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HOUSE BILL NO. 2375

Offered January 13, 2011

A BILL to amend and reenact §§ 2.2-225, 2.2-1509.3, 2.2-2006, 2.2-2007, 2.2-2008, 2.2-2012, 2.2-2015, 2.2-2017, 2.2-2020, 2.2-2021, and 58.1-1840.1 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 2.2-2018.1, and to repeal §§ 2.2-2018 and 2.2-2019 of the Code of Virginia, relating to the Commonwealth Project Management Standard; information technology project development, procurement, and oversight.

Patron—O'Bannon

Referred to Committee on Science and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-225, 2.2-1509.3, 2.2-2006, 2.2-2007, 2.2-2008, 2.2-2012, 2.2-2015, 2.2-2017, 2.2-2020, 2.2-2021, and 58.1-1840.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-2018.1 as follows:

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

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

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

1. Monitor trends and advances in fundamental technologies of interest and importance to the economy of the Commonwealth and direct and approve a stakeholder-driven technology strategy development process that results in a comprehensive and coordinated view of research and development goals for industry, academia and government in the Commonwealth. This strategy shall be updated biennially and submitted to the Governor, the Speaker of the House of Delegates and the President Pro Tempore of the Senate.

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

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

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

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

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

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

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

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

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

11. Review and approve the procurement or termination of major information technology projects, and contracts or amendments thereto proposed by the Chief Information Officer (CIO) pursuant to § 2.2-2007. Review and approve or disapprove, according to the recommendations of the Chief Information Officer (CIO) pursuant to § 2.2-2008, the selection or termination of any Commonwealth information technology project that has been defined or designated as a "major information technology

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59 project" pursuant to subdivision 13 and any Commonwealth information technology project with high
60 risk and high complexity.

61 12. Review and approve statewide technical and data standards for information technology and
62 related systems, including the utilization of nationally recognized technical and data standards for health
63 information technology systems or software purchased by a state agency of the Commonwealth, as
64 recommended by the CIO pursuant to § 2.2-2007.

65 13. Develop criteria and requirements defining "major information technology project" for purposes
66 of ~~§ 2.2-2006~~. Such criteria and requirements shall include, but are not limited to, analysis of each
67 project's risk and complexity. Develop the criteria, requirements, and process for defining a
68 Commonwealth information technology project as a "major information technology project" for the
69 purposes of § 2.2-2006, including the criteria, requirements, and process for designating a
70 Commonwealth information technology project that has a cost below \$1 million as a "major information
71 technology project."

72 14. Designate Commonwealth information technology projects as major information technology
73 projects according to the criteria, requirements, and process developed pursuant to subdivision 13.

74 15. Review and approve the initiation or termination of any procurement conducted pursuant to
75 § 2.2-2012 with a total estimated cost over \$1 million, and contracts or amendments thereto.

76 16. Review and approve statewide information technology project, procurement, and investment
77 management policies and standards, as developed and recommended by the CIO pursuant to § 2.2-2007.

78 17. Designate specific projects as enterprise information technology projects, prioritize the
79 implementation of enterprise information technology projects, establish enterprise oversight committees
80 to provide ongoing oversight for enterprise information technology projects, and define the
81 responsibilities of lead agencies that implement enterprise information technology projects.

82 18. Review and approve the Commonwealth Project Management Standard as defined in § 2.2-2006.

83 19. Establish Internal Agency Oversight Committees and Secretariat Oversight Committees as
84 necessary and in accordance with § 2.2-2021.

85 § 2.2-1509.3. Budget bill to include appropriations for major information technology projects.

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

87 "Commonwealth Project Management Standard" means the same as that term is defined in
88 § 2.2-2006.

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

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

92 B. In "The Budget Bill" submitted pursuant to § 2.2-1509, the Governor shall provide for the funding
93 of major information technology projects, as specified herein. Such funding recommendations shall be
94 for major information technology projects that have or are pending project development initiation
95 approval as defined by ~~§ 2.2-2019~~ or procurement approval as defined by ~~§ 2.2-2020~~ in the
96 Commonwealth Project Management Standard.

