

February 14, 2002

MEMORANDUM

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

FROM: Ron Bell
Director

SUBJECT: Procurement Information Memoranda (PIM) #98-010

Enclosed is PIM #98-010 representing several changes to the September 1998 edition of the *Agency Procurement and Surplus Property Manual (APSPM)*. Please insert or replace the pages enclosed; the appropriate page numbers are shown at the bottom of the page. The location of text changes are indicated by an arrow in the margin (→▶).

PIM 98-010 is issued to clarify and amplify policies and procedures on the use of eVA that were issued in PIM 98-009 on 10/9/01. PIM 98-010 provides an extension from 12/1/01 to 7/1/02 of the requirements of PIM 98-009. Agencies and institutions are encouraged to continue aggressive implementation of eVA. Exceptions for the use of eVA are included and interim exclusions, which are currently under review, are shown. Purchasing officers should report any difficulties with order placement through eVA to the DPS eVA Support Line at 804-786-3842. Your support will help us to identify areas where assistance may be needed.

Appendix C contains a log in which to list the PIM number and date of revision. This letter and the corresponding PIM #98-010 should be filed in the back of the Appendix C log. Replacement pages should be inserted as indicated.

Section	Summary of Changes	Replacement Pages as Indicated
Annex 3-C Page 3-17	The Commonwealth of Virginia Standard Performance Bond, CO-10 form added a blank line to insert the Surety company name.	Insert replacement page 3-17.
Chapter 14	Several changes and new sections are added to Chapter 14 on Electronic Procurement.	Insert replacement pages for Chapter 14 in its entirety.

Appendix B, Section I, X. Pages B-6a & B-6b	General Term X. was modified and includes new “When Used” guidance.	Insert replacement pages B-6a and B-6b.
Appendix B, Section II, #59 Pages B-22a & B-22b	Special Term #59 was modified and includes new “When Used” guidance.	Insert replacement pages B-22a and B-22b.

If you should have questions about the changes noted, please contact Nancy M. Davis at 804-786-0323 or ndavis@dgs.state.va.us.

Annex 3-C

DGS 30-084
(Rev. 05/01)

CO-10
Page 1 of 2

**COMMONWEALTH OF VIRGINIA
STANDARD PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: That _____, the Contractor ("Principal") whose principal place of business is located at _____ and _____ ("Surety") are held and firmly bound unto the Commonwealth of Virginia, _____, the Owner ("Obligee") in the amount of _____ Dollars (\$ _____), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Principal has by written agreement dated _____ entered into a contract with Obligee for _____ which contract (the "Contract") is by reference expressly made a part hereof;

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Principal shall promptly and faithfully perform said Contract in strict conformity with the plans, specifications and conditions of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Provided, that any alterations which may be made in the terms of the Contract, or in the Work to be done under it, or the giving by the Obligee of any extension of time for the performance of the Contract, or any other alterations, extensions or forbearance on the part of either or both of the Obligee or the Principal to the other shall not in any way release the Principal and the Surety, or either of them, their heirs, executors, administrators, successors or assigns from their liability hereunder, notice to the Surety of any such alterations, extension, or forbearance being hereby waived.

No action shall be brought on this bond unless brought within one year after: (a) completion of the Contract and all Work thereunder, including expiration of all warranties and guarantees, or (b) discovery of the defect or breach of warranty or guarantee if the action be for such.

The Surety represents to the Principal and to the Obligee that it is legally authorized to do business in the Commonwealth of Virginia.

CHAPTER 14

ELECTRONIC PROCUREMENT

In this Chapter look for . . .

- 14. General
- 14.1 Definitions
- 14.2 Internet Access
- 14.3 Agency Responsibility
- 14.4 e-Mall Shopping
- 14.5 Small Purchase Competitive Requirements
- 14.6 Change Orders
- 14.7 Documentation of Purchase Transactions
- 14.8 Approvals
- 14.9 Exclusions to the Use of eVA
- 14.10 Vendor Registration Requirement

