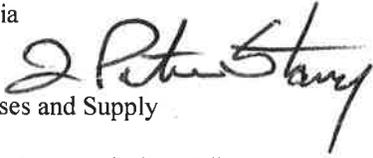


June 29, 2020

MEMORANDUM

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

FROM: J. Peter Stamps, Director
 DGS, Division of Purchases and Supply



SUBJECT: Procurement Information Memoranda (PIM) #98-037

Enclosed is PIM #98-037, effective July 1, 2020, 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*, downloadable in Word or PDF. Once posted, the location of text changes will be indicated by an arrow in the margin (→) with the corresponding PIM #98-037 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 #98-037 should be filed in the back of the Appendix C log.

| APSPM Cite | Summary of Changes |
|-------------------|--|
| Table of Contents | Renames and adds sections |
| 1.5.b | Updates dollar threshold from "\$30,000" to "\$100,000" |
| 1.5.b.5 | Deletes |
| 1.5.b.18 | Adds "a one-time" in the parentheses |
| Annex 1-A | Updates posting requirements |
| 2.1.b | Deletes "sheltered workshops" and inserts "Employment Services Organizations" in the second sentence |
| 2.1.e | Updates VDC section |
| 2.4 | Adds language regarding online catalogs |
| 3.1.a.b.c | Exempts rail construction or design |
| 3.1.b.1.b | Replaces "solicitation's" with "contract's" |
| 3.1.c.1.b | Replaces "solicitation's" with "contract's" |
| 3.1.d | Adds "High-Risk Contract Reporting" section |
| 3.2.c | Clarifies posting an addendum |
| 3.2.d | Clarifies canceling a solicitation posting requirements |
| 3.2.g | - Deletes "original" and "in ink" from the second sentence - Deletes the fourth sentence |
| 3.8.b | Adds "unless specifically exempted in the Acts of Assembly" to the last sentence. |
| 3.11.g.1 | Adds "over" in front of \$10,000 |
| 3.11.g.2 | Removes "and h" from the first sentence |
| 3.15.a | Lists the Reciprocal Preferences separately |
| 3.16 | Adds a method of procurement |
| 3.19 | Updates posting requirements |
| 3.20 | Adds language about climate positive |
| 3.28 | Clarifies Personally Identifiable Information |
| 3.30 | Renames the section |
| 3.31 | Adds a new section |
| Annex 3-B | Adds "over" in front of \$10,000 in the first chart, second paragraph |
| 4.15 | Updates dollar threshold from "\$100,000" to "\$200,000" |

| | |
|-----------------------------------|--|
| 4.16 | Renames section |
| 4.16.b | -Adds “ <i>over \$10,000 but</i> ” in the first sentence -Updates dollar threshold from “\$30,000” to “100,000” |
| 4.16.c | Deletes first sentence |
| 4.17.b | Updates dollar threshold from “\$30,000” to “\$100,00” |
| 4.23.e | -Adds “ <i>over</i> ” in front of \$10,000 in the fourth sentence -Deletes the last sentence |
| Annex 4-A | Adds “ <i>sexual orientation, gender identity</i> ” to the note section |
| Annex 6-I | Updates template and adds instructions for when to use |
| Annex 7-A | -Adds “ <i>subject-matter</i> ” to the first box on the left -Removes “& score” from the seventh box on the left |
| Annex 7-B, Step 1.V.A | Updates information in the note |
| Annex 7-B, Step 3 | Adds language regarding subject-matter experts to the first paragraph |
| Annex 7-B, Step 9. III.C. | -Deletes “ <i>consensus</i> ” in the first sentence -Adds “ <i>consensus or</i> ” and deletes “ <i>and points assigned</i> ” in number 4 |
| Annex 7-D | Adds “ <i>sexual orientation, gender identity</i> ” to the note section |
| Annex 7-G | Updates template and add instructions for when to use |
| 8.1.c | Adds the requirement to complete Annex 8-G |
| Annex 8-D | Adds “ <i>sexual orientation, gender identity</i> ” to the note section |
| Annex 8-F | Adds “ <i>sexual orientation, gender identity</i> ” to the note section |
| Annex 8-G.E | Clarifies the note section |
| 9.3.a | Clarifies emergency approvals |
| 10.3 | -Deletes “ <i>vendor</i> ” and adds “ <i>procurement</i> ” to the last sentence -Adds “ <i>to include all documentation of the procurement complaint process</i> ” to the last sentence |
| 10.11.b.1&2 | Deletes sections |
| 10.16 | Renames section “ <i>Complaints</i> ” |
| 10.16.a & b | Adds language regarding how to file a complaint |
| 10.17 | Removed “ <i>Vendor Performance Complaint</i> ” section and added “ <i>Notice to Cure</i> ” section |
| 10.18 | Removed “ <i>Notice to Cure</i> ” section and added “ <i>Default</i> ” section |
| Annex 10-H | -Adds a new email address to the first page in the note section number 3 and deletes the mailing address -Adds a new email address to the second page in the note section and deletes the mailing address |
| 12.2.a | Clarifies ownership of IT assets |
| 13.4 | Updates web address and contact information. |
| 13.6 | Adds contact information |
| 13.13 | Deletes |
| Annex 13-A | Updates location of DGS/DPS Purchase Requisition and Instructions |
| 14.3.c | Deletes “ <i>Shelter Workshops</i> ” and inserts “ <i>ESOs</i> ” throughout section |
| 14.6.c | Adds a note to the section |
| 14.6.e.ii | Adds performance posting requirement for high-risk contracts |
| 14.12 | Deletes “ evabilling@dgs.virginia.gov ” and adds “ eVABusinessManager@dgs.virginia.gov ” |
| 14.14 | Deletes “ <i>up to \$5,000</i> ” and adds “ <i>up to the cardholder’s limit</i> ” |
| Annex A | Updates the charge card definition |
| Appendix B, Section I | - Updates were made to the following General Terms and Conditions: A. Vendors Manual C. Anti-Discrimination W. Nondiscrimination of Contractors - Adds new General Term and Condition: CC. Civility In State Workplaces |
| Appendix B, Section II | Updates were made to the following Special Terms and Conditions: 2.A. Award 8. Additional Users |
| 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 [Procurement Management Account Executive](#).

