

August 10, 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) #98-038



Enclosed is PIM #98-038, effective August 15, 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 (June 29, 2020) or #98-038 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 #98-038 should be filed in the back of the Appendix C log.

APSPM Cite	Summary of Changes
Table of Contents	Renames sections
3.19	Deletes second sentence
5.1	Adds last paragraph
5.6	Replaces "Unsealed Bidding" with "Informal Solicitations"
5.6.a	Adds new title "Unsealed Bidding"
5.6.a.1	Deletes second sentence
5.6.b	Adds new section
5.6.b.1	Deletes last sentence
5.6.b.6	Adds "(3.11.g)" after "Priority"
5.7	Deletes section
Annex 5-A	-Adds "a" after "5.6" in the last box on the left -Replaces "5.7" with "5.6.b" in the last box on the right
Annex 5-E	-Adds "Informal Solicitation" in front of "Unsealed Bidding Process" -Deletes "and 5.7" in third box on the right -Replaces "5.6.c" with "5.6.a.4" in the fourth box on the right
Annex 5-F	-Adds "Informal Solicitation" in front of "Unsealed Request for Proposal Process" -Deletes "and 5.7" in third box on the right -Replaces "5.7.a" with "5.6.b.2" in the fourth box on the right
14.9.c	Updates numbering sequence
Appendix B, Section II	Adds "66. Federally Imposed Tariffs" to the Special Terms and Conditions
Appendix C, PIM Record of Changes	- Adds Summary of changes.
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](#).

Five

5.6 Informal Solicitations
5.7 Deleted

Annexes

5-E Informal Solicitation - Unsealed Bidding Process Flowchart
5-F Informal Solicitation - Unsealed Request for Proposal Process Flowchart

- 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). 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.

CHAPTER 5

SMALL PURCHASES

In this Chapter look for . . .

- 5.6 Informal Solicitations
- 5.7 Deleted

Annexes

- 5-E Informal Solicitations - Unsealed Bidding Process Flowchart
- 5-F Informal Solicitations - Unsealed Request for Proposal Process Flowchart

5.1 **Competitive Requirements.**

For procurements over \$10,000 and up to and including \$100,000 agencies shall conduct an informal solicitation in accordance with Chapter 5.6.

5.6 **Informal Solicitations** (Over \$10,000 up to and including \$100,000)

a. **Unsealed Bidding**

1. 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). 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.
2. Unsealed bidding may be used in lieu of Quick Quote for complex procurements. If Quick Quote is not used, agencies shall utilize the eVA VBO or Sourcing & Contracting tool to publically post the solicitation.
3. Deleted.
4. 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 (3.11.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. Award should be made to the lowest responsive and responsible bidder in accordance with the Small Business Enhancement Award Priority. Post Notice of Award for 10 days if a Notice of Intent to Award was not issued.

