request a release from purchasing VIB goods. The conditions for these requests, however, are much broader than those for VCE. Agencies can request releases based on convenience or emergency. In FY15, VIB processed 400 release requests, 89 percent of which were approved. Of the release requests VIB received, 95 percent cited the fact that the state agency was specifically seeking to purchase a good that VIB did not carry. The remaining five percent cited VIB's inability to deliver the desired product on time.

Arizona approach to mandatory sources

Arizona has a set-aside committee composed of officials from that state's mandatory sources and central purchasing office which convenes quarterly to: (i) determine which goods and services are provided by Arizona Industries for the Blind and Arizona Correctional Industries, (ii) determine whether these goods and services satisfy state government needs, and (iii) establish a fair-market price for all approved materials and services offered for sale that meet these needs.

TABLE 3-1
Differences in pricing, quality control and release practices of VCE and VIB

	VCE	VIB
Pricing formula	Formula includes <ul style="list-style-type: none"> ■ Manufacturing and administrative overhead ■ 8 to 14% profit margin ■ No market research 	Formula includes <ul style="list-style-type: none"> ■ Manufacturing and administrative overhead ■ 5 to 40% profit margin ■ Market research to keep price below market
Quality control	<ul style="list-style-type: none"> ■ Raw materials and post-delivery inspection ■ Informal end-user feedback 	<ul style="list-style-type: none"> ■ Annual ISO certification ■ Customer surveys sent out twice a year
Conditions in Code for agency release	<ul style="list-style-type: none"> ■ Available VCE goods do not meet agency reasonable requirement ■ Identical good or service available at lower price ■ VCE cannot provide good or service 	<ul style="list-style-type: none"> ■ When agency's convenience or emergency requires it

SOURCE: Code of Virginia and JLARC interviews with VCE and VIB staff.

Lack of uniform policy for mandatory sources on pricing and quality control

Differences in the quality control and pricing practices of VCE and VIB reflect the absence of a uniform approach for mandatory sources in these areas. Establishing similar goals for quality control and pricing could help these entities set competitive prices and implement more standardized quality control measures. Moreover, the establishment of similar goals and objectives in these areas for VIB and especially VCE could improve these mandatory sources' ability to ensure their product offerings better match state agency needs. DGS has recently begun convening a group of representatives from the mandatory source agencies to discuss certain procurement policies. Establishing similar goals and objectives for pricing and quality control across mandatory sources could be a new priority for this group. The working group could meet at least once per year to review the effectiveness of the policies and procedures and modify them as necessary.

RECOMMENDATION 5

The Department of General Services should convene a working group made up of the director of the department's Division of Purchases and Supply and representatives from each state entity identified as a mandatory source for the purchase of goods and services. The working group should develop goals for quality control and price setting, and policies and procedures for granting exemptions to agencies, that will be used by all mandatory source entities.

Competition

The Virginia Public Procurement Act expresses the intent of the General Assembly that "competition be sought to the maximum feasible degree." According to state policy, maximizing competition ensures that procurement "responds to user needs . . . and generally brings the most favorable prices."

Agency practices can reduce contract value by limiting competition for contracts

When businesses compete for state contracts, they have an incentive to offer the highest possible quality at the lowest possible price. For this reason, statute encourages agencies to allow businesses to compete for contracts (sidebar). However, statute allows agencies to procure contracts without using competition in certain circumstances, and it does not sufficiently limit agencies' ability to avoid competition in this way. Although agencies appear to mostly procure contracts using competition, avoiding competition appears routine in certain circumstances and at certain agencies.

Agencies sometimes avoid competitive process

Agencies limit competition by including narrow specification requirements and by conducting sole source procurements. According to procurement staff, these practices are justified when the pool of vendors is insufficient to compete for a particular contract or when agencies need to ensure the quality or continuity of goods and services.

Overly specific criteria allow higher education institutions to limit competition for construction contracts

Vendors assert that some agencies restrict competition by developing overly specific criteria to ensure selection of the favored business, which was identified prior to procurement. Twenty-seven percent of vendor survey respondents that had submitted a bid or proposal for a state contract reported that, for some solicitations, either the winning vendor seemed to be predetermined by the agency or the agency's selection criteria prevented the vendor from qualifying to even submit a bid or proposal.

Some vendors reported being unfairly disqualified for construction contracts with some of the state's public four-year higher education institutions because the selection criteria were so specific that only a small number of vendors could be considered for the contract. According to staff at several higher education institutions, there have been instances when institutions have used very specific or narrow selection criteria particularly when using the "construction manager at risk" project delivery method. According to state statute, this method is intended to be used as an alternative to competitive sealed bidding, in which only price is considered, for highly complex construction projects.

In some cases, universities allow only pre-qualified vendors that have had experience with this project delivery method to submit proposals. Some higher education institutions have imposed even stricter criteria on vendors, requiring them to have been involved in projects nearly identical to the project being advertised in order to qualify for the contract. One university evaluated proposals based on several criteria that restricted competition: the vendors' experience working with the state as well as on a college campus, their experience conducting construction manager at risk projects, and their proximity to the campus. While these criteria appear reasonable given the high cost and risk of construction projects, vendors assert that institutions use the criteria to unfairly reduce competition.

The Construction and Professional Services Manual, developed by DGS and followed by most universities, establishes minimum required criteria for agencies and universities to use when prequalifying vendors for construction projects. One factor that is included in DGS's required criteria is previous experience with the project delivery method that is to be used for the project, such as the construction manager at risk method. Some vendors report that they are excluded from competition in the prequalification stage because they lack this very specific type of experience, and because they are always excluded, they are prevented from gaining the necessary experience. They may have sufficient relevant experience from other projects and other roles (for example, as a sub-contractor). While previous experience with this project delivery method is a valid consideration, using this criterion to prevent vendors from qualifying to even submit a proposal appears to unnecessarily narrow the pool of potential vendors for the contract.

Construction Manager at Risk is a method that agencies can use for executing a construction project. It is an alternative to the traditional design-bid-build method. (See Appendix E for the differences between the two methods.)

JLARC staff surveyed all vendors who had contracted with the state since January 2014. Vendors were asked about their experiences contracting with the state and responding to solicitations, as well as challenges experienced during contracting. 1,457 vendors responded to the survey, a response rate of 7.5 percent. (See Appendix B.)

DGS should clarify in state policy that agencies should not automatically disqualify vendors from competing for construction contracts solely because they do not have previous experience with the specific project delivery method. It should also discourage all agencies and institutions from using this criterion to penalize vendors who are seeking prequalification for construction projects. Additionally, DGS should review evaluation criteria to ensure that they do not unnecessarily limit competition. Staff can do this in their capacity as participants on the project committees formed by agencies and institutions to select vendors for construction projects and review the documents agencies and institutions use to advertise and award projects.

RECOMMENDATION 6

The Department of General Services should modify the Construction and Professional Services Manual to clarify the requirement that vendor experience with project delivery method, such as construction-manager-at-risk or design-build, be considered by state agencies and higher education institutions when qualifying vendors to compete for construction contracts. The policy should state that agencies shall not automatically disqualify vendors during the Request for Qualifications stage of a procurement because of a lack of direct experience with the specific project delivery method to be used for the project.

Sole source procurement

Contracts procured without competition when only one vendor is practicably available. Agencies complete a request form for all sole source procurements for goods and services above \$5,000. Sole source procurements up to \$50,000 are approved by an agency head, and those for non-technology goods and services over \$50,000 are approved by DGS. Sole source procurements under \$5,000 do not need to be approved.

Sole source procurement is disproportionately used by higher education institutions, mostly for low-cost purchases

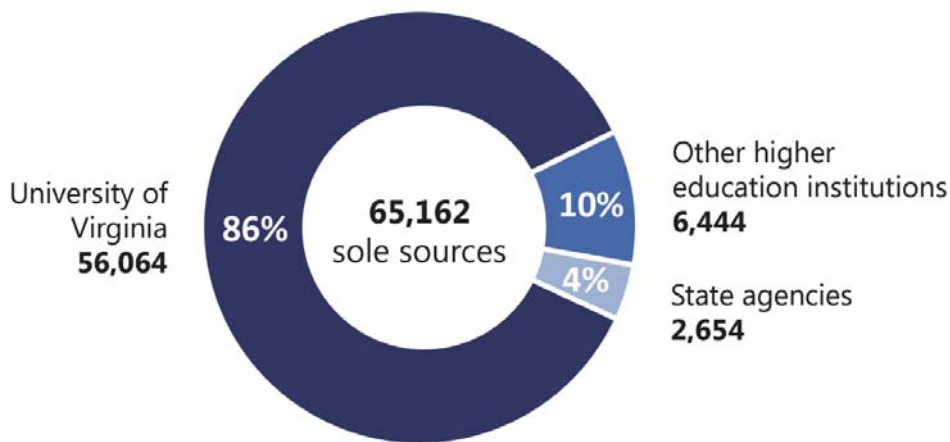
Some state contracts are procured without competition as sole source procurements, but this does not appear to be a common practice. The use of sole source procurement is concentrated in a small number of state agencies, and the purchases are typically small—valued under \$1,000. The University of Virginia, which follows the procurement policies established by the Virginia Association of State College and University Procurement Professionals, spent \$40 million on sole source procurement and was the largest user of sole source procurement in FY14 (Figure 3-3). In total, all agencies spent approximately \$157 million on sole source procurement.

The Auditor of Public Accounts (APA) and DGS have identified several agencies that used sole source procurement without sufficient justification in recent years, including the University of Virginia, Virginia State University, the Department of Motor Vehicles, the Department of Conservation and Recreation, and the Virginia Department of Health. In FY14, the APA found that the University of Virginia had made several sole source procurements without sufficient justification, approval, or documentation. The following year, the APA found similar problems, including for several construction contracts. The University of Virginia has committed to altering policies related to sole source justifications to ensure that they are properly documented going forward.

Because sole source procurement limits competition, state agencies should not use it unnecessarily. According to procurement staff, there are two main reasons for the use of sole source procurement. The first reason is that procurement staff have identified

only one practicably available source for a particular good or service. Procurement research may not identify all possible qualified vendors, though, and opportunities for competition may be limited unnecessarily. The second reason is that agencies need to preserve the continuity of certain mission-critical purchases, such as specialized computer software or materials for laboratory testing. Data are not available to determine which of these two circumstances most frequently lead to agencies' use of sole source procurement. However, audits by DGS and the APA are designed to identify misuse of sole source procurement, and available data indicate that, collectively, agencies do not frequently use this procurement method.

FIGURE 3-3
University of Virginia conducted most sole source procurements in FY14



SOURCE: JLARC staff analysis of purchase order data from eVA, FY14.

NOTE: Includes all two-year and four-year public higher education institutions.

Certification procedures limit competition for small businesses

Barriers to state certification for small, women-owned, and minority-owned (SWaM) businesses can keep agencies from maximizing contract value if too few SWaM businesses are eligible to compete for state contracts under the state's small business set-aside requirement. The requirement is that agencies must purchase certain goods and services from businesses that are certified through the Department of Small Business and Supplier Diversity (DSBSD). Competition is enhanced when vendors achieve and renew their certifications and agency procurement staff can identify the maximum number of certified businesses that are eligible to respond to their procurements.

Inefficient and ineffective processes limit number of certified small businesses

DSBSD is currently unable to address the volume of certification requests that it receives, resulting in a backlog of businesses that cannot be certified. DSBSD receives about 200 applications for new certifications or recertifications from businesses each

week. DSBSD has a goal of processing applications within 60 days, but staff reported a backlog of 181 applications that had not been processed within 60 days as of April 2016. These applications are for women-owned and minority-owned businesses. Staff reported having a total of 276 applications for small businesses that have been awaiting certification for up to 30 days. One-fourth of vendors that were certified as SWaM businesses reported, when surveyed, that they were less than satisfied with the certification process, most commonly because the certification process took a long time.

DSBSD does not effectively prioritize certifications; according to staff, certifications are processed on a first-come-first-served basis, with no differentiation between new applications and recertifications or different types of SWaM businesses. For example, because the state's small business set-aside requirement applies only to businesses with a "micro" or "small" business designation, certifications for these businesses could be given higher priority than other types of SWaM businesses. Better prioritization and faster processing of micro and small business certifications could increase the pool of businesses that are eligible to compete for set-aside contracts.

Furthermore, DSBSD's certification process lacks critical capabilities for issuing certifications. According to DSBSD staff, the certification system currently does not alert businesses when their certification is close to expiring. This causes some businesses to let their certification expire, which can delay agencies' procurement awards. For example, in survey responses, 227 certified businesses indicated that they have had their certification expire before it was renewed. Fifty-four percent of these businesses said that they were not aware that their certification needed to be renewed. According to DSBSD staff, new certification technology with the ability to send expiration alerts to businesses will be operational as of July 1, 2016. DSBSD should ensure that this function is implemented as part of the new certification technology, and that businesses are electronically notified that their certifications need to be renewed at least 60 days prior to expiration.

Some eligible businesses do not pursue certification at all. In total, 80 percent of surveyed businesses reported being eligible for SWaM certification, but 21 percent of those were not certified. Among the top reasons these businesses gave for not pursuing certification were lack of knowledge of the certification and reluctance to deal with the complexity of the process. Some businesses indicated that they were not certain that certification would improve their ability to compete for state contracts.

Administrative challenges could be alleviated through DSBSD improvements

Agency staff indicated that they are spending more time administering the state's SWaM policies in recent years. About three-fourths of procurement staff indicated that the time they spend on the state's SWaM policies increased during the past five years. Most of those staff indicated that they were concerned by the increase. According to agency staff, the additional time tends to be spent assisting businesses with obtaining SWaM certifications and with identifying small or micro businesses for set-aside contracts. A

Certification best practice

DGS staff send multiple electronic alerts to agency procurement staff when their procurement certifications are close to expiring.

“In November and December we had one person working 8 hours a day to help vendors get certified. There was a change of leadership at DSBSD and it couldn't provide any help. But this has always been the case. If you walk vendors through the process they'll get certified.”

— Procurement staff member

more efficient certification process could reduce the time that agency staff spend administering the state's SWaM policies and assisting businesses.

RECOMMENDATION 7

The Department of Small Business and Supplier Diversity should prioritize certifying businesses as “micro” or “small” over certifying businesses as only “women-owned” or “minority-owned.” The department should study the feasibility of automatically certifying businesses as “women-owned” or “minority-owned” if the business has been certified as such by other states, the federal government, or third-party certification entities.

RECOMMENDATION 8

The Department of Small Business and Supplier Diversity should send electronic notification of renewal to businesses certified as small, women-owned, or minority-owned at least 60 days prior to the expiration of their certification.

4 Protecting the State from Contract-Related Risk

SUMMARY Managing the risks associated with contracts is essential to protecting the state from negative consequences when contracts do not perform as planned, but risk management is not sufficiently emphasized in Virginia. State policies do not require agencies to manage contract-related risks, and training courses on risk management are not widely available. In practice, procurement staff at most agencies do not adequately plan for contract-related risks, and they routinely omit provisions from contracts that could help protect the state from contract problems. Moreover, most agencies do not routinely use available legal or subject-matter experts when developing contracts. A few agencies and other states have implemented practices that could improve Virginia’s management of contract-related risks if replicated statewide.

The state is exposed to risk when something could go wrong with a contract that could negatively affect the state. According to national experts, risk management should be a key part of state contracting, and effective risk management entails identifying and assessing the impact of potential risks, responding to risk through contract provisions, and ensuring that risks are managed sufficiently during the course of the contract.

Several of the state’s recent high-profile contracts did not adequately manage risk, which led to financial losses. In 2014, for example, the state had to terminate a \$1.4 billion contract to construct a segment of U.S. Route 460 because the project failed to receive the necessary environmental permits. Even though no site work was done, contract provisions that required the state to make regular payments to the vendor ultimately cost the state over \$250 million. This contract was procured by the Virginia Department of Transportation. In 2012, the state entered into a contract for use of the Wallops Island spaceport facility that did not require the vendor to provide insurance for the facility during rocket launches. An explosion in 2014 caused \$15 million in damage to the facility, and the state was responsible for funding a portion of the repairs. This contract was procured by the Virginia Commercial Space Flight Authority.

Risk is the possibility that an event will occur and adversely affect the achievement of objectives (definition, National Association of State Procurement Officials).

State contracting laws, policies, and training courses do not emphasize risk management

Although national experts recommend that risk management be a key component of contracting, Virginia’s contracting laws and policies mostly do not address the subject. The Virginia Public Procurement Act does not contain specific guidance or requirements related to risk management. For example, the Act does not discuss the various types of risk that contracts can present or provide guidance to agencies on strategies

State contract training courses

The state has several training courses for agency staff. Required courses are only for certain procurement staff.

Required courses

Virginia Contracting Associate

Virginia Construction Contracting Officer

Virginia Contracting Officer

Optional courses

Basic Information Technology Procurement

Contract Management

Virginia Contracting Master Certification Program

to control risk. By extension, the state's policy manuals pertaining to the procurement of goods, services, and construction also do not contain specific guidance or requirements related to management of contract-related risk. Although the state's policy manual for information technology (IT) procurements refers to contract-related risk and provides a template that agency staff can use, it does not require use of the template for all contracts.

In addition, most of the contracting training courses that the state provides do not address risk management. The state's Virginia Contracting Associate and Basic Information Technology Procurement courses, for example, do not address the management of contract-related risk at all. The Virginia Contracting Associate course is the state's introductory procurement certification course, and IT contracts are one of the state's riskiest types of procurement, making it important for staff attending these two courses to learn about risk management. The state's Virginia Construction Contracting Officer certification course indirectly addresses the management of risks associated with construction contracts by outlining the state's construction project processes; this course does not explicitly cover risk management either.

There are two state contracting training courses that address risk management, but they are not widely available to agency staff. The state's Virginia Contracting Officer certification and Contract Management courses both provide strategies to identify and address contract-related risk. However, not all procurement staff are eligible to attend the Virginia Contracting Officer certification course, and the Contract Management course is only offered up to twice per year for only about 25 people, some of whom work for local government entities rather than state agencies.

The Department of General Services (DGS) should examine various approaches for delivering the training and determine which approach would best ensure that training is widely and regularly available to agency staff. Training should be tailored to different types of contracts, including IT and construction contracts.

“There is a lack of meaningful training available. Most training . . . does not really get into the real and/or complex issues encountered in everyday operations.”

— Staff

Agency procurement office

RECOMMENDATION 9

The Department of General Services should develop mandatory training for certified procurement staff on identifying, mitigating, and controlling contract-related risk through effective contract development and administration.

Most agencies do not adequately perform risk management

Few state agencies have established internal policies and practices for management of contract-related risk. Even though the chief procurement officer at each agency with delegated procurement authority is required to attend the certification training course that features materials on risk management, some agencies do not routinely identify

and assess the impact of contract-related risks. In addition, agencies do not routinely or consistently include provisions in contracts that could protect the state from risks.

Contract-related risks are not routinely identified during contract development

Nearly one-fifth of procurement staff (19 percent) indicated that they do not employ any strategies at all to identify contract-related risks (Figure 4-1), according to the JLARC survey. Some of these staff are from large agencies that frequently conduct complex procurements. In interviews, several agency staff also reported procuring large state contracts without using any strategies to identify contract-related risk before signing the contract. Examples included a \$76 million health services contract and a \$7 million IT contract.

FIGURE 4-1
Nearly one-fifth of procurement staff do not routinely use any strategies to identify contract-related risk



SOURCE: JLARC survey of procurement staff from Virginia state agencies and select higher education institutions.
 NOTE: Agencies highlighted in graphic represent three of 45 agencies from which some procurement staff reported that they used no risk management strategies.

A risk management plan template for assessing the impact of various types of contract-related risk is included in the state's Virginia Contracting Officer and Contract Management courses, but most agencies do not use the template. The template requires agencies to identify the various types of risk that pertain to a particular contract and then assign a numeric value to each type of risk (Figure 4-2). In interviews, most staff, including those who have attended the training courses, indicated that they were unfamiliar with the template. Even DGS staff who procure goods and services through statewide contracts were unfamiliar with it. Only six percent of procurement staff who responded to a JLARC survey indicated that they formally document contract-related risk through mechanisms like risk management plans.

JLARC staff surveyed procurement staff at all state agencies and higher education institutions. Procurement staff were asked about various topics, including their approach to contract development and their satisfaction with the cost and quality of certain types of purchases. 382 procurement staff from 134 agencies and institutions responded to the survey, a response rate of 62 percent.

(See Appendix B.)

FIGURE 4-2
DGS risk management template has two steps

Step 1	Step 2				
Identify types of risk	Determine risk level	Rate 1 through 5			
<ul style="list-style-type: none"> ▪ Technical ▪ Programmatic ▪ Supportability ▪ Cost ▪ Schedule 	<ul style="list-style-type: none"> ▪ Probability of occurrence ▪ Severity or impact 	1	2	3	4 5

SOURCE: Department of General Services' risk management template.

RECOMMENDATION 10

The Department of General Services and Virginia Information Technologies Agency should modify their statewide procurement policy manuals to state that agencies should implement a formal mechanism for identifying and managing contract-related risk. Manuals should be modified by July 1, 2017.

VDOT uses formal risk management strategies for Tier II VDOT projects and for all projects considered high risk by the VDOT Commissioner.

Penalty: Provision that levies a fee or other penalties on vendors who do not meet contract requirements.

Incentive: Provision that awards compensation or other benefits to vendors that meet or exceed contract requirements.

Performance measure: Provision that requires collection and/or reporting of data measuring performance of vendors relative to contract requirements.

Agencies do not always manage risk by adequately specifying requirements and outcomes in contracts

During contract development, agencies do not always adequately describe the goods or services that they intend to purchase, which increases the risk that vendors will not fulfill agency expectations and agencies will receive goods or services that do not meet their needs. State policy manuals refer to specifications as “the most important part of every solicitation” and advise agencies to stipulate the needs of the agency clearly and completely. Several state agencies reported that developing accurate specifications was sometimes difficult, and several vendors characterized the procurement specifications of some state contracts as “vague or confusing.”

The clarity and completeness of agencies' contract specifications could be improved by implementing Recommendation 10, because more robust risk planning would inform the development of contract specifications.

Agencies routinely omit contract provisions that could protect the state from contract-related risks

In part because they do not identify contract-related risks during planning, state agencies do not routinely incorporate risk management provisions—penalties, incentives, and performance measures—in their contracts. These types of provisions protect the state against contract problems by tracking progress and holding vendors accountable. Penalties, incentives, and performance measures are not included in the state's standard

contract provisions, and they are not necessary for all contracts, such as some contracts for the purchase of goods. But for other contracts, risk management provisions should be used routinely and consistently; otherwise the state is exposed to unnecessary risk.

It is especially important for contracts to contain provisions like penalties, incentives, and performance measures to hold vendors accountable because agencies seldom use the standard contract provision that would allow them to terminate contracts for default when vendors fail to perform. Although agencies are required to include a termination provision in contracts, they avoid using it because terminating a contract can be time-consuming, lead to costly legal cases with vendors, and cause agencies to have to re-procure contracts. Provisions like penalties, incentives, and performance measures enable agencies to hold vendors accountable without pursuing contract termination.

Nearly half of agencies do not have penalties or incentives tied to vendor performance in any of their active contracts, and 17 percent of agencies have no performance measures in any of their active contracts (Figure 4-3). Further, contract administrators reported that most of their agencies' highest value contracts lack the penalties and incentives necessary to enforce contract provisions and that this has undermined their ability to enforce the contracts.

“There is no rhyme or reason as to why some contracts contain penalties or performance measures and others do not.”

— Staff

Agency procurement office

Data on contract terminations was collected by JLARC staff from procurement staff at 22 agencies, who reported that contract terminations are relatively infrequent. Less than 1% of these agencies' active contracts were terminated in a given year. (See Appendix B.)

FIGURE 4-3

Many state agencies did not include penalties, incentives, or performance measures in any of their active contracts



SOURCE: JLARC survey of procurement staff from Virginia state agencies and select higher education institutions.
NOTE: Chief procurement officers representing 96 agencies responded to survey questions on penalties/incentives and performance measures.

Sometimes risk management provisions are incorporated in contract drafts but removed or modified during negotiations with vendors. According to procurement staff, key provisions can be negotiated out of contracts, either mistakenly or on purpose, as a part of the “push and pull” that occurs between the state and the vendor. This happened recently with a \$102 million IT contract, when negotiations removed a “hold back” provision that allowed the agency to withhold funds from the vendor to incentivize corrective action. This also occurred with the state’s contract for the spaceport

facility at Wallops Island. The proposed contract included a provision requiring the vendor to insure against damages to the spaceport, but the provision was removed during contract negotiations. As a result, the state had to pay to repair a portion of the damages that occurred during an explosion in 2014.

CASE STUDY

Agency's contract for case management services lacks penalties, which could impede ability to correct poor vendor performance

Background

In 2010, an agency procured a case management system through a competitive negotiation valued at \$27.5 million.

Problem

According to the contract administrator, the provisions of this contract do not include any penalties or incentives tied to vendor performance

Consequences

The contract administrator lacks the tools necessary to make the vendor address high-priority requests that arise in a timely manner. Although this has not caused any problems to date, the contract administrator noted that any future issues would be difficult to address efficiently due to the lack of these provisions.

How problems could have been avoided

When developing the contract's provisions, agency staff should have included provisions to encourage the vendor to meet performance expectations.

RECOMMENDATION 11

The Department of General Services and Virginia Information Technologies Agency should modify their statewide procurement policy manuals to state that contracts should contain the following provisions: (i) performance measures, to be used in contracts for services; (ii) quality assurance measures, to be used in contracts for goods; and (iii) penalties to impose when a vendor does not perform according to contract provisions.

Agencies underutilize state experts to manage contract-related risk

The state has legal and subject-matter experts who can assist agencies with developing contracts that effectively manage contract-related risk, but agencies are not required to use these resources. Procurement staff can consult with the Office of the Attorney General (AG), DGS, and the Virginia Information Technologies Agency (VITA) when developing contracts. However, procurement staff have complete discretion about whether and how to use legal and subject-matter experts, even for particularly large or complex contracts.

Most procurement staff do not consult legal experts when developing contracts

Procurement staff at most agencies do not voluntarily seek assistance from AG staff when they develop contracts, even though many agency staff add non-standard provisions to contracts that may not have undergone legal review and therefore could expose the state to risk. AG staff review contracts only at the request of an agency. Only 21 percent of procurement staff who responded to a JLARC survey reported seeking assistance from AG staff with developing contract provisions.

To manage contract risk, agencies should seek assistance from AG staff when they develop high-risk contracts with non-standard provisions. State policy permits agencies to use non-standard provisions in contracts, which can come from state procurement manuals, past contracts, or other agencies' contracts. Agencies can also draft non-standard provisions on an ad hoc basis when unique provisions are warranted. Using non-standard provisions without the assistance of legal staff exposes the state to risk because provisions may conflict with one another or inadequately protect the state. Several procurement staff reported confusion regarding the meaning and appropriate use of non-standard contract provisions.

Agencies should also request AG staff to review both the legality and substance of provisions for high-risk contracts. When agencies seek input from legal staff on developing contracts, they typically only ask staff for an assessment of the legality of contract provisions, not whether they are sufficient to achieve agencies' objectives. Agencies rarely ask legal staff to review the soundness of contract provisions beyond their legality, partially because they often develop contracts under time constraints and do not build in time for in-depth legal reviews. According to AG staff, when an agency requests assistance with contracts, the agency's main concern is usually to ensure that contract provisions are sufficient to complete a procurement—not to maximize the state's contract value.

To ensure that agencies are aware of the types of contract-development assistance available from the AG and the process that should be followed to have contracts undergo a thorough review, the AG should develop written guidelines on its role in contract development and make them available to all agencies. The guidelines should include a description of the aspects of solicitation and contract development with which legal staff can provide assistance, the specific types of assistance legal staff can provide, and the procedures that agencies should follow to obtain assistance.