PREFACE

AGENCY PROCUREMENT AND SURPLUS PROPERTY MANUAL

September 1998 Edition

The manual has been significantly reformatted, modernized and made more “user friendly.” Incorporated are recommendations received from an interagency task force as well as agency users. Their contributions are gratefully acknowledged. Every effort has been made to keep foremost in our mind its readability -- from senior administrators to newly hired entry level personnel responsible for processing day-to-day procurement transactions. Changes are intended to facilitate and simplify access to the wide variety of topics for those public employees having official responsibility for procurement transactions as enunciated in the *Virginia Public Procurement Act* in Title 2.2, Chapter 43. Copies may be ordered from VCE and downloaded from the DGS/DPS home page: <http://www.dgs.virginia.gov>.

Two

Sources of Supply

- 2.2 Nonmandatory Sources
 - Employment Services Organization

Three

General Procurement Policies

- 3.30 Public Auction Sale
- 3.31 Reverse Auction

Four

General Procurement Guidelines & Planning

- 4.16 Conferences

Ten

Contract Administration

- 10.16 Complaints
- 10.17 Notice to Cure
- 10.18 Default

DGS/DPS Support and Assistance

Thirteen

- 13.13 Deleted

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

b. The following selected categories of goods and services up to and including \$100,000:

(5) **Deleted.**

(18) Purchases for testing or evaluation (limited to a one-time purchase of quantities considered necessary for complete and adequate testing).

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

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

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 through 2.2-4303. This includes but is not limited to:
 - a. Small purchase procurements that are expected to exceed \$10,000. Quick Quote solicitations meet the public posting requirement.
 - b. Intent to Award notices.

2.1 Mandatory Sources.

- b. **Virginia Correctional Enterprises (VCE).** Goods and services produced or manufactured by state correctional facilities shall be purchased by all departments, institutions, and agencies of the Commonwealth, which are supported in whole or in part with state funds. VCE products may also be purchased by any county, district of any county, city or town and by any nonprofit organization, including volunteer emergency medical services agencies, fire departments, Employment Service Organizations and community service organizations (*Code of Virginia*, §53.1-47.) Products include, but are not limited to: wood and metal case goods, seating, Office Systems, shoes/boots, clothing, embroidery, silk screening, Braille, signs, document conversion to microfilm and electronic medium (CD); electronic content management (ECM) and document destruction, optical, dentures, laundry, license tags, janitorial products, and VCE Digital Works. Special or unique products or services requiring extensive production runs in volume are available.
- e. **Virginia Distribution Center (VDC).** The Virginia Distribution Center (VDC) is part of the Department of General Services, Division of Purchases and Supply. The Division allows any public body or public broadcasting station to purchase from the VDC. The VDC is a cooperative procurement function that provides a broad selection of high-quality services and products at the lowest prices by leveraging the collective buying power of the Commonwealth, utilizing efficient freight methods, and maintaining an onsite Quality Assurance Laboratory operation. Over 1,000 top-quality line items are available, including staple foods, frozen foods, janitorial supplies, paper and plastic products, safety supplies, flags, and other select items.

VDC Customer Service Team: You may contact the VDC Customers Service team at 804-328-3232 ext. 0 or VDCCustomerCare@dgs.virginia.gov.

Orders: Customers should submit orders directly to the VDC through eVA using the VDC Punch-out Catalog. Those with special ordering needs may contact the VDC Customer Service Team for assistance. Additional information concerning goods and services available from the VDC is located on the VDC website <http://vdc.dgs.virginia.gov/>.

Products: To view the VDC product line or access Safety Data Sheets (SDS), please go to the VDC Punch-out Catalog at <http://shopvdc.dgs.virginia.gov/catalog/>. Customers may contact the VDC Customer Service Team to discuss product availability and delivery.

Agency Unique Stocked Items: If the VDC stocks a high volume item solely for one agency, that agency is asked to notify the VDC immediately when they first expect that the specifications need to be modified or there is no further demand for the product.

Waiver Requests: If an item or similar item is available from the VDC, a state agency shall not use its local purchasing authority to purchase the item from another source without written waiver from the VDC Quality Assurance Manager or designee. To receive a waiver from the VDC, send an e-mail to VDCCustomerCare@dgs.virginia.gov. If e-mail is not available, you may fax requests to 804-328-3222. The request must include the following:

- item for which a waiver is requested
- justification
- time duration for which the waiver is needed
- product quantity

Specific Guidance: For information and instructions related to the VDC, see the Customer Service Link <http://vdc.dgs.virginia.gov/vdc-customer-service.html>

- 2.4 **Suppliers' Catalogs.** Suppliers' catalogs are an excellent source of descriptive information. An online file of catalogs and direct connection to a supplier's catalog is available on eVA, reflecting current prices and information for equipment, goods, and services. Purchasing offices should leverage catalogs available in eVA or keep current paper catalogs. Caution must be exercised when using suppliers' paper catalogs to be sure that information is taken from current editions.

CHAPTER 3

GENERAL PROCUREMENT POLICIES

In this Chapter look for . . .

- 3.30 Public Auction Sale
- 3.31 Reverse Auction

3.1 High-Risk Contracts.

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 or rail 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.

- 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 or rail 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. An automatic reply will be sent acknowledging receipt of the solicitation and the start of the review process.
- 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 or rail 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. 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:
 - (b) appropriateness of the contract's terms and conditions;
- c. **High Risk Contract Renewal.** Any existing contract for goods and nonprofessional and professional services that are not for information technology or road or rail 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. 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:

- (b) appropriateness of the contract's terms and conditions;
- d. **High-Risk Contract Reporting:** Agencies must report information related to the performance of high-risk contracts in eVA (*Code of Virginia* § 2.2-4303.01). This information shall include, but not be limited to:
 - (1) Scheduled contract performance dates and actual contract completion dates;
 - (2) Contract award value and actual contract expenditures; and
 - (3) Information on vendor performance, including any cure letters, formal complaints, and end-of-contract evaluations.

