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# HOUSE BILL NO. 61

Offered January 14, 2026

Prefiled December 30, 2025

*A BILL to amend and reenact §§ 2.2-1604, 2.2-1605, 2.2-1610, 2.2-4310, 2.2-4310.3, and 23.1-1017 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 16.1 of Title 2.2 an article numbered 4, consisting of sections numbered 2.2-1618 through 2.2-1622, relating to the Department of Small Business and Supplier Diversity; Small SWaM Business Procurement Enhancement Program established.*

Patrons—Ward, Torian, Carr, Cousins, Reaser, Thornton and Tran

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-1604, 2.2-1605, 2.2-1610, 2.2-4310, 2.2-4310.3, and 23.1-1017 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 16.1 of Title 2.2 an article numbered 4, consisting of sections numbered 2.2-1618 through 2.2-1622, as follows:**

**§ 2.2-1604. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Certification" means the process by which (i) a business is determined to be a small, women-owned, or minority-owned business or (ii) an employment services organization, for the purpose of reporting small, women-owned, and minority-owned business and employment services organization participation in state contracts and purchases pursuant to §§ 2.2-1608 and 2.2-1610.

*"Covered institution" means a public institution of higher education operating (i) subject to a management agreement set forth in Article 4 (§ 23.1-1004 et seq.) of Chapter 10 of Title 23.1, (ii) under a memorandum of understanding pursuant to § 23.1-1003, or (iii) under the pilot program authorized in the appropriation act. "Covered institution" does not include hospitals and medical centers established pursuant to Article 3 (§ 23.1-2212 et seq.) of Chapter 22 of Title 23.1 or Chapter 24 (§ 23.1-2400 et seq.) of Title 23.1.*

"Department" means the Department of Small Business and Supplier Diversity or any division of the Department to which the Director has delegated or assigned duties and responsibilities.

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

*"Executive branch agency" means the same as that term is defined in § 2.2-2006.*

"Historically black ~~colleges and~~ *college or* university" includes any college or university that was established prior to 1964; whose principal mission was, and is, the education of black Americans; and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education.

*"Microbusiness" means a business that has been certified by the Department as a small business and has (i) 25 or fewer employees and (ii) average annual gross receipts of $3 million or less over the previous three years.*

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka, and who is regarded as such by the community of which this person claims to be a part.

3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

"Minority-owned business" means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the

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corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals, or any historically black college or university, regardless of the percentage ownership by minority individuals or, in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership interest in the corporation, partnership, or limited liability company or other entity.

*"Prime contractor" means the contractor that has full legal responsibility for completion of a contract with a public body. A "prime contractor" may employ or manage one or more subcontractors to carry out specific parts of the contract.*

*"Service disabled veteran" means a veteran who (i) served on active duty in the United States military ground, naval, or air service; (ii) was discharged or released under conditions other than dishonorable; and (iii) has a service-connected disability rating fixed by the U.S. Department of Veterans Affairs.*

*"Service disabled veteran-owned business" means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, a business in which at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.*

"Small business" means a business that is at least 51 percent independently owned and controlled by one or more individuals, or in the case of a cooperative association organized pursuant to Chapter 3 (§ 13.1-301 et seq.) of Title 13.1 as a nonstock corporation, is at least 51 percent independently controlled by one or more members, who are U.S. citizens or legal resident aliens and, together with affiliates, has 250 or fewer employees or average annual gross receipts of $10 million or less averaged over the previous three years. One or more of the individual owners or members shall control both the management and daily business operations of the small business.

*"Small SWaM business" means a small business certified by the Department as being small, any subcategory of small, small women-owned, small minority-owned, or small service disabled veteran-owned.*

*"Small SWaM business set-aside" means the reserving of a procurement for businesses that are small SWaM businesses.*

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" does not include any county, city, or town.

"SWaM" means small, women-owned, or minority-owned or related to a small, women-owned, or minority-owned business.