14. **General.** This chapter establishes policies and provides guidance on electronic procurement in Virginia, hereinafter referred to as eVA. eVA encompasses vendor central registration and source selection, requisitioning, solicitation development, soliciting and receiving formal and informal bids and proposals, bid/proposal tabulation and evaluation, electronic ordering, public posting, electronic receiving, electronic invoicing, electronic data record keeping and various reporting capabilities. Additionally, eVA facilitates item searches through an Electronic Mall (e-Mall), in which Commonwealth entities can shop mandatory sources and mandatory use and optional use term contracts, surplus property and non-contract sources, all displayed as electronic catalogs. Policies herein shall be applicable only to transactions processed through eVA and shall take precedence in the event of conflict with other sections of this manual. The Virginia Public Procurement Act, other applicable sections of the *Code of Virginia*, as well as other provisions of this manual and Vendors Manual will remain in full force and effect. Purchases processed outside eVA will continue to be governed by applicable law and by the non-eVA policies and procedures contained in this manual and Vendors Manual in effect at the time of the transaction.
- 14.1 **Definitions.** Refer to the eVA Implementation Guide's Glossary of Terms for definitions as they apply to eVA.
- 14.2 **Internet Access.** Authorized use of eVA requires access to the internet with equipment possessing the minimum rating of 32 MB RAM (64 – 128 MB recommended) with a 100 – 250 MB hard drive needed for Internet browser. Refer to the eVA Implementation Guide, Section II.E, for additional technical requirements. The eVA portal located at www.eva.state.va.us is the gateway to facilitate a single sign-on to access all services available to the user when processing a purchase requirement, obtaining data analysis and reporting or to reach the help desk. A help desk is also available by calling DGS/DPS at 804.786.3842 or FAX 804.786.5712.
- 14.3 **Agency Responsibility.** Agencies and institutions should develop written internal policies, procedures and controls on the use of eVA. This should include re-delegation of purchasing authority, requisition approval process, how to incorporate terms and conditions, interface with finance and accounting, record keeping, encumbrance of funds, receiving (central and/or decentralized) and interface with internal automated systems. Additionally, guidelines should be included for conducting compliance audits/reviews of purchase transactions made by or on behalf of agency employees. Although *BuysenseOrg* functionality will provide that each organization can use its own accounting structure, business rules and workflow, only minimal levels of approval should be included in the process so as to maximize the benefits of eVA. Descriptions on each of the eVA core functions are contained in the eVA Implementation Guide.

14.4 **e-Mall Shopping**. Any available mandatory source, mandatory use contract or optional use contract will appear in the response(s) received to an item search in the e-mall. Unit prices shown in the electronic catalogs are inclusive of shipping charges; however, a minimum order requirement may apply, which can be determined by clicking on the item description to view further information. The extent to which agencies and institutions use eVA will be taken into consideration when evaluating requests for (and maintenance of) higher levels of delegated purchasing authority (see 1.2a). The below procedures shall apply to purchases made via the e-mall:

- a. **Mandatory Sources and Mandatory Use Contracts (see 2.1)**: Agencies and institutions shall place all orders through eVA on mandatory use contracts; this should begin immediately with full compliance no later than July 1, 2002. Purchases may be made up to any dollar amount unless otherwise limited by the specific mandatory source or contract. Exception to the use of a mandatory source or contract must be approved in advance, in writing, by an official of the mandatory source, or the contract officer in the case of a DGS/DPS contract, utilizing the Procurement Exemption Request form located at Annex 13-D. Approved requests must be attached to the purchase transaction file either electronically or by hard copy.
- b. **Optional Use Contracts and Pricing Agreements (see 2.2a.)**: Orders for items available on optional use contracts or pricing agreements shall be placed through eVA; this should begin immediately with full compliance no later than July 1, 2002. Purchases may be made up to any dollar amount unless otherwise limited by the specific contract. Such contracts allow for purchases from other sources; however, if it is to be made from another source and the total cost exceeds the single quote limit, the requirement must be competed.
- c. **Non-mandatory Sources (see 2.2b. & c.)**: Surplus property listed in the e-mall is available for purchase up to any dollar amount. Sheltered workshops are not listed. Purchases from sheltered workshops are exempt from competitive procurement within the guidelines stipulated in 2.2c, but can only be accessed outside eVA.
- d. **Open Market Sources**: In addition to any available mandatory source, mandatory contract or optional use contract, other vendors may appear as choices during the e-mall shopping for the specific requirement. When a mandatory source or contract is not available to satisfy the requirement or an exemption has been granted to bypass it, any open market vendor may be selected when the total value does not exceed the single quote limit. See paragraph 14.5 for small purchase competitive requirements.