3.2 **Bid Invitations, Requests for Proposals and Responses.**

- c. **Amending a Solicitation.** If it is necessary to amend a solicitation, the purchasing office will prepare and post an addendum in eVA. Signed acknowledgment of addenda must be returned to the purchasing office prior to the date and time of the opening or with the bid or proposal. Failure to return the addendum may be grounds for declaring the bid nonresponsive [see *Vendors Manual*, 5.13c (1)(c)]. When an addendum for a sealed solicitation is issued, there must be a minimum of 10 days from the date of the addendum to the due date set for the receipt of bids/proposals. If there are not 10 days from the date of the addendum to the due date set for receipt of bids/proposals, then the due date shall be extended to meet the minimum 10 days' notice. (See Annex 6-F for example addendum).
- d. **Canceling a Solicitation.** An Invitation for Bids, a Request for Proposal, any other solicitation, or any and all bids or proposals, may be canceled or rejected. When canceling a written solicitation, the cancellation notice must be publically posted in eVA by the issuing agency. When canceling a Quick Quote solicitation in eVA, the purchasing office is not required to notify vendors of the cancellation. All vendors registered for the commodity code used for the solicitation will be automatically notified. Other vendors may view the status of the solicitation in the VBO to see that the solicitation has been cancelled. The reason for cancellation shall be made a part of the contract file. A public body shall not cancel or reject an Invitation for Bids, a Request for Proposal, any other solicitation, bid or proposal solely to avoid awarding a contract to a particular responsive and responsible bidder or offeror (*Code of Virginia*, § 2.2-4319). Personnel responsible for opening bids or proposals must be notified of the cancellation to prevent responses from being inadvertently opened. Return sealed bids or proposals on canceled programs unopened if hard copy bids or proposals were received. If a program is canceled after receipt and opening of bids or proposals, original documents will remain a part of the procurement transaction file. Bidders or Offerors should be notified in writing that the program has been canceled and that duplicate proposals, if provided, will be destroyed unless the Offeror requests their return.
- g. **Acceptable Bid/Proposal Signatures.** The bid or proposal and all addenda returned by the bidder or offeror by facsimile must be signed. The bid or proposal must be signed or submitted electronically through eVA (*Code of Virginia*, § 1-257 and § 59.1-485). The person signing the bid or proposal must be a person authorized by the bidder or offeror to sign bids or proposals. The person signing must include his or her title, and if requested, must verify his or her authority to bind the company to the contract. Failure to sign the face of the bid/proposal in the space provided will result in rejection of the bid/proposal unless the unsigned bid/proposal is accompanied by other signed documents indicating the bidder's/offeror's intent to be bound [see *Vendors Manual*, 5.13c(1)(b)].

3.8 **Joint and Cooperative Procurement.**

- b. **Use of Commonwealth Cooperative Contracts:** Agencies desiring to purchase from cooperative contracts for non-telecommunications and non-technology goods and nonprofessional services as set forth in *Code of Virginia*, §2.2-4304 may do so without regard to their delegated purchasing authority when all the following conditions are met: (1) no DGS/DPS contract exists for the same or similar goods and services; (2) the contracts were awarded by Commonwealth agencies or institutions; (3) the agency participated in the request for proposal or invitation to bid or the contract original solicitation specified that the procurement was being conducted on behalf of other public bodies; (4) the contracts are posted on the eVA State Contracts listing to assure public visibility of the full terms and pricing of such contracts and any amendments; and (5) the contractors are registered in eVA and agree to the Commonwealth's General Terms and Conditions, any other terms and conditions, and any other considerations for doing business with the Commonwealth. The Procurement

Exemption Request form located in Annex 13-D should be used to request approval to buy from cooperative contracts awarded by Commonwealth agencies that are not posted on eVA, unless specifically exempted in the Acts of Assembly.

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

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

1. Small Business Enhancement Award Priority

Awards over \$10,000 up to and including \$100,000: For competitive purchases over \$10,000 up to and including \$100,000, 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/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 then the procurement may be cancelled and re-solicited removing the set-aside award priority.

Set-aside Award Priority:

Small Business Set-Aside Award Priority

Over \$10,000 up to and including \$100,000

- 1) Small Business (including micro businesses)
- 2) Open to all

2. However, the procurement is exempted from the set-aside requirement if exempted from competitive requirements in 1.5 b and d; or in 14.9 b items 1-17, and 14.9 c items 2-11; or is available from mandatory sources or non-mandatory sources in 2.1 and 2.2, such as the Virginia Industries for the Blind, Virginia Correctional Enterprises, Employment Services Organizations, as well as purchases made from existing mandatory or optional statewide contracts. Small businesses shall be identified on the vendor list.

3.15 **Preferences**

a. **Reciprocal Preferences.**

- **Percentage Preference:** Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder.
- **Price Matching Preference:** If the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a price-matching preference, a like preference shall be allowed to bidders who are residents of Virginia. If the lowest responsive and responsible Virginia bidder is unable to match the price, the preference shall be given to other Virginia bidders in ascending price order.
- **Absolute Preference:** If the lowest bidder is a resident contractor of another state with an absolute preference, the bid shall not be considered.

3.16 **Procurement Methods.** Section 2.2-4303 of the *VPPA* recognizes seven methods of procurement:

- Small Purchase procedures
- Competitive Sealed Bidding
- Competitive Negotiation
- Sole Source
- Emergency
- Public Auction Sale (See 3.30)

- Reverse Auction (See 3.31)

Annex 3-A contains a flowchart depicting the first five methods and when it should be used. In addition, a separate chapter is dedicated to each of those methods of procurement. Public auction sale and reverse auction is described in Section 3.30 and 3.31. See chapters 5, 6, 7, 8, and 9 for the other methods described above.

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 (*Code of Virginia*, § 2.2-1110). Small purchases for goods and services greater than \$10,000 must be posted. Addenda are also required to be posted. The eVA web site address is www.eva.virginia.gov. The agency must include in the posting access to an electronic version of all solicitation documents. **Note:** Effective July 1, 2021, agencies must post awarded contracts and modifications in eVA.

3.20 **Recycled Goods Purchase Program.** Agencies are encouraged to promote the use of recycled goods and products certified as climate positive. Climate positive means having a negative carbon footprint. Through its programs, the Department of Environmental Quality shall increase agency awareness of the benefits of using such products, more information can be found at: <https://www.deq.virginia.gov/Programs/PollutionPrevention/EnvironmentallyPreferablePurchasing.aspx>

Agencies should contact their Procurement Management Account Executive for assistance regarding information on the availability of recycled goods, including those which use post-consumer and other recovered materials processed by Virginia-based companies. Agencies shall, to the greatest extent possible, adhere to any recycled products procurement guidelines established by DGS (*Code of Virginia*, § 2.2-4323D).

3.28 **Protection of Personally Identifiable Information.** Commonwealth agencies are responsible for safeguarding personally identifiable information of their clients, employees, vendors, contractors and any other individuals providing information to the Commonwealth. Agencies and Vendors should carefully consider whether there is a need to collect personal information from individuals. Personally identifiable information includes, but is not limited to, Social Security Numbers, financial account numbers, and any other such information protected from disclosure by applicable federal law or the laws of the Commonwealth. The Commonwealth and its contractors shall safeguard personally identifiable information from disclosure to the public. Agencies shall not include personally identifiable information on purchase orders. Include Special Term and Condition 59, Confidentiality of Personally Identifiable Information, from Appendix B, II in contracts when the contractors utilize, access, or store personally identifiable information.

