

DEB Updates on Statewide Construction Procurement Initiatives

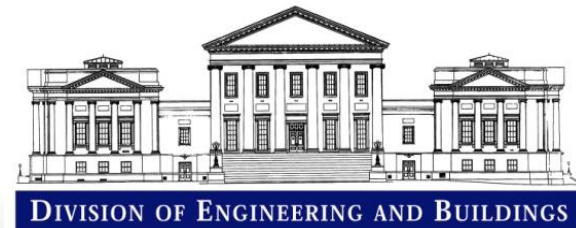


FORUM2015

Presented by

Ed Gully, P.E.

Director, DGS Division of
Engineering and Buildings



Overview



- **Update: Virginia Public Procurement Act (VPPA) Reform**
 - Construction Reporting Requirements
 - Job Order Contracting (JOC)
- **Secretary of Administration Procedures for Construction Management (CM) at Risk**
- **Enjoinment and Debarment**
- **Changes in CM and Design-Build forms**
- **Art and Architectural Review Board (AARB)**
- **Pool Process**
- **GCPay/Chapter 806 status**
- **Statewide Contracts**
- **ESCO Changes and Lessons Learned**
- **New Initiative to track statewide deferred maintenance**

Update on VPPA Reform

(1 of 4)



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 met: November/December 2014
- Bills considered during the 2015 General Assembly Session: HB1835/SB1371
- Changes adopted in Chapters 760 & 776, 2015 Acts of Assembly
- Implementation date for changes: July 1, 2015

Update on VPPA Reform

(2 of 4)



Key changes that went into effect July 1, 2015:

- **Several sections reorganized**
- **Construction up to \$100,000** is eligible for small purchase procedures
- **A/E small purchase procedures (i.e. “Category B”)** limit increased from \$50,000 to \$60,000
- **A/E term contracts:** “...prohibit requiring the selected contractors to compete for individual projects based upon price” (i.e. no price shopping with term contractors)
- **Joint and Cooperative procurements:** As a general rule, construction may be procured via joint procurements but may not be procured via a cooperative procurement (i.e. no “piggybacking” on someone else’s contract)
- **New Construction Reporting Requirements** (see next slide)

Update on VPPA Reform

(3 of 4)



New Construction Reporting Requirements:

- Effective July 1, 2015 through June 30, 2017
- First reporting period: July 1-September 30, 2015
 - If RFQ/RFP issued after June 30, 2015, project must be reported
- **Quarterly report** required for any “construction project in excess of \$2.0 million that was procured by any method other than competitive sealed bidding”
- “Report shall identify the justification for the procurement method chosen including whether or not the procurement meets the standards set in the Secretary of Administration guidelines”

Update on VPPA Reform

(4 of 4)



JOC: Job Order Contracting

	<u>July 1, 2014</u>	<u>July 1, 2015</u> This also applies to renewals of prior JOC contracts
Job Order Limit	\$400k	\$500k; order splitting prohibited
Total per 1 year term	\$2M	\$5M
# terms	1+4 = 5 years total	1+2 = 3 years total
Total, maximum value per contract	\$10M	\$15M
Professional Services procured via JOC	Not mentioned	Professional Services may be included on a job order where such professional services are: incidental and directly related to the job, do not exceed \$25k/job order, and do not exceed \$75k/term



Construction Management at Risk (CM@Risk): Review of Secretary of Administration (SOA) procedures

1 of 2

- **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@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 at Risk (CM@Risk): Review of Secretary of Administration (SOA) procedures

2 of 2

- **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

Changes to Key Construction Management at Risk (CM@Risk) and Design-Build (DB) Forms



1 of 2

- **Goals:**
 - Streamline process; reduce redundant material in RFQ and RFP
 - Reinforce and ensure compliance with SOA procedures
 - Simplify small business evaluation
 - For CM@Risk, clarifies a 3-step process:
 - ✓ **RFQ:** *looking backwards at prior experience*
 - ✓ **RFP:** *looking forward at how experience is leveraged for this project*
 - ✓ **Interview** (*validate RFQ/RFP face-to-face*)

Changes to Key Construction Management at Risk (CM@Risk) and Design-Build (DB) Forms



2 of 2

- **Updated forms:**
 - ✓ CO-16: Contractor's Statement of Qualifications
 - ✓ DGS-30-466: Request for Qualification (Multi Use)
 - ✓ DGS-30-467: CM@Risk RFP Template
- **New Forms:**
 - ✓ CO-16 Attachment: Crosswalk of Firm and Key Personnel Experience
 - ✓ Small business attachment to RFP

Forms available on BCOM's Website

Your Feedback on these Changes is Appreciated!

