

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HUMAN RESOURCE MANAGEMENT**

**REQUEST FOR PROPOSALS
FOR
EXECUTIVE SEARCH CONSULTING SERVICES
DHRM20-01**

June 14, 2019

**REQUEST FOR PROPOSALS
(RFP)**

ISSUE DATE: June 14, 2019
RFP NO. DHRM20-01
TITLE: Executive Search Consulting Services
ISSUING AGENCY: Commonwealth of Virginia
Department of Human Resource Management
James Monroe Building, 12th Floor
101 North 14th Street
Richmond, Virginia 23219

AUTHORIZED AGENCIES: The resulting contract will be available for all state and local agencies of the Commonwealth of Virginia

PERIOD OF CONTRACT: From September 1, 2019 through August 31, 2022, with three one-year renewal options.

Sealed proposals for furnishing services described herein will be received subject to the conditions cited herein until 2:00 p.m. July 1, 2019.

All Inquiries Must Be In Writing And Should Be Directed To:
Mr. Todd Hopkins
Department of Human Resource Management
James Monroe Building, 13th Floor
101 North 14th Street
Richmond, Virginia 23219
Phone Number: 804-371-0430

SEND ALL PROPOSALS DIRECTLY TO THE ISSUING AGENCY ADDRESS SHOWN ABOVE.

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 11-35.1 or against an offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

In compliance with this Request for Proposals, and to all the conditions imposed therein and hereby incorporated by reference, the undersigned offers and agrees to furnish materials and services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation.

Name and Address of Firm:

_____	Date: _____
_____	By: _____ (PRINTED NAME)
_____	_____
_____	(SIGNATURE IN INK)
_____ Zip Code: _____	Name: _____ (PLEASE PRINT)
Fax Number: (____) _____	Title: _____
E-mail Address: _____	Telephone Number: (____) _____
eVA Vendor ID or DUNS #: _____	

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I. PURPOSE

The purpose of this Request for Proposals (RFP) issued by the Commonwealth of Virginia's Department of Human Resource Management is to establish an optional use contract through competitive negotiation. The selected firms will provide Executive Search Consulting Services to search and locate candidates for senior-level, executive-level, and highly specialized/skilled positions as well as lead and drive the hiring process of the most effective candidates for defined positions for the Commonwealth of Virginia.

The resulting agreement will be utilized by the Department of Human Resource Management and other agencies to assist with establishing a job description, search criteria, reviewing candidate's qualifications, interviewing candidates and making further and related recruitment and hiring recommendations to the designated Commonwealth personnel. The Commonwealth intends to award contracts to more than one offeror for these services.

II. BACKGROUND

In March 2009, the Commonwealth entered into its first contractual relationship with consulting firms to provide executive recruiting services. Prior to 2009, various state entities procured services on an as needed basis. A listing of recruitments conducted under this earlier contract is provided in Attachment E. This contract will facilitate the Commonwealth's goal of providing highly qualified executive staff.

III. STATEMENT OF NEEDS

- A. **General:** This Section describes the Commonwealth's requested services and areas to be addressed in the Offeror's proposal. Please note the utilization of the words "shall" or "must" indicates a mandatory requirement. The Contractor shall perform the following activities in whole (or in part) upon direct written request. All services and work product is subject to the approval of the Commonwealth in its sole discretion:
1. **Develop an Understanding of the Need:** The Contractor shall meet with the appropriate Commonwealth management and staff within one (1) week of the contracted services to understand requirements for the position, benefits package, salary expectations, and onboarding. This will include qualifications such as professional credentials, personal characteristics, and any other information deemed relevant to the search.
 2. **Evaluate Employee Position Description:** The Contractor shall meet with the appropriate Commonwealth management and staff within (3) weeks of the contracted services to evaluate the current position description and offer appropriate recommendations to develop a complete position description, define key criteria, required job skills, and qualifications to be used in the search. This evaluation should also include a review of the salaries. The Contractor shall also prepare the finalized position description.
 3. **Advertise/Solicit Candidates:** The Contractor shall create effective job advertisements in accordance with the finalized position description. The Contractor shall advertise, market, source, and recruit for positions using relevant and appropriate job candidate sources, including sources that identify and reach passive candidates. This should include using sources beyond public advertising and the existing pool of candidates on file with the Commonwealth and/or search firm. The Contractor shall develop marketing materials and plan and utilize social media and other methods to source candidates. Positions should be posted within 4 weeks of contracted services or a date specified by Commonwealth management and staff.

