



# COMMONWEALTH of VIRGINIA

## Department of General Services Division of Purchases and Supply

J. Peter Stamps, CPPO, VCM, VCO  
Director

Eric Link  
Chief Deputy Director

Linwood J. Spindle, CPPB, CPPO  
Deputy Director

P.O. Box 1199  
Richmond, Virginia 23218-1199  
Voice (804) 786-3842

July 3, 2019

### MEMORANDUM

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

FROM: J. Peter Stamps  
Director

SUBJECT: Procurement Information Memoranda (PIM) #98-036

Enclosed is PIM #98-036, effective July 1, 2019, 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*. Only changes/additions to the affected sections and/or subsections are included in this document. DPS is actively working to incorporate all changes into the web-based *APSPM*, and will post as soon as it is available. It is downloadable from the eVA website at <http://www.eva.virginia.gov>. Once posted, the location of text changes will be indicated by an arrow in the margin ( → ) with the corresponding PIM #98-036 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 #98-036 should be filed in the back of the Appendix C log.

APSPM Cite	Summary of Changes
Chapter 1	Updates the name of Annex 1-B
1.2.a	- Clarifies Request for Delegated Procurement e-FORM - Deletes contact information
1.5.a	Changes language from "\$5,000" to "\$10,000"
Annex 1-A	Clarifies Request for Delegated Procurement e-Form request for \$100,000 delegated authority
Annex 1-B	Clarifies Request for Delegated Procurement e-Form for unlimited delegated authority
Chapter 2	Deletes Annex 2-A
2.1.b	Removes "the Director of Purchases and Supply" from the VCE exemption process
Annex 2-A	Deletes
Chapter 3	-Updates numbering of Chapter Sections -Adds Annex 3-L
3.1	Adds a new section regarding High-Risk Contracts
3.6.b	Changes language in third sentence from "the Deputy Director of DPS at 804-225-3707" to "using the DPS Exemption eform"

3.11.a	-Changes language in paragraphs one and three referring to Executive Order 20 of July 22, 2014 to Executive Order 35 of July 3, 2019.
3.11.g.1	-Changes language in the title from “under” to “up to and including” -Changes language in the first sentence from “under” to “up to and including” -Changes language in the micro business set-aside award priority from “under” to “up to and including”
3.11.h	Clarifies how to report subcontractors listed on the Small Business Subcontracting Plan
3.17.c	Clarifies receipt of multiple bids/proposals
3.19.a	Changes language in the second sentence from “\$5,000” to “\$10,000”
3.19.c	Changes language in second sentence from “shall” to “may”
3.21	Removes contact information (last sentence)
3.22	Changes the language in the sixth sentence from “performing a service” to “goods and services”
Annex 3-A	Adds language regarding Single Quotation Procedure when determining method of procurement
Annex 3-B	-I. Adds language regarding Single Quotation Procedure when determining method of procurement -II. Adds language to last sentence from “also required to” to “may” -III. Clarifies Sole Source threshold
Annex 3-L	Adds High-Risk Contracts Evaluation Form
4.5	Removes contact information (last sentence)
4.16.a	Changes the language in the third sentence from “\$5,000” to “\$10,000”
4.19.c.1	Removes contact information (last sentence)
4.21	Removes contact information (first paragraph, last sentence)
4.23.e	-Changes the language in the third sentence from “less than” to “up to and including” -Changes the language in the fourth sentence from “\$50,000” to “\$80,000”
4.26	Removes contact information (last sentence)
Annex 4-H	- 5. Updates example - 12. Removes examples
5.	Changes the language in the fourth sentence from “\$5,000” to “\$10,000”
5.3	-Updates Single Quotation Threshold from “\$5,000” to “\$10,000” throughout section -a. Adds “up to and including” in the first sentence and deletes “or less” in the first sentence
5.6	-Updates Dollar Threshold from “\$5,000” to “\$10,000” throughout section -c. Deletes -d. Changes language in the first sentence of letter d from “from” to “over”
5.7.a	-Updates Dollar Threshold from “\$5,000” to “\$10,000” -Deletes number 1
5.10.d	Updates contact information
Annex 5-A	Updates Dollar Threshold from “\$5,000” to “\$10,000”
Annex 5-C	Changes the language in the title from “\$5,000” to “\$10,000”
Annex 5-E	-Changes the language in the title from “\$5,000” to “\$10,000” -Removes “micro or” from the first sentence in the third box on the right
Annex 5-F	-Changes the language in the title from “\$5,000” to “\$10,000” -Removes “micro or” from the first sentence in the third box on the right
Annex 5-G	Changes the language in the title from “\$5,000” to “\$10,000”
6.2.g	Adds language regarding high-risk contracts
6.3.d	Adds language regarding high-risk contracts
Annex 6-A	Adds language to the second and seventh box on the right regarding high-risk contracts
Annex 6-B	- Step 4, C., Adds language regarding high-risk contracts - Step 8, B., Changes the language in the second sentence from “performing a service” to “goods and services” - Step 10, Adds language regarding high-risk contracts
Annex 6-D	-Adds language at the end of the sentence in the Approval box regarding high-risk contracts -Adds language to the Notice of Award or Notice of Intent to Award box regarding high-risk contracts
Annex 6-H	Changes “Vendor Reference No” to “eVA Vendor ID”
7.2	-i. Changes the language in the first sentence from “shall” to “may” -k. Adds language regarding high-risk contracts
7.4.e	Adds language regarding high-risk contracts

Annex 7-A	-Adds language regarding high-risk contracts and Updates posting requirements to second box on the left - Adds language regarding high-risk contracts to seventh box on the right
Annex 7-B	-Step 2, III, Adds language regarding high-risk contracts -Step 2, IV, Changes the language in the second sentence from “shall” to “may” -Step 12, Adds language regarding high-risk contracts
Annex 7-E	-Adds language at the end of the sentence in the Approval box regarding high-risk contracts -Adds language to Public Notice box regarding posting requirements -Adds language to the Notice of Award or Notice of Intent to Award box regarding high-risk contracts
Annex 7-L	Changes “Vendor Reference No” to “eVA Vendor ID”
Chapter 8	Updates numbering of Chapter Sections
8	Changes language to the last sentence from “\$5,000” to “\$10,000”
8.1	Clarifies approval process for sole source procurements
8.2	Deletes “add 8.2” from the first sentence
8.4	Adds language regarding high-risk contracts
Annex 8-A	-Step 3, Removes threshold requirements -Step 7, Adds language regarding high-risk contracts
Annex 8-B	-Step 2, Clarifies approval process and updates section number -Step 3, Updates section number -Step 6, Adds language regarding high-risk contracts
10	Removes contact information (last sentence in first paragraph)
10.2	Adds language regarding high-risk contracts
Annex 10-B	Removes contact information for letter j
12.1	Updates definition
13.4	Updates contact information
13.6	Deletes contact information
13.9	Updates contact information
13.10	Updates contact information
13.11	Clarifies Request for Delegated Procurement e-FORM
14.6	-a. Changes language throughout section from “\$5,000” to “\$10,000” and deletes “or less” from the last sentence -b. Changes language throughout section from “\$5,000” to “\$10,000”
Appendix A, Glossary and Acronyms	Adds a definition for: Central Services State Agencies
Appendix B, Section I	- Updates were made to the following General Terms and Conditions: T. Insurance, Health Care Practitioner
Appendix B, Section II	Updates were made to the following Special Terms and Conditions: -2. L. Changes language in the first sentence from “less than” to “up to and including” -2. M. Changes language in the first sentence from “for less than” to “up to and including” -36. Submission of Small Business Subcontracting Plan, subsections B and C. Clarifies submission timeframes and how to report subcontractors.
Appendix C, PIM Record of Changes	- Adds Summary of changes. - Updates the contact information on the Suggested Changes form
Index	Corrects several references to the APSPM, Vendors Manual or the Code of Virginia

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 your Account Executive.

# CHAPTER 1

## PROCUREMENT AUTHORITY AND RESPONSIBILITY



### Annexes

- 1-A Agency Standards for Increased Delegated Procurement Authority
  - 1-B Agency/Institution Standards and Instructions for Unlimited Delegated Procurement Authority
  - 1-C Deleted.
- 

### 1.2 Agency Purchasing Authority.

- a. **Goods.** The general delegation threshold for the purchase of goods including printing is up to and including \$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 REQUEST FOR DELEGATED PROCUREMENT e-FORM (in eVA) and by meeting the standards for increased delegated procurement authority, see 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 REQUEST FOR DELEGATED PROCUREMENT e-FORM (in eVA) and attaching all required documents, see Annex 1-B.

All agency level purchase transactions should be initiated through the use of a requisition. DGS/DPS will not accept requisitions estimated to be \$10,000 or less. Between \$10,000 and the agency's delegated procurement authority, the agency has the option of forwarding requisitions to DGS/DPS for processing or handling them locally.

### 1.5 Exceptions to Competitive Requirements.

- a. Purchases up to and including \$10,000. (See 5.3)

**Annex 1-A**  
**COMMONWEALTH OF VIRGINIA**  
**DGS/DIVISION OF PURCHASES AND SUPPLY**  
**AGENCY/INSTITUTION REQUEST FOR \$100,000 DELEGATED PROCUREMENT AUTHORITY FOR GOODS AND PRINTING**

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)*, the regulations implemented by the Division, and procedures that are consistent with the Agency Procurement and Surplus Property Manual (APSPM). As a part of this responsibility, DPS will grant agencies and institutions that agree to the standards set forth below, an increase to \$100,000 from the general delegation of \$50,000 for procurement of goods and printing. These standards must be maintained for the agency or institution to retain the increased delegated procurement authority. 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). DPS will use these standards to consider all requests.

By submitting the Request for Delegated Procurement e-Form, the Agency hereby agrees to the following standards:

1. The Agency has and will continue to use eVA, the Commonwealth's electronic procurement solution, beginning at the point of requisitioning and in accordance with all requirements set forth in *Code of Virginia*, § 2.2-1110.A, as well as those set forth in Chapter 14 of the *Agency Procurement and Surplus Property Manual (APSPM)*.
2. The Agency will use eVA Quick Quote to the maximum extent practicable for small purchases up to \$100,000. This includes using eVA to issue purchase orders for Quick Quote procurements.
3. The Agency will use eVA VBO to publicly post all solicitations, solicitation addenda, and award notices including sole source and emergency as required by *Code of Virginia*, §§ 2.2-1110, 2.2-4301 and 2.2-4303). This also includes:
  - a. Small purchase procurements that are expected to exceed \$10,000. Quick Quote solicitations meet the public posting requirement.
  - b. Professional service procurements over \$30,000.
  - c. Intent to Award notices.
4. The Agency will include access to an electronic version of the solicitation and any solicitation addenda for all procurements publicly posted on eVA VBO.
5. The Agency will not re-delegate this additional procurement authority to end users outside the Agency's central purchasing department/office unless the Agency obtains the written authorization from the Director of the Division of Purchases and Supply.

## Annex 1-B

### AGENCY STANDARDS AND INSTRUCTIONS FOR UNLIMITED DELEGATED PROCUREMENT AUTHORITY

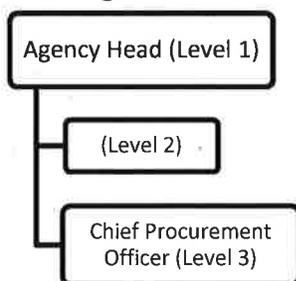
The Division of Purchases and Supply (DPS) is responsible for ensuring that state procurement activities in the Commonwealth meet the requirements of the *Virginia Public Procurement Act (VPPA)*. As a part of this responsibility, DPS has established the following standards to help agencies and institutions 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) OR SOURCING & CONTRACTING 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 \$10,000 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 must submit a Request for Delegated Procurement e-Form and attach the required documentation listed below to outline the implementation methodology. Agency Head approval of this e-Form is required. The Agency Head or Designee shall be inserted as an approver when submitting this e-Form.

#### JUSTIFICATION

Provide justification for the agency's /institution's request for unlimited delegated procurement authority.

#### ORGANIZATION STANDARDS

1. **Compliance.** Outline actions taken to remedy noncompliance issues in the most recent Procurement Management Review. Include date of last Procurement Management Review report: \_\_\_\_\_.

2. **Delegation within an Agency**

- Identify all current delegation to departments, end-users, and facility management positions within the agency/institution. Include any planned changes to internal delegation if unlimited delegated procurement authority is received.
- Attach list of individuals and/or position titles with authority to award contracts.