Agency procurement officers must ensure that any Social Security Numbers, Taxpayer Identification Numbers, or other personal information of individuals are redacted from contract files before files are disclosed to the general public or inspected by any other individuals, firms or other interested parties who are granted access to information.

3.30 **Public Auction Sale:** Upon a determination made in advance by a public body and set forth in writing that the purchase of non-technology goods, products or commodities from a public auction sale is in the best interests of the public; such items may be purchased at the auction. The writing shall document the basis for this determination. (*Code of Virginia*, § 2.2-4303.H).

1. Public auctioning (non-electronic) may be used up to the Agency's delegated authority.
2. Participation in online public auctions is not permitted.
3. Set-aside for DSBSD-certified small businesses unless exempted (see 3.11 g). The procurement file shall be documented if the procurement does not qualify for a set-aside.

3.31 **Reverse Auction:** The purchase of non-technology goods or nonprofessional services may be made by utilizing the Reverse Auctioning tool available in eVA. However, construction, professional services, or the bulk purchases of commodities used in road and highway construction in maintenance, and aggregates shall not be made by reverse auctioning (*Code of Virginia*, § 2.2-4303.I).

Annex 3-B

Summary of Procurement Thresholds and Associated Small Business Enhancements Policies

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

| Thresholds | Procedures |
|--|--|
| <p>Small Purchase: Up to and including \$10,000</p> | <p>Single quote from a DSBSD-certified micro business, if available. Quick Quote may be used (see <u>Small Business Enhancement Award Priority</u> in 3.11g).</p> |
| <p>Over \$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 over \$10,000 up to and including \$100,000 shall be set-aside for DSBSD-certified small business unless exempted and documentation is required. See <u>Small Business Enhancement Award Priority</u> in 3.11g. 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 (3.11). 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 (3.11h).</p> <p>Use one of the following methods for purchases over \$100,000 unless an exception (see III. below).</p> <ol style="list-style-type: none"> 1 - Competitive sealed bidding. 2 - Two-step competitive sealed bidding. 3 - Competitive negotiation. <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> |

CHAPTER 4

GENERAL PROCUREMENT GUIDELINES & PLANNING

In this Chapter look for . . .

4.16 Conferences

4.15 **Bookstore, Commissary, Canteen, Gift Shops, and Similar Retail Outlet Purchases For Resale.** All purchases for resale, such as those above, are subject to the *VPPA* and this manual.

- a. An agency may establish its own small purchase procedures for resale in accordance with 2.2-4303G, up to and including \$200,000, if adopted in writing and approved by DPS. Such small purchase procedures are exempted from the competitive requirements 14.6.b, however, eVA sourcing tools (Quick Quote, VBO Buyer, Sourcing and Contracting) shall be used when such small purchase procedures require competition. Also such small purchase procedures shall take into consideration any enhancement or remedial plan in effect.

4.16 **Conferences.**

- b. For the purchase of a conference facilities package over \$10,000 but not expected to exceed \$100,000, agencies may use one of the following procedures. These procedures are alternatives to other authorized procurement procedures as described in Chapters 5, 6, 7, 8, and 9.
- c. For purchases of conference facilities over \$100,000, agencies shall follow the procedures prescribed for competitive sealed bidding or competitive negotiation (see Chapter 6 or Chapter 7, as applicable).

4.17 **Used Equipment.**

- b. Upon a determination in writing that the price is fair and reasonable for used equipment meeting the agency's needs, a contract may be noncompetitively negotiated and awarded up to and including \$100,000 (see 1.5 b.(3)). Used equipment purchases over \$100,000 that are available from only one source, may be purchased in accordance with Chapter 8. If the cost exceeds the agency's delegated authority, a requisition containing the above information shall be submitted to DGS/DPS for purchase.

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 over \$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.

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

Annex 6-I

*****Use this Annex template for eVA Sourcing and Contracting Solicitations*****

Small Business Subcontracting Plan

It is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential bidders are required to submit the subcontractor plan by one of the following methods in order to be considered responsive:

- A. Complete the subcontractor plan as specified in the electronic response; or
- B. Download the “paper response” form, complete the subcontractor plan section, and submit as an attachment with the bid response.

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

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

*****Use this Annex template for VBO Buyer Solicitations*****

Small Business Subcontracting Plan

It is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential bidders are required to include this document with their bid response in order to be considered responsive.

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

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

Bidder Name: _____

Preparer Name: _____ **Date:** _____

Who will be doing the work: I plan to use subcontractors I plan to complete all work

Instructions

- A. If you are certified by the DSBSD as a micro/small business, complete only Section A of this form.
- B. If you are not a DSBSD-certified small business, complete Section B of this form. For the bid to be considered and the bidder to be declared responsive, the bidder shall identify the portions of the contract that will be subcontracted to DSBSD-certified small business for the initial contract period in relation to the bidder’s total price for the initial contract period in Section B.

Section A

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

Certification number: _____ Certification Date: _____

Section B

If the "I plan to use subcontractors box is checked," populate the requested information below, per subcontractor to show your firm's plans for utilization of DSBSD-certified small businesses in the performance of this contract for the initial contract period in relation to the bidder's total price for the initial contract period. Certified small businesses include but are not limited to DSBSD-certified women-owned and minority-owned businesses and businesses with DSBSD service disabled veteran-owned status that have also received the DSBSD small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc. It is important to note that these proposed participation will be incorporated into the subsequent contract and will be a requirement of the contract. Failure to obtain the proposed participation dollar value or percentages may result in breach of the contract.

