

June 29, 2021

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) #98-039

J. Peter Stamps

Enclosed is PIM #98-039, effective July 1, 2021, 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 July 1, 2021. The location of text changes will be indicated by an arrow in the margin (→) with the corresponding PIM #98-039 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 #98-039 should be filed in the back of the Appendix C log.

APSPM Cite	Summary of Changes
Table of Contents	Renames and deletes sections
1.2.e.2	Replaces "VBO advertising" with "public posting"
1.4	Adds "unless otherwise indicated (9.1)" to the last sentence
1.4.a	Replaces "under" with "within"
Annex 1-A, #2	-Removes "Quick Quote" in the first sentence -Deletes the last sentence
Annex 1-A, #3	Deletes "VBO"
Annex 1-A, #4	Deletes "VBO"
Annex 1-B	-Replaces "Virginia Business Opportunities (VBO) or Sourcing & Contracting Advertising" with "Public Posting" -Adds "all awarded contracts and modifications" to the renamed "Public Posting" section
Annex 1-B, #8	-Replaces "Virginia Business Opportunities (VBO) or Sourcing & Contracting Advertising" with "Public Posting" -Replaces "VBO advertising" with "postings"
2.1.a	Replaces "should" with "shall" in the next to last sentence
2.1.b	Updates the section
2.1.e	Adds "DGS/DPS" to the title of the section
2.2.c	Updates DARS website address
2.3	Deletes "VBO or Sourcing and Contracting" from the first sentence
3.2.a	Deletes "(a minimum of four)" from the first sentence
3.6	-Deletes "and the approved change exceeds \$500" from the third sentence -Deletes the fourth and fifth sentence -Deletes "Change Order" and adds "contracts" to the last sentence
3.8.b	Replaces "should" with "shall" in the last sentence
3.8.c	Replaces "should" with "shall" in the last sentence
3.10	-Deletes the last sentence
3.13.c	Replaces "1.e" with "1.f" throughout the section
3.15.g	Updates the section
3.17.e	Adds a new section

3.19	-Adds “ <i>Addenda, awarded contracts and modifications, that appear on the Commercial Activities List</i> ” to the first sentence -Deletes the second sentence -Replaces “ <i>solicitation</i> ” with “ <i>related</i> ” in the fourth sentence -Deletes the last sentence
3.19.a	Deletes “ <i>VBO</i> ”
3.19.b	Deletes “ <i>VBO</i> ” in the first and last sentence
3.19.c	-Moves “ <i>See Annex 3-K for an example</i> ” as the third sentence -Deletes the fourth and fifth sentence
3.19.d	Deletes “ <i>VBO</i> ” in the last sentence
3.19.h	Deletes “ <i>VBO</i> ” in the first and last sentence
3.19.i	Deletes “ <i>VBO</i> ”
3.19.j	Adds a new section
3.31.5	-Deletes “ <i>eVA VBO</i> ” and adds “ <i>in eVA</i> ” in the first sentence -Deletes “ <i>VBO</i> ” in the second sentence
Annex 3-B	Deletes “ <i>VBO</i> ” throughout the Annex
4.3.a	Replaces “ <i>i.e</i> ” with “ <i>I.f</i> ” throughout the section
4.3.e	-Removes “ <i>for optional prebid/preproposal conferences</i> ” in the sixth sentence -Replaces “ <i>is signed by the attendees</i> ” with “ <i>evidence of those in attendance must be maintained by the agency</i> ” in the seventh sentence
4.12	-Deletes the first and second sentence -Deletes “ <i>(Invitation for Bids or Request for Proposal)</i> ” in the third sentence -Replaces “ <i>bid or proposal</i> ” with “ <i>response</i> ” in the third sentence
4.15.a	Deletes “ <i>(Quick Quote, VBO Buyer, Sourcing and Contracting)</i> ” from the second sentence
4.23.a	Updates DEB website address
4.24.c.3	Deletes “ <i>BCOM</i> ”
4.24.i	Updates DEB website address
4.29	Deleted
4.34	Replaces “ <i>may</i> ” with “ <i>must</i> ” in the first sentence in the second paragraph
5	Deletes “ <i>VBO</i> ” in the fourth sentence
5.6.a.2	Deletes “ <i>VBO or Sourcing & Contracting tool</i> ” in the second sentence
5.6.a.4	Deletes “ <i>in Quick Quote or VBO</i> ” in the last sentence
5.6.a.6	Adds “ <i>Post the contract in eVA (3.19).</i> ”
5.6.b.1	Deletes the last sentence
5.6.b.3	Adds “ <i>Advertise in</i> ” and deletes “ <i>VBO advertising is required</i> ”
5.6.b.7	Adds “ <i>Post the contract in eVA (3.19)</i> ”
Annex 5-E	-Deletes “ <i>QQ or VBO</i> ” in third box on the right -Adds “ <i>and post</i> ” and deletes “ <i>Post Notice to Award</i> ” in the eleventh box on the left
Annex 5-F	-Deletes “ <i>VBO</i> ” in the third box on the right -Adds “ <i>and post</i> ” and deletes “ <i>Post Notice</i> ” in the twelfth box on the left
6.2.d	-Adds “ <i>submitting a</i> ” and replaces “ <i>shall be long enough</i> ” with “ <i>must be at least ten (10) days after issuance</i> ” in the second sentence -Deletes “ <i>VBO</i> ” in the fourth sentence
6.2.e.1	Deletes “ <i>(a minimum of four)</i> ” and “ <i>Virginia Business Opportunities (VBO)</i> ”
Annex 6-A	-Deletes “ <i>VBO</i> ” from fourth box on the right -Adds “ <i>and post</i> ” and deletes “ <i>Post Notice to Award</i> ” in the eleventh box on the left
Annex 6-B, Note	Replaces “ <i>i.e</i> ” with “ <i>I.f</i> ”
Annex 6-B, Step Four, B	Deletes “ <i>(a minimum of four)</i> ”
Annex 6-B, Step Four, C	-Deletes “ <i>VBO</i> ” from the second sentence -Deletes “ <i>in VBO</i> ” from the last sentence
Annex 6-B, Step Six	Deletes “ <i>to the VBO Ads web link on the</i> ” and “ <i>website</i> ” from the last sentence
Annex 6-B, Step Ten	Deletes “ <i>VBO</i> ” in the second sentence
Annex 6-B, Step Twelve	Adds “ <i>and contracts</i> ” and deletes “ <i>VBO see</i> ” in the last sentence
Annex 6-B, Step Thirteen	Replaces “ <i>An individual should</i> ” with “ <i>A contract administrator shall</i> ” and deletes “ <i>to be responsible for contract monitoring and oversight</i> ” in the fourth sentence

Annex 6-D, Pre-Award, Receipt & Evaluation, and Post Award Activities	-second and fourth box, delete “VBO” -seventh box, add “ <i>Post the contract in eVA</i> ”
7	Deletes “(<i>Code of Virginia, §§ 2.2-4302.2 & 2.2-4303G</i>)” from the third sentence
7.2.g.1	Deletes “(<i>a minimum of four</i>)” and “ <i>Virginia Business Opportunities (VBO)</i> ”
7.2.i	Deletes “VBO” throughout section
7.4.e	Adds “ <i>Post the contract in eVA</i> ” to the end of the section
Annex 7-A	-Deletes “VBO” throughout -Adds “ <i>post contracts in eVA</i> ” throughout
Annex 7-B, Note	Replaces “ <i>I.e</i> ” with “ <i>I.f</i> ”
Annex 7-B, Step 2, II	Deletes “(<i>a minimum of four</i>)”
Annex 7-B, Step 2, III	Deletes “VBO” in the second and last sentence
Annex 7-B, Step 11, II	Replaces “ <i>11</i> ” with “ <i>10</i> ” in the first sentence
Annex 7-B, Step 15	-Adds “ <i>and the contract</i> ” and “ <i>eVA in</i> ” to the second sentence -Deletes the last sentence
Annex 7-B, Step 16	-Deletes the fourth sentence -Replaces “ <i>should also</i> ” with “ <i>shall</i> ” and replaces “ <i>when additional coordination is required by the complexity or criticality of the requirement to the agency</i> ” with “ <i>in writing</i> ” in the fifth sentence -Replaces “ <i>should</i> ” with “ <i>must</i> ” in the last sentence
Annex 7-E, Pre-award, Receipt & Evaluation, and Post-Award	-Third box, deletes “VBO” -Sixteenth box, deletes “ <i>on the DGP/DPS</i> ” and “ <i>web site</i> ” -Nineteenth box, adds “ <i>Post contract in eVA</i> ”
8.1.b	Deletes “ <i>All purchasing</i> ” in the fifth sentence
8.1.c	Deletes “ <i>All purchasing</i> ” and replaces “ <i>the</i> ” with “ <i>official</i> ” in the third sentence
8.4	-Deletes “VBO” in the second sentence -Adds “ <i>The contract must also be posted</i> ”
8.5	Adds “ <i>Post awarded contract in eVA</i> ” at the end of the section
8.6	Deletes “VBO” in the last sentence
Annex 8-A, last box on the right	Adds “ <i>Post award document and contract in eVA</i> ”
Annex 8-B, #1	Deletes “ <i>all</i> ” and replaces “ <i>an involvement</i> ” with “ <i>official responsibility</i> ”
Annex 8-B, #6	Replaces “(<i>if used</i>)” with “ <i>and contract</i> ” and deletes “VBO”
9.1.b	Deletes “ <i>without requisitioning through DGS/DPS</i> ” from the second sentence
9.3.b	-Deletes “ <i>the DGS/DPS</i> ” and “VBO” from the second sentence -Adds “ <i>The contract must also be posted</i> ” to the fourth sentence
Annex 9-A	Deletes “ <i>web site</i> ” and adds “ <i>Post contract in eVA</i> ” to the seventh box on the right
10.19	-Deletes the fourth and fifth sentence -Adds “ <i>and debar proceedings may be instigated (Vendors Manual 7.20.p)</i> to the last sentence
Annex 10-I, 10-J, 10-L	Deletes “ <i>In addition, your firm will no longer be solicited until this matter is satisfactorily resolved</i> ”
11.4.a	Adds “ <i>resulting in a contractual claim</i> ” to the first sentence
11.4.c	Replaces “ <i>Commonwealth's</i> ” with “ <i>Agency's counsel at the</i> ”
12.2.b.2	Replaces “ <i>Services (DRES)</i> ” with “ <i>and Facilities Management (DREFM)</i> ”
13.4	Updates the first website address
14.6.b	-Deletes “(<i>i.e., Quick Quote, VBO Buyer, Sourcing & Contracting</i>)” from the first sentence -Deletes the last sentence from the third paragraph -Adds “ <i>advanced sourcing tools</i> ” to the first sentence in the fourth paragraph -Deletes the last sentence in the fourth paragraph -Replaces “ <i>VBO or Sourcing & Contracting tool</i> ” with “ <i>advanced sourcing tools</i> ” in the fifth paragraph
14.6.c	Deletes the last sentence
14.6.c.i	-Adds “ <i>Addenda</i> ” and “ <i>awarded contract and modifications</i> ” -Replaces “ <i>through Sourcing and Contracting tool are required</i> ” with “ <i>using advanced sourcing tool</i> ”

14.6.c.ii	Deletes “utilizing eVA VBO or the Sourcing and Contracting tool”
14.6.c.iv	-Deletes “VBO or Sourcing and Contracting tool” in the first sentence -Deletes “VBO” in the second sentence
14.6.v	Deletes “VBO or Sourcing and Contracting tool”
14.6.e, i & ii	Deletes “the” and “functionality in Sourcing and Contracting”
14.9	Updates numbers of sections to letters
14.9.a	Deletes “Mandatory Use of eVA for Purchases and Assessment of Fees”
14.9.d	-Deletes “Mandatory Use of eVA for Purchases exempted from Assessment of Fees” in the first paragraph -Deletes “eVA Fees: These transactions are exempt from eVA agency and vendor transaction fees; however” in the third paragraph
14.9.d.5	Adds “This does not apply to” and deletes “shall not be exempted” in the second sentence
14.9.d.7	-Deletes “(Health Care), the service is, a hospital or, or physical, mental retardation, abuse, or emotional condition” in the first sentence -Adds “or Dental, condition, disorder, or, use disorder” in the first sentence -Adds “This does not include” and deletes “are not exempt from purchasing through eVA” in the second sentence
14.9.d.8	Adds “This does not include” and deletes “are not exempt from eVA fees” in the second sentence
14.9.d.9	Add parentheses around “e.g., scrap, recycling” and “e.g., contracted out Bookstore, Food service operation”
14.9.d.16	Deleted
14.9.e	-Deletes “Optional Use of eVA for Purchases exempted from Assessment of Fees” from the first paragraph -Deletes the third paragraph
14.15	Deletes “Quick Quote and VBO”
Annex A	Updates the contract definition
Appendix B, Section I	-Updates the first paragraph and made updates to the following General Terms and Conditions: T. Insurance U. Announcement of Award
Appendix B, Section II	-Updates were made to the following Special Terms and Conditions: 35. Safety Data Sheets 40. Performance and Payment Bonds 58. Employment Services Organizations (ESO) -Adds new Special Term and Condition 67. Energy-Efficient and Water-Efficient Goods
Appendix C	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](#).