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

100 1. A For major information technology projects that have been recommended for funding, a brief
101 statement explaining the business case for the project, the CIO's ranking and recommendations on the
102 project as required by ~~§ 2.2-2008~~, the priority of the project in the Recommended Technology Investment
103 Projects Report as required by § 2.2-2007, and an explanation, if necessary, if the Governor informed
104 the Secretary of Technology that an emergency existed as set forth in § 2.2-2008, and the anticipated
105 duration of the project;

106 2. A brief explanation of the inclusion of any project in the budget bill that has not undergone
107 review and approval by the Secretary of Technology as required by § 2.2-225;

108 3. Total estimated project costs, as defined by the Commonwealth's Commonwealth Project
109 Management Standards Standard, including the amount of the agency's or institution's operating
110 appropriation, which will support the project, and long-term contract cost beyond the biennium that will
111 support the project;

112 4. Costs All project costs incurred to date, as defined by the Commonwealth's Commonwealth Project
113 Management Standards, which includes both the project planning cost and internal operating costs to
114 support the project Standard;

115 5. Recommendations or comments of the Public-Private Partnership Advisory Commission, if the
116 project is part of a proposal under the Public-Private Education Facilities and Infrastructure Act of 2002
117 (§ 56-575.1 et seq.); and

118 6. The CIO's assessment of the project and the status as of the date of the budget bill submission to
119 the General Assembly;

120 7. The planned project start and end dates as defined by the Commonwealth Project Management

Standard; and

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

C. The Secretary of Technology shall immediately notify each member of the Senate Finance Committee and the House Appropriations Committee of any decision to terminate in accordance with § 2.2-225 any major information technology project in the budget bill. Such communication shall include the Secretary of Technology's reason for such termination.

§ 2.2-2006. Definitions.

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

"Commonwealth information technology project" means any state agency information technology project that is under Commonwealth governance and oversight.

"Commonwealth Project Management Standard" means a document developed and recommended by the Chief Information Officer (CIO) pursuant to § 2.2-2008, and approved by the Secretary pursuant to § 2.2-225, that describes the methodology for conducting information technology projects, and the governance and oversight used to ensure project success.

"Communications services" includes telecommunications services, automated data processing services, and management information systems that serve the needs of state agencies and institutions.

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

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

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

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

"Major information technology project" means any ~~state agency~~ Commonwealth information technology project that (i) ~~meets the criteria and requirements developed by the Secretary of Technology pursuant to § 2.2-225 or~~ (ii) has a total estimated cost of more than \$1 million or that has been designated a major information technology project by the Secretary pursuant to § 2.2-225.

"Noncommercial telecommunications entity" means any public broadcasting station as defined in § 2.2-2427.

"Public telecommunications entity" means any public broadcasting station as defined in § 2.2-2427.

"Public telecommunications facilities" means all apparatus, equipment and material necessary for or associated in any way with public broadcasting stations or public broadcasting services as those terms are defined in § 2.2-2427, including the buildings and structures necessary to house such apparatus, equipment and material, and the necessary land for the purpose of providing public broadcasting services, but not telecommunications services.

"Public telecommunications services" means public broadcasting services as defined in § 2.2-2427.

"Secretary" means the Secretary of Technology.

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

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

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

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

§ 2.2-2007. Powers of the CIO.

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

1. Monitor trends and advances in information technology; develop a comprehensive, ~~statewide,~~ ~~two-year~~ ~~six-year~~ Commonwealth strategic plan for information technology to include: (i) specific projects that implement the plan; (ii) a plan for the acquisition, management, and use of information

technology by state agencies; and (iii) a report of the progress of any ongoing enterprise application information technology projects, any factors or risks that might affect their successful completion, and any changes to their projected implementation costs and schedules; and (iv) a report on the progress made by state agencies toward accomplishing the Commonwealth strategic plan for information technology. The statewide Commonwealth strategic plan for information technology shall be updated annually and submitted to the Secretary for approval.