3. **Management**

Chief Procurement Officer: \_\_\_\_\_

Pay Band: \_\_\_\_\_

Role: \_\_\_\_\_

Working Title (if different): \_\_\_\_\_

Provide a brief synopsis of the individual's relevant professional background and experience.

4. **Organizational Location**

- Attach an organizational chart depicting the location of the Procurement Department within the agency/institution hierarchical organization.
- Attach any master plan or describe any anticipated agency development that may impact purchasing (i.e., additional agency locations, changes in personnel policy or levels, revised agency missions/goals, etc.).

#### PURCHASING PROGRAM STANDARDS

5. **Automation**

- Describe the agency/institution's utilization of the Commonwealth's enterprise electronic procurement system, eVA, beginning at the point of requisitioning for all procurements actions (*Code of Virginia* § 2.2-1110).
- If the agency/institution has an enterprise resource planning or other financial system that requires purchase transaction data, describe the steps that will be taken to integrate that system with the Commonwealth's enterprise electronic procurement system, eVA (*Code of Virginia* § 2.2-1110).
- Describe current automation in procurement activities and initiatives to further automate agency procurement processes, and how the agency/institution would be willing to assist and participate in DPS statewide initiatives.

6. **Contract Opportunities**

- Describe how contract opportunities are assessed.
- Attach a list of all agency awarded term contracts, with expiration dates, renewals, and contract administrators for each.

7. **Purchasing Policies and Procedures**

- Attach current written purchasing procedures, approved by the agency/institution head, which include applicable surplus, storage, and distribution procedures.
- Provide a copy of the agency/institution head's procurement policy statement.

8. **Virginia Business Opportunities (VBO) or Sourcing & Contracting Advertising.** Describe use, or intended use, of eVA VBO advertising (*Code of Virginia*, § 2.2-1110).

### **STAFFING STANDARDS**

**9. Procurement Responsibility and Authority.** Provide a brief description of how the individual designated by the agency/institution head, as Chief Procurement Officer, has authority commensurate with procurement management responsibilities.

#### **10. Procurement Staff**

- Identify staff and scope of responsibilities for all positions awarding contracts and attach position descriptions.
- Describe any additional responsibilities handled by procurement staff (e.g., facility management, capital outlay, security, transportation, etc.).

#### **11. Staff Supervision**

- Describe the extent to which the Chief Procurement Officer manages the purchasing function.
  - If not provided in No. 4, attach an organizational chart of the purchasing staff depicting structure, level, and pay bands and roles of professional purchasing staff; and separately identify accounting function.

### **PROFESSIONAL STANDARDS**

**12. Ethics.** Describe the agency's/institution's plan to provide annual refresher and ethics training classes to all who have the authority to bind the agency or institution with non-governmental entities.

### **TRAINING STANDARDS**

**13. End-User Training.** Describe the agency's/institution's annual training for end-users and contract administrators, commensurate with agency efforts to subsequently delegate procurement authority within the organization.

**14. Professional Training.** Describe how the agency's purchasing staff will maintain a standard of active attendance and participation in DGS/DPS training, and/or other professional purchasing associations.

**15. Professional Associations.** Describe how the agency will maintain professional affiliations through memberships in at least one professional purchasing association (e.g. CAPA, VAGP, NIGP, ISM, NASPO, etc.).

**16. Training Records.** Describe the agency's/institution's records showing training that has been received and provide a plan for future training of professional purchasing staff.

**17. VCO Certification.** Attach copy of VCO certificates for the Chief Procurement Officer and lead buyer(s). Describe how procurement staff will achieve VCO certification within two years of increased delegated authority or of hiring.

# CHAPTER 2

## SOURCES OF SUPPLY

In this Chapter look for . . .

- 2. General
- 2.1 Mandatory Sources
  - Term Contracts
  - Virginia Correctional Enterprises
  - Virginia Department for the Blind and Vision Impaired
  - Virginia Distribution Center (VDC)
  - DGS/DPS Office of Graphic Communications
  - Virginia Information Technologies Agency (VITA)
- 2.2 Non-Mandatory Sources
  - Optional Use Term Contracts
  - Surplus Property
  - Sheltered Workshops
- 2.3 Source Lists
- 2.4 Suppliers' Catalogs
- 2.5 Contact with Vendors
- 2.6 Other Sources of Supply

Annexes

- 2-A Deleted

- 2.1 **Mandatory Sources.**
  - b. **Virginia Correctional Enterprises (VCE).**

**Exemptions from VCE:** An agency may be granted an exemption from buying from VCE, with the consent of the Chief Executive Officer of VCE, in any case where the item does not meet the reasonable requirements of the agency, an identical item can be obtained at a verified lesser cost from the private sector, or the requisition made cannot be complied with due to insufficient supply, or otherwise. (*Code of Virginia*, § 53.1-48).

**Annexes 2-A, 2-B, 2-C, 2-D**

**(DELETED)**

## CHAPTER 3

# GENERAL PROCUREMENT POLICIES

In this Chapter look for . . .

- 3. General
- 3.1 High-Risk Contracts
- 3.2 Bid Invitations, Requests for Proposals and Responses
- 3.3 Bonds
- 3.4 Computer Equipment Performance Specifications
- 3.5 Contractor License Requirements
- 3.6 Contract/Purchase Order Modification Restrictions
- 3.7 Contract Pricing Arrangements
- 3.8 Cooperative Procurement
- 3.9 Documentation of Files
- 3.10 Federal Grants
- 3.11 Small, Women-Owned and Minority Businesses
- 3.12 Multiple Awards
- 3.13 Nondiscrimination
- 3.14 Petitioning for Less Toxic Goods or Products
- 3.15 Preferences
- 3.16 Procurement Methods
- 3.17 Prohibited Transactions
- 3.18 Public Access to Procurement Records
- 3.19 Publicly Posted Notices
- 3.20 Recycled Goods Purchase Program
- 3.21 Responsible Bidder or Offeror
- 3.22 Responsive Bid
- 3.23 Standards of Conduct
- 3.24 Taxes
- 3.25 Tie Bids
- 3.26 Electronic Commerce
- 3.27 Prohibited Contracts
- 3.28 Protection of Personally Identifiable Information
- 3.29 Authorization to Transact Business in The Commonwealth
- 3.30 Auctioning

### Annexes

- 3-A Procurement Methods Flowchart
- 3-B Summary of Procurement Policies
- 3-E Bond Documentation Review Checklist
- 3-F Form ST-12 - Sales and Use Tax Certificate of Exemption
- 3-G Form DGS-41-098 Standard Bid Bond for Non-Construction
- 3-H Form DGS-41-099 Standard Labor and Material Payment Bond for Non-Construction
- 3-I Form DGS-41-100 Standard Performance Bond for Non-Construction
- 3-J Certification of Compliance with Prohibition of Political Contributions and Gifts During The Procurement Process
- 3-K RFP Newspaper Advertisement
- 3-L Form High-Risk Contract Evaluation

3.1 **High-Risk Contracts.** Section § 2.2-4303.01 of the *Code of Virginia* defines a high-risk contract as any public contract with a state public body for the procurement of goods, services, insurance, or construction that is anticipated to either:

- cost in excess of \$10 million over the initial term of the contract; or
- cost in excess of \$5 million over the initial term of the contract and meet at least one of the following criteria:
  - the goods, services, insurance, or construction that is the subject of the contract is being procured by two or more state public bodies; or
  - the anticipated term of the initial contract, excluding renewals, is greater than five years; or
  - the state public body procuring the goods, services, insurance, or construction has not procured similar goods, services, insurance, or construction within the last five years.

All high-risk contracts shall be reviewed by the Office of the Attorney General (OAG). The Department of General Services (DGS) shall review all high-risk contracts for goods and nonprofessional and professional services that are not for information technology or road construction or design. Virginia Information Technologies Agency (VITA) must review all high-risk contracts for goods and services related to technology. It is the responsibility of every state public body in Virginia to comply with the provisions of § 2.2-4303.01 and this section, including the identification of high-risk contracts and timely submission of these solicitations and contracts for review. All documentation related to high-risk contract reviews shall be maintained in the agency's procurement file.

Information regarding the OAG's review of high-risk contracts can be found at <https://www.oag.state.va.us/>. Information regarding the review of technology high-risk contracts can be found at <http://www.vita.virginia.gov>.

a. **High-Risk Contract Solicitations.** Prior to issuing a solicitation for a high-risk contract, the public body must submit solicitations for goods and nonprofessional and professional services that are not for information technology or road construction or design to DGS for review. Agencies must complete the High-Risk Contract Review Form located in Annex 3-L and provide a copy of the solicitation. These documents shall be emailed to [highriskcontracts@dgs.virginia.gov](mailto:highriskcontracts@dgs.virginia.gov). An automatic reply will be sent acknowledging receipt of the solicitation and the start of the review process.

(1) DGS must review each solicitation within 30 business days (Monday through Friday, excluding state holidays) after submittal. The review will be based on a number of factors, including but not limited to the following:

- (a) complies with applicable state law and policy;
- (b) appropriateness of the solicitation's terms and conditions;
- (c) measurable performance metrics; and
- (d) clear enforcement provisions (*Code of Virginia*, §2.2-4303.01B).

(2) DGS will provide an evaluation of the review to the agency once completed.

b. **High Risk Contract Award.** Prior to awarding a high-risk contract, the public body must submit such contract for goods and nonprofessional and professional services that are not for information technology or road construction or design for review by DGS. Agencies must complete the High-Risk Contract Review Form, located in Annex 3-L and provide a copy of the contract for review. These documents shall be emailed to [highriskcontracts@dgs.virginia.gov](mailto:highriskcontracts@dgs.virginia.gov). An automatic reply will be sent acknowledging receipt of the contract and the start of the review process.

(1) DGS must review each contract within 30 business days (Monday through Friday, excluding state holidays) after submittal. The review will be based on a number of factors, including but not limited to the following:

- (a) complies with applicable state law and policy;
- (b) appropriateness of the solicitation's terms and conditions;
- (c) measurable performance metrics; and
- (d) clear enforcement provisions (*Code of Virginia*, §2.2-4303.01C).

(2) DGS will provide an evaluation of the review to the agency once completed.

- c. **High Risk Contract Renewal.** Any existing contract for goods and nonprofessional and professional services that are not for information technology or road construction or design that meet the definition of high-risk contracts and has two or more remaining renewal provisions must submit, prior to renewing, such contract to DGS for review. Agencies must complete the High-Risk Contract Review Form, located in Annex 3-L and provide a copy of the contract for review. These documents shall be emailed to [highriskcontracts@dgs.virginia.gov](mailto:highriskcontracts@dgs.virginia.gov). An automatic reply will be sent acknowledging receipt of the contract and the start of the review process.

(1) DGS must review each contract within 30 business days (Monday through Friday, excluding state holidays) after submittal. The review will be based on a number of factors, including but not limited to the following:

- (a) complies with applicable state law and policy;
- (b) appropriateness of the solicitation's terms and conditions;
- (c) measurable performance metrics; and
- (d) clear enforcement provisions (*Code of Virginia*, §2.2-4303.01C).

(2) DGS will provide an evaluation of the review to the agency once completed.

### 3.6 **Contract/Purchase Order Modification Restrictions.**

- 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 using the DPS Exemption Request eform. 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).

### 3.11 **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) procurement 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 35, dated July 3, 2019. Executive branch agencies that are defined in 2.2-2006 and subject to Chapter 20.1 Virginia Information Technologies Agency must also include within their goals, a minimum of 3% participation by service disabled veteran businesses when contracting for all goods and services, including non-technology procurements (*Code of Virginia* 2.2-4310.2).

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 35, dated July 3, 2019 to facilitate the participation of small businesses and businesses owned by women and minorities 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 § 2.2-4310 of the *VPPA*, and shall include specific plans to achieve any goals established therein.