Greater use of AG staff during the development of high-risk contracts might reduce the state's exposure to contract-related risks, but it appears that the AG does not always have enough staff to assess aspects of contracts beyond their legality. AG staff reported that they sometimes do not have the capacity to review the substance of contract provisions, especially when agencies do not involve AG staff until the end of contract development. To limit the demand on AG staff, contract review

VDOT and DMAS use of legal experts

VDOT staff are required to consult with Attorney General staff when altering the agency's internal contract provision template or adding special provisions to contracts that go beyond the VDOT template. VDOT staff also routinely include Attorney General staff in the negotiations of complex contracts.

DMAS staff routinely receive feedback on contract provisions from Attorney General staff when they are conducting competitive negotiations with new contract language.

services could be required only for contracts that are deemed to be particularly high risk. (See Recommendation 16 regarding identification of high-risk contracts.)

RECOMMENDATION 12

The Office of the Attorney General should develop and publish information for agencies about the legal services it offers to assist with contract procurement. Information should include the types of assistance available to agencies and procedures for obtaining assistance.

Comprehensive and routine review of contract provisions by legal experts is needed

“
[My agency’s] template and special terms and conditions do not always correspond with the Agency Procurement and Surplus Property Manual. It’s confusing to work with two different ones.
”

— Staff

Agency procurement office

The state does not have a single centralized repository of standard contract provisions that agencies can use when developing contracts. To develop contract provisions, agencies consult state procurement policy manuals, internal agency templates, and specific provisions developed for previous contracts. According to the Attorney General’s office, these sources of contract provisions were developed over time on an ad hoc basis by various state entities. There has not been a deliberate cohesive effort to develop a single set of contract provisions that meet the objectives of all agencies for various types of goods and services. According to procurement staff, the fragmented nature of these contract provisions can create confusion, especially among inexperienced staff.

Given the manner in which the state’s standard and non-standard contract provisions have been developed, they should be reviewed by Attorney General staff to protect state interests. However, because of the lack of routine or comprehensive legal review, provisions may not adequately protect the state’s interests or may conflict with other provisions, especially when new provisions are introduced. Staff at the Attorney General’s office report having identified problems with contract provisions in the past, including standard contract provisions.

RECOMMENDATION 13

The Office of the Attorney General should conduct a comprehensive legal review of all standard contract provisions that have been developed or recommended for agencies’ use by the Department of General Services, the Virginia Information Technologies Agency, the Virginia Department of Transportation, and the Virginia Association of State College and University Purchasing Professionals. Reviews should be undertaken every five years, with the initial review to be completed by January 1, 2017.

VITA could be more effective in helping agencies to mitigate contract-related risks

Contracting for information technology services carries a high degree of risk relative to other goods and services, and procurement staff at many agencies have little experience or training in contracting for these services. The Code of Virginia gives

VITA oversight authority over agencies' IT procurements and contracts to help ensure that these procurements and contracts are in the state's best interest.

VITA staff are well positioned to help agencies procure and administer IT contracts, but VITA staff do not always meet agencies' need for assistance. VITA staff indicated that they are frequently contacted by agencies seeking IT procurement advice, but staff only respond to such requests when time and resources permit. According to agency procurement staff, VITA has been reluctant to assist agencies with problems that arise during active IT contracts procured by the agencies.

Most agency procurement staff responding to the JLARC survey who had relied on assistance from VITA were satisfied with VITA's help, but some staff provided specific examples of problems they had experienced over the past 12 months. In interviews, staff at multiple agencies indicated that VITA staff characterized problems encountered with agency IT contracts as agency problems and did not proactively assist the agencies in resolving them. Other staff reported that VITA was slow to respond to requests for assistance, or simply nonresponsive.

The oversight that VITA currently performs helps ensure that the largest IT contracts include effective provisions, but some IT contracts are missing provisions that would ensure satisfactory delivery of goods and services. Most of the IT contracts reviewed for this study lacked one or more of such provisions, including one with no performance measures specified, one with no monitoring methods specified, and nine with no penalties or incentives.

Greater use of VITA staff expertise might improve state agency contracts for IT services, but it appears that VITA currently does not have enough staff to meet the need for assistance. According to VITA staff, the procurement division, Supply Chain Management, was originally designed with 41 positions, and this type of assistance was intended to be one of its responsibilities. But the division currently has 20 employees, none of whom are fully dedicated to assisting agencies with IT procurements.

VITA has broad statutory authority over the execution of agencies' IT contracts, and VITA was originally envisioned to be a central repository of IT expertise and assistance for agencies. To be consistent with legislative intent, VITA should dedicate some staff to assisting agencies with the development and management of their IT contracts. VITA should assess its staffing needs and identify the numbers and cost of new staff that would be needed to better assist agencies. VITA currently has staff dedicated to helping agencies manage their largest IT projects, and a similar approach could be taken to helping agencies with the procurement of their IT contracts. At a minimum, VITA should assist agencies with developing contract provisions that clearly describe (i) how the vendor's performance will be monitored by the agency and (ii) penalties or incentives tied to vendor performance. To minimize the number of additional staff that would be needed, VITA should also identify ways in which its current staff could be utilized more efficiently.

Data on IT contracts
was collected by JLARC staff on the performance and provisions of 16 different IT contracts with an estimated value of \$1.2 billion.

RECOMMENDATION 14

The Virginia Information Technologies Agency (VITA) should identify the number of additional staff needed by its Supply Chain Management Division to effectively assist agencies with the planning and execution of procurements for IT contracts. The agency should submit a report to the Secretary of Technology, Department of Planning and Budget, and House Appropriations and Senate Finance Committees regarding its additional staffing needs. The report should include a description of the nature and scope of the assistance that VITA will provide to agency staff as well as a timeline that it will follow for having new VITA staff in place to provide such assistance.

If additional staff are needed for contracting assistance, the state could cover the additional personnel costs by changing the allocation of the Acquisition Sourcing and Special Fund. The Fund receives revenues from fees charged to vendors, and these fees are based on purchases made against VITA's state contracts. Under statute, the Fund is to be used "to finance procurement and contracting activities and programs unallowable for federal fund reimbursement" (Code of Virginia; 2015 Appropriation Act). In practice, \$1.8 million of the Fund is used to pay for the IT operations of the governor's office (Table 4-1). If the Fund were restricted to VITA operations, this \$1.8 million would be available to cover the costs of additional assistance with IT contracts. This action would change a long-standing practice over several administrations of using the Fund to pay for the governor's office IT operations, and would require other funding sources to be identified to pay those expenses.

TABLE 4-1
Budgeted expenditures for Acquisition Services Special Fund

	FY16 budgeted expenditures (\$M)	Percent of total budgeted expenditures
Procurement expenditures		
VITA procurement services & oversight	\$3.5	
VITA IT services sourcing project	0.8	
Subtotal procurement expenditures	4.3	58%
Federal reimbursements	--	
Other expenditures		
IT support for the governor's office	1.8	
VITA non-procurement expenses	1.3	
Subtotal other expenditures	3.1	42%
Total	\$7.4	

SOURCE: Virginia Information Technologies Agency budget data.

NOTE: The 2016 Appropriation Act increased budgeted Acquisition Services Special Fund expenditures to \$10.1 million per year in FY17–FY18. Half of the increase is for procurement expenditures, and half is for other expenditures. The increase is funded from surplus revenues collected from fees charged to vendors for sales made under VITA-managed contracts.

Another way in which VITA could be a more effective contracting resource for agencies would be to develop and provide comprehensive training on IT contracting. Procurement staff from several agencies expressed a desire for an IT-focused training. DGS offers a training course on buying IT through eVA and basic delegation guidance, but it does not cover some essential topics such as how to develop effective requests for proposals and contracts and how to identify and manage contract-related risks. Moreover, this training is offered far less frequently and is much shorter in duration than other procurement trainings. VITA staff could collaborate with DGS staff to develop a more comprehensive IT contracting training program, to be required for agency staff who procure and administer IT contracts. The training program should focus on all aspects of effective contract procurement and administration, including the development of contract provisions, the identification and management of contract-related risks, effective performance monitoring, and enforcement of contract provisions. Agency staff who are conducting IT procurements should be required to complete the training program.

RECOMMENDATION 15

The Virginia Information Technologies Agency (VITA) should seek the assistance of the Department of General Services to design a comprehensive training program for procurement and administration of IT contracts, which would be administered by VITA.

Virginia should develop definition and review process for high-risk contracts

Unlike other states, Virginia lacks a standard definition and oversight process for “high-risk” contracts. Several state entities, including the Auditor of Public Accounts, DGS, and VITA, have internal definitions for contracts they consider to be high risk. However, neither the Virginia Public Procurement Act nor state policy manuals contain a standard definition of high-risk contracts. This enables agencies to approach the development of these contracts differently. Several other states have formal definitions for high-risk contracts that could be beneficial if replicated statewide in Virginia. For example:

- Colorado has a Central Contracts Unit that is part of the state’s Office of the State Controller and is required to review and approve contracts defined as high risk. These include contracts for IT goods or services, financial systems, and debt collection.
- Texas has a Legislative Budget Board that collects and uses data to identify the risks of certain contracts. The board collects data on contracts that are (1) valued over \$10 million, (2) emergency or noncompetitively procured contracts valued above \$1 million, (3) major information system contracts valued above \$100,000, (4) construction contracts valued above \$14,000, or (5) professional services contracts valued above \$14,000.

- In contrast to other states, Virginia also currently lacks a standard process for managing high-risk contracts. In the absence of a standard process, the state's interests are not always adequately protected. Other states have formalized oversight processes for high-risk contracts. Although the designs of these processes differ, they share a common goal of requiring additional reviews of high-risk contracts. For example:
- Texas has a Contract Advisory Team that reviews and makes recommendations on the solicitations for contracts valued at or above \$10 million. The team also performs risk assessments to determine the appropriate level of management and oversight of contracts by state agencies.
- North Carolina's Division of Purchase and Contract has a Contract Management Section that reviews the provisions of all contracts over \$1 million to verify that contracts (1) are in proper legal form, (2) contain all required clauses, (3) are legally enforceable, and (4) will accomplish their intended purposes. The Contract Management Section participates in the solicitation and development of these contracts and helps establish formal contract administration procedures.
- Colorado's Central Contracts Unit monitors contracts initiated by state entities to ensure that they are properly executed and risks are adequately addressed. The unit also provides contract training opportunities to state entities.

If Virginia had used a process to identify and oversee high-risk contracts that was similar to other states' approaches, some of the negative consequences of the state's past problematic contracts might have been avoided. For example, such a process might have helped the state negotiate a better IT contract with Northrop Grumman in 2005.

CASE STUDY

Northrop Grumman contract was high risk, and risks were not sufficiently managed

Background

In 2005, VITA entered into a 10-year, \$2 billion public-private partnership with Northrop Grumman to acquire IT infrastructure services.

Problem

Prior to awarding the contract, VITA and the Information Technology Investment Board did not have a formalized process for reviewing the risks (financial and other) associated with procuring IT infrastructure services through Northrop Grumman using a public-private partnership.

Contract provisions did not provide a sufficient means of ensuring vendor performance, as many were unclear or difficult to enforce, and contract penalties and incentives for poor vendor performance were inadequate.

Consequences

The state's partnership with Northrop Grumman cost more than the state expected and had service delays, performance issues, and contractual disputes.

How problems could have been avoided

If the contract had been identified as high risk and therefore subject to a formalized risk assessment process during its development, the risks that the state was exposed to might have been more thoroughly addressed through the final contract provisions.

As part of the new process to identify and oversee high-risk contracts, Virginia should develop a definition for what constitutes a high-risk contract. This definition should take into consideration the nature of the goods and services being purchased, the number of agencies procuring or using the contract, how atypical the contract is, the duration of the contract, and the dollar value of the contract.

RECOMMENDATION 16

The General Assembly may wish to consider amending the Code of Virginia to add a definition of high-risk contracts and require that, before execution, all contracts that meet the definition of high risk be reviewed and approved by the Office of the Attorney General (all contracts), the Department of General Services (contracts for goods and non-professional and professional services that are not for information technology or road construction or design), and the Virginia Information Technologies Agency (IT contracts).

New advisory committee was established to evaluate risks of public-private partnerships

Recent legislation has increased the level of scrutiny applied to the procurement of contracts through the Public-Private Transportation Act, and the advisory committee created by the legislation could have a meaningful impact on the state's use of these contracts. The Public-Private Partnership Advisory Committee determines whether a public-private partnership approach to completing a transportation project would serve the public interest to a greater extent than an approach that uses only public funds. If a majority of the committee members determine that a public-private partnership is in the public's interest, then agencies can proceed with the procurement process established in the Public-Private Transportation Act.

The new advisory committee met for the first time in 2015 and convened twice to review the advantages and disadvantages of procuring a public-private partnership to complete improvements to I-66 in Northern Virginia. At its first meeting, the committee was tasked with determining whether a public-private partnership for the I-66 project would be in the public's best interest. However, some committee members did not appear to be sufficiently informed about the project's details to confidently make this determination. Some details about the project were unknown, including the amount of public financing needed and the risk that would be shifted from the state to the private sector. For future projects, the committee could be formally convened more than once in order to be fully briefed about the project and to have the opportunity to ask pertinent questions before voting on the project's public interest.

5 Monitoring and Enforcing Contracts

SUMMARY State contracting policies focus far less on the effective administration of contracts than on procurement, which has left agencies ill-equipped to monitor and enforce contracts. In many cases, agency staff are not effectively monitoring contract performance or enforcing contract provisions, and some complex high-dollar contracts are administered by inexperienced and unprepared staff. In many agencies, there are no standard procedures for alerting key agency staff about contract-related problems, and procurement staff at most agencies—as well as agency leadership—do not have a clear sense of how their contracts are performing. Even if staff follow best practices for contract monitoring, vendors may not meet contract requirements. Contract enforcement is important in these instances, and state agencies do not uniformly use effective practices for enforcing contract provisions and do not consistently hold vendors accountable for poor performance. The state should develop policies to guide agencies’ contract administration practices, require contract administrators to meet training requirements, and strengthen contract administration guidance from the state’s central procurement agencies, the Department of General Services, and the Virginia Information Technologies Agency.

Effective contract administration supports the effort and resources put into procuring and negotiating contracts by ensuring that the value achieved through procurement is realized and that risks addressed through contract development are monitored and managed. Contract administration, which includes monitoring performance and enforcing contract provisions if performance does not meet expectations, is the longest phase of a contract in many cases. Ensuring that contracts deliver what agencies need is particularly important for high-value and mission-critical contracts. Contract administration is decentralized in Virginia, however, and monitoring and enforcement is inconsistent across and within agencies, and at times insufficient. Agency staff would be able to more effectively protect the state’s interests when administering contracts—particularly agencies’ highest value and highest risk contracts—with clear policies and procedures in place and more training opportunities.

State has placed limited focus on effective contract administration

State law is mostly silent on contract administration, and by extension, state policy manuals and training programs do not emphasize its importance. State agency staff receive too little guidance on how to effectively monitor and enforce the contracts they are responsible for (Table 5-1), and state law and policies set no goals or objectives for

“
An agency’s effort should not stop after the procurement process because [contracts] may not stay on track without proper management.
”

— Staff
Central procurement agency

“
Many agencies look at the contract as something to turn to when problems are occurring, not as something to actively manage.
”

— Staff
Attorney General’s office

TABLE 5-1

Virginia's contract administration policies lack key elements to protect state's interests

Recommended elements in contract administration	In Virginia state policy?
Highest priority elements	
Contract administration staff attend formal training and obtain certification	No Recommendation 18 Recommendation 19
Agencies allocate contract administration resources and select monitoring methods based on complexity, value, and length of contracts, as well as the risk associated with unperformed contract work	No Recommendation 17
Agencies have a formal contract handoff between procurement staff and contract administrators, including a discussion of monitoring methods	Partially Recommendation 20
Contracts contain distinct and measureable performance metrics	No Recommendation 11
Contracts contain concrete enforcement provisions to be used when contract performance measures or other provisions are not being met	No Recommendation 11
Other recommended elements	
Contract administrator develops and follows a contract administration plan, which tracks performance and identifies monitoring methods and staff responsible for monitoring activities	Partially
Contract administrator develops contingency plans detailing how to respond in the event that goods are not delivered or services are not provided	No
Agencies maintain a log of payments and deliverables, and contract administrators have invoice approval	No
State has formal guidelines on communication with vendors, including documentation of all interactions	Partially

SOURCE: Best practices identified by the Georgia Department of Audits and Accounts; the National Association of State Procurement Officials; the National Contract Management Association; the Office of Management and Budget's Office of Federal Procurement Policy; and the Texas Procurement and Support Services Division.

effective contract administration. For example, the Virginia Public Procurement Act does not emphasize the contract administration stage but focuses almost entirely on the procurement stage of contracting.

State policy manuals do not explain the importance of effective contract administration and provide minimal direction on key contract administration practices. This lack of comprehensive contract administration policies is in contrast to the multitude of rules, regulations, and policies governing the procurement process. The Agency Procurement and Surplus Property Manual (APSPM), Construction and Professional Services Manual, and the Virginia Information Technologies Agency (VITA)'s Buy IT manual each contain only one chapter explicitly on contract administration. The information that is included in these policy manuals is general and does not focus on the

differences in monitoring activities required for contracts of varying complexities, value, or risk. In general, it appears that agencies do not have appropriate tools or direction to administer contracts—particularly the largest and most complex contracts.

Some states place greater emphasis on contract administration than Virginia does. One common approach has been to improve the quality and accessibility of guidance for contract administrators. Several states—including California, Iowa, North Carolina, and Texas—have either improved existing procurement manuals or developed contract administration-specific manuals. These statewide manuals detail the responsibilities of the agency and vendor, explain the benefits of monitoring, with examples of common monitoring activities, and provide comprehensive and specific guidance on how to handle performance problems.

Virginia state policy does not require that contract administrators have specific qualifications, regardless of the value or complexity of the contract. There are no state training requirements on contract administration, and optional training opportunities are targeted to procurement staff rather than contract administrators. Moreover, agency staff typically serve as contract administrators on a part-time basis and view contract administration as secondary to their other responsibilities. This is in contrast to the emphasis placed on the training and preparation of procurement staff, who are responsible for contract procurement on a full-time basis, are required to have state certifications and prior experience in order to conduct high-dollar or complex procurements, and are required to complete training courses at regular intervals.

Some states—such as Florida, North Carolina, and Texas—have implemented mandatory training or certification requirements for contract administration staff. For example, Texas requires that contract administration staff go through three formal training programs and receive state certification. Several other states—including Hawaii and Washington—offer formal training on contract administration.

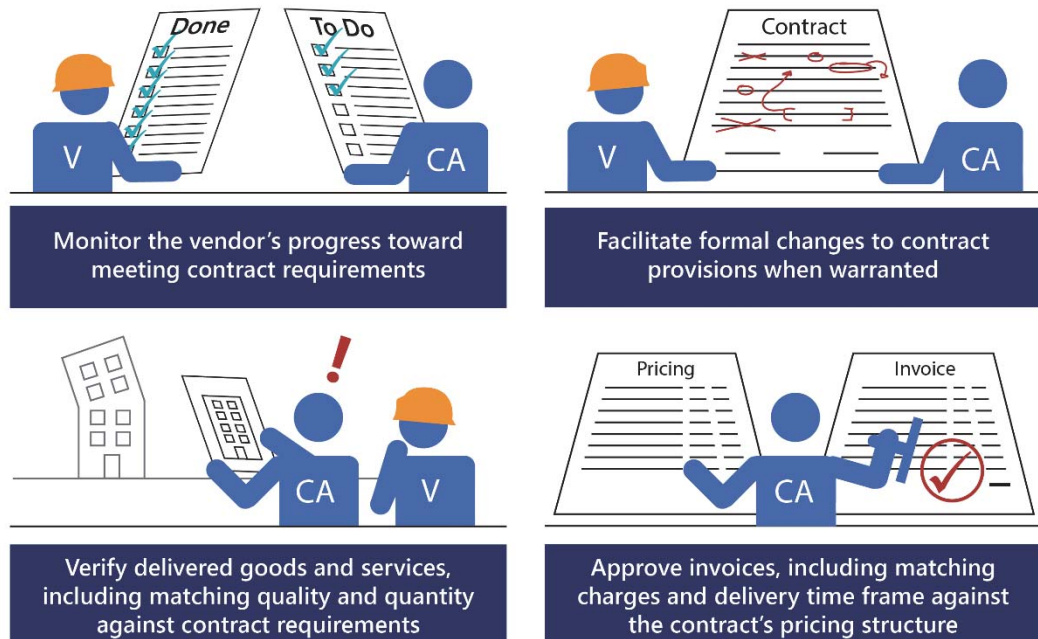
Virginia has weak statewide contract administration policies, few contract administration resources at central procurement agencies, and minimal contract administration training opportunities, which is partially due to the decentralized structure of the state's contracting functions. Decentralization of contracting provides agencies with benefits, such as the ability to customize contract administration practices to particular types of goods and services. However, decentralization also creates the potential for agencies to utilize variable, and potentially ineffective, contract administration practices, underscoring the need for effective statewide contract administration policies. The recommendations that follow are designed to ensure that agencies consistently and uniformly apply effective contract administration practices. They would also help ensure that contract administrators are adequately prepared for their responsibilities and have sufficient support from other agency staff when monitoring and enforcing high-value and complex contracts. These recommendations provide a foundation for effective and consistent contract administration practices to be applied across agencies, and they would not prevent agencies from customizing their practices to meet their unique contracting needs.

Agencies inconsistently and, in some cases, inadequately monitor contracts

The level of sophistication of agencies' practices for monitoring contracts varies widely and can lead to inadequate monitoring. This is due to a combination of inadequate policies, unprepared staff, insufficiently detailed contract provisions, and the lack of a formal reporting process about contract performance between contract administrators and procurement staff. In the absence of adequate contract monitoring, agencies cannot ensure that vendors are meeting all contract provisions and requirements, they are aware of any performance problems, and that they obtain information about the effectiveness and quality of the goods or services procured (Figure 5-1).

FIGURE 5-1

Agencies' contract monitoring practices should include several key elements



SOURCE: Virginia Public Procurement Act, the Agency Procurement and Surplus Property Manual, the Construction and Professional Services Manual, and information from the National Association of State Procurement Officials and the National Contract Management Association.

Agencies often lack contract monitoring policies

While some chief procurement officers reported that their agencies had developed policies that compensate for the inadequacy of statewide monitoring policies, many agencies have not. For example, almost half of chief procurement officers (44 percent) reported either that their agency does not have a formal policy on monitoring vendor performance or that they are unsure if their agency has such a policy. Several of these chief procurement officers work for large and mid-size agencies with contracts that have recently experienced performance problems, such as cost overruns or delays.

Although there are some statewide contract monitoring policies, many agencies have not been implementing or following these policies. For example, some agencies do not use checklists or similar tools to monitor performance as recommended by the APSPM. Instead, agencies tend to address performance problems as they arise and rely on vendors to report on their own progress.

Agencies can better protect state interests when they implement structured, comprehensive contract monitoring policies for staff to follow, as illustrated in the following case study.

JLARC staff surveyed procurement staff at all state agencies and higher education institutions. Procurement staff were asked about various topics, including their approach to contract development and their satisfaction with the cost and quality of certain types of purchases.

382 procurement staff from 134 agencies and institutions responded to the survey, a response rate of 62 percent. (See Appendix B.)

CASE STUDY

DMAS implementation of formal policies on contract monitoring

Background

The Department of Medical Assistance Services (DMAS) has implemented its own contract monitoring policies for staff to follow.

Frequency of monitoring activities

DMAS contract administrators determine whether there would be a significant impact to the agency or public if any given contract requirement is unmet. DMAS staff then determine how frequently to monitor a vendor's progress towards meeting contract requirements in order to protect the state's interests. (High-risk contract requirements often require daily monitoring.)

Verifying vendor performance

Contract administrators use detailed checklists to ensure that both the vendor and agency meet the contract requirements.

Staff responsible for a health services contract noted that one staff member is responsible for ensuring the vendor meets all contract requirements by checking off performance reports as the agency receives them from the vendor and for tracking progress toward meeting deadlines for deliverables.

Administration of another contract for IT services involves weekly monitoring and verification of vendor-reported performance metrics and shifting weights on performance metrics to place more emphasis on problem areas.

Contract monitoring practices vary not only across but also within agencies. Within one agency, for example, contract monitoring varies from contract to contract. For one contract, staff monitor performance daily and match deliveries against pictures of materials ordered. For another contract, monitoring is ad hoc and relies on field staff, who may not be familiar with contract requirements.

These inconsistencies will be reduced if adequate state policies are developed and are implemented uniformly across agencies as recommended in this chapter.

Some contract administrators lack time, experience, and preparation

The state's approach to staffing contract administration increases the likelihood that agencies will have contract performance problems. Staff who administer contracts often have little experience and time to devote to these responsibilities and are not prepared to take over after contracts have been procured. This negatively affects the monitoring and enforcement of contracts of all levels of complexity and cost, and has resulted in poor contract performance.

Most contracts are administered on a part-time basis

The amount of time that staff spend on contract administration varies widely and is often only a small percentage of their workweek, even for high-value contracts. Half of sampled contracts were actively administered for fewer than 10 hours per week, according to staff responding to JLARC's contract administrator survey.

Agency staff who administer contracts on a part-time basis indicated that, in some cases, they do not have enough time or resources to conduct performance monitoring and ensure contract compliance. Without such time and staff support, contract administrators take a reactive approach to monitoring, rather than proactively engaging with the vendor, comprehensively monitoring key performance measures, and assessing the quality of deliverables in detail. For example, one contract administrator noted that she was still unfamiliar with some contract requirements and provisions for a goods contract even after administering it for five months. Because she is pressed for time, she relies on field staff to inform her about performance problems. Unless she is notified to the contrary, she assumes that the vendor is meeting performance expectations.

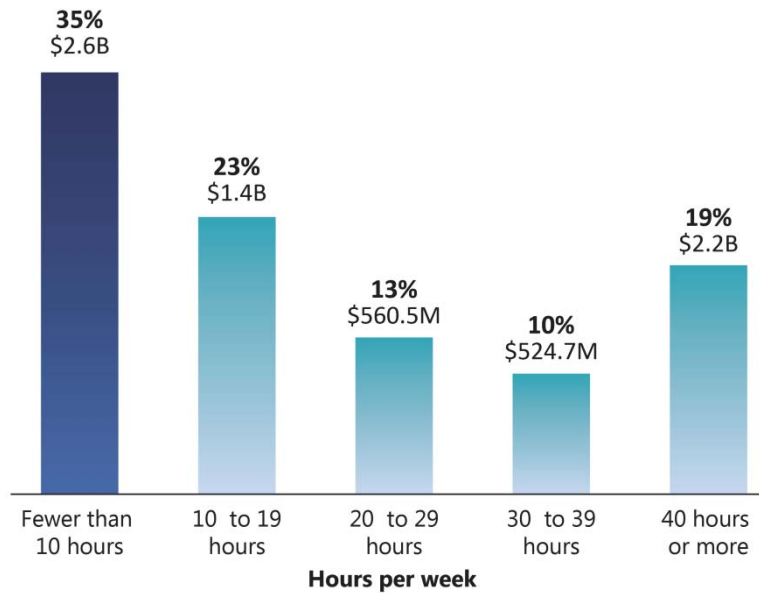
The limited amount of time that staff spend administering contracts, especially high-value contracts, is particularly concerning. A large proportion of multi-million dollar contracts are administered on a part-time basis, and slightly more than one-third of analyzed contracts valued above \$50 million were administered for less than 10 hours per week (Figure 5-2). For example, one agency assigned only one staff member to an important IT contract, which was actively administered for only two hours per week.

JLARC staff surveyed contract administrators at 23 agencies that had high contracting activity in FY14. Contract administrators were generally responsible for one or more of agencies' highest value contracts and were asked about various topics, including contract performance and factors hindering effective administration.

92 agency staff—a response rate of 85%—provided information on 117 contracts valued at \$8.1 billion. (See Appendix B.)

FIGURE 5-2

One-third of high-value contracts are actively administered for fewer than 10 hours per week



SOURCE: JLARC survey of state agency contract administrators, 2015.

