



Virginia
Regulatory
Town Hall

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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Corrections
Virginia Administrative Code (VAC) citation	6 VAC15-80
Regulation title	Standards for Planning, Design, construction and Reimbursement of Local Correctional Facilities
Action title	Add new Section 6 VAC 15-80-211 and amend definitions to Value Management Analysis
Date this document prepared	August 17, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Board of Corrections recommends to amend its existing Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities to include a provision relative to the Value Management Assessment Study. The amendment will allow local and regional correctional facilities to receive cost reimbursement, to define limits for required Value Management Assessment Studies that serve to keep construction costs lower while promoting quality and efficient designs. The Value Management Assessment will analyze a project design including systems, products/materials used, quality, efficiency, functionality, long- term design, operational needs beyond 10 years and cost.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Board of Corrections will amend 6VAC15-80 under the Fast Track Rulemaking Process, COV §2.2-4012.1 to make provisions relative to a Value Management Assessment Study. Code of Virginia §53.1-

80 through 53.1-82.3 allows up to 25% reimbursement of capital construction costs for local jails and up to 50% reimbursement of capital costs for regional jails. The Board of Corrections is mandating a Value Management Assessment of each project in order to reduce the costs on the projects. The Value Management Assessment is a part of required capital construction costs.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The amendment will allow for local correctional facilities to receive Value Management Assessment cost reimbursement, which is currently not provided for in 6 VAC 15-80 et seq. (1994).

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

There is an increasing dissatisfaction on the part of local governments about being required to expend funds on local and regional jail construction projects that the Commonwealth, to date, has not participated in financially. Value Management Assessment benefits the Commonwealth as well as localities in cost saving on these projects. The Board of Corrections has already had two formal requests for reimbursement from attorneys representing localities. Until the amendment to this regulation is in effect, the state cannot release the funds (which have already been mandated) to reimburse the localities.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

Not to provide a Value Management Assessment for each project could result in increased costs to the Commonwealth for jail projects, as well as lesser quality facilities and less efficient design.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also

seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so [by mail, email or fax to Brooks Ballard, *Architectural & Engineering Services*, 6900 Atmore Drive, Richmond , VA 23225, Telephone: 804-674-3102, Fax: 804-674-3529 and Brooks.ballard@vadoc.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

In addition, the agency is seeking information on (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.}

No public hearing will be held

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board of Corrections will use the participatory approach to develop a proposal if it receives at least 25 written requests to use the participatory approach prior to the end of the public comment period. Persons requesting the agency use the participatory approach and interested in assisting in the development of a proposal should notify the department contact person by the end of the comment period and provide their name, address, phone number, email address and their organization (if any). Notification of the composition of the advisory committee will be sent to all applicants.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no family impact