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HOUSE BILL NO. 2366

Offered January 16, 2017

A BILL to amend and reenact §§ 2.2-4306, 2.2-4307, 2.2-4308, 2.2-4343, and 23.1-1002 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-4308.01, relating to Virginia Public Procurement Act; requirements for use of construction management contracts.

Patrons—Albo and Landes

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4306, 2.2-4307, 2.2-4308, 2.2-4343, and 23.1-1002 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-4308.01 as follows:

§ 2.2-4306. Design-build or construction management contracts for Commonwealth authorized.

A. Notwithstanding any other provisions 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 section and §§ 2.2-1502 and 2.2-4308.01. Procedures to implement this section and any changes to such procedures shall be adopted by the Secretary of Administration after a public hearing and reviewed by the House Committee on Appropriations and the Senate Committee on Finance.

B. Procurement of construction by the design-build method shall be a two-step competitive negotiation process. In the first step, offerors shall be requested to submit their qualifications. Based upon the information submitted and any other relevant information which the Commonwealth may obtain, no more than five offerors deemed most suitable for the project shall be selected by the Commonwealth and requested to submit proposals.

C. Design-build contracts may be used by the Commonwealth only for those types of construction projects designated in the procedures adopted by the Secretary of Administration to implement this section.

§ 2.2-4307. Fixed-price or not-to-exceed-price design-build and construction management contracts for juvenile correctional facilities authorized.

Notwithstanding the provisions of § 2.2-4306, but subject to § 2.2-4308.01 and the procedures adopted by the Secretary of Administration to implement the provisions of ~~that section~~ §§ 2.2-4306 and 2.2-4308.01, the Commonwealth may enter into contracts for juvenile correctional facilities on a fixed-price or not-to-exceed-price design-build basis or construction management basis, including related leases, lease/purchase contracts, agreements relating to the sale of securities to finance such facilities, and similar financing agreements.

§ 2.2-4308. Design-build or construction management contracts for public bodies other than the Commonwealth; eligibility requirements; award of contract; records to be kept.

A. While the competitive sealed bid process remains the preferred method of construction procurement for public bodies in the Commonwealth, any public body other than the Commonwealth may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis, provided *that* the public body complies with the requirements of this section and § 2.2-4308.01 and has implemented procedures consistent with the procedures adopted by the Secretary of Administration for utilizing design-build or construction management contracts.

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

Prior to issuing a Request for Proposal for any design-build or construction management contract for a specific construction project, the public body shall:

1. Have adopted, by ordinance or resolution, written procedures governing the selection, evaluation and award of design-build and construction management contracts. Such procedures shall be consistent with those described in this chapter for the procurement of nonprofessional services through competitive negotiation. Such procedures shall also require 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 public body determines appropriate for that particular construction project. Such procedures for:

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59 a. Design-build construction projects shall include a two-step competitive negotiation process
60 consistent with the standards established by the Division of Engineering and Buildings of the
61 Department of General Services for state agencies.

62 b. Construction management projects shall include selection procedures and required construction
63 management contract terms consistent with § 2.2-4308.01 and the procedures as adopted by the
64 Secretary of Administration.

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

69 B. The contract shall be awarded to the fully qualified offeror who submits an acceptable proposal
70 determined to be the best value in response to the Request for Proposal.

71 **§ 2.2-4308.01. Requirements for use of construction management contracts.**

72 A. For the purposes of this section, "public body" shall include without limitation (i) public
73 institutions of higher education that have executed a valid management agreement under the
74 Restructured Higher Education Financial and Administrative Operations Act of 2005 (§ 23.1-1000 et
75 seq.) and (ii) any public body that has implemented the provisions of this chapter pursuant to
76 subdivisions A 9, 10, and 11 of § 2.2-4343.