NOTE: Numbers may not add due to rounding. Percentages based on the number of contracts in each category. Analysis is limited to 31 contracts valued above \$50 million.

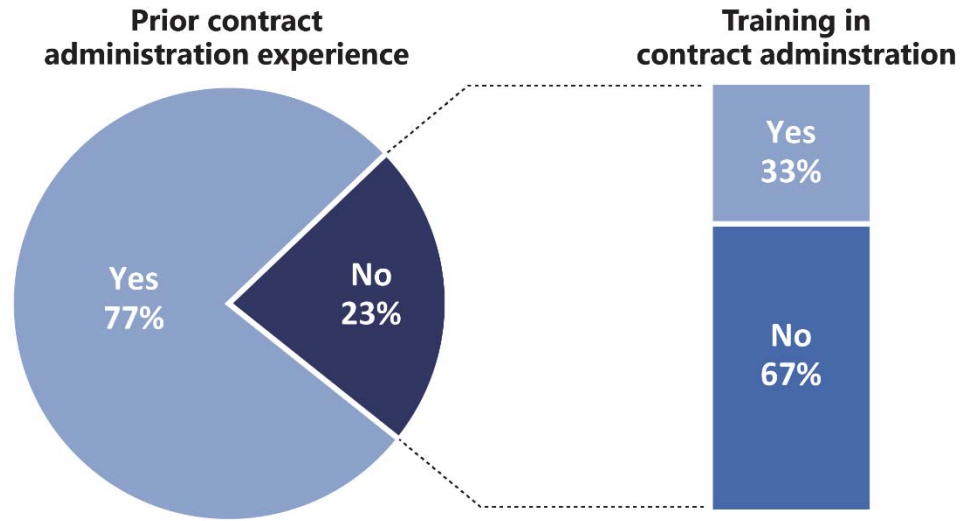
Many contract administrators have minimal experience and training

Many agency staff have no prior contract administration experience or training. When contract administrators have minimal experience and training and insufficient time for their responsibilities, the effectiveness of contract monitoring is likely diminished. About one-fourth of surveyed contract administrators (23 percent) indicated that they had no prior contracting experience. Inexperienced staff managed 25 contracts, including five contracts each valued over \$50 million.

RECOMMENDATION 17

The Department of General Services and the Virginia Information Technologies Agency should modify their statewide procurement policy manuals to include guidelines for agencies on staffing the administration of contracts, particularly contracts identified as high risk.

Formal contract administration training could compensate for a lack of experience, but almost one-third of contract administrators reported that they had never received any such training. Respondents without any formal training managed 33 contracts, including seven contracts each valued over \$50 million. Further, most of the surveyed contract administrators who lacked prior experience also lacked formal

FIGURE 5-3**Most staff without prior contract administration experience are also untrained**

SOURCE: JLARC survey of state agency contract administrators, 2015.

NOTE: Percentages based on the number of contract administrators in each category.

“Contract administrators are not required to attend training, which makes it difficult to influence the decision of assigning a qualified staff person as a contract administrator.”

training (Figure 5-3). These staff managed 18 contracts, including three contracts each valued over \$50 million. Experience and training of contract administrators are essential for successful contract monitoring because experienced or trained staff may be better able to monitor and enforce challenging contracts than inexperienced or untrained staff. Further, many procurement staff noted that it is difficult to choose qualified contract administrators when the available staff are largely inexperienced and untrained.

Both procurement staff and contract administrators indicated that formal training was needed on contract administration topics as well as contract development and negotiations. Agency staff noted the importance of such training, given the value, scope, and necessity of some contracts administered by untrained or inexperienced staff. Such training could be offered by the central procurement agencies—the Department of General Services (DGS) and VITA—or by individual agencies with many high-risk contracts. Topics of the training should include interpreting and utilizing contract provisions, monitoring and recording vendor performance, and involving other staff to assist when problems arise. Training materials should contain specific considerations for IT and construction contracts.

An agency’s delegated procurement authority could be contingent on compliance with training requirements, as is currently done with procurement training. DGS and VITA should also develop a condensed, online training course on effective contract administration that agency staff responsible for lower-risk contracts are required to complete before the start of a new contract. The guidance covered in these new training sessions

— Staff
Agency procurement office

Mandatory training for contract administrators

Florida requires that contract administrators who manage contracts valued at or above \$100,000 complete a certification program consisting of eight online training modules, a two-day in-person training session led by instructors, and a final assessment.

could be incorporated into state procurement manuals under a section focused on contract administration.

DGS charges agencies a fee for sending staff to its training courses, and some procurement staff have observed that training costs have hindered their agency's ability to send staff to procurement training. According to DGS staff, the training fees cover the cost of the training program in lieu of general funds. If agencies were charged similar fees for sending staff to a new contract administration training program, they might be deterred from participating in the program. General funds could be used to offset the cost of the new training program, which could help ensure that the state's contract administrators acquire the knowledge and skills needed to effectively administer high-risk contracts. DGS should provide a report to the House Appropriations Committee and the Senate Finance Committee on the amount of general funds that would be needed to minimize the cost of a comprehensive contract administration training program.

RECOMMENDATION 18

The General Assembly may wish to include language in the Appropriation Act directing the Department of General Services (DGS) and the Virginia Information Technologies Agency (VITA) to (i) develop a comprehensive training program on the effective administration of contracts and (ii) modify their statewide procurement policy manuals to require the training for all agency staff who have primary responsibility for administering contracts identified as high risk. The language should direct DGS and VITA to develop an estimate of the cost of administering the program.

In addition, DGS and VITA should collaborate to develop a contract administration certification that would be conferred upon agency staff who complete the comprehensive contract administration training program and demonstrate competence in effective contract administration practices. This certification would be consistent with DGS's requirement that procurement officers possess a procurement certification in order to conduct higher-risk procurements.

RECOMMENDATION 19

The Department of General Services and the Virginia Information Technologies Agency should collaborate to develop a certification program for contract administrators. Certification would require that agency staff complete contract administration training and demonstrate competence in effective contract administration practices.

Procurement staff do not adequately prepare contract administrators in many agencies

Contract handoff

Once a contract has been procured, procurement staff hand over responsibility for the contract to the contract administrator. At this point, procurement staff generally have minimal involvement with managing the contract.

Procurement staff in many agencies do not adequately orient contract administrators to their responsibilities or to contract provisions when they hand off contracts (sidebar). Contract administrators may not have been involved in the procurement stage and may be unfamiliar with contract provisions. Some contract administrators noted that they were uncertain as to whether their contracts specified how to measure or monitor vendor performance. One first-time contract administrator reported receiving no orientation to the multi-million dollar contract he would be administering and no orientation to his responsibilities. As a result, monitoring for his contract depends solely on individual motivation to ensure the state achieves the value negotiated during procurement.

State policy provides detailed guidance on conducting handoffs, but agencies do not consistently follow this guidance. The APSPM requires that contract administration be “delegated in writing . . . designating a specific individual . . . highlighting important aspects of the contract, and distinguishing between the administrator’s authority and that which must remain a function of the purchasing office.” However, contract administrators at some agencies indicated that they had never signed such a document, never received guidance on how to carry out their responsibilities, or never even received a copy of the contract. Internal audits at the Virginia Department of Transportation (VDOT) confirm that some contract administrators never review contract provisions before the vendor commences work. (See Appendix F for information about contract administration at VDOT.)

Given the low levels of experience held by many contract administrators and the lack of state guidance, it is particularly important that procurement staff provide a complete and thorough orientation to contract provisions for every contract, along with clear expectations for the administration of the contract. The central procurement agencies—DGS and VITA—should develop a framework that agencies would be required to use when conducting the handoff process. At a minimum, contract handoffs should provide the contract administrator with a description of the contract’s provisions related to monitoring and documenting the vendor’s performance, as well as information on how to enforce compliance with the contract’s terms and conditions and issue payments to the vendor. This information should be included in a contract administration section within the state procurement manuals.

RECOMMENDATION 20

The Department of General Services and the Virginia Information Technologies Agency should modify their statewide procurement policy manuals to include procedures for transferring responsibilities from procurement staff to contract administrators and orienting contract administrators to the contract and their responsibilities. Agencies should be required to use the procedures but allowed to supplement them with agency-specific procedures.

Contracts do not consistently specify how to monitor performance

Not all contracts specify how the agency will monitor performance, and this has allowed for inadequate or improvised monitoring by inexperienced and untrained contract administrators. Slightly more than one-third of contracts analyzed for this study (35 percent) were ambiguous about performance: contract language either did not specify how agencies would monitor vendor performance or did not contain formal performance measures (sidebar), or contract administrators were unsure of contract requirements (Figure 5-4).

Even when contract provisions prescribe monitoring methods, the provisions may not adequately protect state interests. Some contracts do not prioritize between all areas of performance being monitored, leaving contract administrators to determine how to allocate their time across monitoring activities. In a few cases, contract administrators made decisions that were not well-considered. For example, when monitoring the performance of a contract that included safety patrol services, staff placed disproportionate emphasis on workplace cleanliness, when the focus of performance standards should have been safety patrol outcomes. (Chapter 4 addresses shortcomings in agencies' use of performance measures in contracts in more detail.)

Monitoring vendor performance: Contract administrators may monitor a vendor's performance through a variety of activities, including matching delivered goods against contract specifications or verifying data reported by the vendor.

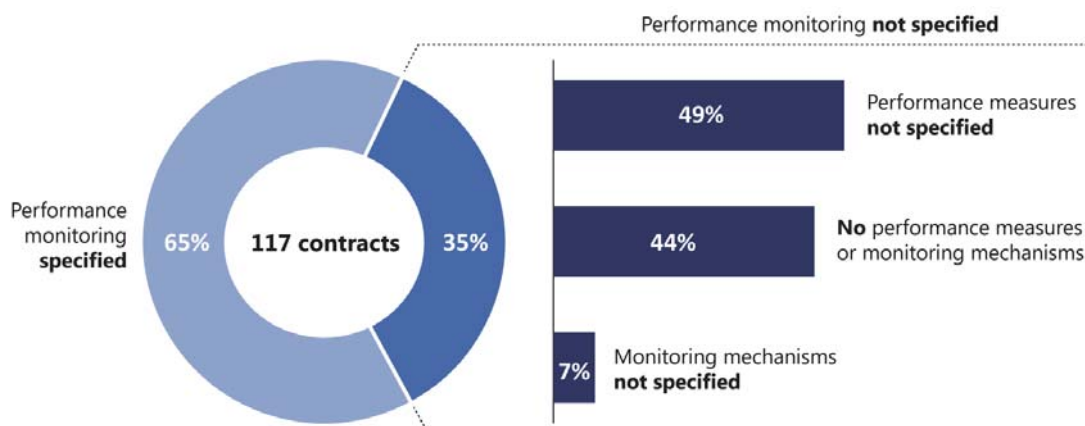
A performance measure is a provision that requires collection and/or reporting of data measuring performance of vendors relative to contract requirements.

RECOMMENDATION 21

The Department of General Services and Virginia Information Technologies Agency should modify their statewide procurement policy manuals to state that agencies should include in all high-risk contracts, and contracts above a certain dollar value (as determined by individual agencies), an explanation of how performance monitoring will be conducted and an explanation of how vendor performance will be documented.

FIGURE 5-4

Contracts do not always specify performance monitoring measures or mechanisms



SOURCE: JLARC survey of state agency contract administrators, 2015.

NOTE: Numbers may not add due to rounding. Percentages based on the number of contracts in each category. Analysis of contracts where performance monitoring was not specified is limited to 41 contracts where contract administrators indicated that the contract either did not contain the specified provisions or they did not know.

“Procurement staff don’t always know how things turn out because they don’t track contract performance. It’s the contract administrator’s job to monitor the contract. Procurement staff have other responsibilities.”

— Staff

Agency procurement office

“We currently also get little feedback on contracts from end users. Even though we do annual surveys, the contract administrator will often not note any issues. Ultimately, [a performance problem] will happen, and they’ll then tell us that it’s been a constant problem.”

— Staff

Agency procurement office

A **cure letter** is a formal letter sent by an agency to a vendor as performance problems occur. The cure letter informs the vendor of potential consequences that may result—including contract termination for default—unless the vendor “cures” specific areas of non-compliance or makes progress towards contract compliance within a specified period of time.

Lack of formal reporting process between contract administrators and procurement staff impedes resolution of performance problems

Procurement staff and agency leadership are generally unaware of how contracts are performing unless there have been significant problems, because neither the state nor agencies have implemented a formal reporting process for the contract administration stage. There is no requirement that contract administrators report performance problems to anyone at an agency, including procurement staff. There is also no requirement that procurement staff request information on contract performance from contract administrators at regular intervals. Additionally, agencies generally have not implemented central databases to store and track information on contract performance. (See Chapters 3 and 7.) The lack of centralized information contributes to a general lack of awareness of contract performance and outcomes, even on such basic measures as whether contracts are on schedule or on budget.

To better address contract performance problems as they arise, and to enhance awareness of contract performance generally, agencies should implement a formal reporting process during contract administration. At a minimum, contract administrators should provide procurement staff with quarterly reports that focus on any contract administration challenges and the extent to which there are any unfulfilled or partially met contract requirements. This reporting process should be included in a contract administration section within the state procurement manuals.

RECOMMENDATION 22

The Department of General Services and the Virginia Information Technologies Agency should modify their statewide procurement policy manuals to state that agencies should establish a formal process for contract administrators to regularly report to their agency’s procurement office on the status and performance of their contracts.

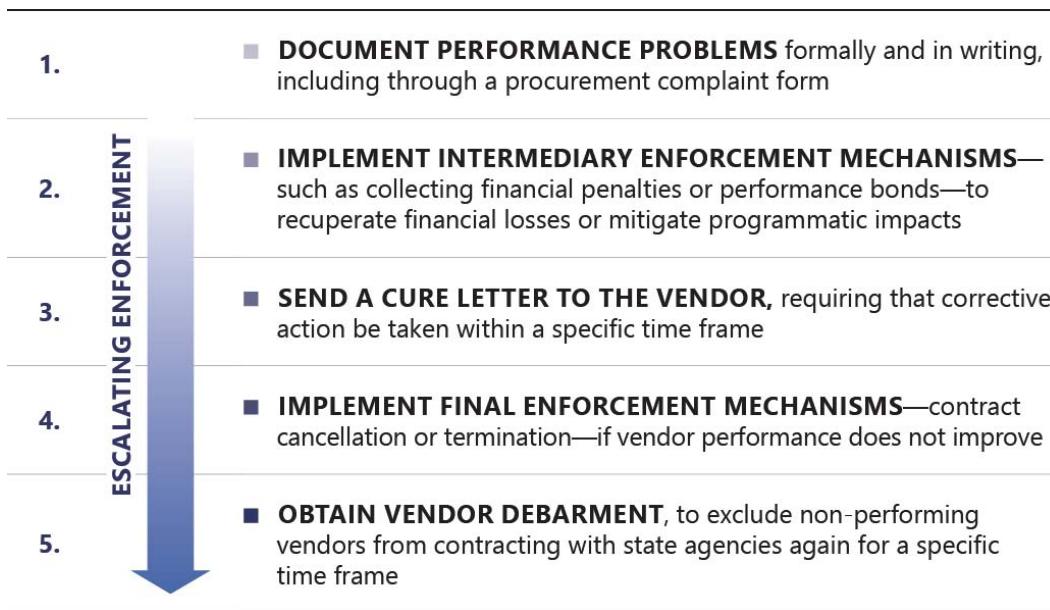
Enforcement of contract provisions is inconsistent across agencies and often inadequate

When problems arise during a contract, contract administrators often do not use effective practices to enforce contract requirements. Contract administrators tend to address problems informally rather than take formal action or invoke contract provisions to hold the vendor accountable as recommended in state policy (Figure 5-5). Staff responding to the JLARC contract administrator survey reported using enforcement mechanisms—including financial penalties and cure letters (sidebar)—in only 15 percent of contracts that did not meet performance expectations.

There are a number of factors that impede contract enforcement. Agency staff may be reluctant to take action for fear of damaging relationships with vendors. One chief procurement officer noted that contract administrators often have trouble “pushing over the first domino” to initiate a complaint because staff want to avoid conflict.

Additionally, agencies may not offer sufficient guidance on enforcing contract provisions; contract provisions may not be adequate to hold vendors accountable; and agency staff may not adequately document vendor performance problems.

FIGURE 5-5
Contract enforcement should escalate as performance problems remain unresolved



SOURCE: Virginia Public Procurement Act, the Agency Procurement and Surplus Property Manual, the Construction Professional Services Manual, and information from the National Association of State Procurement Officials and the National Contract Management Association.

Many agencies do not provide guidance on contract enforcement

Although contract administrators may informally address performance problems under certain circumstances, such an approach by inexperienced and untrained staff may result in performance problems that persist or are left undocumented. At many agencies, contract administrators do not receive guidance on when to elevate performance problems or how to enforce contract provisions. Nearly half of chief procurement officers reported that their agency either does not have a policy on identifying and addressing problems with performance or they were unsure if their agency had such a policy. However, some agencies—like DMAS—are ensuring that contract administrators receive proper guidance on enforcing contract provisions.

CASE STUDY

DMAS implementation of formal agency policies on contract enforcement

Background

The Department of Medical Assistance Services (DMAS) has implemented its own contract enforcement policies for staff to follow.

Documenting poor performance

DMAS staff routinely document performance problems in issue logs and require vendors to develop corrective action plans when serious performance problems occur.

Notifying vendors of performance problems

Contract administrators ensure that vendors receive formal notification of performance problems by sending cure letters through certified mail.

Implementation of intermediary enforcement mechanisms

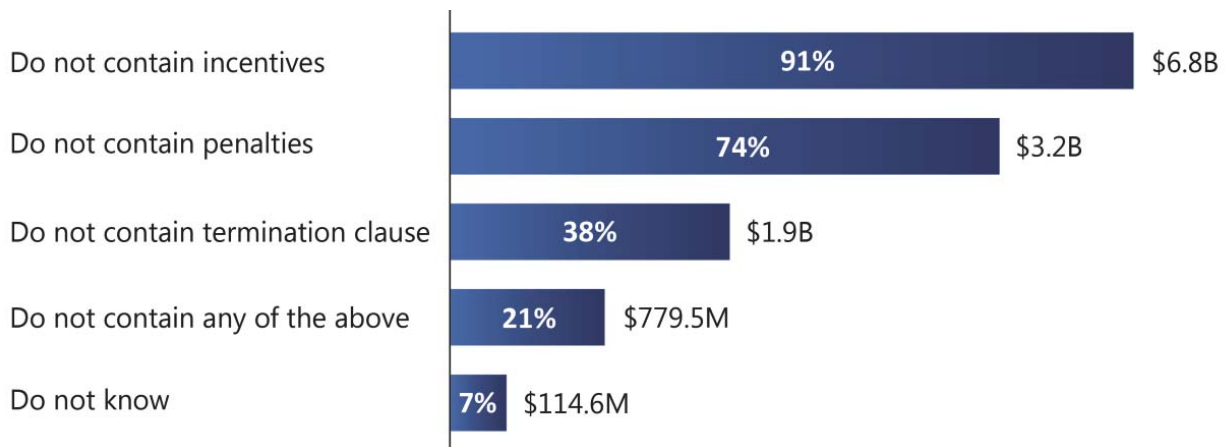
DMAS staff go through an approval process before collecting liquidated damages, a step that requires multiple staff to sign off on the use of that particular enforcement mechanism.

Contract provisions sometimes do not facilitate enforcement

Many contracts do not contain provisions that agencies can leverage to incentivize or compel vendors to address poor performance. About three-fourths of high-value, high-risk contracts analyzed for this study did not contain penalties, and about 20 percent of contracts contained none of the common provisions that would protect the state: a termination clause, penalties, or incentives (Figure 5-6).

FIGURE 5-6

Many contracts do not contain provisions to allow for contract enforcement



SOURCE: JLARC survey of state agency contract administrators, 2015.

NOTE: Percentages based on the number of contracts in each category.

Without adequate contract provisions, agencies are not always able to work out a solution to poor contract performance in a manner that benefits the state. For example, a vendor claimed to be unable to provide certain contractual services to an agency due to federal health privacy laws. Because the contract contained no financial or other penalties that could be levied against the vendor, the agency had to provide those services in-house but still had to pay the vendor the full contract costs.

For some agencies, the inclusion of incentives and disincentives has proven effective. For example, VDOT recently began consistently using incentives and disincentives in road construction contracts. A district staff member noted that, although these provisions have only been in place for a short time, he has already seen improvement in on-time delivery and not at the expense of quality.

Documentation of poor performance is lacking

Without proper documentation of performance problems, agencies may be unable to hold vendors accountable, and other agencies may be unable to avoid entering into future contracts with the vendor. Contract administrators do not receive training or guidance on the importance of documenting performance problems, and this has contributed to negative contract outcomes in some cases. For example, an agency experienced performance problems with a janitorial contract, but the agency was unable to terminate the contract for vendor default because the performance issues had not been documented.

Contract termination is difficult to achieve without proper documentation of performance issues. For example, one agency's janitorial contract was experiencing performance problems for approximately three to six months. The vendor did not provide cleanings that met the standards outlined in the agency's contract, but because there was no formal documentation, the procurement officer indicated that the agency may have difficulty filing a complaint or even requesting corrective action from the vendor.

RECOMMENDATION 23

The Department of General Services (DGS) and the Virginia Information Technologies Agency (VITA) should provide guidance in their statewide procurement policy manuals and staff training programs on how to effectively document unsatisfactory vendor performance, under which circumstances such problems should be brought to the attention of other staff in the agency or staff in the Office of the Attorney General, DGS, or VITA, and under which circumstances enforcement measures should be pursued.

6 Vendors' Experiences with State Contracting

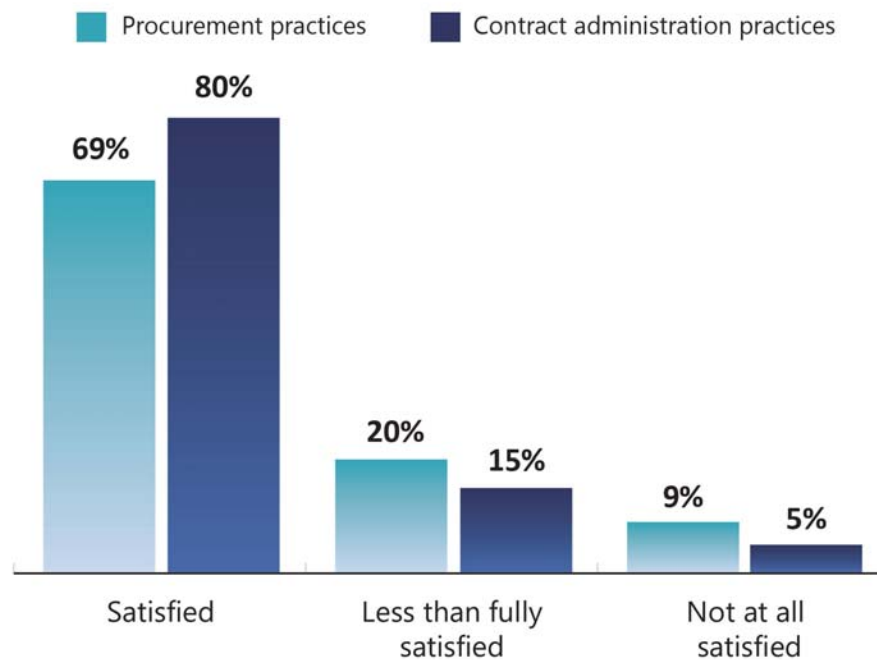
SUMMARY Most vendors are generally satisfied with their experiences contracting with the state, rating them the same or better than their experiences with other government entities and in the private sector. Still, a majority of vendors reported having experienced some difficulty with a specific aspect of the state's procurement or contract administration practices. A particular area of concern was the formal process for complaints: many vendors are unaware of the complaint process, find it difficult to use, or are reluctant to use it. When vendors have filed formal complaints, most have been dissatisfied with how those complaints were handled, citing a lack of objectivity and transparency in agencies' decisions.

Vendors' experiences with state contracting are a valuable source of information on the potential shortcomings of state policies and practices. In particular, vendors' experiences can be used to evaluate whether state agencies are effectively and efficiently meeting the goals established in the Virginia Public Procurement Act: fairness, access to public business, and openness and transparency. In addition to the requirements established in state law, vendors expect the state to have clear and easily understandable contracting policies and practices. From a vendor's perspective, an effective contracting process would be fair, transparent, and easy to navigate. Vendors should be able to easily participate in the procurement process, understand why they may not receive a contract award, and implement contracts that meet agency needs.

Vendors expressed general satisfaction with contracting practices

Most vendors responding to the JLARC survey expressed satisfaction with their experiences contracting with state entities, particularly compared to their experiences contracting with other entities. Vendors described their contracting experiences with state entities and public higher education institutions to be as good as (62 percent) or better than (16 percent) contracting experiences with other governmental and non-governmental entities. These satisfaction levels carried through all phases of the contracting process. Roughly 70 percent of vendors were satisfied with the procurement process up through the contract award, and 80 percent were satisfied with state entities' post-award contract administration practices (Figure 6-1).

JLARC staff surveyed all vendors who had contracted with the state since January 2014. Vendors were asked about their experiences contracting with the state and responding to solicitations, as well as challenges experienced during contracting. 1,457 vendors responded to the survey, a response rate of 7.5 percent. (See Appendix B.)

FIGURE 6-1**Vendors were generally satisfied across contracting phases**

SOURCE: JLARC survey of vendors contracting with the state, 2015.

NOTE: Analysis limited to 1,215 vendors who responded regarding the procurement phase and 1,321 vendors who responded regarding the contract administration phase. Numbers do not add to 100 because some respondents answered "do not know."

Although most vendors reported general satisfaction with their experiences contracting with the state, a majority (62 percent) reported that they had experienced difficulties with specific aspects of either procurement or contract administration or both. These vendors expressed concerns about a lack of information during the procurement process, unfairness of competition among vendors for contracts, and difficulty navigating the contracting process generally given the complexity of policies and procedures governing the process. However, vendors expressing concerns in each of these individual areas were among the minority of vendors who responded to the survey.

Vendors most commonly expressed frustration with a lack of information during the procurement process and perceived there to be unfair competition among vendors. Specifically, one-fifth of vendors indicated that agencies' solicitation specifications were too vague; others indicated that agencies did not provide sufficient information about how they evaluated bids and awarded contracts. With respect to competition, almost one-fifth of vendors had experienced situations where the winning vendor appeared to be predetermined.

Many vendors reported some difficulty with understanding and navigating the state's contracting processes, and in some cases this has led to reluctance to participate in the procurement process. A majority of vendors (54 percent) indicated that they had

passed up opportunities to respond to solicitations for which their businesses were qualified to compete. These vendors pointed to difficulties in contracting with the state as one reason for their lack of participation in the procurement process. Confusion stems from the multiple sources of information about state and agency contracting policies, and a lack of clear and consistent answers to contracting questions. Agency staff sometimes provide inconsistent instructions and guidance, and central points of contact are not staffed to address these concerns.

To improve vendors' understanding of state contracting policies and processes, the Department of General Services (DGS) and the Virginia Information Technologies Agency (VITA) could strengthen their vendor relationship functions and assign staff to oversee these functions with clearly defined responsibilities that include responding to vendor inquiries about state contracting policies and procedures and suggesting possible improvements to the contracting process based on vendor inquiries and complaints. This would supplement, not replace, the formal complaint procedures that have already been established. Other states have implemented resources for vendors that could also serve as a model for Virginia. For example, Florida has a Vendor Ombudsman, whose responsibilities include assisting vendors who have problems obtaining timely payment from state agencies. Arizona and Georgia offer informal training for vendors, to familiarize them with state procurement laws and policies.