2. Direct the formulation and promulgation of policies, guidelines, standards, and specifications for the purchase, development, and maintenance of information technology for state agencies, including, but not limited to, those (i) required to support state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies, (ii) concerned with the development of electronic transactions including the use of electronic signatures as provided in § 59.1-496, and (iii) necessary to support a unified approach to information technology across the totality of state government, thereby assuring that the citizens and businesses of the Commonwealth receive the greatest possible security, value, and convenience from investments made in technology.

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

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

Review of such budget requests shall include, but not be limited to, all data processing or other related projects for amounts exceeding ~~\$100,000~~ \$250,000 in which the agency or institution has entered into or plans to enter into a contract, agreement or other financing agreement or such other arrangement that requires that the Commonwealth either pay for the contract by foregoing revenue collections, or allows or assigns to another party the collection on behalf of or for the Commonwealth any fees, charges, or other assessments or revenues to pay for the project. For each project, the agency or institution, with the exception of public institutions of higher education that meet the conditions prescribed in subsection B of § 23-38.88, shall provide the CIO (i) a summary of the terms, (ii) the anticipated duration, and (iii) the cost or charges to any user, whether a state agency or institution or other party not directly a party to the project arrangements. The description shall also include any terms or conditions that bind the Commonwealth or restrict the Commonwealth's operations and the methods of procurement employed to reach such terms.

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

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

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

67. Oversee and administer the Virginia Technology Infrastructure Fund created pursuant to § 2.2-2023.

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

89. Have the authority to enter into contracts, and with the approval of the Secretary of Technology for any contracts over \$1 million, with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia for the provision of information technology services.

910. Report annually to the Governor, the Secretary, and the Joint Commission on Technology and Science created pursuant to § 30-85 on information provided by state agencies and public institutions of higher education concerning the use and application of information technology by state agencies and

public institutions of higher education to increase economic efficiency, citizen convenience, and public access to state government. The CIO shall prepare an annual report for submission to the Secretary, the Information Technology Advisory Council, and the Joint Commission on Technology and Science on a prioritized list of Recommended Technology Investment Projects (*RTIP Report*) based upon major information technology projects submitted for *business case* approval pursuant to this chapter. As part of this plan the *RTIP Report*, the CIO shall develop and regularly update a methodology for prioritizing projects based upon the allocation of points to defined criteria. The criteria and their definitions shall be presented in the plan *RTIP Report*. For each project listed *recommended for funding* in the plan *RTIP Report*, the CIO shall indicate the number of points and how they were awarded. For each listed project, the CIO shall also indicate report (i) the projected cost of the project for the next three biennia following project implementation all projected costs of ongoing operations and maintenance activities of the project for the next three biennia following project implementation; (ii) all projected costs of ongoing operations and maintenance activities a justification and description for each project baseline change; and (iii) whether the project fails to incorporate existing standards for the maintenance, exchange, and security of data. This report shall also include trends in current projected information technology spending by state agencies and at the enterprise level secretariats, including spending on projects, operations and maintenance, and payments to VITA. Agencies shall provide all project and cost information required to complete the *RTIP Report* to the CIO prior to May 31 immediately preceding any budget biennium in which the project appears in the Governor's budget bill.

~~1011.~~ Direct the development of policies and procedures that require VITA the Division of Project Management established pursuant to § 2.2-2016, on behalf of the CIO, to review major and recommend Commonwealth information technology projects proposed by state agencies and institutions and recommend to the Secretary whether such projects be approved or disapproved. The CIO shall disapprove major information technology projects that do not conform to the statewide strategic information technology plan or to the individual plans of state agencies or institutions of higher education. For projects that do not meet the definition of major information technology project as defined in § 2.2-2006, the CIO shall develop criteria and requirements defining whether such projects are subject to the provisions of this subdivision. Such policies and procedures shall be based on the criteria outlined within § 2.2-2017.

~~112.~~ Oversee the Commonwealth's Provide oversight for state agency or public institution of higher education efforts to modernize the planning, development, implementation, improvement, operations and maintenance, and retirement of Commonwealth applications information technology, including oversight for the coordination and selection, development and management of enterprise-wide or multiagency applications enterprise information technology. At the discretion of the Governor, the CIO shall designate a state agency or public institution of higher education as the business sponsor responsible for implementing an enterprise information technology project.