14.5 **Small Purchase Competitive Requirements**. eVA provides the capability to shop e-Mall catalogs (non-contract) up to \$30,000 and to solicit informal competition electronically via Quick Quote for small dollar requirements up to \$50,000. Small purchase solicitations are not required to be publicly advertised for at least 10 days, but the deadline set for a response should take into consideration the agency's needs and the time needed by potential bidders to review the requirement and to offer a quote. The award shall be made to the lowest responsive and responsible bidder.

- a. **Single Quotation (up to \$5,000)**: An e-mall catalog (non-contract) price is acceptable as a quote when the value of the purchase is \$5,000 or less. The lowest priced item received as a result of an e-mall catalog search need not be chosen, but such selection should be based on the product that best meets the need and the required delivery date and when the price is considered fair and reasonable. Documentation of the one quote selected is not required. Although an e-mall catalog price response is acceptable, competition may be solicited via Quick Quote whenever the requirement is for multiple quantities and/or when it can be expected that a lower price and/or savings in shipping costs may be realized.
- b. **e-Mall Search Responses (over \$5,000 to \$15,000)**: e-Mall catalog (non-contract) prices are acceptable as quotes whenever a minimum of three valid responses are received as a result of the e-mall search. A valid response is defined as an item meeting brand name or equal, generic or proprietary specification requirements. Additional competition need not be solicited in such instances, but the award shall be made to the lowest price e-mall vendor meeting specifications. Whenever less than three e-mall catalog responses are received, additional competition must be solicited via Quick Quote (see paragraph 14.5e) to comply with the required three valid responses. Each valid e-Mall response should be counted as a quote and included in the bid tabulation along with the additional quick quotes received. In the event additional valid sources could not be identified or the number of additional valid responses did not total three when combined with the e-mall search, document the attempt made to identify other sources and/or conduct a price reasonableness determination if only one valid quote was received. Such documentation may be noted in the comment block of the eVA purchase request. Be aware that e-Mall catalog pricing is generally for one each, inclusive of shipping and handling charges and, therefore, a lower price plus additional savings for shipping can be expected for multiple quantities and/or line items if solicited via Quick Quote.

- c. **e-Mall Search Responses (over \$15,000 to \$30,000):** The same procedure as stipulated in paragraph 14.5b and 14.5f shall apply for e-Mall responses over \$15,000 to \$30,000, except substitute the number four wherever three is shown.
- d. **e-Mall Search Responses (over \$30,000):** e-Mall catalog (non-contract) responses over \$30,000 shall not be accepted as valid quotes. Small purchase requirements over \$30,000 to \$50,000 must be solicited via Quick Quote (see paragraph 14.5f).
- e. **Quick Quote (over \$5,000 to \$15,000):** Solicit via Quick Quote for non-contract requirements between \$5,000 and \$15,000 a minimum of three valid sources, if available. Quick Quote may also be used to solicit a quote(s) for requirements under \$5,000. Quick Quote solicitations should be open for a minimum of one (1) day to allow vendors to return pricing by the closing date and time. Vendors must be registered in eVA in order to respond to Quick Quotes in eVA. Quick Quote solicitations in eVA and the traditional telephone bidding or Faxback requests for quotes may be used simultaneously using the procedures in 5.5 and 5.6. In cases where the lowest responsive and responsible bidder is not solicited through Quick Quote, documentation must be maintained using procedures in 5.5 or 5.6 or attached electronically to the record.
- f. **Quick Quote (over \$15,000 to \$50,000):** The same procedure as stipulated in above paragraph 14.5e shall apply when soliciting competition via Quick Quote for non-contract requirements between \$15,000 and \$50,000, except substitute the number four wherever three is shown. Quick Quote solicitation notices are not required to be posted. Award notices shall be posted as required in 3.18.
- g. **Quick Quote (over \$50,000):** Quick Quote shall not be used to solicit competition for requirements exceeding \$50,000; however, emergency purchase requirements meeting the criteria of paragraph 9.1 may be solicited via Quick Quote up to any dollar amount.
- h. **Small Purchase Charge Card (SPCC):** Where a SPCC has previously been entered into the eVA system, it should be used to affect payment of all purchase transactions up to \$5,000 processed through vendors accepting the card. Every effort must be made to ensure that whenever a card is issued or cancelled, when a restriction imposed on a card is changed, etc., that the eVA system is updated as soon as practicable.