b. **Unsealed Request for Proposals**

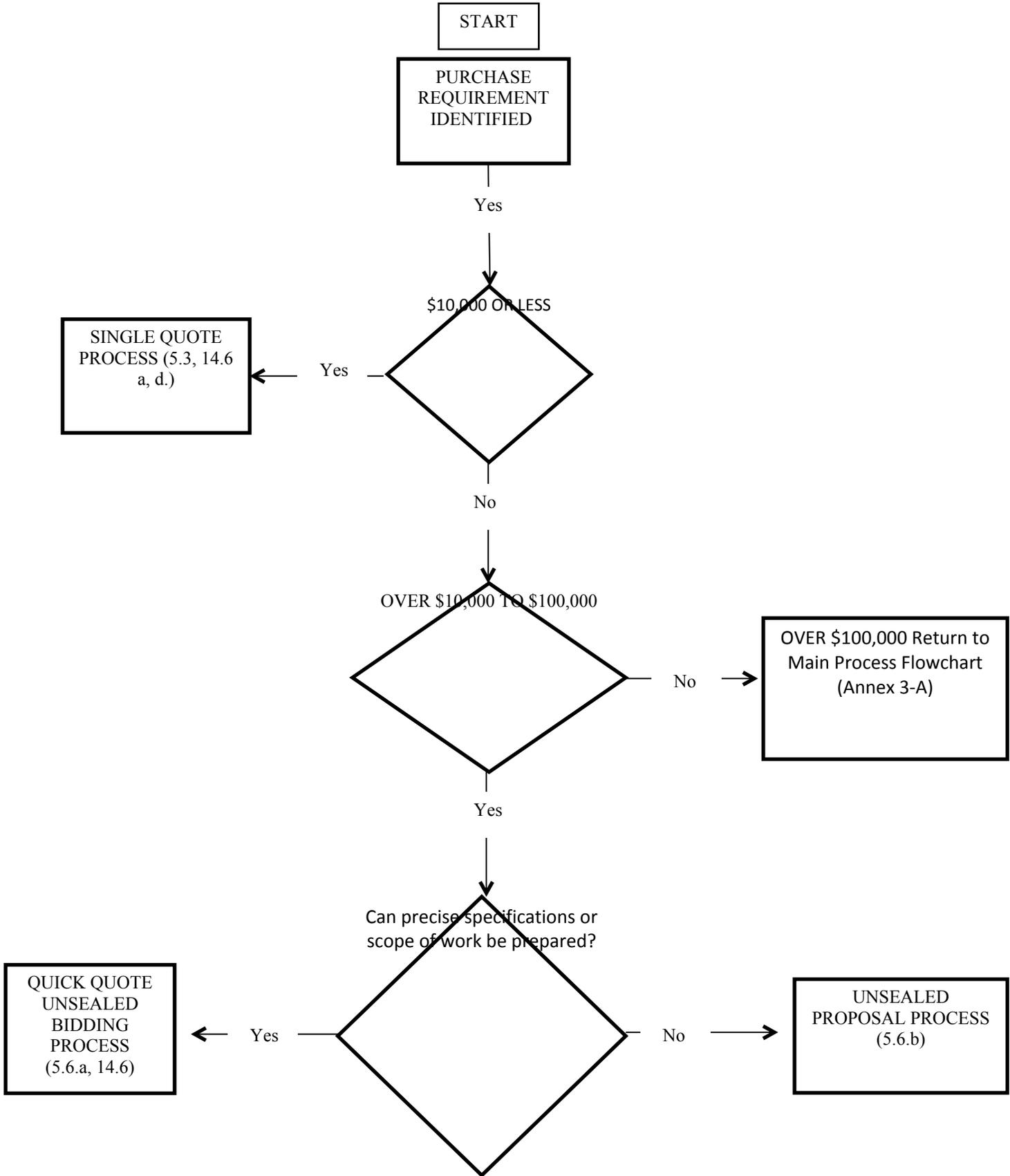
1. Goods or nonprofessional services over \$10,000 up to and including \$100,000 may be procured using the Unsealed Request for Proposal process (see flowchart, Annex 5-F). A written determination for the use of competitive negotiation is not required for unsealed Request for Proposals.
2. The solicitation 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.
3. eVA VBO advertising is required See 3.19.
4. Offers may be opened and evaluated upon receipt. All responses must be received at the designated location by the date and time stated in the solicitation (see 3.2e).
5. In lieu of an evaluation committee, the buyer or end user may solely evaluate and rank offers. Upon completion of the evaluation, negotiations shall be conducted with the offerors selected.
6. Award should be made to the highest ranking offeror in accordance with the Small Business Enhancement Award Priority (3.11.g). Post Notice of Award for 10 days if a Notice of Intent to Award was not issued.