~~1213.~~ Develop and recommend to the Secretary statewide technical and data standards for information technology and related systems, including the utilization of nationally recognized technical and data standards for health information technology systems or software purchased by a state agency of the Commonwealth.

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

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

C. The CIO shall strive to follow acceptable technology investment methods, such as Information Technology Investment Management (ITIM) principles developed by the United States Government Accountability Office, develop and recommend to the Secretary a technology investment management

305 *standard based on acceptable technology investment methods* to ensure that all *state agency or public*
306 *institution of higher education* technology expenditures are an integral part of the Commonwealth's
307 performance management system, *produce value for the agency and the Commonwealth*, and are aligned
308 with (i) agency strategic ~~business objectives plans~~, (ii) the Governor's policy objectives, and (iii) the
309 long-term objectives of the Council on Virginia's Future.

310 D. Subject to review and approval by the Secretary, the CIO shall have the authority to enter into
311 and amend contracts for the provision of information technology services.

312 § 2.2-2008. Additional duties of the CIO relating to project management.

313 The CIO shall have the following duties relating to the management of information technology
314 projects:

315 1. Develop an approval process for proposed major and recommend to the Secretary a
316 Commonwealth Project Management Standard for information technology projects by state agencies to
317 ensure or public institutions of higher education that establishes a methodology for the initiation,
318 planning, execution, and closeout of information technology projects and related procurements. Such
319 methodology shall include the establishment of appropriate oversight for information technology
320 projects. The basis for the governance and oversight of information technology projects shall include,
321 but not necessarily be limited to, an assessment of the project's risk and complexity. The Commonwealth
322 Project Management Standard shall require that all such projects conform to the statewide information
323 management Commonwealth strategic plan and the for information management technology developed
324 and approved pursuant to § 2.2-2007 and the strategic plans of agencies and public institutions of
325 higher education. All executive branch agencies and public institutions of higher education shall conform
326 to the requirements of the Commonwealth Project Management Standard.

327 2. Establish a methodology for conceiving, planning, scheduling and providing appropriate oversight
328 for information technology projects including a process for approving the planning, development and
329 procurement of information technology projects. Such methodology shall include guidelines for the
330 establishment of appropriate oversight for information technology projects.

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

332 4. Provide the Secretary with a recommendation and rank of all procurement solicitations involving
333 major information technology projects.

334 5. Direct the development of any statewide or multiagency enterprise project.

335 6. Develop and update a project management methodology to be used by agencies in the
336 development of information technology.

337 7. Establish an information clearinghouse that identifies best practices and new developments and
338 contains detailed information regarding the Commonwealth's previous experiences with the development
339 of major information technology projects.

340 8. Determine, prior to proceeding with the development of a major information technology project
341 pursuant to § 2.2-2019 or the procurement of any major information technology project pursuant to
342 § 2.2-2020, that the Disapprove any agency or public institution of higher education request to initiate a
343 major information technology project or related procurement if funding for such project has not been
344 included in the budget bill in accordance with § 2.2-1509.3. The provisions of this subdivision shall not
345 apply upon a determination by the Governor that an emergency exists and a major information
346 technology project is necessary to address the emergency.

347 5. Review and approve or disapprove the selection or termination of any Commonwealth information
348 technology project that has not been defined or designated as a major information technology project
349 pursuant to § 2.2-225 or that does not have high risk and high complexity. For any Commonwealth
350 information technology projects defined or designated as major information technology projects, or that
351 have high risk and high complexity, the CIO shall recommend approval or disapproval to the Secretary
352 pursuant to § 2.2-225.

353 6. Disapprove or recommend for disapproval by the Secretary any Commonwealth information
354 technology projects that do not conform to the Commonwealth strategic plan for information technology
355 developed and approved pursuant to § 2.2-2007 or to the strategic plans of state agencies or public
356 institutions of higher learning.

357 § 2.2-2012. Procurement of information technology and telecommunications goods and services;
358 computer equipment to be based on performance-based specifications.

