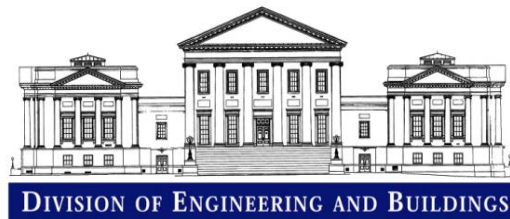




DEB Updates on Statewide Construction Procurement Initiatives/Efforts



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November 18, 2014



Update on Statewide Construction Procurement Initiatives/Efforts

• **Topics:**



- **VPPA Reform**
- **SOA Procedures for CM at Risk**
- **GCPay**
- **Enjoinment & Debarment**
- **JOC**
- **Small Business Procedures**
- **Architect/Engineer Procurements**



Study of the Virginia Public Procurement Act (VPPA)

- 2 Workgroups:
 - Group 1: Construction and Design Professionals
 - Group 2: IT, Goods, Other Professional Services, & Nonprofessional Services
- Timeline:
 - Workgroups met: May - October 2014
 - Special Joint General Laws Subcommittee meets: November/December 2014
 - General Assembly review: 2015 session
 - Implement any changes: July 1, 2015 (FY 2016)
- Topics include:
 - VPPA “foundation,” “enforcement,” cooperative procurements, Job Order Contracting, use of CM@Risk



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Construction Management (CM) at Risk: Review of Secretary of Administration (SOA) Procedures/Process

- **Request to use CM at Risk.** Generally, intended for large (>\$10M), complex projects with accelerated schedules.
- **Identify evaluation committee** which includes: minimum of 3 from agency, a BCOM representative, and possibly an OAG representative
- **Select the Construction Manager (CM):**
 - CM selected **no later than schematic design** to realize benefits of constructability and value engineering reviews concurrent with design development
 - Step 1, prequalification via RFQ. **Include justifications for use of CM at Risk in RFQ.** Output = short list of 2-5 offerors who demonstrate the “greatest conformance with RFQ requirements.”
 - Step 2, RFP; evaluate/rank proposals. Conduct negotiations with two or more offerors submitting the highest ranked proposals OR if only one offer is fully qualified or clearly more highly qualified, negotiate/award with that offeror
 - ***Lesson learned: ensure that “general conditions” requirements are clear and understood by all to ensure fair selection and to avoid potential duplicative costs when GMP established several months later***



Construction Management (CM) at Risk: Review of Secretary of Administration (SOA) Procedures/Process

- **Guaranteed maximum price (GMP)** generally set at completion of working drawings. *Lesson learned: closely scrutinize GMP for potential duplicative “general conditions” costs.*
- **Cannot agree on GMP?**
 - Contract for phase 1 (pre-construction services) concluded
 - After review by DEB, either:
 - Use competitive sealed bidding with pre-qualified CMs (most likely) OR
 - Entertain a GMP from the other pre-qualified CMs

Full SOA procedures located on the BCOM website:

<http://dgs.virginia.gov/DivisionofEngineeringandBuildings/BCOM/CMandDesignBuild/tabid/1249/Default.aspx>



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GCPay

- Mandatory for all pool-funded projects, but critical for those funded for construction in Chapter 806 pool (1 Jul 13)
- Electronic CO-12 (Schedule of Values / Applications for Payment)
- Use to review and approve A/E and GC invoices
- Our current/primary focus: estimate Chapter 806 expenditures
- Understand challenges with entering soft costs other than A/E services