c. Deleted

5.7 Deleted

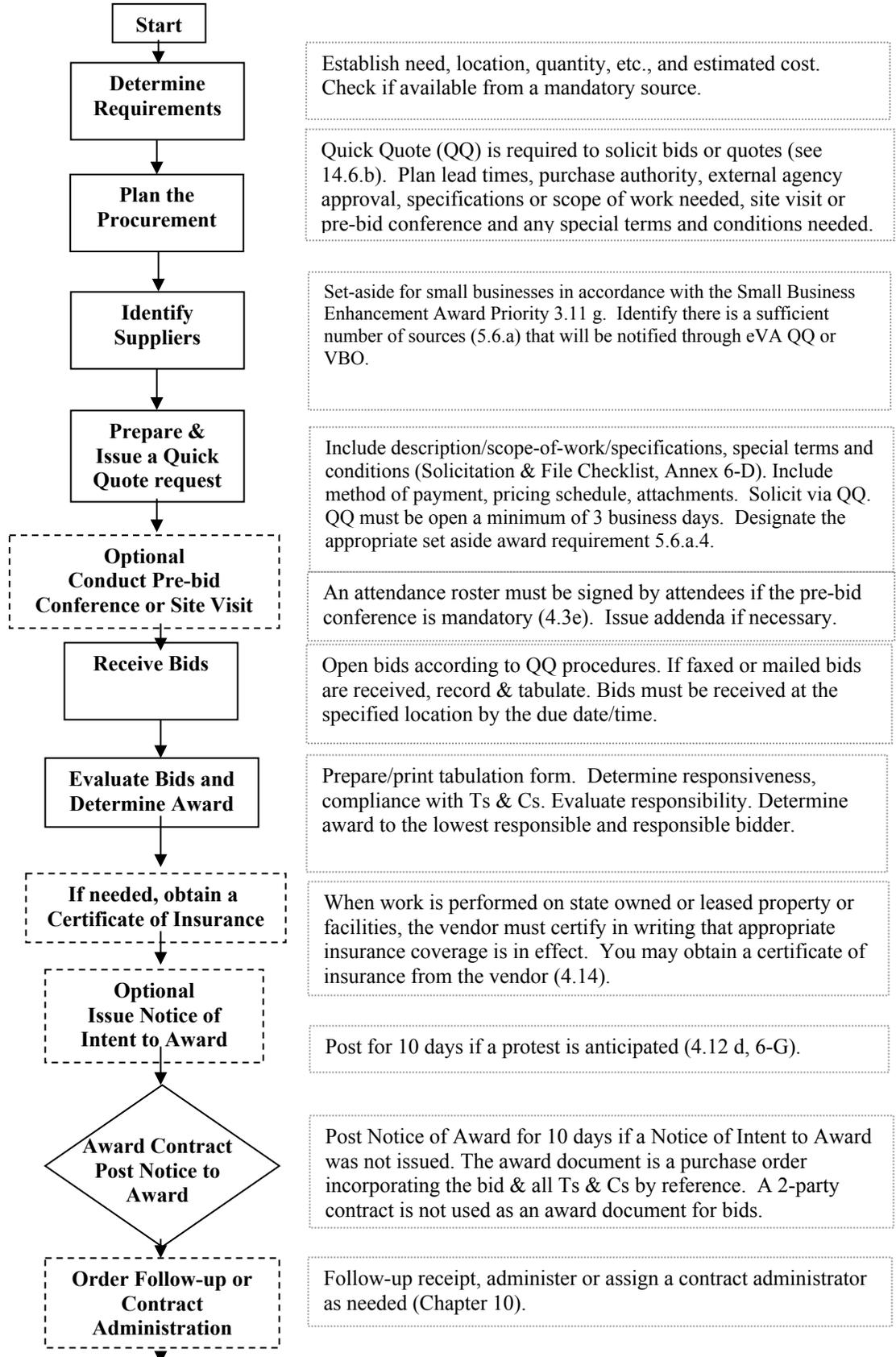
Annex 5-A

Small Purchase Procedures (Code of Virginia § 2.2-4303G)
Small Purchase Process (goods and nonprofessional services up to and including \$100,000)