359 A. Information technology and telecommunications goods and services of every description shall be
360 procured by (i) VITA for its own benefit or on behalf of other state agencies and institutions or (ii) such
361 other agencies or institutions to the extent authorized by VITA. Such procurements shall be made in
362 accordance with the Virginia Public Procurement Act (§ 2.2-4300 et seq.), regulations that implement the
363 electronic and information technology accessibility standards of the Rehabilitation Act of 1973 (29
364 U.S.C. § 794d), as amended, and any regulations as may be prescribed by VITA. In no case shall such
365 procurements exceed the requirements of the regulations that implement the electronic and information
366 technology accessibility standards of the Rehabilitation Act of 1973, as amended.

The CIO shall disapprove any procurement that does not conform to the statewide *Commonwealth strategic plan* for information technology ~~plan~~ *developed and approved pursuant to § 2.2-2007* or to the individual *strategic plans* of state agencies or public institutions of higher education.

B. All statewide contracts and agreements made and entered into by VITA for the purchase of communications services, telecommunications facilities, and information technology goods and services shall provide for the inclusion of counties, cities, and towns in such contracts and agreements. Notwithstanding the provisions of § 2.2-4301, VITA may enter into multiple vendor contracts for the referenced services, facilities, and goods and services.

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

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

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

F. The CIO ~~of VITA~~ shall, on or before October 1, 2009, and every two years thereafter, solicit from each state agency and public institution of higher education a list of procurements that were competed with the private sector that appear on the Commonwealth Competition Council's commercial activities list and were, until that time, being performed by each state agency and public institution of higher education during the previous two years, and the outcome of that competition. The CIO shall make the lists available to the public on VITA's website.

§ 2.2-2015. Authority of CIO to modify or suspend information technology projects; project termination.

The CIO may direct the modification or suspension of any ~~major~~ *Commonwealth* information technology project that, as the result of a periodic review authorized by subdivision A 5 of § 2.2-2007, has not met the performance measures agreed to by the CIO and the sponsoring *state* agency or public institution of higher education, or if he otherwise deems such action appropriate and consistent with the terms of any affected contracts.

The CIO may ~~recommend to the Secretary~~ *direct* the termination of ~~such any~~ *Commonwealth* information technology project *that has not been defined or designated a major information technology project, or does not have high risk and high complexity and that, as the result of a periodic review authorized by subdivision A 5 of § 2.2-2007, has not met the performance measures agreed to by the CIO and the sponsoring state agency or public institution of higher education, or if he otherwise deems such action appropriate and consistent with the terms of any affected contracts.*

The CIO may recommend to the Secretary pursuant to § 2.2-225 the termination of any major information technology project, or any information technology project with high risk and high complexity that, as the result of a periodic review authorized by subdivision A 5 of § 2.2-2007, has not met the performance measures agreed to by the CIO and the sponsoring state agency or public institution of higher education, or if he otherwise deems such action appropriate and consistent with the terms of any affected contracts.

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

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

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

The Division shall have the power and duty to:

1. Implement the approval process for information technology projects developed in accordance with

428 § 2.2-2008 *the Commonwealth Project Management Standard;*

429 2. Assist the *Secretary and the CIO* in the development and implementation of a project management
430 ~~methodology policies, standards, guidelines and methodologies~~ to be used ~~in the development of and~~
431 ~~implementation of information technology projects for information technology projects~~ in accordance
432 with this article;

433 3. Provide ongoing assistance and support to state agencies and public institutions of higher
434 education in the development of information technology projects;

435 4. Establish a program providing cost-effective training to agency project managers;

436 5. Review information management and information technology plans submitted by agencies and
437 public institutions of higher education and recommend to the CIO the approval of such plans and any
438 amendments thereto;

439 6. Monitor the implementation of information management and information technology plans and
440 periodically report its findings to the CIO;

441 7. ~~Assign project management specialists to review~~ Review and recommend information technology
442 ~~proposals projects~~ based on criteria developed by the ~~Division based on~~ pursuant to § 2.2-2007 that
443 assess the (i) degree to which the project is consistent with the Commonwealth's overall strategic plan;
444 (ii) technical feasibility of the project; (iii) benefits to the Commonwealth of the project, including
445 customer service improvements; (iv) risks associated with the project; (v) continued funding
446 requirements; and (vi) past performance by the agency on other projects; ~~and~~