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

Subcontract #1

Company Name: _____ SBSB Cert #: _____
Contact Name: _____ SBSB Certification: _____
Contact Phone: _____ Contact Email: _____
Value % or \$ (Initial Term): _____ Contact Address: _____
Description of Work: _____

Subcontract #2

Company Name: _____ SBSB Cert #: _____
Contact Name: _____ SBSB Certification: _____
Contact Phone: _____ Contact Email: _____
Value % or \$ (Initial Term): _____ Contact Address: _____
Description of Work: _____

Subcontract #3

Company Name: _____ SBSB Cert #: _____
Contact Name: _____ SBSB Certification: _____
Contact Phone: _____ Contact Email: _____
Value % or \$ (Initial Term): _____ Contact Address: _____
Description of Work: _____

Subcontract #4

Company Name: _____ SBSB Cert #: _____
Contact Name: _____ SBSB Certification: _____
Contact Phone: _____ Contact Email: _____
Value % or \$ (Initial Term): _____ Contact Address: _____
Description of Work: _____

Subcontract #5

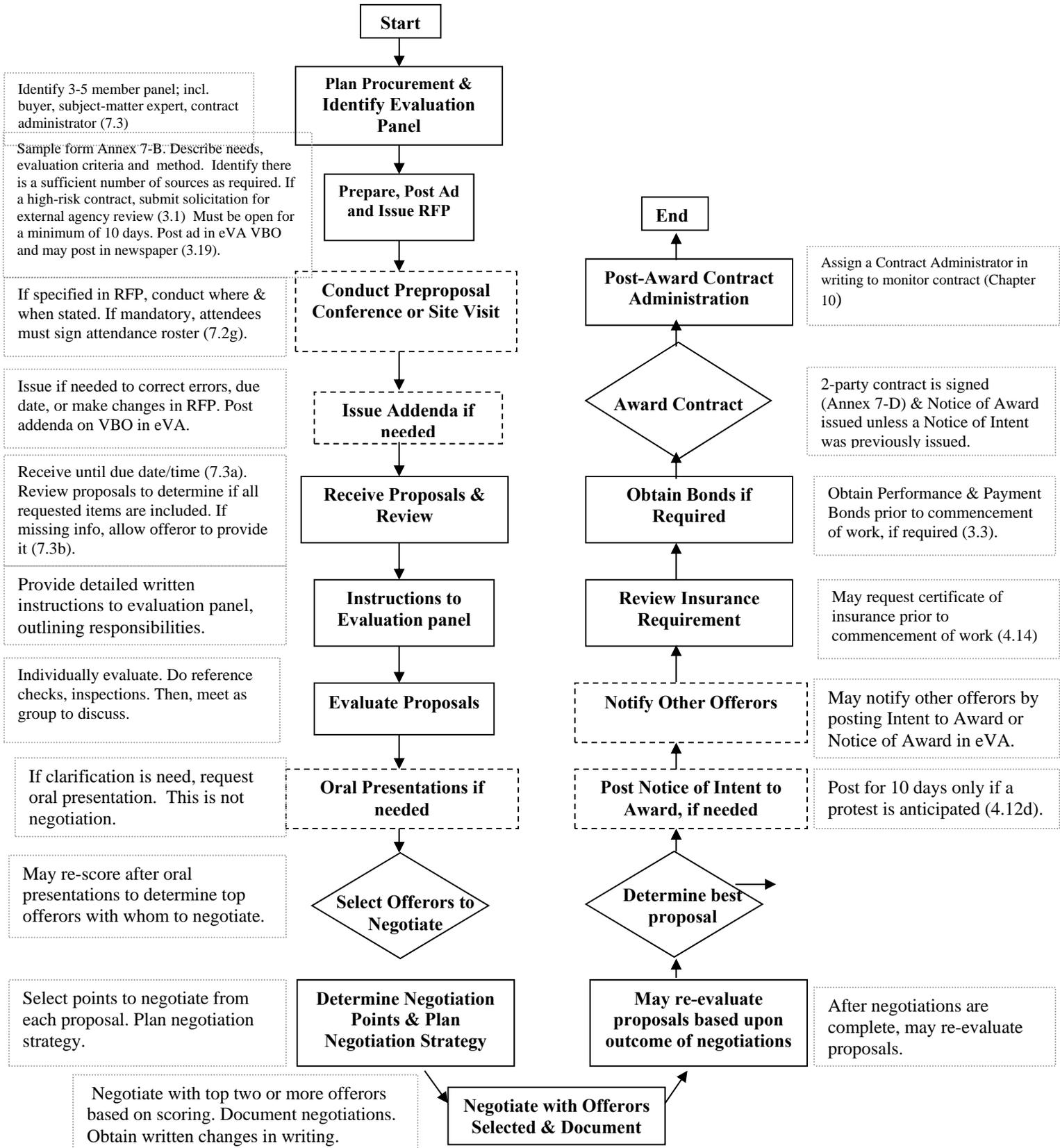
Company Name: _____ SBSB Cert #: _____
Contact Name: _____ SBSB Certification: _____
Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

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 1 - PREPARE THE REQUEST FOR PROPOSAL (RFP)

V. EVALUATION AND AWARD CRITERIA:

A. EVALUATION CRITERIA:

Note: Except with regard to contracts for architectural, professional engineering, transportation construction, or transportation-related construction services, a public body may include as a factor that will be used in evaluating a proposal the proposer's employment of persons with disabilities to perform the specifications of the contract. If the solicitation has been set-aside for small business or no subcontracting opportunities exist (see 3.11 h), the criteria for Small Business Subcontracting Plan and the point value associated with this criteria will be deleted. The point value shall be re-allocated to the other evaluation criteria.

STEP 3 - SELECT AN EVALUATION PANEL

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

STEP 9 - EVALUATE PROPOSALS

III. COMPLETE EVALUATION BY ASSIGNING POINTS.

- C. One evaluation form should be prepared showing as a minimum: (1) names of the committee members, (2) names of all offerors including those that were removed from further consideration, (3) evaluation criteria and maximum point values for each, (4) consensus or average of points assigned to each offeror. Individual committee members' written comments should be included in the procurement file once the consensus evaluation form is prepared to support their consensus.

Annex 7-D

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

*****Use this Annex template for eVA Sourcing and Contracting Solicitations*****

Small Business Subcontracting Plan

It is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential offerors are required to submit the subcontractor plan by one of the following methods with their response:

- C. Complete the subcontractor plan as specified in the electronic response; or
- D. Download the “paper response” form, complete the subcontractor plan section, and submit as an attachment with the bid response.

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

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

*****Use this Annex template for VBO Buyer Solicitations*****

Small Business Subcontracting Plan

It is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential offerors are required to return this document with their response.

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

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

Offeror Name: _____

Preparer Name: _____ **Date:** _____

Who will be doing the work: I plan to use subcontractors I plan to complete all work

Instructions

- A. If you are certified by the DSBSD as a micro/small business, complete only Section A of this form.
- B. If you are not a DSBSD-certified small business, complete Section B of this form. For the offeror to receive credit for the small business subcontracting plan evaluation criteria, the offeror shall identify the portions of the contract that will be subcontracted to DSBSD-certified small business for the initial contract period the initial contract period in Section B.

