

July 5, 2020

MEMORANDUM

TO: Purchasing Offices
Departments, Institutions, Agencies
Commonwealth of Virginia

FROM: J. Peter Stamps, Director *J Peter Stamps*
DGS, Division of Purchases and Supply

SUBJECT: Changes to the *Virginia Public Procurement Act*, Effective July 1, 2020

The 2020 session of the General Assembly made changes to the *Virginia Public Procurement Act (VPPA)* that took effect July 1, 2020 or later. Attached is an unofficial copy of the *VPPA* incorporating those changes, indicated by an arrow (→) in the margin. After June 30, 2020, the 2019 unofficial version of the *VPPA* issued by the Division is obsolete.

The following is a brief summary of the significant changes made by the 2020 General Assembly, which are reflected in this copy. For judicial or other legal uses, consult the *Code of Virginia*.

§ 2.2-4302.1 *Process for competitive sealed bidding.*

Adds that any locality may include in an IFB criteria to be used to determine if a bidder not prequalified by VDOT is responsible, pursuant to 2.2-4301.

§ 2.2-4303 *Methods of Procurement*

Increased small purchases threshold from \$100,000 to \$200,000. Also removed the requirement (for state public bodies) for public posting and informal solicitations for procurements over \$30,000 (subdivisions G1 and G2)

§ 2.2-4303.01 *High Risk Contracts*

Substituted “(a) information technology or (b) road or rail construction or design” for “information technology or road construction or design” in the first sentence of each subsection. Also removed “July 1, 2020” reference in subsection D.

§ 2.2-4303.1 *Architectural and professional engineering term contracting; limitations*

Changes the sum for A/E services for rail and public transportation projects in a one-year contract from a maximum of \$2 million to a maximum of \$5 million.

Changes the locality population from 78,000 to 50,000 in B2 and D2 and changes the sum of certain projects in these localities in a one-year contract from a maximum of \$5 million to a maximum of \$8 million.

§ 2.2-4310 *Discrimination prohibited; participation of small, women- owned, minority-owned, and service disabled veteran- owned businesses and employment services organizations.*

Adds “sexual orientation, gender identity” to the list of prohibited discrimination classes.

§ 2.2-4321 *Debarment*

Adds a sunset date to the current section. Adds a new section 2.2-4321.1, effective January 1, 2021 that adds responsibilities for debarment proceedings to the Tax Commissioner.

§ 2.2-4321.2 *Public works contract requirements.*

Adds a sunset date to the current section and rewrote it effective May 1, 2021.

§ 2.2-4321.3 *(Effective May 1, 2021) Payment of prevailing wage for work performed on public works contracts; penalty.*

Adds new section.

§ 2.2-4323 *Purchase programs for recycled goods; agency responsibilities.*

Adds section C4; re: recycled materials and products certified as climate positive (having a negative carbon footprint).

§ 2.2-4340 *Action of performance bond.*

Removes conflicting reference to VDOT vs. all other public bodies. This now applies to all public bodies, as outlined.

§ 2.2-4340.1 *Statute of limitations on construction contracts.*

Adds new section.

§ 2.2-4340.2. *Statute of limitations on architectural and engineering contracts.*

Adds new section.

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

Adds a sunset date for subdivision A12, rewrites A12 effective January 1, 2021.

§ 2.2-4343.1 *Permitted contracts with certain religious organizations; purpose; limitations.*

Adds “sexual orientation” and “gender identity” to subdivision E.

§ 2.2-4359 *Determination of nonresponsibility.*

Adds subdivision E.

§ 2.2-4382 *Design-build or construction management contracts for local public bodies authorized*

Deletes former subdivision D1, renumbers remaining subdivisions. In new subdivision D1, substituted “the project cost threshold established in the procedures adopted by the Secretary of Administration for utilizing construction management contracts” for “\$10 million.”