

October 31, 2014

MEMORANDUM

TO: Purchasing Offices
 Departments, Institutions, Agencies
 Commonwealth of Virginia

FROM: Robert E. Gleason 
 Director

SUBJECT: Procurement Information Memoranda (PIM) #98-032

Enclosed is PIM #98-032, effective November 3, 2014 representing changes to the September 1998 edition of the *Agency Procurement and Surplus Property Manual (APSPM)*. The Summary of Changes below is in the order of the changes to the *APSPM*. All changes to the *APSPM* are incorporated into a web-based *APSPM*, which is downloadable from the eVA website at <http://www.eva.virginia.gov>. The full *APSPM* version containing changes as a result of this PIM will be posted to the website. The location of text changes is indicated by an arrow in the margin (→) with the corresponding PIM #98-032 number identified next to the changes. All arrows indicating previous changes are removed. Appendix C contains a log recording the PIM number and date of revision. This memorandum and the corresponding PIM #98-032 should be filed in the back of the Appendix C log.

APSPM Cite	Summary of Changes
1.2	Agency Purchasing Authority – added language requiring Virginia Contracting Officer Certification.
1.5 b. (5)	Clarifies exemption to competition for training. Deletes statement to contact DHRM for additional information on existing contracts.
Annex 1-A	Update the Director of DPS
Annex 1-B	Added language on compliance and maintaining unlimited delegation and updated language to clarify the organization standards for unlimited delegated procurement authority and provides example. Update the Director of DPS
2.1 h.	Clarifies guidance and updates links on Institutions of Higher Education’s exemption.
3.1 c.	Requires a minimum of 10 days notice to vendors when issuing an amendment to a solicitation.
3.1 e.	Clarifies guidance for receipt of bids and proposals.
3.5 b.	Clarifies language and adds back example for calculating the 25% or \$50,000 contract/purchase order modification restriction on fixed price contracts that was previously removed in error.
3.7 a.	Requires DPS approval prior to sponsoring cooperative contracts or charging administrative fees.
3.10	Updated to implement Executive Order20 (EO20), provides guidance on the Small Business Enhancement Award Priority. Removes the ability to set-aside procurements greater than \$100,000 and ability to award to other than the lowest bidder or other than the highest ranking offeror.
3.15	Updates reference on Reverse Auctioning
3.29 (b)	Updates guidance on Reverse Auctioning
Annex 3-B	Revises Summary of Procurement thresholds and associated small business enhancements.
4.10 c.	Deletes guidance on determinations utilizing the “award to other”
4.16 c.	Separates guidance for conferences \$30,000 - \$100,000 and conferences above \$100,000. Revises chapter references.
4.23	Updated to implement Executive Order20 (EO20), requires procurements under \$50,000 to be set-aside.
Chapter 5 and ANNEXES	Updated to implement Executive Order20 (EO20), provides guidance on the Small Business Enhancement Award Priority.
Chapter 6 and ANNEXES	Updated to implement Executive Order20 (EO20), provides when competitive sealed bidding is used for a purchase expected to be \$100,000 or less, they shall be set-aside per 3.10(g) and the solicitation shall include a tiered award clause as specified in Special Term and Condition 2.L. Removes the option to set-aside if greater than \$100,000. Removes the ability set-aside or award to other than the lowest bidder. Updates the Small Business Subcontracting Plan.

Chapter 7 and ANNEXES	Updated to implement Executive Order 20 (EO20), provides when competitive Negotiation is used for a purchase expected to be \$100,000 or less, they shall be set-aside per 3.10(g) and the solicitation shall include a tiered award clause as specified in Special Term and Condition 2.L. Removes the option to set-aside if greater than \$100,000. Removes the ability set-aside or award to other than the lowest bidder. Updates the Small Business Subcontracting Plan.
Annex 7-B, Step IV, A. 2	Adds statement, "if, after being given reasonable time, the offeror refuses to withdraw an entire classification designation, the proposal will be rejected."
ANNEX 8-C	Provides guidance to submit online in eVA
10.16	Updates guidance on the Procurement complaint form
11.2	Updated the title to Judicial and Administrative appeals and provides clarification on when actions can be taken.
ANNEX 13-C	Provides update DPS Directory
ANNEX 13-D	Provides guidance to submit online in eVA
14.1	Deleted.
14.2	Deleted.
14.5 e. & 14.5 e. 1	Updates guidance since Quick Quote allows for amendments and updates guidance on how Quick Quote responses may be received.
14.9 a.	Renames section to Mandatory Use of eVA. Corrects name of eVA Billing portal.
14.9 b.	Renames section to Optional Use of eVA. Provides guidance on processing non-payment and eVA excluded transactions through eVA using the X02 purchase order category.
14.9 b. (3)	Defines Professional Organization.
APPENDIX A	Updates definitions of Small, Women and Minority owned businesses and SWaM. Add definitions for Point of Requisition and Micro Business
Abbreviations & Acronyms	Replaces DMBE – Department of Minority Business Enterprise with DSBSD – Department of Small Business and Supplier Diversity. All references to DMBE in APSPM are replaced with DSBSD.
Appendix B, Section I,	Updates General Term and Condition F. DEBARRMENT STATUS to include all procurements, T. INSURANCE Updates liability insurance per occurrence and aggregate limits for health care providers. Removes example of yearly increase and references Code section for guidance, X eVA REGISTRATION, and Z SET_ASIDES IN ACCORDANCE WITH THE SMALL BUSINESS ENHANCEMENT AWARD PRIORITY.
Appendix B, Section II	2. AWARDS: Deletes award terms J and K and adds Award terms L and M and updates. Updates 36. SMALL BUSINESS SUBCONTRACTING

To print a copy of the manual, save it to your hard drive or network and print from there. Printing directly from the website may result in lost formatting. If you should have questions about the changes, please contact Suzanne Swinson at 804-225-3354 or suzanne.swinson@dgs.virginia.gov.

1.2 **Agency Purchasing Authority.** Agency heads have the ultimate responsibility to ensure that the acquisition of goods and services does not violate or circumvent state law, executive orders, appropriations, regulations, or the provisions of this manual. Agencies shall develop local written procedures implementing the provisions of this manual. They may contain more restrictive requirements, but they must conform with the provisions of this manual and shall be available for public inspection and to DGS/DPS upon request. In addition, they must identify the chief purchasing official, e.g., the individual responsible for the day to day management of the purchasing function and those having delegated authority to bind the agency in making contractual commitments.

- a. **Goods.** The general delegation threshold for the purchase of goods including printing is \$50,000. Requirements over the agency's delegated authority shall be forwarded to DGS/DPS for processing. Purchases from state contracts are unlimited except for limitations on specific contracts.

An agency or institution may seek an increase in delegated procurement authority from DPS for goods and printing when the Chief Procurement Officer is a certified Virginia Contracting Officer and the agency or institution is utilizing DGS' central electronic procurement system beginning at the point of requisitioning for all procurement actions including, but not limited to, technology, transportation & construction, unless otherwise authorized in writing by the Division (*Code of Virginia*, § 2.2-1110) as follows:

- The agency or institution may request its delegated procurement authority be increased to \$100,000 utilizing the AGENCY/INSTITUTION REQUEST FOR \$100,000 DELEGATED PROCUREMENT AUTHORITY FOR GOODS AND PRINTING form, Annex 1-A.
- The agency or institution may request unlimited authority for the procurement of goods but must meet standards established by DGS/DPS. Unlimited authority must be requested by submitting the AGENCY/INSTITUTION REQUEST FOR UNLIMITED DELEGATED PROCUREMENT AUTHORITY FOR GOODS AND PRINTING form, Annex 1-B. All requests must be signed by the Agency Head and will be reviewed for conformance with published standards.

All agency level purchase transactions should be initiated through the use of a requisition. DGS/DPS will not accept requisitions estimated to be \$5,000 or less. Between \$5,000 and the agency's delegated procurement authority, the agency has the option of forwarding requisitions to DGS/DPS for processing or handling them locally. For information concerning increased delegated procurement authority, call 804-786-1600.

- b. **Services.** Agencies are authorized to contract for services up to any dollar amount subject to applicable laws, regulations, this manual and fiscal restraints; however, agencies may submit requisitions to DGS/DPS for processing. (Effective July 1, 2015 – For agencies and institutions that do not have a certified Virginia Contracting Officer on staff at the time of agency activity for a service procurement, their delegation for service procurements is reduced to \$100,000).
- c. **Purchase of Goods for Resale in State Operated Bookstores, Commissaries, Canteens, Gift Shops, and Similar Retail Outlets.** Agencies are delegated unlimited authority for direct procurement of items for retail sale such as books, magazines, novelties, paper, pens, pencils, pre-packaged edibles, school supplies, souvenirs, tobacco products, toiletries, and wearing apparel (see 4.15).
- d. **Validity of Requirements.** It is the responsibility of the individual state agency to verify that items or services requisitioned or purchased are authorized and are applicable to that agency's mission and needs and have been properly funded. This includes any approvals required by law, regulation or policy.
- e. **Authority to Sign Procurement Documents.**
- (1) **Designations.** Agencies shall designate in writing those persons authorized to approve procurement documents. Dollar thresholds should be established, as applicable, for each signature authority. A copy of the written authorization shall be on file in the agency's purchasing office. Agency personnel having "official responsibility" as defined in *Code of Virginia*, § 2.2-4368, for procurement must comply with the *Virginia Public Procurement Act* and the policies and procedures set forth in the most recent editions of the *Vendors Manual* and this manual. Intentional violations could subject the responsible party or parties to suspension or removal from office under the provisions of *Code of Virginia*, § 2.2-1115.
 - (2) **Designated signature authority is required for the following documents:** purchase requisitions submitted to DGS/DPS, agency purchase orders, contracts, *VBO* waiver, multi-colored printing, waiver of a prebid or preproposal conference, contract modification, and written determinations to support the use of emergency and competitive negotiation procedures. The agency head may delegate approval authority

in writing, for sole source procurements under \$50,000 to the chief purchasing officer or a direct report to the agency head. Over \$50,000 the agency head may delegate approval authority in writing, to a direct report to the agency head.

- f. **Delegated Procurement Authority and eVA.** By statute, most direct purchases of goods and nonprofessional services by State agencies (other than technology purchases) require a delegation of purchasing authority from DPS (*Code of Virginia*, §§ 2.2-1110 and 2.2-1120).

DPS has granted agencies the authority in certain circumstances to purchase non-technology goods and services directly, rather than through DPS. These grants of authority to make direct purchases include those set forth in general rules, such as Sections 1.2 and 1.4 of this Manual, as well as special orders issued by DPS to particular agencies.

On and after July 1, 2009, all of DPS's previous and future grants of direct purchasing authority shall be construed to allow direct purchasing only if the purchase is made through DPS's statewide electronic procurement system (eVA), beginning at the point of requisitioning, unless DPS gives or has given express written authorization for the purchase to be made through a non-eVA process or technology application.

Any agency desiring a grant of authority from DPS to make a non-technology purchase through any process or technology application other than eVA must request a specific, written exemption from DPS. Unauthorized direct purchases by officers or employees of using agencies shall be governed by *Code of Virginia*, § 2.2-1115(D) and (E), including but not limited to, the directive that the "Comptroller shall not issue any warrant upon any voucher issued by any using agency covering the purchase of any material, equipment or supplies, when such purchases are made in violation of this article."

In addition, the delegated procurement authority of any agency whose officers or employees violate this provision will be reduced and/or DPS review and pre-approval of agency procurement awards may be required until DPS confidence is restored in the integrity of the agency's procurement operations.

Intentional violations of the above provision are required to be reported to the Department of General Services and Auditor of Public Accounts by the Agency Head.

- 1.5 **Exceptions to Competitive Requirements.** DGS/DPS has determined that competition normally is either not practicable or available for purchases of the following goods or services, and purchase through DGS/DPS is not mandatory; however, one quote must be obtained and documented.

- a. Purchases up to \$5,000.
- b. The following selected categories of goods and services up to and including \$30,000:
 - (1) Books, pre-printed materials, reprints and subscriptions (e.g., print or electronic), pre-recorded audio and video cassettes, compact discs, slide presentations, etc., when only available from the publisher/producer.
 - (2) Academic/research consulting services.
 - (3) Purchases of used equipment including used equipment purchased at a public or online auction (see 4.17).
 - (4) Honoraria, entertainment (speakers, lecturers, musicians, performing artists).
 - (5) Training that is specialized, proprietary, or not typically available to the general public for which competition is generally unavailable.
 - (6) Royalties and film rentals when only available from the producer or protected distributors.
 - (7) Professional Organizational Membership dues.
 - (8) Writers.
 - (9) Artists (does not include graphic artists); original works of art; and original, or authentic antique period art frames (does not include newly created replacement or reproduction frames).

- (10) Photographers other than for graduations and yearbooks, e.g., for official photographs/portraits.
- (11) Contributions and donations made by a university.
- (12) Advertisements such as in newspapers, magazines, journals, radio, television, etc.
- (13) Utility charges.
- (14) Conference facilities (to include conference support and related lodging and meals) only when the use of a specific facility is directed by an outside donor, sponsor, or organization (see 4.16 for the purchase of conference facilities under all other conditions).
- (15) Accreditation fees and academic testing services.
- (16) Exhibition Rental Fees for exhibitions of historical artifacts or original works of art. (The rental fee may include charges other than the rental of the exhibition, such as transportation costs.)
- (17) Rare and historic manuscript, printed and photographic materials (e.g. books, ephemera, maps, manuscripts, photographs, and prints) that are one of a kind or exist in very limited supply.
- (18) Purchases for testing or evaluation (limited to purchases of quantities considered necessary for complete and adequate testing).

Annex 1-B

AGENCY STANDARDS FOR UNLIMITED DELEGATED PROCUREMENT AUTHORITY

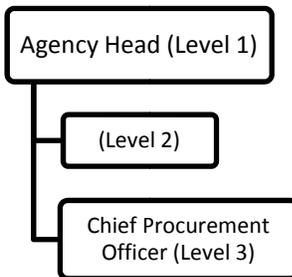
The Division of Purchases and Supply (DPS) is responsible for ensuring that state procurement activities in the Commonwealth meet the requirements of the *Virginia Public Procurement Act (VPPA)*. As a part of this responsibility, DPS has established the following standards to help agencies and institutions receive and maintain increased delegated procurement authority. The intent of these standards is to assure that delegated processes comply with the *VPPA*, using procedures that are consistent with the *Agency Procurement and Surplus Property Manual (APSPM)*. Agency written requests for increased delegated authority must be received from the agency or institution head. DPS will use these standards to consider all requests.

ORGANIZATION STANDARDS

COMPLIANCE. An organization must maintain an acceptable standard of compliance evidenced by a satisfactory Procurement Management Review. To gain unlimited delegated authority, a satisfactory review must have been completed within the previous 12-month period. Inability to correct areas noted as deficient will be reason to consider whether continued delegated procurement authority is warranted. If any agency or institution is unable to meet or to maintain the standards herein, then DPS may review and determine whether remedial actions are needed to maintain delegated authority, or whether a reduction or rescission of an agency or institution's delegated procurement authority is necessary or appropriate.

DELEGATION WITHIN AN AGENCY. Agency and institution heads have the ultimate responsibility to ensure that the acquisition of goods or services does not violate or circumvent state law, executive orders, appropriations, regulations or the provisions of the *APSPM*. The Chief Procurement Officer is responsible for purchasing activities. Subsequent delegation within an agency must be consistent with the agency's ability to manage and monitor procurement activity according to these standards, and the procedures outlined in the *APSPM*. If an agency delegates procurement authority to an end-user for amounts over the level for oral quotations, then DPS approval is required. An agency must designate in writing, with dollar thresholds, individuals authorized to approve procurement documentation. An agency's authority to procure goods and services shall not be contracted to a private entity to act on the agency's behalf for the procurement of goods and services under any circumstances.

MANAGEMENT. The Chief Procurement Officer shall report from no lower than level 3 in the agency hierarchy and have full responsibility and commensurate authority for the agency's procurement-related policy and procedure development, implementation and administration. The grade, classification and title of the Chief Procurement Officer must be commensurate with the experience necessary to meet the responsibilities of the level of increased delegation.



ORGANIZATIONAL LOCATION. An agency's procurement activity should be separate from the accounting activity. If an agency cannot meet this standard, then the individual charged with responsibility and authority for organizational procurement must be classified in the purchasing classification skill series.

PURCHASING PROGRAM STANDARDS

AUTOMATION. The intent of these standards is to assure that agencies and institutions are utilizing the Commonwealth's enterprise electronic procurement system, eVA, beginning at the point of requisitioning for all procurements actions including, but not limited to, technology, transportation, and construction (*Code of Virginia*, § 2.2-1110).

CONTRACT OPPORTUNITIES. An agency must analyze expenditures and procurements annually to assess contract opportunities.

PURCHASING POLICIES AND PROCEDURES. An agency must have adequate, up-to-date purchasing procedures, approved by the agency head, with applicable surplus, storage and distribution procedures. A policy statement by the agency head must be included to introduce any unique mission-oriented requirements, establish overall guidance and indicate the position responsible for procurement.

VIRGINIA BUSINESS OPPORTUNITIES (VBO) ADVERTISING. State public bodies shall post on the DGS central electronic procurement website, otherwise known as eVA, all Invitations to Bid, Requests for Proposal, addenda, and all award notices including sole source and emergency (*Code of Virginia*, §§ 2.2-1110 and 2.2-4301). Small purchases that are expected to exceed \$5,000 shall also require the posting of a public notice on eVA (*Code of Virginia*, §§ 2.2-1110 and 2.2-4303).

STAFFING STANDARDS

PROCUREMENT RESPONSIBILITY AND AUTHORITY. The individual designated by the agency head as Chief Procurement Officer must have authority that is commensurate with the responsibility for managing the procurement of goods and services.

PROCUREMENT STAFF. An agency must have sufficient, trained and classified purchasing staff to support the number, frequency and complexity of the agency's procurement requirements, including capital outlay and risk management.

STAFF SUPERVISION. The position designated with responsibility for procurement must also have responsibility for managing and supervising the purchasing staff. A staff reduction exceeding 25% will be reason to consider a modification to an agency's delegated procurement authority.

PROFESSIONAL STANDARDS

ETHICS. An agency must comply with Ethics in Public Contracting (VPPA § 2.2-4367 to 2.2-4377), the *State and Local Government Conflict of Interests Act*, and the *Virginia Government Frauds Act*. Additionally, annual refresher training classes must be provided to all who have authority to bind the agency or institution with non-government entities.

TRAINING STANDARDS

END-USER TRAINING. An agency must conduct annual training for end-users and contract administrators that is commensurate with agency efforts to subsequently delegate procurement authority within the agency.

PROFESSIONAL TRAINING. An agency's purchasing staff must maintain a standard of active participation and attendance at training conducted at DGS/DPS and/or other professional purchasing associations.

PROFESSIONAL ASSOCIATIONS. An agency must maintain a professional affiliation through membership in at least one professional purchasing association, e.g., CAPA, VAGP, NIGP, ISM, NASPO, etc.

TRAINING RECORDS. An agency must maintain records to show training that is received and provided, and a plan for future training of professional purchasing staff.

VIRGINIA CONTRACTING OFFICER (VCO) CERTIFICATION. An agency's Chief Procurement Officer and lead buyer must be VCO certified. Other procurement staff should achieve VCO certification within two years of increased delegated authority or within two years of hiring.

To request unlimited delegated procurement authority, an agency/institution head must submit a request in accordance with the following format and include the required documentation to outline the implementation methodology. Submit the request and required documentation to: Director, DPS, P. O. Box 1199, Richmond, VA 23218-1199. The agency should refer to these standards when applying for unlimited delegated authority. An on-site review may be scheduled.

Robert E. Gleason, Director
Department of General Services/Division of Purchases and Supply

2.1 Mandatory Sources.

- h. **DGS/Office of Fleet Management.** For the purchase or lease of motor vehicles, agencies must submit OFMS Form OFMS - 1 "Application for Assignment/Purchase/Lease of State Vehicle" (Replaces CP-3 and CP-15) to the DGS Office of Fleet Management for approval to initiate the purchase process for all vehicles (*Code of Virginia*, § 2.2-1176). OFMS approval of a form OFMS - 1 to purchase a vehicle does not constitute a waiver of purchasing procedures set forth in this manual or the Code of Virginia. Agencies must obtain approval from OFMS to rent a car for a period greater than 30 days.

Institutions of Higher Education are not required to obtain the above approval from the Office of Fleet Management Services prior to purchasing or leasing a vehicle see 2014 *Acts of Assembly Chapter 2, 4-5.04*) but this exemption does not waive any other purchasing rules otherwise applicable to the purchase or lease.

Additional information on OFMS can be obtained at the website.

<http://www.dgs.virginia.gov/OfficeofFleetManagementServices/tabid/173/Default.aspx>

3.1 Bid Invitations, Requests for Proposals and Responses.

- c. **Amending a Solicitation.** If it is necessary to amend a solicitation, prepare, post, and send an addendum to all potential bidders or offerors who received a copy of the solicitation or who attended a prebid or preproposal conference. Signed acknowledgment of addenda must be returned to the purchasing office prior to the date and time of the opening or with the bid or proposal. Failure to return the addendum may be grounds for declaring the bid nonresponsive [see *Vendors Manual*, 5.13c(1)(c)]. When an addendum for a sealed solicitation is issued, there must be a minimum of 10 days from the date of the addendum to the due date set for the receipt of bids/proposals. If there are not 10 days from the date of the addendum to the due date set for receipt of bids/proposals, then the due date shall be extended to meet the minimum 10 days' notice. (see Annex 6-F for example addendum).
- e. **Receipt of Bids or Proposals.** Bids or proposals should be received at one central location. A clock, publicly displayed, or an electronic date/time stamp machine should be used to establish receipt times. When bids or proposals are received, the bids or proposals shall be date stamped and the time noted or stamped on the envelope showing the time of receipt. The bid or proposal receipt time deadline must strictly comply with the date and time stated in the solicitation. The purchasing officer shall be responsible for deciding when the receipt deadline has arrived and should announce wording to the effect that, "Bids/Proposals for solicitation number ___ are now closed. No further bids/proposals will be treated as timely." . It is the responsibility of the bidder or offeror to have the bid or proposal at the specified location by the appointed time. Bid or proposal receipt deadlines and public openings scheduled during a period of suspended state business operations will be deemed rescheduled for processing at the same time on the next regular business day. Nothing in this paragraph limits the agency's ability to entertain, during competitive negotiation, new or different content to a timely-submitted proposal.