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

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

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

Section A

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

Certification number: _____ Certification Date: _____

Section B

If the "I plan to use subcontractors box is checked," populate the requested information below, per subcontractor to show your firm's plans for utilization of DSBSD-certified small businesses in the performance of this contract for the initial contract period in relation to the offeror's total price for the initial contract period. Certified small businesses include but are not limited to DSBSD-certified women-owned and minority-owned businesses and businesses with DSBSD service disabled veteran-owned status that have also received the DSBSD small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc. It is important to note that these proposed participation will be incorporated into the subsequent contract and will be a requirement of the contract. Failure to obtain the proposed participation dollar value or percentages may result in breach of the contract.

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

Subcontract #1

Company Name: _____ SBSD Cert #: _____

Contact Name: _____ SBSD Certification: _____

Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

Subcontract #2

Company Name: _____ SBSD Cert #: _____

Contact Name: _____ SBSD Certification: _____

Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

Subcontract #3

Company Name: _____ SBSD Cert #: _____

Contact Name: _____ SBSD Certification: _____

Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

Subcontract #4

Company Name: _____ SBSD Cert #: _____

Contact Name: _____ SBSD Certification: _____

Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

Subcontract #5

Company Name: _____ SBSD Cert #: _____

Contact Name: _____ SBSD Certification: _____

Contact Phone: _____ Contact Email: _____

Value % or \$ (Initial Term): _____ Contact Address: _____

Description of Work: _____

8.1 Approval for Sole Source Procurements

- 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. All purchasing agency employees having the responsibility with the procurement must complete a Public Procurement Ethics & Conflicts of Interest Agreement (Annex 8-G). They should also be provided a copy of Article 6 of the VPPA, Ethics is Public Procurement. In addition, a memorandum must accompany the request form, which addresses the following four points:

Annex 8-D

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

Annex 8-F

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

Annex 8-G SAMPLE

NOTE: If at any time during the sole source procurement process, I find that I, or any member of my immediate family, have a personal interest in any interested firm, then I will promptly notify the agency head or designee and voluntarily remove myself from this sole source process and file any necessary official disqualification required by law.

9.3 Documentation.

- a. **Written Determination.** Prepare a written determination for signature by the agency head or designated representative indicating the nature of the emergency, the reason for selection of the particular contractor and include such determination with the file. Agency head approval is not needed when the Governor declares a state of emergency. A copy of the declaration of a state of emergency (Executive Order) must be included in the procurement file. Declarations (Executive Orders) can be found at <https://www.governor.virginia.gov/> under the Executive Actions tab.

CHAPTER 10

CONTRACT ADMINISTRATION

In this Chapter look for...

- 10.16 Complaints
- 10.17 Notice to Cure
- 10.18 Default

10.3 **Procurement Records.** A complete file should be maintained in one place for each purchase transaction, containing all the information necessary to understand the why, who, what, when, where and how of the transaction. Generally, records are open to the public in accordance with the *Virginia Freedom of Information Act* and should be made available for review after the award has been made. See guidance for record review and exemptions in 3.18. A record must be established for a procurement transaction which has reached the solicitation stage. It must contain as a minimum, as applicable, the description of requirements, sources solicited, a copy of the *Virginia Business Opportunities (VBO)* receipt, cancellation notices, the method of evaluation and award, a signed copy of the contract or purchase order, contractor performance reports submitted by the administrator, modifications or change orders, procurement complaint forms to include all documentation of the procurement complaint process, cure letters, usage data such as release orders or obligation registers, and any other actions relating to the procurement.

10.11 **Payment and Invoice Processing.**

b. **Charge Cards Payments.** In an effort to streamline invoice and payment processing steps and sharply reduce paperwork, the Department of Accounts (DOA) has established a contract allowing agencies and institutions to use charge cards through two programs, the small purchase charge card (SPCC) and Gold Card. Unlike the typical consumer charge card, this program incorporates the features of corporate charge cards - national concept designed for business applications. Major program benefits include the reduction in the number of invoices processed by Commonwealth agencies and institutions, reduction in internal requisitioning reduced vendor collection costs, and payment to the vendor by the charge card company within as little as three business days. State agencies are required to participate in the SPCC program; participation in the Gold Card program is optional. Agencies, institutions and cardholders must follow all policies and procedures established in the Commonwealth Accounting Policies and Procedures (CAPP) Manual Section 20355 *Purchasing Charge Card*. Information can be obtained by calling DOA at 804-371-4350. Charge card purchases shall be processed through eVA unless the purchase is exempt from processing through eVA in 14.9 c

(1) **Deleted.**

(2) **Deleted.**

10.16 **Complaints.** Complaints and/or discrepancies on vendor or agency performance should be reported as they occur using the Procurement Complaint Form, DGS-41-024 (see Annex 10-H).

a. If a compliance issue with the vendor arises and cannot be resolved, agency buyers should report the noncompliance to the vendor using the PCF. The buyer must notify the vendor in writing and provide a copy of the PCF. This complaint form should also be sent to DGS/DPS. The DGS/DPS Supplier Relationship Management (SRM) may contact the agency to verify receipt of the PCF, verify information relevant to the complaint and work with the agency to conduct a root-cause analysis of the complaint. The SRM may also be used as a resource to seek guidance on the type and level of detail to include on the PCF. Vendors must respond to the agency within 10 calendar days. A vendor's failure to respond may affect future business with the Commonwealth.

b. If a compliance issue with the agency arises and cannot be resolved, vendors may also issue a PCF to the agency. The vendor should send a copy of the complaint form to DGS/DPS via email (procurementcomplaint@dgs.virginia.gov).

Vendors may use the SRM as a resource to seek guidance on the type and level of detail to include on the PCF. Agencies must respond to the vendor within 10 calendar days.

Complaints concerning telecommunication services will be forwarded to the Virginia Information Technologies Agency (VITA), Acquisition Services Division, utilizing the DGS/DPS Procurement Complaint Form, DGS 41-024.

- 10.17 **Notice to Cure.** A Cure letter is used when a contractor has failed to perform or deliver as substantiated by a Procurement Complaint Form. It provides the contractor a period of time to correct or “cure” the deficiency and places the contractor on notice as to the consequences for failure to take the required corrective action. The notice may be given either orally or in writing advising the contractor that non-delivery or non-conformance is a breach of a contract and, if the deficiency is not corrected within a stated number of days, the Commonwealth will terminate the contract for default and hold the contractor liable for any excess costs. When the notice to cure is given orally, it should be confirmed in writing when warranted, i.e., complex agreements and/or concern about willingness of the contractor to voluntarily comply (see sample Cure letter, Annex 10-I).
- 10.18 **Default.** A contractor is considered in default if he or she fails to perform in accordance with the terms and conditions of the contract (e.g., late delivery, nonconformance to specifications). The following factors should be considered prior to taking any action:
- a. The specific reasons for such failure (see *Vendors Manual*, 7.14).
 - b. The period of time needed to obtain the goods or services from other sources compared to the time delivery or performance could be accomplished by the delinquent contractor.