Two

Sources of Supply

2.1 Mandatory Sources
 DGS/DPS Virginia Distribution Center (VDC)

Four

General Procurement Guidelines & Planning

4.29 Deleted

Fourteen

Electronic Procurement

14.15 Set-aside Advertisements for eVA

1.2 **Agency Purchasing Authority.**

e. **Authority to Sign Procurement Documents.**

(2) **Designated signature authority is required for the following documents:** purchase requisitions submitted to DGS/DPS, agency purchase orders, contracts, public posting waiver, multi-colored printing, waiver of a prebid or preproposal conference, contract modification, and written determinations to support the use of emergency procedures. The agency head may delegate approval authority in writing, for sole source procurements up to and including \$50,000 to the chief purchasing officer or a direct report to the agency head. Over \$50,000 the agency head may delegate approval authority in writing, to a direct report to the agency head.

1.4 **Administrative Exemptions.** DGS/DPS may delegate purchasing authority or authorize exceptions from its rules and regulations for particular agencies or for specified goods, non-professional services and printing (*Code of Virginia*, § 2.2-1111). One-time exemption requests must be processed using the Procurement Exemption Request form (see Annex 13-D), unless otherwise indicated (9.1).

a. **Purchase of Goods and Nonprofessional Services Within Delegated Authority.** All State agencies may purchase goods within the dollar limits and categories delegated by DGS/DPS without requisitioning through DGS/DPS. The authority to purchase nonprofessional services without regard to dollar limit is delegated to all state agencies. Agencies must comply with the *Virginia Public Procurement Act*, this manual and any revisions thereto. Any agency making purchases in violation of the procedures set forth in this manual may have a part or all of the purchasing authority delegation granted by DGS/DPS withdrawn (see 1.2).

Annex 1-A

COMMONWEALTH OF VIRGINIA DGS/DIVISION OF PURCHASES AND SUPPLY

AGENCY/INSTITUTION REQUEST FOR \$100,000 DELEGATED PROCUREMENT AUTHORITY FOR GOODS AND PRINTING

The Division of Purchases and Supply (DPS) is responsible for ensuring that state procurement activities in the Commonwealth meet the requirements of the *Virginia Public Procurement Act (VPPA)*, the regulations implemented by the Division, and procedures that are consistent with the Agency Procurement and Surplus Property Manual (APSPM). As a part of this responsibility, DPS will grant agencies and institutions that agree to the standards set forth below, an increase to \$100,000 from the general delegation of \$50,000 for procurement of goods and printing. These standards must be maintained for the agency or institution to retain the increased delegated procurement authority. The intent of these standards is to assure that agencies and institutions are utilizing the Commonwealth's enterprise electronic procurement system, eVA, beginning at the point of requisitioning for all procurements actions including, but not limited to, technology, transportation, and construction (*Code of Virginia*, § 2.2-1110). DPS will use these standards to consider all requests.

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

1. The Agency has and will continue to use eVA, the Commonwealth's electronic procurement solution, beginning at the point of requisitioning and in accordance with all requirements set forth in *Code of Virginia*, § 2.2-1110.A, as well as those set forth in Chapter 14 of the *Agency Procurement and Surplus Property Manual (APSPM)*.
2. The Agency will use eVA to the maximum extent practicable for small purchases up to \$100,000. The Agency will use eVA 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.
3. The Agency will include access to an electronic version of the solicitation and any solicitation addenda for all procurements publicly posted on eVA.
4. The Agency will not re-delegate this additional procurement authority to end users outside the Agency's central purchasing department/office unless the Agency obtains the written authorization from the Director of the Division of Purchases and Supply.

Annex 1-B

AGENCY STANDARDS AND INSTRUCTIONS FOR UNLIMITED DELEGATED PROCUREMENT AUTHORITY

PURCHASING PROGRAM STANDARDS

PUBLIC POSTING. State public bodies shall post on the DGS central electronic procurement website, otherwise known as eVA, all Invitations to Bid, Requests for Proposal, addenda, all award notices including sole source and emergency (*Code of Virginia*, §§ 2.2-1110 and 2.2-4301), and all awarded contracts and modifications. Small purchases that are expected to exceed \$10,000 shall also require the posting of a public notice on eVA (*Code of Virginia*, §§ 2.2-1110 and 2.2-4303).

8. **Public Posting.** Describe use, or intended use, of eVA postings (*Code of Virginia*, § 2.2-1110).

2.1 Mandatory Sources

- a. **Term Contracts.** To obtain more favorable prices through volume purchasing and to reduce lead-time and administrative cost and effort, DGS/DPS may establish mandatory use term contracts for goods or services. DPS contracts are posted on the eVA State Contracts listing. Agencies and institutions are required to check this listing for contracts, contract changes, renewals, and mandatory use prior to placing orders. In accordance with the terms and conditions, purchase orders shall be issued in any amount for any goods or service on a term contract available to that participant. Agencies and institutions shall place all orders on mandatory use contracts through eVA. If an item is available on a DGS/DPS mandatory contract, agencies and institutions may not establish a contract for the same or similar goods or services or use their local purchasing authority to purchase from another source unless the purchase is exempt by contract terms such as not meeting the contract's minimum order requirement. Vendors who intentionally sell or attempt to sell goods or services to an authorized participant who is under a mandatory contract with another vendor may be suspended and/or debarred by DGS/DPS. The purchase by agency personnel of goods or services that are on DGS/DPS mandatory contracts from non-contract sources may result in reduction or withdrawal of that agency's delegated purchasing authority by DGS/DPS (see 13.7). An exception from a mandatory state contract may be granted by DGS/DPS. The Procurement Exemption Request form located in Annex 13-D shall be used to request an exception. Approved exemption requests must be attached to the purchase transaction file either electronically or by hard copy.
- 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, sheltered workshops and community service organizations (*Code of Virginia*, §53.1-47.)

Goods and services available through VCE include offset and digital printing, furniture and modular office systems (including space planning services), ink and toner cartridges, clothing and textiles, shoes and boots, document management services, drug test kits, janitorial products, laundry services, dental lab services, prescription eyewear, embroidery and silk screening (including promotional products), Braille transcription, license plates, outdoor metal products, safety wellness products, and vehicle conversion services. A full listing of products and services available from VCE is contained on the Virginia Correctional Enterprises web site www.GoVCE.net.

Agencies may submit agency purchase orders directly to VCE through eVA. If an agency has a critical need, they should contact the VCE Customer Service Department by telephone at 800-823-2823. To discuss printed product availability and delivery, contact 804-887-5674.

- e. **DGS/DPS 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.

2.2 Nonmandatory Sources

- c. **Employment Services Organizations (ESO).**

A commodities list of available goods and services provided by employment services organizations is accessible from a link on the eVA home page, www.eva.virginia.gov or www.vadars.org.

- 2.3 **Source Lists.** Agencies shall utilize eVA functionality to notify sources through public posting of all business opportunities. eVA's functionality will send electronic notifications to sources registered for the solicitation commodity codes. The procurement officer should review notified sources to ensure such businesses are capable of providing, as a regular part of their business, the goods or services needed. Agency personnel at all levels should make a concerted effort to identify responsible vendors as sources of supply for goods and services and encourage them to register in eVA, including Virginia vendors and DSBSD-certified small, women-owned and minority-owned businesses and businesses with service-disabled veteran-owned status.

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

a. **Adequate Competition.** A sufficient number of sources must be solicited for the procurement of goods or services consistent with the method of procurement used (see Chapters 5, 6, 7, and 9 for further discussion). The *Vendors Manual*, 4.1 offers further information on the Selection of Bidders or Offerors.

3.6 **Contract/Purchase Order Modification Restrictions.** A contract or purchase order may not be modified or renewed unless provided for in the original contract or solicitation. No additional consideration or increase in contract price may be paid to the contractor because of renewal unless specifically authorized under the original contract. The issuance of a change order or contract modification is required when the purchasing office has issued an agency purchase order or contract or eVA order. Use the eVA functionality to make changes to orders/contracts issued in eVA (see 14.6).

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 shall 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.

c. **Use of Non-Commonwealth Cooperative Contracts, including National Cooperatives awarded by other than Commonwealth agencies and institutions:** These cooperatives are not authorized unless approved in writing by DGS/DPS. Authorized cooperative contracts awarded by other than Commonwealth agencies are posted on the eVA State Contracts listing to assure public visibility of the full terms and pricing of such contracts after DGS/DPS determines that the contracts comply with *Code of Virginia*, §2.2-4304; that prices are fair and reasonable; that Virginia businesses have been afforded access to participate; that the contractors are registered in eVA; and that contractors 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 shall be used to request approval to buy from cooperative contracts awarded by other than Commonwealth agencies that are not posted on eVA.

3.10 **Federal Grants.** Federal granting agencies typically require state agencies and institutions to include specific terms and conditions in contracts funded in whole or in part by federal grants. The state agency must coordinate with the Federal granting agency to ensure that applicable federal grant terms and conditions are included in such contracts. If federal grant or contract funds contain conditions that are in conflict with the *VPPA*, the state agency must request and obtain a written determination from the Governor that the acceptance of the grant or contract funds is in the public interest. Such determination shall state the specific provision(s) of the *VPPA* in conflict with the conditions of the grant or contract (*Code of Virginia*, § 2.2-4343.B).

3.13 **Nondiscrimination.**

c. To implement the policy of Executive Order 61 (2017) that Executive Branch agencies will only contract with those who abide by the non-discrimination policies in Executive Order 1 (2014), all Executive Branch entities shall include in their solicitations where the estimated value is greater than \$10,000 General Term and Condition C - ANTI-DISCRIMINATION subparagraph 1.f., unless the state agency, department or institution issuing the solicitation has made a written determination not to include subparagraph 1.f in General Term and Condition C. This written determination may be made upon good cause shown by a request from a faith-based organization, based upon consideration of other applicable laws or regulations, and must be made prior to the close date. The written determination and any request for the written determination shall be maintained in the procurement file. All Invitations to Bid and Request for Proposals should also explicitly state that faith-based organizations, otherwise qualified to respond to the Initiation to Bid or Request for Proposal, may request that the agency not include subparagraph 1.f. in General Terms and Condition C. Such a request should be in writing and explain why an exception should be made in that Invitation to Bid or Request for Proposal. For the purposes of this

provision, a “faith-based organization” is (1) an entity organized for the purposes of engaging in religious practice or (2) a charitable or educational organization affiliated with such an entity.”

The decision not to include subparagraph 1.f. in General Terms and Condition C does not indicate that any contractor or subcontractor is permitted to engage in discrimination in the provision of goods and services on behalf of the Commonwealth such that no person is excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of public programs and services based on non-merit factors such race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status. Such discrimination would itself constitute a violation of any contract or subcontract to provide goods and services to the public on behalf of the Commonwealth.