Contracts and subcontracts awarded to Employment Services Organizations (ESO) and service disabled veteran-owned businesses shall be counted toward the agencies goals set in their annual SWaM Procurement Plan. (Code of Virginia, § 2.2-4310.1B). To procure goods/services from ESOs see 2.2c for guidance.

g. **Set-aside for Award Priority.**

1. Small Business Enhancement Award Priority

Awards up to and including \$10,000: For competitive purchases up to and including \$10,000, the award of a contract shall be made to the lowest priced or highest ranked DSBSD-certified micro business bidder/offeror that is responsive and responsible (for bids) or fully qualified and most suitable (for proposals) if such micro business bid or offer is available and the price is fair and reasonable (4.10). For unsealed bidding the bid price shall not exceed 5% of the lowest responsive and responsible noncertified bidder. If there are no reasonably priced bids/offers meeting the above criteria received from certified micro businesses, an award shall be made to the lowest priced or highest ranked DSBSD-certified small business bidder/offeror that is responsive and responsible (for bids) or fully qualified and most suitable (for proposals) if such small business bid or offer is available and the price is fair and reasonable (4.10). For unsealed bidding the bid price shall not exceed 5% of the lowest responsive and responsible noncertified bidder. If there are no reasonably priced bids or offers meeting the above criteria received from certified micro or small businesses, an award may be made to the lowest priced bidder or highest ranked offeror of any size that is responsive and responsible (for bids) or fully qualified and most suitable (for proposals) if the price is fair and reasonable (4.10). If the agency or Institution determines and documents that no bid/offered price is fair and reasonable (4.10) then the procurement may be cancelled and re-solicited removing the set-aside award priority.

**Set-aside Award Priority:**

Micro Business Set-Aside Award Priority

Up to and including \$10,000.00

- 1) Micro Business
- 2) Small Business
- 3) Open to all

h. **Prime Contractor Compliance with Subcontracting Plan.** Each prime contractor who wins an award in which provision of a small business subcontracting plan is a condition of the award, shall furnish monthly to the purchasing office, all applicable information for each subcontractor listed on the Small Business Subcontracting Plan via the Subcontractor payment reporting tool accessible through the contractor's eVA account. 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). The purchasing agency shall confirm that the contractor has certified compliance with the contractor's

submitted Small Business Subcontracting Plan or receipt of a written explanation of the variance, before making final payment.

**Prime Contractor Subcontractor Reporting**

All prime contractors shall report subcontracting activities in accordance with Appendix B., Special Terms and Conditions, Section II. 36. The contractor shall furnish monthly to the purchasing office, all applicable information for each subcontractor listed on the Small Business Subcontracting Plan via the Subcontractor payment tool available through the contractor's eVA account.

3.17 **Prohibited Transactions.**

- c. **Subsequent/Additional Bid/Proposal for Same Procurement.** Submission of a subsequent bid/proposal, unless specifically identified as an amendment to a previously submitted bid/proposal, shall constitute an additional bid/proposal submitted by the same bidder or offeror on the same solicitation. (See 3.1 h for information on amending or withdrawing bids and *Code of Virginia*, § 2.2-4330 C. for Withdrawal of bid due to error.) The latest date/time stamped bid/proposal will be the only accepted bid/proposal for the solicitation.

- 3.19 **Publicly Posted Notices.** All informal solicitations, Invitations to Bid, Requests for Proposal, sole source award notices, emergency award notices, government-to-government service contracts starting at \$25,000, and conceptual proposals received under a PPEA or PPTA shall be posted on the DGS central electronic procurement system, commonly known as eVA VBO. (*Code of Virginia*, § 2.2-1110). Small purchases for goods and services greater than \$10,000 and any professional service procurements over \$30,000 must be posted per §2.2-4303. Addenda are also required to be posted. The eVA web site address is [www.eva.virginia.gov](http://www.eva.virginia.gov). The agency must include in the posting access to an electronic version of all solicitation documents.

- a. All written informal solicitations, including Quick Quote, that are expected to exceed \$10,000 shall require the posting of a public notice in eVA VBO.
- c. RFP solicitations must be publicly posted on eVA VBO at least 10 days prior to the date set for receipt of proposals. Notices may also be published in a newspaper or newspapers of general circulation in the area in which the contract is to be performed. The newspaper notice need only be a brief summary of essential elements of information (*Code of Virginia*, §§ 2.21110 and 2.2-4302.2). The essential elements should include agency seeking proposals; goods or services to be purchased; how offerors can obtain information about the RFP including a reference to eVA VBO; preproposal conference date and time; and the closing date and time. The notice should be brief in order to minimize cost to the agency. See Annex 3-K for an example. Preproposal conferences or site visits should also be indicated on the cover sheet of the solicitation when applicable. When canceling or amending a solicitation, a copy of the notice or addendum must be publicly posted on the eVA VBO.

- 3.21 **Responsible Bidder or Offeror.** In determining a responsible bidder or offeror, a number of factors, including but not limited to the following, are considered. The vendor should:

- a. be a regular dealer, supplier, or when required in the solicitation an authorized dealer of the goods or services offered;
- b. have the ability to comply with the required delivery or performance schedule, taking into consideration other business commitments;
- c. have a satisfactory record of performance;
- d. have a satisfactory record of integrity; and
- e. have the necessary facilities, organization, experience, technical skills, and financial resources to fulfill the terms of the purchase order or contract (see *Vendors Manual*, 3.7).

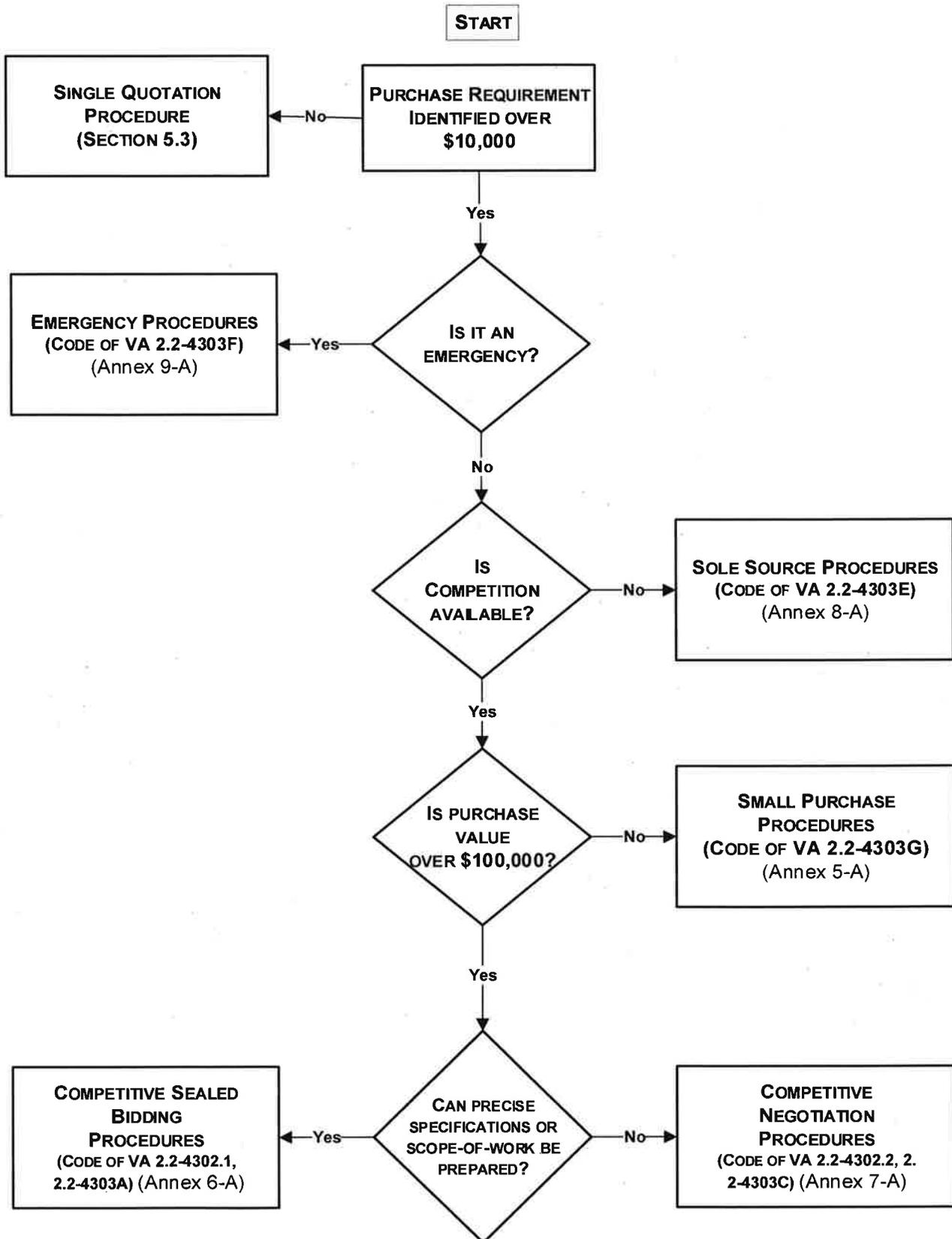
- 3.22 **Responsive Bid.** To be considered for an award, a bid must comply in all material respects with the Invitation for Bids. Responsiveness relates to compliance with the provisions of the solicitation, including

specifications and terms and conditions. Failure to comply with the requirements set forth in the Invitation for Bids may result in a bid being declared nonresponsive, e.g., failure to sign a bid, failure to return the required bid documents, substitution of vendor's terms, deletion of terms and conditions stated in the Invitation for Bids, failure to offer a product or service that meets the requirements of the Invitation for Bids, etc. A bidder who fails to provide prices for all categories of labor in the pricing schedule of a time and materials service contract is considered nonresponsive. This is true whether the price was left blank or the bidder entered a figure of \$0. To avoid inconsistent treatment of bidders the following statement should be included in the pricing schedule of such solicitations, "Any bidder who enters \$0 on a pricing blank or leaves it blank shall be considered nonresponsive." Bidders who provide multiple prices for goods and services where a single price was solicited are also nonresponsive. For bid evaluation and award procedure guidance see Annex 6-B, Step three, V. D. If a bid is found to be nonresponsive, a notation as to why it is nonresponsive shall be made and signed by the buyer/contract officer and be included in the contract file.

**Annex 3-A**

# PROCUREMENT METHODS FLOWCHART

Commonwealth public procurement process - Basic decisions and procedures



**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><b>Small Purchase:</b> Up to and including \$10,000</p>	<p>Single quote from a DSBSD-certified micro business, if available. Quick Quote may be used (see <b>Small Business Enhancement Award Priority</b> in 3.10g).</p>
<p>\$10,000 up to and including \$100,000 →</p>	<p>Quick Quote, Unsealed Bidding, or Unsealed Request for Proposals are allowed. Quick Quote is the preferred tool for unsealed bidding. Solicitations \$10,000 up to and including \$100,000 shall be set-aside for DSBSD-certified small business unless exempted and documentation is required. See <b>Small Business Enhancement Award Priority</b> in 3.10g. For procurements that are expected to exceed \$10,000, public posting on eVA VBO is required if Quick Quote is not used.</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"> <li>1 - Competitive sealed bidding.</li> <li>2 - Two-step competitive sealed bidding.</li> <li>3 - Competitive negotiation.</li> </ol> <p>Public posting on eVA VBO is required. Requests for Proposal may 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 (Over \$10,000) →</p>	<p>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>



4.5 **Qualified Products Lists (QPL) or Qualified Contractor's Lists (QCL).** It is sometimes necessary to prequalify products or suppliers and only solicit those who have been prequalified. In such cases, a list is maintained of specific products (QPL) or contractors (QCL) which have been evaluated and determined to be acceptable in meeting predetermined minimum acceptable levels of quality or performance (*Code of Virginia*, § 2.2-4317). This qualification is performed in advance of any particular purchase program. By having a prequalification procedure, the time in the purchase cycle can be reduced. The qualification requirements must be established and potential contractors advised by letter and/or public posting sufficiently in advance of the anticipated procurement to allow for evaluation and qualification of potential contractors and/or products. A contractor whose product or service has been determined not qualified will be advised in writing. Solicitations are only sent to those contractors determined to be qualified. Agencies and institutions shall deny prequalification to contractors failing to register and participate in E-Verify (effective 12/01/2013) (*Code of Virginia*, § § 2.2-4317 and 2.2-4308.2).

4.16 **Conference Planning.**

a. Acquisition of the use of meeting rooms and lodging rooms in hotels or motels is considered to be short term rentals of portions of real property - real estate transactions. So long as the procurement involves only the use of the facilities, the competitive requirements of the *VPPA* and this manual do not apply. However, if the procurement includes the provision of catered meals, audio visual equipment, etc., and the value of these other included services exceeds the \$10,000 level for which competition is required, the entire procurement, including the use of the space, shall be procured as a package based on its anticipated value using procedures as stated below.

