



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Corrections
<b>Virginia Administrative Code (VAC) citation</b>	6 VAC 15 -80
<b>Regulation title</b>	Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities
<b>Action title</b>	Add new Section 6 VAC 15-80 211 and amend definitions to Value Management Analysis
<b>Date this document prepared</b>	January 11, 2008

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*.

### Brief summary

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, cost, and operational needs beyond 10 years.

### Legal basis

The Board of Corrections has the legal authority to amend 6 VAC 15-80 under Code of Virginia §§2.2-4007 through 2.2-4017, and Executive Order 36 (2006). Code of Virginia §§53.1-80 through 53.1-82.3 allows up to 25% 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 of the projects. The Value Management Assessment is a part of the required capital construction costs.

**Purpose**

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**

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. 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. Value Management Assessment will analyze a construction project's design including systems, products/materials used, quality, efficiency, functionality, long-term design, cost and operational needs beyond 10 years.

**Issues**

Value Management Assessment benefits the Commonwealth as well as localities in cost savings 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.

**Requirements more restrictive than federal**

There are no applicable federal requirements or requirements that exceed applicable federal requirements.

**Localities particularly affected**

Facilities immediately affected by the delay in approval of these regulatory amendments would be Chesterfield Jail, Loudoun Adult Detention Center, Northwest Adult Detention Center in Winchester, Rappahannock Regional Jail, Riverside Regional Jail, Blue ridge Regional Jail, Rockbridge Regional Jail, Culpeper Jail, Botetourt-Craig Regional Jail and the upcoming 5 jails that have submitted planning studies for review this year. To date, both Rappahannock and riverside jails have had their attorney approach the Board of Corrections with formal requests for reimbursement.

**Public participation**

The Department of Corrections is seeking comments on the proposed 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 and other alternatives and 3) potential impacts of the regulation. The Department of Corrections is also seeking information on impacts on small businesses as defined in Code of Virginia §2.2-4007. 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](mailto: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. Interested parties may also submit comments to the Virginia Regulatory Town Hall comment forum at <http://www.townhall.virginia.gov/L/Forums.cfm>.

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

**Economic impact**

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b></p>	<p>§ <a href="#">53.1-80</a> mandates State “reimbursement of localities for construction and authorizes the Board to promulgate regulations, to include criteria used to assess need and establish priorities, to serve as guidelines in evaluating requests for such reimbursement and to ensure the fair and equitable distribution of state funds provided for such purpose”. The funding source is Virginia Department of Treasury, Virginia Public Building Authority. Reimbursements will be minimal and range from \$2,000 to \$25,000 per project for multi-million dollar projects. The expenditures will be on-going.</p>
<p><b>Projected cost of the regulation on localities</b></p>	<p>Cost beneficial to localities</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b></p>	<p>Local and regional jails within the Commonwealth</p>
<p><b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Facilities immediately affected by these regulatory amendments would be Chesterfield Jail, Loudoun Adult Detention Center, Northwest Adult Detention Center in Winchester, Rappahannock Regional Jail, Riverside Regional Jail, Blue ridge Regional Jail, Rockbridge Regional Jail, Culpeper Jail, Botetourt-Craig Regional Jail and the upcoming 5 jails that have submitted planning studies for review this year. To date, both Rappahannock and Riverside jails have had their attorney approach the board of corrections with formal requests for reimbursement. Every local entity in the Commonwealth could potentially be affected. No small businesses are affected.</p>
<p><b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other</b></p>	<p>None</p>

administrative costs required for compliance by small businesses.	
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**Alternatives**

To not 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.

**Regulatory flexibility analysis**

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

**Public comment**

No public comment received

**Family impact**

There is no family impact.

**Detail of changes**

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
6VAC15-80-10	same	Definitions	<p>Change Definition of "Reviewing Authority" to the representative(s) of the Department of Corrections and/or the Department of Criminal Justice Services responsible for reviewing required documents, attending required meetings, interpreting and determining compliance with 6 VAC 15-80.</p> <p>Add Definition: "Standards" means the "Board of Corrections' Minimum Standards for Planning, Design Construction and Reimbursement of Local Correctional Facilities".</p> <p>Add Definition " Value Management Analysis (VMA)" means an analysis of facility design and construction for the purpose of satisfying required function, cost efficiency, while providing the</p>

			<p>greatest quality and efficiency for the project.</p> <p>Add Definition “Value Management Team’ means a team of people, independent from the owner and/or the owner’s A/E, headed by a Certified Value Specialist (CVS) or Certified Value Engineer (CVE) with a combination of the following disciplines based on phase and nature of the project: architecture, engineering (civil/site/mechanical/electrical) security and cost estimating.</p>
None	6VAC15-80-211		<p>Add new section entitled Value Management Analysis.</p> <p>A. All jail projects for which reimbursement is being requested for new construction, expansion or renovation shall have a Value Management Analysis (VMA) performed during design. For renovation projects, a waiver may be requested from the Board.</p> <p>B. VMA shall be performed a the conclusion of the Design Development (35-40% complete) phases of the project. For large projects (in excess of 250 beds), it is recommended that a second phase of VMA be performed at the construction documents phase (90-95% complete).</p> <p>C. The VMA shall involve a three to four day exercise at the Design Development phase, or four to five days each at the design development and construction document phases. The first day, or portion thereof, of each Analysis consists of a presentation overview by the owner and the A/E design team to the Value Management Team. The final day or portion thereof, consists of a presentation of findings and recommendations by the Value Management Team to the owner and A/E design team and attended by the Reviewing Authority.</p> <p>D. The VMA process shall analyze at a minimum the following aspects of the project's design: systems, products/materials, quality, efficiency, functionality, long-term design and operational needs (beyond 10 years) and cost.</p> <p>E. The Owner shall engage the services of a qualified Value Management Team, as defined in the definitions and headed by a Certified Value Specialist (or Engineer) pursuant to the definitions. The VMA team shall be independent of the A/E design team. Cost estimators are also recommended as beneficial to the Analysis, particularly for</p>

			<p>projects performing VMA at the Construction Documents phase.</p> <p>F. The Owner shall advise the Reviewing Authority in writing, at least 15 working days in advance of the meeting dates for the VMA. A representative of the Reviewing Authority shall meet with the Value Management Team at the formal presentation of results to the owner and A/E design team.</p> <p>G. Upon completion of the VMA process, a summary report detailing VMA recommendations and the Owner's decision on implementation of the recommendations shall be provided in writing to the Reviewing Authority.</p>
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