3.15 **Preferences**

- g. **Energy-Efficient and Water-Efficient Goods.** If a Commonwealth agency or institution receives two or more bids for products that are Energy Star certified, meet the Federal Energy Management Program (FEMP) designated efficiency requirements, appear on FEMP’s Low Standby Power Product List, or are WaterSense certified, the agency or institution shall only select among those bids. These classifications may be found on Energy Star’s website at: <https://www.energy.gov/eere/femp/federal-energy-management-program>.

3.17 **Prohibited Transactions.**

- e. All agencies, and institutions of higher education shall follow the requirements of Executive Order Seventy-Seven (2021), Virginia Leading by Example to Reduce Plastic Pollution and Solid Waste using the guidance issued by the Department of Environmental Quality (DEQ). The EO is broken into 3 parts: (1) ceasing the usage of specific items identified unless qualifying for an extension or exemption; (2) phasing out other single-use plastic and polystyrene objects over a period of 4 years to objects that are reusable, recyclable or compostable; and (3) reducing waste.

Additionally, agencies shall develop and submit plastic pollution reduction plans to DEQ. For specific information, visit the DEQ website <https://www.deq.virginia.gov/get-involved/pollution-prevention/greening-the-government/waste-reduction>.

3.19 **Publicly Posted Notices.** All informal solicitations, Invitations to Bid, Requests for Proposal, Addenda, sole source award notices, emergency award notices, awarded contracts and modifications, government-to-government service contracts starting at \$25,000 that appears on the Commercial Activities List, 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). The eVA web site address is www.eva.virginia.gov. The agency must include in the posting access to an electronic version of all related documents.

- a. All written informal solicitations, including Quick Quote, that are expected to exceed \$10,000 shall require the posting of a public notice in eVA.
- b. IFB solicitations must be publicly posted on eVA at least 10 days prior to the date set for receipt of bids (*Code of Virginia*, §§ 2.21110 and 2.2-4302.1). In addition, notices may be published in a newspaper of general circulation, at least 10 days prior to the date set for receipt of bids. Prebid conferences or site visits should be indicated when applicable. When canceling or amending a solicitation, a copy of the notice or addendum must be publicly posted on eVA.
- c. RFP solicitations must be publicly posted on eVA at least 10 days prior to the date set for receipt of proposals. Notices may also be published in a newspaper or newspapers of general circulation in the area in which the contract is to be performed. The newspaper notice need only be a brief summary of essential elements of information (*Code of Virginia*, §§ 2.21110 and 2.2-4302.2). See Annex 3-K for an example. The essential elements should include agency seeking proposals; goods or services to be purchased; how offerors can obtain information about the RFP including a reference to eVA; preproposal conference date and time; and the closing date and time. When canceling or amending a solicitation, a copy of the notice or addendum must be publicly posted on eVA.
- d. A Notice of Award must be posted for a ten (10) day period immediately following the actual time of award. If a protest is anticipated, the Notice of Intent to Award must be posted ten days prior to the actual time of award (see also 4.12d). Emergency notices must state that the contract is being issued on an emergency basis while sole source notices must state that only one source was determined to be practicably available and both must

also state that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. Routine notices of award may be a copy of the bid tabulation sheet revealing bidders prices and indicating the bidder receiving the award. IFB and RFP solicitations must contain the General Term and Condition on Announcement of Award (see Appendix B, Section I. U.). The Notice of Award shall be posted on the eVA and in any additional locations as prescribed in the solicitation for a ten (10) day period immediately following the actual time of award (*Code of Virginia*, § 2.2-4360).

- h. Each agency and Institution shall post on eVA the solicitation/opportunity for receipt of proposals/applications to receive grant awards/funds. The posting shall be designated as “Grant Opportunity”.
 - i. Conceptual proposals submitted in accordance with PPEA § 56-575.17 or PPTA § 33.2-1820 shall be posted on eVA.
 - j. All awarded contracts and modifications, including Memorandum of Agreements (MOAs) must be posted in eVA. Any contract awarded on or after July 1, 2021, including any subsequent modifications to that contract shall be posted in eVA. Modifications made after July 1, 2021 to any contract that has two or more years remaining, shall be posted in eVA together with the original contract and all previous modifications. A contract shall include the specifications, descriptions or scope of work, general conditions, special conditions and all other requirements contained in the solicitation together with all written modifications and the vendor’s response.

3.31 **Reverse Auction:**

- 5. Advertising in eVA is required. The use of the eVA Reverse Auctioning tool meets the eVA posting requirement

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
Small Purchase: Up to and including \$10,000	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).
Over \$10,000 up to and including \$100,000 →	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 in eVA is required if Quick Quote is not used.

II. Competitive Sealed Bidding or Competitive Negotiation (*see Chapters 6 & 7*)

Threshold	Procedures
Over \$100,000; may be used for lesser amounts. →	<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 in eVA is required. Requests for Proposal may be advertised in a newspaper.</p>

III. Exceptions To Competitive Procurement (*see Chapters 8 & 9*)

Thresholds	Procedures
Emergency →	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 in eVA is required.
Sole Source (Over \$10,000) →	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 in eVA is required.

4.3 **Preparing the Written Solicitation.**

- a. **General.** Solicitations should convey to the reader, in a clear, concise and logical sequence, the information necessary to answer the basic questions of who, what, why, where, when and how. Section 3.13.a requires public bodies to prominently display a nondiscrimination statement concerning faith-based organizations in all Invitation for Bids (IFB), Request for Proposals (RFP), contracts, and purchase orders (§ 2.2-4343.1D), and section 3.13.c requires executive branch agencies to explicitly state that faith-based organizations may request that the agency not include subparagraph 1.f in General Terms and Condition C. The following statement must be prominently displayed on the cover page of every IFB or RFP:

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, national origin, age, disability, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment. Faith-based organizations may request that the issuing agency not include subparagraph 1.f in General Terms and Condition C. Such a request shall be in writing and explain why an exception should be made in that invitation to bid or request for proposal.

- e. **Prebid or Preproposal Conferences.** Conference or site visits early in the solicitation cycle provide an opportunity to emphasize and clarify critical aspects of solicitations, eliminate ambiguities or misunderstandings, and permit vendor input. Conferences/site visits shall be conducted with potential bidders or offerors when issuing solicitations for complex, large (over \$100,000) or critical requirements. This requirement may be waived by an agency procuring under its authority upon written approval of the head of the agency or his or her designee. A waiver is normally granted only when the procurement is routine, and past procurements have shown no problems. Attendance at conferences or site visits may be either optional or mandatory. The issuing agency may permit attendance through teleconferencing or videoconferencing. When mandatory attendance is stipulated in the solicitation, evidence of those in attendance must be maintained by the agency and only bids or proposals from those firms represented at the conference or visiting the site will be accepted. Agencies should carefully consider whether it is absolutely necessary that bidders or offerors attend in order to understand the solicitation and submit a response to it. Such mandatory conferences and site visits can reduce competition because of vendor scheduling conflicts. In addition, no such conference or site visit can be scheduled less than ten full calendar days from the date the solicitation is issued and public notice requirements are completed. (A sample clause is in Appendix B, Section II.) Prebid or preproposal conferences scheduled during a period of suspended State business operations must be rescheduled by the purchasing agency to a date and time that will permit proper notification to all potentially interested participants. If a modification to the solicitation is required as a result of the conference or site visit, an addendum must be issued. Specific points to be considered when conducting these conferences or site visits are contained in Annex 6-E.

4.12 **Award Documents.** Award documents used by an agency will vary according to the method of solicitation. The award shall include or incorporate by reference the specifications, descriptions or scope of work, general conditions, special conditions and all other requirements contained in the solicitation, together with all written modifications and the response submitted by the contractor. The award document is to be signed and issued by an authorized official of the agency. Listed below are the types and conditions under which they are to be used.

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 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.

4.23 **Professional Services.**

- a. **Responsibility. DGS/DPS is not responsible for the procurement of professional services.** The procurement of professional services from nongovernmental sources shall be in accordance with the applicable provisions of the *VPPA*, and, for small business enhancement, in accordance with rules adopted pursuant to Executive Order 35 (2019) and § 2.2-1605(A)(6) of the *Code of Virginia*. Summary information is provided below. See agencies below for specific guidance.

<u>Service</u>	<u>Agency</u>
Architecture, Professional Engineering Landscape Architecture, Land Surveying Law	DGS/Division of Engineering and Buildings dgs.virginia.gov/engineering-and-buildings/ Attorney General's Office

4.24 **Construction.**

- c. By agreement between the Division of Engineering and Buildings (DEB), and the Division of Purchases and Supply:
 - (3) Construction procurements for work that does not require issuance of a building permit, either by DEB or the agency through the annual permit process as approved by DEB may be procured in accordance with the *APSPM* and the *VPPA*.
 - i. Upon award of a construction contract exceeding \$500,000, the contractor shall furnish a Performance Bond and a Payment Bond, each in the sum of the contract. Each such bond shall be executed by one or more surety companies which are legally authorized to do business in Virginia. Form CO-10 (03/02) Commonwealth of Virginia Standard Performance Bond, and Form CO-10.1 (03/02) Commonwealth of Virginia Standard Labor and Material Payment Bond, shall be used (Forms may be downloaded from the DGS/Division of Engineering & Buildings web site, dgs.virginia.gov/engineering-and-buildings/).

4.29 **Deleted.**

4.34 **Procurement of Outdoor Light Fixtures:**

If an agency/institution has a bona fide reason for not complying with this section, the agency/institution must submit a request for waiver from this requirement to DGS/DPS on a Procurement Exemption Request form, which can be found in Annex 13-D of this manual. Bona fide reasons for not complying include operational, temporary, safety or specific aesthetic need is indicated or that such fixtures are not cost effective over the life cycle of the fixtures.

- 5. **General.** The *Virginia Public Procurement Act (VPPA)* permits a public body to establish small purchase procedures, if adopted in writing, not requiring the use of competitive sealed bidding or competitive negotiation for single or term contracts if the aggregate or sum of all phases up to and including \$100,000; however, such small purchase procedures shall provide for competition wherever practicable (*Code of Virginia*, § 2.2-4303G). The following small purchase procedures have been established by DGS/DPS for use by state agencies and institutions when acquiring materials, supplies, equipment, printing, nonprofessional services and non transportation-related construction up to and including \$100,000 (excluding information technology and telecommunications goods and services). Procurements made pursuant to these procedures do not require public bid openings or newspaper advertising of competitively negotiated procurements. Small purchases that are expected to exceed \$10,000 shall require the posting of a public notice in eVA. Quick Quote solicitations meet the public posting requirement. For your convenience, process flowcharts for each category of small purchases have been developed and are in the annex of this chapter. Annex 5-A depicts the decision making process that will assist in determining the appropriate small purchase procedure to use up to and including \$100,000.