447 8. Provide oversight for state agency information technology projects; ~~and~~

448 9. *Report on a quarterly basis to the CIO, the Secretary, the Governor, the Information Technology*
449 *Advisory Council, the Joint Legislative Audit and Review Commission, the Auditor of Public Accounts,*
450 *the House Appropriations Committee, the Senate Finance Committee, and the Joint Commission on*
451 *Technology and Science the status and performance of each major information technology project and*
452 *related procurement conducted by any state agency or institution.*

453 § 2.2-2018.1. *Project and procurement investment business case approval.*

454 A. *In accordance with policies and standards approved by the Secretary pursuant to § 2.2-225, state*
455 *agencies and public institutions of higher education shall obtain CIO approval prior to the initiation of*
456 *any Commonwealth information technology project or procurement with a total estimated cost below \$1*
457 *million, or Secretary approval for any Commonwealth information technology project or procurement*
458 *with a total estimated cost of \$1 million or more. When selecting an information technology investment,*
459 *state agencies and public institutions of higher education shall submit to the Division an investment*
460 *business case, outlining the business value of the investment, the proposed technology solution, if known,*
461 *and an explanation of how the project will support the agency strategic plan, the agency's secretariat's*
462 *strategic plan, and the Commonwealth strategic plan for information technology developed and*
463 *approved pursuant to § 2.2-2007. The Division may require the submission of additional information if*
464 *needed to adequately review any such proposal.*

465 B. *The Division shall review each investment business case submitted in accordance with this section*
466 *and recommend its approval or rejection to the CIO pursuant to the policies and procedures developed*
467 *in § 2.2-2007.*

468 C. *In accordance with policies and standards outlined in the Commonwealth Project Management*
469 *Standard, the CIO shall review the business case for any Commonwealth information technology project*
470 *or procurement and approve or disapprove, or recommend approval or disapproval to the Secretary*
471 *pursuant to § 2.2-225.*

472 § 2.2-2020. *Procurement approval for information technology projects.*

473 Upon approval of the CIO of the project development proposal involving a major information
474 technology project that requires the procurement of goods or services, ~~the~~ The agency shall submit a
475 copy of any Invitation for Bid (IFB) or Request for Proposal (RFP) to the Division. The project
476 management specialist Division shall review the IFB or RFP and recommend its approval or rejection to
477 the ~~Secretary~~ CIO. The agency shall submit a copy of any proposed contract or final contract to the
478 Division. The Division shall review the proposed contract or final contract and recommend its approval
479 or rejection to the CIO. A project shall be granted project initiation approval as provided by the
480 Commonwealth Project Management Standard before the award of any contract. ~~The Secretary, pursuant~~
481 ~~to § 2.2-225, shall have the final authority to approve the IFB or RFP prior to its release and shall~~
482 ~~approve the proposed contract for the award of the project.~~

483 § 2.2-2021. *Project oversight committees.*

484 A. *Whenever an agency has received approval from the Secretary to proceed with the development*
485 *and acquisition of the project charter has been approved for a major information technology project, an*
486 *enterprise information technology project, or for an information technology project with high risk and*
487 *high complexity, the Secretary shall establish an internal agency oversight committee shall be established*
488 *by the CIO Internal Agency Oversight Committee (IAOC). Whenever the project charter has been*
489 *approved for any other Commonwealth information technology project, the CIO shall establish an*

IAOC. The internal agency oversight committee shall provide ongoing oversight for IAOC shall represent all business or functional stakeholders of the project and including stakeholders in other agencies, assure that all stakeholders have the opportunity to work together toward a mutually beneficial integrated solution, have the authority to approve or reject any changes in the project's scope, schedule, or budget, provide oversight and direction to the project, and review and approve the schedule baseline and all project documentation. The CIO shall ensure that the project has in place adequate project management and oversight structures for addressing major issues that could affect the project's scope, schedule or budget and shall address issues that cannot be resolved by the internal agency oversight committee.

B. Whenever a statewide or multiagency project has received approval from the Secretary, the primary project oversight shall be conducted by a committee composed of representatives from agencies impacted by the project, which shall be established by the CIO.