4.19 **Maintenance/Repair of Equipment.**

c. **Contracting for Repair and Overhaul.**

(1) **Major Scheduled Repair/Overhaul:** In situations where major equipment items are scheduled to be repaired or overhauled, it is usually impossible to determine the amount of labor and parts required without complete disassembly of the item to inspect all of its internal parts. Contracting for major repair or overhaul work on a fixed price basis without such an inspection is impractical because it forces the bidders to base their prices on an assumed worst case basis. These situations are best handled in an Invitation for Bids requiring the work to be done in two phases. Bids are solicited for a lump sum fixed price for complete disassembly, inspection and preparation of an estimate of the costs to complete the job as the first phase. The second phase is for repair and reassembly with contractor furnished replacement parts and components, startup and operational test, all to be done on a time and materials basis. The bidders are required to bid on the basis of a labor hour rate, with an overall total (not to exceed) labor cost, and parts are to be provided at a bid percentage discount from the manufacturer's parts catalog prices. The IFB includes a bid evaluation procedure with a hypothetical number of man-hours and list price value of parts to which the discount offered will be applied.

4.21 **Services.** Selecting the method for contracting for nonprofessional services shall be in accordance with section 4.22. Professional Services are addressed in section 4.23. When the estimated cost of materials, equipment, or supplies amounts to fifty percent (50%) or more of the total expenditure, it is not considered a contractual service and shall be obtained using the procedures for the procurement of goods.

Any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract (*Code of Virginia*, § 2.2-4308.2.).

4.23 **Professional Services.**

e. **Professional Services Small Purchases.** The small purchase threshold for the procurement of professional services is \$80,000. Procurements up to and including \$80,000 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*, § 2.2-4303G. Professional services procurements up to and including \$10,000 shall be set-aside for micro businesses. For purchases from \$10,000 up to and including \$80,000, 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. Public posting is required for professional service procurements over \$30,000.

- 4.26 **Use of Contractor's Standard Contract Form.** A contractor's standard contract form should be carefully read and those provisions that are contrary to the interests of the Commonwealth or in conflict with state law, must be lined out, rewritten, or removed if the contract is less than \$50,000. If it is not possible to award a contract without using the contractor's contract form, the contractor should sign the Contract Addendum Form, found in Annex 4-B. A contractor's standard contract form should not be used for procurements of \$50,000 or more without the approval of the agency's legal advisor.

## Annex 4-H

### Waste and Abuse Warning Symptoms

The following are some "warning symptoms" for consideration when waste and abuse may be suspected.

1. Billing for work not performed (false invoices).
2. Delivered item was other than what was specified (substituted product, demonstration equipment).
3. Frequent dating of requisition and/or approval after receipt of merchandise.
4. Improper Charge e.g., a part number is listed on an invoice but is not verified to assure the correct part was installed on the correct item (Cadillac fuel pump installed on an employee's car but billed as installed on the agency's Chevrolet shuttle bus).
5. Order splitting to avoid bidding (\$27,000 house repair in under \$10,000 increments).
6. Repeated use of restricted specs therefore avoiding competition, not using "or equivalent." The winning contractor always is the same for the specified item.
7. High number of sole source and "emergencies" or single source purchases - possible "specification rigging."
8. High use of change orders - adding new items, significant change in scope of work, original bid much lower than other bidders (low balling).
9. Staggered invoices but same pick up date and signature on a copied delivery ticket.
10. Using contractor furnished usage figures when rebidding.
11. Minimum advertisement time - excessive use of mandatory pre-bid conferences - discourages and prevents competition.
12. Not properly advertising.
13. Site visits required - site visitors being told of special conditions and no addenda issued.
14. Accepting nonresponsive bid from a preferred contractor.
15. Using biased individuals on evaluation panels.
16. Statement that bidder does not service that area or only ABC Co. sells in that area (possible collusion/price fixing).

5. **General.** The *Virginia Public Procurement Act (VPPA)* permits a public body to establish small purchase procedures, if adopted in writing, not requiring the use of competitive sealed bidding or competitive negotiation for single or term contracts if the aggregate or sum of all phases up to and including \$100,000; however, such small purchase procedures shall provide for competition wherever practicable (*Code of Virginia*, § 2.2-4303G). The following small purchase procedures have been established by DGS/DPS for use by state agencies and institutions when acquiring materials, supplies, equipment, printing, nonprofessional services and non transportation-related construction up to and including \$100,000 (excluding information technology and telecommunications goods and services). Procurements made pursuant to these procedures do not require public bid openings or newspaper advertising of competitively negotiated procurements. Small purchases that are expected to exceed \$10,000 shall require the posting of a public notice on eVA VBO. Quick Quote solicitations meet the public posting requirement. For your convenience, process flowcharts for each category of small purchases have been developed and are in the annex of this chapter. Annex 5-A depicts the decision making process that will assist in determining the appropriate small purchase procedure to use up to and including \$100,000.
- 5.3. **Single Quotation.** (Up to and including \$10,000)
- a. Where the agency's estimated cost of goods or nonprofessional services is up to and including \$10,000, 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. An e-Mail catalog (non-contract) price from a DSBSD-certified micro business, if available, can be considered a quote. 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.
- 5.6 **Unsealed Bidding.** (Over \$10,000 up to and including \$100,000)
- a. Quick Quote is the preferred sourcing tool to solicit bids and quotes for goods and nonprofessional services over \$10,000 up to and including \$100,000 (see 14.6.b). A minimum of four sources shall be solicited in accordance with the selected Small Business Enhancement Award Priority. (i.e. Micro or Small) See 3.10g. 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.
- c. Deleted.
- d. Procurements over \$10,000 and up to and including \$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 (3.10.g). 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.
- 5.7 a. **Unsealed Request for Proposals** (Over \$10,000 up to and including \$100,000). Goods or nonprofessional services up to and including \$100,000 may be procured using the Unsealed Request for Proposal process (see flowchart, Annex 5-F). A written determination for the use of competitive negotiation is not required for unsealed Request for Proposals. A minimum of four sources shall be solicited in accordance with the selected Small Business Enhancement Award Priority. (i.e. Micro or Small) See 3.10g. 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. Deleted.

5.10

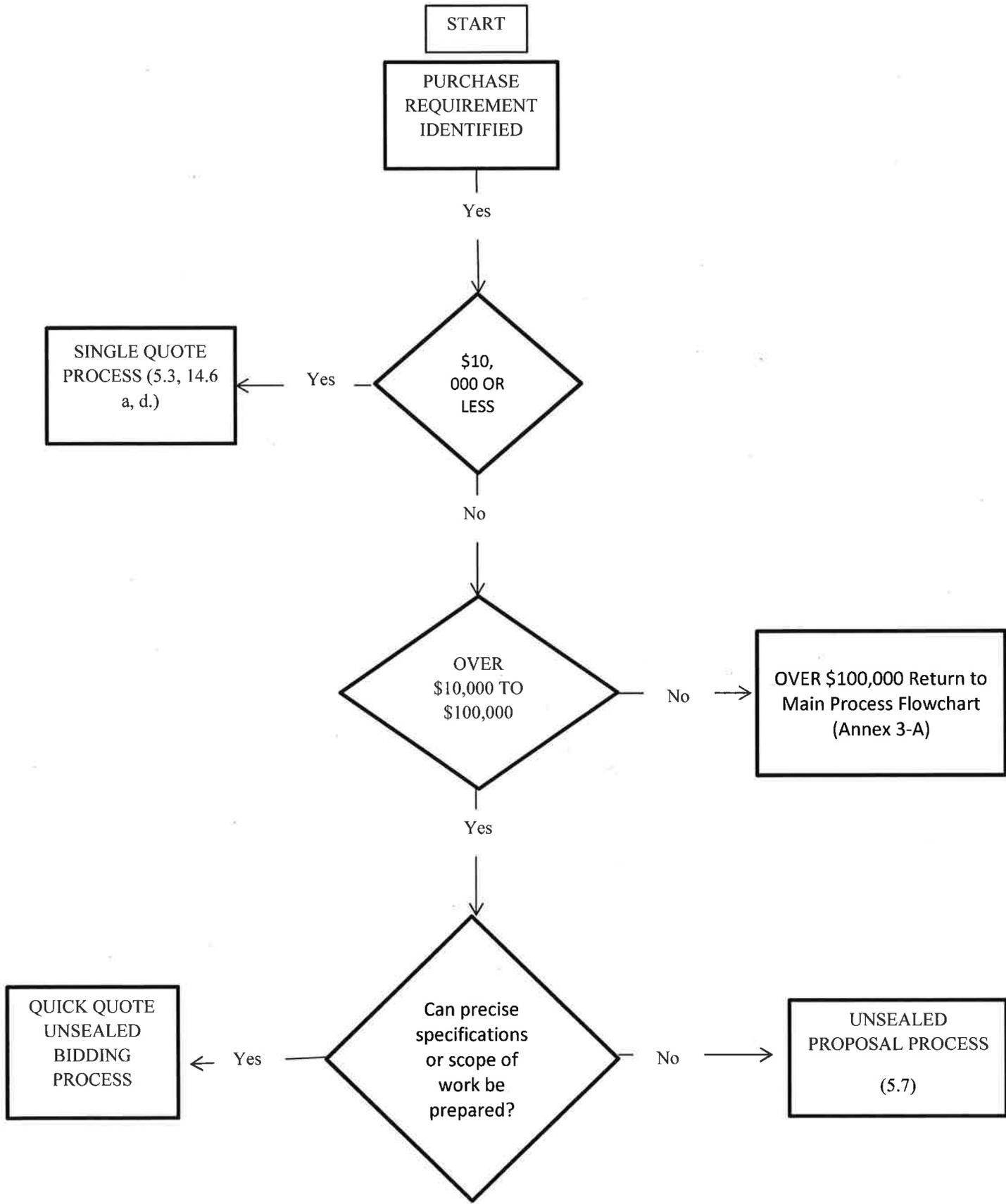
**Blanket Purchase Agreements.**

d. Prior to the establishment of BPAs, agencies should contact their Procurement Management Account Executive for assistance and for the procedures required to be used. See also 4.3d (5).

Annex 5-A

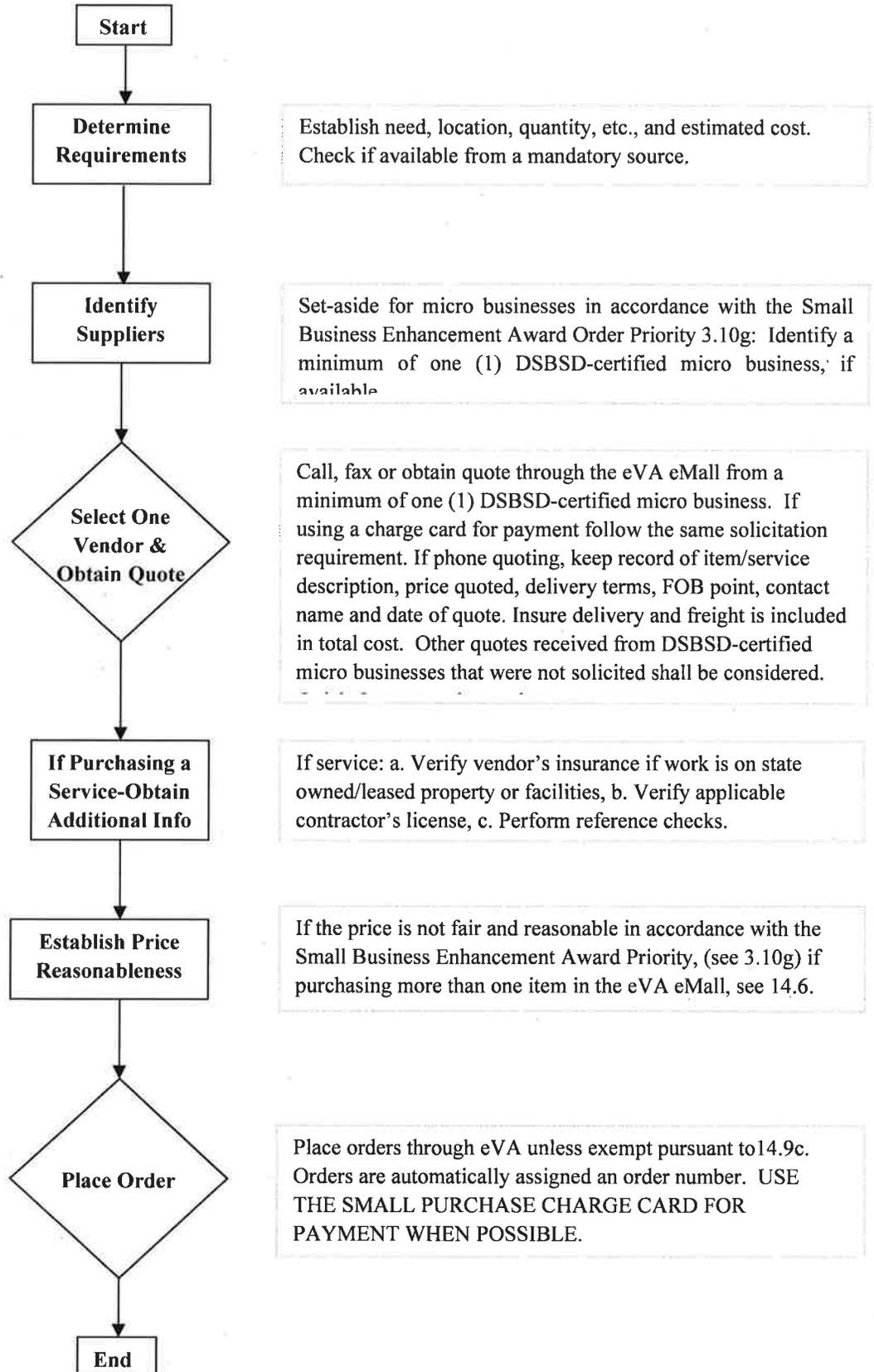
Small Purchase Procedures (Code of Virginia § 2.2-4303G)