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

a. **Unsealed Bidding**

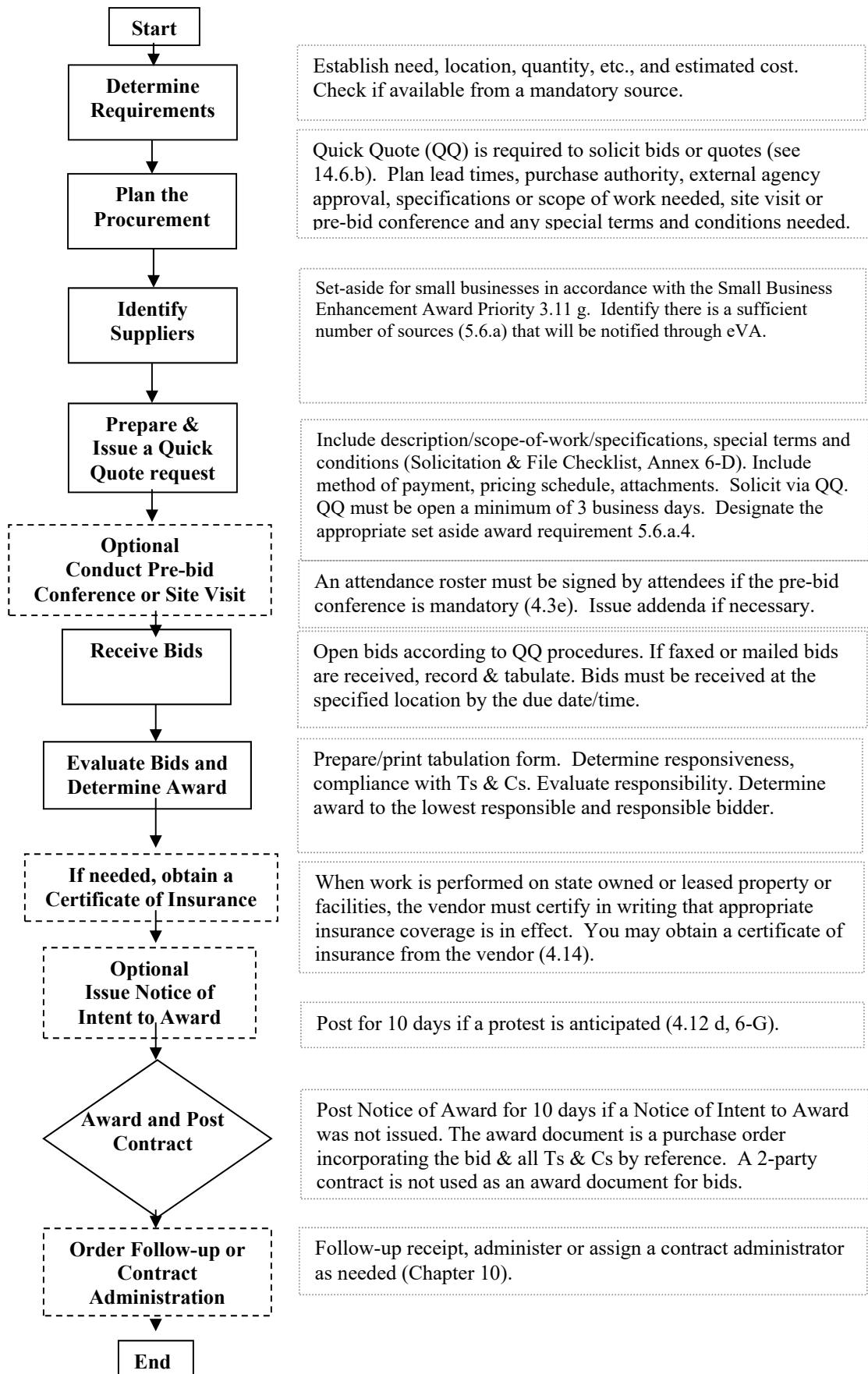
- 1. Unsealed bidding may be used in lieu of Quick Quote for complex procurements. If Quick Quote is not used, agencies shall utilize eVA to publicly post the solicitation.
- 4. Procurements over \$10,000 and up to and including \$100,000 shall be set-aside exclusively for award to DSBSD-certified small 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.
- 6. Post the contract in eVA (3.19).

b. **Unsealed Request for Proposals**

1. Goods or nonprofessional services up to and including \$100,000 may be procured using the Unsealed Request for Proposal process (see flowchart, Annex 5-F).
3. Advertise in eVA (3.19).
7. Post the contract in eVA (3.19).

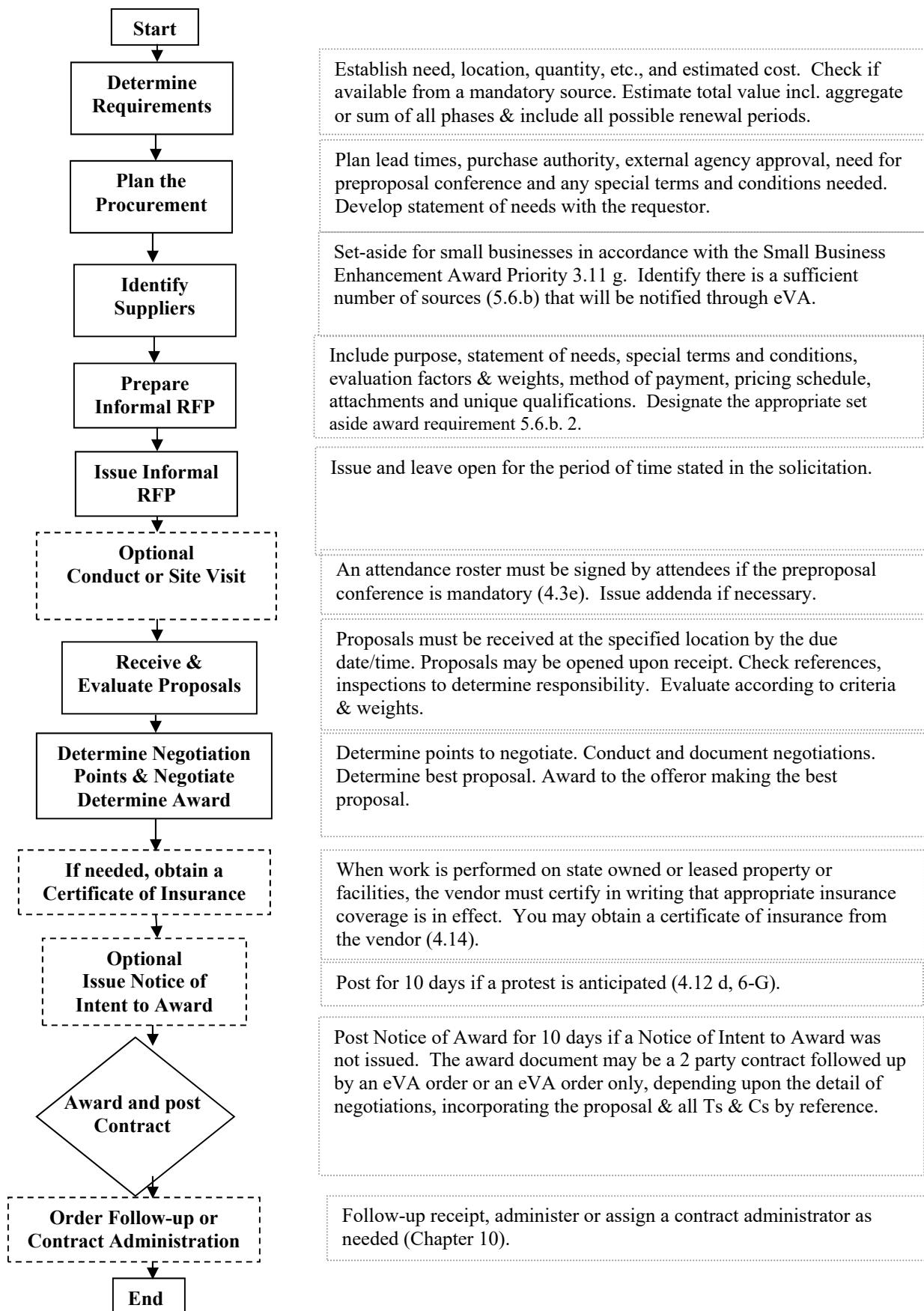
Annex 5-E

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



Annex 5-F

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



6.2 **Preparation and Issuance of IFBs.**

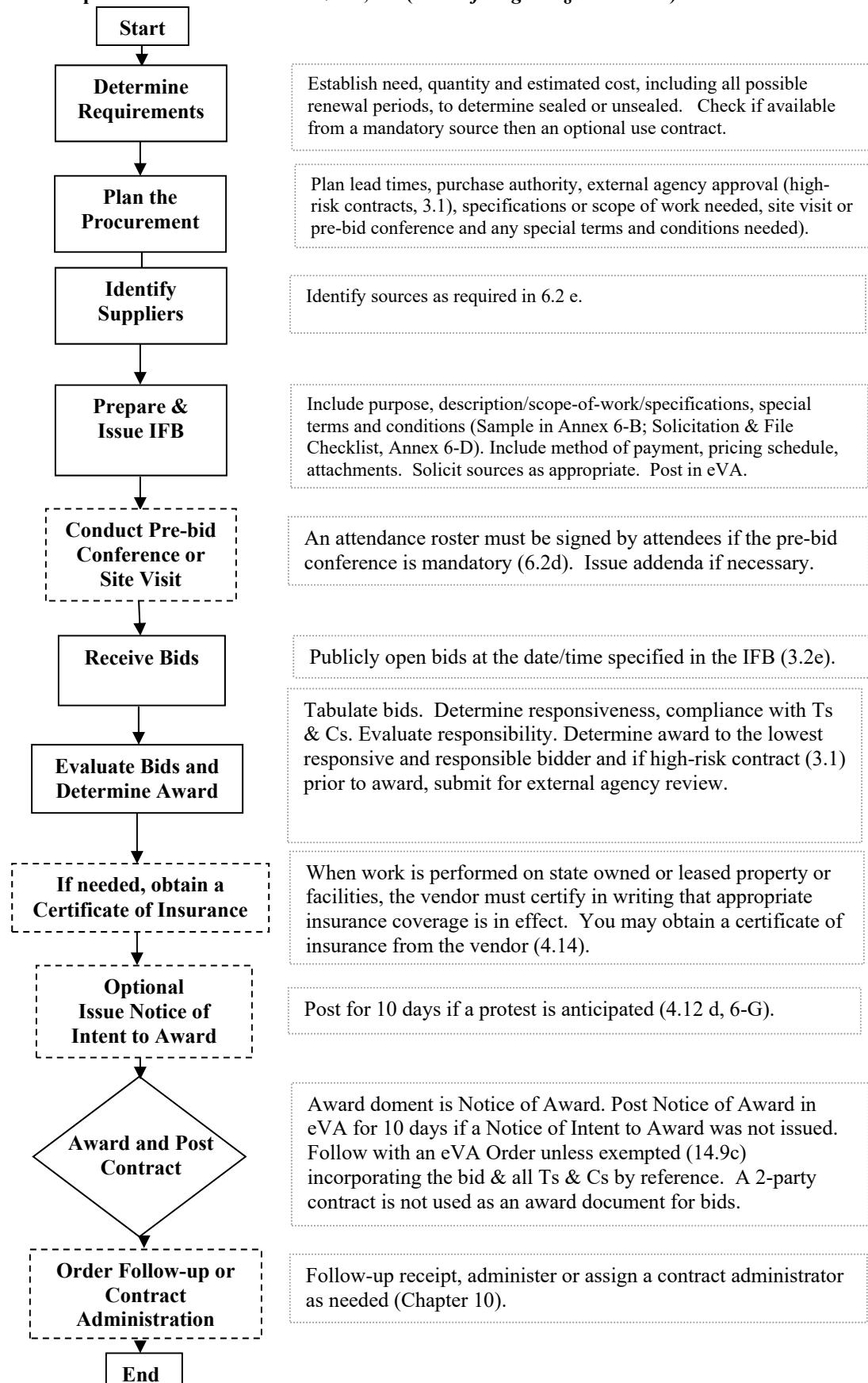
d. **Conferences/Site visits.** All prebid conferences and/or site visits shall be mentioned in both the IFB and any advertisement. If attendance at such a conference or site visit is a prerequisite for submitting a bid, the public notice period must be at least ten (10) days after issuance to provide adequate opportunity for potential bidders to obtain a copy of the IFB and attend (see 4.3e). Mandatory prebid conferences scheduled during a period of suspended State business operations should be rescheduled by the purchasing agency to a date and time which will permit proper notification to all potentially interested participants. Purchase actions requiring advertisement shall be posted in eVA (3.19). Any changes in the requirements of the solicitation must be made by written addendum (see Annex 6-F). 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, or the due date shall be extended.

i. **Sources.**

- 1) If the solicitation is over \$100,000, identify if there is a sufficient number of sources, including DSBSD-certified small businesses, which includes any woman-owned and minority-owned businesses and businesses with DSBSD service disabled veteran owned status also certified as a small business, if available, that will be notified through eVA.