B. Whenever the project charter has been approved for a major information technology project, an enterprise information technology project, or for an information technology project with high risk and high complexity, the Secretary shall establish a Secretariat Oversight Committee (SOC). Whenever the project charter has been approved for any other Commonwealth information technology project, the CIO shall establish an SOC. The SOC shall represent all business or functional stakeholders of the project including stakeholders in other secretariats, validate the proposed project business case, review and make recommendations on changes in the project's scope, schedule or budget, and review Independent Verification and Validation reports and recommend corrective actions if needed.

§ 58.1-1840.1. Virginia Tax Amnesty Program established.

A. There is hereby established the Virginia Tax Amnesty Program. It is the intent of this program to improve voluntary compliance with the tax laws and to increase and to accelerate collections of certain taxes owed to the Commonwealth.

B. The Virginia Tax Amnesty Program shall be administered by the Department of Taxation, and any person, individual, corporation, estate, trust or partnership required to file a return or to pay any tax administered or collected by the Department of Taxation shall be eligible to participate, subject to the requirements set forth below and guidelines established by the Tax Commissioner.

C. The Tax Commissioner shall establish guidelines and rules for the procedures for participation and any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules issued by the Tax Commissioner regarding the Virginia Tax Amnesty Program shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

D. The Virginia Tax Amnesty Program shall have the following features:

1. The program shall be conducted during the period July 1, 2009, through June 30, 2010, and shall not last less than 60 nor more than 75 days. The exact dates of the program shall be established by the Tax Commissioner.

2. All civil or criminal penalties assessed or assessable, as provided in this title, including the addition to tax under §§ 58.1-492 and 58.1-504, and one-half of the interest assessed or assessable, as provided in this title, which are the result of nonpayment, underpayment, nonreporting or underreporting of tax liabilities, shall be waived upon receipt of the payment of the amount of taxes and interest owed, with the following exceptions:

a. No person, individual, corporation, estate, trust or partnership currently under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall qualify to participate.

b. No person, individual, corporation, estate, trust or partnership shall be eligible to participate in the program with respect to any assessment outstanding for which the date of assessment is less than 90 days prior to the first day of the program or with respect to any liability arising from the failure to file a return for which the due date of the return is less than 90 days prior to the first day of the program.

c. No person, individual, corporation, estate, or trust shall be eligible to participate in the program with respect to any tax liability from the income taxes imposed by §§ 58.1-320, 58.1-360 and 58.1-400, if the tax liability is attributable to taxable years beginning on and after January 1, 2008.

E. For the purpose of computing the outstanding balance due because of the nonpayment, underpayment, nonreporting or underreporting of any tax liability that has not been assessed prior to the first day of the program, the rate of interest specified for omitted taxes and assessments under § 58.1-15 shall not be applicable. The Tax Commissioner shall, instead, establish one interest rate to be used for each taxable year that approximates the average "underpayment rate" specified under § 58.1-15 for the five-year period immediately preceding the program.

F. 1. If any taxpayer eligible for amnesty under this section and under the rules and guidelines established by the Tax Commissioner retains any outstanding balance after the close of the Virginia Tax Amnesty Program because of the nonpayment, underpayment, nonreporting or underreporting of any tax liability eligible for relief under the Virginia Tax Amnesty Program, then such balance shall be subject

551 to a 20 percent penalty on the unpaid tax. This penalty is in addition to all other penalties that may
552 apply to the taxpayer.

553 2. Any taxpayer who defaults upon any agreement to pay tax and interest arising out of a grant of
554 amnesty is subject to reinstatement of the penalty and interest forgiven and the imposition of the penalty
555 under this section as though the taxpayer retained the original outstanding balance at the close of the
556 Virginia Tax Amnesty Program.

557 G. For the purpose of implementing the Virginia Tax Amnesty Program, the Department is exempt
558 from §§ 2.2-2015 and ~~2.2-2018~~ 2.2-2018.1 through 2.2-2021 pertaining to the Virginia Information
559 Technologies Agency's project management and procurement oversight.

560 **2. That §§ 2.2-2018 and 2.2-2019 of the Code of Virginia are repealed.**