RECOMMENDATION 24

The Department of General Services and the Virginia Information Technologies Agency should strengthen their ability to assist prospective and current vendors. The departments should assign to their staff clearly defined responsibilities that include (i) responding to vendor inquiries about state contracting policies and procedures; (ii) assisting vendors and agencies with the resolution of complaints; and (iii) recommending improvements to the contracting process based on vendor inquiries and complaints.

Vendors do not have an effective means to report negative contracting experiences

The Virginia Public Procurement Act establishes a formal complaint process for vendors, but many vendors either are unaware that they can file complaints or underutilize the process. Because the complaint process is used infrequently, it does not serve as an effective check on agencies' contracting practices. As structured, the process allows vendors to

- appeal agency decisions that adversely affect the ability of the vendor to be considered for or awarded a contract and
- seek financial or other relief for problems experienced during the contract.

VITA's formal complaint process is stipulated in the agency's own contracts, according to VITA staff.

Data on vendor complaints was collected by JLARC staff through a data request to 22 state agencies with a high volume of contracting activity: over 7,000 active contracts as of FY15.

The state has no central repository of vendor complaints; data used for this study represents only a small proportion of complaints filed by vendors against state agencies.

(See Appendix B for more information.)

“There’s no consistency across agencies in how they implement their complaint process.”

“For example, [Agency X] has changed rules constantly. [Agency Y] also works differently, even though [both perform similar public functions].”

— Vendors

Complaints related to the procurement process are submitted to the agency issuing the solicitation, and procurement staff evaluate and make a determination about the validity of the complaints. Complaints related to ongoing contracts are submitted to DGS or VITA. State policy manuals do not specify who is responsible for evaluating or responding to complaints.

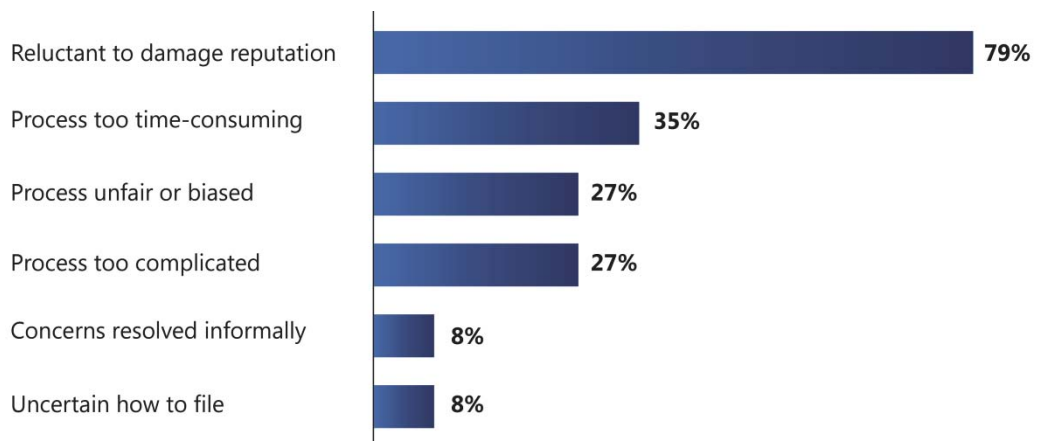
Vendors appear to file complaints infrequently. Agencies that have the highest volumes of contracting activity reported that vendors had filed 80 complaints since FY12 (sidebar). Only two percent of vendors responding to JLARC’s survey indicated that they had ever filed a complaint.

Vendors are reluctant to use the state’s complaint process

Many vendors who have difficulties during the contracting process do not bring their concerns to the attention of state agencies. Among vendors who were aware of the state’s complaint procedures, almost one-fifth indicated that they had decided not to file a complaint, even though doing so seemed warranted. A majority of these vendors pointed to a reluctance to damage their reputation with the state, while many other vendors were critical of the process itself (Figure 6-2).

FIGURE 6-2

Vendors cited various reasons for not using the complaint process



SOURCE: JLARC survey of vendors contracting with the state, 2015.

NOTE: Analysis limited to 149 vendors who (1) were aware that the state had a complaint process, (2) had not used the process (during procurement or contract administration), and (3) cited reasons for not using the process.

Vendors are unaware of, or confused by, the complaint process

The state does not ensure that vendors are aware of the complaint process or know how to use it, which limits its effectiveness as a means to identify and track problems in state contracting. Half of vendors responding to JLARC’s survey were unaware that the state has a process for vendors to file formal complaints.

Even when vendors know that a complaint process exists, they are often confused about how it works. Existing state policies lack sufficient information, and they are contradictory or confusing for certain aspects of the process. Policies on complaints related to procurement focus on the timeline that should be followed, but there is little guidance about what information vendors should submit and how agencies should respond. Policies on complaints related to ongoing contracts provide even less guidance (Table 6-1).

Table 6-1
State provides little guidance to vendors on filing complaints about ongoing contracts against agencies

Action	Guidance on procurement process complaints	Guidance on ongoing contract complaints
Vendor files complaint	✓	✓
Agency evaluates complaint	✓	✗
Agency issues decision	✓	✗
Vendor exercises options for appeal or legal action	✓	✗

SOURCE: Virginia Public Procurement Act; Agency Procurement and Surplus Property Manual; Vendors Manual.

For example, state policy

- states that vendors may file complaints “to communicate any non-compliance issues” but does not provide further information on what actions should be taken by vendors or agencies;
- does not provide information on where to obtain the complaint form or how to send the form to DGS; and
- is unclear about which agency—a central procurement agency or the issuing agency—is responsible for handling different types of complaints.

Guidance on the appeals process for complaints is also confusing. The Virginia Public Procurement Act notes that appeals hearings must be held before a disinterested party, who shall not be an employee of the entity against whom the complaint is filed. Neither statute nor policy specifies who this party should be, however. The state had a neutral administrative board to hear appeals regarding the procurement of non-information technology goods, but it was disbanded in 2011 due to low utilization.

Central procurement agencies should take steps to improve vendor awareness and understanding of the complaint process. DGS could also improve accessibility by including a template of the complaint form in the Vendors Manual.

“The appeals board used to serve the role of liaison between vendors and agencies, but in its absence, vendors have no recourse if they disagree with an agency’s final resolution [of a complaint], other than to go to court.”

— Staff
Central procurement agency

Vendors expressed dissatisfaction with complaint process

Vendors who filed complaints with the state are dissatisfied for a number of reasons with the current process for resolving complaints. A majority of vendors surveyed who had filed a complaint (60 percent) were not at all satisfied with how their complaints were handled. Most vendor dissatisfaction seems to be related to perceived unfairness, insufficient guidance, slow response, or lack of transparency. Several vendors indicated that, as a result, they would be reluctant to file complaints in the future.

Concerns about partiality and lack of objectivity

Some vendors expressed concern that their complaints would not be handled in a neutral or objective way and indicated that this was one reason they might hesitate to file a complaint. The biggest concern was lack of objectivity: half of vendors were less than satisfied with the impartiality of agency decisions. In one case, a vendor observed that agency staff did not handle a complaint objectively because they wanted to avoid creating problems with the procurement.

Frustration with the process and concerns about lack of explanations

Vendors who filed complaints noted that insufficient information was conveyed through agency decisions. One-third of vendors who indicated that they were less than satisfied with how their complaints were handled were dissatisfied because of the lack of a clear explanation for agency decisions. Agencies do not have guidance on how to review and respond to vendor complaints. No policy manual provides guidance on how agencies should evaluate most types of vendor complaints or how much information agencies should provide to vendors when responding to complaints. State training programs also do not provide guidance.

Some vendors who filed complaints were less than satisfied with the length of time it took agencies to respond. Almost one-third of these vendors (30 percent) indicated that agencies either took too long to respond or did not respond at all. The state has clear guidelines in place regarding the promptness of agencies' responses to vendor complaints. Neither central procurement agencies nor individual agencies evaluate the promptness of responses, however, so there is no data to show whether agencies are in compliance. To enhance transparency, agencies could make sure that vendors are aware of the time standards as the agency is developing responses to complaints.

Improving the way in which agencies respond to vendor complaints could both address vendor concerns about the lack of transparency in the process and help agencies reach objective decisions. The National Association of State Procurement Officials provides guidance on what should be included in decisions regarding procurement-related complaints. These guidelines could be used as a framework to update Virginia's process. The Association recommends that agencies' written responses to vendor complaints include a facts section that "explicitly makes findings on relevant facts" and a discussion section that "relates the facts to the procurement rules ... at issue." The Association also recommends that agencies plainly state a decision and the remedy

"I'd suggest providing vendors with information on the complaint procedure—I thought several times during the contracting process that I wished we small non-profits had an ombudsman to assist us, as it is difficult to complain about the folks that are deciding the future of your contract."

— Vendor

if the vendor's complaint is sustained. The state's current complaint processes should reflect these national best practices.

RECOMMENDATION 25

The Department of General Services and Virginia Information Technologies Agency should modify their statewide procurement policy manuals to state that agencies should include complaint procedures in each contract and with all written notifications of agency decisions that are not in a vendor's favor. Their statewide procurement policy manuals should be modified to include (i) guidance for agencies on the type and level of detail to include in their responses to vendor complaints and (ii) a detailed description of the process to be followed when vendors file complaints about ongoing contracts.

7 Oversight and Administration of State Agency Contracting

SUMMARY Although agencies do not consistently apply effective contract management practices, they often procure and manage contracts without the involvement of the state's central procurement agencies, the Department of General Services (DGS) and the Virginia Information Technologies Agency (VITA). DGS and VITA provide some oversight, but the focus is primarily on the procurement of contracts rather than effective contract development or administration. Further, oversight is focused only on a subset of state contracts. Despite the billions of public dollars budgeted by agencies for goods and services purchased through contracts, it is not possible to determine how much is ultimately spent on contracts and how those contracts have performed. Statutory changes could improve the effectiveness of contracting oversight and create a means for all agencies to track contract spending and performance.

The decentralized nature of contracting in Virginia underscores the importance of effective oversight by the state's central procurement agencies and the need for more information about contract spending and performance. Effective oversight would help ensure that recommended or required contracting practices are being applied consistently. Effective oversight could be supported by having greater information on how contracts are performing, as well as how much agencies are spending on them.

Limited oversight of contracting increases likelihood that problems will occur

DGS and VITA have the authority to conduct contracting activities on behalf of agencies, but in most cases they have given agencies permission to conduct contracting on their own. DGS and VITA still exercise oversight over agencies' contracting activities, but this oversight is focused on relatively few contracts and does not concentrate on certain aspects of contracting that pose significant risk to the state.

DGS oversight is too limited

The Policy, Consulting, and Review Bureau within the DGS Division of Purchases and Supply is responsible for overseeing agencies' goods and non-professional services contracting, but its oversight is too narrowly focused. The Bureau performs Procurement Management Reviews to evaluate whether procurement activities align with state statutes and policies, and it issues formal findings regarding agencies' compliance with state policy and their use of effective procurement practices. These reviews are relatively infrequent and do not appear to focus on contract development or administration.

Procurement Management Reviews

According to DGS staff, agencies should undergo a Procurement Management Review once every three years, but the Policy, Consulting, and Review Bureau performs them less frequently. Some of the agencies that have the largest number of contracts, or contracts with comparatively high dollar values, do not appear to have undergone a recent review. These include the Department of Medical Assistance Services (DMAS), the Department of Corrections (DOC), Virginia State Police, and the Department of Education.

DGS could use more risk-based criteria when prioritizing which agencies receive a formal review. For example, although DMAS, DOC, and Virginia State Police have not been reviewed in 10 years or more, DGS staff did not list these agencies as being among those planned for review in FY16. However, smaller agencies and individual correctional facilities and community colleges, as well as one state commission and a foundation, are scheduled for review. Agencies could be selected based on frequent use of high-value contracts; frequent use of IT, construction, or services contracts; and frequent use of sole source procurements.

Procurement Management Reviews are the primary means by which DGS ensures that agencies comply with state procurement laws and policies, and that they implement best practices regarding the procurement of contracts. DGS should ensure that certain agencies undergo contract management reviews at least once every three years and that risk-based criteria are used to select agencies for review.

RECOMMENDATION 26

The Department of General Services should prioritize for Procurement Management Reviews agencies that frequently use (i) high-value contracts; (ii) IT, construction, or services contracts; and (iii) sole source procurements. The department should ensure that agencies identified as high priority are reviewed at least once every three years.

Procurement Management Reviews are not focused on those aspects of contracting that agencies struggle with the most and that present the greatest risk to the state. The reviews focus exclusively on the procurement phase of contracting, and they tend to concentrate on small procurements, such as those using the state's small purchase charge card and those set aside for small businesses. Reviews also focus on ensuring that agencies comply with DGS requirements for the use of eVA.

Procurement Management Reviews focus on goods and non-professional services contracts and do not examine the procurement or management of professional services contracts or construction contracts, even though a large majority of contract spending is for these types of contracts. Most contract purchases, in terms of dollars, are for construction and professional services. (See Chapter 1.) Professional services contracts and construction contracts are governed by the Division of Engineering and Buildings, a division of DGS. Contracting practices for these types of contracts should

Exceptions to DGS and VITA policies

DGS and VITA develop and enforce statewide contracting policies applicable to most agencies. Exceptions include road design and construction contracts, which are solely under VDOT's purview, and agencies and institutions that are exempt from the VPPA, including agencies in the legislative and judicial branches and several institutions of higher education.

be subject to Procurement Management Reviews by the Policy, Consulting, and Review Bureau, particularly for those agencies that procure a large number of such contracts.

DGS role in reviewing agencies' contracting practices

DGS could better protect the state's interests by broadening its focus to include reviews of other aspects of contracting. In particular, it should concentrate on assisting agencies with contract development and contract administration and include these stages of contracting in its Procurement Management Reviews. DGS could focus on ensuring that agencies implement the contracting policies and practices recommended throughout this report, in particular:

- the implementation of policies to strategically assign the most complex or high-risk contracts to experienced and trained contract administrators and sufficiently orient them to the provisions of their contracts;
- the use of effective tools for contract monitoring and enforcement;
- the use of a single repository of information on all contracts that is used to track contract performance; and
- the implementation of a policy for consistently identifying and managing contract-related risks and ensuring that contracts contain appropriate enforcement mechanisms in addition to the termination clause.

DGS could also focus on ensuring that agencies are using best practices for the procurement and management of professional services and construction contracts. According to DGS staff, the agency does not have the authority to enforce compliance with state laws and policies for these aspects of contracting. Without a statutory change to grant DGS this authority, DGS would only be able to advise agencies on the use of best practices, rather than enforce compliance with state statutes and regulations.

Better coordination with the Auditor of Public Accounts (APA) could help the Policy, Consulting, and Review Bureau place a higher priority on agencies' contract development and administration practices. Currently, DGS's Procurement Management Reviews focus on some of the same procurement practices that are reviewed by the APA, including ensuring that agencies are using appropriate procurement methods for their purchases and that contract administration duties are assigned in writing. DGS staff who are currently reviewing the same aspects of contracting as the APA could refocus their time on contracting elements that are not the APA's focus. DGS should collaborate with the APA to ensure that the elements of its reviews, and the review schedule, do not unnecessarily duplicate the work performed by the APA staff.

DGS staff have observed that broadening the scope of its responsibilities in this way would be challenging to accomplish with their existing resources. DGS should assess its staffing needs and identify the numbers of new staff that would be needed to broaden the focus of the Policy, Consulting, and Review Bureau. To minimize the number of additional staff that would be needed, DGS should also identify ways in which its current staff could be utilized more efficiently.

RECOMMENDATION 27

The Department of General Services should broaden its focus, and the focus of its Procurement Management Reviews, toward ensuring agency compliance with state laws and policies regarding the development and administration of contracts and implementation of best practices for all aspects of contracting, including professional services and construction contracts. The department should collaborate with the Auditor of Public Accounts (APA) to ensure that the elements of its reviews, and the review schedule, do not unnecessarily duplicate the work of APA staff.

RECOMMENDATION 28

The Department of General Services should identify the number of additional staff needed to effectively assist agencies with the development and administration of contracts and to include these aspects of contracting in their Procurement Management Reviews. The agency should submit a report to the Secretary of Administration, Department of Planning and Budget, and House Appropriations and Senate Finance Committees regarding its additional staffing needs.

VITA does not review adequacy of terms and conditions for some agency IT contracts that are lower cost

VITA is responsible for conducting oversight of agencies' IT contracting activities. For most executive branch agencies, VITA must review and approve IT procurements valued at over \$100,000 at one or more stages. For procurements valued between \$100,000 and \$250,000, agencies request that VITA staff delegate procurement authority to the agency. For procurements above \$250,000 but below \$1 million, agencies request procurement authority, but it has to be granted by VITA's Chief Information Officer (CIO). For procurements valued at \$1 million or more, the VITA CIO must review and approve the agency's Request for Proposals as well as the final contract.

Low-cost IT contracts are not reviewed by subject-matter experts at VITA, although such contracts may create risks for agencies because poorly performing IT systems or equipment could disrupt agency operations. Although the VITA CIO must approve agency IT contracts with an estimated value of \$1 million or greater, most agency IT contracts are valued at less than this amount. In FY15, 84 percent of agencies' IT contracts were valued at less than \$1 million and therefore were not subject to this level of VITA review and approval. (VITA's use of the \$1 million threshold does, however, result in greater scrutiny being applied to contracts that represent about three-fourths of state agencies' spending on IT contracts.)

Contracts valued at less than \$1 million could benefit from VITA's review. When reviewing high-dollar requests for proposals and contracts, VITA ensures that agencies include certain provisions that protect the state, such as clauses that are required under state statute for IT contracts. According to VITA staff, the reviews are intended to identify potential risks, such as security risks to citizens' personal data, by examining the requirements put forth by the agency and the corresponding solution proposed by

the vendor. Applying this same level of scrutiny to contracts under \$1 million could help agencies avoid problematic IT contracts. In one case, an agency has a problematic IT contract valued at less than \$1 million that does not contain penalties or incentives. VITA staff may have recommended the inclusion of such provisions, and some problems might have been prevented if the vendor had an incentive to be more responsive to the agency's requests.

VITA already reviews agency requests for IT procurements valued between \$250,000 and \$1 million, and VITA could use that process to flag contracts that could benefit from a follow-up review. For example, if an agency proposes to procure a low-cost IT service that it has never used before, VITA staff—during their review of the procurement proposal—could require that the agency submit the contract to VITA for additional review of the provisions before the contract is finalized. Because this could require staff in VITA's procurement division, as well as other divisions, to review more contracts than has historically been the case, VITA should retain the flexibility to implement this new process in a way that minimizes demands on staff time and other resources.

Many agencies expressed frustration at the amount of time VITA procurement and contract reviews have taken, and that VITA staff are not sufficiently communicative during these reviews. However, it appears that recent changes to VITA's process could alleviate these concerns. For example, VITA transferred responsibility for reviewing agency procurement requests to a new part of the agency to improve efficiency and implemented an automated electronic process (Sharepoint) to facilitate information sharing among staff. VITA staff should make sure that the new processes expedite reviews of procurements and contracts and improve communication between VITA and individual agencies.

RECOMMENDATION 29

The Virginia Information Technologies Agency (VITA) should identify, in its reviews of IT procurement proposals by agencies, procurements that appear to be high risk, regardless of dollar value. VITA should require that all contracts associated with these high-risk procurements be submitted to VITA for review before they are finalized. VITA's reviews should focus on ensuring that the contract provisions adequately protect the interests of the agency and the state.

Lack of spending and performance information hinders ability to maximize value and minimize risk

Despite significant agency spending on contracts, the state has incomplete and fragmented information on the most basic aspects of state contracts, such as expenditures and performance. This is true at both the central level, in terms of information available from DGS and VITA, and at the individual agency level. The existing data, which is incomplete and not centrally compiled, includes information captured through eVA

and the APA's Datapoint database, procurement reviews conducted by the APA, DGS, and VITA, and procurement-related reports produced by the internal audit staff of larger agencies. None of these data sources provides a complete, accurate picture of basic information such as how many contracts agencies are administering, the total projected dollar value of the contracts, or the total amount that agencies have spent against these contracts.

This basic information about contracting should be consistently collected across all agencies and institutions to ensure optimal transparency regarding the use of public funds and to obtain a better understanding of how contracts are used by state agencies. A better understanding of how funds are being spent could help the state maximize the value of its contracts. Likewise, a more complete awareness of how contracts are performing can help agencies minimize the risks that the state is exposed to through poor contract performance. Moreover, comprehensive information about both contract spending and performance could help policy makers determine whether some functions could be more efficiently and effectively performed by agencies themselves rather than through contracts.

Existing data on contract expenditures is not comprehensive

It is not currently possible to identify how much state agencies have spent on contracts through either the state's financial management system, Cardinal, or the state's e-procurement system, eVA. Complete and accurate information on spending could be used to evaluate how much is being spent on high-risk contracts and whether some agencies manage to spend less than other agencies on contracts for the same good or service. It could also be used to identify contracts for which agencies have spent more than they originally committed. Cardinal does not link agency expenditures on goods and services directly to the contracts from which these goods and services are purchased, and eVA captures only the amount that an agency plans to spend on a contract over its duration, not how much has actually been spent in a given year. Moreover, eVA data is not comprehensive because some agencies do not consistently use eVA to procure contracts.

In 2014, the General Assembly required DGS and the Department of Accounts to integrate eVA with Cardinal by 2017. Both departments are working on integration of the two systems, which will allow agency expenditures to be linked to specific contracts. The APA has observed that many of the agencies and higher education institutions that use Cardinal do not use eVA, and without participation in eVA by all state entities, integrating the two systems will still not achieve full transparency. To achieve greater transparency, all state agencies and higher education institutions that do not use eVA could be required to report actual expenditures on individual contracts to DGS on an annual basis. DGS could combine this expenditure data with the data on contract-specific expenditures produced by the integration of Cardinal and eVA, and make comprehensive information on all state entities' contract purchases available to

the public. According to DGS, another obstacle to integration is cost, which was projected to exceed \$8 million.

Agencies maintain very little data on contract performance

Compared to data on contract-related expenditures, there is even less data available on how contracts have performed. This lack of information constrains the efforts of individual agencies and state-level decision makers to minimize contract-related risk. It prevents agency staff from avoiding problematic vendors and developing and administering contracts in a way that takes into account previous “lessons learned” at their own agency and at other agencies. It also hinders oversight agencies from identifying and correcting specific policies or practices that are contributing to poor contract performance. Further, the lack of information about contract performance constrains legislators’ ability to become aware of performance problems that arise on high-risk or high-profile contracts, such as the recent contract to widen U.S. Route 460.

Staff from numerous agencies would like to have a centralized resource on contract performance that would inform their contracting decisions. An electronic system could be made available to all agencies to document the performance of contracts and the performance of individual vendors. In addition to capturing data on contracts, the system could be a repository for documentation related to vendor performance, such as cure letters, formal complaints, and end-of-contract evaluations. This could be used by agencies to inform their award decisions and help them avoid vendors with a history of poor performance.

Some agencies already use commercial off-the-shelf software available through a VITA statewide contract for this purpose. eVA could be used for this purpose, but because eVA has been custom-built for the state and therefore may not have the longevity of other systems, it should not be the only option considered.

To collect data, all agencies should be required to track quantifiable, objective measures of contract performance, such as the contract completion time frame relative to the original time frame and the agency’s total expenditures relative to the original budget. The system should be maintained centrally by DGS and accessible to all agency staff with procurement and contract administration responsibilities.

Developing a contract performance system will require time and state resources. For example:

- Identifying relevant, practical, and objective performance criteria will require input from staff at DGS, VITA, selected state agencies, the Office of the Attorney General, the Senate Finance Committee, the House Appropriations Committee, and vendors. Virginia Department of Transportation staff should also be consulted, given the department’s work over the past several years on its own contract performance tracking system.

Other states track contract performance

In 2013, as part of its sweeping procurement reforms, Arizona implemented “vendor performance standards” to guide agencies’ procurement decisions.

In 2015, Texas passed legislation to create a vendor performance tracking system.

In 2015, California announced plans to pilot a program to rate the performance of state IT contractors.

Other governments, including the Colorado, Florida, and Connecticut state governments and the federal government, centrally track vendor performance.

- DGS will have to enhance eVA’s capability to host such a system, or develop a new system to track contract performance separate from eVA.
- DGS and VITA will have to train agency staff on how to measure contract performance, record metrics in the new system, and use the performance data maintained in the system to inform their contracting decisions.
- DGS and VITA will have to inform vendors about the new system, the criteria against which performance will be measured, and how the system will be used by state agencies.
- DGS and VITA will have to review their vendor complaint policies to ensure that the policies are consistent with the new system and that the system does not deter vendors from filing procurement- or contract-related complaints.
- Individual agencies will have to ensure that procurement staff and contract administration staff are aware of and understand the purpose of the system, understand the criteria that are to be tracked, and understand how to measure and record performance.

To minimize the time and resource demands of implementing a system to track contract performance, such an effort could be focused only on high-risk contracts (as defined in Chapter 4). Individual agencies could have the discretion to track the performance of contracts based on other criteria that they choose, and they could be required only to track the performance of high-risk contracts. Consideration could also be given to limiting public access to certain types information, such as performance data. Other states have recently implemented policies to track the performance of state contracts, and their experiences could be used to inform an effective approach in Virginia (sidebar).

RECOMMENDATION 30

The General Assembly may wish to include language in the Appropriation Act to require the Department of General Services, the Virginia Information Technologies Agency, and the Office of the Attorney General to collaborate on the development of a central database to collect information about high-risk state contracts. The information aggregated should be quantifiable, objective, and applicable to all contracts, so that it can be used to track the performance of high-risk contracts. The system would also act as a repository of documentation related to the performance of all vendors. The departments should provide a report to the House Appropriations and the Senate Finance Committees no later than September 1, 2017, that includes recommendations for the design of the system, implementation considerations, and a description of the resources that will be necessary to develop and implement it.

Centralization would remove advantages created by current agency autonomy

Decentralization limits statewide control of the contracting function and allows variation in agency contracting practices. Variation in agency practices can create inefficiencies, constrain competition, create significant legal or financial risks for the state, or even permit unethical practices to go unchecked. Such variation also may complicate the contracting process from the perspective of both agency staff and vendors. Centralizing the contracting function under DGS and VITA could be one means of reducing or eliminating such variation. However, it does not appear that any other states have fully centralized contracting; in fact, decentralized contracting is typical among other states.

There are advantages to decentralization that would be eliminated if DGS and VITA were conducting agencies' contracting activities for them. When an agency is responsible for its own contracting activities, agency procurement staff become familiar with the types of goods and services the agency needs. Procurement staff can use this familiarity to ensure that reputable vendors are aware of contracting opportunities, specifications are sufficiently detailed and clear, and the agency's previous experiences with certain types of contracts or particular vendors are taken into account for future contracts. A more centralized contracting structure would constrain the agency's ability to develop this level of specialization and familiarity. Further, when contracting occurs at the individual agency level, it is more likely that procurement staff will involve the ultimate end users of the goods or services in procurement and contract development decisions. Involving end users helps ensure that contracts sufficiently specify agencies' needs and expectations and that their interests are protected.

Administering contracts at the agency level is also advantageous because an agency's own contract administrators can best evaluate vendor performance according to the needs and expectations of agencies' programs and operations, which are often specific to the agency. Contract administrators are in many cases also the end users of the goods or services being purchased, and their agency-specific knowledge could not be replicated by staff of DGS or VITA.

A key practical consideration when evaluating the advantages and disadvantages of centralization is the demand that contracting places on personnel resources. Contracting requires significant personnel resources because it is a lengthy, multi-phase process that involves numerous staff with different types of expertise and responsibilities. In many cases, individual agencies have greater access to personnel, both in terms of numbers and expertise, than DGS or VITA. Centralizing contracting would require that DGS and VITA greatly increase their staff resources, either through the creation of new positions, sharing existing positions across the two agencies, utilizing staff resources at the state's largest agencies, or some combination of approaches.

Arizona's central oversight of state contracts was established in 2014 through interagency agreements that transferred chief procurement officers from nine agencies to the state's central procurement agency. The purpose of centralization was to improve oversight of state contracting.

