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HOUSE BILL NO. 705

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact § 2.2-4304 of the Code of Virginia, relating to the Virginia Public Procurement Act; authority for localities to use cooperative procurement.

Patron—Keam

Committee Referral Pending**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-4304 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-4304. Joint and cooperative procurement.**

A. Any public body may participate in, sponsor, conduct, or administer a joint procurement agreement on behalf of or in conjunction 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, the District of Columbia, the U.S. General Services Administration, or the Metropolitan Washington Council of Governments, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods, services, or construction.

B. In addition, a public body may purchase from another public body's contract or from the contract of the Metropolitan Washington Council of Governments or the Virginia Sheriffs' Association even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies, except for:

1. Contracts for architectural or engineering services; or

2. Construction. This subdivision shall not be construed to prohibit sole source or emergency procurements awarded pursuant to subsections E and F of § 2.2-4303.

Subdivision 2 shall not apply to (i) the installation of artificial turf and track surfaces; (ii) stream restoration; or; (iii) stormwater management practices, including all associated and necessary construction and maintenance; or (iv) a local public body's contracts for construction services valued at no more than \$200,000.

In instances where any authority, department, agency, or institution of the Commonwealth desires to purchase information technology and telecommunications goods and services from another public body's contract and the procurement was conducted on behalf of other public bodies, such purchase shall be permitted if approved by the Chief Information Officer of the Commonwealth. 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 A 9 and A 10 of § 2.2-4343 shall comply with the alternative policies and procedures adopted by the governing body of such county, city, or town.

C. Subject to the provisions of §§ 2.2-1110, 2.2-1111, 2.2-1120 and 2.2-2012, any authority, department, agency, or institution of the Commonwealth may participate in, sponsor, conduct, or administer a joint procurement arrangement in conjunction with public bodies, 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, and construction.

A public body may purchase from any authority, department, agency or institution of the Commonwealth's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies. 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 § 2.2-2012, 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 Chief Information Officer of the Commonwealth. However, such acquisitions shall be procured competitively.

Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that

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59 will allow for participation in any such arrangement.

60 D. As authorized by the United States Congress and consistent with applicable federal regulations,
61 and provided the terms of the contract permit such purchases:

62 1. Any authority, department, agency, or institution of the Commonwealth may purchase goods and
63 nonprofessional services, other than telecommunications and information technology, from a U.S.
64 General Services Administration contract or a contract awarded by any other agency of the U.S.
65 government, upon approval of the director of the Division of Purchases and Supply of the Department
66 of General Services;

67 2. Any authority, department, agency, or institution of the Commonwealth may purchase
68 telecommunications and information technology goods and nonprofessional services from a U.S. General
69 Services Administration contract or a contract awarded by any other agency of the U.S. government,
70 upon approval of the Chief Information Officer of the Commonwealth; and

71 3. Any county, city, town, or school board may purchase goods and nonprofessional services from a
72 U.S. General Services Administration contract or a contract awarded by any other agency of the U.S.
73 government.