Sealed Bids. Sealed bids must be held unopened in a secure area until the date and time established for opening in the solicitation. They shall then be publicly opened, and only the following information is read aloud:

- bidders' names;
- unit prices or lot prices, as may be applicable;
- discount terms offered, if discount terms are to be considered in making the award (see 4.7); and
- brand names and model numbers, if requested by the attendees.

Questions on other bid contents should not be answered until after evaluation is complete and an award decision has been made.

Sealed Proposals. Public openings are not required by law for proposals submitted under competitive negotiation, but doing so avoids the appearance of impropriety. If a public opening of proposals is conducted, only the names of the firms submitting proposals shall be disclosed. Questions on the proposals of other offerors should not be answered until after evaluation and negotiations are complete and an award decision has been made.

Late Bids or Proposals. Bids or proposals received after the date and time specified for receipt in the solicitation, shall not be considered. For late **sealed** bids or proposals the envelope shall be date and time stamped, marked “late” and retained unopened in the procurement file. Late **unsealed** bids or proposals, those solicited for requirements under \$100,000, shall be marked “late” and placed in the procurement file.

3.5 **Contract/Purchase Order Modification Restrictions.** A contract or purchase order may not be modified or renewed unless provided for in the original contract or solicitation. No additional consideration or increase in contract price may be paid to the contractor because of renewal unless specifically authorized under the original contract. The issuance of a change order or contract modification is required when the purchasing office has issued an agency purchase order or contract or eVA order and the approved change exceeds \$500. This limitation applies to cumulative change orders in a contract or purchase order. The DPS Purchase Order Change (Annex 10-E), Agency Purchase Order Change (Annex 10-F), and Contract Modification Agreement (Annex 10-G); are the recommended forms to be used for all modifications to contracts and purchase orders awarded outside of eVA. Use the eVA Change Order functionality to make changes to orders issued in eVA (see 14.6).

- a. **Cumulative Modifications up to \$50,000** - Cumulative contract modifications up to \$50,000 shall not exceed 25% of the original contract price without advance written approval of the agency head or his/her designee (see also *Vendors Manual*, 7.17 for exception).
- b. **Cumulative Modifications Over \$50,000** - A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than 25% of the original amount of the contract or \$50,000, whichever is greater, without the advance written approval of the Governor or his designee (*Code of Virginia*, § 2.2-4309A). By executive order this is the Director of the Department of General Services. Requests to exceed the 25% increase shall be submitted to the Deputy Director of DPS at 804-225-3707. This limitation applies to the aggregate change orders in a contract. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of a bidder or offeror from the consequences of an error in its bid or offer (see 10.12).

For example:

Original contract = \$300,000

Cumulative modification limit = \$75,000 (25% of \$300,000 or \$50,000 whichever is greater).

If the contract was modified by \$40,000 during the original term, additional cumulative modifications cannot exceed \$35,000 over the life of the contract, including all renewals, without the approval of the Director of the Department of General Services or his designee.

3.7 **Cooperative Procurement.** The *Code of Virginia*, § 2.2-4304 authorizes public bodies to participate in, sponsor, conduct, or administer cooperative procurements to satisfy requirements for goods and non-professional services. Any authority, department, division, institution, officer, agency, and other unit of state government, hereinafter called the agency, must comply with the following requirements, and all such purchases shall be made through eVA. In addition, cooperative contracts or arrangements under which any fees, incentives or financial terms, direct or indirect, may be rebated, paid, or credited to Commonwealth using agencies require the approval of DGS/DPS before any order or commitment can be made by the using agency.

- a. **Sponsoring a Cooperative Procurement:** No state agency or institution may sponsor, conduct or administer a cooperative procurement without advance approval from the Director of the Division of Purchases and Supply. If a state agency or institution seeks to assess any administrative fees that are to be paid directly or indirectly by using agencies for their participation in the cooperative agreement, the lead agency shall submit documentation sufficient to show that fees do not exceed each using agency’s fair share of the total administrative costs. An agency or institution initiating a procurement and desiring to allow its use by other public bodies must include the ADDITIONAL USERS clause found at Appendix B, Section II, and shall serve as the lead agency (contracts manager) and shall administer the program in accordance with Chapter 10 of this manual. Vendor complaints and disputes will be managed by the ordering entity, but the lead agency should be provided copies of any such complaints or disputes. The Procurement Exemption Request form located in Annex 13-D must be used to request approval to sponsor cooperative contracts.

3.10 **Small, Women-Owned & Minority Businesses**

- a. **Agency Plans.** Each executive branch agency and institution of the Commonwealth shall prepare and adopt an annual SWaM (Small, Women and Minority-owned businesses) plan that will specify that agency’s or

institution's race-neutral and gender-neutral small business goals for procurement in accordance with Executive Order 20, dated July 22, 2014. Executive branch agencies and institutions shall submit an annual SWaM plan to the Department of Small Business and Supplier Diversity (DSBSD) and the appropriate cabinet secretary, in a form specified by the DSBSD, on September 1 of each fiscal year. The plan shall include the annual designation of a SWaM Equity Champion to ensure nondiscrimination in the solicitation and awarding of contracts.

Agencies shall establish internal procedures consistent with the provisions of the *VPPA*, this manual, and Executive Order 20, to facilitate the participation of small businesses and businesses owned by women and minorities that have also received the DSBSD small business certification in procurement transactions. The procedures established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to § 2.2-4310C of the *VPPA*, and shall include specific plans to achieve any goals established therein (*Code of Virginia*, § 2.2-4310B).

- b. **Certified Vendors.** For purposes of any particular procurement a vendor shall be considered a Micro Business, or Small Business if and only if the vendor holds a certification, as such by the DSBSD by the due date for receipt of bids or proposals for the procurement in question. DSBSD-certified women- and minority-owned businesses shall also be considered micro or small businesses for a particular procurement if they hold a DSBSD micro or small business certification on the due date for receipt of bids or proposals for that procurement. For purposes of compliance with this section, agencies may rely on the accuracy of the certified vendors listed on the DSBSD and eVA website. The eVA vendor certification data is provided by DSBSD.
- c. **Contract Sizing/Assessing Bundled Contracts.** The size of a proposed procurement can limit the potential participation by small business vendors. The following rule is designed to address that issue, while preserving the cost-savings and other benefits that the Commonwealth has achieved through bundling contracts and other procurement initiatives.

For goods provided under statewide or regionally bundled contracts for which there are qualified DSBSD-certified small businesses, but with respect to which the size of such contract appears to limit DSBSD-certified small businesses from bidding or being awarded such contracts, the contracting agency or institution shall seek to reduce the size of the contracts to increase the pool of potential bidders/offerors to include DSBSD-certified small businesses. If the effect of reducing the size of such contracts is to cause a meaningful increase in price, a significant degradation in terms and conditions, a significant decrease in administrative efficiency or non-compliance with applicable federal contracting requirements or funding conditions, then the contracting agency or institution shall not be obligated to reduce the contract size.

- d. **Consultation with the Department of Small Business and Supplier Diversity (DSBSD).** Each contracting agency or institution, in consultation with DSBSD and DGS where practical, shall seek to identify those purchases in which contract sizing may influence the availability of purchasing opportunities to small business vendors (a "Size-Related Contract"). Where these purchases are identified, the agency shall determine whether there are small businesses capable of meeting the purchasing requirements. If the agency identifies no DSBSD-certified small businesses capable of performing the contract requirements, then the agency shall consult with DSBSD to seek to identify available vendors unless contract timing issues require the agency or institution to complete the contract process before DSBSD input can be obtained. For any Size-Related Contract for which the agency or institution determines that contract timing issues require contract award without identifying any small business vendors or consultation with DSBSD, the agency or institution shall consult with DSBSD promptly after award of the contract to develop potential small business vendors for the next similar procurement. State agencies and institutions shall work together with DSBSD to seek to increase the number of DSBSD certified small businesses that are available to do business with the Commonwealth.
- e. **Competitive Requirements.** All employees with purchasing responsibility who are involved in procurement decisions for goods and services are expected to notify and give every consideration to using qualified small business suppliers of procurement opportunities in a manner that is consistent with state and federal laws and regulations and with the provisions set forth in this manual. Whenever the agency or institution engages in a solicitation or request for quotes, it will include businesses selected from the list of certified small businesses maintained on the DSBSD and eVA web sites, www.dsbsd.virginia.gov and www.eva.virginia.gov. This shall include DSBSD-certified women-owned and minority-owned businesses that have also received the DSBSD small business certification.

- f. **(Deleted)**

Appendix B, Section II, 36 for the special term and condition that shall be included in solicitations requiring the plan and the contractor to provide evidence of compliance with this requirement.

Each prime contractor who wins an award in which provision of a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution timely reports substantiating compliance in accordance with the small business subcontracting plan (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default). See Appendix B., Section II. 36. When such business has been subcontracted to these firms, the contractor agrees to furnish the purchasing office at a minimum, the following information: name of firm, phone number, total dollar amount subcontracted, category type (small; small and women-owned; or small and minority-owned), and type of product/service provided, at the frequency required in the contract. . The purchasing agency shall confirm that the contractor has certified compliance with the contract's SWaM procurement plan before making final payment. If a variance exists, the contractor shall provide a written explanation that shall be kept with the contract file and made available upon request. A subcontractor shall be considered a Small Business for purposes of a contract if and only if the subcontractor holds or held a certification as such by the DSBSD on the due date for receipt of bids or proposals (if the subcontractor was included in the originally submitted small business subcontracting plan) or on the date the parties' amend the contract to add a new subcontractor to the contract's small business subcontracting plan).

3.15 **Procurement Methods.** Section 2.2-4303 of the *VPPA* recognizes six methods of procurement:

- Small Purchase procedures
- Competitive Sealed Bidding (The preferred method.)
- Competitive Negotiation
- Sole Source
- Emergency
- Reverse Auctioning (See 3.29)

3.29 **Auctioning**

- b. Reverse Auctioning: The purchase of non-technology goods or nonprofessional services may be made by utilizing the Reverse Auctioning tool available in eVA. However, construction, professional services, or the bulk purchases of commodities used in road and highway construction in maintenance, and aggregates shall not be made by reverse auctioning (*Code of Virginia*, § 2.2-4303.J).
1. Reverse auctioning should be used for goods or services that can be easily described and specified, with definable quantities and when an adequate number of vendors can be expected to respond. The maximum number of line items allowed for reverse auctioning is six (6). A bid is required for each line. \$0.00 is an acceptable line item bid and shall not be deemed to constitute a "no bid," but the bidder will be expected to provide that line item at no cost.
 2. Reverse auctioning should not be used for highly technical or complex solicitations, when prequalification is necessary, for solicitations with multiple attachments, for emergency procurements. Any appropriate Special Terms and Conditions must be stated in or attached to the reverse auction.
 3. Agencies are authorized to conduct reverse auctions up to the agency's delegated authority using Reverse Auctioning tools in eVA.
 4. Procurements under \$100,000 shall be Set-aside accordance with the Small Business Enhancement Award Priority, unless exempted.
 5. eVA VBO advertising is required. The use of the eVA Reverse Auctioning tool meets the eVA VBO posting requirement
 6. The reverse auction shall be open for the period of time stated, but must be open for at least three (3) business days (24 business hours). A reasonable amount of time should be allowed for vendors to respond based on the nature of the procurement. The closing time may not be extended and shall be set to close during eVA Customer Care's normal business hours, in order for vendors to have access to support if needed.
 7. Awards shall only be made on grand total basis

8. Receipt of Bids – Only eVA registered vendors can participate. Paper responses are not allowed. A bidder must participate electronically.

Annex 3-B

Summary of Procurement Thresholds and Associated Small Business Enhancements Policies

I. Small Purchases - Goods and Services, other than Professional Services (see Chapter 5)

Thresholds	Procedures
<p>Small Purchase: Up to \$5,000</p>	<p>Single quote from a DSBSD-certified micro business, if available. Quick Quote may be used.</p>
<p>Over \$5,000 but less than \$10,000 →</p>	<p>Quick Quote, Unsealed Bidding, or Unsealed Proposals are allowed. Quick Quote is the preferred method. Solicitations under \$10,000 shall be set-aside for award to a DSBSD-certified micro business unless exempted and documentation is required. See <u>Small Business Enhancement Award Priority</u> in 3.10g.</p>
<p>\$10,000 up to \$100,000 →</p>	<p>Quick Quote, Unsealed Bidding, or Unsealed Proposals are allowed. Quick Quote is the preferred method. Solicitations up to \$100,000 shall be set-aside for DSBSD-certified small business unless exempted and documentation is required. See <u>Small Business Enhancement Award Priority</u> in 3.10g</p> <p>For procurements that are expected to exceed \$5000, public posting on eVA VBO is required if Quick Quote is not used. For procurement expected to exceed \$30,000, written informal solicitation of a minimum of four bidders or offerors is required.</p>

II. Competitive Sealed Bidding or Competitive Negotiation (see Chapters 6 & 7)

Threshold	Procedures
<p>Over \$100,000; may be used for lesser amounts. →</p>	<p>If used for purchases \$100,000 or less it shall be set-aside unless documented (3.10) , the Solicitation shall include a tiered award clause as specified in Special Term and Condition 2.L or 2.M, and follow procedures described in Chapters 6, or 7, as applicable.</p> <p>Procurements over \$100,000 shall include a Prime Contractor Small Business Subcontracting Plan unless documented (3.10h).</p> <p>Use one of the following methods for purchases over \$100,000 unless an exception (see III. below).</p> <ol style="list-style-type: none"> 1 - Competitive sealed bidding. 2 - Two-step competitive sealed bidding. 3 - Competitive negotiation. A written justification is required. <p>Public posting on eVA VBO is required. Requests for Proposal also required to be advertised in a newspaper.</p>

III. Exceptions To Competitive Procurement (see Chapters 8 & 9)

Thresholds	Procedures
<p>Emergency</p>	<p>Take immediate action if required to protect personal safety or property and noncompetitively negotiate. Other emergencies, seek competition to the extent practicable. Requires written determination signed by the agency/institution head or designee. Public posting on eVA VBO is required.</p>
<p>Sole Source (Unlimited dollar amounts)</p>	<p>Over \$5,000, a written quotation must be obtained from the vendor. Requires written justification approved in advance by the agency/institution head. Over \$50,000 requires approval from DGS/DPS. Agencies and institutions may make contract awards after appropriate approval. Purchase using noncompetitive negotiation. Public posting on eVA VBO is required.</p>

- 4.10 **Price Reasonableness Determination.** A written price reasonableness determination is required to determine if prices bid or offered are fair and reasonable when:
- a. competition is restricted or lacking,
 - b. the prices offered do not appear to be fair and reasonable,

This also applies for any sole source purchase, single response purchase, contract change and contract renewal. The written determination of a fair and reasonable price requires that the price is acceptable to both the agency or institution and the bidder or offeror considering all circumstances. Circumstances include, but are not limited to, the degree of competition, market conditions, quality, location, inflation, value, technology and unique requirements of the procuring agency or institution. The written determination may be based on price analysis (comparison with prices previously paid, prices charged for functionally similar items, prices paid by other consumers, prices set forth in a public price list or commercial catalog, or state estimates) or through the analysis of price-to-unit variations, value analysis (make-or-buy study), or cost analysis. Advice and assistance can also be obtained from the appropriate buyer or contract officer at DGS/DPS. The written analysis must be supported by factual evidence in sufficient detail to demonstrate why the proposed price is deemed to be reasonable. If a determination is made that the prices offered are not fair and reasonable, then a decision has to be made whether to rebid seeking broader competition, revise specifications and rebid the requirement, or to negotiate a better price as may be identified through the price analysis process. A combination of these methods may be necessary. If it is a negotiated procurement, then the price should be negotiated to one that is fair and reasonable (see 3.1j and 7.4a).

4.16 **Conference Planning.**

- c. For purchases of conference facilities packages between \$30,000 to \$100,000, agencies shall issue a written solicitation following the guidelines in Chapter 5. For purchases of conference facilities over \$100,000, agencies shall follow the procedures prescribed for competitive sealed bidding or competitive negotiation (see Chapter 6 or Chapter 7, as applicable).

4.23 **Professional Services.**

- a. **Responsibility.** **DGS/DPS is not responsible for the procurement of professional services.** The procurement of professional services from nongovernmental sources shall be in accordance with the applicable provisions of the *VPPA*, and, for small business enhancement, in accordance with rules adopted pursuant to Executive Order 20 (2014) and § 2.2-1605(A)(6) of the *Code of Virginia*. Summary information is provided below. See agencies below for specific guidance.
- e. **Professional Services Small Purchases.** The small purchase threshold for the procurement of professional services is \$50,000. Procurements up to \$50,000 for Professional services may only be procured by other than competitive negotiation if the agency has implemented small purchase procedures in accordance with the *Code of Virginia*, § 2.2-4303H. Professional services procurements less than \$10,000 shall be set-aside for micro businesses. For purchases from \$10,000 up to \$100,000, procurements shall be set-aside for small businesses (including micro businesses). Procurements shall follow the agency's implemented procedures or § 2.2-4302.2 and include a tiered award clause as specified in Special Term and Condition M. Additionally, architectural, landscape architectural, land surveying and professional engineering services shall be purchased in accordance with the Construction and Professional Services Manual (CPSM), issued by DGS/Division of Engineering and Buildings.

- 5.1 **Competitive Requirements.** Procurements up to \$100,000 shall be set-aside exclusively for award to DSBSD-certified small business (including micro) participation in accordance with 3.10 g. For any particular procurement, a bidder/offeror shall be considered a Small Business or a Micro Business if and only if the bidder/offeror holds a certification as such by the Department of Small Business and Supplier Diversity (DSBSD) on the due date for receipt of bids or proposals. Competition, where required, is to be made according to the number of competitive sources shown in this chapter. If two or more DSBSD-certified small businesses cannot be identified to set-aside the procurement up to \$100,000, then the file shall be documented with the efforts made to obtain the number of required sources. See Chapter 4.10 for Price Reasonableness Determination.

5.3. **Single Quotation.** (Up to \$5,000)

- a. Where the agency's estimated cost of goods or nonprofessional services is \$5,000 or less unless exempted (see 3.10 g), purchases may be made upon receipt of a minimum of one (1) written or telephone (oral) quotation, or Quick Quote may be used (see flowchart, Annex 5-C) from a DSBSD-certified micro business, if available.

Additional DSBSD-certified micro business sources may also be solicited. Other quotes received from DSBSD-certified micro businesses that were not solicited shall be considered. If more than one quote is received, the award shall be made to the lowest responsive and responsible DSBSD-certified micro business bidder. If prices do not appear to be fair and reasonable, the agency shall document the procurement file to that effect, including stating the basis for the determination, and then obtain additional quote(s) in accordance with the Small Business Enhancement Award Priority found in 3.10g.

- b. A record of the quotation(s) must be kept with the file. If a telephone quote is solicited, a record shall be kept of the name and address of the vendor(s) contacted, the item description or service offered, price quoted, delivery dates and F.O.B. point, names of persons giving and receiving the prices and the date the information was obtained. Notation on the requisition form is considered to be an adequate record or see Annex 5-G, and 5-H, for copies of sample forms to use in recording information.
- c. For over the counter SPCC purchases, a written quotation is not required; however, the over the counter SPCC purchases shall be from a DSBSD-certified micro business, if available. If prices do not appear to be fair and reasonable, the agency shall document to that effect, including stating the basis for the determination, and then proceed in accordance with the Small Business Enhancement Award Priority found in 3.10g

5.6 **Unsealed Bidding.** (Over \$5,000 to \$100,000)

- a. Quick Quote shall be used to solicit bids and quotes for goods and nonprofessional services over \$5,000 up to \$100,000 (see 14.5e). All appropriate special terms and conditions must be stated in or attached to the Quick Quote, including an award term. The solicitation shall be open for the period of time stated in the solicitation but must be open for at least three (3) business days (24 business hours). A reasonable amount of time should be allowed for vendors to respond based on the nature of the procurement and any subsequent amendments.
- b. Unsealed bidding may be used in lieu of Quick Quote for complex procurements. eVA VBO advertising is required.
- c. Procurements under \$10,000 shall be set-aside exclusively for award to DSBSD-certified micro businesses if available and the price is fair and reasonable. If prices do not appear to be fair and reasonable, the agency shall document the procurement file to that effect, including stating the basis for the determination, and then an award may be made in accordance with the Small Business Enhancement Award Priority (3.10g). The solicitation shall designate in the title of the solicitation that the procurement is set-aside for micro businesses. Select “Micro Business Set-Aside Award Priority” once the set-aside box has been checked in Quick Quote or VBO.

Procurements from \$10,000 and up to \$100,000 shall be set-aside exclusively for award to DSBSD-certified small businesses (including micro) if available and the price is fair and reasonable. If prices do not appear to be fair and reasonable, the agency shall document the procurement file to that effect, including stating the basis for the determination, and then an award may be made in accordance with the Small Business Enhancement Award Priority (3.10g). The solicitation shall designate in the title of the solicitation that the procurement is set-aside for small businesses. Select “Small Business Set-Aside Award Priority” once the set-aside box has been checked in Quick Quote or VBO.