Art and Architectural Review Board (AARB)



1 of 4

When AARB Review is Necessary:

- For any changes to the exterior of a facility
- For new construction, including certain temporary facilities
- At the Schematic and/or Preliminary phase
 - *Seek Board review when you have fair certainty of the exterior appearance of the facility, location, overall massing, materials, colors, landscaping, etc.*
- When in doubt:
 - Email: DEBinfo@DGS.virginia.gov OR
 - Submit project and request Consent Agenda

Remember: Approved/Signed Minutes indicate Final AARB Approval!
(final Minutes available on the DEB website ~1 month after meeting)



AARB Meeting Logistics:

- When: 10:00am 1st Friday of every month
- Where: Virginia War Memorial
- Submissions due **two weeks prior** to meeting
- Check Agenda to see if your project is on the:
 - Consent Agenda: **don't need to be there** (unless noted)
 - Project Review Agenda: **need to be there** (unless noted)



AARB Meeting Logistics, cont.:

- **Format:**
 - Electronic, submitted 2 weeks before meeting date
 - Complete the Fact Data Sheet
- **Include visuals of:**
 - Location and site plans
 - **How this project will “fit in” with surrounding buildings/campus. It is essential to describe the surrounding architecture, landscaping, and historic context before you get to the specifics of your building/project.**
 - Building and/or landscape design
 - Materials to be used
 - **Do NOT provide additional project information (ie, regarding interiors)**
- **Consent Agenda requests:**
 - For small-scale projects only
 - Selected demolition
 - Must have a clear scope of work that is well explained and documented



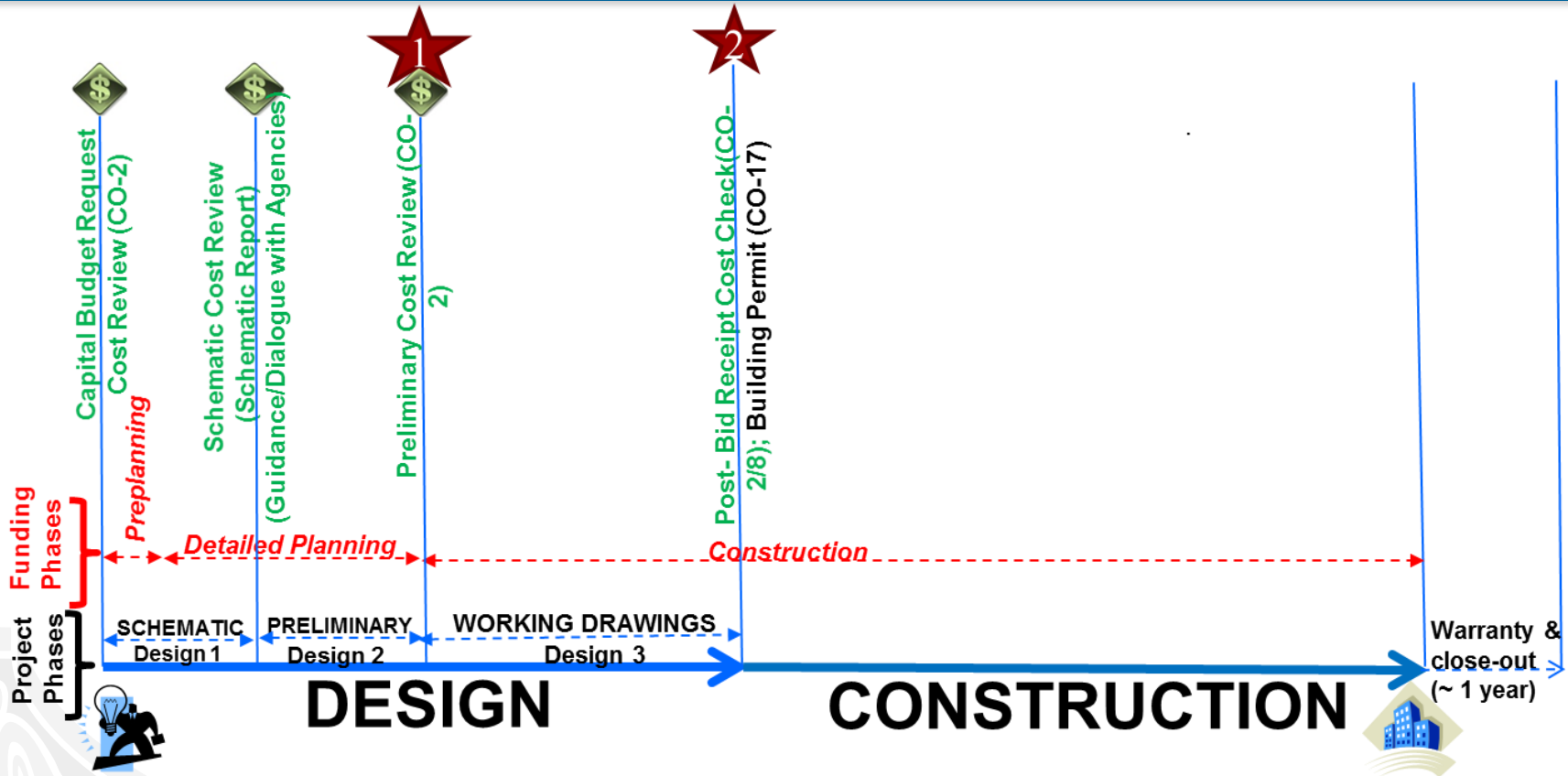
AARB Presentations:

- **Provided:**
 - Laptop, projector, all submitted electronic materials
- **Please bring:**
 - Updated/additional presentation materials
 - Bring on a flash drive or disk (no paper handouts)
 - Physical samples of materials
- **Subsequent presentations for the same project:**
 - State when previous presentation(s) were made
 - Briefly review project
 - Restate previous Board comments
 - **Show visual of previous renderings upon which Board comments were based**
 - Show what was done to address Board comments.

The Pool Process



Phases, Critical Milestones (★) and Detailed Cost Reviews (💰)



★ 1

This detailed cost review ensures the project is “right-sized” and the funding is appropriate to complete the design and construct the facility. This establishes the basis for the application of the “105% rule.” **This is the most critical “GO” for an agency in the pool process as it typically allows them to “proceed with execution.”**

★ 2

Cost check ensures bids are within authorized funding; based upon bid prices, either maintain current project funding (typically the case), reduce project funding if exceptionally low bids received, or increase project funding via an agency appeal up to 105% of that amount determined at milestone 1. If bids result in project(pool \$) > 105% as defined at milestone 1, then agency must either reduce scope, provide more agency funding, or request additional \$ from GA.

GCPay



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

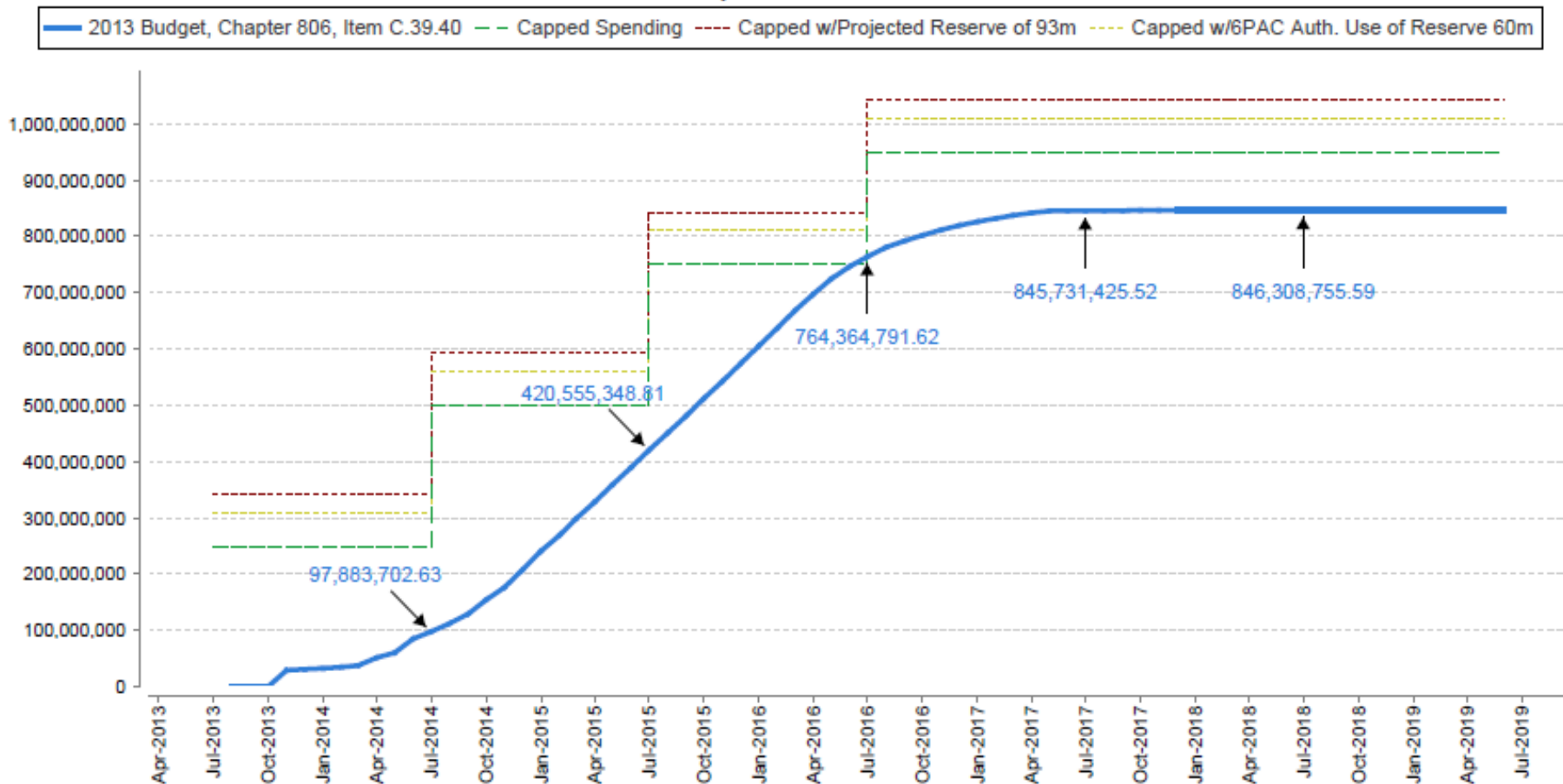
GCPay: Currently-Approved Project Graph



As of September 30, 2015

2013 Budget, Chapter 806, Item C.39.40

Estimated Fund Expenditure Versus Fund Limits



Enjoinment and Debarment



1 of 5



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

Enjoinment and Debarment