77 B. While the competitive sealed bid process remains the preferred method of construction
78 procurement for public bodies in the Commonwealth, for projects with a total estimated contract value
79 expected to be \$40 million or more, any public body may use competitive negotiation to procure
80 construction on a construction management basis, provided that:

81 1. The public body makes a determination in advance and sets forth in writing that competitive
82 sealed bidding is neither practicable nor fiscally advantageous to the public, which writing shall
83 document the basis for the determination. Such written determination shall be included in the request for
84 qualifications;

85 2. The contract is entered into prior to the schematic phase of design, unless prohibited by
86 authorization of funding restrictions;

87 3. Prior alternative procurement method experience, including previous construction management
88 experience or previous Virginia Bureau of Capital Outlay Management contract work, shall not be
89 required as a prerequisite for award of a contract. However, in the selection of a contractor, the public
90 body may consider the experience of each contractor on comparable projects; and

91 4. Price is the critical basis for award of the contract.

92 C. While the competitive sealed bid process remains the preferred method of construction
93 procurement for public bodies in the Commonwealth, for projects with a total estimated contract value
94 expected to be less than \$40 million, any public body may use competitive negotiation to procure
95 construction on a construction management basis, provided that:

96 1. The requirements of subdivisions B 1 through 4 are satisfied;

97 2. The project is (i) of substantial historical value or interest or (ii) significantly unique or extremely
98 complex in nature; and

99 3. The project complies with the following requirements:

100 a. In the case of a local public body, prior to any solicitation for such project, the public body
101 notifies its local governing body in writing of its intent to procure construction on a construction
102 management basis and such local public body makes a written finding that the public body is in
103 compliance with the requirements of this section. The finding of the local governing body shall be made
104 on a per project basis;

105 b. In the case of a state public body that is not a public institution of higher education designated as
106 a Tier 3 procurement authority as of January 1, 2016, prior to any solicitation for such project the
107 public body notifies the Director of the Department of General Services of its intent to procure
108 construction on a construction management basis and the Director of the Department of General
109 Services makes a written finding that the state public body is in compliance with the requirements of
110 this section. The finding of the Director shall be made on a per project basis; and

111 c. In the case of a public institution of higher education designated as Tier 3 procurement authority
112 as of January 1, 2016, prior to any solicitation the contracting officer of the public institution of higher
113 education makes a written finding that the public institution of higher education is in compliance with
114 the requirements of this section. The finding of the contracting officer shall be made on a per project
115 basis and shall be in writing.

116 D. A public body shall be prohibited from combining multiple construction projects for the purpose
117 of exceeding the monetary threshold for proceeding under subsection B, unless the projects are
118 contiguous or directly related to each other. However, the board of visitors of a public institution of
119 higher education designated as Tier 3 procurement authority may issue a written waiver of the
120 prohibition provided by this subsection.

121 E. The public body shall make available to the public, after award, all prequalification score sheets,
122 award score sheets, and selection information for each project covered by this section.

123 F. Any person may appeal a public body's determination to procure construction on a construction
124 management basis. Such appeal shall be made in writing not more than 10 business days after the
125 public posting for construction services. The appeal shall be submitted to the appropriate public body;
126 however, in the case of a public institution of higher education designated as a Tier 3 procurement
127 authority, the appeal shall be submitted to the institution's contracting officer. The public body shall
128 conduct an internal review of the method of procurement selected and respond in writing no more than
129 10 business days after receipt of the appeal.

130 **§ 2.2-4343. Exemption from operation of chapter for certain transactions.**

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

132 1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10
133 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation adopted by
134 the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of
135 goods and services and in the administration of its capital outlay program. This exemption shall be
136 applicable only so long as such policies and procedures meeting the requirements remain in effect.

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

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

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

146 5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University
147 of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to
148 the management and investment of their endowment funds, endowment income, gifts, all other
149 nongeneral fund reserves and balances, or local funds of or held by the College or Universities pursuant
150 to § 23.1-2210, 23.1-2306, 23.1-2604, or 23.1-2803. However, selection of these services shall be
151 governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.) as
152 required by §§ 23.1-2210, 23.1-2306, 23.1-2604, and 23.1-2803.

153 6. The Board of the Virginia College Savings Plan for the selection of services related to the
154 operation and administration of the Plan, including, but not limited to, contracts or agreements for the
155 management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting
156 services. However, such selection shall be governed by the standard set forth in § 23.1-706.