Annex 6-A

Competitive Sealed Bidding Process For Goods and Non-professional Services over \$100,000 (*Code of Virginia § 2.2-4302.1*)



Annex 6-B

SAMPLE FORMAT AND STEP-BY-STEP PROCEDURES

INVITATION FOR BIDS (IFB)

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, national origin, age, disability, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment. Faith-based organizations may request that the issuing agency not include subparagraph 1.f in General Terms and Condition C. Such a request shall be in writing and explain why an exception should be made in that invitation to bid or request for proposal.

STEP FOUR:

- B. **IDENTIFY POTENTIAL SOURCES:** A sufficient number of sources must be solicited.
- C. **PUBLISH:** If a high-risk contract, submit solicitation for external agency review (see 3.1). Post in eVA. If set-aside accordance with the Small Business Enhancement Award Priority. Select “Small Business Set-Aside Award Priority” once the set-aside box has been checked.

STEP SIX:

ISSUE ADDENDUM/ADDENDA: Issue addendum/addenda to correct errors, change bid due date, or to make any needed changes that were identified during the prebid conference, site visit, etc. See Annex 6-F for sample addendum. Upload addenda in eVA (see 3.19).

STEP TEN:

POST NOTICE OF INTENT TO AWARD: Prior to award, if a high-risk contract, submit contract for external agency review (see 3.1). Post in eVA for 10 days if a protest of the award is anticipated; otherwise, issue award. See 3.19c & d, and Annex 6-G.

STEP TWELVE:

AWARD CONTRACT: Use Notice of Award (see Annex 6-H) or an eVA Order, as appropriate. Awards and contracts shall be posted on eVA (3.19).

STEP THIRTEEN:

POST AWARD: The award of a contract is the end of one phase of procurement and the beginning of another equally important phase. This latter phase is contract administration. Its purpose is to assure that the contractor's total performance is in accordance with all the terms and conditions of the contract. A contract administrator shall be assigned in writing. Any deviation from contract requirements must be brought to the attention of the contractor and immediate corrective action required (see Chapter 10).

Annex 6-D
IFB SOLICITATION AND FILE CHECKLIST

✓ IFB SOLICITATION CHECKLIST	✓ FILE CHECKLIST
<u>Approval</u> : If an approval is required, it should be obtained prior to preparing the solicitation and a copy placed in the solicitation file. Examples include: a release from Corrections to purchase a good(s) or service they produce from a commercial source, authority from the DGS/DPS for an agency to make a direct procurement in excess of its delegated purchase authority (see 1.2, 1.4 and 2.1 of this manual), high-risk contracts (see 3.1).	Special Approval
<u>Approved Request</u> : Written approval to expend funds must be included in the file.	Purchase Requisition
<u>Specifications/Scope of Work</u> : The most important part of every solicitation, the specifications or scope of work is a detailed description of what is to be procured. It establishes the quality level that is used to determine the acceptability of the goods or services delivered. The solicitation should clearly state what is wanted, where, when, and how many or how much.	
<u>Prebid Conferences/Site Visits</u> : If a prebid conference or site visit is to be held, the solicitation must state the date, time, place, and whether attendance is optional or mandatory.	Prebid sign-in sheet
<u>General Terms and Conditions</u> : The general terms and conditions or “boilerplate” must be included in every solicitation. Taxes, Use of Brand Names, and Transportation and Packaging General Terms and Conditions are not normally required for service contracts. The Insurance clause is not normally required for goods purchases.	
<u>Special Terms and Conditions</u> : Each procurement is different, and for each solicitation the special terms and conditions used should be carefully reviewed to ensure that the proper ones are included. They should be essential to the requirement, protect the interests of the Commonwealth, and assist the bidder in understanding the agency’s intent.	
<u>Method of Award</u> : The method of award must be stated in the solicitation, and be based on the requirements stated therein. If the award is based on other than line item, lot, or grand total, a pricing scenario should be included to illustrate how the low bid will be determined.	
<u>Method of Payment</u> : If payment is to be made prior to final acceptance of the service or goods to be provided, the solicitation should set forth the procedure; e.g., progress payments, partial payments, etc. The solicitation shall also identify the anticipated type of payment, e.g. SPCC, check, EDI, etc.	
<u>References</u> : If references are required, the number and type should be specified in the solicitation, and those listed should be checked.	Results of Reference Checks (if requested)

Pre-Award, Receipt & Evaluation, and Post-Award Activities:	
<u>Bidders List</u> : Solicit the required number of source per 6.2e. Note which vendors are DSBSD-certified small businesses.	Bidders List: Name, addresses of Bidders solicited
<u>Public Notice</u> : Public notice of the solicitation is required at least ten days prior to the date set for receipt of bids by posting on eVA (see 3.19).	Posted notice of solicitation from eVA
<u>Solicitation</u> : Original IFB, as issued.	Original solicitation

	<u>Addenda</u> : Any changes to the original solicitation must be made by written addendum, sent to each bidder attending a prebid conference and posted to eVA. A copy of all addenda issued must be maintained in the file.	Addenda issued and uploaded to eVA web site
	<u>Questions/Responses</u> : Answers to questions from potential bidders, which do not require a change to the solicitation, should be shared with all bidders on the bidder's list (or only those attending a mandatory prebid conference).	
	<u>Bid Opening and Evaluation</u> : Bids are closed at the date and time specified in the solicitation, then opened in public and tabulated. See 3.2e. Other factors may be used in the evaluation of the lowest responsive and responsible bidder if stipulated in the solicitation.	Bid tabulation sheet
	<u>Notice of Award or Notice of Intent to Award</u> : Prior to award, if a high-risk contract, submit contract for external agency review (see 3.1). Post a Notice of Intent to Award for 10 calendar days if a protest of the award is anticipated; otherwise, issue the Notice of Award and post for 10 days on the DGS/DPS eVA web site (see 3.19). Post the contract in eVA.	Award document
	<u>Successful Bid</u> : A copy of the successful bid is retained in the active procurement file.	Successful bid
	<u>Contract Administration</u> : If the contract requires administration by other than the buyer, those responsibilities are assigned in writing.	Contract Administrator assignment
	<u>Insurance/Licenses/References</u> : If other information was required of the contractor, these items must be retained in the procurement file.	
	<u>Unsuccessful Bids</u> : Copies of the unsuccessful bids are retained as a part of the inactive permanent record.	Unsuccessful bids

The following items should be considered when developing the solicitation:

	For BOTH Goods and Service Procurements:
	<u>Bonds</u> : For the procurement of goods or services other than construction, for any dollar amount, consider if bid, performance or payment bonds are necessary to protect the Commonwealth's interest.
	<u>Cancellation Clause</u> : If the solicitation will result in a term contract this clause should be included. This is not an appropriate clause for spot purchases (see Appendix B for sample clause).
	<u>Liquidated Damages</u> : If time and delivery are critical, it may be necessary to include a provision for liquidated damages. The basis for the amount of liquidated damages assessed must be supportable and reasonable, considering the service or goods being purchased and the impact of delay on the Commonwealth. A liquidated damages clause is <u>not</u> to be used as a penalty but as a means to access for damages which may be incurred by late delivery.
	<u>Ownership of Documents</u> : If the contract will result in the production of plans, camera ready copy, art work, or any other material that has been paid for by the Commonwealth and is required for subsequent or future production, then the appropriate special clause should be used in the solicitation to ensure ownership and retention by the Commonwealth.
	<u>Performance Period</u> : The performance period stated in the contract must include a starting and ending date, or the contract period must be for a specific period of time after a starting point; e.g., 120 days after date of award. If an option to renew the contract for an additional period is desired, the option must be stated in the solicitation.
	<u>Prompt Payment Discount</u> : If there is a certainty that payment can be made within a specified period, then a solicitation may be issued including a provision that discounts offered for prompt payment will be considered in determining the low bid. The provision should establish a minimum number of days that the agency will consider; e.g., prompt payment discounts for less than 30 days will not be considered.
	<u>Small Business Subcontracting and Evidence of Compliance</u> : Use in solicitations for goods, nonprofessional services, or non capital outlay construction when a small business subcontracting plan is a condition of the award. Required in solicitations valued over \$100,000 unless a written determination is made, signed by the chief purchasing officer and supported by factual evidence explaining in sufficient detail why no subcontracting opportunities exist.
	<u>Vendor Data Sheet</u> : If the agency wishes to check bidder's/offeror's references or to verify the bidder's/offeror's experience, the Vendor Data Sheet should be included as an attachment to the solicitation (see Annex 6-C).

7. **General.** The *Virginia Public Procurement Act (VPPA)* requires the use of competitive negotiation for the procurement of all professional services. For professional service procurement guidelines, refer to 4.23. Competitive negotiation may be the procurement method used for goods and nonprofessional services when it is not practicable or fiscally advantageous to use competitive sealed bidding. The competitive negotiation process, for the purchase of goods and nonprofessional services, is depicted in the flowchart in Annex 7-A.

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

g. Sources.

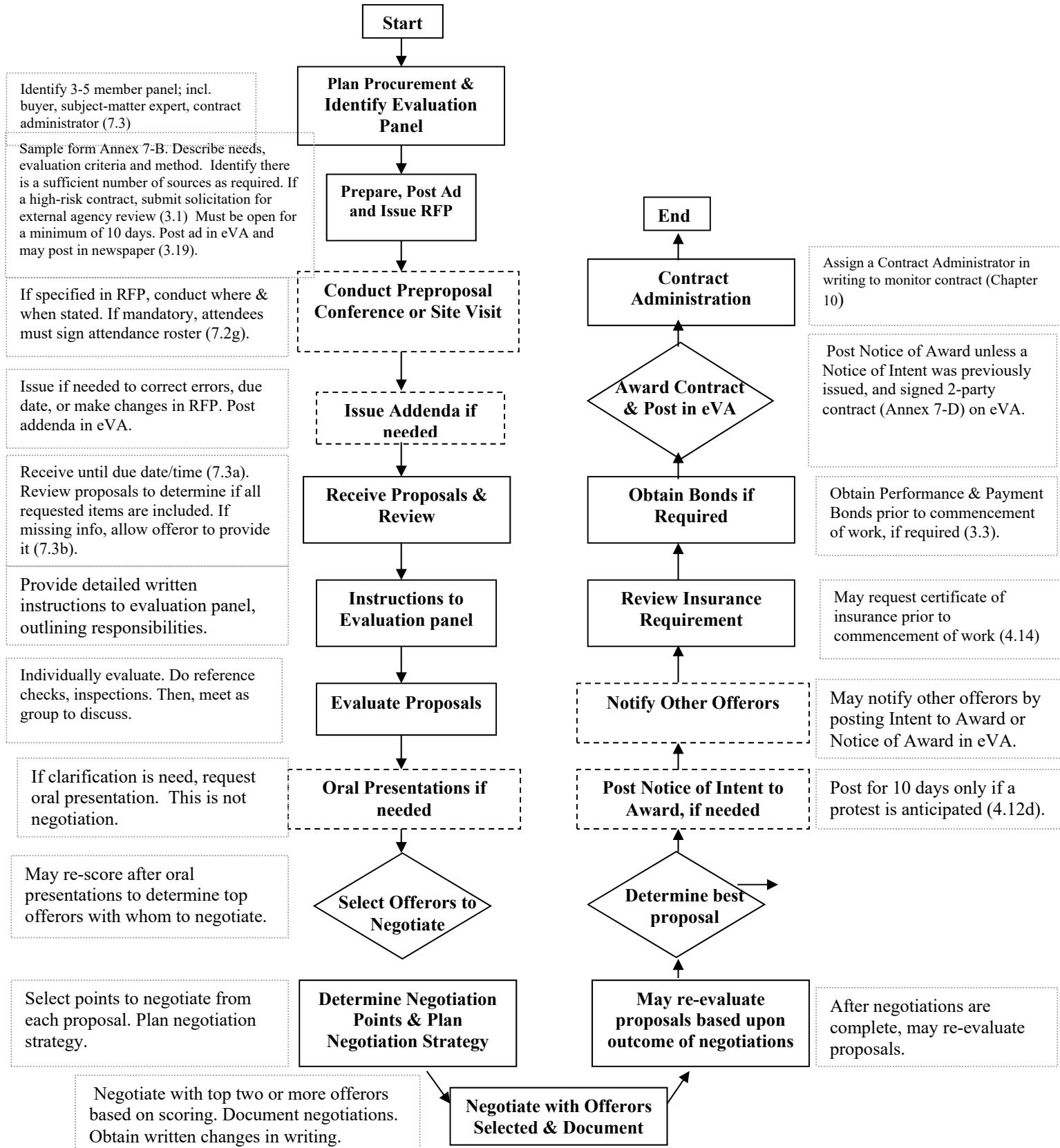
- 1) If the solicitation is over \$100,000, identify if there is a sufficient number of sources, including DSBSD-certified small businesses, which includes any woman-owned and minority-owned businesses and businesses with DSBSD service disabled veteran owned status also certified as a small business, if available, that will be notified through eVA.
- i. Purchase actions requiring advertisement shall be posted in eVA (3.19). In addition to advertising in eVA, RFPs may be advertised in a newspaper of general circulation in the area in which the contract is to be performed. The advertisement should be a brief statement about the requirement and information on how to receive a copy of the solicitation.