2 of 5

Purpose of ENJOINMENT:

1. To get the contractor to perform appropriately
2. Often serves as a prerequisite or “Step 1” for potential debarment

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

Enjoinment and Debarment



3 of 5

Purpose of DEBARMENT:

1. Punitive Action

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



Enjoinment and Debarment



4 of 5

Reasons for DEBARMENT: Section IV. A., cont.

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.

f. 



Reasons for DEBARMENT: Section IV. A., cont.

2. Non-performance related causes, cont.:

- 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.

Statewide Contracts: Benefits

1 of 5



- ✓ Procurement process is done for you; saves time and money for the Commonwealth
- ✓ Companies have been qualified
- ✓ Costs have been established and compared to current market trends
- ✓ Process is as easy as issuing a purchase order

Statewide Contracts: Pre-qualified Contractors



2 of 5

- **Professional Services (Category B):** for small projects where total design fees are less than \$50,000
- **Pre-Qualified Small Businesses Contractors List:** for contract awards up to \$500,000 per project (renovation) or \$250,000 per project (new construction). Change: increased threshold for streamlined procedures from \$50k to \$100k
- **Energy Performance Based Contractors:** Energy Service Companies (ESCOs)
- **Facility Assessment Services: VFA (FICAS):** for tracking performing facility condition assessments (note: this contract does not cover actual facility assessments; these are under the non-professional services, see below).
- **Non Professional Construction-Related Services:** cost estimator, project manager, roofing inspector, space planner, interior design, facility assessments, and signage design