Through statewide laws and policies contained in the VPPA and developed by DGS and VITA, the state currently has the tools necessary to ensure that effective contracting practices are consistently employed, even in a decentralized structure. Improving these laws and policies, and enforcing them, would be a more practical and effective means of addressing the current shortcomings in state contracting than centralizing the contracting function. This report's recommendations are designed to improve upon existing laws and policies and to give oversight agencies the information and authority needed to ensure that agencies consistently use effective contracting practices.

Appendix A: Study Mandate

A Resolution of the Joint Legislative Audit and Review Commission directing staff to review the development and management of state contracts.

Authorized by the Commission on September 8, 2014

WHEREAS, state agencies develop and manage contracts across many different areas of government, including transportation, health care, higher education, information technology, and capital construction; and

WHEREAS, the Virginia Public Procurement Act (VPPA) states that, when public bodies obtain goods and services, “competition be sought to the maximum feasible degree, that procurement procedures involve openness and administrative efficiency, . . . that rules governing contract awards be made clear in advance of the competition, . . . [and] that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor”; and

WHEREAS, state agencies have different types of procurement contracts at their disposal, including invitation for bids, request for proposals, sole source contracts, and public-private partnerships; and

WHEREAS, the value of state contracts can be significant, ranging up to billions of dollars per contract; and

WHEREAS, the procurement process is decentralized in Virginia, and state agencies vary in their expertise to develop and manage contracts; and

WHEREAS, improperly developed or managed contracts can result in significant costs to the Commonwealth; and

WHEREAS, other governments and organizations may provide a model for how to improve Virginia’s approach to developing and managing state agency contracts; now, therefore be it

RESOLVED by the Joint Legislative Audit and Review Commission, That staff be directed to review the development and management of state contracts, including contracts awarded under the VPPA, the Restructured Higher Education Financial and Administrative Operations Act, and through public-private partnerships. In conducting its study, staff shall review and assess (i) the adequacy of the state’s oversight and enforcement authority for different areas of procurement and types of contracts; (ii) the appropriateness of procurement methods used by state agencies, including the use of statewide contracts, invitation for bids, request for proposals, and public-private partnerships; (iii) the adequacy of the process and provisions used in contract development to ensure that state agency needs are sufficiently defined, and to ensure contract compliance and performance; (iv) the adequacy of grievance procedures available when state contracts are awarded; (v) the adequacy of state agency contract administration and management processes; (vi) the level of transparency to the General Assembly and public of the potential risks of large state contracts and procurement projects; (vii) the adequacy of the state’s expertise and processes to ensure that its interests are protected and to appropriately limit its risk in large contracts; (viii) the appropriateness of agency exemptions to the VPPA; (ix) the appropriateness and effectiveness of state policies for Small, Women-owned, and Minority-owned businesses; (x) procurement models used by other governments and organizations, including the potential

benefits of more centralized approaches to procurement and contract management; and (xi) any other issues as appropriate.

All agencies of the Commonwealth, including the Department of General Services, Office of Transportation Public-Private Partnerships, Virginia Department of Transportation, Virginia Information Technologies Agency, Department of Medical Assistance Services, and institutions of higher education shall provide assistance, information, and data to the Joint Legislative Audit and Review Commission (JLARC) for this study, upon request. JLARC staff shall have access to all information in the possession of state agencies pursuant to § 30-59 and § 30-69 of the Code of Virginia. No provision of the Code of Virginia shall be interpreted as limiting or restricting JLARC staff's access to information pursuant to its statutory authority.

Appendix B: Research Activities and Methods

Key research activities performed by JLARC staff for this study included

- structured interviews with state agency staff, staff in other states and national contracting organizations, and vendors that have recently contracted with the state;
- surveys of state agency procurement staff and contract administrators, vendors, and procurement staff in other states;
- collection and analysis of data on
 - the dollar value, purpose, and performance of a sample of state agency contracts;
 - procurements conducted by all state agencies and higher education institutions;
 - actions taken by agencies to enforce contracts, including contract terminations;
 - the dollar value of vendors' bids for contracts set aside for small businesses;
 - contract-related agency and vendor complaints; and
 - agencies' use of sole source contracts.
- a review of literature on procurement and contracting best practices;
- a review of contracting program evaluations conducted in other states; and
- a review of documents related to contracting in Virginia as well as other states, including procurement laws and policies, written justifications of sole source procurements, standard required and special contract provisions, materials on procurement and contract administration training, and findings from internal agency audits and audits conducted by the Auditor of Public Accounts.

Structured interviews

Structured interviews were a key research method for this report. Interviews were conducted of state agency staff at the

- Auditor of Public Accounts,
- Department of Accounts,
- Department of General Services,
- Department of Legislative Services,
- Department of Small Business and Supplier Diversity,
- Virginia Information Technologies Agency,
- Office of the Attorney General,
- Office of Public Private Partnerships,
- Office of the Secretary of Transportation,
- Virginia Correctional Enterprises,
- Virginia Institute for the Blind, and
- 14 state agencies and institutions of higher education selected for more in-depth research.

State procurement officers and contract administrators

JLARC staff conducted in-depth interviews with procurement and contract administration staff at 10 state agencies and four higher education institutions. Agencies were selected based on (i) their total dollar commitments to contracts in FY14, (ii) the number of procurement transactions performed in FY14, (iii) their use of complex or “non-standard” procurement methods (such as requests for proposals, sole sources, and emergency procurements), and (iv) important characteristics of their largest contracts. Institutions of higher education were selected based on these factors, as well as comparatively high total procurements of construction contracts in FY14.

At each of the 10 agencies, structured interviews were conducted with the chief procurement officer and other procurement staff. These interviews focused on each agency’s procurement and contract administration policies and practices, their experiences with vendors, and their experiences with problematic contracts. At each of the four higher education institutions, interviews focused on similar topics, as well as the institutions’ experience with different procurement methods for building construction contracts.

At each agency, JLARC staff also conducted interviews with small groups of contract administrators. In some cases, individual contract administrators were interviewed as part of the group as well as individually. These interviews covered the extent of contract administrators’ involvement in the procurement and development of their contracts, actions taken by contract administrators to monitor and enforce contracts, contract administrators’ level of experience with contract administration, and their interactions with vendors.

Other state agency interviews

The structured interviews conducted with other state entities focused on the oversight and assistance available to state agencies from central procurement and other agencies, the history of laws and policies regarding state contracting in Virginia, the availability of data, and the operations of agencies designated as mandatory sources for the purchase of certain goods and services.

Surveys

Four surveys were conducted for this study: (1) a survey of state procurement staff, (2) a survey of state contract administrators, (3) a survey of vendors that have contracted with Virginia state agencies, and (4) a survey of other states about their contracting policies and practices.

State procurement staff

The survey of state procurement staff was administered electronically to all executive, legislative, and judicial branch agencies, and public higher education institutions. The survey was sent to all procurement staff at each agency, including the chief procurement officers, based on a list of staff provided by the Department of General Services. JLARC staff received responses from 370 procurement staff out of 608 (61 percent) representing 130 state agencies (77 percent). Staff received twelve additional responses from procurement staff not on the recipient list, bringing the total number of respondents to 382 procurement staff out of 620 (62 percent) representing 134 agencies.

Topics covered in this survey included: (i) procurement staff’s experience and their participation in and opinions of procurement training courses offered by the Department of General Services, (ii) the

manner in which procurement and contract administration is organized within the agency, (iii) agencies' approaches to the solicitation and development of contracts, (iv) staff's perception of the value of various types of contracts, including statewide contracts, mandatory source contracts, SWaM contracts, and construction contracts, (v) the strategies staff use to monitor contract performance and manage risk, (vi) the extent to which agencies' contracts contain certain risk management and enforcement provisions, and (vii) data on the number and value of contracts and the number of procurement and contract administration staff. Questions about agencies' policies or practices were answered only by chief procurement officers, while questions about staff's perceptions and experiences were answered by all procurement staff.

State contract administrators

The survey of state agency contract administrators was the key method used to obtain performance data about recent or on-going contracts. The survey was administered electronically to 23 executive branch agencies and public four-year higher education institutions. In general, these agencies ranked highest in terms of their contracting activity in FY14. Agencies were selected based on (i) their total dollar commitments to contracts in FY14, (ii) the number of procurement transactions performed in FY14, (iii) their use of complex or "non-standard" procurement methods (such as requests for proposals, sole sources, and emergency procurements), and (iv) important characteristics of their largest contracts.

The survey was sent to the contract administrators at each agency who were responsible for the agencies' highest value contracts. The survey attempted to collect data on a total of 138 contracts valued at \$11.2 billion. Responses were provided for 117 contracts (85 percent) valued at \$8.1 billion (72 percent). In total, JLARC staff received responses from 92 contract administrators.

Topics covered in this survey included: (i) contract administrator experience and training, (ii) the average amount of time spent per week administering the contract, (iii) the number of contract modifications and the reasons for those modifications, (iv) the presence of contract provisions to manage risk and allow for enforcement, (v) contract costs, cost overruns, and the reasons for overruns, (vi) contract duration, schedule delays, and the reasons for delays, (vii) the contract administrator's satisfaction with the vendor's performance and the impacts of poor performance on the agency and the public, and (viii) challenges to effective contract administration.

Vendors

The survey of vendors who have contracted with Virginia state entities was the key method used for obtaining information on vendors' experiences with the state's procurement and contract administration practices. The survey was administered electronically to 19,344 vendors who had had some experience contracting with the state since January 2014, based on data obtained from the Department of General Services. Vendor contact information was obtained through vendor accounts in eVA. In total, JLARC staff received responses from 1,457 vendors (eight percent). Most (90 percent) respondents reported having fewer than 250 employees. Respondents represented a broad range of industries, with the most common being Facility Construction and Maintenance (13 percent), IT (10 percent), and Business Management/Consulting (eight percent).

Topics covered in the survey included: (i) vendors' satisfaction with their experiences contracting with the state, (ii) specific challenges experienced by vendors, (iii) satisfaction with responding to state contract solicitations, (iv) satisfaction with the state's vendor complaint process, and (v) satisfaction with the state's process for SWaM certification.

Other state procurement directors

The survey of procurement directors from other states was used to identify states that could be targeted for phone interviews and more in-depth research. The survey was administered electronically to the individual in each state identified by the National Association of State Procurement Officials as being responsible for that state's procurement function. In total, JLARC staff received responses from 13 state procurement directors (27 percent). Topics addressed in the survey included: (i) states' approaches to monitoring contract performance at the agency level as well as at a centralized level, (ii) states' approaches to contract administration, (iii) state-offered training on contract administration, and (iv) states' use of procurement preference policies. JLARC staff conducted phone interviews with procurement officers in several states based on the responses to this survey.

Data collection and analysis

Several types of data analyses were performed for this study. Staff assessed contracting trends and usage of statewide contracts using eVA data. Staff also collected and analyzed data on the performance of a sample of large state contracts. In addition, staff analyzed the data on bids submitted for small purchases and a sample of contracts procured using competitive sealed bidding. Staff also analyzed data on sole source purchases.

Collection and analysis of data on state agency contracts

In order to manage the scope and workload of the study, JLARC staff had to identify a subset of agencies and higher education institutions to target for in-depth research. Identifying agencies for in-depth research was partially done by analyzing eVA data on agencies' procurements. However, JLARC staff also wanted to identify agencies for in-depth research based on important characteristics of their largest contracts.

Because there is no centralized data on key characteristics of the contracts procured by state agencies, JLARC staff requested data on the largest five contracts held by 23 agencies. (These 23 agencies were selected based on their high volumes of certain types of contracting activity, and are the same 23 agencies described above.) A data collection instrument was designed to collect general information about each agency's contracts as well as specific information on the largest five contracts. General information included (i) agency's number of contracts, (ii) agency's issuance of cure letters, (iii) contract terminations, and (iv) vendor protests, complaints, and claims. Contract-specific information included (i) vendor name, (ii) description of the goods or services purchased, (iii) contract's dollar value, (iv) contract's duration, (v) procurement method for the contract, (vi) changes to the contract, (vii) agency assessment of the contract's complexity, (viii) agency satisfaction with the contract, (ix) particular risks posed by the contract, and (x) contract administrator contact information. JLARC staff used this data to inform its agency selection, interview questions, and subsequent data collection efforts.

Analysis of eVA data (Chapter 1)

In order to provide background information and historical context on the volume of contracting done by the state, JLARC staff obtained eVA data from the Department of General Services on all purchases made by state entities from FY11 to FY15. The data were provided at the purchase order level, and included the vendor name and purchasing state entity, the date of the purchase, the amount of the purchase, and information on the good or service purchased, including NIGP code. All purchases for amounts of zero were dropped from the analysis. A large negative value that was included as a payment from a concession project was also excluded from the total.

In terms of analysis, the data were broken down along several lines. The first and most general analysis was the total volume of contracting in each fiscal year. The second line of analysis broke down purchasing total in each fiscal year by state entity and secretariat. The third looked at purchasing in each fiscal year by NIGP code.

Analysis of statewide contract data (Chapter 1)

JLARC staff obtained data from the Department of General Services on purchase totals for statewide contracts in FY15. These included all statewide contracts for non-IT goods and services. JLARC staff analyzed statewide contract usage by individual state entity and the NIGP code of the goods and services provided through each statewide contract.

Analysis of data on contract performance (Chapter 2)

JLARC staff obtained data on contract performance through a survey of contract administrators, which provided information on 117 contracts at 23 state executive branch agencies and higher education institutions (see contract administrator survey description above). From the total number of contracts that contract administrators had provided information on, JLARC staff identified those that had not performed according to original contract requirements or agency expectations on four measures included in the survey: (1) schedule, (2) cost, (3) specifications, and (4) quality (Table B-1).

To provide additional context about performance outcomes that differed from the requirements or expectations laid out in the original contract, JLARC staff asked contract administrators a series of follow-up questions about the reasons why performance differed from the original contract. Not all contract administrators received or responded to these follow-up questions. The reasons offered as response choices to contract administrators were divided into circumstances that were determined to be “preventable” and those determined to be outside of the control of the agency or the vendor. Contract administrators who pointed to a problem with specifications or quality were not provided with follow-up questions; these performance outcomes were classified as “avoidable circumstances.”

Table B-1
Metrics identifying contract performance that differed from original requirements

Performance metric	Applicable questions	Responses indicating performance differed from original contract	Number of unique contracts	Value of contracts
Schedule	Has the contract's end date been extended, aside from renewals?	Yes	28	\$1.3 billion
	Is the work for this contract on schedule or behind schedule?	Slightly behind schedule, Somewhat behind schedule, Significantly behind schedule	19	\$1.4 billion
	Will the vendor be able to complete all work required by the contract by the contract's scheduled end date?	No	7	\$175.5 million
	Subtotal		38	\$2.4 billion
Cost	As of today, is the cost of the current contract higher than the cost agreed upon in the original contract?	Slightly higher, Somewhat higher, Significantly higher	42	\$4.9 billion
	Ultimately, do you expect the total estimated cost of the contract will be less than, about the same as, or higher than the cost of the original contract?	Higher than the original cost	42	\$5.0 billion
	Subtotal		57	\$5.3 billion
Specifications	How satisfied are you with the vendor's ability to meet the contract's specifications?	Moderately satisfied, Slightly satisfied, Not at all satisfied	22	\$2.0 billion
	Subtotal		22	\$2.0 billion
Quality	How satisfied are you with the quality of goods or services being provided by the vendor?	Moderately satisfied, Slightly satisfied, Not at all satisfied	19	\$2.0 billion
	Subtotal		19	\$2.0 billion
Total			74	\$6.5 billion

Analysis of contract termination data (Chapter 2)

JLARC staff obtained data on contract terminations from 22 of the 23 agencies discussed above. Agency procurement staff were asked to provide basic information on contracts that had been terminated prematurely or cancelled by their agency or by a vendor between July 1, 2011 and June 30, 2015, as well as select a reason for contract termination from a pre-populated list.

Analysis of agency complaint data (Chapter 2)

JLARC staff obtained data from the Department of General Services on formal complaints filed by an executive branch agency and higher education institution against vendors. Complaints are limited to contracts for non-IT goods and services and road construction and may not be comprehensive. The Department of General Services provided data on complaints filed between FY12 and FY15 (partial). Although the Department of General Services categorizes complaints issued by agencies, these categories did not appear to be consistently applied over time or within agencies, which may affect the data presented in Chapter 2.

Analysis of bids submitted for contracts set aside for small businesses (Chapter 3)

JLARC staff obtained data on the bids submitted for all small purchases processed through the eVA Quick Quote system from July 2013 through March 2015. The data included information on the bids submitted by vendors for over 15,000 purchases. Staff cleaned the data to address erroneous bid amounts, dropping all bids that were seven times less than or greater than the winning bid amount. Staff also excluded all purchases with multiple awards.

Three primary analyses were conducted with the small purchase bid data:

- Analysis (1) comparison of the average of bids submitted by small businesses with the average of bids submitted by non-small businesses for each purchase,
- Analysis (2) comparison of the winning bid submitted by small businesses with the lowest bid submitted by a non-small business for each purchase, and
- Analysis (3) comparison of bids submitted by small and non-small businesses for large goods and services contracts procured using competitive sealed bidding.

Staff's analyses were intended to assess the state's small business set aside policy (mandate item ix). Specifically, the first analysis was conducted to determine the extent to which small businesses' prices are more expensive than non-small businesses. The second analysis was conducted to determine the extent to which the state experienced a fiscal impact by awarding purchases to small businesses that cost more under the small business set aside policy. The third analysis was conducted to determine whether, for large purchases, small businesses' prices are comparable to non-small businesses' prices. For these analyses, staff analyzed only purchases that included bids from both small and non-small businesses (7,823 purchases). Small businesses were defined to include those with at least a "small" or "micro" business certification for these analyses. Small businesses could also be women- or minority-owned.

During the period of time that small purchase data were analyzed (July 2013 through March 2015), the state's small business set-aside policy underwent changes that may affect the results of the bid analyses. According to staff from the Department of General Services (DGS), a barrier to competition was removed in November 2014, allowing non-small businesses to compete for set-aside purchases and providing an incentive for their bids to be comparable to other businesses' bids. Prior to the policy change, DGS staff report that competition may have been limited between small and non-small businesses for set-aside purchases, and average bids submitted by non-small businesses may have been artificially low. As a result, differences calculated between small and non-small businesses' bids may be larger prior to the change than they are presently. Further analysis is needed to confirm this trend because staff had access to limited data after the policy change.

Analysis (1):

For the comparison of average bid prices, staff calculated the average of the bids submitted by small businesses and the average of bids submitted by non-small businesses, for each purchase. Staff assessed the difference between the two averages and determined the proportion of purchases for which the average of small businesses was higher than the average of non-small businesses. Among these purchases, staff then determined how much higher small businesses were, on average.

Analysis (2):

For the analysis of winning small business bids, staff identified all purchases that were awarded to a small business under the small business set-aside policy (approximately 4,800 purchases). Staff then calculated the percentage of purchases for which small businesses receiving an award had a higher bid than the lowest non-small businesses. Among these purchases, staff determined how much higher the winning small businesses' bids were, on average. Staff added the amount that the state paid to these small businesses beyond what could have been paid to the lowest non-small business to determine the fiscal impact that the small business set-aside policy had on the state between July 2013 and March 2015.

Analysis (3):

Separate from the analyses conducted on bids submitted for small purchases, JLARC staff collected and analyzed bids submitted for a sample of larger contracts that agencies procured using competitive sealed bidding. Because data on the bids submitted for larger purchases was not available from the Department of General Services, staff sent a data collection instrument to 22 state agencies with varying levels of contracting expenditures and procurements. Staff requested that agencies provide bid amounts for all contracts procured using competitive sealed bidding in FY14 and FY15. In total, staff received information on approximately 120 contracts that had bids from both small and non-small businesses.

Staff performed two key calculations with the bid data collected from agencies. Staff compared the average of small businesses' bids with the average of non-small businesses' bids for each purchase that received both types of bids. Staff found that the average of small businesses' bids was lower for the majority (68 percent) of purchases. Staff also determined the percentage of purchases that were awarded to small businesses instead of non-small businesses. Staff found that 71 percent of purchases that received both types of bids were awarded to small businesses. These small businesses had the lowest bid as required by state policy for contracts procured using competitive sealed bidding.

Analysis of sole source data (Chapter 3)

JLARC staff obtained data on all sole source procurements processed through the eVA eMall system for FY14. JLARC staff assessed sole source procurements categorized as "sole source," "sole source-exempt," and "technology-sole source." JLARC staff analyzed the number and value of sole source procurements conducted by all state agencies and public higher education institutions. Staff then calculated the total sole source procurement count and value across all entities. Staff also determined which entities were responsible for the largest portion of sole source procurements.

Analysis of data on higher education construction procurements (Chapter 3)

JLARC staff collected data on building construction contracts procured by four different institutions of higher education. The purpose of this data collection effort was to examine the criteria institutions have used in evaluating vendors' proposals for building construction contracts, to compare the number and impact of change orders made between design-bid-build, design-build, and construction-manager-at-risk contracts, and to compare the number and magnitude of schedule delays and cost

overruns between these three types of contracts. From the four institutions, staff collected information on 28 different projects (11 construction manager, 13 design-bid build, and one design-build). (A summary of the analysis is included in Appendix D.)

Analysis of vendor complaint data (Chapter 6)

JLARC obtained data on formal complaints filed by vendors against state agencies from two sources: the Department of General Services and JLARC's survey of vendors. Data on complaints from the Department of General Services are limited to contracts for non-IT goods and services and road construction. The Department of General Services provided data on complaints filed between FY12 and FY15 (partial). JLARC's survey of vendors asked vendors to report whether their business had ever filed a complaint during the procurement process or during the course of a contract.

Research into other states

Interviews with staff from national associations and procurement officers and contract administrators in other states were conducted to better understand current trends and innovations in contracting policies and practices, and to report on promising contracting practices in other states. Staff interviewed the Director of Strategic Programs at the National Association of State Procurement Officials, who provided insight into current standards and developments in state procurement practices and recommended other states to contact for more in-depth interviews.

Procurement and contract administration staff from Arizona, Colorado, Maryland, Nebraska, North Carolina, South Carolina, and Tennessee were also interviewed. All states were recommended for interviews because of the strengths of their procurement and contract administration policies, or because they had recently undergone an extensive evaluation. Colorado was of particular value to contact because of their advanced and well-developed contract oversight and contract management practices. North Carolina provided a good model for developing contract management training practices. Arizona also provided an effective model for the oversight of mandatory sources. Each of these areas had been identified by JLARC staff as being of particular interest in its research.

Document and literature review

Numerous documents and literature pertaining to contracting were reviewed throughout the course of the study, such as:

- prior studies and reports on state contracting, such as the interim (2013) and final (2014) reports of the Special Joint General Laws Subcommittee Studying the Virginia Public Procurement Act;
- state laws, including the Virginia Public Procurement Act, the Public-Private Education Facilities and Infrastructure Act, and the Public-Private Transportation Act;
- state policy manuals, including the Agency Procurement and Surplus Property Manual, the Construction Professional Services Manual, the Buy IT Manual, and the Vendors Manual;
- contract provision language from Appendix B of the Agency Procurement and Surplus Property Manual, forms CO-3a, CO-7, CO-7DB, and CO-7CM from the Department of General Services' Division of Engineering and Building website, and the "core contractual

terms,” “required eVA terms and conditions,” and “VITA minimum contractual requirements for major technology projects” documents on VITA’s website;

- findings from audits conducted by the Auditor of Public Accounts and the Department of General Services’ Policy Consulting and Review Bureau related to sole source procurements and other contracting activities undertaken by agencies;
- a sample of sole source justifications from the Department of Forensic Science and Department of Medical Assistance Services;
- training course materials for the state’s Virginia Contracting Associate certification course, Virginia Contracting Officer certification course, Contract Management course, Basic IT Procurement course, and Virginia Construction Contracting Officer certification course; and
- literature on best practices from the National Association of State Procurement Officials, National Contract Management Association, National Contract Management Journal, and the states of Florida, Georgia, North Carolina, and Texas.

Appendix C: Characteristics of contracts analyzed for this study

JLARC staff surveyed contract administrators at 23 agencies. Contract administrators were generally responsible for one or more of their agencies' highest value contracts and were asked about various topics, including contract performance and contract provisions. 92 agency staff provided information on 117 contracts valued at \$8.1 billion.

Table C-1 summarizes the key characteristics of the contracts for which contract administrators reported data. The contracts are grouped by type ("other" services, construction services, IT services, goods, or goods and services) and ordered by dollar value. Each column represents a characteristic of the contract, and an "X" indicates that the contract *did not* exhibit the characteristic. For example, a contract with an "X" in the "On schedule" column indicates that that contract was delayed at the time the data were collected. Blanks indicate that the contract *did* exhibit the characteristic.

TABLE C-1
Characteristics of contracts analyzed for this study

Total dollar value (\$M)	Duration (years)	On schedule	On budget	Specifies monitoring methods	Includes performance measures	Includes penalties or incentives	Includes termination clause
900.0	6.0	X					
569.8	11.7		X				X
435.6	1.0					X	
250.0	11.1						
131.8	5.0		X	X			
81.9	1.0						
81.7	5.0						X
74.1	2.4		X	X	X	X	X
72.8	3.4		X				X
61.0	11.8					X	X
42.3	4.0				X	X	X
39.4	5.0	X					
26.0	7.0		X				
15.8	4.1				X	X	
14.4	5.0				X		X
13.7	na		X				
11.5	1.1	X	X				
11.2	2.0	X	X	X	X	X	
7.7	3.0				X	X	
7.2	9.0	X			X	X	
6.8	6.0	X				X	
6.5	4.0					X	X
6.0	na			X	X	X	X
6.0	5.1						X
5.2	2.0					X	

Other services
(excludes IT, construction)
38 contracts

	Total dollar value (\$M)	Duration (years)	On schedule	On budget	Specifies monitoring methods	Includes performance measures	Includes penalties or incentives	Includes termination clause
	4.1	2.7			X	X	X	
	3.0	5.5	X				X	
	0.7	3.0				X	X	X
	0.6	4.0				X	X	X
	0.6	3.0				X	X	X
	0.5	3.0					X	
	0.5	10.0					X	X
	0.4	1.9					X	X
	0.4	0.5					X	
	0.3	1.0					X	
	0.2	0.8					X	
	0.2	0.4			X		X	X
	0.1	1.8	X			X	X	X
	579.6	58.4		X				
	464.0	5.1		X				
	378.2	14.6	X	X			X	
	247.6	5.4		X				
	206.8	14.1	X	X				
	137.5	2.7		X				
	118.4	3.2	X	X				
	105.0	2.8		X	X	X		
	95.0	3.3	X	X				
	95.0	na	X	X		X	X	
	84.4	na	X	X				
	72.0	na	X	X		X		

Other services
continued

Construction services
50 contracts

Total dollar value (\$M)	Duration (years)	On schedule	On budget	Specifies monitoring methods	Includes performance measures	Includes penalties or incentives	Includes termination clause
44.8	2.9		X			X	
31.5	1.4	X	X			X	
26.0	0.9	X	X			X	
25.0	0.0	X	X			X	
25.0	1.8		X			X	
23.9	3.0	X	X			X	
18.4	1.2		X	X	X	X	X
18.2	1.7	X	X			X	
13.2	3.3						
11.1	4.5					X	
11.0	4.6			X	X	X	X
10.5	1.7	X	X				X
10.5	3.7					X	X
6.0	1.1	X	X			X	
5.0	2.0	X	X		X	X	X
4.7	2.0		X		X	X	X
4.4	2.0		X		X	X	X
3.2	7.0					X	
3.0	7.1					X	X
2.2	5.0					X	
1.6	na			X	X	X	X
1.4	1.0	X	X			X	
1.0	2.0					X	
1.0	3.0			X	X	X	X
0.9	4.0				X	X	

Construction services
continued

	Total dollar value (\$M)	Duration (years)	On schedule	On budget	Specifies monitoring methods	Includes performance measures	Includes penalties or incentives	Includes termination clause
Construction services <i>continued</i>	0.8	1.0		X			X	
	0.8	1.0		X			X	
	0.6	2.0	X	X			X	
	0.5	0.4	X	X			X	
	0.4	1.6	X				X	
	0.3	1.2	X	X			X	
	0.3	0.3		X			X	
	0.3	0.3	X	X			X	
	0.3	0.5		X			X	
	0.3	3.0	X	X	X	X	X	
	0.3	0.5		X			X	
	0.2	0.2		X			X	
	0.1	0.4		X			X	
	390.0	5.0		X			X	
	367.5	8.0		X				
	256.1	2.0					X	X
	107.0	5.0	X	X				
IT services 14 contracts	35.0	6.0			X	X	X	
	28.1	7.7		X		X	X	
	21.0	6.0			X	X	X	
	17.0	5.0	X			X	X	X
	10.7	4.1		X	X	X	X	X
	8.6	4.1		X	X		X	X
	8.0	na					X	X
	2.2	4.9	X		X	X	X	X

	Total dollar value (\$M)	Duration (years)	On schedule	On budget	Specifies monitoring methods	Includes performance measures	Includes penalties or incentives	Includes termination clause
	0.9	2.1	X					X
	0.3	2.5	X			X	X	
	485.0	14.7		X			X	
	186.9	10.2				X	X	X
	108.7	3.0					X	X
	95.0	10.0		X			X	X
	34.0	9.4				X	X	X
	5.0	14.2		X			X	
	61.0	10.0	X	X			X	X
	41.8	5.2		X				X
	35.9	5.8	X					X
	15.0	4.0						
	8.5	5.4	X		X	X	X	X
	4.9	4.0						X
	2.9	4.0			X	X	X	
	1.1	4.0			X	X	X	
	0.9	na			X	X	X	X
	\$8,120.8	4.1 (average)	X = 38	X = 57	X = 21	X = 38	X = 85	X = 44

SOURCE: JLARC staff analysis of a survey of state agency contract administrators, 2015.