7.4 **Negotiation and Award.**

- e. Prior to award, if a high-risk contract, submit contract for external agency review (see 3.1). If a protest is anticipated, post a Notice of Intent to Award for 10 days; otherwise, post a Notice of Award for 10 days immediately following the actual time of award (see 3.19, Annexes 7-K and 7-L). The award documents is a standard contract (ref. 4.12.c and Annex 7-D). The standard contract shall be bilaterally signed and shall incorporate, by reference, the terms and conditions of the RFP and the contractor's proposal, together with all written modifications thereof. Post the contract in eVA.

Annex 7-A

Competitive Negotiation 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)

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, national origin, age, disability, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment. Faith-based organizations may request that the issuing agency not include subparagraph 1.f in General Terms and Condition C. Such a request shall be in writing and explain why an exception should be made in that invitation to bid or request for proposal.

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

- II. IDENTIFY POTENTIAL SOURCES: A sufficient number of sources must be solicited
- III. PUBLISH: If a high-risk contract, submit solicitation for external agency review (see 3.1). Post in eVA. If set-aside in accordance with the Small Business Enhancement Award Priority under 3.11(g). Select “Small Business Set-Aside Award Priority” once the set-aside box has been checked.

STEP 11 - SCHEDULE AND CONDUCT NEGOTIATIONS

- II. Negotiations are then conducted in accordance with the negotiation plan developed in Step 10. Care should be taken to assure that information contained in other proposals is not divulged. Multiple negotiation sessions may be required.

STEP 15 - AWARD CONTRACT

The preferred instrument of award for a competitively negotiated contract is the Standard Contract Form (see 7.4.e and Annex 7-D). A Notice of Award and the contract shall be publicly posted in eVA in accordance with 3.19.

STEP 16 - POST AWARD CONTRACT ADMINISTRATION

The award of a contract is the end of one phase of procurement and the beginning of another equally important phase. This latter phase is contract administration. Its purpose is to assure that the contractor’s total performance is in accordance with all the terms and conditions of the contract. A contract administrator shall be assigned in writing. Any deviation from contract requirements must be brought to the attention of the contractor and immediate corrective action required (see Chapter 10).

Annex 7-E
RFP SOLICITATION AND FILE CHECKLIST

✓	RFP SOLICITATION CHECKLIST	✓	FILE CHECKLIST
	<u>Approval</u> : Required approvals should be obtained prior to preparing the solicitation and a copy placed in the solicitation file. Examples include a release from Corrections to purchase a good(s) or service they produce from a commercial source, authority from the DGS/DPS for an agency to make a direct procurement in excess of its delegated purchase authority (see 1.2, 1.4 and 2.1), high-risk contracts (see 3.1).		Special Approval
	<u>Approved Request</u> : Written approval to expend funds must be included in the file. When considering the value of the procurement, include all possible renewal periods.		Purchase Requisition
	<u>Statement of Needs</u> : The Statement of Needs describes in general terms what is to be procured.		
	<u>Preproposal Conferences/Site Visits</u> : If a preproposal conference or site visit is to be held, the solicitation must state the date, time, place, and whether attendance is optional or mandatory.		Preproposal sign-in sheet
	<u>General Terms and Conditions</u> : The general terms and conditions or “boilerplate” must be included in every solicitation. Taxes, Use of Brand Names, and Transportation and Packaging General Terms and Conditions are not normally required for service contracts. The Insurance clause is not normally required for goods purchases.		
	<u>Special Terms and Conditions</u> : Each procurement is different, and for each solicitation the special terms and conditions used should be carefully reviewed to ensure that the proper ones are included. They should be essential to the requirement, protect the interests of the Commonwealth, and assist the offeror in understanding the agency’s intent.		
	<u>Evaluation Criteria</u> : The evaluation criteria must be stated in the solicitation, and be based on the requirements stated therein. Typical evaluation criteria include price, approach to the work, experience and qualifications of offerors. Indicate in the RFP whether a numerical scoring system will be used in the evaluation of the proposal. The weights assigned to each criteria must be either included in the RFP or posted prior to receipt of proposals.		Evaluation criteria weights (if not included in the RFP)
	<u>Method of Payment</u> : If payment is to be made prior to final acceptance of the service or goods to be provided, the solicitation should set forth the procedure; e.g., progress payments, partial payments, etc. The solicitation shall identify the anticipated type of payment, e.g. SPCC, check, EDI, etc.		
	<u>References</u> : If references are required, the number and type should be specified in the solicitation, and those listed should be checked.		Results of Reference Checks (if requested)

Pre-award, Receipt & Evaluation, and Post-Award		
	<u>Evaluation Committee</u> : Proposal Evaluation Committee is identified.	Names of Evaluation Committee

	<u>Offerors List:</u> Solicit a list of sources per 7.2g. Note which vendors are DSBSD-certified small businesses	Offerors List: Name, addresses of Offerors Solicited
	<u>Public Notice:</u> Public notice of the solicitation is required at least ten (10) days prior to the date set for receipt of proposals by posting in eVA and may be published in a newspaper of general circulation in the area in which the contract is to be performed. Notices may also be posted in other locations (see 3.19).	Posted notice of solicitation in eVA
	<u>Solicitation:</u> The original RFP. After the award, remove excess copies of the solicitation and keep the original RFP as issued as a permanent record in the file.	Original solicitation
	<u>Addenda:</u> Any changes to the original solicitation must be made by written addendum, sent to each offeror solicited, or each offeror who attended a mandatory preproposal conference. A copy of all addenda issued must be uploaded to the DGS/DPS eVA web site and maintained in the file.	Addenda
	<u>Questions/Responses:</u> Answers to questions from potential offerors should be shared with all offeror's who attended a mandatory preproposal conference or who were included on the list of offeror's solicited.	
	<u>Proposal Receipt:</u> Proposals are closed at the date and time specified in the solicitation. See 3.2e. There is no requirement for a public opening. Instructions are provided to the evaluation committee. Proposals are checked for missing information.	
	<u>Review Proposals:</u> Provide detailed written instructions to evaluation committee, outlining specific actions. Members review proposals against mandatory requirements. If missing required information, contact offeror. Allow opportunity for them to provide information.	Copy of each evaluation committee member's score sheet
	<u>Review Member Evaluations:</u> Schedule conferences as appropriate or necessary. Conduct reference checks and inspections as required.	
	<u>Oral Presentations:</u> Schedule oral presentations if they are necessary to clarify any ambiguities or omissions in the proposals.	
	<u>Proposal Evaluation:</u> Individual evaluations are prepared and proposals are evaluated based upon the evaluation criteria and weights.	
	<u>Select Offerors and Determine Issues to Negotiate:</u> The committee will decide who to negotiate with based upon the logical division in the point spread as determined by the points received on the evaluation score sheets. The issues to negotiate will be determined by the evaluation committee.	
	<u>Schedule and Conduct Negotiation:</u> A record is maintained of the negotiations with each offeror so selected.	Documentation of negotiations.
	<u>Best and Final Offers:</u> If it is planned for Best and Final Offers (BAFO's) to be considered from offerors, then this provision must be made a part of the RFP. If the responses have been scored and a BAFO is received after negotiations, then the affected and previously scored proposal will be rescored with the new information contained in the BAFO being considered. No further negotiation shall take place with offerors providing BAFO's. The offeror who has made the best proposal is given the award.	Best and final offers (if requested in the RFP)

	<u>Review Insurance Requirement or other Requirements:</u> If insurance is required in RFP, the agency has the option to request the insurance certificate prior to commencement of work.	
	<u>Notice of Award or Notice of Intent to Award:</u> Prior to award, if a high-risk contract, submit contract for external agency review (see 3.1). Post a Notice of Intent to Award for 10 days in eVA if a protest of the award is anticipated; otherwise, issue the Notice of Award.	Notice of Award
	<u>Bonds:</u> Obtain Performance and payment Bonds prior to commencement of work, if required in the RFP.	
	<u>Successful Proposal:</u> A copy of the successful proposal is retained in the active procurement file.	Successful proposal
	<u>Contract:</u> A standard two-party contract is typically used for negotiated procurements. Be sure to include by reference, all of the terms and conditions of solicitation, and the RFP as may have been changed through subsequent negotiation. Post contract in eVA.	Copy of the contract
	<u>Contract Administration:</u> If the contract requires administration by other than the buyer, those responsibilities are assigned in writing.	Contract Administrator assignment
	<u>Licenses/References:</u> If other information was required of the contractor, these items must be retained in the procurement file.	Licenses, References
	<u>Unsuccessful Proposals:</u> A copy of the unsuccessful proposals is retained as a part of the inactive permanent record.	Unsuccessful proposals
	<u>Post-Award Correspondence:</u> All post- award correspondence should be maintained in the procurement file.	

8.1 **Approval for Sole Source Procurements**

b. **From \$10,000.01 up to and including \$50,000.** All sole source procurements for non-technology goods and services up to and including \$50,000 must be approved in advance by the agency head or designee, which shall be the chief purchasing officer or a direct report to the agency head [see 1.2e (2)]. The written determination, using the Sole Source Procurement Approval Request form in Annex 8-C, documenting that there is only one source practicably available for that which is to be procured, must be included in the procurement file. In addition, a memorandum must be attached to the request which addresses the four points shown in this section 8.1.c. The writing shall document the basis for the determination, which should include any market analysis conducted in order to ensure that the good or service required was practicably available from only one source. Agency employees having official responsibility with the procurement must complete a Public Procurement Ethics and Conflict of Interest Agreement (Annex 8-G). They should also be provided a copy of VPPA, Article 6. Ethics in Public Contracting.

c. **Procurements Over \$50,000.** Unless otherwise authorized in this chapter, sole source procurements for non-technology goods and services over \$50,000 must be approved by DGS/DPS prior to commencement of the actual procurement using the Sole Source Procurement Approval Request form found in Annex 8-C which must be signed by the agency head or designee, who shall be a direct report to the agency head. [see 1.2e(2)]. Sole source procurements that originally included a renewal provision, for which approval for multi- years was obtained, do not need to be forwarded for approval until expiration of the term for which approval was obtained. Agency employees having official 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 in Public Procurement. In addition, a memorandum must accompany the request form, which addresses the following four points:

8.4 **Posting Requirements.** Prior to award, submit contract for external agency review (if high risk contract, see 3.1) All sole source procurement award notices shall be posted on eVA (*Code of Virginia*, § 2.2-4303) and at a minimum state that only one source was determined to be practicably available and must also state that which is being procured, the contractor selected, and the date on which the contract was or will be awarded (see 3.19). Public award notices may be posted at locations in addition to posting on eVA, at the discretion of the entity (public posting notice board, entity website, newspaper, etc.) but if posted in additional locations, the form in Annex 8-E should be used. The contract must also be posted.