Small Purchase Process (goods and nonprofessional services up to and including \$100,000)



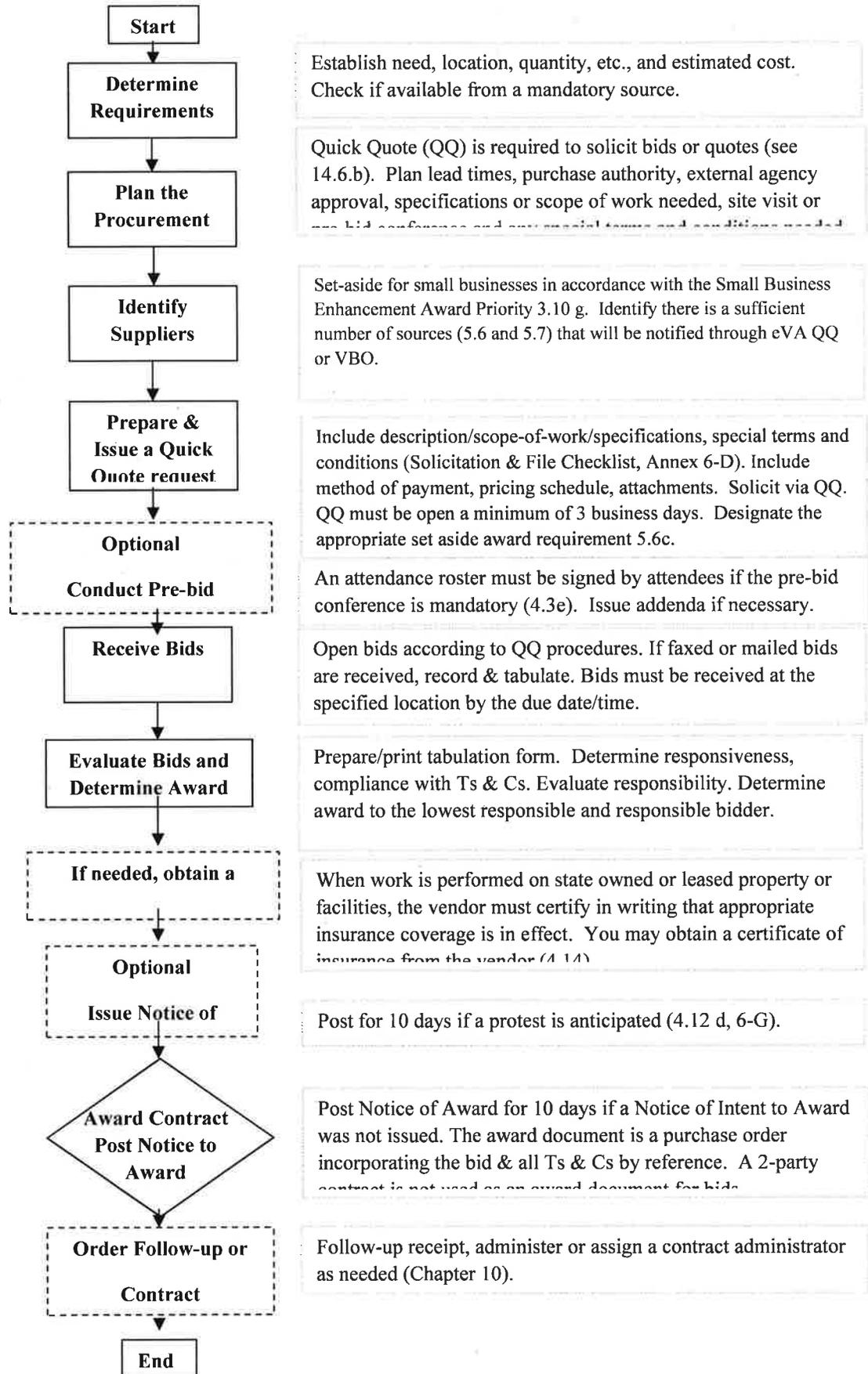
Annex 5-C

**Single Quotation Process**  
**For Goods and Non-professional Services up to and including \$10,000**



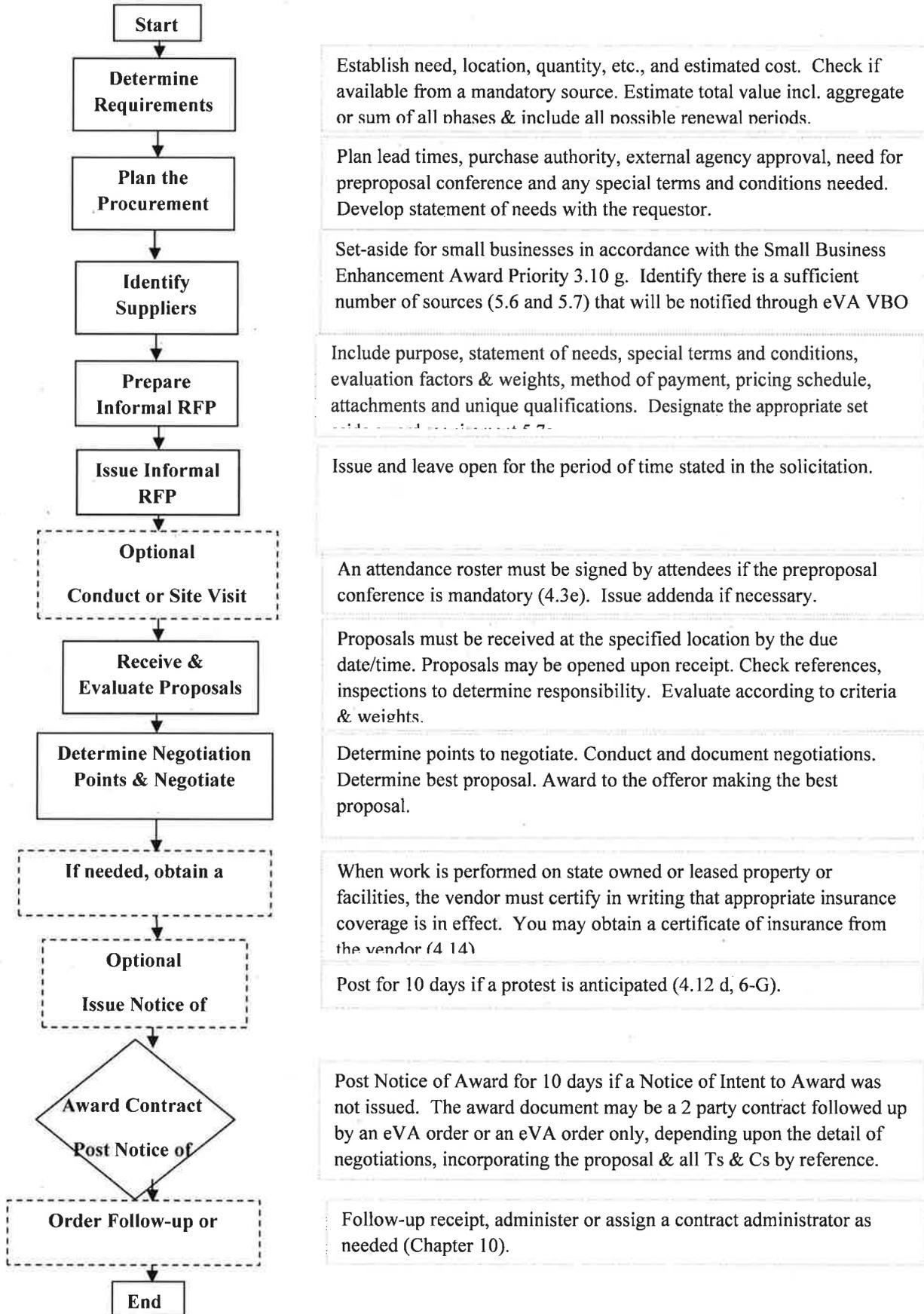
Annex 5-E

**Unsealed Bidding Process**  
**For Goods and Non-professional Services over \$10,000 up to and including \$100,000**



**Annex 5-F**

**Unsealed Request for Proposal Process  
For Goods and Non-professional Services over \$10,000 up to and including \$100,000**



**Annex 5-G**  
**TELEPHONE RECORD FOR GOODS – Use up to and including \$10,000; over \$10,000 use Quick Quote.**

<b>REQUEST NUMBER:</b> _____	<b>BIDDER #1</b>	<b>BIDDER #2</b>	<b>BIDDER #3</b>
<b>BUYER:</b> _____	DATE: _____	DATE: _____	DATE: _____
<b>eVA VENDOR ID or DUNS NUMBER &gt;</b>			
<b>VENDOR NAME &gt;</b>			
<b>VENDOR ADDRESS &gt;</b>			
<b>CONTACT PERSON &gt;</b>			
<b>PHONE NUMBER &gt;</b>			
<b>FAX NUMBER &gt;</b>			
<b>QUANTITY</b>	<b>UNIT PRICE / TOTAL PRICE</b>	<b>UNIT PRICE / TOTAL PRICE</b>	<b>UNIT PRICE / TOTAL PRICE</b>
(1)			
(2)			
(3)			
(4)			
(5)			
<b>ITEM DESCRIPTION</b>			
<b>DELIVERY DATE or TIME &gt;</b>			
<b>PROMPT PAYMENT TERMS &gt;</b>			
<b>ARE SHIPPING/HANDLING COSTS INCLUDED IN TOTAL PRICE? YES or NO &gt;</b>			
<b>IF NO: CITE SHIPPING COST &gt;</b>			
<b>TOTAL ORDER VALUE &gt;</b>			

6.2 **Preparation and Issuance of IFBs.**

g. **High-Risk Contracts.** If a high-risk contract, submit solicitation for external agency review (see 3.1).