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

Annex 10-H
COMMONWEALTH OF VIRGINIA
Department of General Services
Division of Purchases and Supply
PROCUREMENT COMPLAINT FORM

INSTRUCTIONS FOR COMPLETING THE PROCUREMENT COMPLAINT FORM:

Form Preparation Instructions

Heading: Vendor /Agency information and distribution instructions.

1. Insert the full name and address of the vendor/agency and Insert the eVA Number when submitting the report.
2. Name the person that is to be contacted.
3. **Any responsible person's signature is acceptable (Authorized Vendor/Agency Signature).**
4. Insert phone number of contact person.

Closure: Agency and Order Entry Information

1. Insert the full name and address of the agency/vendor against which this report is filed.
2. Insert the agency representative/buyer/vendor you last contacted, including the phone number and extension.
3. Insert buyer /agency/vendor representative signature.
4. Insert date this form was initiated.
5. Insert the bid number if not an agency order.
6. Insert the purchase order number
7. Insert the purchase order date.
8. Insert the contract number if using state or single agency contract.
9. Insert generic commodity name of the item. Example: chair, etc.
10. Insert Agency Code/ eVA number.

Nature of Complaint: Insert (X) for principle reason (s) for complaint. Attach additional information and documentation.

NOTE:

1. Additional documentation can be attached to e-mail or faxed.
2. Transmit Copy by e-mail, fax or postal delivery.
3. Send via Email to: procurementcomplaint@dgs.virginia.gov
4. Agency/Vendor must print or save a copy for their files.
5. **This form may be used by both Agency and Vendor for complaint issues concerning contracts.**

COMMONWEALTH OF VIRGINIA
 Department of General Services
 Division of Purchases and Supply
PROCUREMENT COMPLAINT FORM

| | | | |
|------------------|--------------|---------|----------|
| FOR DGS USE ONLY | File Date: | Status: | File No: |
| | Action/Date: | | |

TO:

| | | |
|--|--------|-----------|
| Name of Vendor and eVA# / Agency & Agency Code : | | |
| Address: | | |
| City: | State: | Zip Code: |

| | |
|---------------|--------|
| Contact Name: | Title: |
| Signature: | |
| Phone No: | |

NOTE: VENDOR/AGENCY MUST SUBMIT THEIR WRITTEN REPLY BELOW WITHIN TEN (10) DAYS OF RECEIPT OF THIS REPORT. INDICATE YOUR COUNTERMEASURE/CORRECTIVE ACTION BELOW AND MAIL A COPY TO THE ORIGINATING AGENCY AND A COPY TO THE CONTRACT COMPLIANCE OFFICER, procurementcomplaint@dgs.virginia.gov. ATTACH ADDITIONAL SHEETS FOR YOUR RESPONSE IF REQUIRED.

FROM:

| | | |
|---------------------|--------|-----------|
| Agency/Vendor Name: | | |
| Address: | | |
| City: | State: | Zip Code: |

| |
|--------------------------|
| Agency /Vendor Contact : |
| Phone No: |
| Buyer/Vendor Signature: |

| | | | | | |
|-------|---------------------------|--------------|----------|------------|--------------|
| Date: | Agency Code/ Vendor eVA#: | Contract No: | P.O. No: | P.O. Date: | Description: |
|-------|---------------------------|--------------|----------|------------|--------------|

NATURE OF COMPLAINT

| INVOICE/PAYMENT | DELIVERY | SPECIFICATION/AGREEMENTS | OTHER |
|--|---|---|--|
| <input type="checkbox"/> NON-PAYMENT | <input type="checkbox"/> DELIVERY REFUSED | <input type="checkbox"/> SPECS DELAYED | <input type="checkbox"/> AGENCY DELAYS |
| <input type="checkbox"/> LATE PAYMENT | <input type="checkbox"/> SHIPPED TO WRONG LOCATION | <input type="checkbox"/> MODIFICATION (NO CHANGE ORDER) | <input type="checkbox"/> UNAUTHORIZED CANCELLATION |
| <input type="checkbox"/> INCORRECT PAYMENT | <input type="checkbox"/> PARTIAL DELIVERY | <input type="checkbox"/> BID SAMPLE PROBLEMS | <input type="checkbox"/> UNAUTHORIZED PURCHASE FROM NON-CONTRACT VENDOR |
| <input type="checkbox"/> REFUSED LATE CHARGES | <input type="checkbox"/> TIME OF DELIVERY INAPPROPRIATE | <input type="checkbox"/> DID NOT MEET SPEC. | <input type="checkbox"/> POOR CUSTOMER SERVICE |
| <input type="checkbox"/> INVOICE PRICE INCORRECT | <input type="checkbox"/> IMPROPER METHOD OF DELIVERY | <input type="checkbox"/> UNAUTHORIZED SUBSTITUTION | <input type="checkbox"/> SHORT/OVER WEIGHT OR COUNT |
| <input type="checkbox"/> INCORRECT QUANTITY | <input type="checkbox"/> DAMAGED SHIPMENT | <input type="checkbox"/> DAMAGED PRODUCT | <input type="checkbox"/> UNSATISFACTORY INSTALLATION |
| <input type="checkbox"/> ITEMS DID NOT SHIP | <input type="checkbox"/> LATE/NO DELIVERY | <input type="checkbox"/> LACKS INSPECTION REPORT | <input type="checkbox"/> FAILURE TO IDENTIFY SHIPMENT PER CONTRACT TERMS |

OTHER OR FURTHER EXPLANATION: _____

| |
|--|
| |
|--|

COMMONWEALTH OF VIRGINIA
Department of General Services
Division of Purchases and Supply
PROCUREMENT COMPLAINT FORM

COUNTERMEASURES:

(Agency/Vendor: Be accurate, complete and factual. Indicate manner in which you suggest complaint be settled.)

| | |
|-----------------------------------|--------------------------------|
| FOR DPS USE ONLY | File No: _____ |
| | Action/Date: |
| | Resolved _____ |
| | Removed from Bidder List _____ |
| | Suspension _____ |
| Debarment _____ | |
| Contract Compliance Officer _____ | |

12.2 **Authority and Responsibility for State Surplus Property.**

a. **DGS.**

DGS/OSPM shall determine the method of disposal of state-owned computers and other IT assets. IT assets owned by suppliers that fall under the VITA IT Infrastructure Services Program are not deemed state property.