"SWaM plan" means a written program, plan, or progress report submitted by a state agency to the Department pursuant to § 2.2-4310.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

**§ 2.2-1605. Powers and duties of Department.**

A. The Department shall have the following powers and duties:

1. Coordinate as consistent with prevailing law the plans, programs, and operations of the state government that affect or may contribute to the establishment, preservation, and strengthening of small, women-owned, and minority-owned businesses;

2. Promote the mobilization of activities and resources of state and local governments, businesses and trade associations, baccalaureate institutions of higher education, foundations, professional organizations, and volunteer and other groups towards the growth of small businesses and businesses owned by women and minorities, and facilitate the coordination of the efforts of these groups with those of state departments and agencies;

3. Establish a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the nation in undertaking or promoting procurement from small, women-owned, and minority-owned businesses;

4. Consistent with prevailing law and availability of funds, and according to the Director's discretion, provide technical and management assistance to small, women-owned, and minority-owned businesses and defray all or part of the costs of pilot or demonstration projects that are designed to overcome the special problems of small, women-owned, and minority-owned businesses;

5. Advise the Small Business Financing Authority on the management and administration of the Small, Women-owned, and Minority-owned Business Loan Fund created pursuant to § 2.2-2311.1;

*6. Implement the Small SWaM Business Procurement Enhancement Program established by Article 4 (§ 2.2-1618 et seq.);*

~~6.~~ *7.* Implement any remediation or enhancement measure for small, women-owned, or minority-owned

businesses as may be authorized by the Governor pursuant to subsection C of § 2.2-4310 and develop regulations, consistent with prevailing law, for program implementation. Such regulations shall be developed in consultation with the state agencies with procurement responsibility and promulgated by those agencies in accordance with applicable law;

~~7.~~ *8.* Receive and coordinate, with the appropriate state agency, the investigation of complaints that a business certified pursuant to this chapter has failed to comply with its subcontracting plan under subsection D of § 2.2-4310. If the Department determines that a business certified pursuant to this chapter has failed to comply with the subcontracting plan, the business shall provide a written explanation; ~~and~~

~~8.~~ *9.* Facilitate relationships between established businesses and start-up women-owned and minority-owned businesses by creating and administering a mentorship program under the provisions of § 2.2-1605.1*; and*

*10. Conduct regular disparity studies as provided in § 2.2-1610.*

B. In addition, the Department shall serve as the liaison between the Commonwealth's existing businesses and state government in order to promote the development of Virginia's economy. To that end, the Department shall:

1. Encourage the training or retraining of individuals for specific employment opportunities at new or expanding business facilities in the Commonwealth;

2. Develop and implement programs to assist small businesses in the Commonwealth in order to promote their growth and the creation and retention of jobs for Virginians;

3. Establish an industry program that is the principal point of communication between basic employers in the Commonwealth and the state government that will address issues of significance to business;

4. Make available to existing businesses, in conjunction and cooperation with localities, chambers of commerce, and other public and private groups, basic information and pertinent factors of interest and concern to such businesses;

5. Develop statistical reports on job creation and the general economic conditions in the Commonwealth; and

6. Annually review and provide feedback on SWaM plans. The review shall focus on strategies state agencies can use to improve SWaM spending, increase procurement of goods and services from SWaM businesses, and meet procurement goals outlined in SWaM plans. The Department shall encourage state agencies to integrate such strategies with all current and future procurements. The Department shall suggest strategies that may be more effective or changes to strategies that have not been effective. Upon request of a state agency, the Department shall meet with the state agency one-on-one to discuss its SWaM goals and strategies and advise it on effective strategies. The Department shall research and compile information that state agencies can use to increase SWaM spending and shall develop and publish guidance on how state agencies can implement these strategies.

C. All agencies of the Commonwealth shall assist the Department upon request and furnish such information and assistance as the Department may require in the discharge of its duties.

**§ 2.2-1610. Reports and recommendations; collection of data.**

The Director shall, from time to time, submit directly or through an assistant to the Governor his recommendations for legislation or other action as he deems desirable to promote the purposes of this chapter.