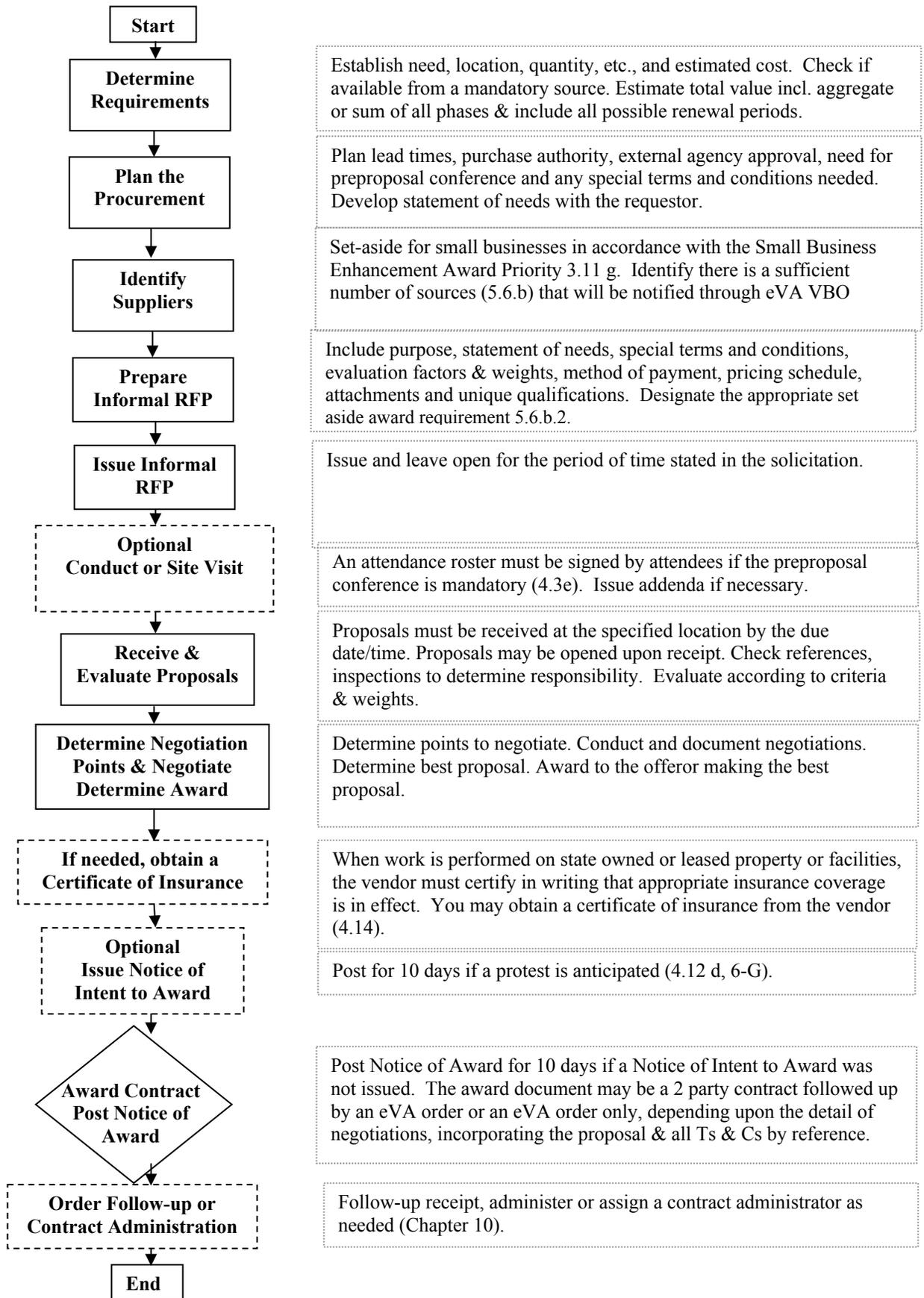
Annex 5-E

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



Annex 5-F

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



14.9 **Requisitioning and Ordering –Use of eVA:**

- c. **Optional Use of eVA for Purchases exempted from Assessment of Fees.** At the option of the agency or institution, and to enhance transaction transparency, analysis, and reporting, non-procurement (payment) transactions and the following procurement transactions may be processed through eVA, by issuing the order to the vendor and coding the requisition with the X02 purchase order category.

eVA purchase orders should be issued prior to contractors performing any work. However, should the agency find it necessary to issue any eVA confirming orders, the confirming orders should be placed in eVA within thirty (30) days after directing the contractor to proceed. This includes orders imported to eVA from ERPs (enterprise resource planning systems).

eVA Fees: These transactions are exempt from eVA agency and vendor transaction fees.