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

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

164 9. Any town with a population of less than 3,500, except as stipulated in the provisions of
165 §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and
166 2.2-4367 through 2.2-4377.

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

171 This exemption shall be applicable only so long as such policies and procedures, or other policies
172 and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town.
173 Such policies and standards may provide for incentive contracting that offers a contractor whose bid is
174 accepted the opportunity to share in any cost savings realized by the locality when project costs are
175 reduced by such contractor, without affecting project quality, during construction of the project. The fee,
176 if any, charged by the project engineer or architect for determining such cost savings shall be paid as a
177 separate cost and shall not be calculated as part of any cost savings.

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

181 This exemption shall be applicable only so long as such policies and procedures, or other policies or

182 procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This
183 provision shall not exempt any school division from any centralized purchasing ordinance duly adopted
184 by a local governing body.

185 12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of
186 subsections C and D of § 2.2-4303, and §§ 2.2-4305, 2.2-4308, 2.2-4308.01, 2.2-4311, 2.2-4315,
187 2.2-4317, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 shall apply
188 to all counties, cities and school divisions, and to all towns having a population greater than 3,500 in
189 the Commonwealth.

190 The method for procurement of professional services through competitive negotiation set forth in
191 §§ 2.2-4303.1 and 2.2-4303.2 shall also apply to all counties, cities and school divisions, and to all
192 towns having a population greater than 3,500, where the cost of the professional service is expected to
193 exceed \$60,000 in the aggregate or for the sum of all phases of a contract or project. A school board
194 that makes purchases through its public school foundation or purchases educational technology through
195 its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be
196 exempt from the provisions of this chapter, except, relative to such purchases, the school board shall
197 comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

198 13. A public body that is also a utility operator may purchase services through or participate in
199 contracts awarded by one or more utility operators that are not public bodies for utility marking services
200 as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of
201 services under this subdivision may deviate from the procurement procedures set forth in this chapter
202 upon a determination made in advance by the public body and set forth in writing that competitive
203 sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is
204 awarded based on competitive principles.

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

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

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

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

217 18. The University of Virginia Medical Center to the extent provided by subdivision A 3 of
218 § 23.1-2213.

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

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

225 21. [Expired].

226 22. The purchase of Virginia-grown food products for use by a public body where the annual cost of
227 the product is not expected to exceed \$100,000.

228 B. Where a procurement transaction involves the expenditure of federal assistance or contract funds,
229 the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or
230 regulations not in conformance with the provisions of this chapter, a public body may comply with such
231 federal requirements, notwithstanding the provisions of this chapter, only upon the written determination
232 of the Governor, in the case of state agencies, or the governing body, in the case of political
233 subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the
234 public interest. Such determination shall state the specific provision of this chapter in conflict with the
235 conditions of the grant or contract.

236 **§ 23.1-1002. Eligibility for restructured financial and administrative operational authority and**
237 **financial benefits.**

238 A. The state goals for each public institution of higher education are to:

239 1. Consistent with its institutional mission, provide access to higher education for all citizens
240 throughout the Commonwealth, including underrepresented populations, and consistent with subdivision
241 4 of § 23.1-203 and in accordance with anticipated demand analysis, meet enrollment projections and
242 degree estimates as agreed upon with the Council. Each such institution shall bear a measure of
243 responsibility for ensuring that the statewide demand for enrollment is met;

244 2. Consistent with § 23.1-306, ensure that higher education remains affordable, regardless of
245 individual or family income, and through a periodic assessment determine the impact of tuition and fee
246 levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment
247 of tuition, mandatory fees, and other necessary charges;

248 3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with
249 its mission and assess regularly the extent to which the institution's curricula and degree programs
250 address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific
251 academic disciplines, professions, and geographic regions;

252 4. Ensure that the institution's academic programs and course offerings maintain high academic
253 standards by undertaking a continuous review and improvement of academic programs, course
254 availability, faculty productivity, and other relevant factors;

255 5. Improve student retention so that students progress from initial enrollment to a timely graduation
256 and the number of degrees conferred increases as enrollment increases;

