



COMMONWEALTH of VIRGINIA

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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.

The staff shall complete its work and submit a report of its findings and recommendations to the Commission by December 15, 2015.