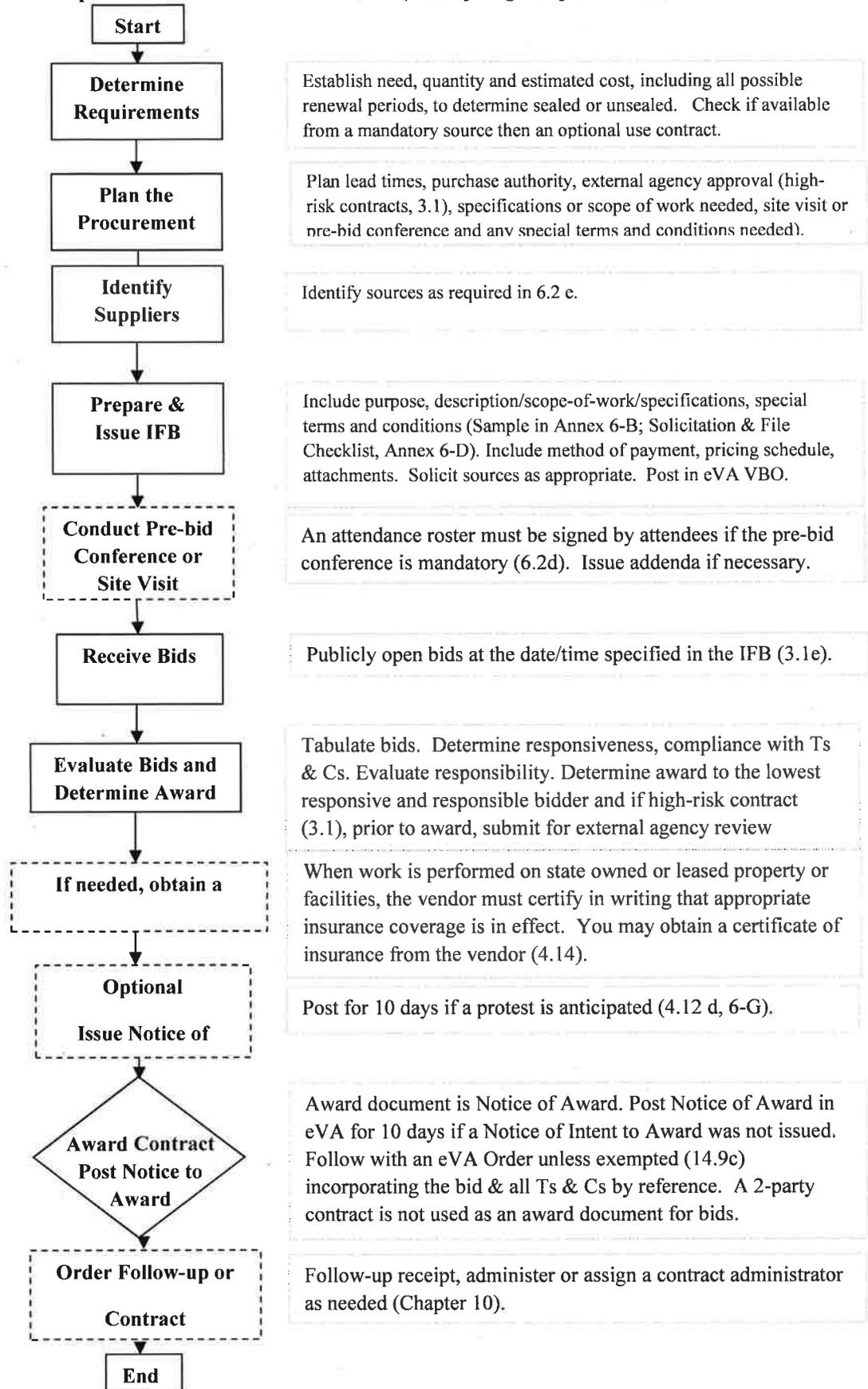
6.3 **Sealed Bids - Receipt, Opening, Evaluation, and Award.**

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. Prior to award, submit contract for external agency review (if high-risk contract, see 3.1).

**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

#### IFB STEP-BY-STEP PROCEDURES

##### 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: A sufficient number of sources (a minimum of four) must be solicited.
- C. PUBLISH: Submit solicitation for external agency review (if high-risk contract, see 3.1). 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 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 goods and services 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 TEN:**

POST NOTICE OF INTENT TO AWARD: Prior to award, submit contract for external agency review (if high-risk contract, see 3.1). 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.

Annex 6-D

**IFB SOLICITATION AND FILE CHECKLIST**

✓	<b>IFB SOLICITATION CHECKLIST</b>	✓	<b>FILE CHECKLIST</b>
	<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), high-risk contracts (see 3.1).		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 The solicitation shall also identify the anticipated type of payment, e.g. SPCC, check, EDI, 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)

<b>Pre-Award, Receipt &amp; Evaluation, and Post-Award Activities:</b>			
	<u>Bidders List</u> : Solicit the required number of source per 6.2e. 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

<p><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.</p>	<p>Addenda issued and uploaded to eVA web site</p>
<p><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).</p>	
<p><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.</p>	<p>Bid tabulation sheet</p>
<p><u>Notice of Award or Notice of Intent to Award</u>: Prior to award, submit contract for external agency review (if high-risk contract, see 3.1). 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).</p>	<p>Award document</p>
<p><u>Successful Bid</u>: A copy of the successful bid is retained in the active procurement file.</p>	<p>Successful bid</p>
<p><u>Contract Administration</u>: If the contract requires administration by other than the buyer, those responsibilities are assigned in writing.</p>	<p>Contract Administrator assignment</p>
<p><u>Insurance/Licenses/References</u>: If other information was required of the contractor, these items must be retained in the procurement file.</p>	
<p><u>Unsuccessful Bids</u>: Copies of the unsuccessful bids are retained as a part of the inactive permanent record.</p>	<p>Unsuccessful bids</p>

<p><b>The following items should be considered when developing the solicitation:</b></p>	
	<p><b>For BOTH Goods and Service Procurements:</b></p>
	<p><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.</p>
	<p><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).</p>
	<p><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. <b>A liquidated damages clause is <u>not</u> to be used as a penalty</b> but as a means to access for damages which may be incurred by late delivery.</p>
	<p><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.</p>
	<p><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.</p>

	<b>Prompt Payment Discount:</b> 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.
	<b>Small Business Subcontracting and Evidence of Compliance:</b> 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.
	<b>Vendor Data Sheet:</b> 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).

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

	<b>For Service Procurements:</b>
	<b>Bonds:</b> If personal bonding is desired such as financial or security service, the requirement should be stated in the solicitation.
	<b>Facilities:</b> 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.
	<b>Hours of Work - Access to Agency Facilities:</b> 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.
	<b>Licensing Requirements:</b> 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.
	<b>Personnel Approval:</b> 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.
	<b>Response Time/Service Calls:</b> If the vendor must respond to a service call within a specific time frame, the time frame must be specified in the solicitation.
	<b>SubContractor Approval:</b> If subcontractors may be involved in satisfying the requirement and there is a need to approve the subcontractors on a project, then the solicitation should state what approvals the Commonwealth wishes to exercise (Annex B).

	<b>For Construction Procurements:</b>
--	---------------------------------------

	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-G

(AGENCY LETTERHEAD)

COMMONWEALTH OF VIRGINIA

NOTICE OF INTENT TO AWARD

DATE \_\_\_\_\_

COMMODITY \_\_\_\_\_

IN RESPONSE TO IFB # \_\_\_\_\_ OF \_\_\_\_\_ (ISSUE DATE)

CONTRACTOR(S)/VENDOR(S) \_\_\_\_\_

Records for this procurement are now available for inspection by any bidder on this IFB

(Purchase officer/contract officer) \_\_\_\_\_ (Signature)  
Name typed or printed

**Note: This form is used if a protest of the award is anticipated.**



Annex 6-H

(AGENCY LETTERHEAD)

COMMONWEALTH OF VIRGINIA

NOTICE OF AWARD

Contract No. \_\_\_\_\_

Date \_\_\_\_\_

eVA Vendor No. \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Bid Response Date \_\_\_\_\_

In Response To \_\_\_\_\_

To Furnish \_\_\_\_\_

During the Period \_\_\_\_\_

\_\_\_\_\_  
Purchase Officer or Contract Officer

**Note:** This form serves as the public notice of award for a competitive bid. This form may also be used as an award document for a competitive bid by adding the following paragraph before the signature line:

*"hereby is accepted at prices and terms stated, subject to all conditions and requirements of the solicitation, purchase specifications, warranties, performance bond and other stipulations, if any. The solicitation, your bid and this notice of acceptance constitute the contract."*

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

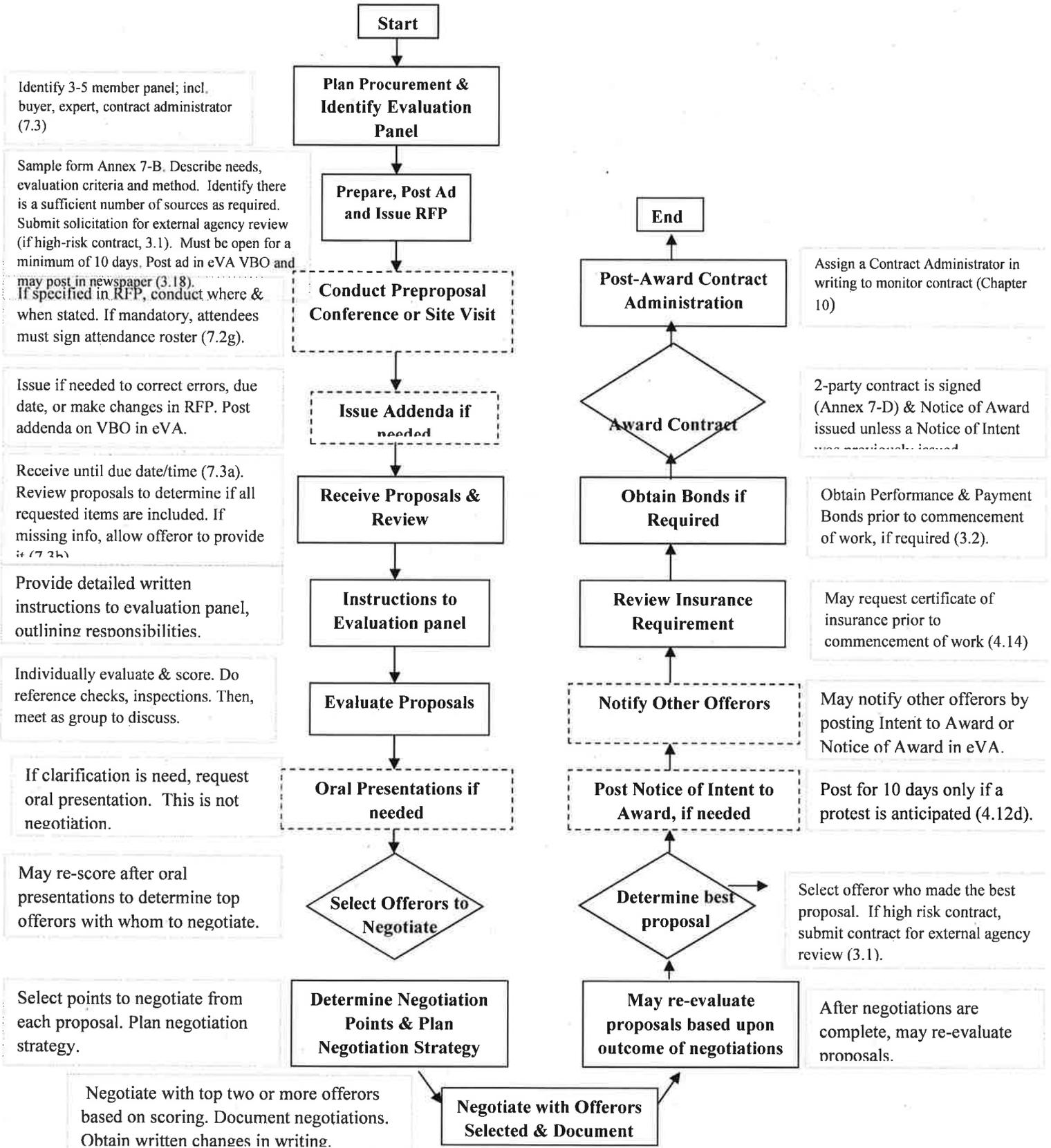
- i. Purchase actions requiring advertisement shall be posted in eVA VBO (3.18). In addition to advertising in eVA VBO, RFPs may be advertised in a newspaper of general circulation in the area in which the contract is to be performed. The advertisement should be a brief statement about the requirement and information on how to receive a copy of the solicitation.
- k. If a high-risk contract, submit solicitation for external agency review (see 3.1).

7.4 **Negotiation and Award.**

- e. Prior to award, submit contract for external agency review (if high-risk contract, see 3.1). If a protest is anticipated, post a Notice of Intent to Award for 10 days; otherwise, post a Notice of Award for 10 days immediately following the actual time of award (see 3.18, Annexes 7-K and 7-L). The award documents is a standard contract (ref. 4.12.c and Annex 7-D). The standard contract shall be bilaterally signed and shall incorporate, by reference, the terms and conditions of the RFP and the contractor's proposal, together with all written modifications thereof.

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)**

**STEP 2 – PREPARE COVER SHEET AND ISSUE THE REQUEST FOR PROPOSALS**

- III. PUBLISH: Submit solicitation for external agency review (if high-risk contract, see 3.1). 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 may 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 12 - POST A NOTICE OF INTENT TO AWARD**

Prior to award, submit contract for external agency review (if high-risk contract, see 3.1). Post for 10 days if protest of the award is anticipated (see Annex 7-K for example of format).