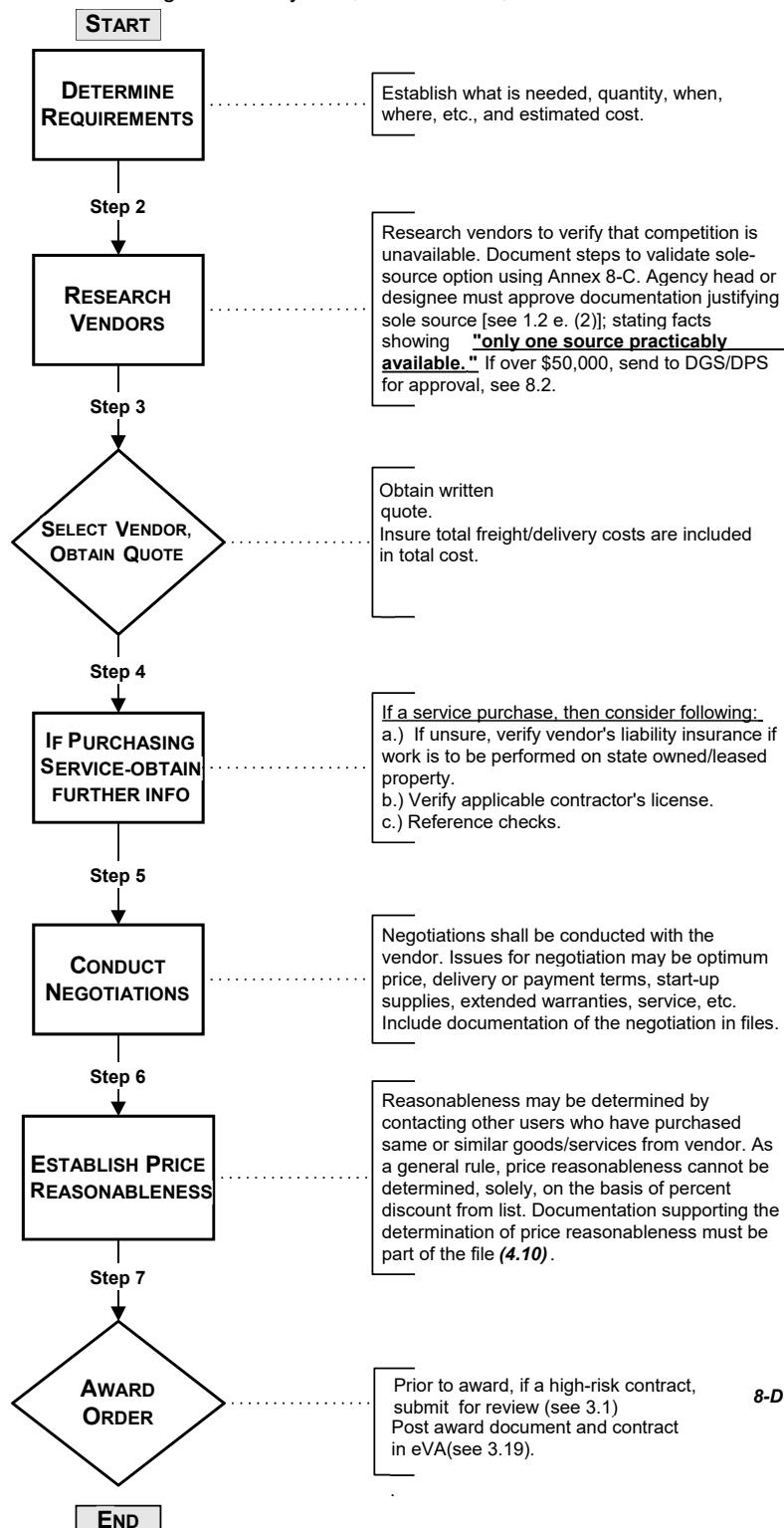
8.5 **Award Document.** Agencies must issue an award document (PO or contract) for sole source purchases in accordance with the provisions of Chapter 14. When a quote has been obtained from the vendor and no further negotiations are needed, a purchase order is acceptable. When complicated negotiations have been involved, it may be in the agency's best interest to use the Commonwealth of Virginia Standard Contract form found in Annex 8-D. Post awarded contract in eVA.

8.6 **Legislatively Directed Contract Awards.** If an appropriation of funds by the General Assembly specifies a particular entity from which the agency administering such funds is to procure goods or nonprofessional services, the agency administering such funds may utilize the sole source method of procurement, based on the agency's determination that the General Assembly has authorized award solely to that entity, and that there is therefore only one source practicably available for that which is to be procured. If the entity to receive the contract is a charitable institution, the determination approved by the agency head or designee must include a determination that the compensation to be paid to the entity is no more than the fair and reasonable value of the goods or services being purchased from the entity. For such legislatively-directed contract awards, the "Sole Source Procurement Approval Request" form set out in Annex 8-C and the associated approval by DGS/DPS are not required; however, the agency's determination on the points specified in this Section 8.6 must be approved in advance and in writing by the head of the agency administering such funds, or by the agency head's designee, who shall be a direct report to the agency head, prior to commencement of the actual procurement, and a notice of award as specified in § 2.2-4303(E), *Code of Virginia*, must be posted in eVA.

Annex 8-A

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

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



Annex 8-B

SOLE SOURCE CHECKLIST

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

9.1 **Types of Emergency Procurements.** The nature of the emergency will determine what pre-award action may be taken:

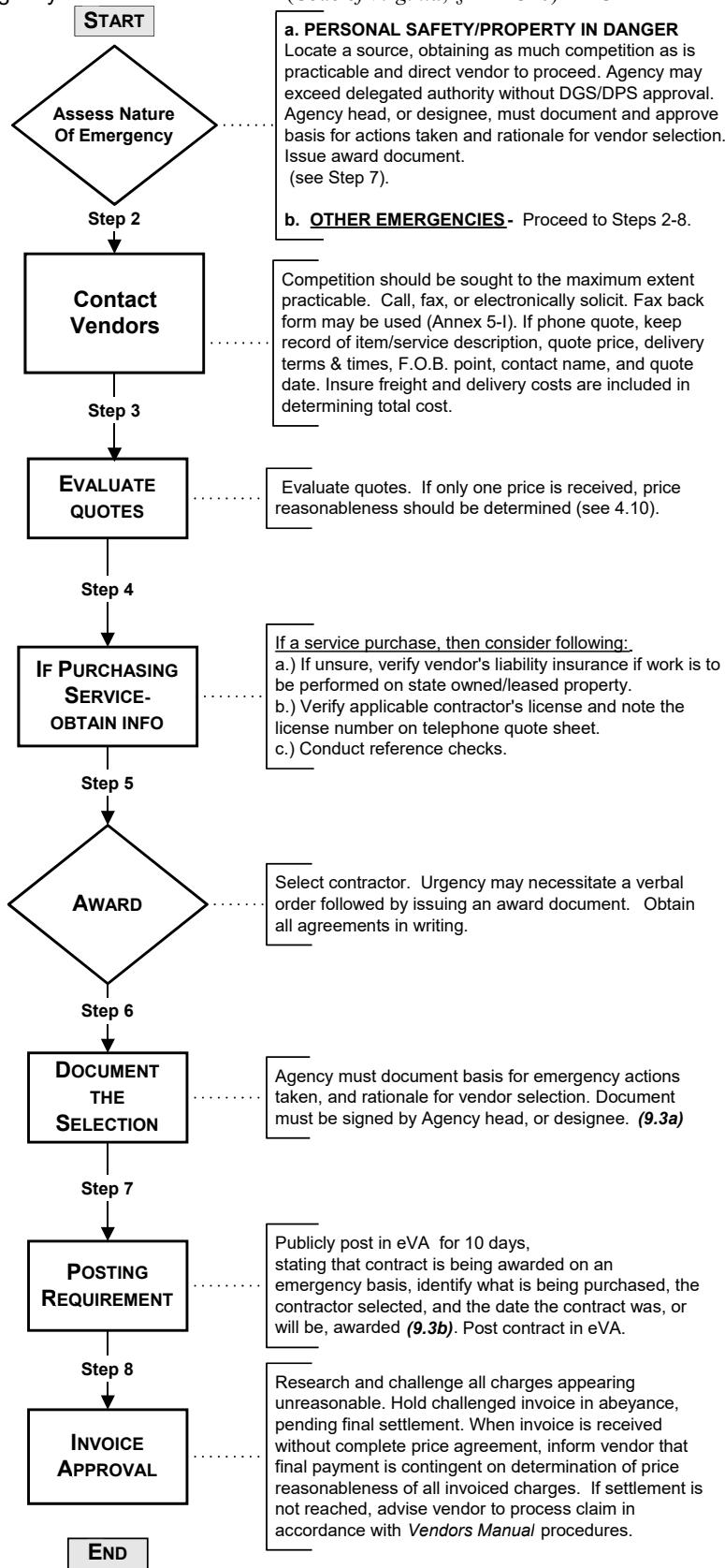
- b. For other types of emergencies, competition should also be sought to the maximum extent practicable. Vendor's qualifications may be checked and verification of insurance coverage, if applicable, information on warranty offered, and any other data pertinent to the procurement. An agency may procure materials, equipment or supplies above its delegated authority with the advance written approval of DGS/DPS. The Procurement Exemption Request form in Annex 13-D should be used for this purpose.

9.3 **Documentation.**

- b. **Posting Requirements.** Issue, post and/or publish required written notice. All emergency notices shall be posted in eVA and at a minimum state that the procurement has been declared an emergency and must also state that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. Notice may also be published in the newspaper (*Code of Virginia*, 2.2-4303). The contract must also be posted, see 3.19 for further guidance and www.eva.virginia.gov for instructions for uploading procurement notices. See Annex 9-B for the proper form for internal posting, if desired.

Annex 9-A

Emergency Procurement Process (*Code of Virginia, § 2.2-4310*) for Goods and Services



10.19 **Termination for Default and Reprocurement Costs.** Upon the expiration of the time period stated in the “Notice to Cure,” if a satisfactory resolution has not been reached, send the contractor a Termination for Default letter and take repurchase action. This letter states that the contract is being terminated for default and that when the Commonwealth repurchases the goods or services, any additional cost to the Commonwealth will be billed to the contractor (see sample Default letter, Annex 10-J). Normally repurchase should be by competitive means in order to secure a fair and reasonable price. If the repurchase results in increased costs to the Commonwealth, a letter shall be sent to the delinquent contractor demanding payment of the excess costs (see sample request for payment letter, Annex 10-K). In no case should the Termination for Default letter be held up to obtain repurchase costs since the contractor still has a valid contract until notification. If repayment has not been made by the end of the specified period of time, subsequent collection action shall be taken in accordance with the Office of Attorney General’s Collection Procedure Guidelines and debar proceedings may be instigated (Vendors Manual 7.20.p).

Annexes 10 -I, 10-J, 10-K, and 10-L:

NOTICE TO USERS

The following four letters are sample Cure, Default, Request for Payment, and Default and Request for Payment letters. Revise them as appropriate. For complex dispute situations, contact your attorney advisor.

Annex 10-I

CURE LETTER (Agency Letterhead)

(May be done orally or in writing.)

Date

Contractor's Name and Address

Subject: Notice of Contract Deficiency and Required Action

Dear _____:

As substantiated by the submission of a Procurement Complaint Form, you have failed to meet the requirement(s), i.e., *(delivery), (specifications), (performance standards), etc. on P.O. (or Contract) _____ dated _____. You are to satisfy this deficiency within _____ days of the date of this letter or be terminated for default and reprocurement action taken under paragraph 7.14 of the *Vendors Manual*.