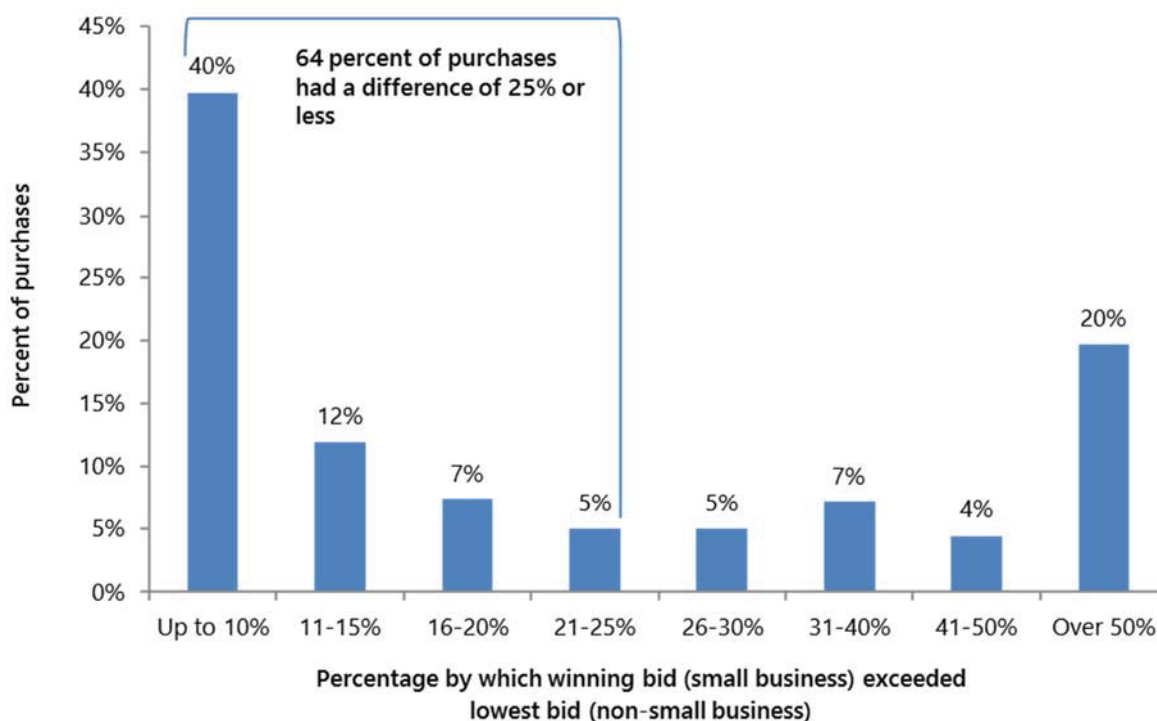
NOTE: Numbers may not add due to rounding. "X" indicates that a contract did not exhibit the characteristic presented in each column. "na" indicates that the information was not provided by the contract administrator.

Appendix D: “Fair and reasonable” formula

To consistently determine when purchases from small businesses under the small business set-aside can be considered “fair and reasonable,” agencies will need to establish a formula that only permits purchases from small businesses when their bids are within a specific percentage or dollar value (whichever is lower) of the lowest bid submitted by a responsive and responsible non-small business. The percentage selected for the formula should be a lower bound that specifies the maximum possible percent difference between the winning small business’s bid and the lowest non-small business’s bid. The dollar value selected for the formula should be an upper bound that specifies the maximum dollar difference between the winning small business’s bid and the lowest non-small business’s bid. If agencies are permitted to develop their own formulas, they will be better able to account for the size and nature of their purchases. For example, a formula that does not allow agencies to spend more than \$500 more than bids by non-small businesses may not be appropriate for agencies that routinely make high dollar value purchases. The figures below provide several data points to help agencies select percentage and dollar values for their formulas (Figures D-1, D-2, and D-3). These figures are based on approximately 2,000 purchases made by Virginia state agencies under the small business set-aside from July 2013 through March 2015.

FIGURE D-1

Percent of purchases for which agencies spent more with small businesses than they otherwise would have, by size of percent difference



SOURCE: JLARC staff analysis of purchases processed through Quick Quote from July 2013 through March 2015.

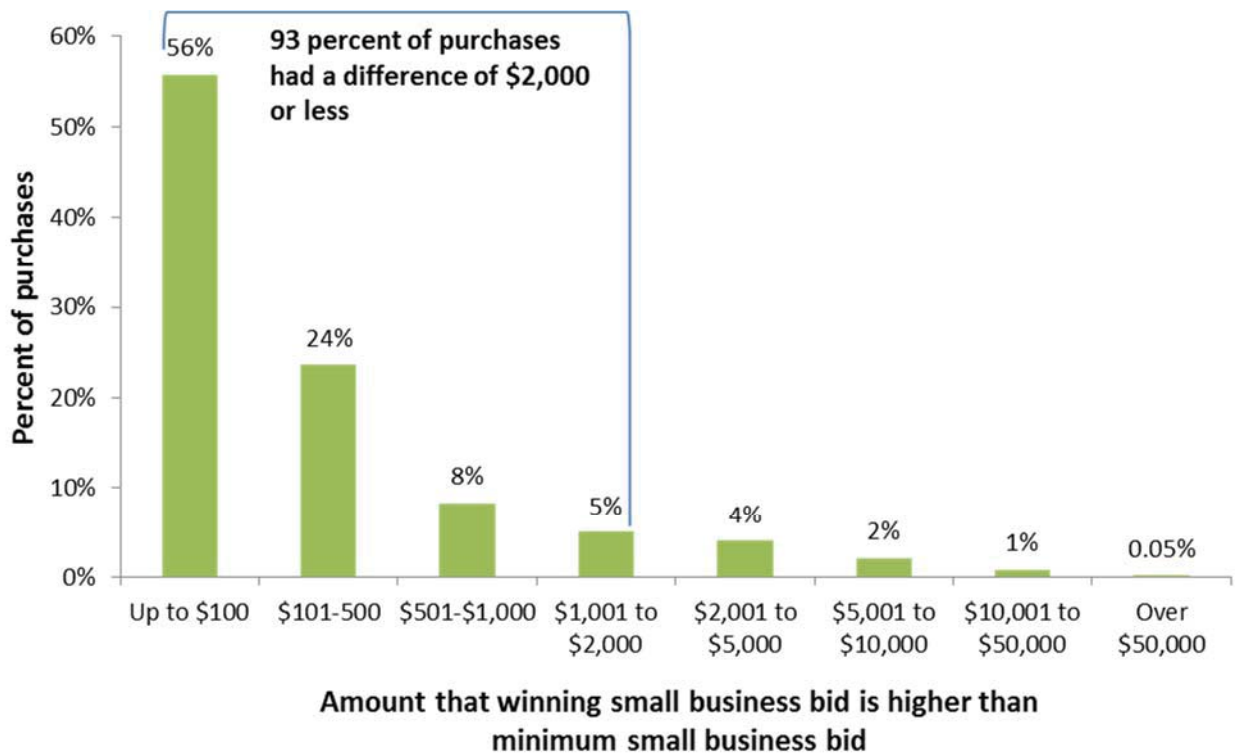
NOTE: Based on 2,015 purchases that agencies awarded to small businesses where the small business had a bid that was higher than the lowest non-small business.

Figure D-1 provides data on the percent of purchases for which agencies spent more with small businesses than they otherwise would have, broken down by different sizes of percent difference. For example, the first bar shows that 40 percent of agencies' purchases from small businesses under the small business set-aside cost up to 10 percent more than what they could have spent with non-small businesses.

Figure D-2 provides data on the percent of purchases for which agencies spent more with small businesses than they otherwise would have, broken down by different sizes of differences reported in dollars. For example, the first bar shows that 56 percent of agencies' purchases from small businesses under the small business set-aside cost up to \$100 more than what they could have spent with non-small businesses.

FIGURE D-2

Percent of purchases for which agencies spent more with small businesses than they otherwise would have, by size of dollar difference



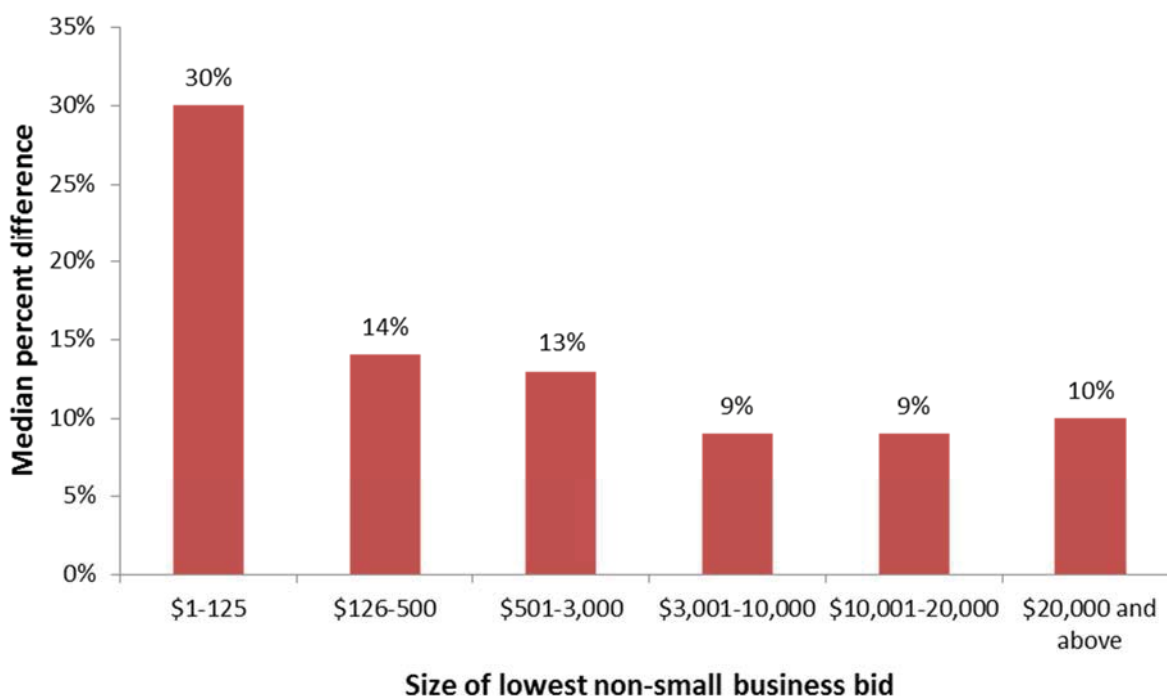
SOURCE: JLARC staff analysis of purchases processed through Quick Quote from July 2013 through March 2015.

NOTE: Based on 2,015 purchases that agencies awarded to small businesses where the small business had a bid that was higher than the lowest non-small business.

Figure D-3 provides data on the median percent difference between the bid submitted by a small business that the state selected for an award and the lowest bid submitted by a non-small business, broken down by different sizes of purchases. For example, the first bar shows that the winning small business's bid was 30 percent higher (as a median) than the lowest non-small business's bid on purchases valued between \$1 and \$125. The last bar shows that, for the largest purchases, the winning small business's bid was 10 percent higher (as a median) than the lowest non-small business's bid.

FIGURE D-3

Median percent difference between winning small business's bid and lowest non-small business's bid, by size of purchase



SOURCE: JLARC staff analysis of purchases processed through Quick Quote from July 2013 through March 2015.

NOTE: The size of purchases was determined using the lowest bid submitted by a non-small business. Based on 2,015 purchases that agencies awarded to small businesses where the small business had a bid that was higher than the lowest non-small business.

Appendix E: Construction project delivery methods

All contracting methods for construction projects present advantages and disadvantages, including the amount of competition generated among contractors. The Code of Virginia permits agencies to choose from several contracting methods for construction projects, and the primary methods used by state agencies and higher education institutions are design-bid-build, design-build, and construction-manager-at-risk (Table E-1). Design-bid-build is the default method, and agencies and institutions are required to obtain approval from the Department of General Services (DGS) to use either construction-manager-at-risk or design-build as alternatives. (Several institutions are not required to obtain approval from DGS to use an alternative method, including Virginia Tech, the University of Virginia, William and Mary, Virginia Commonwealth University, Christopher Newport University, James Madison University, and George Mason University.)

JLARC interviewed staff at four universities and collected data on 28 recent construction projects completed by these universities in order to examine the advantages and disadvantages of the three methods. Institutions of higher education tend to be the primary users of alternative methods.

TABLE E-1
Agencies and institutions primarily use three different construction contracting methods

Method	Key elements	<u>Basis of contract award</u>	
		<i>Best quality</i>	<i>Lowest cost</i>
Design-Bid-Build	Phase 1: Hire architect/engineer to design project	✓	
	Phase 2: Hire construction manager, who uses design produced in Phase 1		✓
Design-Build	One firm hired to design and construct the project	✓	
Construction-Manager	Phase 1: Hire architect/engineer and construction manager to collaborate on project design.	✓	
	Phase 2: Hire construction manager to construct the project. May or may not be same construction manager hired in Phase 1.	✓	

SOURCE: Research literature on differences between construction contracting methods.

Institutions use alternative methods for projects of all sizes

According to state policy, methods other than design-bid-build are intended for especially costly projects. The Secretary of Administration's guidelines for the use of the construction-manager-at-risk method states that it should be limited to projects valued over \$10 million. Universities tended to use all three methods for costly projects (Table E-2). However, the average and median cost of projects using alternative methods substantially exceeded the cost of projects that used design-bid-build.

TABLE E-2
Universities used alternative contracting methods for largest projects

Method	Range of costs (\$M)	Average cost (\$M)	Median cost (\$M)
Design-Bid-Build (N=13)	\$0.71 – \$22.1	\$5.6	\$2.6
Design-Build (N=4)	\$1.5 – \$19.1	\$10.5	\$10.6
Construction-Manager (N=11)	\$9.9 – \$66.4	\$32.2	\$31.7

SOURCE: JLARC staff analysis of data provided by institutions of higher education on a sample of construction projects.

NOTE: Costs are calculated based on the original reported contract cost, which differs from the ultimate cost of the contract. Based on 11 construction-manager-at-risk projects, four design-build projects, and 13 design-bid-build projects.

Institutions are generally satisfied with all three project delivery methods

Procurement officers and project managers at state agencies and institutions of higher education expressed comparable levels of satisfaction with all three project delivery methods. Approximately three-quarters of state agency procurement staff who had procured construction contracts expressed satisfaction with both design-bid-build and construction-manager-at-risk. Most procurement staff expressed satisfaction with the quality of design-bid-build projects (78 percent) and construction-manager-at-risk projects (88 percent). Procurement staff were also satisfied generally with the extent to which both types of projects adhered to their original schedules (69 percent for design-bid-build projects and 81 percent for construction-manager-at-risk projects).

In interviews, university procurement staff and project managers did not exhibit a general preference for one method over the others. These staff did note that the use of alternative methods, particularly construction-manager-at-risk, was advantageous for especially complex or time-sensitive projects because the ability to include a general contractor in the initial design, scoping, and scheduling of a project minimized the risk of future change orders or other problems.

All projects deviated from original contract provisions

All 28 projects analyzed performed differently than originally expected, regardless of contracting method. Specifically, at least some of each type of project experienced cost overruns, schedule delays, and change orders.

While cost overruns occurred for all three types of projects, cost overruns as a percent of the original project cost were highest for design-build projects (13 percent), followed by design-bid-build (8.7 percent), and then construction-manager-at-risk (4.2 percent) (Table E-3). In part because those projects tended to be larger, the dollar-value of cost overruns among construction-manager-at-risk projects was approximately twice as high as the additional costs incurred by other types of projects with cost overruns.

Similarly, while schedule delays occurred for all three types of projects, the average length of delays was greatest for design-build projects (75 days), followed by design-bid-build (41 days), and then construction-manager-at-risk (23 days) (Table E-4).

All three categories of projects experienced change orders (Table E-5). The cost of change orders for design-bid-build projects averaged nine percent of the projects' original cost and 4.5 percent for construction-manager-at-risk projects. (Institutions reported change orders for only one of the four design-build projects, which added \$158,000, or one percent, to the project's original cost.)

Project complexity should be considered when evaluating whether to use a method besides design-bid-build

Critics of the design-bid-build construction method assert that projects delivered in this way are more susceptible to schedule delays, cost overruns, and poor-quality products. The contracts in this sample suggest that design-bid-build projects can indeed experience these performance problems, and potentially more so than other methods, and should therefore be procured and managed as effectively as possible. However, these problems are also evident in projects constructed using the design-build and construction-manager-at-risk methods. This suggests that these alternative methods will not allow users to entirely avoid some of the problems that users of design-bid-build projects have experienced.

It does appear that alternative methods may be beneficial for especially complex or time-sensitive construction projects because of the built-in collaboration between the agency, construction manager, and project design team (see Table E-1). This collaboration can help minimize changes and delays on complex projects, such as an academic science building with highly technical laboratory specifications. This collaboration can also help expedite time-sensitive projects that might take longer under the design-bid-build model.

A dollar threshold is not the most effective criteria for deciding which method to use because a project's cost does not necessarily reflect the complexity or time-sensitivity of projects. For example, a low-dollar project could benefit from an alternative contracting method if it is particularly complex. Conversely, a high-dollar project may be relatively simple and could be successful under the traditional design-bid-build method. The Department of General Services could be directed to use specific criteria related to a project's complexity and time-sensitivity, rather than cost, to more accurately gauge a project's risk and the potential benefits of using an alternative construction method. The Department of General Services could also be directed to periodically evaluate how projects under each method perform in relation to schedule, budget, and specifications. Such periodic evaluations would allow the Department to compile data on construction project performance and contribute to a greater understanding of the advantages and disadvantages of the different methods.

TABLE E-3
Cost overruns

Method	Average % of original cost	Median % of original cost	Range (%)
Design-Bid-Build	8.7%	6.5%	(0.5) – 22.7%
Design-Build	13	10	0.9 – 30.9%
Construction-Manager	4.2	2.8	0.9 – 14.8%

SOURCE: JLARC staff analysis of data provided by institutions of higher educations on a sample of construction projects.

NOTE: Costs are calculated based on the original reported contract cost, which differs from the ultimate cost of the contract. Based on 11 construction-manager-at-risk projects, four design-build projects, and 13 design-bid-build projects.

TABLE E-4
Schedule delays

Method	Average days	Median days	Range (days)
Design-Bid-Build	41	9	(7) – 161
Design-Build	76	85	0 – 132
Construction-Manager	23	0	(25) – 155

SOURCE: JLARC staff analysis of data provided by institutions of higher educations on a sample of construction projects.

NOTE: Data on the magnitude of delays were not provided for three of the design-bid-build projects. Based on 11 construction-manager-at-risk projects, four design-build projects, and 10 design-bid-build projects.

TABLE E-5
Change orders

Method	Average % of original cost	Median % of original cost	Range (%)
Design-Bid-Build	9.0	6.9%	(0.5) – 22.7%
Design-Build	n/a	n/a	n/a
Construction-Manager	4.5	2.6	1.2 – 14.8

SOURCE: JLARC staff analysis of data provided by institutions of higher educations on a sample of construction projects.

NOTE: Costs are calculated based on the original reported contract cost, which differs from the ultimate cost of the contract. Institutions reported change orders for only one design-build project, which added \$158,000, or one percent, to the project's original cost. Based on 11 construction-manager-at-risk projects and 13 design-bid-build projects.

Appendix F: VDOT Contracting

JLARC staff completed a series of transportation studies during the late 1990s and early 2000s, several of which reviewed various aspects of the Virginia Department of Transportation (VDOT)'s procurement and contract management processes:

- Review of the Use of Consultants by VDOT (1998)
- Review of Construction Costs and Time Schedules for VA Highway Projects (2000)
- Review of VDOT's Administration of the Interstate Asset Management System (2001)

Through these studies, JLARC staff identified deficiencies with VDOT policies and practices and provided recommendations for improvement. As part of the current contracting study, JLARC staff reviewed the findings from the previous studies to examine how VDOT's contracting processes have changed. Given the statewide focus of this contracting study, JLARC staff chose to limit its research primarily to these prior areas of concern. The material in this Appendix is not a comprehensive review of VDOT's contracting practices.

Research was based primarily on 15 interviews with agency staff in the central office and districts, including several District Construction Engineers, Area Construction Engineers, and project managers, as well as procurement staff and staff with management responsibilities for specific divisions within VDOT. Interviews were supplemented with information provided by 15 VDOT contract administrators on 16 contracts valued at approximately \$4 billion as part of JLARC's survey of contract administrators; information obtained through JLARC's survey of procurement staff (including 33 VDOT staff); and information provided by VDOT management. JLARC staff also used information from VDOT's Dashboard to supplement information provided by contract administrators for several contracts.

While some aspects of VDOT's contracting processes have improved, the targeted review conducted by JLARC staff indicates that some challenges remain, notably in the areas of staffing and contract administration. However, due to the targeted and limited nature of the research, the information presented is not considered formal findings and was not used to develop VDOT-specific recommendations. It is also not possible to determine from this research the extent or impact of any remaining problems with VDOT's contracting practices.

Expertise of VDOT staff is an area of concern

Previous studies identified a loss of in-house design and contract administration expertise within VDOT, due to heavy reliance on consultants to perform key agency functions.

Currently, maintaining a sufficient level of expertise among VDOT staff who administer contracts is still a challenge, and many VDOT functions are carried out by consultants. Interviewed staff estimated that between 50 and 75 percent of inspection, engineering, and design work is currently being handled by consultants. Central office staff indicated that VDOT relies on consultants to supplement the expertise and number of district staff due to a state requirement to maintain a smaller agency workforce than in the past. VDOT staffing levels declined from 10,645 employees in 2001 to approximately 7,500 employees in 2010 in response to direction from the General Assembly, which also placed emphasis on concurrently outsourcing VDOT functions.

Several district and central office staff expressed concerns about the proportion of work being handled by consultants. Most VDOT staff who were interviewed indicated that this reliance on consultants has resulted in a loss of in-house expertise, and it is requiring additional time of VDOT staff to oversee the work of consultants. Some central office staff thought the current quality of VDOT's oversight of design work was sufficient, but still expressed concerns that in a decade, VDOT may not be as well positioned.

A primary concern appears to be that VDOT's current levels of staffing and expertise may not always be sufficient to identify errors in consultants' work. However, interviewed staff did not provide specific examples of problems resulting from problematic design work. VDOT management provided data indicating that design plan errors do occur but are relatively infrequent: during FY15, 2.37 percent of all work orders resulted from plan discrepancies.

Some interviewed staff also identified consultants' level of expertise as an area of concern. VDOT generally awards contracts to consultant firms based on the qualifications of the firms' most experienced staff. However, consultant firms will reportedly supplement their most qualified staff with less qualified or experienced staff. This practice has impacted the workloads of VDOT staff in at least one district. Contractors may also be impacted, as indicated by the following example:

“The only issues we have with the Department primarily lie with field project inspection and management. The Department has contracted the majority of field inspection out to consulting engineering firms. Many of the individuals these firms supply the Department for field inspection are not properly trained or are uneducated in the specific processes and dynamics of our projects. It has caused unnecessary time and overwhelming documentation to overcome some issues.” – Vendor

VDOT staff workload may negatively impact contract oversight

Previous JLARC studies found that VDOT's increasing reliance on consultants had led to contract administrators overseeing an excessive number of contracts. The previous studies identified circumstances where contract performance had been affected by high workloads and found that VDOT staff were not performing monitoring activities frequently enough.

Currently, VDOT contract administrators continue to have high workloads and report having insufficient time to complete needed monitoring activities, due in part to the decrease in agency staffing levels over the past 15 years. VDOT management indicated that the staff with the most expertise are often the staff with the highest workloads.

When asked to describe the most significant contracting challenges faced by VDOT, one staff member responded, “Poor contract administration—there are not enough staff to administer contracts. The contract administrators are spread very thin.” The impact of high workloads and insufficient time is illustrated in the following examples:

- One district construction engineer reported that high workloads have led to insufficient oversight of consultant design work in some cases. District staff are supposed to review the quality of design plans before vendors are asked to bid on a project, but in some cases, staff in his district had only one day to review the designs.

- Two staff reported that they did not believe they had sufficient time to adequately monitor the performance of their contracts because they are responsible for multiple high-value, high-risk contracts. One contract administrator said he spends 50 hours per week administering a multi-million dollar road construction contract but is responsible for three additional construction contracts at the same time.

A procurement officer indicated that for some contracts, VDOT staff develop work orders that specify key information about how services are to be performed by vendors, such as how many people are needed to perform the service. However, rushed contract administrators do not always include enough details in work orders. In these cases, vendors have used more employees or materials than necessary to complete a job, driving up charges to VDOT.

Contract monitoring has improved, but remains a challenge in some cases

Previous studies found that VDOT did not track critical data on consultant performance and that performance evaluations of consultants were not being completed as required. The previous studies also identified instances where there was insufficient information for anyone to determine whether performance met contract requirements on large, high-risk contracts.

Currently, VDOT's evaluation process for consultants has improved. The newly formed consultant procurement office receives a copy of all VDOT staff evaluations of consultants. VDOT contract administrators rank vendor performance on a scale from one (lowest) to five (highest). The consultant procurement office now requires VDOT staff to provide comments on vendor performance ranking a three or lower. The new evaluation process is intended to ensure consistency across evaluations, to ensure that all vendors receive evaluations, and to ensure that the information can be used as a reference check on future solicitations. Evaluations are also intended to be used during the procurement process, to ensure that past performance is taken into account during the evaluation of prospective vendors.

Although the consultant evaluation process has improved, some shortcomings remain. Central office staff noted that it can still be difficult to hold contract administrators accountable under the updated system, since the contract administrators may be reluctant to give a vendor a low rank due to a desire to maintain a good working relationship. For the same reason, some contract administrators are reportedly not documenting performance problems that have been informally resolved. (Although contracting experts view informal resolution as a best practice under certain circumstances, such an approach may result in performance problems left undocumented. Without proper documentation of performance problems, agencies may be unable to hold vendors accountable, and other agencies may be unable to avoid entering into future contracts with the vendor.) Additionally, evaluation forms also do not track data on design errors or other performance measures for design consultants.

