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HOUSE BILL NO. 1008

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact § 2.2-1132 of the Code of Virginia, relating to the Division of Engineering and Buildings; capital outlay constructions for certain educational institutions.

Patrons—Rust, Albo, Cosgrove, Frederick, Saxman, Weatherholtz and Wright

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-1132 of the Code of Virginia is amended and reenacted as follows:**

§ 2.2-1132. Administration of capital outlay construction; exception for certain educational institutions.

A. The Division shall provide assistance in the administration of capital outlay construction projects set forth in the appropriation act, other than highway construction undertaken by the Department of Transportation and the acquisition or improvement of specialized cargo-handling equipment and related port infrastructure including, but not limited to, port construction, renovation, and demolition that is required in a timely manner to meet market demands to enhance commerce through the Virginia Port Authority, the review and approval of plans and specifications, and acceptance of completed projects.

B. The Division may establish standards, as needed, for construction by the Commonwealth and may, with the advice of the Attorney General, establish standard contract provisions and procedures for the procurement and administration of construction and for the procurement and administration of architectural and engineering services relating to construction, which shall be used by all departments, agencies and institutions of the Commonwealth. The standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the Commonwealth when project costs are reduced by the contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining the cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

C. Notwithstanding any standards established by the Division or law to the contrary, public institutions of higher education, including such other educational institutions so designated by law, may enter into contracts for specific construction projects without the review and approval of the Bureau of Capital Outlay Management, provided such institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and the provisions of this subsection. Prior to issuing a Request for Proposal or Invitation to Bid for a specific construction project, such institution shall:

1. Have in its employ or under contract a licensed architect or engineer preselected by the Bureau of Capital Outlay Management who is also certified by the International Code Council or one of its predecessor organizations as building plans examiners for building plan code reviews. Nothing in this subdivision shall be construed to (i) prevent an institution from choosing the Bureau of Capital Outlay Management to perform specific code compliance reviews or (ii) replace the authority of the Bureau of Capital Outlay Management as the sole issuer of building permits.

2. Have adopted written procedures governing the selection, evaluation and award of construction contracts. Such procedures shall be consistent with those described in the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and based on the substantive requirements of the Capital Outlay Manual of the Commonwealth. Such procedures shall also require any Requests for Proposals to include and define the criteria of such construction project in areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; and special telecommunications; and may define such other requirements as the institution determines appropriate for that particular construction project.

3. Have documented in writing that for a specific construction project, to the extent applicable, (i) a design-build or construction management contract is more advantageous than a competitive sealed bid construction contract; (ii) there is a benefit to the public body by using a design-build or construction management contract; and (iii) competitive sealed bidding is not practical or fiscally advantageous.

D. For purposes of this section, "construction" shall include new construction, reconstruction, renovation, restoration, major repair, demolition and all similar work upon buildings and ancillary facilities owned or to be acquired by the Commonwealth. It shall not include buildings or other facilities ancillary to the use of state highways that are located within the right-of-way of any state highway, or

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59 assets for use by the Virginia Port Authority within the boundaries of property owned or leased by the
60 Virginia Port Authority.