The Director shall report, on or before November 1 of each year, to the Governor and the General Assembly the identity of the state departments and agencies failing to submit annual progress reports on small, women-owned, and minority-owned business procurement required by § 2.2-4310 and the nature and extent of such lack of compliance. The annual report shall include recommendations on the ways to improve compliance with the provisions of § 2.2-4310 and such other related matters as the Director deems appropriate. The Department shall include in its annual report information on the progress of the mentorship program established under § 2.2-1605.1.

The Director, with the assistance of the Comptroller, shall develop and implement a systematic data collection process that will provide information for a report to the Governor and General Assembly on state expenditures to small, women-owned, and minority-owned businesses during the previous fiscal year.

An institution exercising authority granted under this section shall promptly make available to the Department, upon request, copies of its procurement records, receipts, and transactions in regard to procurement from small, women-owned, and minority-owned businesses in order for the Department to ensure institution compliance with its approved reporting and certification criteria.

*The Director shall conduct, or contract with an independent entity to conduct, a disparity study every five years. The study shall evaluate the need for enhancement and remedial measures to address the disparity between the availability and the utilization of women-owned and minority-owned businesses. The study shall recommend measures that consist of narrowly tailored procurement policies to address documented statistical disparities between the availability and utilization of women-owned and minority-owned businesses. The measures shall be consistent with rulings of the Supreme Court of the United States regarding the available remedies that may be employed to address past discrimination and the need for*

*evidence to quantify past discrimination. The study shall incorporate the findings of past disparity studies conducted by the Commonwealth and evaluate the Commonwealth's progress toward the recommendations of those studies. The Director shall include the findings of each study in his annual report to the Governor and General Assembly required by this section, beginning with the annual report required to be submitted by this section in the first year after the year in which a disparity study is conducted pursuant to this paragraph.*

*The Department shall, in accordance with the provisions of the previous paragraph, utilize the results of the disparity study and the recommendations therein to update a statewide goal for SWaM business procurement and similar individual goals for women-owned and minority-owned businesses for the purpose of closing any disparity demonstrated by such study.*

*Article 4.*

*Procurement Enhancement Programs.*

***§ 2.2-1618. Division of Procurement Enhancement created.***

*The Division of Procurement Enhancement (the Division) is hereby created within the Department. The purpose of the Division shall be to collaborate with the Department of General Services, the Virginia Information Technologies Agency, the Department of Transportation, and covered institutions to further the Commonwealth's efforts to meet the goals established in this article, as well as to implement initiatives to enhance the development of small businesses, microbusinesses, women-owned businesses, minority-owned businesses, and service disabled veteran-owned businesses in the Commonwealth.*

***§ 2.2-1619. Small SWaM Business Procurement Enhancement Program established; report.***

*A. The Small SWaM Business Procurement Enhancement Program (the Program) is hereby established to facilitate the participation of small SWaM businesses in state procurement. The goal of the Program shall be the achievement of a 42 percent small SWaM business utilization rate, including a five percent utilization rate directed to microbusiness utilization. For purposes of this section, "utilization rate" means the percentage of discretionary spending directed to a particular subset of business in relation to all discretionary spending by executive branch agencies and covered institutions in procurement orders, prime contracts, and subcontracts. The 42-percent target shall be determined based on the aggregate level of such discretionary spending by executive branch agencies and covered institutions and shall not require each individual executive branch agency or covered institution to meet the 42-percent target. The Department shall be responsible for implementing the Program. Executive branch state agencies and covered institutions shall increase their utilization rates of small SWaM businesses by three percent each year until achievement of the 42-percent target. If an executive branch agency or covered institution is unable to increase its small SWaM business utilization rate by three percent per year, such agency or institution shall establish and implement achievable goals to increase its small SWaM business utilization rate and include such goals in its SWaM business procurement plan required by § 2.2-1621. In addition, for all new capital outlay construction solicitations that are issued, there shall be a target goal of 50 percent subcontracting to small SWaM businesses in instances where the prime contractor is not a small SWaM business.*