- d. Award should be made to the lowest responsive and responsible bidder in accordance with the Small Business Enhancement Award Priority. Post Notice of Award for 10 days if a Notice of Intent to Award was not issued.

5.7 a. **Unsealed Proposals** (Over \$5,000 to \$100,000). Goods or nonprofessional services up to \$100,000 may be procured using the Unsealed Proposal process (see flowchart, Annex 5-F). A written determination for the use of competitive negotiation is not required for unsealed proposals. The solicitation for unsealed proposals should include a cover sheet, a general description of what is being sought, the evaluation criteria and weights to be used in evaluation, current version of the General Terms and Conditions, any Special Terms and Conditions including unique capabilities or qualifications that will be required, award term, and a requirement that under the Small Business Enhancement Award Priority they shall provide their appropriate DSBSD-certified small business (including micro) number.

- 1. Procurements under \$10,000 shall be set-aside exclusively for award to DSBSD-certified micro businesses if available and the price is fair and reasonable. If prices do not appear to be fair and reasonable, the agency shall document the procurement file to that effect, including stating the basis for the determination, and then an award may be made in accordance with the Small Business Enhancement

Award Priority (3.10g). The solicitation shall designate in the title of the solicitation that the procurement is set-aside for micro businesses. Select “Micro Business Set-Aside Award Priority” once the set-aside box has been checked in VBO.

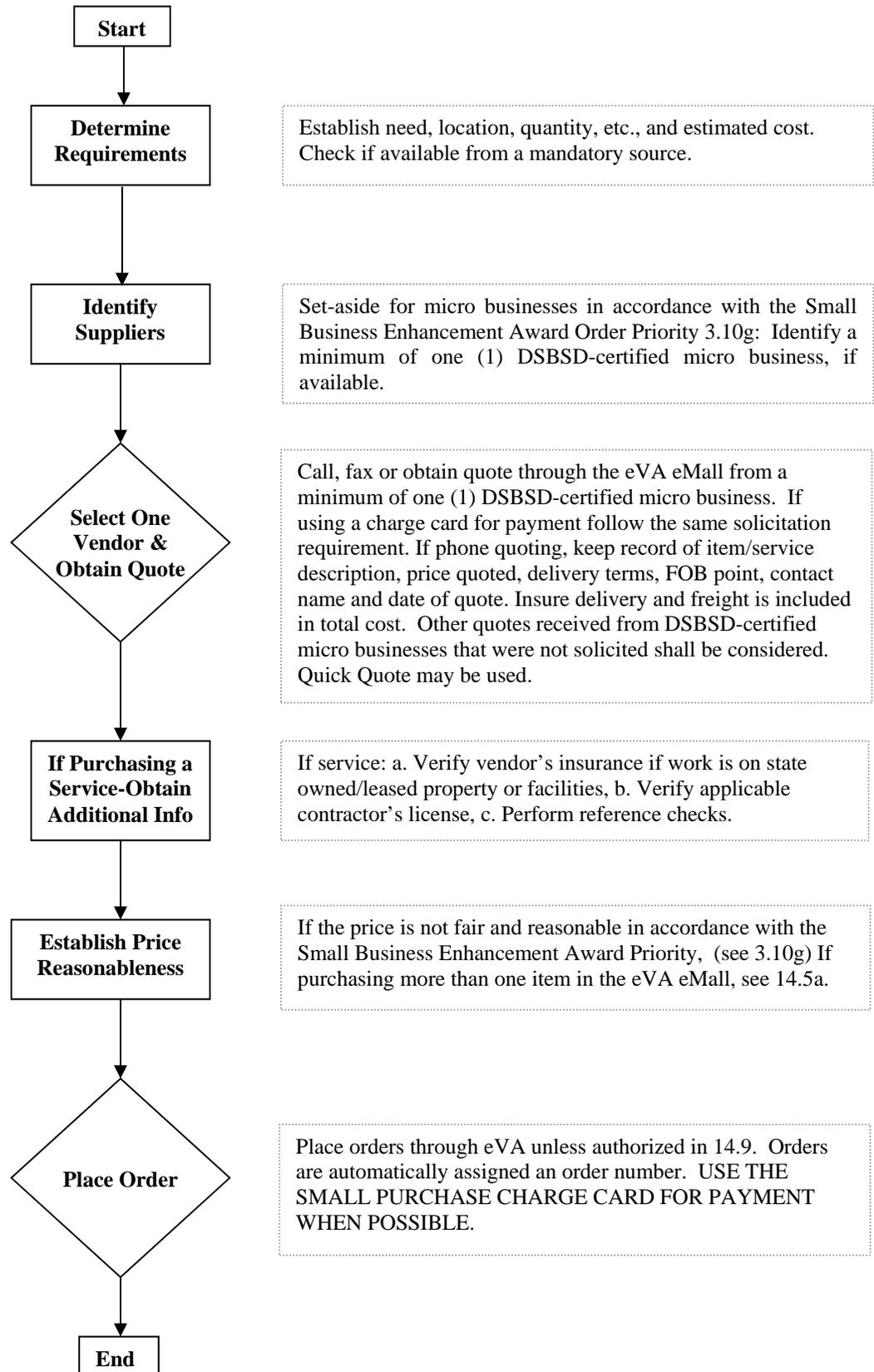
Procurements from \$10,000 and up to \$100,000 shall be set-aside exclusively for award to DSBSD-certified small businesses (including micro) if available and the price is fair and reasonable. If prices do not appear to be fair and reasonable, the agency shall document the procurement file to that effect, including stating the basis for the determination, and then an award may be made in accordance with the Small Business Enhancement Award Priority (3.10g). The solicitation shall designate in the title of the solicitation that the procurement is set-aside for small businesses. Select “Small Business Set-Aside Award Priority” once the set-aside box has been checked in VBO.

2. eVA VBO advertising is required See 3.18.
3. Offers may be opened and evaluated upon receipt. All responses must be received at the designated location by the date and time stated in the solicitation (see 3.1e).
4. In lieu of an evaluation committee, the buyer or end user may solely evaluate and rank offers. Upon completion of the evaluation, negotiations shall be conducted with the offerors selected.
5. Award should be made to the highest ranking offeror in accordance with the Small Business Enhancement Award Priority. Post Notice of Award for 10 days if a Notice of Intent to Award was not issued.

Annex 5-C

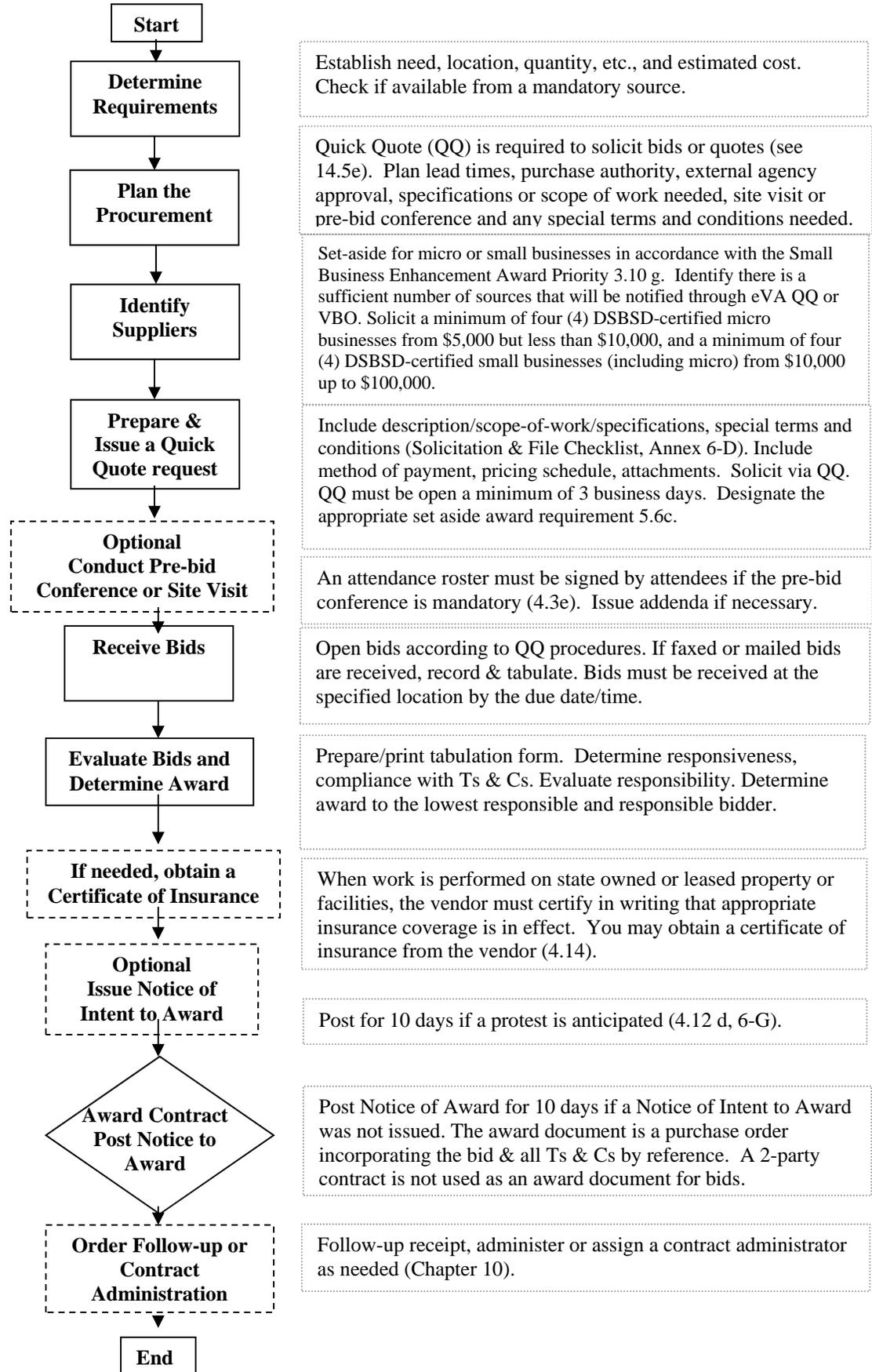
Single Quotation Process

For Goods and Non-professional Services to \$5,000



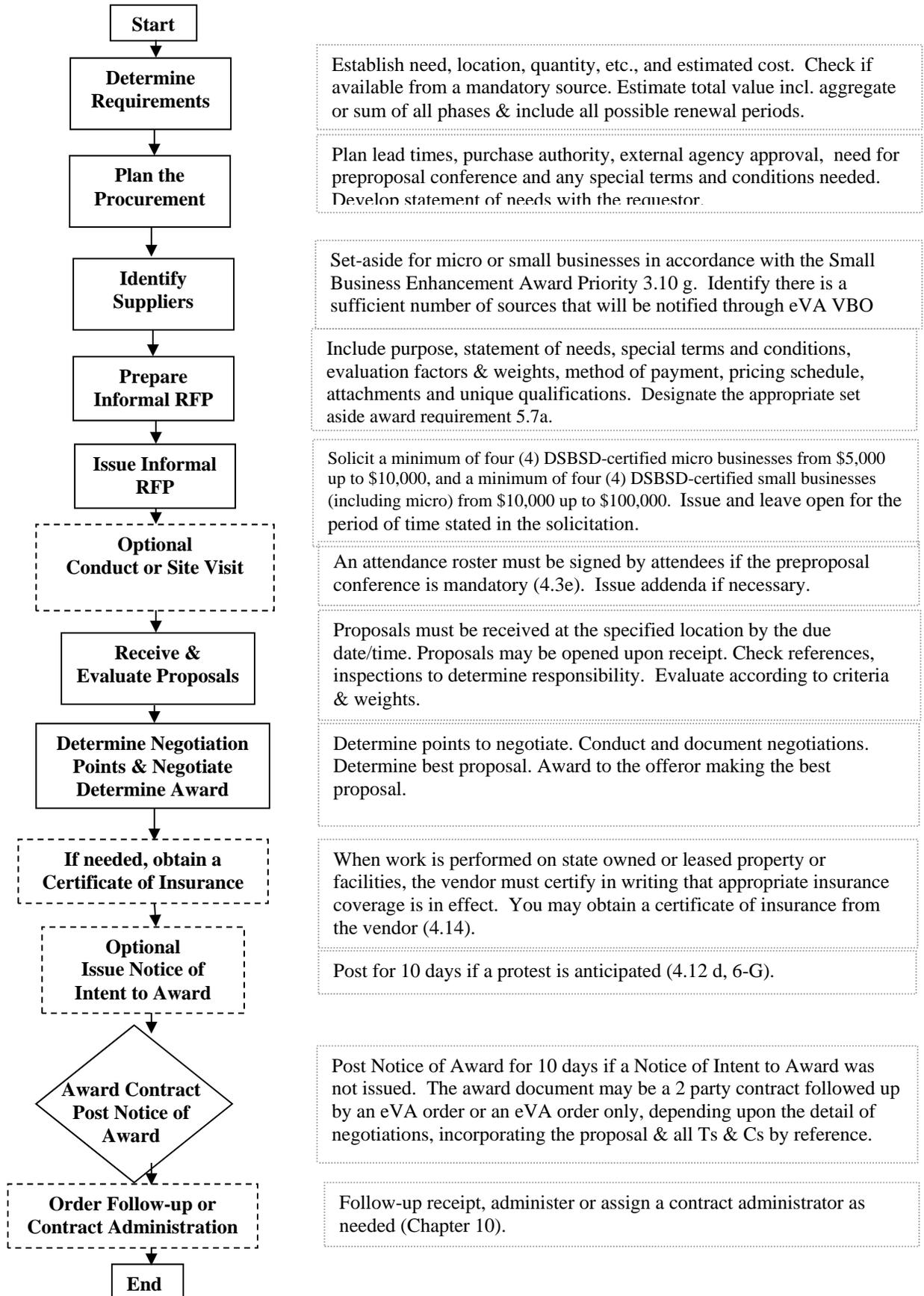
Annex 5-E

**Unsealed Bidding Process
For Goods and Non-professional Services over \$5,000 to \$100,000**



Annex 5-F

**Unsealed Proposal Process
For Goods and Non-professional Services over \$5,000 to \$100,000**



6.1 **Competitive Sealed Bidding.** The goods or service to be procured when using this method must be capable of being described so that bids submitted by potential contractors can be evaluated against the description in the Invitation for Bids (IFB) and an award made to the lowest responsive and responsible bidder. If competitive sealed bidding is used for a purchase expected to be \$100,000 or less, set-aside per 3.10(g) and the solicitation shall include a tiered award clause as specified in Special Term and Condition 2.L. When the terms and conditions of multiple awards are so provided in the Invitation for Bids, awards may be made to more than one bidder. Competitive sealed bidding includes the issuance of a written IFB containing the specifications or scope of work/purchase description and the contractual terms and conditions applicable to the procurement. The terms or conditions of the solicitation must include how the agency or institution will publicly post the notice of the award or make the announcement of the decision to award the contract (see Appendix B, Section I, U.). The requirements set forth in the IFB may include special qualifications required of potential contractors, life-cycle costing, value analysis, and any other criteria such as testing, quality, workmanship, delivery and suitability for a particular purpose which may help in determining acceptability. IFBs must describe the requirements accurately and completely. Unnecessarily restrictive specifications or terms and conditions that unduly limit competition must be avoided. In addition to the public notice, bids are to be solicited directly from potential bidders. Any such direct solicitations shall include businesses selected from a list made available by the DSBSD. In the competitive sealed bid process, bids are publicly opened and read aloud (see 3.1e). The bids are evaluated based upon the requirements set forth in the IFB (if multiple awards are so provided in the solicitation, awards may be made to the lowest responsive and responsible bidders).

6.2 **Preparation and Issuance of IFBs.**

- a. **Format.** Prepare the IFB using the format and contents shown in Annex 6-B. Establish a due date and time that will allow sufficient time for potential bidders to seek clarification and for the issuance of an addendum, if necessary. The due date shall not be less than 10 days from the issue date of the IFB.
- b. **Scope.** Specify in detail the materials, equipment, and supplies to be furnished or the scope of work to be performed by the contractor, including or incorporating by reference the specifications, drawings and contractual terms and conditions applicable to the procurement.
- c. **Verify.** Review the IFB Solicitation and File Checklist (Annex 6-D) to assure that all requirements applicable to the procurement have been met (see 3.18 for posting requirements).
- d. **Conferences/Site visits.** All prebid conferences and/or site visits shall be mentioned in both the IFB and any advertisement. If attendance at such a conference or site visit is a prerequisite for bidding, the public notice period shall be long enough to provide adequate opportunity for potential bidders to obtain a copy of the IFB and attend (see 4.3e). Mandatory prebid conferences scheduled during a period of suspended State business operations should be rescheduled by the purchasing agency to a date and time which will permit proper notification to all potentially interested participants. Purchase actions requiring advertisement shall be posted in eVA VBO (3.18). Any changes in the requirements of the solicitation must be made by written addendum (see Annex 6-F). When an addendum for a sealed solicitation is issued, there must be a minimum of 10 days from the date of the addendum to the due date set for the receipt of bids, or the due date shall be extended.
- e. **Sources.**
 - 1) Solicit at least six (6) sources, including a minimum of four (4) DSBSD-certified small businesses including any women, minority and micro business also certified as a small business, if available. The list should note which vendors are small businesses. If fewer than the required number of sources are solicited, the reasons must be documented in writing and placed in the purchase file.
 - 2) If under \$100,000 set-aside in accordance with the Small Business Enhancement Award Priority for small business (including micro), solicit a minimum of six (6) DSBSD-certified small businesses including at least one micro business in accordance with 3.10(g).
- f. **Small Business Subcontracting Plan.** For procurements over \$100,000 in accordance with the Commonwealth's policy of facilitating and maximizing the participation of small businesses, which includes businesses owned by women and minorities when they have received DSBSD small business certification, in order for the bid to be considered responsive bidders shall include, as part of their bid, a Small Business Subcontracting Plan unless no subcontractor opportunities exist. (See 3.10 h) See Appendix B, Section II, 36 for the special term and condition that shall be included in solicitations requiring the plan and the contractor to provide evidence of compliance with this requirement

If the bidder on the contract is a DSBSD-certified small business, the bidder shall indicate such in Section A of Annex 6-I. This shall not exclude DSBSD-certified women-owned and minority-owned businesses that have also received the DSBSD small-business certification. If the bidder is not a DSBSD-certified small business, the bidder, to be considered responsive, is required to identify the portions of the contract the bidder plans to subcontract to DSBSD-certified small business by completing and returning Section B of Annex 6-I. If no subcontracting opportunities exist see 3.10 h. For purposes of any particular procurement, a bidder or subcontractor shall be considered a Small Business if and only if the bidder or subcontractor holds a certification as such by the DSBSD on the due date for receipt of bids.

6.3 **Sealed Bids - Receipt, Opening, Evaluation, and Award.**

- a. **Receipt.** Bids shall be received until the date and time specified in the IFB. Bids are then publicly opened and read aloud. Late bids shall not be considered. Bid receipt deadlines and public openings scheduled during a period of suspended state business operations will be deemed rescheduled for processing at the appropriate times on the next regular business day. The public opening of bids for construction type contracts shall be held 24 hours after the date and time set for submission of bids, *Code of Virginia*, § 2.2-4330A(ii). (See 3.1e for further guidance on the receipt and opening of sealed bids.)
- b. **Opening.** After bid opening, each bid is evaluated to determine if it is responsive to the IFB. The responsive bids are then evaluated according to the criteria and/or evaluation procedure described in the IFB to determine which is the lowest bid (see 3.1e) and whether any preferences must be applied (see 3.14).
- c. **Evaluation.** The lowest responsive bidder is then evaluated to determine if the firm is responsible (see 3.20).
- d. **Award.** The contract is awarded to the lowest responsive and responsible bidder (see 3.20 and 3.21). For purposes of the procurement, a bidder or subcontractor shall be considered a Small Business or a Micro Business if and only if the bidder or subcontractor holds a certification as such by the Department of Small Business and Supplier Diversity (DSBSD) on the due date for receipt of bids.

6.5 **Procedure for Two-Step Competitive Sealed Bidding.**

- a. **Step One.** Prepare an IFB requesting a technical proposal. The solicitation describes the agency's requirement in general terms and asks for a technical proposal describing how the bidder intends to meet the agency's requirements and what goods, equipment, and service, as applicable, will be furnished. Specify any mandatory technical data and information to be submitted in the proposal and any optional information desired. The cover sheet should explain the two-step procedure and emphasize that the technical proposal is not to include the bid price. If Set-aside in accordance with 3.10(g), the solicitation shall include a tiered award clause as specified in Special Term and Condition 2.L. It should indicate if a prebid conference will be conducted and if attendance is mandatory or optional. The proposals are publicly opened, and the names of the firms submitting proposals are announced. The agency then evaluates and selects those proposals which will meet its needs, based on the mandatory criteria specified in the solicitation. The evaluators may request written or oral discussions from bidders to clarify or amplify the material in the proposal. The contents of the technical proposal are not subject to negotiation and must be evaluated as submitted. They are not ranked but are determined to be acceptable or not acceptable for meeting the agency's needs. Only those responsive bidders whose technical proposals were determined to be acceptable will be invited to submit a bid price.
- b. **Step Two.** Prepare an IFB to include a pricing schedule, reference the request for technical proposal title and number, and set a specific date and time for receipt of sealed bids. A public opening is held. Bids are evaluated, and the contract is awarded to the lowest responsive and responsible bidder. The award document shall incorporate by reference the terms and conditions of the solicitation, the contractor's technical proposal, and the bid price.

