

August 19, 2024

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) #98-043



Enclosed is PIM #98-043, effective September 1, 2024, 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 has incorporated these changes into the web-based *APSPM*, which will be downloadable in Word or PDF on September 1, 2024. The location of text changes will be indicated by an arrow in the margin (→) with the corresponding PIM #98-043 number identified next to the changes and 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 #98-043 should be filed in the back of the Appendix C log.

<i>APSPM</i> Cite	Summary of Changes
3.11.g.2.	Replaces "14.9 b" with "14.9 d" and "14.9 c" with "14.9 e" in the first sentence
3.15.a	Replaces "B" with "C" in the last sentence of the last paragraph
3.15.b	-Replaces "Vendors and" with "and United States" in the section title -Adds "first" and replaces "goods or services or construction provided by Virginia persons, firms or corporations" with "then to goods produced in the United States" in the first sentence
3.15.c	Adds "Procurement of Goods by Manufacturers" as an entirely new section
3.25.a	-Adds "and United States" and removes "and Firms" from the section title -Adds "first" and removes "goods or services or construction provided by Virginia persons, firms or corporation," from the first sentence -Adds "If not available, preference shall be given to goods produced in the United States" to the second sentence
Annex 6-B	Removes the first sentence in Step Five.
Annex 6-E	Removes the "Requirement" section
10.13.b.1	Adds an entirely new section
10.13.b.2	Adds an entirely new section
12.2	Adds "in consultation with VITA" to the first sentence in the second paragraph
12.7.b.7.c	Replaces "15" with "16"
Appendix B, Section I	Adds the following General Terms and Conditions: DD. Contract Extensions
Appendix B, Section II	Updates were made to the following Special Terms and Conditions: 2.E. Award 2.F. Award to Multiple Offerors
Appendix C	Adds Summary of changes.

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](#).

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

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

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 d items 1-17, and 14.9 e 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.**

DGS/DPS will post and maintain a listing of preference laws provided by other states on the eVA website. (Absolute preference defined, see Appendix A.) See eva.virginia.gov for a listing of state preference laws and (*Code of Virginia*, § 2.2-4324C).

b. **Virginia and United States Products.** Preference is given first to goods produced in Virginia, then to goods produced in the United States in the event of a tie bid (see 3.25a).

c. **Procurement of Goods by Manufacturers.**

1. If the lowest responsive and responsible bidder is not a resident of Virginia and the bid of any Virginia resident is within 10 percent of that bid, the lowest responsive and responsible bidder that is a Virginia resident shall be granted the option to match the price of the lowest responsive and responsible bidder.
2. If the lowest responsive and responsible bidder is a resident of a state other than Virginia and such state under its laws allows a resident of that state a percentage preference or price-matching preference for the procurement of goods, a like preference shall be granted to responsive and responsible bidders who are residents of Virginia.
3. An eligible bidder that is a Virginia resident shall be granted the greater of either preference pursuant to this section.

A supplier shall be deemed to be a resident of Virginia if such supplier has been organized pursuant to Virginia law or maintains a principal place of business within Virginia. Federally funded projects or procurements shall be exempt from sections a, b, and c when it conflicts with federal law and regulations and would render the agency or institution from receiving federal funds.

3.25 **Tie Bids**

- a. **Virginia and United States Products.** In the case of a tie bid, preference shall first be given to goods produced in Virginia, if such choice is available (see 3.15). If not available, preference shall be given to goods produced in the United States; otherwise, the tie will be resolved by the toss of a coin. The coin toss must be witnessed, and the results recorded by a supervisor above the level of the buyer. Award(s) are to be made in favor of the Virginia bidder for tie line items and multiple purchase orders or contracts placed as required. Copies of tie bids resulting from competitive sealed bidding shall be forwarded to the Anti-Trust Unit of the Office of The Attorney General.

Annex 6-B
SAMPLE FORMAT AND STEP-BY-STEP PROCEDURES
INVITATION FOR BIDS
(IFB)

STEP FIVE:

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

Annex 6-E

PREBID OR PREPROPOSAL CONFERENCE CHECKLIST

The following points are to be considered when prebid or preproposal conferences are used:

10.13 **Contract Renewal and Extension.**

b. **Extension.**

- (1) An agency may extend the term of an existing contract for services to allow completion of any work undertaken but not completed during the original term of the contract. No additional consideration exceeding the contracted price may be paid to the contractor.
- (2) In extenuating circumstances, a contract may be extended by mutual consent with advance written approval of DPS. The extension request shall be submitted in eVA and must include a justification as to why the extension is needed and a re-procurement timeline for the solicitation and award of a new contract.

All extensions shall be executed in writing prior to the expiration of the current contract.

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

a. **DGS.**

DGS/OSPM shall determine in consultation with VITA the method of disposal of state-owned computers and other IT assets.

12.7 **Surplus Property Disposal Methods and Procedures.**

b. **Surplus Property Disposal Methods.**

7. **Surplus Computers and Related Equipment:**

- (c) When computers and related equipment are obsolete, broken, or do not have resale value as determined by DGS/OSPM, recycling, to the extent practicable, should be utilized in accordance with *Code of Virginia* § 2-2-1124.B.16, and in consideration of environmental regulations.

APPENDIX B

SECTION I

REQUIRED GENERAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

DD. **CONTRACT EXTENSIONS:** In the event that the original term and all renewals of this contract expire prior to the award for a new contract for similar goods and/or services, the Commonwealth of Virginia may, with written consent of the Contractor, extend this contract for such a period as may be necessary to afford the Commonwealth of Virginia a continuous supply of the identified goods and/or services.

SECTION II

SPECIAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

2. **AWARD OF CONTRACT:**

E. **AWARD:** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. The offeror shall state any exception to any contractual terms or conditions, including any liability provisions contained in the Request for Proposal in writing at the time of responding to such Request for Proposal if so requested by the Commonwealth. Such exceptions shall be considered during negotiation but shall not be used as a basis for scoring or evaluating which offerors are selected for negotiations. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia*, § 2.2-4359D). Should the Commonwealth determine in writing and in its sole discretion that

only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

F. **AWARD TO MULTIPLE OFFERORS:** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. The offeror shall state any exception to any contractual terms or conditions, including any liability provisions contained in the Request for Proposal in writing at the time of responding to such Request for Proposal if so requested by the Commonwealth. Such exceptions shall be considered during negotiation but shall not be used as a basis for scoring or evaluating which offerors are selected for negotiations. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth reserves the right to make multiple awards as a result of this solicitation. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia*, § 2.2-4359D). Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

APPENDIX C

PROCUREMENT INFORMATION MEMORANDUM (PIM) RECORD OF CHANGES

98-043	Updates preferences to include United States products and procurement of goods by manufacturers, updates contract extension policy and adds a new contract extension general term, updates Award of Contract terms for Request for Proposals.	08/06/24	
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