

Department of Planning and Budget

2017 Fiscal Impact Statement

1. Bill Number: HB2366-H2

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Engrossed
Second House	<input checked="" type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Albo

3. Committee: General Laws and Technology

4. Title: Virginia Public Procurement Act; requirements for use of construction management contracts.

5. Summary: As engrossed, the bill restricts the use of construction management procurements by public bodies, to include state public bodies, covered institutions as defined in the bill, and local public bodies, unless (i) the total estimated contract value is \$10 million or more, (ii) a written determination is provided stating that competitive sealed bidding is not practicable or fiscally advantageous, (iii) the contract is entered into prior to the schematic phase of design, (iv) prior alternative procurement method experience is not required as a prerequisite for an award, and (v) price is the critical basis for award of the contract. The bill provides that for projects where the total estimated contract value is not expected to exceed \$10 million, a public body may use competitive negotiation to procure construction on a construction management basis if the above requirements are met and the project is a complex project as defined in the bill. In addition, public bodies seeking to use construction management for projects where the total estimated contract value is not expected to exceed \$10 million must also obtain written approval from the local governing body for local public bodies or from the Director of the Department of General Services for state public bodies and covered institutions. The bill also requires all such public bodies and covered institutions to (i) post on the central electronic procurement website of the Department of General Services approved projects and approved procurement methods for construction at least 30 days prior to soliciting for design services for such construction projects and (ii) report no later than November 1 of each year to the Director of the Department of General Services information on all completed capital project in excess of \$2 million, (a) the project budget, (b) the actual project cost, (c) the expected timeline, (d) the actual completion time, and (e) any post-project issues. The bill provides that the Virginia Public Procurement Act (VPPA) still applies; provided however that in the event of any conflict by the VPPA or other provision of law with the new law on construction management and design-build, the latter shall control.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary; no state fiscal impact. See Item 8, below.

8. Fiscal Implications: This bill is not expected to have a state fiscal impact. The bill provides criteria for the use of construction management and design-build procurements by public bodies. Such methods may be used for construction projects when a written determination is

provided stating that competitive sealed bidding is not practicable or fiscally advantageous and the project is either a) expected to cost more than \$10 million, or b) is a complex project expected to cost less than \$10 million and written approval is obtained from the Department of General Services for state public bodies and covered institutions of higher education or from the local governing body for local public bodies.

The bill requires the Department of General Services (DGS) to review and approve the written determinations of all state public bodies and covered institutions of higher education for projects less than \$10 million within five working days. Currently, DGS must approve all determinations to procure construction on a construction management or design-build basis for state agencies other than covered institutions of higher education, which have designated Tier 3 procurement authority or are in a pilot program authorized under § 4-9.02 of the Appropriation Act. While the bill adds covered institutions of higher education under DGS review, this is expected to be at least partially offset by eliminating the need to review projects over \$10 million. Therefore, DGS expects to be able to meet the bill's review requirements within existing resources.

- 9. Specific Agency or Political Subdivisions Affected:** The Department of General Services, Institutes of Higher Education designated with Tier 3 procurement authority or in a pilot program authorized in the Appropriation Act, and all public bodies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

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