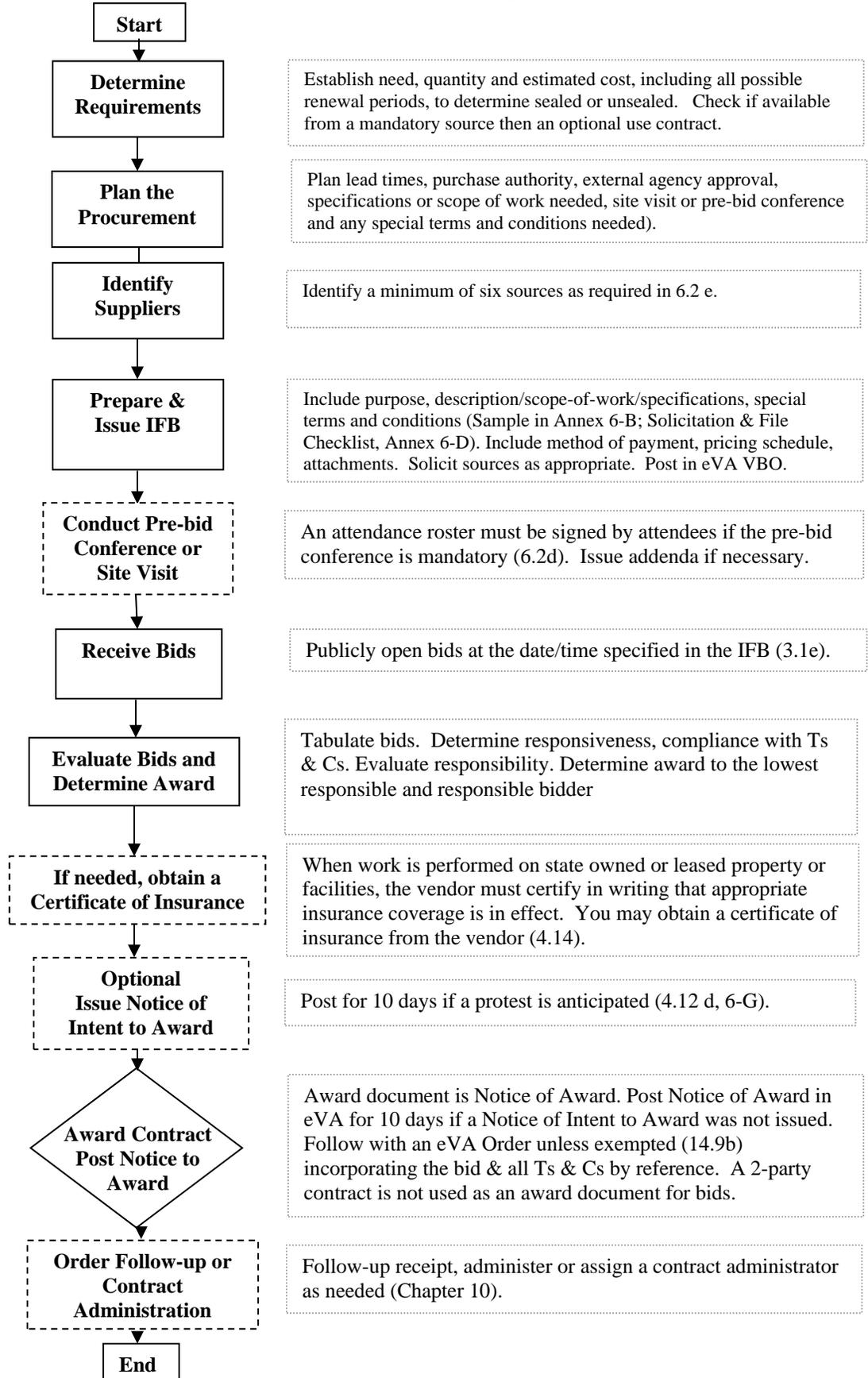
- 6.6 **Combined Two-Step Competitive Sealed Bidding.** The two steps can be combined by requiring the firms who respond to the solicitation to furnish their unpriced technical proposals in one sealed envelope and their bid prices in a second sealed envelope at the same time. The instructions issued must specify that the responses are to be submitted in two separate sealed envelopes - one marked "Technical Proposal" and the other "Bid Price." If the solicitation is a combined two-step IFB, the bidders should be instructed to identify both the technical proposal and pricing envelope with the bidder's name, company name and address, and bid reference number. If set-aside under 3.10(g), the solicitation shall include a tiered award clause as specified in Special Term and Condition 2.L. . The technical proposals are opened and evaluated as described in 6.5a, then only the price envelopes for those technical

proposals selected as acceptable are opened. The award is made to the lowest responsive and responsible bidder. The award document will incorporate by reference the terms and conditions of the solicitation and include the contractor's technical proposal and the bid price. The envelopes containing the bid price for those proposals determined to be not acceptable will be returned unopened.

Annex 6-A

Competitive Sealed Bidding Process

For Goods and Non-professional Services over \$100,000 (Code of Virginia § 2.2-4302.1)



Annex 6-B

SAMPLE FORMAT AND STEP-BY-STEP PROCEDURES

INVITATION FOR BIDS (IFB)

Issue Date: IFB# _____

Title:

Commodity Code:

Issuing Agency: Commonwealth of Virginia

Using Agency And/Or Location Where Work Will Be Performed:

Period Of Contract: From _____ Through _____ (*Renewable). (* If contract has renewal clause)

Sealed Bids Will Be Received Until _____ (Time and Date)

For Furnishing The Goods/Services Described Herein And Then Opened In Public.

All Inquiries For Information Should Be Directed To: _____ Phone: (____) _____.

IF BIDS ARE MAILED, SEND DIRECTLY TO ISSUING AGENCY SHOWN ABOVE. IF BIDS ARE HAND DELIVERED, DELIVER TO:

Street Address Building Floor Room No.

In compliance with this Invitation For Bids (IFB) and all conditions imposed in this IFB, the undersigned firm hereby offers and agrees to furnish all goods and services required by this IFB at the prices indicated in the pricing schedule, and the undersigned firm hereby certifies that all information provided below and in any schedule attached hereto is true, correct, and complete.

* Virginia Contractor License No. _____ Class: _____ Specialty Codes: _____

* DSBSD-certified Small Business No. _____

Name And Address Of Firm:

Zip Code: _____

Date: _____
By: _____
(Signature In Ink)

eVA Vendor ID or DUNS #: _____

Name: _____
(Please Print)

Fax Number: (____) _____

Title: _____

E-mail Address: _____

Telephone Number: (____) _____

* PREBID CONFERENCE: A (mandatory/optional) prebid conference will be held on _____ at the _____ (Reference: Paragraph ____ herein). (If mandatory add: "NO ONE WILL BE ADMITTED AFTER _____ (Time) ") * If special ADA accommodations are needed, please contact _____ (Name) at (phone number) by _____ (date) .

* Delete if not applicable.

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

TABLE OF CONTENTS FOR IFB # XXX

PAGE

- I. PURPOSE
- II. SCOPE OF WORK/DESCRIPTION OF ITEMS (SPECIFICATIONS)
- III. PREBID CONFERENCE
- IV. GENERAL TERMS AND CONDITIONS
- V. SPECIAL TERMS AND CONDITIONS
- VI. METHOD OF PAYMENT
- VII. PRICING SCHEDULE
- VIII. ATTACHMENTS

NOTE: See following pages for guidance in preparation of the IFB.

IFB STEP-BY-STEP PROCEDURES

The following step-by-step procedures are provided as a guide on how to properly prepare an IFB when soliciting competition for goods or nonprofessional services. These procedures apply to both sealed and unsealed bids.

STEP ONE:

DETERMINE REQUIREMENTS: What is needed, how much, where and when. In addition, a cost estimate should be prepared to assist in the determination as to whether or not sealed or unsealed bids should be solicited. The estimated or anticipated value of the contract must be determined first. This is the dollar value for the initial period of the contract, and includes all possible renewal periods.

STEP TWO:

DO PROCUREMENT PLANNING: Refer to chapters within this manual for guidance in determining the following: procurement lead time available, whether the procurement is for goods or nonprofessional services, whether your agency has authority for the procurement, if approval of another agency is required, the type of specifications or scope of work to be used, need for a site visit or prebid conference, the method of procurement to be used, if the procurement is to be set-aside in accordance with the Small Business Enhancement Award Priority, etc.

STEP THREE:

PREPARE THE IFB: Use the sequence shown in the table of contents following Annex 6-B.

- I. **PURPOSE:** If it is a complex or involved procurement, a purpose or summary statement of what is required should be included on the first page of the document. A purpose statement is not used for routine purchases of goods or services where it is readily apparent from the product or service name what is wanted.
- II. **SCOPE OF WORK/DESCRIPTION OF ITEM:** Describe in complete detail the service to be performed or what is to be purchased, including quantity, as applicable. Specifications or drawings, if applicable, may be referenced and attached. **This is the most important section of the IFB because this is what bidders base their bid prices upon.** The following are examples of the beginning language:
 - A. **GOODS (FURNISH ONLY):** “The contractor shall furnish and deliver each of the following described item(s):”
 1. The purchase description(s) must be complete and specify the minimum needs of the agency. Specifications may allow for bidding on a brand name or equivalent basis, if applicable.
 2. Other items that should be addressed in the purchase description or in the Special Terms and Conditions, as appropriate, include but are not limited to inside delivery, set up and assembly, removal of trash, warranty, maintenance, packaging, etc.
 - B. **GOODS (FURNISH AND INSTALL):** “The contractor shall provide all labor, supervision, equipment, tools, materials and incidentals necessary to furnish and install (state product). All equipment, materials and installation work shall comply with this specification, the Virginia OSHA Standards, and the Virginia Uniform Statewide Building Codes.”
 - C. **SERVICES:** “The contractor shall furnish all labor, supervision, equipment, tools, parts and materials, as necessary, to maintain the (type of equipment) listed in accordance with manufacturer’s service manuals (or other).”
 1. Ensure that the scope of work is complete. The contractor cannot be required to perform omitted work items.
 2. Other items that should be addressed, as appropriate, include but are not limited to repair response time, contractor certification-license requirements, workmanship, repair and maintenance records, working hours, overtime, agency-furnished materials, etc.
- III. **PREBID CONFERENCE:** If a prebid conference is desired, indicate date, time, place and whether attendance is mandatory or optional. See Annex 6-E for procedures.
- IV. **GENERAL TERMS AND CONDITIONS:** Include the general terms and conditions for goods, services or non-capital outlay projects as appropriate. See Appendix B.
- V. **SPECIAL TERMS AND CONDITIONS:** Select applicable special terms and conditions. Other special terms and conditions may be developed and included, as appropriate.

The following special terms and conditions must be included in IFBs, as indicated:

- A. AUDIT: Term contracts only.
- B. CANCELLATION OF CONTRACT: Term contracts only. Provides the cancellation of the contract by the agency without penalty when it is determined to be the best interest of the Commonwealth. This clause is not to be used to terminate a contract for default (Appendix B, Section II).
- C. BID ACCEPTANCE PERIOD: If it is anticipated that it will take in excess of 30 days to make an award then the IFB should contain a bid binding clause, e.g., 45 days, 60 days, etc.
- D. BID EVALUATION AND AWARD PROCEDURE: The IFB must specify how the award will be made, e.g., line item, extended grand total lump sum, hourly rate, etc., and if single or multiple awards. If the award is to be made on other than a lump sum, single hourly rate, or line item basis, the IFB must specify how the low bidder will be determined. The use of hypothetical situations, e.g., certain number of hours times the hourly rates, etc. is recommended. Such scenarios detailing the evaluation equation must state the factors that will be considered (hourly rates, overtime rates, holiday rates, cost of materials used, etc.) - e.g., hourly rate X 25 + overtime rate X 10 + holiday rate X 3 + price for CH&E pump model #4200 = Total sum. Weighted percentage factors times the bid rates may also be used; **however, the percentage factors to be used must be shown in the IFB**. Except when life cycle costing principles are employed, price is the sole determining factor under IFB procedures if the bidder is a responsive and responsible bidder.
- E. RENEWAL OF CONTRACT: No term contract can be renewed unless a renewal clause is included in the IFB. (See Appendix B, Section II)
- F. SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE: Required where the prime contract is in excess of \$100,000 no subcontractor opportunities exist. (See 3.10 h. and Appendix B, Section II, 36.) When this term and condition is used then include Annex 6-I in solicitations to be completed by the offeror.
- G. STATE CORPORATION COMMISSION FORM: Required of all bidders pursuant to Title 13.1 or Title 50 (See Appendix B, Section II, 64.). Include SCC Form, Annex 6-J, in Invitation for Bids.
- VI. METHOD OF PAYMENT: Specify when payment will be made, e.g., upon delivery, monthly, quarterly, completion of project, etc. In addition, specify when and where invoices are to be submitted, e.g., by the 10th of the month following the month services were rendered, upon shipment, completion of project, etc. The method of payment should be specified in the IFB.
- VII. PRICING SCHEDULE: Provide space and specify how price is to be submitted, e.g., lump sum, hourly rate, unit price, etc. For example: Lump Sum \$_____ ; Each \$_____ (See 3.6).

Time & Material Service Contracts: Where several categories of labor prices are requested, the following statement should be included in the pricing schedule. "Any bidder who enters \$0 on a pricing blank or leaves it blank shall be considered nonresponsive."
- VIII. ATTACHMENTS: List all applicable attachments with a brief statement on their purpose. For example: Vendor Data Sheet (see Annex 6-C) asks for the bidder's number of years in business and a specified number of references.

STEP FOUR:

PREPARE COVER SHEET AND ISSUE THE INVITATION FOR BIDS:

- A. COVER SHEET: Use the coversheet format on Annex 6-B.
 - 1. IFB#: A control number must be assigned to each IFB issued for identification purposes.
 - 2. ISSUE DATE: This is the date that the IFB is publicly posted and sent to potential bidders.
 - 3. TITLE: .If set-aside accordance with the Small Business Enhancement Award Priority, use the following format: "Small Business Set-Aside Award Priority" followed by the title of the commodity or service being procured (e.g., Small Business Set-Aside Award Priority - Security Services).

COMMODITY CODE: Assign 5-digit commodity code from commodity code book.

4. **PERIOD OF CONTRACT:** The IFB must state either “from date of award,” or specified date to a specified ending date, or delivery of goods or services. If it will be a renewable term contract, put the word “renewable” in parenthesis after the “through” date if the contract contains a renewal clause. This will let potential bidders know right away if you anticipate the contract to go beyond the initial period.
 5. **SEALED BIDS WILL BE RECEIVED UNTIL:** Specify the exact date and time which must be at least 10 days after the issue date for sealed solicitations. If the procurement does not meet the criteria for sealed bids, the wording may be changed to say “unsealed bids” and delete the words, “And then opened in public.” If unsealed bids are solicited, include a fax number on the cover sheet for bids to be sent by fax.
- B. **IDENTIFY POTENTIAL SOURCES:** Select appropriate number of sources to solicit. Prepare a solicitation list (see 2.3 and 3.10).
- C. **PUBLISH:** Post in eVA VBO. If set-aside accordance with the Small Business Enhancement Award Priority. Select “Small Business Set-Aside Award Priority” once the set-aside box has been checked in VBO
- D. **ADVERTISING:** Agencies may also post on a designated bulletin board (normally outside the purchasing office) where the general public has access to it or notices may be published in a newspaper of general circulation, at least 10 days prior to the date set for receipt of bids or both (see 3.18 for more information on public posting).

STEP FIVE:

CONDUCT PREBID CONFERENCE AND/OR SITE VISIT: Prebid conferences and/or site visits are required for procurements over \$100,000. See 4.3e for policy and Annex 6-E for guidelines on conducting prebid conferences and site visits. It is recommended that conferences not be made mandatory unless the procurement is so complex that attendance at the conference is required to understand the requirements of the procurement.

STEP SIX:

ISSUE ADDENDUM/ADDENDA: Issue addendum/addenda to correct errors, change bid due date, or to make any needed changes that were identified during the prebid conference, site visit, etc. See Annex 6-F for sample addendum. Upload addenda to the *VBO* Ads web link on the eVA web site (see 3.18).

STEP SEVEN:

RECEIVE BIDS: Receive bids until the due date and time specified in the IFB. Publicly open bids follow receipt or at the date and time specified in the IFB (see 3.1e). Unsealed bids may be opened and tabulated upon receipt.

STEP EIGHT:

TABULATE THE BIDS, DETERMINE RESPONSIVENESS, AND EVALUATE:

- A. **TABULATE BIDS:** A bid tabulation form should be prepared showing all the vendors solicited, description of item/service, bid prices, bids not returned, and the total price.
- B. **DETERMINE RESPONSIVENESS AND EVALUATE BIDS:** Review all the bids to determine if the bids conform in all material respects to the IFB (see 3.21). Substitution or addition of the bidder’s own contractual terms, taking exception to any of the terms and conditions or specification requirements, failure to submit a bid bond if required in the IFB, failure to sign the bid, submission of sample goods which do not meet the specification, failure to acknowledge receipt of an addendum which affects price, quantity, quality, or delivery, etc., providing multiple prices for performing a service where a single price was solicited, failure to provide prices for all categories of labor in the pricing schedule of a time and materials service contract (if required), may make a bid nonresponsive. See *Vendors Manual*, Section 5.13, for guidelines on mistakes and informalities in bids. Evaluate all responsive bids in accordance with the bid evaluation procedure contained in the IFB to determine the low bidder.

STEP NINE:

DETERMINE RESPONSIBILITY OF THE LOW BIDDER: See 3.20 for guidance. If references were requested to be submitted with the bid, prepare questions, call references, and record their responses. In addition, visit the bidder’s shop/office, if necessary, to satisfy any concerns about the bidder’s capability to perform the service or provide the product.

STEP TEN:

POST NOTICE OF INTENT TO AWARD: Post in eVA VBO for 10 days if a protest of the award is anticipated; otherwise, issue award. See 3.18c & d, and Annex 6-G.

STEP ELEVEN:

REQUEST INSURANCE CERTIFICATE (OPTIONAL): If the solicitation specified insurance and the agency desires to verify the bidder's coverage under the provisions of the insurance clause, the buyer may request the bidder to provide a certificate of insurance for the required coverage.

STEP TWELVE:

AWARD CONTRACT: Use Notice of Award (see Annex 6-H) or an eVA Order, as appropriate. Awards shall be posted on eVA VBO see 3.18).

STEP THIRTEEN:

POST AWARD: The award of a contract is the end of one phase of procurement and the beginning of another equally important phase. This latter phase is contract administration. Its purpose is to assure that the contractor's total performance is in accordance with all the terms and conditions of the contract. An individual should be assigned in writing to be responsible for contract monitoring and oversight. Any deviation from contract requirements must be brought to the attention of the contractor and immediate corrective action required (see Chapter 10).