*B. The Program shall include a small SWaM business set-aside for the purchase of goods, services, and construction by executive branch agencies and covered institutions. Purchases up to $100,000 shall be set aside for award to small SWaM businesses. Such set-aside may allow for small SWaM businesses to have a price preference over noncertified businesses competing for the same contract award on designated procurements, provided that the bid of the small SWaM business does not exceed the low bid by more than five percent. An executive branch agency or covered institution may open a solicitation to all bidders or offerors (i) where it is determined that fewer than two certified small SWaM businesses are available for competition using data from the Department of General Services' central electronic procurement website known as eVA or procurement systems utilized by covered institutions that are integrated with eVA or (ii) where bids or offers do not result in a fair and reasonable price. The Department shall develop guidance for determining whether a price is fair and reasonable.*

***§ 2.2-1620. SWaM business subcontracting plan required for certain proposals or bids.***

*A. For purchases over $100,000, executive branch agencies and covered institutions shall require each bidder or offeror to include in each bid or proposal a SWaM business subcontracting plan detailing intended subcontractor participation of such businesses whenever the prime contractor will rely on subcontractors to meet the applicable goals established in § 2.2-1619. Nothing in this section shall prohibit a bidder or offeror from submitting a SWaM business subcontracting plan when SWaM business participation deviates from the applicable goals established in § 2.2-1619. The Department shall develop guidelines for considering any such SWaM business subcontracting plan. Each bidder or offeror awarded a contract shall comply with the SWaM business subcontracting plan that is included in its bid or proposal.*

*B. Whenever the actual subcontractor participation does not meet the level included in the SWaM business subcontracting plan, the prime contractor shall provide a written explanation of the prime contractor's good faith efforts to comply with the SWaM business subcontracting plan, which shall be made a part of the contract file. The Department, with assistance from the Department of General Services, the Virginia Information Technologies Agency, the Department of Transportation, and covered institutions, shall (i) establish a uniform methodology for evaluating and monitoring SWaM business subcontracting plans, (ii)*

*establish and conduct panels to review the failure of prime contractors to comply with their SWaM business subcontracting plans, and (iii) implement processes for producing reliable data on (a) the utilization of SWaM business subcontractors by prime contractors and (b) the amounts paid by prime contractors to SWaM business subcontractors. Each executive branch agency and covered institution shall report such data on the Department of General Services' central electronic procurement website known as eVA unless otherwise directed by the Director of the Department and the Director of the Department of General Services. The record of a prime contractor's compliance with SWaM business subcontracting plan requirements, including reviews of the failure of such prime contractor to comply with its SWaM business subcontracting plan, shall be considered in the prospective award of a contract or renewal of an existing contract and may, if the prime contractor has been found to have not complied with its SWaM business subcontracting plan in good faith, result in the prime contractor being barred from being awarded a contract or renewal of an existing contract for a period of up to one year.*

*C. Notwithstanding the foregoing, the provisions of this section shall not apply to Department of Transportation projects for the design or construction of highways.*

*D. Notwithstanding the foregoing, any covered institution shall provide the data or plans required by this section using the Department of General Services' central electronic procurement website known as eVA or by integration or interface with the eVA system.*

***§ 2.2-1621. Submission of SWaM business procurement plan; designation of SWaM business procurement enhancement liaison.***

*A. Each executive branch agency and covered institution shall submit to the Department on or before September 30, 2026, its SWaM business procurement plan, consistent with the provisions of this article, to include promotion and utilization of certified small, any subcategory of small, small women-owned, small minority-owned, and small service disabled veteran-owned businesses, and employment services organizations. Each executive branch agency and covered institution shall certify to the Department by September 30 of each subsequent year that it has reviewed, and updated as necessary to meet the requirements of this article and any guidance developed by the Department, its SWaM business procurement plan. If the SWaM business procurement plan is updated, it shall be submitted to the Department along with the annual certification.*

*B. The Department shall review and provide meaningful feedback to executive branch agencies and covered institutions regarding the plan required by subsection A in order to improve and accelerate compliance with the goals provided by this article. Executive branch agencies and covered institutions may revise and resubmit such plan to incorporate such feedback.*

*C. Any executive branch agency or covered institution that is unable to increase its small SWaM business utilization rate by three percent per year, as required by § 2.2-1619, shall include in the plan required by subsection A (i) an explanation as to why it is unable to comply with such goals and requirements and (ii) achievable goals to increase its small SWaM business utilization rate.*