**Annex 7-E**

**RFP SOLICITATION AND FILE CHECKLIST**

✓	<b>RFP SOLICITATION CHECKLIST</b>	✓	<b>FILE CHECKLIST</b>
	<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), high-risk contracts (see 3.1).		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. Indicate in the RFP whether a numerical scoring system will be used in the evaluation of the proposal. 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. The solicitation shall identify the anticipated type of payment, e.g. SPCC, check, EDI, 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)
<b>Pre-award, Receipt &amp; Evaluation, and Post-Award</b>			
	<u>Evaluation Committee</u> : Proposal Evaluation Committee is identified.		Names of Evaluation Committee

	<u>Offerors List:</u> Solicit a list of sources per 7.2g. Note which vendors are DSBSD-certified small businesses	Offerors List: Name, addresses of Offerors Solicited
	<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 may be published 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).	Posted notice of solicitation in <i>VBO</i> Advertisement
	<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.	Original solicitation
	<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.	Addenda
	<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.	
	<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.	
	<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.	Copy of each evaluation committee member's score sheet
	<u>Review Member Evaluations:</u> Schedule conferences as appropriate or necessary. Conduct reference checks and inspections as required.	
	<u>Oral Presentations:</u> Schedule oral presentations if they are necessary to clarify any ambiguities or omissions in the proposals.	
	<u>Proposal Evaluation:</u> Individual evaluations are prepared and proposals are evaluated based upon the evaluation criteria and weights.	
	<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.	
	<u>Schedule and Conduct Negotiation:</u> A record is maintained of the negotiations with each offeror so selected.	Documentation of negotiations.
	<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.	Best and final offers (if requested in the RFP)

	<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> Prior to award, submit contract for external agency review (if high-risk contract, see 3.1). 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.	Notice of Award
	<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:**

	<b>For BOTH Goods and Service Procurements:</b>
	<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. <b>A liquidated damages clause is not to be used as a penalty</b> 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).
	<b>For Goods Procurements:</b>
	<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.
	<b>For Service Procurements:</b>
	<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>Subcontractor Approval</u> : If subcontractors may be involved in satisfying the requirement and there is a need to approve the subcontractors on a project, then the solicitation should state what approvals the Commonwealth wishes to exercise (see page Annex B, Special Condition on Subcontracts).
	<b>For Construction Procurements:</b>
	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-K  
(AGENCY LETTERHEAD)  
**COMMONWEALTH OF VIRGINIA**  
**NOTICE OF INTENT TO AWARD**

DATE \_\_\_\_\_

COMMODITY \_\_\_\_\_

IN RESPONSE TO RFP # \_\_\_\_\_ OF (ISSUE DATE)

CONTRACTOR(S)/VENDOR(S) \_\_\_\_\_

Records for this procurement are now available for inspection by any offeror on this RFP.

(Purchase officer/contract officer) \_\_\_\_\_ (Signature)  
Name typed or printed

**Note: This form is used if a protest of the award is anticipated.**

Annex 7-L  
(AGENCY LETTERHEAD)  
**COMMONWEALTH OF VIRGINIA**  
**NOTICE OF AWARD**

Contract No. \_\_\_\_\_

Date \_\_\_\_\_

eVA Vendor ID. \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Offer Response Date \_\_\_\_\_

In Response To \_\_\_\_\_

To Furnish \_\_\_\_\_

During the Period \_\_\_\_\_

Purchase Officer or Contract Officer \_\_\_\_\_

**Note: This form (or the eVA Order) serves as public notice of award for a Competitive Negotiation.**

PIM 98-035

# CHAPTER 8

## SOLE SOURCE PROCUREMENT

In this Chapter look for . . .

- 8. Definition
- 8.1 Approval for Sole Source Procurements
- 8.2 Negotiating a Contract
- 8.3 Price Reasonableness Determination
- 8.4 Posting Requirements
- 8.5 Award Document
- 8.6 Legislatively Directed Contract Awards
- 8.7 Alternative Procurement

8. **Definition.** A sole source procurement is authorized when there is only one source practicably available for the goods or services required. Competition is not available in a sole source situation; thus distinguishing it from a proprietary purchase where the product required is restricted to the manufacturer(s) stipulated, but is sold through distributors and competition between them can be obtained. Sole source justification based solely on a single vendor's capability to deliver in the least amount of time is not appropriate since availability alone is not a valid basis for determining a sole source procurement. Note: For sole source requirements exceeding \$10,000, a written quotation must be obtained from the vendor.

### 8.1 Approval for Sole Source Procurements

- a. **Up to and including \$10,000.** Sole source procurement procedures not required [see 5.3].
- b. **From \$10,000.01 up to and including \$50,000.** All sole source procurements for non-technology goods and services up to and including \$50,000 must be approved in advance by the agency head or designee, which shall be the chief purchasing officer or a direct report to the agency head [see 1.2e (2)]. The written determination, using the Sole Source Procurement Approval Request form in Annex 8-C, documenting that there is only one source practicably available for that which is to be procured, must be included in the procurement file. In addition, a memorandum must be attached to the request which addresses the four points shown in this section 8.1.c. The writing shall document the basis for the determination, which should include any market analysis conducted in order to ensure that the good or service required was practicably available from only one source. All purchasing agency employees having official responsibility with the procurement must complete a Public Procurement Ethics and Conflict of Interest Agreement (Annex 8-G). They should also be provided a copy of VPPA, Article 6. Ethics in Public Contracting.
- c. **Procurements Over \$50,000.** Unless otherwise authorized in this chapter, sole source procurements for non-technology goods and services over \$50,000 must be approved by DGS/DPS prior to commencement of the actual procurement using the Sole Source Procurement Approval Request form found in Annex 8-C which must be signed by the agency head or designee, who shall be a direct report to the agency head. [see 1.2e(2)]. Sole source procurements that originally included a renewal provision, for which approval for multi- years was obtained, do not need to be forwarded for approval until expiration of the term for which approval was obtained. In addition, a memorandum must accompany the request form, which addresses the following four points:
  - Explain why this is the only product or service that can meet the needs of the purchasing agency.
  - Explain why this vendor is the only practicably available source from which to obtain this product or service.

- Explain why the price is considered reasonable.
- Describe the efforts that were made to conduct a noncompetitive negotiation to get the best possible price for the taxpayers.

Once written approval has been given, agencies and institutions are delegated the authority to proceed with awarding the contract.

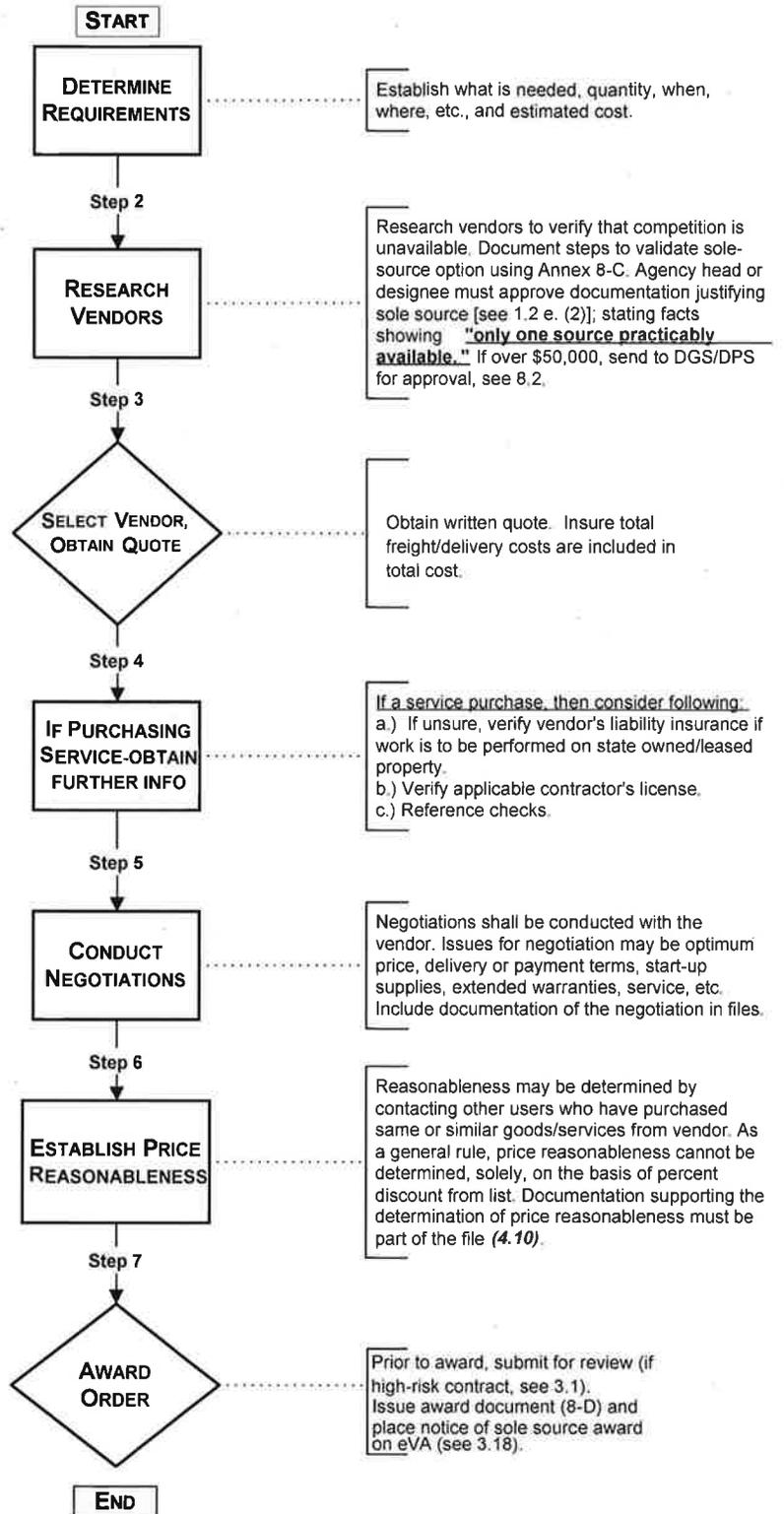
Sole source procurements for entertainment (speakers, lecturers, musicians and performing artists) over \$50,000 do not require DGS/DPS approval, but must be approved prior to commencement of the actual procurement by the agency head or designee, who shall be a direct report to the agency head. Use the Sole Source Procurement Approval Request form in Annex 8-C, documenting that there is only one source practicably available for the entertainment to be procured, and include the signed form in the procurement file. In addition, a memorandum must be attached to the form which addresses the four points shown above.

- 8.2 **Negotiating a Contract.** Upon satisfying the requirements of paragraphs 8.1 above, a contract shall be negotiated and awarded without competitive sealed bidding or competitive negotiation. In making sole source procurement, it is the buyer's or contracting officer's responsibility to negotiate a contract that is in the best interest of the Commonwealth. Negotiations can be conducted on adding terms and conditions favorable to the Commonwealth and deleting or changing terms that are one-sided, in favor of the contractor. It is important to know the market and the contractor's situation in regard to the market. In noncompetitive negotiation, one must be exceptionally well prepared and negotiate to the extent that is practicable. Written documentation of the negotiations shall be included in the procurement file. For assistance in conducting negotiations, please see Annex 7-C.
- 8.4 **Posting Requirements.** Prior to award, submit contract for external agency review (if high risk contract, see 3.1). All sole source procurement award notices shall be posted on eVA (*Code of Virginia*, § 2.2-4303) and at a minimum state that only one source was determined to be practicably available and must also state that which is being procured, the contractor selected, and the date on which the contract was or will be awarded (see 3.18). Public award notices may be posted at locations in addition to posting on eVA VBO, at the discretion of the entity (public posting notice board, entity website, newspaper, etc.) but if posted in additional locations, the form in Annex 8-E should be used.

Annex 8-A

SOLE SOURCE PROCESS (CODE OF VIRGINIA §2.2-4303E)

For Goods and Non-professional Services when competition is not practicably available.  
And the cost including all ancillary fees, exceeds \$10,000.



**Annex 8-B**

**SOLE SOURCE CHECKLIST**

1. Public Procurement Ethics and Conflict of Interest Agreement (Annex 8-G) by all agency employees having an involvement with the sole source procurement.
2. Written determination approved by the agency head or designee as provided in 8.1, for procurements over \$10,000 and up to and including \$50,000. The procurement must address the four points shown in 8.1.
3. Approval for sole source, non-technology procurements over \$50,000 must be signed by the agency head or designee, as provided in 8.1 and sent to DGS/DPS for approval prior to commencement of the actual procurement. All request for approval must be submitted online using the eform available in eVA.
4. Noncompetitive negotiation shall be conducted. The file shall include the results of the negotiations.
5. Evidence that a determination of price reasonableness was conducted.
6. Submit contract for external agency review (if high-risk, see 3.1). Post sole source notice of award on eVA VBO.
7. PO or contract issued.