Annex 6-D

IFB SOLICITATION AND FILE CHECKLIST

✓	IFB SOLICITATION CHECKLIST	✓	FILE CHECKLIST
	<u>Approval</u> : If an approval is required, it should be obtained prior to preparing the solicitation and a copy placed in the solicitation file. Examples include: a release from Corrections to purchase a good(s) or service they produce from a commercial source, authority from the DGS/DPS for an agency to make a direct procurement in excess of its delegated purchase authority (see 1.2, 1.4 and 2.1 of this manual).		Special Approval
	<u>Approved Request</u> : Written approval to expend funds must be included in the file.		Purchase Requisition
	<u>Specifications/Scope of Work</u> : The most important part of every solicitation, the specifications or scope of work is a detailed description of what is to be procured. It establishes the quality level that is used to determine the acceptability of the goods or services delivered. The solicitation should clearly state what is wanted, where, when, and how many or how much.		
	<u>Prebid Conferences/Site Visits</u> : If a prebid conference or site visit is to be held, the solicitation must state the date, time, place, and whether attendance is optional or mandatory.		Prebid sign-in sheet
	<u>General Terms and Conditions</u> : The general terms and conditions or “boilerplate” must be included in every solicitation. Taxes, Use of Brand Names, and Transportation and Packaging General Terms and Conditions are not normally required for service contracts. The Insurance clause is not normally required for goods purchases.		
	<u>Special Terms and Conditions</u> : Each procurement is different, and for each solicitation the special terms and conditions used should be carefully reviewed to ensure that the proper ones are included. They should be essential to the requirement, protect the interests of the Commonwealth, and assist the bidder in understanding the agency’s intent.		
	<u>Method of Award</u> : The method of award must be stated in the solicitation, and be based on the requirements stated therein. If the award is based on other than line item, lot, or grand total, a pricing scenario should be included to illustrate how the low bid will be determined.		
	<u>Method of Payment</u> : If payment is to be made prior to final acceptance of the service or goods to be provided, the solicitation should set forth the procedure; e.g., progress payments, partial payments, etc.		
	<u>References</u> : If references are required, the number and type should be specified in the solicitation, and those listed should be checked.		Results of Reference Checks (if requested)

Pre-Award, Receipt & Evaluation, and Post-Award Activities:			
	<u>Bidders List</u> : Solicit a minimum of six (6) sources, including a minimum of four (4) DSBSD-certified small businesses, if available. If set-aside for Small Business Enhancement Award Priority, solicit a minimum of six (6) DSBSD-certified small businesses, if available including (1) micro business. If fewer than the required number of sources are solicited, the reasons shall be documented. Note which vendors are DSBSD-certified small businesses.		Bidders List: Name, addresses of Bidders solicited
	<u>Public Notice</u> : Public notice of the solicitation is required at least ten days prior to the date set for receipt of bids by posting on eVA VBO (see 3.18).		Posted notice of solicitation from eVA VBO
	<u>Solicitation</u> : Original IFB, as issued.		Original solicitation

	<u>Addenda</u> : Any changes to the original solicitation must be made by written addendum, sent to each bidder attending a prebid conference and posted to eVA VBO. A copy of all addenda issued must be maintained in the file.	Addenda issued and uploaded to eVA web site
	<u>Questions/Responses</u> : Answers to questions from potential bidders, which do not require a change to the solicitation, should be shared with all bidders on the bidder's list (or only those attending a mandatory prebid conference).	
	<u>Bid Opening and Evaluation</u> : Bids are closed at the date and time specified in the solicitation, then opened in public and tabulated. See 3.1e. Other factors may be used in the evaluation of the lowest responsive and responsible bidder if stipulated in the solicitation.	Bid tabulation sheet
	<u>Notice of Award or Notice of Intent to Award</u> : Post a Notice of Intent to Award for 10 calendar days if a protest of the award is anticipated; otherwise, issue the Notice of Award and post for 10 days on the DGS/DPS eVA web site (see 3.18).	Award document
	<u>Successful Bid</u> : A copy of the successful bid is retained in the active procurement file.	Successful bid
	<u>Contract Administration</u> : If the contract requires administration by other than the buyer, those responsibilities are assigned in writing.	Contract Administrator assignment
	<u>Insurance/Licenses/References</u> : If other information was required of the contractor, these items must be retained in the procurement file.	
	<u>Unsuccessful Bids</u> : Copies of the unsuccessful bids are retained as a part of the inactive permanent record.	Unsuccessful bids

The following items should be considered when developing the solicitation:	
	For BOTH Goods and Service Procurements:
	<u>Bonds</u> : For the procurement of goods or services other than construction, for any dollar amount, consider if bid, performance or payment bonds are necessary to protect the Commonwealth's interest.
	<u>Cancellation Clause</u> : If the solicitation will result in a term contract this clause should be included. This is not an appropriate clause for spot purchases (see Appendix B for sample clause).
	<u>Liquidated Damages</u> : If time and delivery are critical, it may be necessary to include a provision for liquidated damages. The basis for the amount of liquidated damages assessed must be supportable and reasonable, considering the service or goods being purchased and the impact of delay on the Commonwealth. A liquidated damages clause is not to be used as a penalty but as a means to access for damages which may be incurred by late delivery.
	<u>Ownership of Documents</u> : If the contract will result in the production of plans, camera ready copy, art work, or any other material that has been paid for by the Commonwealth and is required for subsequent or future production, then the appropriate special clause should be used in the solicitation to ensure ownership and retention by the Commonwealth.
	<u>Performance Period</u> : The performance period stated in the contract must include a starting and ending date, or the contract period must be for a specific period of time after a starting point; e.g., 120 days after date of award. If an option to renew the contract for an additional period is desired, the option must be stated in the solicitation.
	<u>Prompt Payment Discount</u> : If there is a certainty that payment can be made within a specified period, then a solicitation may be issued including a provision that discounts offered for prompt payment will be considered in determining the low bid. The provision should establish a minimum number of days that the agency will consider; e.g., prompt payment discounts for less than 30 days will not be considered.
	<u>Small Business Subcontracting and Evidence of Compliance</u> : Use in solicitations for goods, nonprofessional services, or non capital outlay construction when a small business subcontracting plan is a condition of the award. Required in solicitations valued over \$100,000 unless a written determination is made, signed by the chief purchasing officer and supported by factual evidence explaining in sufficient detail why no subcontracting opportunities exist.
	<u>Vendor Data Sheet</u> : If the agency wishes to check bidder's/offeror's references or to verify the bidder's/offeror's experience, the Vendor Data Sheet should be included as an attachment to the solicitation (see Annex 6-C).
	For Goods Procurements:

	<u>Inside Delivery</u> : If inside delivery is required, the solicitation should so state. Consider specifying access requirements, e.g., elevator, loading dock, stairwell limitations.
	<u>Samples/Demonstration</u> : If samples or demonstration models are required, the type, quantity, size, the place, and time for submission must be stated in the solicitation.
	<u>Technical Data</u> : If technical data will be required for evaluation, the solicitation should specify when and where the data should be submitted.
	<u>Warranty</u> : If a warranty is required, specify the type and minimum warranty period in the solicitation.

	For Service Procurements:
	<u>Bonds</u> : If personal bonding is desired such as financial or security service, the requirement should be stated in the solicitation.
	<u>Facilities</u> : If the agency will provide facilities for use by the contractor, such as a storage area, this should be stated in the solicitation. If the contractor is required to provide equipment or facilities, it should also be stated in the solicitation.
	<u>Hours of Work - Access to Agency Facilities</u> : If the hours of work and access to the agency's facilities are restricted to certain time periods and dates, the solicitation should so specify. If the resulting contract is not a fixed price contract and overtime work can be anticipated, the pricing schedule should require a statement of overtime rates.
	<u>Licensing Requirements</u> : State any requirements for licensing. Contractors must comply with licensing requirements (see 3.4). The file must show documentation of the contractor's license number when written bids are required.
	<u>Personnel Approval</u> : If the agency desires to approve individuals employed by the contractor under the terms of the contract, or to exercise some degree of control over contractor's personnel, the requirement must be included in the solicitation.
	<u>Response Time/Service Calls</u> : If the vendor must respond to a service call within a specific time frame, the time frame must be specified in the solicitation.
	<u>Sub-Contractor Approval</u> : If sub-contractors may be involved in satisfying the requirement and there is a need to approve the sub-contractors on a project, then the solicitation should state what approvals the Commonwealth wishes to exercise (Annex B).

	For Construction Procurements:
	See 4.24 - The procurement of "construction" for "Capital Outlay Projects" is governed by the rules of the <i>Construction and Professional Services Manual</i> , issued by DGS/Division of Engineering and Buildings.
	<u>Bonds</u> : For construction contracts in excess of \$500,000, a bid bond, performance and payment bonds are required.
	<u>Drawings, As-Built</u> : If "as-built drawings" are required, specify the number of copies, when, and to whom they are to be delivered.
	<u>Drawings, Shop</u> : If shop drawings are required, specify when and to whom they are to be submitted, approvals required, and time limits for review or changes, by both the agency and the contractor.
	<u>Material/Supplies</u> : If there is agency furnished material to be supplied to the contractor, the solicitation must provide for its control, and return, or disposition. If the contractor is to furnish material or supplies, the quantity, quality, and availability must be specified.

Annex 6-I

Small Business Subcontracting Plan

It is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential bidders are required to submit a Small Business Subcontracting Plan.

Small Business: "Small business (including micro)" means a business which holds a certification as such by the Virginia Department of Small Business and Supplier Diversity (DSBSD) on the due date for bids. This shall also include DSBSD-certified women- and minority-owned businesses when they also hold a DSBSD certification as a small business on the bid due date. Currently, DSBSD offers small business certification and micro business designation to firms that qualify under the definitions below.

Certification applications are available through DSBSD online at www.DSBSD.virginia.gov (Customer Service).

Bidder Name: _____

Preparer Name: _____ **Date:** _____

Instructions

- A. If you are certified by the DSBSD as a micro/small business, complete only Section A of this form. This includes DSBSD-certified women-owned and minority-owned businesses when they have also received DSBSD small business certification.
- B. If you are not a DSBSD-certified small business, complete Section B of this form. For the bid to be considered and the bidder to be declared responsive, the bidder shall identify the portions of the contract that will be subcontracted to DSBSD-certified small business for the initial contract period in relation to the bidder's total price for the initial contract period. in Section B.

Section A

If your firm is certified by the DSBSD provide your certification number and the date of certification.

Certification number: _____ Certification Date: _____

Section B

Populate the table below to show your firm's plans for utilization of DSBSD-certified small businesses in the performance of this contract for the initial contract period in relation to the bidder's total price for the initial contract period. Certified small businesses include but are not limited to DSBSD-certified women-owned and minority-owned businesses that have also received the DSBSD small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc. It is important to note that these proposed participation will be incorporated into the subsequent contract and will be a requirement of the contract. Failure to obtain the proposed participation percentages may result in breach of the contract.

B. Plans for Utilization of DSBSD-Certified Small Businesses for this Procurement

Micro/Small Business Name & Address DSBSD Certificate #	Status if Micro/Small Business is also: Women (W), Minority (M)	Contact Person, Telephone & Email	Type of Goods and/or Services	Planned Involvement During Initial Period of the Contract	Planned Contract Dollars During Initial Period of the Contract (\$ or %)
Totals \$					

- 7.1 **Competitive Negotiation (for Goods and Nonprofessional Services)**. Competitive negotiation has the advantage of flexibility for describing in general terms what is being sought and the factors to be used in evaluating responses. It offers the opportunity, through negotiation, to change the content of an offer and pricing after opening. Negotiation is the dialogue that occurs to achieve mutually satisfactory objectives and benefits and to reconcile differences through mediation. This discussion provides the means for both the buyer and seller to reach agreement on a contract's content, terms, and conditions. In the course of negotiation, both parties should be able to reach a mutually acceptable agreement. Competitive negotiation is not "horse trading," "haggling," or an auction. Competitive negotiation, properly carried out, requires skill and extensive preparation on the part of the negotiators to achieve specific procurement objectives. If competitive negotiation is used for a purchase expected to be \$100,000 or less, set-aside per 3.10(g) and the solicitation shall include a tiered award clause as specified in Special Term and Condition 2.M.

This method of procurement requires the issuance of a Request For Proposal (RFP) that describes in general terms the requirement, the factors that will be used to evaluate the proposal, the Commonwealth General Terms and Conditions, plus any special conditions including unique capabilities or qualifications that will be required. In a sealed program, all responses must be held unopened until the date and time specified for their receipt.

7.2 **Preparation and Issuance of a Request for Proposal (RFP)**.

- f. Establish a proposal submission due date and time which provide sufficient time for potential offerors to develop a proposal. The minimum time period is ten (10) days from issue date of the RFP. The time period used may be greater than the required ten (10) days based on the complexity of the requirement and whether or not a preproposal conference is required. When an addendum for a sealed solicitation is issued, there must be a minimum of 10 days from the date of the addendum to the due date set for the receipt of bids, or the due date shall be extended.
- g. Sources.
 - 1) Solicit at least six (6) sources, including a minimum of four (4) DSBSD-certified small businesses, including any women, minority, or micro business also certified as a small business, if available. The list should note which vendors are small businesses. If fewer than the required number of sources are solicited, the reasons must be documented in writing and placed in the purchase file.
 - 2) If Under \$100,000, set-aside accordance with the Small Business Enhancement Award Priority for small business including micro), solicit a minimum of six (6) DSBSD-certified small businesses including at least one micro business in accordance with 3.10(g).
- j. In accordance with the Commonwealth's policy of facilitating and maximizing the participation of small businesses, which shall include businesses owned by women and minorities when they have also received DSBSD small business certification, an evaluation criterion for all contracts in excess of \$100,000 shall be a Small Business Subcontracting Plan (see Annex 7-G) unless no subcontractor opportunities exist. (See 3.10 h). This requirement is to ensure DSBSD-certified small business participation, which will assist efforts toward achieving the statewide goal of exceeding 42% of the Commonwealth's discretionary spending in combined prime and subcontracts for small businesses. When using numerical scoring, the weight for this evaluation criterion shall be at least 20% of the total evaluation points. If the weight for this criterion exceeds 20%, the weight should be based on the availability or likelihood of subcontracting opportunities for the goods or services being procured. See Appendix B, Section II, 36 for the special term and condition for submission of the Small Business Subcontracting Plan and Evidence of Compliance with this requirement.

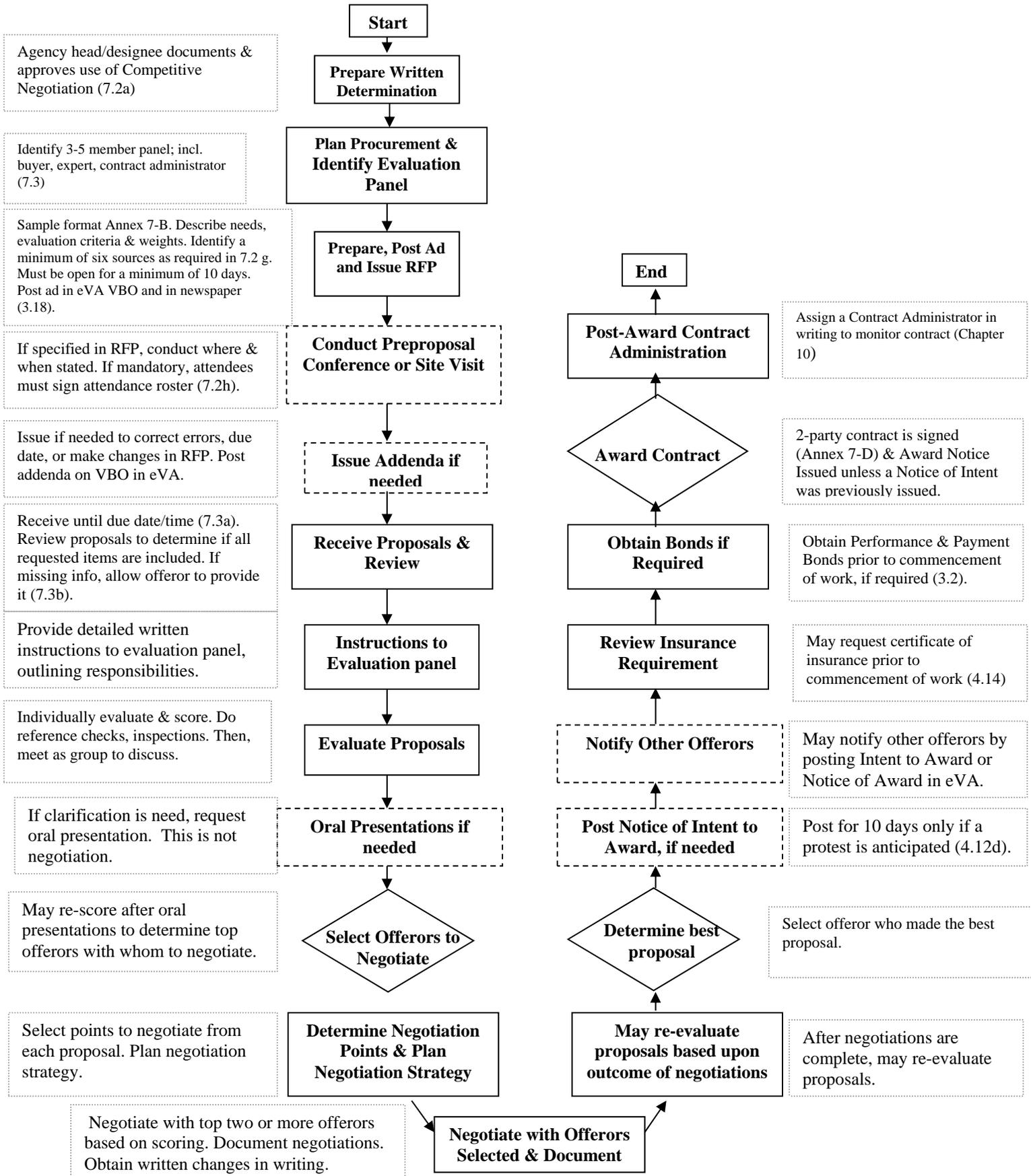
If the offeror is a DSBSD-certified small business, the offeror shall indicate such in Section A of Annex 7-G, and shall receive 100% of the points assigned to this evaluation criterion. If the offeror is not a DSBSD-certified small business, the offeror is required to identify which portions of the requirement is planned to subcontract to DSBSD-certified small businesses by completing and returning Section B of Annex 7-G. The maximum number of points available if the offeror is not a DSBSD-certified small business is 75% of the points assigned to this evaluation criterion. For any particular procurement, an offeror or subcontractor shall

be considered a Small Business if and only if the offeror or subcontractor holds a certification as such by the Department of Small Business and Supplier Diversity (DSBSD) on the due date for receipt of proposals.

(See Annex 7-G.)

Annex 7-A

**Competitive Sealed Proposal Process
For Goods and Non-professional Services over \$100,000 (Code of Virginia §2.2-4302.2)**



Annex 7-B

SAMPLE FORMAT AND STEP-BY-STEP PROCEDURES
REQUEST FOR PROPOSAL (RFP)

Issue Date: _____ RFP# _____

Title: _____

Commodity Code: _____

Issuing Agency: Commonwealth of Virginia

Using Agency And/Or Location
Where Work Will Be Performed: _____

Initial Period Of Contract: From _____ Through _____ (*Renewable).
(* If contract has renewal clause)

Sealed Proposals Will Be Received Until _____ For Furnishing The Goods/Services
Described Herein. Time and Date

All Inquiries For Information Should Be Directed To: _____ Phone: (_____)_____.

IF PROPOSALS ARE MAILED, SEND DIRECTLY TO ISSUING AGENCY SHOWN ABOVE. IF PROPOSALS ARE
HAND DELIVERED, THEN DELIVER TO:

Street Address Building Floor Room No.

In compliance with this Request For Proposals (RFP) and all conditions imposed in this RFP, the undersigned firm hereby offers and agrees to furnish all goods and services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation, and the undersigned firm hereby certifies that all information provided below and in any schedule attached hereto is true, correct, and complete.

* Virginia Contractor License No. _____ * DSBSD-certified Small Business No. _____
Class: _____ Specialty Codes: _____

Name And Address Of Firm:

Zip Code: _____

Date: _____
By: _____
(Signature In Ink)
Name: _____
(Please Print)
Title: _____
Telephone Number: (____)_____

eVA Vendor ID or DUNS #: _____

Fax Number: (____) _____

E-mail Address: _____

* PREPROPOSAL CONFERENCE: A (mandatory/optional) proposal conference will be held on _____ at the _____ (Reference: Paragraph ____ herein). (If mandatory add: "NO ONE WILL BE ADMITTED AFTER _____ (Time) ")* If special ADA accommodations are needed, please contact _____ (Name) at (phone number) by _____ (date) .

* Delete if not applicable.

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

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NOTE: FOR SECTIONS NOT USED ENTER THE WORD "OMITTED" IN PAGE NUMBER COLUMN.

COMPETITIVE NEGOTIATION STEP-BY-STEP PROCEDURES

The following step-by-step procedures are a guide on how to properly prepare an RFP for the procurement of goods or nonprofessional services by competitive negotiation.

STEP 1 - PREPARE WRITTEN DETERMINATION

The use of competitive negotiation requires a written determination made in advance that competitive sealed bidding is either not practicable or not fiscally advantageous to the Commonwealth. The writing shall document the basis for this determination (*Code of Virginia*, § 2.2-4303). It is not sufficient to only state that “it is not practicable or not fiscally advantageous.” The written statement must explain why it is not practicable or not fiscally advantageous. This must be signed by the agency head or his/her designee and becomes part of the procurement file (see 7.2a).

STEP 2 - PREPARE THE REQUEST FOR PROPOSAL (RFP)

Competitive negotiation is a method of contractor selection which includes issuance of a written RFP indicating in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposals, and containing or incorporating by reference the applicable contractual terms and conditions including any unique capabilities or qualifications which will be required of the contractor (*Code of Virginia*, § 2.2-4302.2). The RFP should be prepared using the sequence shown on Annex 7-B. The use of this procedure by state agencies standardizes format and makes it easier for state personnel to prepare, evaluate, award, and administer a competitive negotiation program. It also makes it easier for vendors to understand and respond to RFPs. Determine if the procurement is to be set-aside for small businesses.

Preparing the RFP - The following is an explanation of the contents of each section of an RFP. Not all sections need be used in every RFP.

- I. **PURPOSE:** Include a brief statement of the purpose of the RFP. The following are typical examples of language used in writing this section for goods and services.
 - A. **Goods:** “The purpose of this Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiation for the (purchase/lease-purchase/lease/rental) of (generic commodity description) by the (agency name).”
 - B. **Services:** “The purpose of this Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiation for the purchase of (type of consultant services/type of maintenance services/type of other nonprofessional services) by the (agency name).”
- II. **BACKGROUND:** Optional. If used, the brief narrative should describe historical facts or events leading up to the present requirement for that which is to be purchased. It sets the stage for the proposed procurement.
- III. **STATEMENT OF NEEDS:**
 - A. The Statement of Needs should describe in general terms, the service to be performed or the goods to be purchased, including quantity, if applicable. Specifications and/or drawings may be referenced by attachment.
 - B. Items that should be addressed in the Statement of Needs include the specific tasks, subtasks, parameters, and limitations restricting such task or subtasks which should be accomplished and/or considered by the contractor or included in the final product. Consequently, each task should be numbered and organized in such a manner as to identify it as an individual task among many. This is one of the most important sections of the RFP, because it is the section upon which the offerors will base their proposed prices.
 - C. Other items that should be addressed, as appropriate, include but are not limited to, agency furnished materials such as State plans, statistical reports, office space, personnel, response times, workmanship, working hours, overtime, access to work site, etc.
 - D. The following content information and language usage should be observed in writing the Statement of Needs:
 1. Do not include Proposal Preparation and Submission information in the Statement of Needs section of the RFP. Likewise, do not place Statement of Needs requirements in the Proposal Preparation and Submission Instructions Section of the RFP (see IV, Proposal Preparation and Submission Instructions).

2. In stating a requirement or fact, avoid duplication unless necessary. Duplicating a requirement, especially if it is worded differently, may be confusing. The weaker construction of two different sentences addressing the same requirement may be construed to govern in case of controversy. Courts normally rule against the writer of a document in such matters.
3. Use the word “contractor” in the Statement of Needs to describe the person/firm under contract. Use the word “offeror” to describe who is to submit a response to the RFP. Do not use the words offeror, successful proposer, consultant, vendor, selected firm and provider or other similar nouns to identify the contractor. These terms may create severe problems since they also identify other types of persons besides a contractor. Be consistent in the use of a term to describe a person, function, action, item or organization. For example, do not identify a person or role as a “Project Leader” in one instance and then subsequently identify the same person as a “Project Manager” in another sentence. Technically, two different positions may contractually exist in a case of strict interpretation. More importantly, the offerors may be confused by the use of different terms.
4. Use the words “must” or “shall” only for those areas which are mandatory; that is, they are required by law or regulation or are such that they cannot be waived and are not subject to negotiation. The writer should avoid the use of such phrases as “The contractor will” and “The report is to be completed by” to describe a mandatory requirement. These, and other similar expressions, may be construed as future tense or as a condition of fact rather than a mandatory requirement.
5. The words “should” and “may” are to be used to describe an advisory or permissible action for which negotiations are anticipated or desired.

