

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 895

An Act to amend and reenact §§ 2.2-1119, 2.2-1303, 2.2-4304 and 53.1-52 of the Code of Virginia and to repeal the second enactment of Chapter 395 of the Acts of Assembly of 2001, relating to information technology procurement; reverse auctioning.

[H 1927]

Approved March 22, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1119, 2.2-1303, 2.2-4304 and 53.1-52 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1119. Cases in which purchasing through Division not mandatory.

A. Unless otherwise ordered by the Governor, the purchasing of materials, equipment, supplies and nonprofessional services through the Division shall not be mandatory in the following cases:

1. Materials, equipment and supplies incident to the performance of a contract for labor or for labor and materials;

2. Manuscripts, maps, audiovisual materials, books, pamphlets and periodicals purchased for the use of The Library of Virginia or any other library in the Commonwealth supported in whole or in part by state funds;

3. Perishable articles, provided that no article except fresh vegetables, fish, eggs or milk shall be considered perishable within the meaning of this subdivision, unless so classified by the Division;

4. Materials, equipment and supplies needed by the Commonwealth Transportation Board; however, this exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

5. Materials, equipment and supplies needed by the Virginia Alcoholic Beverage Control Board; however, this exception may include, office stationery and supplies, office equipment, janitorial equipment and supplies, and coal and fuel oil for heating purposes shall not be included except when authorized in writing by the Division;

6. Binding and rebinding of the books and other literary materials of libraries operated by the Commonwealth or under its authority;

7. Printing of the records of the Supreme Court; and

8. Financial services, including without limitation, underwriters, financial advisors, investment advisors and banking services.

B. Telecommunications and information technology goods and services of every description shall be procured as provided in § 2.2-1303.

§ 2.2-1303. Additional powers and duties relating to communications equipment and services and information technology equipment and services.

A. The Department shall have the following additional powers and duties concerning the planning, budgeting, acquiring, using and disposing of communications equipment and services:

1. Formulate specifications for telecommunications, automated data and word processing, and management information systems.

2. Analyze and approve all procurements of interconnective telecommunications facilities, telephones, automated data and word processing, and other communications equipment and goods.

3. Review and approve all agreements and contracts for communications services prior to execution between a state agency and another public or private agency.

4. Develop and administer a system to monitor and evaluate executed contracts and billing and collection systems.

5. Exempt from review requirements, but not from the state's competitive procurement process, any state agency that establishes, to the satisfaction of the Department, (i) its ability and willingness to administer efficiently and effectively the procurement of communications services or (ii) that it has been subjected to another review process coordinated through or approved by the Department.

B. The Department shall have the following powers and duties concerning the development, operation and management of communications services:

1. Manage and coordinate the various communications facilities, centers, and operations used by the Commonwealth.

2. Acquire, lease, or construct such facilities and equipment as necessary to deliver comprehensive communications services; and to maintain such facilities and equipment owned or leased.

3. Provide technical assistance to state agencies in such areas as: (i) designing management information systems; (ii) performing systems development services, including design, application

programming, and maintenance; (iii) conducting research and sponsoring demonstration projects pertaining to all facets of telecommunications; (iv) effecting economies in telephone systems and equipment; (v) planning and forecasting for future needs in communications services; and (vi) management studies and surveys of organizational structure, management practices and systems and procedures.

4. Develop and implement information, billing and collections systems that will aid state agencies in forecasting their needs and managing their operations.

C. Notwithstanding § 2.2-1110, telecommunications goods and services of every description may and information technology goods and services of every description shall be procured by (i) the Department for its own benefit or on behalf of other state agencies and institutions or (ii) such other agencies or institutions to the extent authorized by the Department. Procurements made in accordance with this subsection shall be made in accordance with the regulations specified in § 2.2-1111, unless the Department has adopted alternative regulations governing these procurements pursuant to the Administrative Process Act (§ 2.2-4000 et seq.).

D. All statewide contracts and agreements made and entered into by the Department for the purchase of computers, software, supplies, and related peripheral equipment and services shall provide for the inclusion of counties, cities, and towns in such contracts and agreements. For good cause shown, the Secretary of Administration may disapprove the inclusion from a specific contract or agreement. Notwithstanding the provisions of § 2.2-4301, the Department may enter into multiple vendor contracts for the referenced hardware, software, and services.

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.

§ 2.2-4304. Cooperative procurement.

A. Any public body may participate in, sponsor, conduct, or administer a cooperative procurement agreement with one or more other public bodies, or agencies of the United States, for the purpose of combining requirements to increase efficiency or reduce administrative expenses. Any public body that enters into a cooperative procurement agreement with a county, city, or town whose governing body has adopted alternative policies and procedures pursuant to subdivisions 9 and 10 of § 2.2-4343 shall comply with the alternative policies and procedures adopted by the governing body of such county, city, or town.

B. Subject to the provisions of §§ 2.2-1110, 2.2-1111 and, 2.2-1120, and 2.2-1303, any authority, department, agency, or institution of the Commonwealth may participate in, sponsor, conduct, or administer a cooperative procurement arrangement with private health or educational institutions or with public agencies or institutions of the several states, territories of the United States, or the District of Columbia, for the purpose of combining requirements to effect cost savings or reduce administrative expense in any acquisition of goods and services, other than professional services. In such instances, deviation from the procurement procedures set forth in this chapter and the administrative policies and procedures established to implement this chapter shall be permitted, if approved by the Director of the Division of Purchases and Supply. *Pursuant to § 2.2-1303, such approval is not required if the procurement arrangement is for telecommunications and information technology goods and services of every description. In instances where the procurement arrangement is for telecommunications and information technology goods and services, such arrangement shall be permitted if approved by the Director of the Department of Information Technology.* However, such acquisitions shall be procured competitively. Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

§ 53.1-52. Procedure for purchases.

All purchases, *except for those of telecommunications and information technology as provided in § 2.2-1303, made by departments, institutions and agencies of the Commonwealth shall be made as provided by the Division of Purchases and Supply of the Department of General Services. All purchases of telecommunications and information technology made by departments, institutions and agencies of the Commonwealth shall be made as provided by the Department of Information Technology.* All other purchases shall be upon requisition by the proper authority of the county, district, city or town requiring such articles.

2. That the provisions of this act shall not in any way amend or affect the Commonwealth's institutions of higher education as such institutions may be delegated the authority for the purchase of information technology facilities and services pursuant to the 2002-2004 Appropriation Act adopted by the General Assembly.

3. That the provisions of this act shall not in any way amend or affect existing delegations of telecommunications procurement authority granted by the Department of Information Technology to public bodies or inhibit the ability of the Department to grant future delegations of such authority.

4. That the second enactment of Chapter 395 of the Acts of Assembly of 2001 is repealed.