*D. Each executive branch agency and covered institution shall designate an existing employee as a SWaM business procurement enhancement liaison whose responsibilities shall be to promote participation in the Small SWaM Business Procurement Enhancement Program by small SWaM businesses and to serve as an advocate for small SWaM businesses that hold active contracts with such executive branch agency or covered institution.*

***§ 2.2-1622. Report.***

*On or before November 30 of each year, the Department shall report to the Governor and the General Assembly on the implementation and effectiveness of the Small SWaM Business Procurement Enhancement Program.*

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

A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, status as a service disabled veteran, status as a military family, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, each public body shall include businesses selected from a list made available by the Department of Small Business and Supplier Diversity, which list shall include all companies and organizations certified by the Department.

B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of small businesses, businesses owned by women, minorities, and service disabled veterans, military family-owned businesses, and employment services organizations in procurement transactions. The programs established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals established therein. *Public bodies may rely on the recommendations of disparity studies conducted pursuant to § 2.2-1610 in establishing programs under this subsection.* State agencies shall submit annual progress

reports on (i) small, women-owned, and minority-owned business procurement; (ii) service disabled veteran-owned business procurement; (iii) military family-owned business procurement; and (iv) employment services organization procurement to the Department of Small Business and Supplier Diversity in a form specified by the Department of Small Business and Supplier Diversity. All state agencies shall cooperate with the Department of Small Business and Supplier Diversity's annual review of their programs pursuant to § 2.2-1605 and shall update such programs to incorporate any feedback and suggestions for improvement. Contracts and subcontracts awarded to employment services organizations and service disabled veteran-owned or military family-owned businesses shall be credited toward the small business, women-owned business, and minority-owned business contracting and subcontracting goals of state agencies and contractors. The Department of Small Business and Supplier Diversity shall make information on service disabled veteran-owned or military family-owned procurement available to the Department of Veterans Services upon request.

C. Whenever there exists (i) a rational basis for small business or employment services organization enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law. *The Governor may rely on the recommendations of disparity studies conducted pursuant to § 2.2-1610 in implementing requirements pursuant to this subsection.* Any enhancement or remedial measure authorized by the Governor pursuant to this subsection for state public bodies may allow for small businesses certified by the Department of Small Business and Supplier Diversity or a subcategory of small businesses established as a part of the enhancement program to have a price preference over noncertified businesses competing for the same contract award on designated procurements, provided that the bid of the certified small business or the business in such subcategory of small businesses established as a part of an enhancement program does not exceed the low bid by more than five percent.

D. In awarding a contract for services to a small, women-owned, or minority-owned business that is certified in accordance with § 2.2-1606, or to a business identified by a public body as a service disabled veteran-owned or military family-owned business where the award is being made pursuant to an enhancement or remedial program as provided in subsection C*, or when awarding a contract under the Small SWaM Business Procurement Enhancement Program established in § 2.2-1619,* the public body shall include in every such contract of more than $10,000 the following:

"If the contractor intends to subcontract work as part of its performance under this contract, the contractor shall include in the proposal a plan to subcontract to small, women-owned, minority-owned, and service disabled veteran-owned and military family-owned businesses."

E. In the solicitation or awarding of contracts, no state agency, department, or institution shall discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state agency, department, or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

F. As used in this section:

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Military family" means (i) a member of the uniformed forces, as defined in 10 U.S.C. § 101(a)(5), of the United States or a reserve component thereof named under 10 U.S.C. § 10101, (ii) a veteran as defined in 38 U.S.C. § 101(2), or (iii) a dependent as defined in 50 U.S.C. § 3911(4) except that the support provided by the service member to the individual shall have been provided 180 days immediately preceding an alleged action that if proven true would constitute unlawful discrimination under this section instead of 180 days immediately preceding an application for relief under 50 U.S.C. Chapter 50.

"Military family-owned business" means a business that is at least 51 percent owned by one or more persons within the definition of "military family" or, in the case of a corporation, partnership, or limited liability company or other entity, in which at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are persons within the definition of "military family" and both the management and daily business operations are controlled by one or more individuals who are persons within the definition of "military family".