E. The following are samples of the beginning language:

1. Goods: “The contractor shall furnish ____ each of the following described item(s):”
 - a. The description must specify the minimum desired functions of the item(s) and/or the desired characteristics, design, etc., if applicable. The use of brand names is more appropriate in an IFB than a RFP.
 - b. Other items that should be addressed include but are not limited to inside delivery, set up and assembly, removal of trash, warranty, maintenance, packaging, etc., as appropriate.
2. Consultant Services: “The contractor shall furnish all labor and resources to conduct a management study of (name of specific area, etc.) for the purpose of analyzing and recommending appropriate changes to improve efficiency, etc.”
3. Nonprofessional Services: “The contractor shall furnish all labor, materials, etc. to provide Janitorial Services/Dental Services/Food Service Operations/etc. to the (name of the agency or specific areas, etc.).”

IV. PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS:

- A. GENERAL INSTRUCTIONS: This section is used to inform the potential offerors of how many copies of the proposal must be submitted, how the proposal is to be prepared, the possibility of oral presentations by the offerors, etc. To reduce administrative burden and costs, request enough copies so that each evaluator is provided a copy. The following are sample paragraphs normally used in this section.
 1. RFP Response: In order to be considered for selection, offerors must submit a complete response to this RFP. One (1) original and () copies of each proposal must be submitted to the issuing agency. No other distribution of the proposal shall be made by the offeror.
 2. Proposal Preparation:
 - a. Proposals shall be signed by an authorized representative of the offeror. All information requested should be submitted. Failure to submit all information requested may result in the purchasing agency requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by the purchasing agency. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.

- b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
 - c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, subletter, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and subletter should be repeated at the top of the next page. The proposal should contain a table of contents which cross-references the RFP requirements. Information which the offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.
 - d. As used in this RFP, the terms "must", "shall", "should" and "may" identify the criticality of requirements. "Must" and "shall" identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as "should" or "may" are highly desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual "must" and "shall" items may not be fully satisfied, but it is the intent to satisfy most, if not all, "must" and "shall" requirements. The inability of an Offeror to satisfy a "must" or "shall" requirement does not automatically remove that Offeror from consideration; however, it may seriously affect the overall rating of the Offerors' proposal.
 - e. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
 - f. Ownership of all data, materials, and documentation originated and prepared for the State pursuant to the RFP shall belong exclusively to the State and be subject to public inspection in accordance with the *Virginia Freedom of Information Act*. Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the *Virginia Freedom of Information Act*; however, the offeror must invoke the protections of § 2.2-4342F of the *Code of Virginia*, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection of the proposal. If, after being given reasonable time the offeror refuses to withdraw an entire classification designation, the proposal will be rejected.
3. **Oral Presentation:** Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the agency. This provides an opportunity for the offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. The issuing agency will schedule the time and location of these presentations. Oral presentations are an option of the purchasing agency and may or may not be conducted.
- B. **SPECIFIC PROPOSAL INSTRUCTIONS:** Use this section to inform the potential offerors of the information that must be submitted with their proposals. The information requested is used as the basis for developing the proposal evaluation criteria. The following is a sample of the beginning language and examples of typical specific requirements:
- “Proposals should be as thorough and detailed as possible so that the (agency name) may properly evaluate your capabilities to provide the required goods/services. Offerors are required to submit the following items as a complete proposal:
1. Return the RFP cover sheet and all addenda acknowledgments, if any, signed and filled out as required.

2. Offeror Data Sheet, included as an attachment to the RFP, and other specific items or data requested in the RFP.
3. A written narrative statement to include:
 - a. Experience in providing the goods/services described herein.
 - b. Names, qualifications and experience of personnel to be assigned to the project.
 - c. Resumes of staff to be assigned to the project.
4. Specific plans for providing the proposed goods/services including:
 - a. List of proposed equipment/goods/etc. including operating parameters, illustrations, etc.
 - b. What, when and how the service will be performed.
 - c. Time frame for completion (if not otherwise specified by the agency in the statement of needs).
5. Proposed Price. Indicate in the pricing schedule, Section XI of the RFP, if provided.
6. Small Business Subcontracting Plan – Summarize the planned utilization of DSBSD-certified small businesses under the contract to be awarded as a result of this solicitation. This is a requirement for all prime contracts in excess of \$100,000 unless no subcontracting opportunities exist. (See 3.10 h and Appendix B, Section II, 36.) Complete Annex 7-G.
7. State Corporation Commission Form: Required of all offerors pursuant to Title 13.1 or Title 50 (See Appendix B, Section II, 64.). Include SCC Form, Annex 7-I, in Request for Proposals.

V. **EVALUATION AND AWARD CRITERIA:** This section is in two parts. The first part, “Evaluation Criteria,” tells the offerors how the proposals will be evaluated. **The criteria must be developed from the items asked for in the “Specific Proposal Instructions” section.** The point values assigned to each of the evaluation criteria shall be included in the RFP or be posted in the location used for public posting of procurement notices prior to the due date and time. Prepare a written evaluation plan showing the maximum point values to be assigned to each of the evaluation criteria appearing in the RFP. It is suggested that the point values assigned to the evaluation criteria when totaled equal 100. The second part is the “Award of Contract” clause that states how the award will be made. Select from Appendix B, Section II, the appropriate award clause. The following is a **sample** of the beginning language and example evaluation and award criteria that can be modified to reflect the agency's needs:

A. **EVALUATION CRITERIA:** “Proposals shall be evaluated by the (name of issuing agency) using the following criteria:”

Instructions to Buyers: The basis for evaluation must be known in advance. Phrases such as “and any other criteria the State may decide to use” are not specific, violate the intent of the General Assembly expressed in § 2.2-4300C of the *Code of Virginia*, and shall not be used. Experience and qualifications not only of the firm but also of the personnel to be assigned to the contract shall be included in the “Experience and qualifications” criterion, when appropriate (e.g., services, furnish and install).

These are examples of **typical criteria** used. There is no specific number required but the number should normally be kept to no more than five criteria. The numerical weight assigned to each criterion must be determined by the agency and stated in the RFP, or they must be assigned and posted prior to the opening of proposals. The weights shown here are **only for illustration purposes, except the weight for the small business subcontracting plan shall not be less than 20% of the total point value.** A DSBSD-certified small business that serves as a prime vendor will receive full credit for small business utilization. Other businesses will receive credit based on their Small Business Subcontracting Plan.

1.	Specific plans or methodology to be used to perform the services	25
2.	Price	25
3.	Experience and qualifications of personnel assigned to perform the services	20
4.	Small Business Subcontracting Plan	20
5.	References from other clients	10
	TOTAL	100

	<u>FOR GOODS</u>	<u>POINT VALUE</u>
1.	Quality of equipment offered and suitability for the intended purpose	25
2.	Experience and qualifications of personnel in providing the goods	20
3.	Price	20
4.	Small Business Subcontracting Plan	20
5.	Maintenance Support	10
6.	Scope and suitability of training offered to State personnel	5
	TOTAL	100

Note: If the solicitation has been set-aside for small business or no subcontracting opportunities exist (see 3.10 h), the criteria for Small Business Subcontracting Plan and the point value associated with this criteria will be deleted. The point value shall be re-allocated to the other evaluation criteria.

B. AWARD OF CONTRACT: See Appendix B, Section II for the appropriate clause.

VI. REPORTING AND DELIVERY INSTRUCTIONS: This section is mandatory if the anticipated value of the contract exceeds \$100,000, to include all renewal periods. When used, this section should identify all documentation, reports, etc., and the specific delivery date for each deliverable item that the contractor must furnish during the contract period. In writing this section, the following typical language is provided as an example:

- A. "The contractor shall provide the following documentation to (a specific person or title) for approval by the agency"
- B. "The contractor shall provide a (weekly/monthly) progress report to (a specific person or title) outlining the following:"
1. The specific accomplishments achieved during the reporting period.
 2. The specific tasks completed pursuant to the provisions of the contract and the completion dates of such tasks.
 3. The projected completion dates for the remaining specific tasks required by the contract.
- C. "Within thirty (30) calendar days after the award date of the contract, the contractor shall furnish a preliminary outline of the organizational structure of the final report to (a specific person or title)."
1. The preliminary outline shall delineate the main topics and subtopics that will later be described in detail in the final report.
 2. Beneath each topic and subtopic, the contractor shall furnish a brief narrative description of the subject matter encompassed by the topic or subtopic.

3. The agency shall have the right to edit, modify and/or rearrange the organizational structure, topics, and subtopics as it deems necessary to insure the inclusion of all work required by the contract.
- D. “At least two (2) weeks prior to the submission of the final report, the contractor shall present a preliminary draft of the final report to (a specific person or title). The agency shall have the right to modify and/or to require additional elaboration as it deems necessary to insure a comprehensive and thorough written study of all work required by the contract.”
- E. “On or before the date specified in the contract, a final report shall be delivered to (a specific person or title) for its approval. The contractor shall furnish () copies of the final report.”
- F. “The contractor shall make at least one (1) oral presentation of the final report to persons or organizations as deemed necessary by the agency.”

NOTE: The requirement to provide a report or other deliverable may be mandatory; however, the specific content of the report, format, etc. may be negotiable. Language which can be used may be, “The contractor shall provide a monthly progress report to (a specific person or title). These reports should contain the following information: . . .”

- G. See 3.10 h. outlining requirements for a Small Business Subcontracting Plan in solicitations where the prime contract is in excess of \$100,000. Prime contractors are required to complete Annex 7-G which should be attached to the RFP solicitation. For competitive negotiation, the Small Business Subcontracting Plan shall be used as one of the evaluation criteria. A DSBSD-certified small business who serves as prime contractor will receive full credit for subcontracting for work performed by such prime. See Appendix B, Section II, 36 for the special term and condition that may be included in RFPs requiring the contractor to provide evidence of compliance with this requirement. Receipt of a small business subcontracting plan may be a condition of the award and if so, a requirement for a report from the prime contractor must be stated in the solicitation indicating the frequency of the report required in the contract.

- VII. **PREPROPOSAL CONFERENCE:** If a preproposal conference is desired, indicate date, time, place, and whether attendance is mandatory or optional. See Appendix B, Section II for correct wording.
- VIII. **GENERAL TERMS AND CONDITIONS:** Include the general terms and conditions for goods and services. See Appendix B, Section I. Use the additional general terms and conditions in Appendix B, Section III, for non capital outlay construction projects, as appropriate. Delete General Terms and Conditions that are not applicable to the procurement such as clauses Q, R, S which are not applicable to service contracts; clause T for goods purchases.
- IX. **SPECIAL TERMS AND CONDITIONS:** Select from Appendix B, Section II, all applicable special terms and conditions. Other special terms and conditions may be developed and included, if approved by your agency’s legal advisor.

The following special terms and conditions must be included in all RFPs or as indicated:

- A. **AUDIT:** Term contracts only.
- B. **CANCELLATION OF CONTRACT:** Term contracts only. Provides for the cancellation of the contract by the agency without penalty when it is determined to be in the best interest of the Commonwealth. This clause is not to be used to terminate a contract for default (see Appendix B, Section II).
- C. **RENEWAL OF CONTRACT:** A term contract normally cannot be renewed unless a clause of this type is included in the RFP (see Appendix B, Section II).
- D. **SMALL BUSINESS SUBCONTRACTING PLAN AND EVIDENCE OF COMPLIANCE:** Required where the prime contract is in excess of \$100,000 unless the solicitation has been set-aside for small businesses or no subcontracting opportunities exist. (see 3.10 h and Appendix B, Section II). When this term and condition is used then include Annex 7-G in solicitations to be completed by the offeror.
- X. **METHOD OF PAYMENT:** Specify when payment will be made, i.e., monthly, quarterly, completion of project, etc. In addition, specify when invoices are to be submitted, i.e., by the 10th of the month following the month services were rendered, upon shipment, upon completion of project, etc.

- XI. PRICING SCHEDULE: Provide space and specify how price is to be submitted, i.e., lump sum, hourly rate, unit price, etc. For example: Lump Sum \$_____
- XII. ATTACHMENTS: List any attachments including their purpose.

STEP 3 – PREPARE COVER SHEET AND ISSUE THE REQUEST FOR PROPOSALS

- I. COVER SHEET: Utilize the cover sheet format on Annex 7-B.
- A. RFP#: A control number should be assigned to each RFP issued.
- B. TITLE: If set-aside in accordance with the Small Business Enhancement Award Priority, under 3.10(g) use the following format “Small Business Set-Aside Award Priority” followed by the title of the commodity or service being procured (e.g., Small Business Set-Aside Award Priority - Security Services).
- COMMODITY CODE: Assign the appropriate five digit commodity code for either goods or services.
- C. ISSUE DATE: This is the date that appears on the RFP and is the date the RFP is to be publicly posted and mailed to selected sources.
- D. PERIOD OF CONTRACT: The RFP must state: From - “date of award” or a specified date, Through - a specified date, a specified number of days after award, “completion of project,” or a specified delivery date.
- E. SEALED PROPOSALS WILL BE RECEIVED UNTIL: Specify the exact date and time for receipt of proposals, at least 10 calendar days from date of issue. Public openings of proposals is not required but may be held if desired. If a public opening is held, add “And Then Opened In Public” after the date and time stated on the cover page of the solicitation.
- II. IDENTIFY POTENTIAL SOURCES: Select the appropriate number of sources and prepare a solicitation list (see 3.10).
- III. PUBLISH: Post in eVA VBO. If set-aside in accordance with the Small Business Enhancement Award Priority under 3.10(g). Select “Small Business Set-Aside Award Priority” once the set-aside box has been checked in VBO
- IV. ADVERTISING: Agencies may also post on a designated bulletin board where the general public has access to it. Notices shall also be published in a newspaper or newspapers of general circulation in the area in which the contract is to be performed (see 3.18).

STEP 4 - SELECT AN EVALUATION PANEL

Select and assign a proposal evaluation panel. The evaluation panel should be kept small, three to five is recommended, including the buyer or some other person knowledgeable of the *VPPA*, the *Vendors Manual* and the *Agency Procurement and Surplus Property Manual (APSPM)*. Experience has shown that larger panels are unwieldy and make it difficult to coordinate meetings and negotiating sessions and to reach evaluation decisions.

Provide members of the evaluation panel a copy of VPPA, Article 6. Ethics in Public Contracting, and have them sign a nondisclosure statement (Annex 7-J) concerning conflict of interest.

STEP 5 - CONDUCT PREPROPOSAL CONFERENCE AND/OR SITE VISIT

Conduct preproposal conference and/or vendor visit of work site, if required in the RFP. See Annex 6-E for guidelines. If a preproposal conference or site visit is required, a roster signed by those attending shall be made.

STEP 6 - ISSUE ADDENDUM

If necessary, issue an addendum to correct errors, change proposal due date, or to make any other changes that have been agreed to as a result of the preproposal conference, site visit, etc. See Annex 6-F for sample addendum. Addenda must be posted on the DGS/DPS eVA web site.

STEP 7 - RECEIVE PROPOSALS

Receive proposals at the date and time specified. Publicly open them if indicated on the cover sheet. A public opening is not required by law. If a public opening is held, read only the names of the offerors. See 3.1e for proposal opening procedure. Unsealed proposals may be opened and evaluated upon receipt. Late proposals cannot be considered and should be returned unopened.

STEP 8 - BUYER REVIEW OF PROPOSALS FOR COMPLIANCE WITH THE RFP

After proposals are opened, the buyer/contract officer must review them for completeness and compliance with mandatory requirements. If a proposal is found either to be missing items of information required to be included by the Specific Proposal Instructions or to indicate noncompliance with one or more mandatory requirements of the RFP, immediately notify the offeror. Give the offeror a reasonable time to provide the missing information or furnish evidence of intention to comply with the mandatory requirement(s). Failure to furnish the information within the time allowed will adversely affect the scoring of the proposal.

STEP 9 - PROVIDE INSTRUCTIONS TO EVALUATION PANEL

The buyer/contract officer should prepare written instructions for the evaluation panel detailing the actions to be taken to evaluate the proposals and provide the instructions and copies of the proposals to each evaluator. The original proposals are to be retained and readily available.

- I. The evaluators are instructed to identify and list areas of apparent noncompliance or areas needing clarification in each proposal.
- II. The evaluators are instructed to conduct a preliminary independent and impartial appraisal and prepare a tentative handwritten analysis describing the rationale leading to specific conclusions on the strengths and weaknesses of each proposal.
- III. The evaluators should be instructed not to contact any of the offerors. They must also be instructed not to reveal any information or tentative conclusions on the relative merits of proposals.

STEP 10 - EVALUATE PROPOSALS

- I. The chairperson should determine that all preliminary studies have been completed by each member.
 - A. The evaluator's lists of apparent noncompliance and questionable areas are reviewed by the committee as a group and a determination made as to the need for clarification from the offeror.

If a question/answer clarification conference is scheduled, the committee may defer final decisions related to noncompliance with mandatory requirements. Such a conference may be held with any or all of the offerors.
 - B. If a question/answer conference is considered necessary, the chairperson will schedule the conference using the following guidelines:
 1. The conference may be conducted by using one of two methods: (1) in person or (2) via the telephone. On larger and more complicated projects, the in-person technique is encouraged.
 2. The activities of the conference are limited to clarification or verification of the offeror's written proposal. Negotiations are not conducted at this point.
 3. The offeror may be required to document an answer if such a written clarification is determined to be in the best interest of the Commonwealth.
 4. Proposals that are substantially incomplete or fail to meet mandatory requirements and the offeror has failed to agree to remedy the situation should be eliminated from further consideration.

- II. If reference checks or any tests or inspections are required by the evaluation criteria, proceed as follows:
 - A. The evaluation committee must contact the references for each offeror.
 - B. A written questionnaire identifying the reference and questions asked should be developed. A brief summary of the answers is recorded on the form and becomes part of the file.
 - C. If equipment is required by the RFP, a demonstration test is permissible provided that such requirements are specifically set forth in the RFP.
 - D. On-site inspection of an offeror's facilities by the evaluation committee is permissible for the purpose of verifying facts presented in the proposal. Arrangements for on site tests and inspections should be coordinated with the offeror(s) by the buyer/contract officer.

III. COMPLETE EVALUATION BY ASSIGNING POINTS. The proposals must be assigned points in accordance with the evaluation criteria in the RFP.

- A. The lowest price shall be scored the maximum number of evaluation points for price.

The lowest price is then divided by each of the higher offeror's proposed price in turn. The quotient is then multiplied by the points assigned for price to determine the evaluation points to be assigned to each higher price proposal.

$$\frac{\text{Lowest Price Offered}}{\text{Price of Offer being Evaluated}} = \% \text{ Factor} \times \frac{\text{Maximum Available Points}}{\text{Points}} = \text{Points Assigned}$$

Offeror/ Price	Lowest Offeror's Price		% Factor	x	Maximum Eval PTS (25)*	=	Points Assigned
A \$32,500	<u>24,250</u> 32,500	=	75	x	25	=	18.75
B \$24,250	<u>24,250</u> 24,250	=	100	x	25	=	25
C \$26,350	<u>24,250</u> 26,350	=	93	x	25	=	23.25
D \$27,600	<u>24,250</u> 27,600	=	88	x	25	=	22

* Point value shown is only an example and will vary with the RFP based on points assigned to price criteria.

- B. When assigning points for subjective evaluation criteria, the best proposal for each criteria shall receive the highest points for that subjective criteria (not necessarily the maximum) with the other proposals receiving fewer points according to the evaluator's judgment. Although the scoring of points for other than cost is a matter of subjectivity, the committee member's judgment must be based on fact as presented in the proposal, question/answer conference, etc. An offeror should not be penalized because of lack of experience with the agency itself, but should be judged, among other considerations, on the relevancy of experience and expertise wherever it occurred. Likewise, an offeror should not be given an unfair advantage of points simply because of a previous contractual relationship with the agency. The relevancy of such experience in terms of the RFPs statement of needs, however, may be judged. Points should not be manipulated to favor a preferred supplier, but be assigned in an impartial manner.
- C. One consensus evaluation form should be prepared showing as a minimum: (1) names of the committee members, (2) names of all offerors including those that were removed from further consideration, (3) evaluation criteria and maximum point values for each, (4) average of points assigned to each offeror. Individual committee members' written comments and points assigned should be included in the procurement file once the consensus evaluation form is prepared to support their consensus.

- D. When assigning points for the Small Business Subcontracting Plan criteria, a DSBSD-certified small business, which shall not exclude women-owned and minority-owned businesses when they have received DSBSD small business certification, who serves as the prime contractor, will receive the maximum number of evaluation points for this criteria. The weight for the small business subcontracting plan shall not be less than 20% of the total point value. See Annex 7-G, Section A of the Small Business Subcontracting Plan. Example: 20 points available for Small Business Subcontracting and the Offeror is a DSBSD certified small business then that Offeror would receive 20 points. No further subcontracting would be required.
- E. Other businesses that are not DSBSD-certified small businesses will receive credit based on their Small Business Subcontracting Plan not to exceed 75% of the points assigned to this evaluation criterion i.e. 20 points X 75%= 15 points. Points will be assigned based on each offeror's proposed subcontracting expenditures with DSBSD certified small businesses for the initial contract period as indicated in the offeror's submitted subcontracting plan in relation to each offeror's total price. See Annex 7-G, Section B of the Small Business Subcontracting Plan for proposed small business subcontracting expenditures.