1. Over the counter small purchase charge card (SPCC) purchases that are made at the site of the sale and picked up by the individual card holder.
2. Real Estate Leases
3. Professional organizational membership dues and training classes sponsored by the professional organization when payment is made directly to the professional organization sponsoring the training class. A “professional organization” is generally defined as a group of professional individuals in a like occupation charged with educating, certifying or lobbying for its members.
4. Conference registrations
5. Honoraria
6. Award of grants (disbursement of grant funds) by agencies and institutions to public bodies or tax exempt non-profit charitable organizations. This exception does not apply to the expenditure of grant funds by agencies and institutions for the purchase of goods and/or services (see APSPM 13.8e)
7. Public Utilities (electric, natural gas, water, sewer)
8. Purchases made using the DPS statewide contract for Express Delivery Services
9. Voyager (fuel) charge card purchases.
10. Individual travel and lodging
 - (a) Group (i.e., two or more individuals) travel up to \$50,000 per group travel event
 - (b) Group travel-related lodging
11. Business and/or financial transactions to which public procurement regulations do not apply. Examples include eVA Fees, debt service payments, Medicare and Medicaid payments, and child support payments.

SECTION II

SPECIAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

66. **FEDERALLY IMPOSED TARIFFS:** In the event that the President of the United States, the United States Congress, Customs and Border Protection, or any other federal entity authorized by law, imposes an import duty or tariff (a “tariff”), on an imported good that results in an increase in contractor’s costs to a level that renders performance under the Agreement impracticable, the Commonwealth may agree to an increase to the purchase price for the affected good. No increase in purchase price may exceed 25% of the additional tariff imposed on the goods imported or purchased by the contractor that are provided to the Commonwealth under this Agreement.

Prior to the Commonwealth agreeing to a price increase pursuant to this Section, the contractor must provide to the Commonwealth, the following documentation, all of which must be satisfactory to the Commonwealth:

- evidence demonstrating: (i) the unit price paid by contractor as of the date of award for the good or raw material used to furnish the goods to the Commonwealth under this Agreement, (ii) the applicability of the tariff to the specific good or raw material, and (iii) contractor’s payment of the increased import duty or tariff (either directly or through an increase to the cost paid for the good or raw material). The evidence submitted shall be sufficient in detail and content to allow the Commonwealth to verify that the tariff is the cause of the price change.
- a certification signed by contractor that it has made all reasonable efforts to obtain the good or the raw materials comprising the good procured by the Commonwealth at a lower cost from a different source located outside of the country against which the tariff has been imposed.
- a certification signed by contractor that the documentation, statements, and any other evidence it submits in support of its request for a price increase under this Section are true and correct, and that the contractor would otherwise be unable to perform under this Agreement without such price increase.
- as requested by the Commonwealth, written instructions authorizing the Commonwealth to request additional documentation from individuals or entities that provide the good or the raw materials to verify the information submitted by contractor.

If the Commonwealth agrees to a price increase pursuant to this Section, the parties further agree to add the following terms to this Agreement:

- During the Term and for five (5) years after the termination of this Agreement, contractor shall retain, and the Commonwealth and its authorized representatives shall have the right to audit, examine, and make copies of, all of contractor’s books, accounts, and other records related to this Agreement and contractor’s costs for providing goods to the Commonwealth, including, but not limited to those kept by the contractor’s agents, assigns, successors, and subcontractors.
- Notwithstanding anything to the contrary in this Agreement, the Commonwealth shall have the right to terminate this Agreement for the Commonwealth’s convenience upon 15 days’ written notice to contractor.

In the event the import duty or tariff is repealed or reduced prior to termination of this Agreement, the increase in the Commonwealth’s contract price shall be reduced by the same amount and adjusted accordingly.

- Any material misrepresentation of fact by contractor relating in any way to the Commonwealth’s payment of additional sums due to tariffs shall be fraud against the taxpayer’s of the Commonwealth and subject contractor to treble damages pursuant to the Virginia Fraud Against Taxpayers Act.

***When Used: Include in all term contracts for goods and services. This clause is not appropriate for use in spot purchases. It is required that contract officers consider including Special Term and Condition #60 (Continuity of Services) when contracting for services vital to the agency.**

APPENDIX C

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

PIM NUMBER	TOPIC	DATE FILED	INITIALS
98-038	Defines Informal Solicitations and adds Federally Imposed Tariffs Special Term and Condition.	08/03/20	