CHAPTER 13

DGS/DPS SUPPORT AND ASSISTANCE



In this Chapter look for . . .

13.13 Deleted.

13.4 **Specifications/Purchase Descriptions.** For examples of specifications and solicitations refer to <https://m.vendor.eprocipdc.com/Vendor/public/AllOpportunities>. For further assistance, contact your Procurement Management Account Executive or the DGS/DPS Procurement Bureau <https://dgs.virginia.gov/procurement/contacts/dps-contacts/>.

13.6 **Contract Compliance Assistance.** DGS/DPS Supplier Relationship Management (SRM) is available to provide assistance with contract compliance issues to agencies and vendors.. For SRM contact information go to <https://dgs.virginia.gov/procurement/contacts/dps-contacts/>.

13.13 Deleted.

Annex 13-A

DGS/DPS Purchase Requisition can be found at <https://dgs.virginia.gov/globalassets/document-center/dps-forms/procurement-policy-forms/pr.pdf>.

DGS/DPS Purchase Requisition Instructions can be found at <https://dgs.virginia.gov/globalassets/document-center/dps-forms/procurement-policy-forms/pr-instructions.pdf>.

14.3 **e-Mall Shopping.**

- c. **Non-mandatory Sources (see 2.2b. & c.):** Surplus property listed in the e-Mall is available for purchase up to any dollar amount. Employment Service Organizations are not listed. Purchases from Employment Service Organizations are exempt from competitive procurement within the guidelines stipulated in 2.2c, but can only be accessed outside eVA.

14.6 **Competitive Requirements.**

- c. **Posting on eVA:** Posting on eVA meets the public posting requirements set forth in 3.19. **Note:** Effective July 1, 2021, agencies must post awarded contracts and modifications in eVA.

e. Contract Management –

- i. Agencies shall use the eVA functionality in Sourcing and Contracting when a contract management tool is required by the agency.
- ii. Agencies must use the eVA functionality in Sourcing and Contracting to post information related to the performance of high-risk contracts (*Code of Virginia* § 2.2-4303.01).

14.12 **Self-Certification and Fees For Non-Compliant Purchase Transactions.**

If the agency or institution certifies that it has not complied with the requirements set forth herein, the following shall also be submitted to toeVABusinessManager@dgs.virginia.gov Attn: Deputy eVA Business Manager, Subject: Self Certification.

- 14.14 **Small Purchase Charge Card (SPCC):** Where a SPCC has previously been entered into the eVA system it should be used to affect payment of all purchase transactions up to the cardholder's transaction limit processed through vendors accepting the card. Every effort must be made to ensure that whenever a card is issued or cancelled, when a restriction imposed on a card is changed, etc., that the eVA system is updated as soon as practicable. For information contact DOA at 804-371-4350, fax to 804-786-9201 or email to cca@doa.virginia.gov. Charge card purchases shall be processed through eVA unless the purchase is exempt from processing through eVA in 14.9 c.

APPENDIX A

GLOSSARY AND ACRONYMS

Charge Card: In the context of this manual, the state-approved Small Purchase Charge Card (SPCC), used for small purchases (cardholder's transaction limit or less) of frequent, over-the-counter, Maintenance, Repair, and Operating (MRO) items used in the daily operations of any state activity, and for placing orders up to the cardholder's transaction limit against term contracts.

APPENDIX B

SECTION I

REQUIRED GENERAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

- A. **VENDORS MANUAL**: This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The process for filing a complaint about this solicitation is in section 7.13 of the *Vendors Manual*. (Note section 7.13 does not apply to protests of awards or formal contractual claims.) The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under "I Sell To Virginia".
- C. **ANTI-DISCRIMINATION**: By submitting their (bids/proposals), (bidders/offerors) certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender sexual orientation, gender identity, or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - d. If the contractor employs more than five employees, the contractor shall (i) provide annual training on the contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.
 - e. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.
 - f. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.

2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

W. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

CC. **CIVILITY IN STATE WORKPLACES:** The contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the contractor or any subcontractor in connection with this agreement (each, a "Contract Worker"), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor's (and any subcontractor's) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, "State workplace" includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic, but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

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.

A. **AWARD:** An award will be made to the lowest responsive and responsible bidder. Evaluation will be based on net prices. Unit prices, extensions and grand total must be shown. In case of arithmetic errors, the unit price will govern. If cash discount for prompt payment is offered, it must be clearly shown in the space provided. Discounts for prompt payment will not be considered in making awards. The State reserves the right to reject any and all bids in whole or in part, to waive any informality, and to delete items prior to making an award.

*** When Used: For use when soliciting bids for goods or services.**

8. **ADDITIONAL USERS:** This procurement is being conducted on behalf of state agencies, institutions and other public bodies who may be added or deleted at any time during the period of the contract. The addition or deletion of authorized users not specifically named in the solicitation shall be made only by written contract modification issued by this agency or institution and upon mutual agreement of the contractor. Such modification shall name the specific agency added or deleted and the effective date. The contractor shall not honor an order citing the resulting contract unless the ordering entity has been added by written contract modification.

***When Used: AUTHORIZATION TO USE THIS CLAUSE MUST BE GRANTED BY DPS, SEE 3.8.A. If the value of the contract, including any renewal periods is within the delegated authority of the lead agency and other agencies and institutions may benefit, the lead agency may issue a solicitation and include this clause on behalf of other public bodies. The value of the contract, including other agency orders, must remain within the lead agency's delegated authority. To obtain maximum pricing advantage, every effort should be made to identify participating agencies and their expected usage in the solicitation.**

APPENDIX C

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

| PIM NUMBER | TOPIC | DATE FILED | INITIALS |
|-----------------------|--|-----------------------|-----------------|
| 98-037 | Raises the exception to competitive requirement to \$100,000, updates mandatory source VDC section, exempts rail construction or design from high-risk contract review, creates a new section for performance reporting of high-risk contracts, lists Reciprocal Preferences separately, adds a method of procurement, updates posting requirements, adds language about climate positive, raises purchases for resale to \$200,000, updates emergency purchase approvals, updates process for complaints, updates charge card definition, updates policy and terms regarding Vendors Manual, Anti-Discrimination, Nondiscrimination of Contractors, Civility In State Workplace, Award, Additional Users and updates contact information throughout | 06/05/20 | |

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 804-225-3707, or contact the PCR Director indicated at: <https://dgs.virginia.gov/procurement/contacts/dps-contacts/> Use additional sheets as necessary.