The Offeror's proposed subcontractor use of DSBSD certified small businesses is divided by the Offeror's total proposed price. The quotient is then multiplied by the points assigned for the criteria to determine the evaluation points to be assigned.

		Offeror's proposed use of DSBSD certified small businesses as subcontractors = % Factor X Available = Points Assigned				
Offeror Price	Offeror's Price	=	% Factor	x	Points (15)*	= Points Assigned
A \$152,500	<u>15,250</u> 152,500	=	10	x	15	= 1.5
B \$158,000	<u>26,800</u> 158,000	=	17	x	15	= 2.5
C \$166,350	<u>43,251</u> 166,350	=	26	x	15	= 3.9
D \$177,600	<u>95,904</u> 177,600	=	54	x	15	= 8.1

* Point value shown is only an example and will vary with the RFP based on points assigned to Small Business Subcontracting Plan criteria not to exceed 75% of the points assigned to this evaluation criterion i.e. 20 points X 75%= 15 points.

STEP 11 - SELECTION OF OFFERORS AND PREPARATION FOR NEGOTIATION

- I. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors included in the Request for Proposal. The selection is based upon the Evaluation Committee's score. Negotiations shall be conducted with each of the offerors so selected. Should the evaluation committee determine in writing that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. The determination shall be signed by the agency head or designee.
- II. Each selected offeror's proposal is then discussed in detail by the committee to determine a plan highlighting the areas of negotiation, e.g., concessions to be requested and possible concessions that may be made by the State. **In preparing for negotiations refer to Annex 7-C, Tips/Guidelines for Negotiation.**

STEP 12 - SCHEDULE AND CONDUCT NEGOTIATIONS

- I. Contact each selected offeror and schedule negotiations.

- II. Negotiations are then conducted in accordance with the negotiation plan developed in Step 11. Care should be taken to assure that information contained in other proposals is not divulged. Multiple negotiation sessions may be required.
- III. Obtain in writing, from each offeror with whom negotiations have been held, confirmation of any changes to their proposals that were agreed to during negotiations. Documentation of the negotiating sessions will be made a part of the file. After proposals are rescored in accordance with 7.4.a., the decision to award shall be based on the final negotiated proposals in accordance with the evaluation criteria in the RFP and must be documented in the procurement file. Upon completion of all negotiations, the procuring office shall select the offeror, which in its opinion has made the best proposal, and shall award the contract to that offeror.
- IV. If provisions were included in the RFP for receiving Best and Final Offers (BAFO), as described in 7.4b, after negotiations have been held, offerors are given the opportunity to submit their BAFO. The offers will then be rescored, and an award is made.
- V. Once negotiations have been finalized, complete the “Summary of Evaluation of Ratings by Criteria Worksheet” (Annex 7-H) and place in the procurement file. This worksheet for each offeror negotiated with should be a compilation of the evaluation committee’s ratings and not done by or for each committee member.

STEP 13 - POST A NOTICE OF INTENT TO AWARD

Post for 10 days if protest of the award is anticipated (see Annex 6-G for example of format).

STEP 14 - NOTIFY OTHER OFFERORS

Optional. Notify all other offerors by letter of intent to award or notice of award.

STEP 15 - INSURANCE REQUIREMENTS

If insurance is required in the RFP, the agency has the option of requesting that an insurance certificate be issued. If the agency exercises its option to request such a certificate, it should be requested prior to the work commencing.

STEP 16 - AWARD CONTRACT

The preferred instrument of award for a competitively negotiated contract is the Standard Contract Form (see Annex 7-D). Awards shall be posted on eVA VBO (3.18)

STEP 17 - POST AWARD CONTRACT ADMINISTRATION

The award of a contract is the end of one phase of procurement and the beginning of another equally important phase. This latter phase is contract administration. Its purpose is to assure that the contractor’s total performance is in accordance with all the terms and conditions of the contract. An individual should be assigned in writing to be responsible for contract monitoring and oversight for service or term contracts. A contract administrator should also be assigned when additional coordination is required by the complexity or criticality of the requirement to the agency. Any deviation from contract requirements should be brought to the attention of the contractor and immediate corrective action required (see Chapter 10).

**COMMONWEALTH OF VIRGINIA
STANDARD CONTRACT**

(for use with Competitively Negotiated contracts only)

Contract Number: _____

This contract entered into this ___ day of _____ 20___, by _____ hereinafter called the "Contractor" and Commonwealth of Virginia, _____ (Department, Agency, Division) called the "Purchasing Agency."

WITNESSETH that the Contractor and the Purchasing Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide the goods/services to the Purchasing Agency as set forth in the Contract Documents.

PERIOD OF PERFORMANCE: From _____ through _____.

The contract documents shall consist of:

- (1) This signed form;
- (2) The following portions of the Request for Proposal dated _____:
 - (a) The Statement of Needs,
 - (b) The General Terms and Conditions,
 - (c) The Special Terms and Conditions together with any negotiated modifications of those Special Conditions;

Attachment _____, Date _____
Attachment _____, Date _____

- (3) The Contractor's Proposal dated _____ and the following negotiated modifications to the Proposal, all of which documents are incorporated herein.

The Contractor [is a certified small business] [agrees to subcontract ___% of the contract to DSBSD-certified small businesses].

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR:

PURCHASING AGENCY:

By: _____

By: _____

Title: _____

Title: _____

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

RFP SOLICITATION AND FILE CHECKLIST

✓	RFP SOLICITATION CHECKLIST	✓	FILE CHECKLIST
	<u>Written Determination</u> : There must be a written determination made in advance and placed in the solicitation file to justify the use of competitive negotiation rather than competitive sealed bidding, signed by the agency head or designee (see 7.2a).		Written determination for use of competitive negotiation.
	<u>Approval</u> : Required approvals should be obtained prior to preparing the solicitation and a copy placed in the solicitation file. Examples include a release from Corrections to purchase a good(s) or service they produce from a commercial source, authority from the DGS/DPS for an agency to make a direct procurement in excess of its delegated purchase authority (see 1.2, 1.4 and 2.1).		Special Approval
	<u>Approved Request</u> : Written approval to expend funds must be included in the file. When considering the value of the procurement, include all possible renewal periods.		Purchase Requisition
	<u>Statement of Needs</u> : The Statement of Needs describes in general terms what is to be procured.		
	<u>Preproposal Conferences/Site Visits</u> : If a preproposal conference or site visit is to be held, the solicitation must state the date, time, place, and whether attendance is optional or mandatory.		Preproposal sign-in sheet
	<u>General Terms and Conditions</u> : The general terms and conditions or “boilerplate” must be included in every solicitation. Taxes, Use of Brand Names, and Transportation and Packaging General Terms and Conditions are not normally required for service contracts. The Insurance clause is not normally required for goods purchases.		
	<u>Special Terms and Conditions</u> : Each procurement is different, and for each solicitation the special terms and conditions used should be carefully reviewed to ensure that the proper ones are included. They should be essential to the requirement, protect the interests of the Commonwealth, and assist the offeror in understanding the agency’s intent.		
	<u>Evaluation Criteria</u> : The evaluation criteria must be stated in the solicitation, and be based on the requirements stated therein. Typical evaluation criteria include price, approach to the work, experience and qualifications of offerors. The weights assigned to each criteria must be either included in the RFP or posted prior to receipt of proposals.		Evaluation criteria weights (if not included in the RFP)
	<u>Method of Payment</u> : If payment is to be made prior to final acceptance of the service or goods to be provided, the solicitation should set forth the procedure; e.g., progress payments, partial payments, etc.		
	<u>References</u> : If references are required, the number and type should be specified in the solicitation, and those listed should be checked.		Results of Reference Checks (if requested)
Pre-award, Receipt & Evaluation, and Post-Award			
	<u>Evaluation Committee</u> : Proposal Evaluation Committee is identified.		Names of Evaluation Committee

	<p><u>Offerors List:</u> Solicit a minimum of six (6) offerors, including a minimum of four (4) DSBSD-certified small businesses, if available. If set-aside for Small Business Enhancement Award Priority in accordance with 3.10(g), solicit a minimum of six (6) DSBSD-certified small businesses, if available including (1) micro business. If fewer than the required number of sources are solicited, the reasons shall be documented. Note which vendors are DSBSD-certified small businesses</p>	<p>Offerors List: Name, addresses of Offerors Solicited</p>
	<p><u>Public Notice:</u> Public notice of the solicitation is required at least ten (10) days prior to the date set for receipt of proposals by posting on eVA VBO and by publishing in a newspaper of general circulation in the area in which the contract is to be performed. Notices may also be posted in other locations (see 3.18).</p>	<p>Publicly advertise and posted notice of solicitation in <i>VBO</i> Advertisement</p>
	<p><u>Solicitation:</u> The original RFP. After the award, remove excess copies of the solicitation and keep the original RFP as issued as a permanent record in the file.</p>	<p>Original solicitation</p>
	<p><u>Addenda:</u> Any changes to the original solicitation must be made by written addendum, sent to each offeror solicited, or each offeror who attended a mandatory preproposal conference. A copy of all addenda issued must be uploaded to the DGS/DPS eVA web site and maintained in the file.</p>	<p>Addenda</p>
	<p><u>Questions/Responses:</u> Answers to questions from potential offerors should be shared with all offeror's who attended a mandatory preproposal conference or who were included on the list of offeror's solicited.</p>	
	<p><u>Proposal Receipt:</u> Proposals are closed at the date and time specified in the solicitation. See 3.1e. There is no requirement for a public opening. Instructions are provided to the evaluation committee. Proposals are checked for missing information.</p>	
	<p><u>Review Proposals:</u> Provide detailed written instructions to evaluation committee, outlining specific actions. Members review proposals against mandatory requirements. If missing required information, contact offeror. Allow opportunity for them to provide information.</p>	<p>Copy of each evaluation committee member's score sheet</p>
	<p><u>Review Member Evaluations:</u> Schedule conferences as appropriate or necessary. Conduct reference checks and inspections as required.</p>	
	<p><u>Oral Presentations:</u> Schedule oral presentations if they are necessary to clarify any ambiguities or omissions in the proposals.</p>	
	<p><u>Proposal Evaluation:</u> Individual evaluations are prepared and proposals are evaluated based upon the evaluation criteria and weights.</p>	
	<p><u>Select Offerors and Determine Issues to Negotiate:</u> The committee will decide who to negotiate with based upon the logical division in the point spread as determined by the points received on the evaluation score sheets. The issues to negotiate will be determined by the evaluation committee.</p>	
	<p><u>Schedule and Conduct Negotiation:</u> A record is maintained of the negotiations with each offeror so selected.</p>	<p>Documentation of negotiations.</p>
	<p><u>Best and Final Offers:</u> If it is planned for Best and Final Offers (BAFO's) to be considered from offerors, then this provision must be made a part of the RFP. If the responses have been scored and a BAFO is received after negotiations, then the affected and previously scored proposal will be rescored with the new information contained in the BAFO being considered. No further negotiation shall take place with offerors providing BAFO's. The offeror who has made the best proposal is given the award.</p>	<p>Best and final offers (if requested in the RFP)</p>

	<u>Review Insurance Requirement or other Requirements:</u> If insurance is required in RFP, the agency has the option to request the insurance certificate prior to commencement of work.		
	<u>Notice of Award or Notice of Intent to Award:</u> Post a Notice of Intent to Award for 10 days on the DGS/DPS eVA web site if a protest of the award is anticipated; otherwise, issue the Notice of Award.		Award document
	<u>Bonds:</u> Obtain Performance and payment Bonds prior to commencement of work, if required in the RFP.		
	<u>Successful Proposal:</u> A copy of the successful proposal is retained in the active procurement file.		Successful proposal
	<u>Contract:</u> A standard two-party contract is typically used for negotiated procurements. Be sure to include by reference, all of the terms and conditions of solicitation, and the RFP as may have been changed through subsequent negotiation.		Copy of the contract
	<u>Contract Administration:</u> If the contract requires administration by other than the buyer, those responsibilities are assigned in writing.		Contract Administrator assignment
	<u>Licenses/References:</u> If other information was required of the contractor, these items must be retained in the procurement file.		Licenses, References
	<u>Unsuccessful Proposals:</u> A copy of the unsuccessful proposals is retained as a part of the inactive permanent record.		Unsuccessful proposals
	<u>Post-Award Correspondence:</u> All post- award correspondence should be maintained in the procurement file.		

The following items should be considered when developing the solicitation:	
	For BOTH Goods and Service Procurements:
	<u>Availability of Funds:</u> Funds to support a procurement solicitation must be available. If funds are limited, the file should contain a statement of dollar ceiling that cannot be exceeded, to ensure that a buyer does not make an award in excess of the funds available. See Appendix B, Section II, Special Terms and Conditions for the appropriate clause which should be used in the solicitation. Use with term contracts only.
	<u>Bonds:</u> For the procurement of goods or services other than construction, for any dollar amount, consider if performance or payment bonds are necessary to protect the Commonwealth's interest.
	<u>Cancellation Clause:</u> If the solicitation will result in a term contract this clause should be included. This is not an appropriate clause for spot purchases. (See Appendix B for sample clause.)
	<u>Performance Period:</u> The performance period stated in the contract must include a starting and ending date, or the contract period must be for a specific period of time after a starting point; e.g., 120 days after date of award. If an option to renew the contract for an additional period is desired, the option must be stated in the solicitation.
	<u>Liquidated Damages:</u> If time and delivery are critical, it may be necessary to include a provision for liquidated damages. The basis for the amount of liquidated damages assessed must be supportable and reasonable, considering the service or goods being purchased and the impact of delay on the Commonwealth. A liquidated damages clause is <u>not</u> to be used as a penalty but as a means to access for damages which may be incurred by late delivery.

	<u>Ownership of Documents</u> : If the contract will result in the production of plans, camera ready copy, art work, or any other material that has been paid for by the Commonwealth and is required for subsequent or future production, then the appropriate special clause should be used in the solicitation to ensure ownership and retention by the Commonwealth.
	<u>Required Delivery/Completion Time</u> : If applicable, a specific date must be stated in the solicitation.
	<u>Small Business Subcontracting and Evidence of Compliance</u> : Use in solicitations for goods, nonprofessional services, or non capital outlay construction when a small business subcontracting plan is a condition of the award. Required in solicitations valued over \$100,000 that are not set-aside for small businesses accordance with the Small Business Enhancement Award Priority, unless a written determination is made, signed by the chief purchasing officer and supported by factual evidence explaining in sufficient detail why no subcontracting opportunities exist.
	<u>Vendor Data Sheet</u> : If the agency wishes to check the offeror's references or to verify the offeror's experience, the Vendor Data Sheet should be included as an attachment to the solicitation (see Annex 6-C).
	For Goods Procurements:
	<u>Inside Delivery</u> : If inside delivery is required, the solicitation should so state. Consider specifying access requirements, e.g., inside delivery is required, the solicitation must so state.
	<u>Samples/Demonstration or Demonstration Models</u> : If samples, demonstration or demonstration models are required, the type, quantity, size, the place, and time for submission must be stated in the solicitation.
	<u>Technical Data</u> : If technical data will be required for evaluation, the solicitation should specify when and where the data should be submitted.
	For Service Procurements:
	<u>Bonds</u> : For the procurement of services other than construction, for any dollar amount, consider if performance or payment bonds are necessary to protect the Commonwealth's interest. If services are being solicited where personal bonding is required such as financial or security service, the requirement must be stated in the solicitation.
	<u>Facilities</u> : If the agency will provide facilities for use by the contractor, such as a storage area, this should be stated in the solicitation. If the contractor is required to provide equipment or facilities, it should also be stated in the solicitation.
	<u>Hours of Work - Access to Agency Facilities</u> : If the hours of work and access to the agency's facility are restricted to certain time periods and dates, the solicitation should so specify. If the resulting contract is not a fixed price contract and overtime work can be anticipated, the pricing schedule should require a statement of overtime rates.
	<u>Insurance</u> : This General Term and Condition should be included on service purchases when the contractor is required to work on state owned, leased or rented property. The contractor must have the proper liability insurance and worker's compensation to protect the Commonwealth from claims resulting from the contractor's work or personnel. For information, call the Division of Risk Management at 804-786-3152.
	<u>Licensing Requirements</u> : State any requirements for licensing. Contractors must comply with licensing requirements (see 3.4).
	<u>Material/Supplies</u> : If there is agency furnished material to be supplied to the contractor, the solicitation must provide for its control, and return, or disposition. If the contractor is to furnish material or supplies, the quantity, quality, and availability must be specified.
	<u>Personnel Approval</u> : If the agency desires to approve individuals employed by the contractor under the terms of the contract, or to exercise some degree of control over contractor's personnel, the requirement must be included in the solicitation.
	<u>Response Time/Service Calls</u> : If the vendor must respond to a service call within a specific time frame, the time frame must be specified in the solicitation.
	<u>Sub-Contractor Approval</u> : If sub-contractors may be involved in satisfying the requirement and there is a need to

	approve the sub-contractors on a project, then the solicitation should state what approvals the Commonwealth wishes to exercise (see page Annex B, Special Condition on Subcontracts).
	For Construction Procurements:
	See 4.24 - The procurement of “construction” for “Capital Outlay Projects” is governed by the rules of the <i>Construction and Professional Services Manual</i> , issued by DGS/Division of Engineering and Buildings.
	<u>Bonds</u> : For construction contracts in excess of \$500,000, a bid bond, performance and payment bonds are required.
	<u>Drawings, As-Built</u> : If “as-built drawings” are required, specify the number of copies, when, and to whom they are to be delivered.
	<u>Drawings, Shop</u> : If shop drawings are required, specify when and to whom they are to be submitted, approvals required, and time limits for review or changes, by both the agency and the contractor.
	<u>Material/Supplies</u> : If there is agency furnished material to be supplied to the contractor, the solicitation must provide for its control, and return, or disposition. If the contractor is to furnish material or supplies, the quantity, quality, and availability must be specified.

Annex 7-G

Small Business Subcontracting Plan

It is the goal of the Commonwealth that more than 42% of its purchases be made from small businesses. All potential bidders are required to submit a Small Business Subcontracting Plan.

Small Business: "Small business (including micro)" means a business which holds a certification as such by the Virginia Department of Small Business and Supplier Diversity (DSBSD) on the due date for proposals. This shall also include DSBSD-certified women- and minority-owned businesses when they also hold a DSBSD certification as a small business on the proposal due date. Currently, DSBSD offers small business certification and micro business designation to firms that qualify under the definitions below.

Certification applications are available through DSBSD online at www.DSBSD.virginia.gov (Customer Service).

Offeror Name: _____

Preparer Name: _____ **Date:** _____

Instructions

- A. If you are certified by the DSBSD as a micro/small business, complete only Section A of this form. This includes but is not limited to DSBSD-certified women-owned and minority-owned businesses when they have also received DSBSD small business certification.
- B. If you are not a DSBSD-certified small business, complete Section B of this form. For the offeror to receive credit for the small business subcontracting plan evaluation criteria, the offeror shall identify the portions of the contract that will be subcontracted to DSBSD-certified small business for the initial contract period in Section B.

Offerors which are small businesses themselves will receive the maximum available points for the small business participation plan evaluation criterion, and do not have any further subcontracting requirements.

Offerors which are not certified small businesses will be assigned points based on proposed expenditures with DSBSD-certified small businesses for the initial contract period in relation to the offeror's total price for the initial contract period.

Points will be assigned based on each offeror's proposed subcontracting expenditures with DSBSD certified small businesses for the initial contract period as indicated in Section B in relation to the offeror's total price.

Section A

If your firm is certified by the Department of Small Business and Supplier Diversity (DSBSD), provide your certification number and the date of certification):

Certification number: _____ Certification Date: _____

- 10.16 **Default.** A contractor is considered in default if he or she fails to perform in accordance with the terms and conditions of the contract (e.g., late delivery, nonconformance to specifications). The following factors should be considered prior to taking any action:
- a. The specific reasons for such failure (see *Vendors Manual*, 7.14).
 - b. The period of time needed to obtain the goods or services from other sources compared to the time delivery or performance could be accomplished by the delinquent contractor.

If it is determined that a contractor is in default, unless more immediate action is warranted, a Procurement Complaint Form should be issued and distributed followed by a “Notice to Cure” if unacceptable vendor response, resolution, or action is received. A cure letter may also be issued at the same time as the Procurement Complaint Form. Resolution of performance issues should progressively start with the filing of the Procurement Complaint Form. . Nothing in the section is intended to grant contractors a contractual right to such steps being taken in cases of default.

