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- I. **Purpose.** This document states the Virginia Information Technologies Agency's (VITA) policy on the granting of waivers to agencies which would allow them to use non-VITA contracts for the procurement of telecommunications goods and services. This policy applies to agencies, as defined by [§2.2-2006](#) of the *Code of Virginia* and legislative, judicial and independent agencies of the Commonwealth, of the *Code of Virginia* and used herein as "agency/ies."
- II. **Definition.** A "Waiver" is VITA's authorization for an agency to purchase telecommunications goods or services from non-VITA contracts for such goods or services.
- III. **VITA's Purchasing Authority.** VITA shall be responsible for the development, operation, and management of information technology for every executive branch agency, pursuant to [§ 2.2-2011](#) of the *Code of Virginia*. In addition, under [§2.2-2012\(B\)](#) of the *Code of Virginia*, Information technology (which includes telecommunications) goods and services of every description shall be procured by (i) VITA for its own benefit or on behalf of other state executive branch agencies and institutions or (ii) such other agencies or institutions to the extent authorized by VITA.

If an institution of higher education has an approved Management Agreement for Institutional Performance with the Commonwealth of Virginia, that institution is not subject to VITA's procurement guidelines. They are, however, under the terms of such Management Agreement, mandated to utilize VITA's statewide telecommunications contracts for the purchase of telecommunications goods and services.

Agencies, as defined by [§2.2-2006](#) of the *Code of Virginia* and legislative, judicial and independent agencies of the Commonwealth, may request VITA's assistance with IT procurements and all public bodies can utilize statewide contracts developed by VITA, if provided for in the solicitation or contract.

All IT procurements conducted by VITA are pursuant to the laws of the Commonwealth of Virginia and applicable policies or regulations.

All IT procured by every executive branch agency pursuant to any *Public-Private Education Facilities and Infrastructure Act* (PPEA) or *Public-Private Transportation Act* (PPTA) efforts are subject to VITA's procurement authority.

- IV. **Request for a statewide telecommunications contract "Waiver"**. At its sole discretion and upon receiving a written request from an agency, SCM may grant, in writing, a "Waiver" of the requesting agency's duty to acquire a particular telecommunications requirement or requirements from VITA or its contract(s). This "Waiver" may result in a Delegation of Procurement Authority for the particular designated goods or services only. VITA and the *Code of Virginia* requires the service to be acquired by a competitive solicitation or other approved procurement vehicle consistent with the *Virginia Public Procurement Act* (VPPA). Sole Source determination and justification shall be the responsibility of the acquiring agency.

Request for a "Waiver" must be in writing and submitted to: [scminfo@vita.virginia.gov](mailto:scminfo@vita.virginia.gov). The requesting agency must provide compelling documentation evidencing that i) the requested telecommunications goods or services are not available from VITA or a VITA statewide contract; ii) and/or that there is a technical reason why an existing VITA service or VITA contract(s) will not satisfy the agency's requirements, iii) and/or why VITA cannot contract for the requested service(s) on behalf of the agency.

- V. **Granting of a "Waiver"**. Waivers shall be granted in writing by VITA's Director of Supply Chain Management or designee, and will be in effect for a period of not more than 12 months. Waivers may be granted only when:
- A. The telecommunications goods or services are required to accomplish the agency mission, comparable goods and services are not available from an existing state contract(s), and VITA is unable to contract to supply the requested items; or
  - B. Existing State or Federal Law or Program regulations requires the necessary telecommunications services to be ordered by, and billed to, the using agency, and no VITA contract with provisions allowing such arrangement exists. Ordering and billing shall be treated as two separate functions in considering a request.
  - C. Cost shall not be a consideration in granting a waiver.

At the end of the 12 months, the agency must either apply for a new waiver or move the services to a VITA source.

VI. **Authority References.**

[§ 2.2-2006](#) of the *Code of Virginia*; Includes definitions for "information technology," "major information technology project," and telecommunications."

[§ 2.2-2007](#) of the *Code of Virginia*; Powers of the CIO.

[§ 2.2-2011](#) of the *Code of Virginia*; Additional powers and duties relating to development, management, and operation of information technology.

[§ 2.2-2012](#) of the *Code of Virginia*; Addresses procurement of information technology

[§ 2.2-2016.1](#) of the *Code of Virginia*; Addresses additional duties of the CIO relating to project management.

[§ 2.2-4300](#) of the *Code of Virginia*; *Virginia Public Procurement Act*

[§2.2-4304](#) of the *Code of Virginia*. Outlines the joint and cooperative procurement process.

[§ 56-575.16](#) of the *Code of Virginia*. Outlines the *Public-Private Education Facilities and Infrastructure Act* (PPEA)

*Appropriations Act*