257 6. Consistent with its institutional mission, develop articulation agreements that have uniform
258 application to all comprehensive community colleges and meet appropriate general education and
259 program requirements at the baccalaureate institution of higher education, provide additional
260 opportunities for associate degree graduates to be admitted and enrolled, and offer dual enrollment
261 programs in cooperation with high schools;

262 7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and
263 the area in which the institution is located, and for those institutions subject to a management agreement
264 pursuant to Article 4 (§ 23.1-1004 et seq.), in areas with below-state average income levels and
265 employment rates;

266 8. Consistent with its institutional mission, increase the level of externally funded research conducted
267 at the institution and facilitate the transfer of technology from university research centers to private
268 sector companies;

269 9. Work actively and cooperatively with public elementary and secondary school administrators,
270 teachers, and students to improve student achievement, upgrade the knowledge and skills of teachers,
271 and strengthen leadership skills of school administrators;

272 10. Prepare a six-year financial plan consistent with § 23.1-306;

273 11. Conduct the institution's business affairs in a manner that (i) helps maximize the operational
274 efficiencies and economies of the institution and the Commonwealth and (ii) meets all financial and
275 administrative management standards pursuant to § 23.1-1001 specified by the Governor and included in
276 the current general appropriation act, which shall include best practices for electronic procurement and
277 leveraged purchasing, information technology, real estate portfolio management, and diversity of
278 suppliers through fair and reasonable consideration of small, women-owned, and minority-owned
279 business enterprises; and

280 12. Seek to ensure the safety and security of students on campus.

281 B. Each public institution of higher education that meets the state goals set forth in subsection A on
282 or after August 1, 2005, may:

283 1. Dispose of its surplus materials at the location where the surplus materials are held and retain any
284 proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;

285 2. As provided in and pursuant to the conditions in subsection C of § 2.2-1132, contract with a
286 building official of the locality in which construction is taking place and for such official to perform any
287 inspection and certifications required to comply with the Uniform Statewide Building Code (§ 36-97 et
288 seq.) pursuant to subsection C of § 36-98.1;

289 3. For each public institution of higher education that has in effect a signed memorandum of
290 understanding with the Secretary of Administration regarding participation in the nongeneral fund
291 decentralization program as set forth in the general appropriation act, as provided in subsection C of
292 § 2.2-1132, enter into contracts for specific construction projects without the preliminary review and
293 approval of the Division of Engineering and Buildings of the Department of General Services, provided
294 that such institutions are in compliance with the requirements of the Virginia Public Procurement Act
295 (§ 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement
296 approved by the Division of Engineering and Buildings and the Office of the Attorney General;

297 4. Acquire easements as provided in subdivision 4 of § 2.2-1149;

298 5. Enter into an operating/income lease or capital lease pursuant to the conditions and provisions in
299 subdivision 5 of § 2.2-1149;

300 6. Convey an easement pertaining to any property such institution owns or controls as provided in
301 subsection C of § 2.2-1150;

302 7. In accordance with the conditions and provisions in subdivision C 2 of § 2.2-1153, sell surplus
303 real property that is possessed and controlled by the institution and valued at less than \$5 million;

304 8. For purposes of compliance with § 2.2-4310, procure goods, services, and construction from a

305 vendor that the institution has certified as a small, women-owned, or minority-owned business enterprise
306 pursuant to the conditions and provisions in § 2.2-1609;

307 9. Be exempt from review of its budget request for information technology by the CIO as provided
308 in subdivision B 3 of § 2.2-2007.1;

309 10. Adopt policies for the designation of administrative and professional faculty positions at the
310 institution pursuant to the conditions and provisions in subsection E of § 2.2-2901;

311 11. Be exempt from reporting its purchases to the Secretary of Education, provided that all
312 purchases, including sole source purchases, are placed through the Commonwealth's electronic
313 procurement system using proper system codes for the methods of procurement; and

314 12. Utilize as methods of procurement a fixed price, design-build, or construction management
315 contract ~~notwithstanding~~ *in compliance with* the provisions of §§ 2.2-4306 and 2.2-4308.01.