14.6 **Change Orders.** eVA does not provide the functionality at this time to issue change orders. The following guidance is provided for making and documenting purchase order changes prior to receiving the goods or services in eVA. Note that once an order has been documented as received in eVA it cannot be cancelled; therefore, any shortages, overages, damages, etc., discovered after receiving in eVA must be handled off-line with the vendor.

- a. **Goods or Service Not Received:** In this situation the purchase order must be cancelled in eVA and a new purchase request created, if the requirement still exists.
- b. **Goods Received and Rejected But Receipt Transaction Not Entered in eVA:**
 - Contact the vendor and make arrangements for the return of the goods. If the Commonwealth made the error, charges may be incurred in returning the merchandise.
 - After the appropriate arrangements have been made off-line, cancel the purchase order in eVA. In the eVA cancellation, use the remarks block of the receipt document to document any charges incurred by the Commonwealth as a result of the cancellation. Use this documentation to support the re-stocking and transportation fees, if any, associated with the cancellation.
 - If the requirement still exists, generate a new eVA purchase request.
- c. **Order Received Short--No Additional Deliverable Expected:** When an order is received short and investigation establishes that no additional goods or services will be received, complete receipt in eVA for quantity received and check the close order block. Document the circumstances in the remarks section of the eVA receipt.

- d. **Order Received Short--Additional Deliverable Expected:** Generate an eVA receipt for the actual quantity received and submit it for approval and do not mark the close order block on the eVA screen. When the receipt is approved eVA will create a new receipt shell for the outstanding balance.
- e. **Order Received With an Overage:**
 - If it is decided not to keep the overage, contact the vendor and request instructions for return of the overage. Generate and process an eVA receipt for the purchase order quantity originally ordered. No other eVA action required. Return the excess to the vendor.
 - If it is decided to keep the overage, process an eVA receipt for the purchase order quantity originally ordered. Contact the vendor and inform of the overage and that it will be retained and that another eVA confirming purchase order will be issued. Inform the vendor not to ship on the new order and add comments in the remarks section of the purchase order, such as, "Confirming Order—Do Not Duplicate—This order was issued to cover overage received and retained on purchase order number _____, dated _____."

14.7 **Documentation of Purchase Transactions.**

- a. **Electronic Files:** Electronic files created in eVA and any attached from other sources are acceptable as documentation to support the why, who, what, when, where and how of purchase transactions and receiving reports. Paper documents need not be printed and maintained. Reports are available in eVA to provide sufficient detail to support the basis and history of each purchase. Any transaction that cannot be fully documented electronically should contain a cross-reference (what and where) to any other documents, such as large drawings or other files maintained as a hard copy.
- b. **Price Reasonableness:** Purchasing officers shall ensure that the price offered is fair and reasonable. Refer to sections 4.10, 8.4, and 10.13.

14.8 **Approvals.** Prior approval of specific procurement transactions, as required within other chapters of this manual, remain in full force and effect. Requests for approvals may be submitted electronically, via FAX or by mail. The following are examples of prior approvals that may be required:

- a. Sole Source Requirements Exceeding \$10,000: Refer to 8.2.
- b. Operational Emergencies Exceeding Delegated Purchasing Authority: Refer to 9.1b.
- c. IT Equipment, Software and/or Computer Related Services Exceeding \$100,000: Refer to 1.4b(1) and (2).
- d. Telecommunications Equipment and/or Services: Refer to 1.4b(3) and (4).
- e. Facilities, Equipment and Services Requiring Federal Communications Commission (FCC) Licensing: Refer to 1.4b(4).
- f. Virginia Correctional Enterprises (VCE) and CORPRINT: Refer to 2.1b.
- g. Virginia Department for the Visually Handicapped (VDVH): Refer to 2.1c.
- h. Virginia Distribution Center (VDC): Refer to 2.1e.
- i. DGS/DPS Office of Graphic Communications (OGC): Refer to 2.1f.

14.9 **Exclusions to the Use of eVA.**

- a. Orders from mandatory sources, mandatory contracts, optional use contracts, and pricing agreements shall be placed through eVA; this should begin immediately with full compliance no later than July 1, 2002. To the fullest extent possible, all other procurements, except the procurement types listed below, should be processed through eVA regardless of dollar value. At the option of the agency or institution, purchases of the following types of goods and services may be placed through eVA.