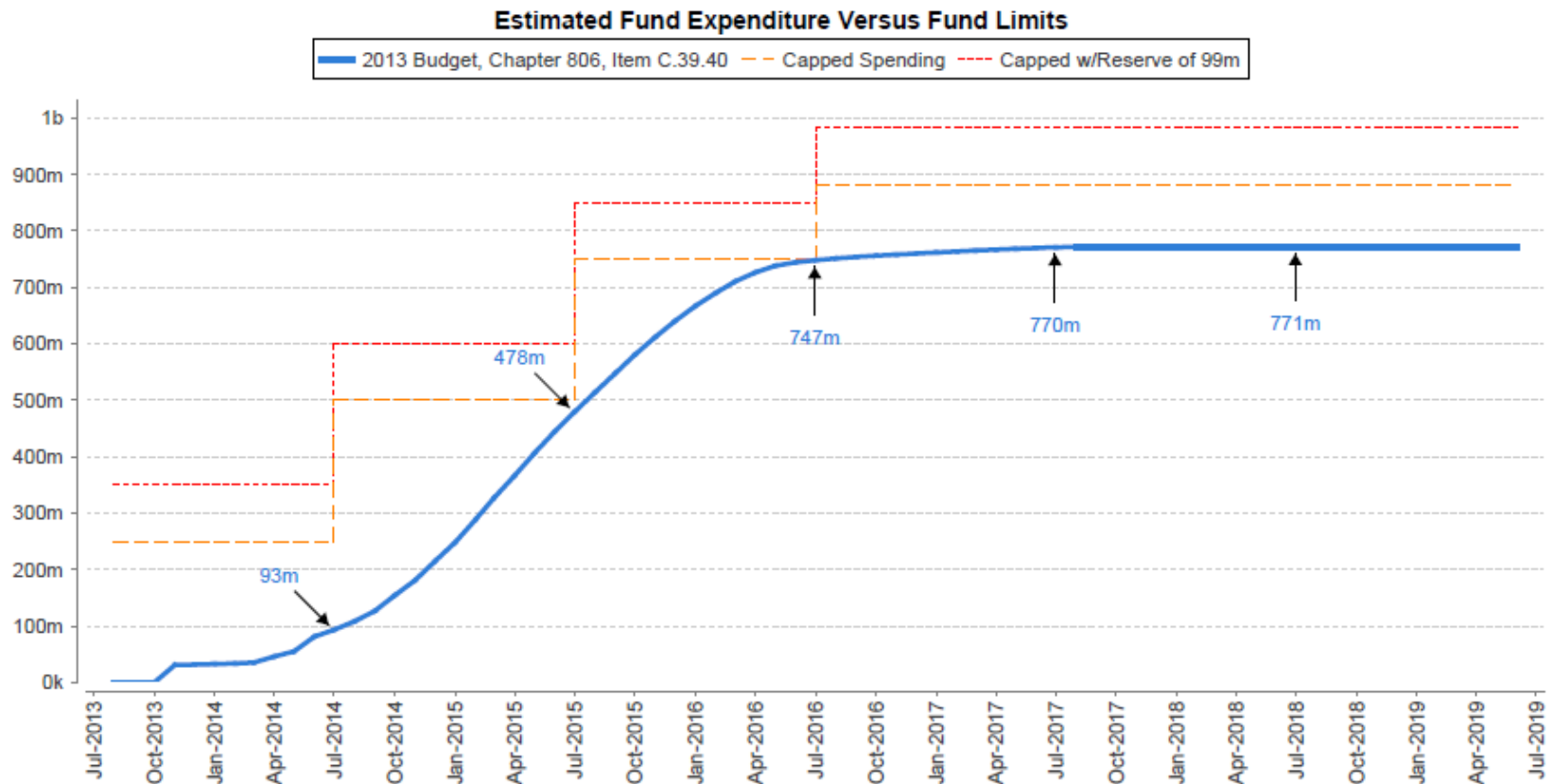


GCPay

Chapter 806, Projects APPROVED

(as of 10/22/14)

2013 Budget, Chapter 806, Item C.39.40





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ENJOINMENT and DEBARMENT



DEPARTMENT OF
GENERAL SERVICES

DIVISION OF ENGINEERING AND BUILDINGS

Serving Government. Serving Virginians.

DEB Notice 072011

(Effective: 7/12/2011)

Department of General Services Debarment and Enjoinment Procedures for Construction

Procedures online: www.dgs.virginia.gov



Reasons for ENJOINMENT: Section III. A.

1. Failure to meet SWaM requirements
2. Delinquency in excess of 10%
3. Unwillingness or inability to fulfill contract
4. Commencing construction activities prior to issuance of a building permit



Reasons for DEBARMENT: Section IV. A:

1. **Performance and related causes:**
 - a. Breach of contract with the Commonwealth
 - b. Stating an unwillingness or inability to honor a binding bid
 - c. Falsifying or misrepresenting manufacturer's specs
 - d. Use of abusive or obscene language or threat
 - e. Delaying construction completion by failing to correct work



Reasons for DEBARMENT: Section IV. A, *(continued)*:

2. Non-performance related causes:

- a. Proof of involvement in any criminal offense involving public contracting.
- b. Conviction of any offenses indicating a lack of moral, ethical, or business integrity.
- c. Conferring or offering to confer any gift, gratuity, favor, or advantage, present or future.
- d. Failing to disclose a condition constituting a conflict of interest.
- e. Sale of building materials by an independent contractor employed to provide A/E services, but not construction.



Reasons for DEBARMENT: Section IV. A, *(continued)*:

2. Non-performance related causes *(continued)*:

- f. Sale of building materials by the design professional to the contractor.
- g. Sale of goods to the COV when debarred.
- h. Court judgment finding a violation of antitrust law.
- i. Failure to pay re-procurement costs due to termination for default.
- j. Enjoinment may be converted to debarment if the contractor continues with construction without a building permit.



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JOB ORDER CONTRACTING (JOC)

- **Goal:** To provide an easy to use, cost-efficient means to execute minor repairs and limited renovations in a timely manner
- **Procurement Concept** (~ to an Indefinite Delivery , Indefinite Quantity contract):
 - Step 1: select a Unit Price Book and associated software
 - Step 2: select JOC general contractor(s)
 - Step 3: Issue Job Orders to JOC general contractor (ie, apply JOC general contractor’s “price multiplier/coefficient” to the items in the unit price book) to execute the construction
- **VPPA limit for state agencies** (1 Jul 14): \$400k/project (job order), \$2M per term, “base term/year” + 4 possible extensions (5 terms total) per contract
- Limited A/E services may be obtained using JOC job order as a “mini-design build” project/concept; however, stand-alone A/E services may not be obtained via JOC.
- **DEB state-wide contracts/JOC capability.** Step 1 underway. Step 2 to follow.



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SMALL BUSINESS PROCEDURES

- Executive Order 20 (22 Jul 14) , which applies to “executive branch agencies,” includes these key changes/highlights:
 - 40% small business aspirational goal increased to 42%
 - Micro business (no more than 25 employees AND no more than \$3M/year in average annual revenue over 3 prior years) designation created
 - A small business procurement plan is required for all proposals/bids, and before final payment is made, the purchasing agency shall confirm that the contractor has certified compliance with the proposed plan
- CPSM detailed procedures are being developed to implement the Executive Order; we will concurrently streamline CPSM small purchase procedures for construction $\leq 100k$ and A/E services $\leq 50k$



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ARCHITECT/ENGINEER (A/E) PROCUREMENTS

Reminders

- “Price shopping” on A/E term contracts prohibited
- A/E term contract project order limit = 200k; don’t “split” larger orders
- On large projects which will require A/E services exceeding 200k, a single project Category C procurement is required; therefore, on these large projects, limit A/E term contract work to programming only (no design)