- 11.2 **Judicial and Administrative Appeals.** *Code of Virginia*, § 2.2-4365, provides that agencies may establish an administrative procedure for hearing appeals from refusals to allow withdrawal of bids, appeals from disqualifications, appeals from determinations of nonresponsibility, appeals of denials of protests of award or decision to award a contract, and appeals from decisions on disputes arising during the performance of a contract. Such administrative procedures shall provide for a hearing before a disinterested person or panel, the opportunity to present pertinent information, and the issuance of a written decision containing findings of fact. The disinterested person or panel shall not be an employee of the governmental entity against whom the claim has been filed. The findings of fact shall be final and conclusive and shall not be set aside unless the same are fraudulent, arbitrary, or capricious, or so grossly erroneous as to imply bad faith. No determination on an issue of law shall be final if appropriate legal action is instituted in a timely manner. Any party to the administrative procedure, including the public body, shall be entitled to institute judicial review if such action is brought within thirty days of receipt of the written decision (*Code of Virginia*, § 2.2-4365). Any appeals procedures that are established must be consistent with the *VPPA*, can apply only to appeals filed after the procedure is established, and must provide for the vendor to receive written notification of the action taken. A bidder, offeror or contractor need not utilize administrative procedures meeting the standards of § [2.2-4365](#), if available, but if those procedures are invoked by the bidder, offeror or contractor, the procedures shall be exhausted prior to instituting legal action concerning the same procurement transaction unless the public body agrees otherwise. The types of appeals are as follows:

Annex 13-C

Directory of Procurement Assistance

<http://www.eva.virginia.gov/pages/eva-dps-directory-of-procurement.htm>

Division of Purchases and Supply
P. O. Box 1199, Richmond, VA 23218-1199
(1111 East Broad Street, Richmond, VA 23219)

Phone: 804-786-3842
Main FAX: (804) 225-3707
eVA Customer Care: (804) 371-2525 **Toll-Free** 1-866-289-7367

DIVISION MANAGEMENT			
Director	Robert Gleason	804-786-3846	Robert.gleason@dgs.virginia.gov
Deputy Director	Linwood Spindle	804-786-3846	Linwood.spindle@dgs.virginia.gov
Administrative Support	Sherie Sensabaugh	804-786-3846	Sherie.sensabaugh@dgs.virginia.gov
FAX		804-371-7877	
BUSINESS SERVICES			
Director	David Nims	804-225-3796	David.nims@dgs.virginia.gov
Business Manager	Dawn Harper	804-786-6641	Dawn.harper@dgs.virginia.gov
Flags	Davina Ellis	804-692-0747	Davina.ellis@dgs.virginia.gov
Reception	Letha Ferrell	804-786-3842	Letha.ferrell@dgs.virginia.gov
FAX		804-371-7877	
eVA Business Manager	Jan Giffin	804-225-3689	Jan.giffin@dgs.virginia.gov
eVA Billing Manager	Bryan Chamberlain	804-225-4046	Bryan.chamberlain@dgs.virginia.gov
FAX		804-786-5413	
PROCUREMENT MANAGEMENT			
Statewide Strategic Sourcing Manager	Pete Stamps	804-786-0079	Pete.stamps@dgs.virginia.gov
Administrative Support	Diane Coles	804-786-8996	Diane.coles@dgs.virginia.gov
FAX		804-786-5712	
<i>CLICK LINK FOR LIST OF BUYERS</i>			
Statewide Strategic Sourcing Manager	Ron King	804-786-1601	Ron.king@dgs.virginia.gov
Administrative Support	Pauline Loving	804-786-3862	Pauline.loving@dgs.virginia.gov
FAX		804-786-5413	
<i>CLICK LINK FOR LIST OF BUYERS</i>			
SUPPLIER RELATIONSHIP MANAGEMENT (Compliance)			
Manager	Cidna Unger	804-225-4045	Cidna.unger@dgs.virginia.gov
FAX		804-786-5712	
POLICY, CONSULTING AND REVIEW			

Director	Sandra Gill	804-786-1600	Sandra.gill@dgs.virginia.gov
Administrative Support	Angela Smith	804-371-8355	Angela.smith@dgs.virginia.gov
FAX		804-786-5712	
<i>CLICK LINK FOR LIST OF ACCOUNT EXECUTIVES</i>			
eVA - ePROCUREMENT			
Director	Bob Sievert	804-786-5079	Bob.sievert@dgs.virginia.gov
Deputy Director	Shane Caudill	804-786-3855	Shane.caudill@dgs.virginia.gov
Administrative Support	Tiara Coles	804-371-8363	Tiara.coles@dgs.virginia.gov
eVA Customer Care	Ghania Matias	804-371-2525	866-289-7367 or www.eva.virginia.gov
eVA Website	David Foster	804-225-4628	David.foster@dgs.virginia.gov
FAX		804-786-3883	
LEARNING AND DEVELOPMENT – VIRGINIA INSTITUTE OF PROCUREMENT			
Manager	Linda Morris	804-786-4634	Linda.morris@dgs.virginia.gov
Consultant	Suzie Gleason	804-692-0761	Suzie.gleason@dgs.virginia.gov
Coordinator	Frances Boynton	804-225-4058	Frances.boynton@dgs.virginia.gov
FAX		804-371-8937	
VIRGINIA DISTRIBUTION CENTER			
Director	Andy Repak	804-328-3233	Andy.repak@dgs.virginia.gov
Assistant Director	Tom Daniel	804-328-3234	Tom.daniel@dgs.virginia.gov
Customer Service, Ordering & Delivery		804-328-3232 x 0	
Invoice Questions		804-328-3232 x 253	
Quality Assurance/Product Specs		804-328-3223	
Receiving Appointments	Warehouse Manager	804-328-3224	
Technical Support	Teresa Owens	804-328-3226	Teresa.owens@dgs.virginia.gov
Vendor Relations	Gary Borden	804-328-3230	Gary.borden@dgs.virginia.gov
	Kevin Davis	804-328-3228	Kevin.davis@dgs.virginia.gov
FAX		804-328-3222	

14.1 Deleted.

14.2 Deleted.

14.5 **Small Purchase Competitive Requirements.**

- e. **Unsealed Bidding:** (over \$5,000 up to \$100,000): Solicitation of bids or quotes via Quick Quote is mandatory for noncontract requirements over \$5,000 up to \$100,000; however, unsealed bidding may be used in lieu of Quick Quotes for complex procurements. Quick Quote may also be used to solicit for requirements under \$5,000. eVA VBO advertising is required over \$5,000.
 1. **Quick Quote:** Vendors must be registered in eVA in order to respond electronically to Quick Quotes in eVA. Electronic Quick Quote responses and other methods for vendors to respond to Quick Quotes may be used simultaneously. Quick Quote responses must be submitted in one of the following ways to be considered responsive: electronic submission through eVA or printed Quick Quote paper response form submitted in person, by fax, mailed, or as an attachment to an email received prior to the bid due date and time. Provide the Standard eVA Term and Condition in Annex 14-A when providing Quick Quote information to an unregistered vendor. The resulting order must be processed through eVA. Reference the Quick Quote number in the header cross-reference field of the eVA requisition. When an award action is taken or a “no award” decision is made, the agency shall update the Quick Quote to reflect the appropriate status. Quick Quote solicitations and award notices are not required to be posted on eVA VBO.

14.9 **Use of eVA:**

- a. **Mandatory Use of eVA.**
 - (1) All purchase transactions, regardless of funding source, governed by the *VPPA* without regard to agency-specific exemptions, shall be processed through eVA to eVA registered vendors except as otherwise provided herein (see 14.11 or 14.9 b). eVA purchase orders should be issued prior to contractors performing any work. However, should the agency find it necessary to issue any eVA confirming orders, the confirming orders must be placed within eVA within five (5) business days after directing the contractor to proceed. This includes orders imported to eVA from ERPs (enterprise resource planning systems).
 - (2) Enterprise Resource Planning Orders. Any ERP order provided to vendors, in lieu of or in advance of a corresponding eVA order, shall include the standard eVA order term and condition. See Annex 14-A.
 - (3) eVA Fees. Agencies and vendors shall pay eVA fees as set forth on the eVA Fee Schedule published on the eVA billing portal. The eVA Fee Schedule is defined as a listing of eVA transaction fees (eVA fees) that are assessed to eVA users, including Vendors. The eVA Fee Schedule is published on the eVA website. Each fee set forth on the eVA Fee Schedule is effective dated so eVA users, including Vendors, can determine the appropriate fee by cross referencing a fee’s effective date to the date of the activity for which the fee is assessed.
 - (4) Modification of Existing Contracts as a Result of Changes to the eVA Fee Schedule. Agencies and institutions with existing contracts that will result in new purchase orders issued after the change to the eVA Fee Schedule may give Contractors the opportunity to adjust contract prices based on any impact to the Contractor resulting from the new order transaction fee.
- b. **Optional Use of eVA.** At the option of the agency or institution, non-procurement (payment) transactions and the following eVA-excluded procurement transactions may be processed through eVA, by issuing the order to the vendor and coding the requisition with the X02 purchase order category. The X02 purchase order category is to be used for the exclusive purpose of identifying eVA-excluded procurement transactions (listed below), as well as non-procurement (payment) transactions, created in eVA.

The resulting benefit of using X02 will allow for agencies to have one source to enter all transactions (excluded and non-excluded purchase orders as well as payment transactions). This will also give agencies and institutions the ability to report, track, and analyze all their transactions in one place. eVA orders with the X02 purchase order category will be exempt from eVA agency and vendor transaction fees.

1. Real estate leases
2. Advertisements such as in newspapers, magazines, journals, radio, television, etc.
3. Professional organizational membership dues and training classes sponsored by the professional organization when payment is made directly to the professional organization sponsoring the training class. A “professional organization” is generally defined as a group of professional individuals in a like occupation charged with educating, certifying, lobbying for its members.
4. Conference registrations
5. Petty cash purchases
6. Honoraria
7. Entertainment (speakers, lecturers, musicians, performing artists)
8. Accreditation fees and academic testing services
9. Exhibition rental fees for exhibitions of historical artifacts or original works of art. (The rental fee may include charges other than the rental of the exhibition, such as transportation costs.)
10. Goods or personal services for direct use by the recipients of programs specified in the *Code of Virginia*, § 2.2-4345, if the procurement is made for an individual recipient. Contracts and/or spot purchases for the bulk procurement of goods or services for the use of recipients shall not be exempted.
11. (i) Award of grants by agencies and institutions to public bodies or tax exempt non-profit charitable organizations. This exception does not apply to the expenditure of grant funds by agencies and institutions for the purchase of goods and/or services (see *APSPM* 13.8e).

(ii) Award of contracts by agencies and institutions to charitable organizations in accordance with the provisions of *APSPM* 8.7, Alternative Procurements.
12. Medical (Health Care) Services when the service is provided by a hospital or an individual licensed and authorized by law to engage in the prevention, diagnosis, or treatment of human illness, injury, or physical disability, mental health, mental retardation, substance abuse, or emotional condition. Contracts and purchase orders between the agency or institution and temporary service providers or independent laboratory testing companies are not exempt from purchasing through eVA.
13. Public Utilities (electric, natural gas, water, sewer)
14. Purchases made via closed-loop systems or automated inventory control systems for items for resale, e.g., ABC, drugs (only POS drugs)
15. Purchases made using the DPS-authorized multi-state drug contract
16. Purchases made using the DPS statewide contract for Express Delivery Services.
17. Over the counter charge card purchases that are made at the site of the sale and picked up by the individual card holder (i.e., SPCC, Voyager).
18. Revenue contracts, e.g., scrap, recycling or contracts with \$0 payment made by the Commonwealth, e.g., contracted out Bookstore, Food service operations.
19. Government-to-government purchases, other than purchases from mandatory sources
20. Purchases from public auctions (non-electronic)
21. Surplus property
22. Contracts with commercial fisherman for replenishment, research and stock assessment activities

- 23. (a) Individual travel and lodging
 - (b) Group (i.e., two or more individuals) travel up to \$50,000 per group travel event
 - (c) Group travel-related lodging
- 24. Financing when goods/services procured from one source are being financed by another (i.e., third party) source. The financing exclusion does not apply to lease purchases.
- 25. Business and/or financial transactions to which public procurement regulations do not apply. Examples include debt service payments, Medicare and Medicaid payments, and child support payments.
- 26. Contracts with public and private hospitals, as well as pharmacy chains and independent pharmacies, that are licensed and authorized by law to dispense controlled drugs and other medications based on prescriptions written by medical practitioners licensed to engage in the prevention, diagnosis, or treatment of human illness, injury, or physical disability, mental health, mental retardation, substance abuse, or emotional condition, when the purpose of the contract is to provide on-site mentoring and practical experience to pharmacy students enrolled in state institutions of higher education.
- 27. Contracts with public and private hospitals, medical practices, and medical clinics that are licensed and authorized by law to engage in the prevention, diagnosis, or treatment of human illness, injury, or physical disability, mental health, mental retardation, substance abuse, or emotional condition, when the purpose of the contract is to provide on-site mentoring and practical experience to medical students enrolled in state institutions of higher education.
- 28. Individuals providing instructional services in conjunction with a contract between an institution of higher education, including community colleges, and a local business or industry for non-credit workforce development classes to be provided by the institution of higher education.
- c. **eVA Required Terms and Conditions.** The eVA Business-to-Government Vendor Registration clause, General Term and Condition X, and the eVA Business-to-Government Contracts and Orders clause, Special Term and Condition 4 shall be used in all solicitations, purchase orders, contracts, and contract renewals. Existing contracts without General Term and Condition X or without special Term and Condition 4 or with an older version of either shall be modified to include the current versions of General Term and Condition X and Special Term and Condition 4.

14.11 **Orders To Unregistered and State Entered Vendors In eVA and Related Fees.** There may be times when an agency or institution is compelled to do business with a vendor that refuses to register in eVA (State Entered and Unregistered [ad hoc] vendor) and the specific purchase transaction is not included in the optional use of eVA list set forth in *APSPM* Section 14.9.b. In such cases, the agency or institution is required to process the order through eVA.

14.15 **Procurements set-aside in accordance with the Small Business Enhancement Award Priority (3.10g):** Shall follow the guidance in Chapters 5, 6 and 7 for advertising in eVA Quick Quote and VBO.

APPENDIX A

GLOSSARY AND ACRONYMS

Micro Business: "Micro business" means a business that has been designated in accordance with Regulations governing Certification by the Virginia Department of Small Business and Supplier Diversity (DSBSD). Designation requirements can be found at www.sbsd.virginia.gov.

Minority-Owned Business: "Minority-owned business" means a business that has been certified in accordance with Regulations governing Certification by the Virginia Department of Small Business and Supplier Diversity (DSBSD). Certification requirements can be found at www.sbsd.virginia.gov.

Point of Requisition: When an individual identifies a need and initiates a request for the good or service.

Small Business: "Small business" means a business that has been certified in accordance with Regulations governing Certification by the Virginia Department of Small Business and Supplier Diversity (DSBSD). Certification requirements can be found at www.sbsd.virginia.gov

SWaM: The acronym SWaM, includes small businesses, women-owned businesses and minority-owned businesses that have been certified in accordance with Regulations governing Certification by the Virginia Department of Small Business and Supplier Diversity (DSBSD). Certification requirements can be found at www.sbsd.virginia.gov Refer to individual definitions contained in this Appendix.

Women-Owned Business: "Women-owned business" means a business that has been certified in accordance with Regulations governing Certification by the Virginia Department of Small Business and Supplier Diversity (DSBSD). Certification requirements can be found at www.sbsd.virginia.gov

APPENDIX B

SECTION I

REQUIRED GENERAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

- F. **DEBARMENT STATUS:** By participating in this procurement, the vendor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this solicitation,. Vendor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia.
- T. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.

3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)

<u>Profession/Service</u>	<u>Limits</u>
Accounting	\$1,000,000 per occurrence, \$3,000,000 aggregate
Architecture	\$2,000,000 per occurrence, \$6,000,000 aggregate
Asbestos Design, Inspection or Abatement Contractors	\$1,000,000 per occurrence, \$3,000,000 aggregate
Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals, or Health Maintenance Organizations.)	\$2,150,000 per occurrence, \$4,250,000 aggregate
(Limits increase each July 1 through fiscal year 2031 per	<i>Code of Virginia</i> § 8.01-581.15.
Insurance/Risk Management	\$1,000,000 per occurrence, \$3,000,000 aggregate
Landscape/Architecture	\$1,000,000 per occurrence, \$1,000,000 aggregate
Legal	\$1,000,000 per occurrence, \$5,000,000 aggregate
Professional Engineer	\$2,000,000 per occurrence, \$6,000,000 aggregate
Surveying	\$1,000,000 per occurrence, \$1,000,000 aggregate

*** When Used: FOR CONSTRUCTION, SERVICE CONTRACTS AND GOODS CONTRACTS WHEN INSTALLATION IS REQUIRED - Required in all solicitations where a contractor will perform work or services in or on state facilities. The limits are minimums and may be increased. The Department of Treasury, Division of Risk Management (804-786-3152) should be contacted when other types of coverage may be required or when in doubt as to the need for other limits. When soliciting one of the Professions/Services listed above include the Professional Liability/Errors and Omissions coverage and limits as shown. When not soliciting one of these Professions/Services, omit the required coverages section from the General Terms and Conditions boilerplate.**

- X. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS:** The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet procurement solution by completing the free eVA Vendor Registration. All bidders or offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the bid/proposal being rejected.

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

- a. For orders issued July 1, 2014 and after, the Vendor Transaction Fee is:
 - (i) DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
 - (ii) Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.

For orders issued prior to July 1, 2014 the vendor transaction fees can be found at www.eVA.virginia.gov.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

*** When Used: Include in all solicitations, contracts, and contract renewals. In addition, this General Term and Conditions must be incorporated or incorporated by reference in all purchase orders issued by state agencies and institutions except for the procurement types which are excluded in section 14.9.**

Z. **SET-ASIDES IN ACCORANCE WITH THE SMALL BUSINESS ENHANCEMENT AWARD PRIORITY:** .

This solicitation is set-aside for award priority to DSBSD-certified micro businesses or small businesses when designated “Micro Business Set-Aside Award Priority” or “Small Business Set-Aside Award Priority” accordingly in the solicitation. DSBSD-certified micro business or small businesses this include DSBSD-certified women-owned and minority-owned businesses when they have received the DSBSD small business certification. For purposes of award, bidders/offerors shall be deemed micro businesses or small businesses if and only if they are certified as such by DSBSD on the due date for receipt of bids/proposals.

SECTION II

SPECIAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

MANDATORY FOR MOST CONTRACTS

2. **AWARD OF CONTRACT:** All solicitations must specify the method of award. Use the appropriate Award clause below in J. or K. if the total award including all possible renewal periods is expected to exceed \$100,000 and the purchasing agency desires the option to award to a reasonably priced or reasonably ranked DSBSD-certified small business bidder or offeror that is other than the lowest priced bidder or highest ranking offeror. Select appropriate clause for the type of procurement:

J. **Delete**

K. **Delete**

- L. **AWARD:** Award of the contract shall be made to the lowest responsive and responsible bidder that is a DSBSD-certified micro business if such a bid is received, provided that the bid is less than \$10,000 and the agency in its sole discretion determines that the bid price is fair and reasonable. Otherwise, award of the contract shall be made to the lowest responsive and responsible bidder that is a DSBSD-certified small business if such a bid is received, provided that the bid is not more than \$100,000 and the agency in its sole discretion determines that the bid price is fair and reasonable. If, in the agency’s opinion, the criteria in the previous two sentences are not present, then award shall be made to the lowest responsive and responsible bidder of any size, provided the agency in its sole discretion determines that the price is fair and reasonable. If applicable, unit prices, extensions and grand total must be shown. In case of arithmetic errors, the unit price will govern. If cash discount for prompt payment is offered, it must be clearly shown in the space provided. Discounts for prompt payment will not be considered in making awards. The State reserves the right to reject any and all bids in whole or in part, to waive any informality, and to delete items prior to making an award.

* When Used: This award clause may be used in invitations for bids for goods or services where the procurements is set-asides in accordance with the Small Business Enhancement Award Priority.

- M. **AWARD:** Selection shall be made of two or more DSBSD-certified micro business offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals, provided that the price proposal is for less than \$10,000. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (Code of Virginia, § 2.2-4359D). Should the Commonwealth determine in writing and in its sole discretion that only one DSBSD-certified micro business offeror is fully qualified, or that one such offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. Any award to a DSBSD-certified micro business offeror pursuant to the above process may be made only if the price as negotiated remains under \$10,000. The award document will be a contract incorporating by

reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated. If the agency in its sole discretion determines that the above criteria for limiting the negotiation to micro businesses are not present, the agency shall follow the same process as specified above, but restricting the negotiation instead to DSBSD-certified small business offerors, provided that the price proposal is not more than \$100,000. If the agency determines that the above criteria for limiting the negotiation to small businesses are not present, the agency shall follow the same process as specified above, but without restricting the negotiation to small or micro business offerors.

* When Used: This award clause may be used in competitive negotiations for goods or services where the procurement is set-aside in accordance with the Small Business Enhancement Award Priority.

36. **SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:**

- A. It is the goal of the Commonwealth that 42% of its purchases be made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All bidders/offerors are required to submit a Small Business Subcontracting Plan. Unless the bidder/offeror is registered as a DSBSD-certified small business and where it is not practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to DSBSD-certified small businesses. This shall include DSBSD-certified women-owned and minority-owned businesses when they have received DSBSD small business certification. No bidder/offeror or subcontractor shall be considered a small business unless certified as such by the Department of Small Business and Supplier Diversity (DSBSD) by the due date for receipt of bids or proposals. If small business subcontractors are used, the prime contractor agrees to report the use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business with the DSBSD certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided.
- B. Each prime contractor who wins an award in which a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution on a ____ (insert monthly, quarterly, or other frequency) ____ basis, evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the small business subcontracting plan. Upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm with the DSBSD certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by the agency or institution. The agency or institution reserves the right to pursue other appropriate remedies for non-compliance to include, but not be limited to, termination for default.
- C. Each prime contractor who wins an award valued over \$200,000 shall deliver to the contracting agency or institution on a ____ (insert monthly, quarterly, or other frequency) ____ basis, information on use of subcontractors that are not DSBSD-certified small businesses. Upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm, phone number, total dollar amount subcontracted, and type of product or service provided.

*** When Used: Use in solicitations for goods, nonprofessional services, or non capital outlay construction when a small business subcontracting plan is a condition of the award. Required in solicitations valued over \$100,000 that are not set-aside for small business unless a written determination, signed by the chief purchasing officer and supported by factual evidence explaining in sufficient detail why no subcontracting opportunities exist is made. Fill in the blank with period of time or occurrence when evidence of compliance is due, e.g., request for final payment, monthly, quarterly, annually, end of contract period.**