In addition to ongoing challenges with monitoring consultant contracts, VDOT still faces challenges monitoring other contracts. Central office staff noted that the contract administrator is not always involved in the day-to-day oversight of a contract. In some cases, responsibilities may be delegated to other staff members, who will sign off and pay for deliverables that are never received, a practice identified in internal audit reports. Central office staff also expressed concerns that contract administration may not be seen as an important responsibility, contributing to lax oversight. There have

reportedly been instances when contract administrators have never reviewed the contracts they are responsible for overseeing.

Inconsistent monitoring also remains a concern for some contracts. For example, the contract administrator of one large VDOT contract noted that the vendor's performance was "scored" in each region of the state, and that these scores were tied to payment for the vendor. However, not all VDOT districts scored performance in the same way, which made it difficult for contract administrators to determine what enforcement measures to use. Further, field staff across the state have emphasized different performance measures for this contract, rather than prioritizing the same performance measures across the state. In another example, various districts have different documentation requirements to invoice vendors. In one instance, a vendor providing the exact same services across multiple districts had to follow different invoice requirements in each district in order to be paid.

Some contracts specify that the vendor will pay for a third-party to conduct quality assurance, but interviewed VDOT staff expressed concerns about this practice because it potentially creates a conflict of interest and results in an eventual duplication of effort if the practice is not used properly. District construction engineers have formally requested that quality assurance be brought back under VDOT's purview. Some interviewed staff perceive that VDOT may pay twice for quality assurance—payment to the vendor to hire a quality assurance manager and payment to VDOT staff to monitor the quality assurance manager. However, VDOT management indicated that using a third-party, hired by the contractor, to conduct quality assurance is a national practice. VDOT management also indicated that they are in the process of providing additional guidance to district staff to ensure that agency responsibilities on design-build projects are clear, including that agency staff should not be monitoring the quality assurance manager on a daily basis in order to garner the full benefits of using a design-build contract.

VDOT staff have not always followed policies and procedures put in place to protect the agency from poor contract outcomes, although these instances appear to be rare. For example, one contract administrator signed off on an invoice valued at more than \$60,000 for materials that the vendor had not used and work that the vendor had not completed, despite clear contract provisions specifying payment milestones and state policies governing payment to vendors. Although VDOT was able to terminate the contract for vendor default, the agency was unable to reclaim approximately \$25,000 from the vendor. The Auditor of Public Accounts also identified several errors with vouchers in a past audit, including that staff had not attached purchase orders to the vouchers, which could lead to unverified or improper payment to vendors.

Contract administration training has not been effective for all relevant staff

Previous studies found that VDOT lacked a detailed, agency-wide training plan and policy manual for staff who oversee consultant projects. As a result, various divisions within VDOT used inconsistent monitoring practices. The previous studies identified situations where multiple staff responsible for monitoring a single statewide contract were assessing and evaluating vendor performance using different methods and degrees of precision.

Currently, while VDOT provides contract administration training through some of its divisions, it does not have clear training guidelines for all divisions. One district staff member noted that there is no manual to provide guidance on how Area Construction Engineers—staff who typically administer

VDOT construction contracts—should conduct contract administration. Instead, VDOT relies on staff gaining sufficient knowledge about contract administration, including resolving performance problems, through “on-the-job training.” Two VDOT contract administrators responsible for three road construction contracts valued at approximately \$801.4 million indicated that they had never received contract administration training. Several contract administrators expressed a desire for more training specific to VDOT’s contracting needs. Some central office staff also suggested that any VDOT staff member who has contract administration responsibilities should go through a mandatory training program.

Two VDOT divisions have training programs for contract administrators. The Administrative Services division requires that VDOT staff receive training prior to being designated as a contract administrator for contracts under the division’s purview. The Alternative Project Delivery division—responsible for overseeing design-build projects—provides training to nominated staff on topics including design-build basics, analysis of key contract elements, and contract administration and execution. VDOT management reported that 175 staff have participated in the design-build training.

Contract performance has improved

Previous studies found that many contracts experienced cost overruns and delays, relative to the original budgets and schedules.

Following the JLARC studies, VDOT implemented the Dashboard to track the on-time and on-budget status of some construction contracts. The Dashboard remains the best tool developed by a state agency to track basic measures of contract performance and reveals significant improvement in VDOT’s ability to achieve on-time and on-budget contract completion:

- only 26 percent of contracts had an on-time completion in FY99, which improved to 82 percent by FY08 and 84 percent by FY15; and
- only 51 percent of contracts had an on-budget completion in FY99, which improved to 91 percent by FY08 and 93 percent by FY15.

VDOT management indicated that the Dashboard tracks other metrics for internal use. For example, the Dashboard tracks the amount of time the agency takes to award a contract, projects’ environmental compliance, and the condition of pavement and bridges. Additionally, the agency obtains information on quality through internal reviews conducted as part of the Construction Quality Improvement Program (CQIP), which measures construction project compliance against contract quality requirements. Both central office staff and district staff pointed to the advantages and benefits of CQIP during interviews. Several central office staff indicated that projects selected for review under CQIP are selected randomly, however, and may not necessarily represent VDOT’s highest-risk construction contracts.

Despite the improvement in transparency and contract performance, some interviewed VDOT staff expressed concerns about the use of the Dashboard in making contract decisions. For example, several contract administrators noted that some VDOT management staff tend to over-emphasize the Dashboard’s on-time and on-budget metrics. These staff perceived that this level of emphasis can cause VDOT staff to make contracting decisions that are not necessarily in the agency’s best interest. However, interviewed staff did not provide specific examples of negative contract outcomes.

Relevant findings from VDOT internal audit reports

VDOT's internal audit division periodically reviews the agency's contracting practices, and recent audit reports have identified problems with how agency staff have developed and administered contracts.

For example, an audit report identified problems with how staff administered one particular high-value, high-risk contract:

- VDOT staff occasionally lacked assertiveness and did not always provide timely guidance.
 - VDOT and the vendor had not formally resolved ambiguities and differences in the meaning of contract provisions through contract modifications.
- VDOT staff had not developed details on how performance standards were to be measured and scored prior to contract execution and, even once developed, were inadequate to ensure consistent, objective evaluation and measurement of vendor performance.
 - In some cases, VDOT is relying solely on the vendor to accurately report whether an incident is a “pass” or a “fail” without having performed any validation.
 - Regions inconsistently evaluated and scored performance and inconsistently resolved or upheld scoring disputes with the vendor.

Another audit report identified problems with the administration of multiple lower-value, routine contracts:

- Contract administrators frequently delegated responsibilities to field staff without ensuring that they had an understanding of how to adequately monitor vendor compliance.
- The majority of contracts examined by internal audit staff were insufficiently monitored.
- Staff responsible for invoice processing and approval were not always familiar with contract provisions and sometimes failed to seek verification of billed services. In some cases, there was evidence that vendors were overpaid.
- Contract administrators were not provided any guidance to determine the optimal level of monitoring for various vendor tasks.

Appendix G: Agency responses

As part of an extensive validation process, the state agencies and other entities that are subject to a JLARC assessment are given the opportunity to comment on an exposure draft of the report. JLARC staff sent an exposure draft of this report to the Secretary of Administration; the Secretary of Technology; the Secretary of Transportation; the Secretary of Commerce and Trade; the Office of the Attorney General; the Department of General Services; the Department of Small Business and Supplier Diversity; the Department of Transportation; Virginia Correctional Enterprises; Virginia Industries for the Blind; and the Virginia Information Technologies Agency. Appropriate corrections resulting from technical and substantive comments are incorporated in this version of the report.

This appendix includes response letters from the following:

- Department of General Services
- Department of Small Business and Supplier Diversity
- Department of Transportation
- Office of the Attorney General
- Virginia Correctional Enterprises
- Virginia Industries for the Blind
- Virginia Information Technologies Agency



COMMONWEALTH of VIRGINIA

Department of General Services

Christopher L. Beschler
Director

Joseph F. Damico
Deputy Director

June 3, 2016

1100 Bank Street
Suite 420
Richmond, Virginia 23219
Voice (804) 786-3311
FAX (804) 371-8305

Mr. Hal E. Greer
Director, Joint Legislative Audit and Review Commission
Suite 1100, General Assembly Building
Richmond VA 23219

Dear Mr. Greer:

Thank you for your letter of May 16th, and the opportunity to comment on the exposure draft report, *Development and Management of State Contracts*. On behalf of the staff at the Department of General Services (DGS), I want to thank Ms. Smith and her team for their professionalism throughout the study. As the Commonwealth's central procurement agencies and because most of JLARC's recommendations address DGS and VITA together, DGS and the Virginia Information Technologies Agency (VITA) have jointly reviewed the report and collaborated on their responses.

Your recommendations reflect a need for collaboration between our agencies, and our mutual efforts have been recognized by the Governing Institute's 2016 Procurement Survey of the States, which ranked the Commonwealth of Virginia second in the nation for procurement and contracting practices. This ranking recognized VITA and DGS as leaders for technological innovation, transparency, and strategic methods in providing public bodies with goods, services and information technology. Accordingly, we must carefully consider the full impact that any changes may have upon current procurement and contracting practices.

The question of who has authority over state contracting is very complex, and we appreciate that the report acknowledges the variety of statutes, policies, and authorities which govern any particular entity, and indeed, any particular procurement. As noted in the exposure draft, roughly 80 percent of the contracting dollars spent by the state were spent by agencies within the transportation and education secretariats, including VDOT construction and contracts let by higher education institutions. While we agree with many of the recommendations in the report, because of the various authorities as stated by JLARC, the recommended actions in most instances will not address similar issues found at VDOT, higher education institutions, and the many independent agencies and authorities which have their own procurement authority.

We concur that the focus to date within the Commonwealth has been on the procurement process, and that greater focus is needed on the subsequent contract administration phase. As JLARC recognizes in its Recommendation 18, an increased emphasis on contract administration will require additional resources that neither DGS nor VITA are currently funded to obtain.

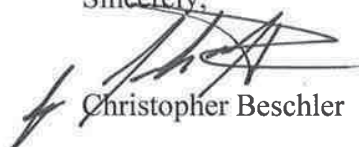
Mr. Hal E. Greer
June 3, 2016
Page 2

DGS and VITA will prepare cost estimates to develop, implement, and administer the recommendations; if funded, our agencies will pursue the recommendations.

Although we will need additional time to fully review the report's recommendations, we have provided our initial reaction in the attached chart, which provides responses to each recommendation. Overall, we believe that many of the recommendations have merit, though some appear to be overly prescriptive and may not be possible or advantageous to implement in the manner or timeframe recommended by JLARC staff.

I again thank you for the opportunity to respond to this exposure draft.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Beschler", is written over the word "Sincerely,". The signature is stylized with a large, sweeping "C" and a distinct "B".

Christopher Beschler

C: The Honorable Nancy Rodrigues, Secretary of Administration

Recommendation	Comment
#1	DGS and VITA agree with recommendation. See notes 1 and 3 below.
#2	DGS agrees with the recommendation, with the caveat that subject-matter experts not be required for evaluation committees reviewing informal solicitations. See note 2 below.
#3	DGS and VITA agree with recommendation. See note 1.
#5	DGS agrees, and had begun meeting with representatives from agencies with mandatory sources of supply prior to the date of the exposure draft.
#6	DGS agrees with recommendation. See note 2.
#9	DGS agrees that training related to managing contract-related risk is needed for all Commonwealth contract administrators. See notes 2 and 3.
#10	DGS and VITA believe that it is not appropriate to take action on this recommendation until the General Assembly has addressed recommendation #16 in this report. DGS and VITA will look to implement this recommendation accordingly after the General Assembly has taken action. See note 1.
#11	DGS and VITA agree with recommendation. See note 1.
#14	VITA agrees with this recommendation.
#15	DGS and VITA agree with recommendation. See note 3.
#17	DGS and VITA agree with recommendation. See notes 1 and 3.
#19	DGS and VITA agree with recommendation. See notes 1 and 3.
#20	DGS and VITA agree with recommendation. See note 1.
#21	DGS and VITA agree with recommendation provided recommendation 16 in this report is addressed. See note 1 and 3.
#22	DGS and VITA agree with this recommendation. See notes 1 and 3.
#23	DGS and VITA agree with this recommendation. See notes 1 and 3.
#24	DGS and VITA agree with this recommendation. Note that VITA currently has an alternative dispute resolution procedure available for vendors. See notes 1 and 3.
#25	DGS and VITA agree with this recommendation. See notes 1 and 3.
#26	DGS agrees with this recommendation. See notes 2 and 3.
#27	DGS agrees with this recommendation. See notes 2 and 3.
#28	DGS agrees with this recommendation. See notes 2 and 3.
#29	VITA agrees with recommendation. See notes 1 and 3.
#30	DGS and VITA agree with this recommendation provide the suggested language is approved in the Appropriation Act. See notes 1 and 3.
The below JLARC recommendations in this report were not addressed to DGS or VITA; the agencies have no comment on them.	
#4, #7, #8, #12, #13, #16, #18	

Note 1: The recommendation only addresses those state agencies required to comply with procurement policies and procedures promulgated by DGS and VITA. The provided action will NOT address similar needs found at Institutions of Higher Educations and independent state agencies that have procurement autonomy authorized by the Code of Virginia.

Note 2: The recommendation only addresses those state agencies required to comply with procurement policies and procedures promulgated by DGS. The provided action will NOT address similar needs found at Institutions of Higher Educations and independent state agencies that have procurement autonomy authorized by the Code of Virginia.

Note 3: DGS and VITA are not funded to expand current services suggested by the recommendation and will develop a cost estimate to develop, implement and administer the recommendation. If funded, the recommendation will then be pursued.



Terry McAuliffe
Governor

COMMONWEALTH of VIRGINIA

Maurice Jones
Secretary of Commerce & Trade

Department of Small Business and Supplier Diversity

Tracey Wiley
Director

To: Hal E. Greer, Director, Joint Legislative Audit and Review Commission
Honorable Maurice Jones, Secretary of Commerce and Trade

From: Tracey G. Wiley, Director, Department of Small Business and Supplier Diversity

Date: May 27, 2016

Re: Response to the Joint Legislative Audit and Review Commission: *Development and Management of State Contracts in Virginia 2016*

The Virginia Department of Small Business and Supplier Diversity ("DSBSD") was established and granted statutory powers under §§ 2.2-1603 et seq. of the *Code of Virginia*. Section 2.2-1606 of the Code grants certain powers and duties to the DSBSD, which specifically includes, *inter alia*, the duty to "[i]mplement any remediation or enhancement measure for small, women-owned, or minority-owned business as may be authorized by the Governor pursuant to subsection C of § 2.2-4310 and develop regulations, consistent with prevailing law, for program implementation."

Director Greer, we would like to extend our appreciation to you and the team for allowing us to review the *exposure report* provided. We have reviewed our technical comments and suggestions with the research team and provide the following comments and recommendations related to The Virginia Department of Small Business and Supplier Diversity (DSBSD). We are in agreement with recommendations #3 and #8 with no additional comments. The agency is in agreement with recommendation #4 in that the collection of data on awards made through competitive negotiations is evaluated; with the opportunity to also research the success of such contracts with small businesses and non-small businesses in order to truly measure the fiscal impact to state spending.

Our response and agency update to the issues impacting certification are included within the narrative that follows. While there are no documented studies that suggest certifying more companies is a direct correlation with increased opportunities for contracting, it is evidenced that an evaluation of the supply chain within each agency and "sourcing" to the direct needs of those agencies will produce greater results in spending with SWaM businesses.

The Virginia Department of Small Business and Supplier Diversity (formerly the Department of Minority Business Enterprise 'DMBE') has been plagued for several administrations with expiring technology contracts, inadequate staffing resources, turn over in management and the lack of professional development and training of its officers for its core business—certification. As a result, the newly merged agency has been rebuilding for the last 12-18 months.

The agency had been unable to address the increase in volume of applications over the last few years primarily due to the lack of resources applied to fully staff the SWaM certification unit. The department had four temporary or part-time, untrained certification officers implementing the SWaM certification process with one designated FTE. There was no formal training or onboarding for these officers and the agency regulations and policies governing SWaM certification had not been updated since 2008. The ability to manage the volume of applications with temporary, untrained staffing is impossible. The agency currently has hired a SWaM Supervisor and has resourced (4) FTEs certification officers. A training manual was produced by a consultant in 2015 and is used by the staff to create consistency in processing the incoming applications. Regulations have been reviewed and revised and being prepared for release by July 1, 2016.

Expiring technology contracts in 2013 prior to the merger, positioned the agency in a tailspin without the ability to send out alerts and reminders regarding expiring certifications. Many of those re-certifications are coming up for renewal this year. Newly developed contracts did not include simple functions within the SOW; and the agency had no manageable manual way to keep up with the volume. By end of FY16, the agency will have invested \$550,000 in new technology to develop an enterprise system including the certification platform that will elevate the user experience and resolve issues outlined within this report, specifically related to our processing times and eligibility requirements.

Based on the current technology, the agency had not been able to differentiate between business structures and certification designations. The new technology will allow for prioritization, and distinctions between new and recertification that manage the expectations in the certification process for the business applicant. Reminders and alerts will assist the applicant and the certification officer with an immediate ability to track the status of an application, advance processing times, and educate the applicant on required supporting documents in order to fully complete submission of their application. We agree with *recommendation #8*. The system is scheduled to deploy by July 1, 2016.

Administrative challenges imposed and passed on to the buyer community will be alleviated by strategies currently being implemented by the agency leadership, the Business Development and Outreach Team and management within the Certification unit. Regional Connect Forums, SWaM Champion/Supplier Diversity Training and Pre/Post Certification training are all tools to educate the buyer community on the agency updates related to certification; and in creating awareness of the new technology systems. These events have been well received and dozens of buyers have attended in every region. They have expressed their eagerness for the Pre/Post Certification training seminars to be held at their agency site so all buyers can become more educated on the process and the requirements.

The agency is currently in conversation with third-party certification entities to determine the feasibility of outsourcing the certification process for Women and Minority designations. It is a consideration in particular since there are no “set asides” for these designations within the small business program. We agree with *recommendation #7* to explore this option.

In final, it is mentioned in your report that 80 percent of the surveyed businesses meet eligibility requirements for the SWaM certification but 21 percent of those were not certified. We agree that better marketing of the program and its value proposition is needed. The agency will also seek to rebrand the benefits of certification and to highlight the successful partnerships between state government and small businesses. Increasing the awarding of bids to small businesses and their

opportunity for sustainable contracts will signal growth in our communities and reinvestment from these small businesses in the New Virginia economy.



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION

1401 EAST BROAD STREET
RICHMOND, VIRGINIA 23219 2000

Charles A. Kilpatrick, P.E.
Commissioner

June 3, 2016

Mr. Hal E. Greer
Director
Joint Legislative Audit and Review Commission
201 North 9th Street
General Assembly Building, Suite 1100
Richmond, VA 23219

Dear Mr. Greer:

Thank you for the opportunity to comment on the JLARC Report, *Development and Management of State Contracts in Virginia*. VDOT has made significant improvement from prior JLARC studies, as documented in the review. In VDOT's 2015 Annual Report to the Governor, General Assembly, JLARC, and the Commonwealth Transportation Board, we reported that out of \$4.93 billion in total agency expenditures, \$2.67 billion represents spending with private sector vendors. Whether this spending is in the form of a contract for office supplies, the construction of a new road, or maintenance of our highways, contracting is important to VDOT. We are continually exploring opportunities to strengthen and improve our contracting efforts.

As our need for contracting goods and services has grown, VDOT has been on a continuous mission to improve our contract documents, our oversight and to get good value for dollars spent. The positive direction we are moving is demonstrated in the quantitative and qualitative results shown on VDOT's Dashboard. It shows that for FY2015, VDOT's core program delivery contracts have had positive results for Virginia.

- 84% of construction and maintenance contracts were completed on-time;
- 89% of construction and maintenance contracts were completed on-budget;
- 93% compliance in our Construction Quality Improvement Program (CQIP) reviews which measure project compliance with over 1,100 contract quality requirements.
- 81.2% of primary pavements and 88% of interstate pavements are rated in fair or better condition; and
- 93.8% of bridges and structures are rated as not structurally deficient.

Mr. Hal E. Greer

Page 2

June 3, 2016

It should be noted that time extensions and increased contract value are often a conscious decision by us to add work, to avoid conflicts with other activities and to deliver a better product or service. Late unjustified project completions result in liquidated damages being assessed against the contractor.

Contract and plan quality is critical to delivering quality products and services. For VDOT, work orders are the standard practice for amending our contracts to adjust time, scope or cost. Less than 3% of all work orders on awarded construction and maintenance contracts were attributed to plan discrepancies. Claims are also an indicator of contract issues. For FY2015, of the 76 potential claims on construction/maintenance contracts, only 7 were filed as actual claims and 6 were settled for a total of \$468,802. These are strong indicators that our plan quality remains high and our contract management is effective and efficient. Additionally, in the last three fiscal years, only twenty-five Administrative Services Division goods and services contracts were terminated based on contractor performance. Against total agency spending of close to \$5 billion, these performance indicators show very positive results from contracts with the private sector.

In addition to the Dashboard, we also have internal performance metrics, which are reviewed regularly with executive leadership. We also closely monitor the performance reporting in Virginia Performs and the Department of Planning and Budget (DPB) Strategic Plan. VDOT is routinely the subject to audits from a number of groups such as the Auditor of Public Accounts (APA), the Office of the State Inspector General (OSIG), the Federal Highway Administration (FHWA), the Department of General Services (DGS), and VDOT's Assurance and Compliance Office. These reviews are a valuable tool to gauge the health of the agency and identify vulnerabilities needing attention. We have not received any recent significant findings or adverse audit opinions.

We are encouraged that there were no findings, recommendations, or changes directed at VDOT in the JLARC report. There are several areas of the report related to the broader State contracting practices as well as VDOT specific areas where we have been taking action.

Mr. Hal E. Greer

Page 3

June 3, 2016

- **Focused Additional Staff:** In the 2016 General Assembly session, VDOT requested an increase in our Maximum Employment Level (MEL) in order to assign additional staff to critical field positions to assist in delivering the program. We are grateful that the General Assembly approved as part of the budget an additional 240 positions. These positions will be used for activities such as inspection, design, right of way, and field operations and will primarily be hired as entry level positions. We have also set an internal goal to move our vacancy rate below 3%.
- **Workforce Development.** Under this broad umbrella, we are addressing opportunities to build and attract future VDOT employees, create clear pathways of career development and leadership growth, and create and make available to our workforce tools and job aids to capture institutional knowledge and best/leading practices. Some specific components are:
 - Developing apprenticeship programs for skilled crafts,
 - Building on existing workforce growth programs such as interns, inspector trainees, Core Development Programs, and leadership development programs,
 - Improving on-the-job-training and mentoring training opportunities,
 - Contracting with the Virginia Community College System to establish transportation-related curriculums and degrees and partnering with transportation-related industry to encourage the “up and coming” workforce to see the transportation field as a viable and rewarding career path,
 - Creating job aids, job books, and other resources, specific to particular VDOT positions, which capture institutional knowledge and leading practices, in order to demonstrate job duties, requirements, and activities which demonstrate how to be successful in the position,
 - Developing career paths which demonstrate how to succeed and move laterally or upwardly for a fulfilling and progressive career with VDOT, and
 - Designating and requiring licensed engineers in key decision-making positions.
- **Legal Reviews.** VDOT will continue our partnership with the Office of the Attorney General to review contracts, develop new contract language, and assist in contract oversight issues, especially in innovative or high risk contracts.

Mr. Hal E. Greer

Page 4

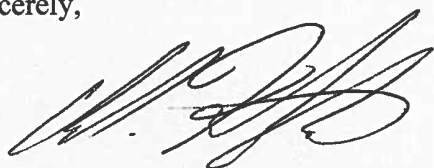
June 3, 2016

- **Contract Templates and Risk Management.** VDOT continues to use innovative contracting methods, such as Public-Private Partnership contracts and Design-Build contracts. VDOT has made improvements to the processes involving these contracts, as well as traditional design-bid-build contracts, to consider, evaluate, and mitigate risk. We plan to continue assessing risk as part of the contracting process.
- **Contract Incentives.** VDOT uses incentive/disincentive clauses and aggressive completion date requirements in pertinent contracts to encourage a focus on quality and reduced impacts to the public.

VDOT is sensitive to the fact that JLARC conducted this review with limited resources and within 18 months, thus having to rely on a sampling of projects and surveys with staff. We understand that this was not a review of VDOT and that JLARC is attempting to identify statewide issues. We will use this report as we continue to deliver our products and services to our citizens. We also look forward to improvements to the statewide procurement process that add efficiencies, provide appropriate risk management and do not impede the work of State agencies.

Again, thank you for the opportunity to comment on this report.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Kilpatrick', with a stylized, cursive script.

Charles A. Kilpatrick, P.E.
Commissioner



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Mark R. Herring
Attorney General

May 27, 2016

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

Mr. Hal E. Greer
Director
Joint Legislative Audit and Review Commission
201 North 9th Street
General Assembly Building, Suite 1100
Richmond, Virginia 23219

Dear Mr. Greer:

Thank you for your letter of May 16, 2016, providing us a copy of chapters 1 and 4 of the draft report titled "Development and Management of State Contracts." We appreciate your study of this important area. The two recommendations that you propose for our Office, Recommendation # 12 and #13, make sense and we look forward to fulfilling those.

Thank you again for your study of this area and for the opportunity to preview these chapters of the draft.

Sincerely,

A handwritten signature in black ink, appearing to read "John Westrick".

John Westrick
Senior Assistant Attorney General

cc: John W. Daniel, II
Deputy Attorney General



COMMONWEALTH of VIRGINIA

TELEPHONE
ADMINISTRATION: 804-743-4103
CUSTOMER SERVICE: 804-743-4100
TOLL FREE: 800-823-2823

Department of Corrections

Virginia Correctional Enterprises

MAILING ADDRESS
8030 WHITE BARK TERRACE
RICHMOND, VA 23237
or
P. O. BOX 13799
RICHMOND, VIRGINIA 23225-3799

May 27, 2016

Mr. Hal Greer, Director
Joint Legislative Audit and Review Commission
General Assembly Building, Suite 1100
201 North 9th Street
Richmond, VA 23219

Dear Mr. Greer,

This comes in response to your letter dated May 16, 2016 with attached draft-JLARC report entitled, *Development and Management of State Contracts in Virginia*. The report forwarded to me is apparently only a portion of a larger report under development by the Commission.

Your letter offered the opportunity to review the included draft report, have further conversations with your staff and provide a written response for publication with the report. I have had additional conversations with Tracey Smith as well as a meeting with her to discuss, offer comments and understand more about the process by which this report has been developed. These conversations were fruitful for all, I believe, as a manner to further understand the larger context of the issues related to Virginia Correctional Enterprises (VCE). The approach and tenor of these conversations are much appreciated.

The area of the report addressed to VCE are sections of the proposed Chapter 3, Maximizing Contract Value. We expressed to Ms. Smith and believe that the content of this chapter omits an important part of the story as it relates to the "value" brought to state government procurement by VCE.

Value...

Virginia Correctional Enterprises was established by the State Legislature in 1934 to provide job training and skills to incarcerated offenders for the purpose of preparing them for return to society with a higher chance of successful re-integration into the community. The basic premise being former offenders who are successful in the community are less likely to reoffend. The result is fewer victims; lesser costs associated with the crimes; lesser costs associated with the detection, investigation and prosecution of new crimes; and the reduction or elimination of the costs of additional periods of incarceration. With the average cost of incarceration in Virginia presently at about \$28,000 per offender, per year; reducing the rate of incarceration has the



Letter to Mr. Hal Greer, JLARC
May 27, 2016
Page 2

potential of significant savings to the Commonwealth. Virginia enjoys, at present, the second lowest recidivism rate in the country. This translates into the aforementioned cost savings in a significant way, bringing "value" to the Commonwealth, its citizens, and the agencies of state government. The mission is still relevant today.