1. Real estate leases
 2. Advertisements such as in newspapers, magazines, journals, radio, television, etc.
 3. Professional organizational membership dues
 4. Registrations, including training and conferences
 5. Petty cash purchases
 6. Honoraria, entertainment (speakers, lecturers, musicians, performing artists)
 7. Accreditation fees and academic testing services
 8. 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.)
 9. 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 for the bulk procurement of goods or services for the use of recipients shall not be exempted.
- b. Procurement types shown below are “**under review**” and are excluded from being processed through eVA at the present time. All other procurements, except those in 14.9 a. above, should be processed through eVA regardless of dollar value. At the option of the agency or institution, purchases of the following types of goods and services may be placed through eVA.
1. Grants
 2. Professional Service procurements and other Medical Service procurements to include: Physical Therapist, Occupational Therapist, Audiologist, Psychologist and Patient Laboratory services
 3. Capital Outlay Construction including highway construction and construction contracts on non-state property funded with money held in reclamation fund/or federal money
 4. Utilities
 5. Telephone services / telecommunications services
 6. Closed-loop systems or items for resale, or automated inventory control transactions, e.g., ABC, drugs (only POS drugs), multi-state drug contract, VCE orders for manufacturing process
 7. Travel & lodging
 8. Over-the-counter Small Purchase Charge Card (SPCC) purchases
 9. Revenue contracts, e.g, scrap, recycling or contracts with \$0 payment made by the Commonwealth, e.g., contracted out Bookstore, Food service operations
 10. Insurance services
 11. Financial services
 12. Interstate or federal government-to-government purchases
 13. Intrastate government-to-government purchases, other than mandatory sources
 14. Purchases from public auctions (non-electronic)
 15. Surplus property

14.10 **Vendor Registration Requirement.**

- a. **Registration.** All solicitations are subject to the General Terms and Conditions, which include General Term X. (eVA Business-to-Government Vendor Registration) requiring vendors to register to do business with the Commonwealth. All vendors who accept purchase orders from Commonwealth agencies and institutions must register in eVA including vendors where purchases are excluded from being processed through eVA (see 14.9).

If the purchasing officer is unable to obtain vendor registration in eVA from a bidder or offeror, using any method of procurement, the purchasing officer shall document the file with the efforts made to register the vendor and move forward with the procurement. In a competitive bid situation, award to the next lowest responsive and responsible bidder. If a sole source vendor refuses to participate in eVA, sole source procedures should be followed including documentation on efforts to register the vendor.

- b. **Trading Partner Agreement (TPA) and Electronic Catalogs.** A TPA is required for all vendors who set up a catalog, with products, services, and pricing in the e-mall. In some cases, the contract does not lend itself to the development of a catalog and price list. In this case, the contractor must provide an index page describing the vendor's products, services, and vendor contact information. In this case, a TPA is not required.

*** When Used: FOR CONSTRUCTION AND/OR SERVICE CONTRACTS - 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.**

U. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice on _____ for a minimum of 10 days.

*** When Used: For all procurements involving solicitation using an Invitation for Bids or Request for Proposal, include how the notice of the award or the announcement of the decision to award will be made. Fill in the blank with the location or manner of posting used by the public body, e.g., on the public body's public posting notice board, on the DGS/DPS Web site, on another Web site or posting board, or other location.**

V. **DRUG-FREE WORKPLACE:** During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

*** When Used: This clause shall be included in every contract over \$10,000. If procuring by unsealed solicitation, the Commonwealth's General Terms and Conditions may be incorporated by reference.**

W. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, or disability or against faith-based organizations. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

*** When Used: This clause shall be included in all solicitations using an Invitation for Bids or Request for Proposal (Code of Virginia, § 11-35.1 H).**

X. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA Internet electronic procurement solution, web site portal www.eva.state.va.us, streamlines and automates government purchasing activities in the Commonwealth. The 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 e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service, and complete the Ariba Commerce Services Network registration.

↳ Vendors are strongly encouraged to register prior to submitting a bid or offer. Failure to register will result in the bid being found non-responsive and rejected. All vendors must register in both the eVA and the Ariba Commerce Services Network Vendor Registration Systems.

a. eVA Basic Vendor Registration Service: \$25 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, and electronic bidding, as they become available.

- b. eVA Premium Vendor Registration Service: \$200 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments, and ability to research historical procurement data, as they become available.
- c. Ariba Commerce Services Network Registration. The Ariba Commerce Services Network (ACSN) registration is required and provides the tool used to transmit information electronically between state agencies and vendors. There is no additional fee for this service.