Statewide Contracts: Contracts Available



3 of 5

- **Construction Testing and Environmental Services:** asbestos/lead, environmental assessments, soils technician, mortar joint testing, and air monitoring
- **Security Consulting:** risk assessments, security master plans, and security system design; does not include IT security or security guard services. (Note: this contract will be combined in the coming year with non-professional services)
- **Web-based Construction Cost Accounting- GCPay:** electronic approval process for approving invoices from contractors and design firms
- **Institute for Building Technology and Safety (IBTS) Agreement:** a nonprofit public service entity that provides technical services to support agency work related to building code and public safety

Statewide Contracts: Contracts Available



4 of 5

- **Fire Suppression System Testing, Maintenance and Repair:** inspection services, repairs and maintenance of fire suppression systems (sprinkler systems), including fire pumps and related components
- **Water Treatment Services:** installation of water treatment equipment for mechanical systems and inspection/testing of water chemistry
- **Maintenance and Repair for Building Automation, Fire Alarm and Security Systems:** repairs, maintenance, upgrades, and renovations of existing building automation, fire alarm, and security systems
- **Fire/Water Damage Emergency Restoration:** damage clean-up, remediation, restoration, and water extraction



Your feedback is important to us!

Let us know if:

- Any of these contracts need improvement
- You would like to see any additional contracts
- Any of the contractors on these contracts are not performing, so we may assist

Energy Services Contracting (ESCOs): Typical Tasks



- Chiller and cooling tower replacements
- Replacing meters
- Re-lamping
- Window and envelope treatments
- Water fixture replacements
- Maintenance operations training
- Building automation
- HVAC improvements
- Renewable energy
- New energy sources

Energy Services Contracting (ESCOs): Changes to the DEB ESCO Contract



- Updated CO-9 DB (ESCO) contract
- Updated Energy Special Terms and Conditions
- Performance bonds for energy savings may be provided later in the process (*Note: no change to the requirements for ESCO construction bonds*)
- Option to use Notice of Intent to Award

REMINDER: The CO-9DB(ESCO), energy special terms and conditions, and the CO-7DB may only be modified with DGS approval!

Energy Services Contracting (ESCOs): Contract Timeline



- Current Contract: Viable through March 2017
- Solicitation for new contract in 2016



Energy Services Contracting (ESCOs): Process Overview



- Companies are pre-qualified (see DEB pool)
- Contact 4 or more from the pre-qualified pool to conduct “back of the envelope” audit
- You interview and discuss the audits
- You select ESCO and begin negotiations for the technical energy audit
- BCOM review
- At completion of technical energy audit, you decide whether to proceed to design-build construction contract

Energy Services Contracting (ESCOs): Lessons Learned



- Closely scrutinize alleged/projected operations and maintenance savings
- Closely scrutinize baseline; longer duration preferable (ie, multiple years)
- These are typically long-term, relatively high \$ contracts; as a result, consider independent, 3rd party reviews:
 - To validate the baseline
 - Before signing the contract
 - For measurement and verification
 - The Institute for Building Technology and Safety (IBTS) can provide independent 3rd party assistance/expertise: www.ibts.org

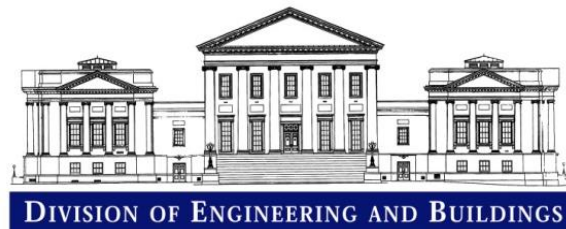
“New FICAS” Initiative: Statewide Tracking of Deferred Maintenance



Database development underway to:

1. Improve distribution of available maintenance reserve funding
2. Provide macro trend data on the relative age/condition (and by inference, backlog) of state's facility portfolio
3. Minimize data collection impact on agencies by maximizing use of available data to achieve 1. and 2., above

QUESTIONS?



Ed Gully, P.E.

Director, Division of Engineering and Buildings