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which

this person claims to be a part.

3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

"Minority-owned business" means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals, or any historically black college or university as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or, in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership interest in the corporation, partnership, or limited liability company or other entity.

"Service disabled veteran" means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

"Service disabled ~~veteran~~ *veteran-owned* business" means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

"Small business" means a business, independently owned and controlled by one or more individuals, or in the case of a cooperative association organized pursuant to Chapter 3 (§ 13.1-301 et seq.) of Title 13.1 as a nonstock corporation, controlled by one or more members, who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or annual gross receipts of $10 million or less averaged over the previous three years. One or more of the individual owners or members shall control both the management and daily business operations of the small business.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" ~~shall~~ *does* not include any county, city, or town.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

**§ 2.2-4310.3. Fiscal data pertaining to certain enhancement or remedial measures.**

The Department of General Services shall make available a dashboard of purchase order reports from the Commonwealth's statewide electronic procurement system known as eVA. The dashboard shall include aggregated data showing (i) current fiscal year purchase orders, (ii) purchase orders from *the Small SWaM Business Procurement Enhancement Program established in § 2.2-1619 in* the previous fiscal year, and (iii) other relevant data derived from any enhancement or remedial measure implemented by the Governor pursuant to subsection C of § 2.2-4310.

**§ 23.1-1017. Covered institutions; operational authority; procurement.**

A. Subject to the express provisions of the management agreement, each covered institution may be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for §§ 2.2-4340, 2.2-4340.1, 2.2-4340.2, 2.2-4342, and 2.2-4376.2, which shall not be construed to require compliance with the prequalification application procedures of subsection B of § 2.2-4317, provided, however, that (i) any deviations from the Virginia Public Procurement Act in the management agreement shall be uniform across all covered institutions and (ii) the governing board of the covered institution shall adopt, and the covered institution shall comply with, policies for the procurement of goods and services, including professional services, that shall (a) be based upon competitive principles; (b) in each instance seek competition to the maximum practical degree; (c) implement a system of competitive negotiation for professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2; (d) prohibit discrimination in the solicitation and award of contracts on the basis of the bidder's or offeror's race, religion, color, sex, sexual orientation, gender identity, national origin, age, or disability or on any other basis prohibited by state or federal law; (e) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; (f) consider the impact on correctional enterprises under § 53.1-47; and (g) provide that whenever solicitations are made seeking competitive procurement of goods or services, it shall be a priority of the institution to provide for fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and

encourage a diversity of suppliers.

B. Such policies may (i) provide for consideration of the dollar amount of the intended procurement, the term of the anticipated contract, and the likely extent of competition; (ii) implement a prequalification procedure for contractors or products; and (iii) include provisions for cooperative arrangements with other covered institutions, other public or private educational institutions, or other public or private organizations or entities, including public-private partnerships, public bodies, charitable organizations, health care provider alliances or purchasing organizations or entities, state agencies or institutions of the Commonwealth or the other states, the District of Columbia, the territories, or the United States, and any combination of such organizations and entities.

C. Nothing in this section shall preclude a covered institution from requesting and utilizing the assistance of the Virginia Information Technologies Agency for information technology procurements and covered institutions are encouraged to utilize such assistance.

D. Each covered institution shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Commonwealth's procurement opportunities on one website.

E. As part of any procurement provisions of the management agreement, the governing board of a covered institution shall identify the public, educational, and operational interests served by any procurement rule that deviates from procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

*F. Notwithstanding any provision of law to the contrary, each covered institution shall be subject to the provisions of the Small SWaM Business Procurement Enhancement Program established in § 2.2-1619.*

**2. That, with the exception of § 2.2-1610 of the Code of Virginia, as amended by this act, the provisions of the first enactment of this act shall become effective on January 1, 2027.**

**3. That the provisions of this act shall not apply to covered institutions, as defined in § 2.2-1604 of the Code of Virginia, as amended by this act, until July 1, 2027.**

**4. That the first disparity study required pursuant to § 2.2-1610 of the Code of Virginia, as amended by this act, shall be due on or before January 1, 2027.**