10 This Chapter is intended as internal guidance to Commonwealth contract administrators and purchasing agencies and shall not be construed as extending rights enforceable by the contractor, nor as otherwise modifying or supplementing the terms of the contract.

**General.** Contract administration begins after award of the contract. Its purpose is to assure that the contractor's and agency's total performance is in accordance with the terms and conditions of the contractual agreement. The integrity of the public purchasing system demands that goods or services be furnished, received, invoiced and paid as specified in the contract. Contract administration includes all actions taken by the state relative to a specific contract after the award is made. Each agency in its implementing procedures shall ensure that effective contract administration is included. Agencies should assemble and maintain a master listing of all their term contracts to include the initial period and number of renewals.

10.2 **Contract Administrator.** The administrator should be the end user of the contract or one who has a vested interest in the procurement who will be responsible for the proper adherence to all contract specifications by the contractor.

- a. **Non-High-Risk Contracts.** Contract administration shall be delegated in writing by the using agency designating a specific individual or position, highlighting important aspects of the contract, and distinguishing between the administrator's authority and that which must remain a function of the purchasing office. Specific delegated tasks should be outlined in the designation letter which may include acceptance of goods or services, approval of invoices, scheduling and monitoring of project progress, coordination of the provision of agency or other resources when part of the contract, and favorable or critical feedback to the contractor and buyer. All continuous or term contracts shall be assigned an administrator in writing. (See Annex 10-C). For agency specific term contracts procured on behalf of an agency by DPS, upon award the agency shall designate a contract administrator.
- b. **High-Risk Contracts.** Contract administrators must have prior contract administration experience. Contract administration shall be delegated in writing by the agency's Chief Procurement Officer designating a specific individual, highlighting important aspects of the contract, and distinguishing between the administrator's authority and that which must remain a function of the purchasing office. Specific delegated tasks should be outlined in the designation letter which may include acceptance of goods or services, approval of invoices, scheduling and monitoring of project progress, coordination of the provision of agency or other resources when part of the contract, and favorable or critical feedback to the contractor and buyer. All continuous or term contracts shall be assigned an administrator in writing. (See Annex 10-C). For agency specific term contracts procured on behalf of an agency by DPS, upon award the agency's Chief Procurement Officer shall designate a contract administrator.

## Annex 10-B

### CONTRACT ADMINISTRATION "TIPS"

- a. Provide for administration of all service and term contracts/purchase orders. The ones you ignore may cause trouble!
- b. Identify the "stake holders" of the procurement in the presolicitation phase of the procurement or as soon as possible especially for more complicated, multi-tasked or expensive purchases. Consult with these individuals on the assignment and role and responsibilities of the contract administrator.
- c. During the solicitation development phase of the procurement, discuss and plan with the future contract administrator his/her role and projected contract administration actions. Plan for these actions in the solicitation.
- d. Conduct a post-award mobilization meeting with the contractor, contract administrator, buyer, and other appropriate individuals soon after award but prior to performance to review the intent and scope of the contract, contract milestones and deadlines, the administrator and buyer's role, and contract performance evaluation.
- e. Facsimile or electronic (E-mail, etc.) transmission should be liberally employed to expedite administrative actions.
- f. Remember, time and materials contracts places all risk on the agency and little upon the contractor. Emphasize the need to commit agency personnel to closely monitor contractor activity, verify hours billed on the invoice and insist on supporting documentation for any materials reimbursement requests. Contractors should be required to submit an estimate specifying the amount and type of labor at the contracted rates with an estimate of materials to be used. The contract administrator should review and approve this estimate for price reasonableness, and if necessary, negotiate the amount or type of labor and/or material.
- g. Do not get complacent on approving "routine" invoices for payment; verify the variables as well as the "frequency" of billed tasks. Verify that you in fact, received the service at the contracted price.
- h. Once a contractor is in default, do not postpone the initiation of administrative action and documentation based solely on vendor's promises to comply.
- i. Remember that when problems arise, there are at least two parties to a contract and the problem could arise from either side or, in typical cases of miscommunication, from both sides.
- j. The Procurement Complaint Form is the only official method of problem notification. If the contractor fails to cure the specific breach of contract and/or has multiple failures, the documentation establishes a basis for corrective action against the contractor. k. Consider seeking legal advice/assistance early in the process whenever complex default possibilities could result.
- k. Consider seeking legal advice/assistance early in the process whenever complex default possibilities could result.

- 12.1 **Definition.** Surplus materials means personal property including materials, supplies, equipment, and recyclable items, but does not include property as defined in *Code of Virginia*, § 2.2-1147 (real property or real estate), that is determined to be surplus.

Surplus materials does not include finished products that a state hospital or training center operated by the Department of Behavioral Health and Developmental Services sells for the benefit of individuals receiving services in the state hospital or training center, provided that (i) most of the supplies, equipment, or products have been donated to the state hospital or training center; (ii) the individuals in the state hospital or training center have substantially altered the supplies, equipment, or products in the course of occupational or other therapy; and (iii) the substantial alterations have resulted in a finished product.

- 13.4 **Specifications/Purchase Descriptions.** The DGS/DPS Specifications Section maintains a library of reference specifications, Virginia standard specifications, and model specifications. Within its resources and available time, this section will provide assistance in developing goods and installation specifications for state agencies. Contact DGS/DPS Procurement Bureau at 804-786-1601 for assistance.

- 13.6 **Contract Compliance Assistance.** Assistance is available from DGS/DPS to ensure timely delivery of goods, services, and printing to state agencies. This includes primary responsibility for processing vendor complaints pertaining to over/under shipments, delinquent deliveries, non-delivery, improper billing, receipt of nonconforming material or services, and initiation of default action.

- 13.9 **Training.** DGS/DPS periodically conducts procurement training workshops at various locations throughout Virginia. These workshops are designed to acquaint agency personnel with procurement policy and procedures, enhance their professional capabilities, and to establish and maintain close liaison between DGS/DPS and agency purchasing personnel. Agencies are encouraged to submit recommendations for subjects to be presented in these workshops. Additional information may be obtained by calling 804-225-4058

- 13.10 **Procurement Management Reviews.** DGS/DPS personnel conduct procurement management reviews to assist agencies in implementing more effective purchasing processes. They review local procedures in response to requests for increases in purchasing authority and to ensure compliance with existing procurement laws and regulations. These reviews are also intended to provide the agency with procurement management improvement objectives. Agencies desiring assistance may contact their Procurement Management Account Executive.

- 13.11 **Increased Delegated Purchasing Authority Requests.** Agencies and Institutions must meet the standards for increased delegated procurement authority outlined in Annex 1-A and 1-B. Requests for increased delegated purchasing authority may be made by submitting the Request for Delegated Procurement e-form found in eVA.

- 14.6 **Competitive Requirements.** A sufficient length of time should be given to all bidders/offerors to respond considering but not limited to solicitation requirements, complexity of the procurement, market trends, etc. in addition to the minimum requirements stated below:

- a. **Single Quotation (up to and including \$10,000): An e-Mall catalog (non-contract) price can be considered a quote in compliance with 3.10.g.1 and 5.3.a when the value of the purchase is up to and including \$10,000.**
- b. **Sourcing:** eVA advanced sourcing tools (i.e., Quick Quote, VBO Buyer, Sourcing & Contracting) shall be used for all solicitations over \$10,000 requiring competition. Use the appropriate eVA advanced sourcing tool to conduct procurements in compliance with APSPM Chapters 5-9.

**APPENDIX A  
GLOSSARY AND ACRONYMS**

**Central Services State Agencies:** Central services state agencies are the Department of General Services (DGS), the Virginia Information Technologies Agency (VITA), the Department of Accounts (DOA) and the Department of Human Resource Management (DHRM).

**APPENDIX B  
SECTION I**

**REQUIRED GENERAL TERMS AND CONDITIONS  
GOODS AND NONPROFESSIONAL SERVICES**

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:

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 shall be added as an additional insured to the policy by an endorsement.
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.)

Profession/Service

Limits

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.)	
	<i>Code of Virginia</i> § 8.01-581.15
	<a href="https://law.lis.virginia.gov/vacode/title8.01/chapter21.1/section8.01-581.15/">https://law.lis.virginia.gov/vacode/title8.01/chapter21.1/section8.01-581.15/</a>
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.**

## SECTION II

### SPECIAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

2. **AWARD OF CONTRACT:** All solicitations must contain one of the following award clauses to specify the method of award.

- L. **AWARD:** The Commonwealth will make the award(s) on \_\_\_\_\_ basis 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 up to and including \$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 early 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: For goods or non-professional services up to and including \$100,000 that are set-aside in accordance with the Small Business Enhancement Award Priority by filling in the blank, i.e., line item, total sum, lot, etc. This clause shall be used for unsealed competitive bidding and shall not be used for informal request for proposals.**

- 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 up to and including \$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: For goods or services up to and including \$100,000 where the procurement is set-asides in accordance with the Small Business Enhancement Award Priority. This clause shall be used for competitive negotiations and shall not be used for unsealed bidding.**

36. **SUBMISSION OF SMALL BUSINESS SUBCONTRACTING PLAN, EVIDENCE OF COMPLIANCE WITH SMALL BUSINESS SUBCONTRACTING PLAN, AND SUBCONTRACTOR REPORTING:**

- A. **Submission of Small Business Subcontracting Plan:** It is the statewide goal of the Commonwealth that 42% of its purchases be made from small businesses certified by DSBSD. This includes discretionary spending in prime contracts and subcontracts. All bidders/offerors are required to submit a Small Business Subcontracting Plan. 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 and businesses with DSBSD service disabled veteran-owned status when they have also received DSBSD small business certification. Where it is not practicable for any portion of the

goods/services to be subcontracted to other suppliers, the bidder/offeror shall note such on the Small Business Subcontracting Plan. 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.

B. Evidence of Compliance with Small Business Subcontracting Plan: 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 monthly reports substantiating compliance in accordance with the small business subcontracting plan. If a variance exists, the contractor shall provide a written explanation. A subcontractor shall be considered a Small Business for purposes of a contract if and only if the subcontractor holds a certification as such by the DSBSD. Payment(s) may be withheld until the purchasing agency confirms that the contractor has certified compliance with the contractor's submitted Small Business Subcontracting Plan or is in receipt of a written explanation of the variance. 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. Prime Contractor Subcontractor Reporting:

1. Each prime contractor who wins an award greater than \$100,000, shall deliver to the contracting agency or institution on a monthly basis, all applicable information for each subcontractor listed on the Small Business Subcontracting Plan that are DSBSD-certified businesses or Employment Services Organizations (ESOs). The contractor shall furnish the applicable information to the purchasing office via the Subcontractor Payment Reporting tool accessible within the contractor's eVA account.

2. In addition each prime contractor who wins an award greater than \$200,000 shall deliver to the contracting agency or institution on a monthly basis, all applicable information on use of subcontractors that are not DSBSD-certified businesses or Employment Services Organizations. The contractor shall furnish the all applicable information to the purchasing office via the Subcontractor Payment Reporting tool accessible within the contractor's eVA account.

**\* 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, 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.**

**APPENDIX C**

**PROCUREMENT INFORMATION MEMORANDUM (PIM)  
RECORD OF CHANGES**

98-036	Raises the Small Purchase threshold to \$10,000, adds an e-form for delegated authority, adds guidance multiple bids received, removes the requirement to post RFP in a newspaper, creates a new section for high-risk contracts, removes DPS from VCE exemption process, updates the definition of surplus materials, clarifies the sole source process, adds a new definition for central service state agencies, Updates policy and terms regarding Submission of Small Business Subcontracting Plan, evidence of compliance with Small Business Subcontracting Plan, and subcontractor reporting and insurance, updates contract information throughout	07/03/19	
--------	---	----------	--

## Suggested Changes

Your assistance is sought in identifying areas where changes may be needed. Whether concept changes or one word changes to the *APSPM*, DGS/DPS welcomes suggestions for clarification, corrections, or policy and procedure modifications. Please copy this form and use it to submit your suggestions for consideration. Forms may be mailed to DGS/DPS, P. O. Box 1199, Richmond, VA 23218-1199, sent by fax to 804-786-5712, or contact the PCR Director indicated at: <https://dgs.virginia.gov/procurement/contacts/dps-contacts/>. Use additional sheets as necessary.

**APSPM section number affected:** \_\_\_\_\_

**Suggestion:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Why the change is needed:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APSPM section number affected:** \_\_\_\_\_

**Suggestion:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Why the change is needed:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Optional)

Submitted by: \_\_\_\_\_ Telephone: \_\_\_\_\_

Agency: \_\_\_\_\_