316 C. Each public institution of higher education that (i) has been certified during the fiscal year by the
317 Council pursuant to § 23.1-206 as having met the institutional performance benchmarks for public
318 institutions of higher education and (ii) meets the state goals set in subsection A shall receive the
319 following financial benefits:

320 1. Interest on the tuition and fees and other nongeneral fund Educational and General Revenues
321 deposited into the state treasury by the institution, as provided in the general appropriation act. Such
322 interest shall be paid from the general fund and shall be an appropriate and equitable amount as
323 determined and certified in writing by the Secretary of Finance to the Comptroller by the end of each
324 fiscal year or as soon as practicable after the end of such fiscal year;

325 2. Any unexpended appropriations of the public institution of higher education at the end of the
326 fiscal year, which shall be reappropriated and allotted for expenditure by the institution in the
327 immediately following fiscal year;

328 3. A pro rata amount of the rebate due to the Commonwealth on credit card purchases of \$5,000 or
329 less made during the fiscal year. The amount to be paid to each institution shall equal a pro rata share
330 based upon its total transactions of \$5,000 or less using the credit card that is approved for use by all
331 state agencies as compared to all transactions of \$5,000 or less using such card by all state agencies.
332 The Comptroller shall determine the public institution's pro rata share and, as provided in the general
333 appropriation act, shall pay the institution by August 15 of the fiscal year immediately following the
334 year of certification or as soon as practicable after August 15 of such fiscal year. The payment to an
335 institution of its pro rata share under this subdivision shall also be applicable to other rebate or refund
336 programs in effect that are similar to that of the credit card rebate program described in this subdivision.
337 The Secretary of Finance shall identify such other rebate or refund programs and shall determine the pro
338 rata share to be paid to the institution; and

339 4. A rebate of any transaction fees for the prior fiscal year paid for sole source procurements made
340 by the institution in accordance with subsection E of § 2.2-4303 for using a vendor that is not registered
341 with the Department of General Services' web-based electronic procurement program commonly known
342 as "eVA," as provided in the general appropriation act. Such rebate shall be certified by the Department
343 of General Services and paid to each public institution by August 15 of the fiscal year immediately
344 following the year of certification or as soon as practicable after August 15 of such fiscal year.

345 **2. That all state public bodies, including public institutions of higher education governed under**
346 **Chapters 933 and 943 of the Acts of Assembly of 2006, Chapters 594 and 616 of the Acts of**
347 **Assembly of 2008, and Chapters 675 and 685 of the Acts of Assembly of 2009 and such institutions**
348 **operating on November 1 of each year, shall report, at a minimum, the following on completed**
349 **capital projects beginning with those authorized for construction under Chapter 665 of the Acts of**
350 **Assembly of 2015 to the Director of the Department of General Services: (i) the procurement**
351 **method, (ii) the project budget, (iii) the actual project cost, (iv) the expedited timeline, (v) the**
352 **actual time for completion, and (vi) any post-completion issues. The Department of General**
353 **Services shall consolidate the data in each such report and submit the consolidated data no later**
354 **than December 1 of each year to the Governor and the Chairmen of the House Committee on**
355 **Appropriations and the Senate Committee on Finance.**

356 **3. That the Auditor of Public Accounts, as part of his annual audit plan, shall determine whether**
357 **public institutions of higher education governed under Chapters 933 and 943 of the Acts of**
358 **Assembly of 2006, Chapters 594 and 616 of the Acts of Assembly of 2008, and Chapters 675 and**
359 **685 of the Acts of Assembly of 2009, and those operating under a memorandum of understanding**
360 **pursuant to § 23-38.90 of the Code of Virginia, have complied with their internal review process in**
361 **the selection of procurement method for construction.**

362 **4. That all state public bodies, including public institutions of higher education governed under**
363 **Chapters 933 and 943 of the Acts of Assembly of 2006, Chapters 594 and 616 of the Acts of**
364 **Assembly of 2008, and Chapters 675 and 685 of the Acts of Assembly of 2009 and those operating**
365 **under a memorandum of understanding pursuant to § 23-38.90 of the Code of Virginia, shall post**
366 **on the central electronic procurement website of the Department of General Services the approved**

367 projects and approved procurement methods for construction at least 30 days prior to soliciting
368 for design services for such construction projects.

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