Sincerely,

Contract Officer/Contract Administrator
Telephone No. (____) _____

c: DGS/DPS Contract Compliance Section

* Choose appropriate condition.

Annex 10-J

DEFAULT LETTER (Agency Letterhead)

Date

Contractor's Name and Address

Subject: Notice of Termination for Default on (Title and Number of the Purchase Order or Contract in Default)

Dear _____:

Reference is made to our submission of a Procurement Complaint Form and * (Notice of Contract Deficiency and Required Action Letter) or (telephone conversation) this date between (Name of Vendor Representative) and (the undersigned) or (Name of DGS/DPS Contract Compliance Officer).

This is to advise that your firm has been placed in default and referenced * (purchase order), (contract) has been terminated for failure to take corrective action within the specified time as referenced above. The Commonwealth will repurchase the specified * (goods), (services). You will be promptly notified of any additional purchase or administrative costs for which you become liable as a result of this default.

Sincerely,

Contract Officer/Contract Administrator
Telephone No. ()

c: DGS/DPS Contract Compliance Section

* Choose appropriate condition.

Note: If this letter is used, follow up with Request for Payment (Annex 10-K) if additional repurchase costs are incurred.

Annex 10-K

REQUEST FOR PAYMENT LETTER (Agency Letterhead)

Date

Contractor's Name and Address

Subject: Repurchase Costs Against (Purchase Order No./Contract No. _____)

Dear _____:

Reference is made to our letter dated _____, subject: Notice of Termination For Default. The specified * (goods), (services) have been repurchased at an additional cost to the Commonwealth of \$ _____. Your firm is indebted to the Commonwealth in the amount of \$ _____ and is requested to submit a check to this office payable to the Treasurer, Commonwealth of Virginia. If the payment is not received within 60 days, we will initiate collection action and proceed with a recommendation of debarment as stated in paragraph 7.20 of the *Vendors Manual*.

Sincerely,

Contract Officer/Contract Administrator
Telephone No. ()

c: DGS/DPS Contract Compliance Section

* Choose appropriate condition.

Annex 10-L

DEFAULT AND REQUEST FOR PAYMENT LETTER
(Agency Letterhead)

Date

Contractor's Name and Address

Subject: Notice of Termination for Default on (Title and Number of the Purchase Order or Contract in Default)

Dear _____:

Reference is made to * (your letter dated _____), (our telephone conversation (s) of _____), (Procurement Complaint Form), (Notice of Contract Deficiency and Required Action Letter) concerning your firm's * (refusal), (inability), to honor the terms and conditions on the referenced * (purchase order), (contract) above.

This is to advise that your firm has been placed in default and referenced * (purchase order, contract) has been terminated for failure to take corrective action within the time specified as referenced above. The specified * (goods), (services) have been repurchased at an additional cost to the Commonwealth of \$_____. Your firm is indebted to the Commonwealth in the amount of \$_____ and is requested to submit a check to this office payable to the Treasurer, Commonwealth of Virginia. If payment is not received within 60 days, we will initiate collection action and proceed with a recommendation of debarment as stated in paragraph 7.20 of the *Vendors Manual*.

Sincerely,

Contract Officer/Contract Administrator
Phone (____)

c: DGS/DPS Contract Compliance Section

* Choose appropriate condition.

11.4 **Alternative Dispute Resolution (ADR)**

- a. Alternative Dispute Resolution is designed to increase the opportunity for relatively inexpensive and expeditious resolution of contract disputes resulting in a contractual claim. If an agency's final decision denying a contractual claim is challenged, the contractor and the agency are encouraged to resolve the dispute through the informal ADR process described below. However, participating in the ADR process does not relieve the contractor from complying with the filing deadlines for claims listed in 11.3, and does not imply that the agency's previously-issued decision is suspended or no longer final.
- c. No obligation to negotiate or continue negotiating shall be inferred from this paragraph 11.4 or from the parties' agreement to use ADR, and each party shall remain free to discontinue ADR at any time. No agreement shall be deemed to arise from any communication during the ADR process, unless the agreement is reduced to writing and signed by duly-authorized representatives of both parties. Any settlement or compromise of claim must be approved by the Agency's counsel at the Office of the Attorney General.

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

- b. **Other Agency Authority and Responsibility.**

2. **Real Property.** Management of real property land, buildings, and/or other improvements is managed by the DGS, Division of Real Estate and Facilities Management (DREFM), and sale or disposal shall be through them.

13.4 **Specifications/Purchase Descriptions.** For examples of specifications and solicitations refer to <https://mvendor.cgieva.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/>.

14.6 **Competitive Requirements.**

- b. **Sourcing:** eVA advanced sourcing tools shall be used for all solicitations over \$10,000 requiring competition. Use the appropriate eVA advanced sourcing tool to conduct procurements in compliance with APSPM Chapters 5-9.

Unsealed Bidding: Quick Quote is the preferred sourcing tool for unsealed bidding.

Unsealed Request for Proposals: Agencies shall utilize eVA advanced sourcing tools.

Sourcing over \$100,000

Agencies shall utilize eVA advanced sourcing tools.

- c. **Posting on eVA:** Posting on eVA meets the public posting requirements set forth in 3.19.
 - i. All Quick Quotes, Invitations to Bid, Requests for Proposal, Addenda, awarded contracts and modifications are publicly posted on eVA using the advanced sourcing tools (14.6.b).
 - ii. All sole source award notices and emergency award notices shall be posted on eVA.
 - iii. Each agency and institution shall post on the eVA home page under the "Future Procurements" link any government-to-government purchases for services over \$25,000 that appears on the Commercial Activities List provided by the Department of Planning and Budget. The posting requirement does not apply to Mandatory Sources, central services state agencies, activities operated by an Internal Service Fund or purchases from Institutions of Higher Education.
 - iv. Each agency and institution shall post on eVA the solicitation/opportunity for receipt of proposals/applications to receive grant awards/funds. The posting shall be designated as "Grant Opportunity".
 - v. Conceptual proposals submitted in accordance with PPEA § 56-575.17 or PPTA § 33.2-1820 shall be posted on eVA.

e. **Contract Management –**

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

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

- a. All purchase transactions, regardless of funding source, shall be processed through eVA by issuing the order to the vendor including purchases to mandatory sources (VCE, VDC, and VIB); and coding the requisition with the appropriate purchase order category ending in “1” (e.g., R01, P01, VR1, VP1, etc.)

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 must be placed in eVA within five (5) business days after directing the contractor to proceed. This includes orders imported to eVA from ERPs (enterprise resource planning systems).

- b. eVA Fees. Agencies and vendors shall pay eVA fees as set forth on the eVA Fee Schedule published on the eVA billing portal. The eVA Fee Schedule is defined as a listing of eVA transaction fees (eVA fees) that are assessed to eVA users, including Vendors. The eVA Fee Schedule is published on the eVA website. Each fee set forth on the eVA Fee Schedule is effective dated so eVA users, including Vendors, can determine the appropriate fee by cross referencing a fee’s effective date to the date of the activity for which the fee is assessed.
- c. For Agencies authorized to use Enterprise Resource Planning Systems (ERPs), any ERP order provided to vendors in lieu of or in advance of a corresponding eVA order, shall include the standard eVA order term and condition. See Annex 14-A.
- d. The following transactions shall be processed through eVA by issuing the order to the vendor and coding the requisition with the X02 purchase order category.

Use of eVA is mandatory to enhance transaction transparency, analysis and reporting.

6. Goods or personal services for direct use by the recipients of programs specified in the *Code of Virginia*, § 2.2-4345, if the procurement is made for an individual recipient. This does not apply to contracts and/or spot purchases for the bulk procurement of goods or services for the use of recipients.
7. Medical or Dental Services when provided by any individual or organization licensed and authorized by law to engage in the prevention, diagnosis, or treatment of human illness, injury, condition, disability, mental health disorder, or substance use disorder. This does not include contracts and purchase orders between the agency or institution and temporary service providers or independent laboratory testing companies.
8. Purchases of Pharmaceuticals, Vaccines, and University Oral Contraceptives MMCAP Contract Products, as categorized by MMCAP, within the Pharmacy Program or Influenza Vaccine Program under MMCAP Pharmaceutical Wholesaler Distribution Services Contracts are exempt. This does not include purchases of Non-Pharmaceuticals within the Pharmacy Program or MMCAP Contract Products under other MMCAP programs not mentioned above (ex. Medical Supplies).
9. Revenue contracts, (e.g., scrap, recycling) or contracts with \$0 payment made by the Commonwealth, (e.g., contracted out Bookstore, Food service operations).

16. Deleted.

- e. 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).

14.15 **Procurements set-aside in accordance with the Small Business Enhancement Award Priority (3.11g):** Shall follow the guidance in Chapters 5, 6 and 7 for advertising in eVA.

APPENDIX A

GLOSSARY AND ACRONYMS

Contract: When used as a noun in this Manual, contract refers to an agreement enforceable by law, between two or more competent parties, to do or not to do something, not prohibited by law, for a consideration. A contract is any type of written agreement or purchase order for the procurement of goods or services. A contract shall include the specifications, descriptions or scope of work, general conditions, special conditions and all other requirements contained in the solicitation together with all written modifications and the vendor's response. As a verb, contract has its usual legal sense, signifying the making of an agreement for consideration.

APPENDIX B

SECTION I

REQUIRED GENERAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

These General Terms and Conditions are required for use in written solicitations issued by state agencies for procurements that are subject to this manual unless changed, deleted or revised by the legal advisor to your agency. You should edit the wording to fit the type of solicitation (IFB or RFP) by either deleting or lining out the inappropriate words in all parentheses. For service contracts clauses, Q, R, and S are normally not applicable and may be omitted. For goods contracts, omit clause T. For goods and services contracts, a written determination must be made in order to omit subparagraph 1.f of clause C ("ANTI-DISCRIMINATION") see 3.13.c.

T. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all coverage will be provided by companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

U. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice in eVA (www.eva.virginia.gov) for a minimum of 10 days.

SECTION II

SPECIAL TERMS AND CONDITIONS GOODS AND NONPROFESSIONAL SERVICES

35. **SAFETY DATA SHEETS:** Safety Data Sheets and descriptive literature shall be provided with the bid/proposal for each chemical and/or compound offered. Failure on the part of the bidder/offeror to submit such data sheets may be cause for declaring the bid/proposal as nonresponsive/eliminated from further consideration.

40. **PERFORMANCE AND PAYMENT BONDS:**

* **When Used:** Must be used in all solicitations for construction which exceed \$100,000, but may be for construction, goods and services for less than \$100,000. (Forms may be downloaded from the DGS/Division of Engineering & Buildings web site, dgs.virginia.gov/engineering-and-buildings/).

58. **EMPLOYMENT SERVICES ORGANIZATIONS (ESO):**

A. Where it is practicable for any portion of the awarded contract to be subcontracted, the contractor is encouraged to offer such business to employment services organizations. A list of employment services organizations can be found at www.vadars.org or www.eva.virginia.gov.

67. **ENERGY-EFFICIENT AND WATER-EFFICIENT GOODS:** When an agency or institution receives two or more bids for products that are Energy Star certified, meet the Federal Energy Management Program (FEMP) designated efficiency requirements, appear on FEMP's Low Standby Power Product List; or are WaterSense certified, the agency or institution shall only select among those bids.

***When used: In all solicitations for goods.**

APPENDIX C
PROCUREMENT INFORMATION MEMORANDUM (PIM)
RECORD OF CHANGES

98-039	Adds requirement for posting contracts and modifications in eVA, clarifies when to do change order, mandates the use of the Procurement Exemption Request for unless it is an emergency, add section on Energy-Efficient and Water-Efficient Goods, updates Quick Quote, VBO and Sourcing & Contracting language throughout the manual, updates all sections regarding assessment of fees, updates policy and terms regarding Insurance, Announcement of Award, Safety Data Sheets, Performance and Payment Bonds, Employment Services Organizations (ESO) and adds Special Term Energy-Efficient and Water-Efficient Goods	06/28/21	
--------	---	----------	--