The "value" of the products and services provided by VCE to its customers cannot reasonably be gauged solely by the mere cost of those products and services. It is our belief that any comparison to other vendors for these products and services must include an awareness and consideration of this larger purpose. The positive financial and public safety implications of VCE as a critical contributor to successful re-entry of incarcerated offenders simply should not be discounted.

Pricing...

Virginia Correctional Enterprises uses, as noted in the draft report, a classic pricing "formula derived from materials and labor costs, overhead costs, administrative costs, and a profit margin". Because VCE hosts at present eighteen (18) different and separate industry initiatives (from a dental lab making false teeth to commercial laundries to metal fabrication to shoes to wood furniture) a single pricing strategy for these diverse initiatives will not work. VCE uses strategies that position our products and services reasonably within their respective markets and are appropriately comparable given our overall public safety mission.

Quality Control...

Quality is certainly an important consideration in the production of products and services at VCE and we believe we produce a quality product. VCE spends a great deal of time across our eighteen industries, transportation and installation services focused on the quality of our products and services. We approach each day with a focus on the continual incremental improvement of our manufacturing activities and we are improving. Over the next year we will train staff in Six Sigma, Lean Manufacturing concepts that will continue to enhance our production regimens and further focus on quality.

We acknowledge that quality has been an issue for the agency in the past. Unfortunately, we continue to suffer from our customer's experiences of the past as evidenced by regular conversations with customers who quote problems from fifteen (15) years ago as their concerns about quality. When asked about recent experiences specifically the response is universally more positive.

Release Process and Perception...

Virginia Correctional Enterprises continually runs into purchasing agents who believe they can purchase a product or service from a private vendor at a cheaper price, leading to the "perception" that VCE's prices are higher than the market. What frequently is missing from this conversation is whether the attributes and specifications of the "cheaper" product is the same as those offered by VCE. The release process is defined in VA State Code with clear parameters for what factors are to be considered when a request for a release is submitted to VCE. Because of budget considerations end users regularly opt for the cheapest alternative for

Letter to Mr. Hal Greer, JLARC
May 27, 2016
Page 3

a product without consideration to additional issues of attributes, quality, suitability and warranty. VCE offers a generous full warranty of five (5) years on virtually all furniture product offerings.

Higher Education...

Information suggests that procurement by Higher Education has not been included in this comprehensive review of state procurement. VCE has been significantly, negatively affected by exclusion as a mandatory source for Higher Education. Projects that heretofore would have stayed in the Commonwealth fostering business to VCE and its Virginia suppliers have been lost to significant expenditures now going outside the economic strata of the state; this is disappointing. However, even with this development VCE continues to receive work and opportunities from a wide range of Colleges and Universities because of our quality, price and relationships that have been built over time.

Summary...

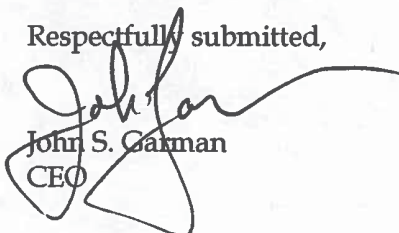
We understand JLARC has a narrow mandate regarding this review and the scope of this inquiry and report is to explore procurement and does not include a broader review or consideration of factors outside of that narrowly defined intent. However, VCE submits that our "value" to the community of state agencies goes beyond simply a price comparison.

We contend the "perception" of procurement staff too often is born of a lack of understanding and/or perhaps insufficient education/training relating to VCE's purpose, mission and value to the Commonwealth. We accept the responsibility to share our mission and mandate with these entities.

VCE stands ready to accept the responsibility of continual improvement and looking for new and more effective ways to manufacture our products, provide service industries that are timely and effective, and tweak our pricing strategies to ensure we remain a viable organization to meet the mission laid out by the State Legislature.

Thank you for the opportunity to review and comment on this section of the impending report related to Mandatory Sources and VCE. Please feel free to contact me if you have additional questions or areas of concern.

Respectfully submitted,



John S. Garman
CEO

cc: The Honorable Brian Moran, Secretary of Public Safety
The Honorable Victoria Cochran, Deputy Secretary of Public Safety
Mr. Harold W. Clarke, Director
Ms. N. H. Cookie Scott, Deputy Director



COMMONWEALTH OF VIRGINIA

Department for the Blind and Vision Impaired

397 Azalea Avenue

Richmond, Virginia 23227-3600

Raymond E. Hopkins
Commissioner

May 26, 2016

Hal E. Greer, Director
201 North 9th Street, Suite 1100
Richmond, VA 23219

Dear Director Greer:

Virginia Industries for the Blind (VIB) is an Enterprise Division of the Department for the Blind and Vision Impaired (DBVI). As the Deputy Commissioner of Enterprises and the General Manager of VIB, I want to thank you for the opportunity to meet with your staff during their research and to comment on portions of the exposure draft provided to me on May 17, 2017 and revised on May 27, 2016. I have spoken with Tracey Smith and Nathalie Molliet-Ribet about this draft as well and covered the following:

1. VIB appreciates the work to capture a portion of the mandatory sources story in the report. No general contracting study can capture the full context of a public program as diverse as VIB. I trust that readers will ensure they have the full context before reaching conclusions on VIB's overall public value.
2. I believe including the survey instrument in the final report would benefit the reader and the interpretation of the results. I understand that the respondents were filtered by those having experience with mandatory sources within the last 12 months and, if the respondents screened in, they were presented three questions to answer regarding satisfaction with mandatory sources. There is one mandatory source, State Contracts, which was not depicted in the exposure draft Figure 3-2. I feel that all mandatory sources should be included in this table so that a more complete relative picture can be seen by readers. Without that fuller context, I fear that some may walk away with the impression that VIB is only $\frac{3}{4}$ as successful as it should be on price and quality. Knowing the fuller context, such as that State Contracts receive an 85% price rating, demonstrates that VIB is not far off from the normal satisfaction level. I recognize your staff's openness to including that data in the final version of the figure.
3. The study is a snapshot in time and cannot reflect the continuous effort, investment, and improvement in VIB quality, responsiveness, and price.
 - a. Both of VIB's manufacturing facilities are now ISO-9001 certified which signifies that we have a quality program aimed at continuous improvement. Each facility has a quality supervisor, goals, and metrics that are measured and reported to leadership quarterly. I do not know of too many other state agencies that can trumpet that commitment and success.
 - b. Our turnaround time to fulfill orders has shrunk from weeks to hours for in stock items. This success led to even tighter quality goals.

- c. While the report mentioned that VIB prices are market driven and it referenced our “Market Basket”, it did not detail that based on analysis of our 13 top-selling products in December 2015, VIB saves the Commonwealth 30% compared to prices on the open market. VIB’s philosophy is to only develop business lines where we can save the Commonwealth money.

I am proud that 8 out of the 9 largest universities and colleges in Virginia, who are exempt from purchasing through mandatory sources, choose to buy mattresses from VIB because our price, quality, and customer service beat the open market.

4. Only the recommendation regarding a working group facilitated by the Department of General Services, currently known as the Council of Mandatory Sources, was visible in the exposure draft VIB received and VIB is committed to this new forum as an important vehicle for bringing a more consistent experience to our shared customers and for better telling a coherent and compelling story on the societal good brought about by our programs. Stories such as the fact that 70% of all working-aged people who are blind are not working or that studies estimate that for every dollar spent on program to enable people who are blind saves government three dollars in support programs. We believe at VIB that the best way to help a person become independent is through a job with a paycheck. I accept that this story does not fully fit this report and I trust that well-intentioned readers will learn more before reaching conclusions on any specific program.
5. It would have been helpful to see a recommendation to revise the Virginia Public Procurement Act (VPPA) and its support Agency Purchasing and Surplus Property Manual (APSPM) to address the needs and complexities of Enterprise Agencies in the Commonwealth. VIB must advance its mission of employing people who are blind with no general tax revenue. VIB operations are paid for by the revenue we generate through our products and services. Additionally, VIB is part of the federal AbilityOne program which has its own procurement rules that do not always align efficiently with the Commonwealth laws and regulations. The VPPA and APSPM are written for non-enterprise agencies and introduce less than efficient sourcing options for maintaining reliable and quality manufacturing processes demanded by customers today.

Again, please accept my appreciation for your effort to study, understand, and educate readers about the state contracting process which is a complicated collection of procurement channels and entities. Each procurement transaction must find the appropriate procurement vehicle and VIB wants to do all we can to improve the customer experience and satisfaction with the mandatory sourcing channel. There are broader societal goods that come from the work of VIB, but we are firmly committed to only developing new products and services where we can save the Commonwealth money while proving quality goods and employment opportunities for Virginians who are blind.

Sincerely,



Matthew H. Koch
General Manager, VIB
Deputy Commissioner, DBVI



COMMONWEALTH of VIRGINIA

Nelson P. Moe
Chief Information Officer
Email: cio@vita.virginia.gov

Virginia Information Technologies Agency

11751 Meadowville Lane
Chester, Virginia 23836-6315
(804) 416-6100

TDD VOICE -TEL. NO.
711

June 3, 2016

Mr. Hal E. Greer
Director
Joint Legislative Audit and Review Commission
Suite 1100, General Assembly Building
Richmond, Virginia 23219

Dear Mr. Greer:

Thank you for your letter of May 16th, and the opportunity to comment on the exposure draft report, *Development and Management of State Contracts*. On behalf of the staff at the Virginia Information Technologies Agency (VITA), I want to thank Ms. Smith and her team for their professionalism throughout the study. As the Commonwealth's central procurement agencies and because most of Joint Legislative Audit and Review Commission (JLARC)'s recommendations address the Department of General Services (DGS) and VITA together, DGS and VITA have jointly reviewed the report and collaborated on their responses.

Your recommendations reflect a need for collaboration between our agencies, and our mutual efforts have been recognized by the Governing Institute's 2016 Procurement Survey of the States, which ranked the Commonwealth of Virginia second in the nation for procurement and contracting practices. This ranking recognized VITA and DGS as leaders for technological innovation, transparency, and strategic methods in providing public bodies with goods, services and information technology. Accordingly, we must carefully consider the full impact that any changes may have upon current procurement and contracting practices.

The question of who has authority over state contracting is very complex, and we appreciate that the report acknowledges the variety of statutes, policies, and authorities which govern any particular entity, and indeed, any particular procurement. As noted in the exposure draft, roughly 80 percent of the contracting dollars spent by the state were spent by agencies within the transportation and education secretariats, including Virginia Department of Transportation (VDOT) construction and contracts let by higher education institutions. While we agree with many of the recommendations in the report, because of the various authorities as stated by JLARC, the recommended actions in most instances will not address similar issues found at VDOT, higher education institutions, and the many independent agencies and authorities which have their own procurement authority.

We concur that the focus to date within the Commonwealth has been on the procurement process, and that greater focus is needed on the subsequent contract administration phase. As JLARC recognizes in its Recommendation 18, an increased emphasis on contract administration

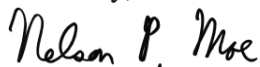
Mr. Hal E. Greer
June 3, 2016
Page Two

will require additional resources that neither DGS nor VITA are currently funded to obtain. DGS and VITA will prepare cost estimates to develop, implement, and administer the recommendations; if funded, our agencies will pursue the recommendations.

Although we will need additional time to fully review the report's recommendations, we have provided our initial reaction in the attached chart, which provides responses to each recommendation. Overall, we believe that many of the recommendations have merit, though some appear to be overly prescriptive and may not be possible or advantageous to implement in the manner or timeframe recommended by JLARC staff.

I again thank you for the opportunity to respond to this exposure draft.

Sincerely,

A handwritten signature in black ink that reads "Nelson P. Moe". The signature is written in a cursive, slightly stylized font.

Nelson P. Moe

c: The Honorable Karen Jackson, Secretary of Technology
The Honorable Nancy Rodrigues, Secretary of Administration

Recommendation	Comment
#1	DGS and VITA agree with recommendation. See notes 1 and 3 below.
#2	DGS agrees with the recommendation, with the caveat that subject-matter experts not be required for evaluation committees reviewing informal solicitations. See note 2 below.
#3	DGS and VITA agree with recommendation. See note 1.
#5	DGS agrees, and had begun meeting with representatives from agencies with mandatory sources of supply prior to the date of the exposure draft.
#6	DGS agrees with recommendation. See note 2.
#9	DGS agrees that training related to managing contract-related risk is needed for all Commonwealth contract administrators. See notes 2 and 3.
#10	DGS and VITA believe that it is not appropriate to take action on this recommendation until the General Assembly has addressed recommendation #16 in this report. DGS and VITA will look to implement this recommendation accordingly after the General Assembly has taken action. See note 1.
#11	DGS and VITA agree with recommendation. See note 1.
#14	VITA agrees with this recommendation.
#15	DGS and VITA agree with recommendation. See note 3.
#17	DGS and VITA agree with recommendation. See notes 1 and 3.
#19	DGS and VITA agree with recommendation. See notes 1 and 3.
#20	DGS and VITA agree with recommendation. See note 1.
#21	DGS and VITA agree with recommendation provided recommendation 16 in this report is addressed. See note 1 and 3.
#22	DGS and VITA agree with this recommendation. See notes 1 and 3.
#23	DGS and VITA agree with this recommendation. See notes 1 and 3.
#24	DGS and VITA agree with this recommendation. Note that VITA currently has an alternative dispute resolution procedure available for vendors. See notes 1 and 3.
#25	DGS and VITA agree with this recommendation. See notes 1 and 3.
#26	DGS agrees with this recommendation. See notes 2 and 3.
#27	DGS agrees with this recommendation. See notes 2 and 3.
#28	DGS agrees with this recommendation. See notes 2 and 3.
#29	VITA agrees with recommendation. See notes 1 and 3.
#30	DGS and VITA agree with this recommendation provide the suggested language is approved in the Appropriation Act. See notes 1 and 3.
The below JLARC recommendations in this report were not addressed to DGS or VITA; the agencies have no comment on them.	
#4, #7, #8, #12, #13, #16, #18	

Note 1: The recommendation only addresses those state agencies required to comply with procurement policies and procedures promulgated by DGS and VITA. The provided action will NOT address similar needs found at Institutions of Higher Educations and independent state agencies that have procurement autonomy authorized by the Code of Virginia.

Note 2: The recommendation only addresses those state agencies required to comply with procurement policies and procedures promulgated by DGS. The provided action will NOT address similar needs found at Institutions of Higher Educations and independent state agencies that have procurement autonomy authorized by the Code of Virginia.

Note 3: DGS and VITA are not funded to expand current services suggested by the recommendation and will develop a cost estimate to develop, implement and administer the recommendation. If funded, the recommendation will then be pursued.



JLARC.VIRGINIA.GOV

General Assembly Building
201 N. 9th Street, Suite 1100 Richmond, VA 23219

Appendix H: Secretary of Administration Procedures for CM and DB

This appendix contains a copy of the Secretary of Administration Procedures for CM and DB

**CONSTRUCTION MANAGEMENT (CM) PROCEDURES AS ADOPTED BY
THE SECRETARY OF ADMINISTRATION**

Effective January 1, 2020

In accordance with the provision of Chapter 43.1 of the *Code of Virginia* (hereinafter referred to as the "Chapter"), I hereby adopt the following procedures for the procurement of Construction Management ("CM") contracts, as defined in the Chapter which shall be followed by all departments, agencies, and institutions of the Commonwealth (each of which is hereinafter referred to as the "Agency"). These procedures shall be effective January 1, 2020.

- A. **LEGISLATIVE AUTHORITY:** Under authority of the Chapter, the Commonwealth may enter into a contract with a Construction Manager in accordance with these procedures and § 2.2-1502.
- B. **CRITERIA AND APPROVAL FOR USE OF CM:** The Agency shall follow all the criteria for the use of CM as set forth in the Chapter and shall be limited to projects with a construction value that is in excess of \$26,000,000. With proper justification for complex projects, the Director of the Department of General Services may grant a waiver of this requirement.
- C. **CM SELECTION PROCEDURES:** The following procedures shall be used in selecting a CM and awarding a contract:
 - 1. The Agency shall appoint an Evaluation Committee ("Committee") which shall consist of at least three members from the Agency, including a licensed design professional, if possible. The Committee shall include a licensed professional engineer or architect provided by the Division of Engineering and Buildings. The Agency shall contact the Section in the Office of the Attorney General representing the Division of Engineering and Buildings to determine whether a representative from the OAG should be involved.
 - 2. The basis of the award of the contract shall be in accordance with the Chapter and the criteria for the award shall be submitted to the Director of the Division of Engineering and Buildings, in advance, for approval.
 - 3. **Selection of Qualified Offerors (STEP I):** On projects approved for CM, the Agency shall conduct a prequalification process as follows to determine which offerors are qualified to receive Request for Proposals (RFPs).
 - a) The Agency shall prepare a Request for Qualifications ("RFQ") containing the Agency's Facility Requirements, building and site criteria, site and survey data (if available), the criteria to be used to evaluate RFQ Responses and other relevant information, including any unique capabilities or qualifications that will be required of the contractor. All offerors shall have a licensed Class "A" contractor registered in the Commonwealth of Virginia as part of the Project team.
 - b) The RFQ shall be posted in accordance with Chapter 43.1 and agencies shall

include in the RFQ if responses may be submitted electronically and/or via paper response.

- c) The Committee shall evaluate each responding firm's RFQ responses and any other relevant information and shall determine those deemed qualified with respect to the criteria established for the project.
- d) The RFQ evaluation process shall result in a short list of three to five offerors to receive the RFP. If available, the short list shall include a minimum of one DSBSD-Certified Small Business that meets the minimum requirements for prequalification. An offeror may be denied prequalification only as specified under the § 2.2-4317, but the short list shall also be based upon the RFQ criteria.
- e) The RFQ evaluation process shall evaluate an offeror's experience for a period of ten prior years to determine whether the offeror has constructed, by any method of project delivery, at least three projects similar in program and size.
- f) At least 30 days prior to the date established for the submission of proposals, the Agency shall advise in writing each offeror which sought prequalification whether that offeror has been prequalified. Prequalified offerors that are not selected for the short list shall likewise be provided the reasons for such decision. In the event that an offeror is denied prequalification, the written notification to such offeror shall state the reasons for such denial of prequalification and the factual basis of such reasons.

4. Selection of a Construction Manager (STEP II):

- a) The Agency shall send a Request for Proposal ("RFP") to the offerors on the short list and request submission of formal proposals from them. The criteria for award shall be included in the RFP.
- b) Proposals as described in the RFP shall be submitted to the Committee. Agencies shall include in the RFP if responses may be submitted electronically and/or via paper response.
- c) The Committee will evaluate and rank the proposals. After evaluation and ranking of the proposals, the Committee shall:
 - i. Conduct negotiations with two or more offerors submitting the highest ranked proposals. (or)
 - ii. Should the Agency determine, in writing and at its sole discretion, that only one offeror is fully qualified or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.
- d) The Committee shall make its recommendation on the selection of a construction manager to the Agency head based on its evaluations and negotiations. The contract shall be awarded to the offeror who is fully qualified and has been

determined to have provided the best value in response to the Request for Proposal.

- e) The Agency shall notify the Division of Engineering and Buildings of the its selection of the Construction Manager and shall request authority to award a contract by processing the CO-8, *Approval to Award Construction Contract* and providing supporting documents to the Division via e-mail to coforms@dgs.virginia.gov.
- f) The Agency will notify all offerors who submitted proposals which offeror was selected for the project. In the alternative, the Agency may notify all offerors who submitted proposals of the Agency's intent to award the contract to a particular offeror at any time after the Agency head has selected the Construction Manager. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one offeror.
- g) Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful proposers.

D. REQUIRED CONSTRUCTION MANAGEMENT CONTRACT TERMS: As required by the Chapter any construction management contract will contain provisions requiring that (1) not more than 10% of the construction work (measured by cost of the work) will be performed by the CM with its own forces and (2) that the remaining 90% of the construction work will be performed by subcontractors of the CM which the CM must procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. The CM shall provide documentation detailing the reasons any work is not procured by publicly advertised competitive sealed bidding, such documentation shall be placed in contract file.

E. GUARANTEED MAXIMUM PRICE: The Guaranteed Maximum Price shall be established at the completion of working drawings unless a waiver has been granted to this requirement by the Director.

F. COVERED INSTITUTIONS: Covered Institutions as defined in the chapter are required to develop their own procedures for determining the selected procurement method which, at a minimum, shall consider cost, schedule, complexity, and building use and complies with the requirements of Article 3 of the Chapter and with these procedures. Such procedures, and any subsequent changes to adopted procedures shall be submitted to the Department of General Services for review and comment only. Covered Institutions procedures should not require the approval or involvement of the Director of the Department of General Services or Director of the Division of Engineering and Buildings but should instead seek the approval or involvement of the appropriate authority, as directed by the Board of Visitors.

G. LOCAL PUBLIC BODIES: The Chapter requires local public bodies planning to use CM to adopt guidelines consistent with the above procedures. Local public bodies are encouraged to follow these procedures when developing their own. A key difference is that steps requiring the approval or involvement of the Director of the Division of Engineering and Buildings will instead seek the approval or involvement of the appropriate authority, as directed by the governing body of the public body. Before implementing CM, such public body must have the required professional staff and meet the material requirements the Chapter.

H. GUIDANCE: Guidance for the use of these procedures can be found in the Construction and Professional Services Manual.

Keyanna Conner

Keyanna Conner
Secretary of Administration

12/12/19

Date

**DESIGN-BUILD (D-B) PROCEDURES AS ADOPTED BY
THE SECRETARY OF ADMINISTRATION**

Effective January 1, 2020

In accordance with the provisions of Chapter 43.1 of the *Code of Virginia* (hereinafter referred to as the "Chapter"), I hereby adopt the following procedures for the procurement of Design-Build ("D-B") contracts, as defined in the Chapter, which shall be followed by all departments, agencies, and institutions of the Commonwealth (each of which is hereinafter referred to as an "Agency"). These procedures shall be effective January 1, 2020.

- A. **LEGISLATIVE AUTHORITY:** Under authority of the Chapter, the Commonwealth may contract to secure D-B projects on a fixed price basis in accordance with these procedures and the regulations adopted pursuant to § 2.2-1502 of the *Code of Virginia*.
- B. **CRITERIA AND APPROVAL FOR USE OF D-B CONTRACTS:** The Agency shall follow all the criteria for the use of D-B is set forth in the Chapter.
- C. **D-B SELECTION PROCEDURES:** The following procedures shall be used in selecting a Design-Builder and awarding a contract:
 - 1. The Agency shall appoint an Evaluation Committee ("Committee") which shall consist of at least three members from the Agency, including a licensed design professional, if possible. In addition to the Agency members, the Committee shall include a licensed professional engineer or architect from the Division of Engineering and Buildings. The Agency shall contact the Section in the Office of the Attorney General representing the Division of Engineering and Buildings to determine whether a representative from the OAG should be involved.
 - 2. The basis of the award of the contract shall be in accordance with the Chapter and the criteria for the award shall be submitted to the Director of the Division of Engineering and Buildings, in advance, for approval. It is noted that cost is a critical component of the selection process. Guidance on methods for award can be found in the Construction and Professional Services Manual.
 - 3. **Selection of Qualified Offerors (STEP I):** On projects approved for D-B, the Agency shall conduct a prequalification process as follows to determine which offerors are qualified to receive Request for Proposals (RFPs).
 - a) The Agency shall prepare a Request for Qualifications ("RFQ") containing the Agency's Facility Requirements, building and site criteria, site and survey data (if available), the criteria to be used to evaluate RFQ Responses and other relevant information, including any unique capabilities or qualifications that will be required of the contractor. All offerors shall have a licensed Class "A" contractor and an Architect or Engineer registered in the Commonwealth of Virginia as part of the Project Team.

- b) The RFQ shall be posted in accordance with Chapter 43.1 and agencies shall include in the RFQ if responses may be submitted electronically and/or via paper response.
- c) The Committee shall evaluate each offeror's RFQ responses and any other relevant information and shall determine which offerors are fully qualified and suitable for the project.
- d) The RFQ evaluation shall result in a short list of three to five offerors to receive the RFP. . If available, the short list shall include a minimum of one DSBSD-Certified Small Business that meets the minimum requirements for prequalification. An offeror may be denied prequalification only as specified under the § 2.2-4317, but the short list shall also be based upon the RFQ criteria.
- e) The RFQ evaluation process shall evaluate an offeror's experience for a period of ten prior years to determine whether the offeror has constructed, by any method of project delivery, at least three projects similar in program and size.
- f) At least 30 days prior to the date established for the submission of proposals, the Agency shall advise in writing each offeror which sought prequalification whether that offeror has been prequalified. Prequalified offerors that are not selected for the short list shall likewise be provided the reasons for such decision. In the event that an offeror is denied prequalification, the written notification to such offeror shall state the reasons for such denial of prequalification and the factual basis of such reasons.


4. Selection of Design-Build Contractor (STEP II):

- a) The Agency shall send an RFP to the D-B offerors on the short list for the project and request formal proposals from them. The criteria for award shall be included in the RFP. Agencies shall include in the RFQ if responses may be submitted electronically and/or via paper response.
- b) Sealed Technical Proposals as described in the RFP shall be submitted to the Committee. Separately-sealed Cost Proposals shall be submitted to the Agency's Virginia Construction Contracting Officer ("VCCO"), and shall be secured by and kept sealed until evaluation of the Technical Proposals and the design adjustments are completed.
- c) The Committee will evaluate the Technical Proposals based on the criteria contained in the RFP. It will inform each D-B offeror of any adjustments necessary to make its Technical Proposal fully comply with the requirements of the RFP. In addition, the Agency may require that offerors make design adjustments necessary to incorporate project improvements and/or additional detailed information identified by the Committee during design development.
- d) Based on the adjustments made to the Technical Proposals, the offeror may amend

its Cost Proposal. In addition, an offeror may submit cost modifications to its original sealed Cost Proposal which are not based upon revisions to the Technical Proposals.

- e) The Committee shall evaluate (and rank if technical rankings are to be considered as a criterion for award) the technical proposals. Should the Agency determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror after approval of the Director. Otherwise, the Agency shall open the cost proposals and apply the criteria for award as specified in the RFP and approved by the Director.
 - f) The Committee shall make its recommendation for the selection of a design builder to the Agency head based on its evaluations of the technical and cost proposals and all amendments thereto. The contract shall be awarded to the offeror who is fully qualified and has been determined to have provided the best value in response to the Request for Proposal.
 - g) The Agency shall notify the Division of Engineering and Buildings of its selection of the Design-Builder and shall request authority to award a contract by processing the CO-8, *Approval to Award Construction Contract* and providing supporting documents, to the Division via e-mail to coforms@dgs.virginia.gov.
 - h) The Agency will notify all offerors who submitted proposals which offeror was selected for the project. In the alternative, the Agency may notify all offerors who submitted proposals of the Agency's intent to award the contract to a particular offeror at any time after the Agency head has selected the Design- Builder. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one offeror.
 - i) Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful proposers.
- D. COVERED INSTITUTIONS: Covered Institutions as defined in the chapter are required to develop their own procedures for determining the selected procurement method which, at a minimum, shall consider cost, schedule, complexity, and building use and complies with the requirements of Article 3 of the Chapter and with these procedures. Such procedures, and any subsequent changes to adopted procedures shall be submitted to the Department of General Services for review and comment only. Covered Institutions procedures should not require the approval or involvement of the Director of the Department of General Services or Director of the Division of Engineering and Buildings but should instead seek the approval or involvement of the appropriate authority, as directed by the Board of Visitors.

- E. **LOCAL PUBLIC BODIES:** The Chapter requires local public bodies planning to use D/B to adopt guidelines consistent with the above procedures. Local public bodies are encouraged to follow these procedures. A key difference is that steps requiring the approval or involvement of the Director of the Division of Engineering and Buildings will instead seek the approval or involvement of the appropriate authority, as directed by the governing body of the public body. Before implementing D/B, such public body must have the required professional staff and meet the material requirements of the Chapter.
- F. **GUIDANCE:** Guidance for the use of these procedures can be found in the Construction and Professional Services Manual.


Keyanna Conner
Secretary of Administration


Date