*** When Used: Include in all solicitations, contracts, and contract renewals. In addition, this General Term and Condition must be incorporated or incorporated by reference in all purchase orders issued by state agencies and institutions.**

NOTE TO STATE AGENCIES AND INSTITUTIONS: Select from Appendix B, Sections II & III, appropriate Special Terms and Conditions to be included in the solicitation. Refer to Chapter 6, Competitive Sealed Bidding, or Chapter 7, Competitive Negotiation, for proper sequence of contents.

*** When Used: Include in solicitations for goods that have a high probability for the use of recycled materials.**

55. **WARRANTY:** All materials and equipment shall be fully guaranteed against defects in material and workmanship for a period of _____ following date of delivery. Should any defect be noted by the owner, the Purchasing Office will notify the contractor of such defect or non-conformance. Notification will state either (1) that the contractor shall replace or correct, or (2) the owner does not require replacement or correction, but an equitable adjustment to the contract price will be negotiated. If the contractor is required to correct or replace, it shall be at no cost to the Commonwealth and shall be subject to all provisions of this clause to the same extent as materials initially delivered. If the contractor fails or refuses to replace or correct the deficiency, the office issuing the purchase order may have the materials corrected or replaced with similar items and charge the contractor the costs occasioned thereby or obtain an equitable adjustment in the contract price.

*** When Used: Include in solicitations to furnish and install or deliver goods when the procuring agency wants to specify the length of time the warranty is to run; i.e., equipment 1 year, compressor 5 years, piano 10 years, etc.**

56. **WARRANTY (COMMERCIAL):** The contractor agrees that the goods or services furnished under any award resulting from this solicitation shall be covered by the most favorable commercial warranties the contractor gives any customer for such goods or services and that the rights and remedies provided therein are in addition to and do not limit those available to the Commonwealth by any other clause of this solicitation. A copy of this warranty should be furnished with the bid/proposal.

*** When Used: Include in solicitations for goods, furnish and install or services when commercial warranty provisions for a particular item or service are acceptable.**

57. **WORK SITE DAMAGES:** Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this contract shall be repaired to the Commonwealth’s satisfaction at the contractor’s expense.

*** When Used: Include in solicitations to furnish and install equipment. May also be used in solicitations for services such as moving, maintenance, removal of equipment, non-capital outlay construction projects, etc.**

58. **WORK ESTIMATES (TIME AND MATERIAL CONTRACTS):** Under this time and material contract, the contractor shall furnish the agency with a non-binding written estimate of the total costs to complete the work required. The estimate must include the labor category(ies), the contractor’s hourly rates specified in the contract, and the total material cost. Material costs shall be billed at contractor’s actual invoice costs (contractor shall furnish copies of all invoices for materials) or discount off the list price, whichever is specified in the contract. If the agency determines that the estimated price is not fair and reasonable, the agency has the right to ask the contractor to reevaluate the estimate. If the revised estimate is determined to be not fair and reasonable, the agency reserves the right to obtain additional quotes from other vendors. A work order will be issued to the contractor, as the authority to proceed with the work, which will incorporate the contractor’s estimate and the terms and conditions of the contract. The contractor and his/her personnel shall log in with the designated contract administrator each day before and after work to confirm labor hours.

*** When Used: This clause may be used for all time and material contracts where the contractor furnishes estimates prior to starting work for particular projects. Agencies should take the necessary steps to ensure that it is protected from those cases where a contractor submits a low estimate and the invoice is much higher. Use of this clause will provide that protection as long as the contractor is held to the terms of this clause.**

59. **eVA BUSINESS-TO-GOVERNMENT CONTRACTS:** The eVA Internet electronic procurement solution, web site portal www.eva.state.va.us , streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Failure to comply with the requirements in a. and b. below will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following:

- a. Submit a fully executed American Management Systems, Inc., (AMS) Trading Partner Agreement, a copy of which can be accessed and downloaded from www.eva.state.va.us. AMS is the Commonwealth's service provider to implement and host the eVA e-procurement solution.

- b. Provide an electronic catalog (price list) for items awarded under a term contract. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from www.eva.state.va.us.

 * **When Used: Include in solicitations and renewals of term contracts (statewide, single agency, and cooperative) issued by state agencies and institutions unless the circumstances described in 14.10 b apply.**