4. **Job Application Software:** If requested, the Contractor shall use the Commonwealth of Virginia online Recruitment Management System (RMS) for employment applications and to monitor key metrics. <https://virginiajobs.peopleadmin.com/>. The Contractor may use another mutually agreed upon online employment system and provide key metrics to Commonwealth management and staff.
5. **Identify Qualified Candidates:** The Contractor will review, interview, screen and otherwise evaluate candidates and provide a list of finalists to be considered, reviewed and interviewed by Commonwealth's management and staff. The qualifications of the selected finalists shall meet or exceed the position requirements and be consistent with those described or determined by the Commonwealth. The Contractor shall provide all standard communication, correspondence and notifications to the candidates, to be approved in advance in writing by the Commonwealth management and staff.
6. **Define Candidates Strengths/Weaknesses and Select Interview Candidates:** The Contractor shall evaluate candidates to obtain a thorough understanding of their accomplishments, capabilities, and potential to contribute to the position and the organization. The Contractor shall provide a comprehensive report within fifteen (15) days of the closing date describing past work experiences and education, etc., of all candidates deemed as semifinalist to present to Commonwealth management and staff. If requested, the Contractor shall conduct pre-screening reference checks and interviews.
7. **Interviews:** The Contractor shall develop and provide appropriate interview materials including questions, rating scales, guides, and packages for agency use in the interview process.
8. **Conduct Reference Checks on Successful Candidates:** The Contractor shall verify education, work experience, professional licenses and certifications prior to the interview process. If requested, the Contractor shall conduct professional references prior to any interview process.
9. **Conduct Background Checks on Successful Candidates:** The Contractor shall conduct thorough background investigation of the finalist, if needed at the request of the Commonwealth. The specific background checks will be in accordance with the Commonwealth's or hiring authorities Human Resource policies and procedures and include recommendations of the Contractor. Background investigations will meet any applicable local, state, or federal laws and regulations.
10. **Negotiations:** The Contractor will assist with final negotiations for terms of employment. Provide recommendations regarding any items and/or issues that the Commonwealth should consider to assure a successful search.
11. **Confidentiality:** The Contractor shall perform all work in a confidential manner and report only to the authorizing agencies' personnel.
12. **Second Search:** The Contractor shall conduct a second search at no additional cost to the Commonwealth if within six (6) months the selected candidate is terminated for reasons involving performance, competency and/or "organizational fit."
13. **Media Communications:** The Contractor shall communicate with the press verbally and/or in writing only after having received written instructions and/or permission from the Commonwealth designated representative from the hiring agency.
14. **Additional Services:** Perform additional, related search and recruitment services as agreed between the parties.

15. **Expenses:** All travel related expenses shall be in accordance with rates set by the Commonwealth of Virginia, Department of Accounts Travel Guidelines.

B. The Commonwealth shall provide:

1. Desired job criteria, skills, qualifications and other related material that is pertinent to the search and recruitment action. See Statement of Needs III A. 1. Job skills and qualifications are described there that the contractor will meet with the Commonwealth to develop.
2. The designated representative to act as the Contractor's primary point of contact for each specific search and recruitment action.

IV. PROPOSAL PREPARATION & SUBMISSION REQUIREMENTS

A. GENERAL REQUIREMENTS

1. RFP Response:

In order to be considered for selection, Offerors must submit a complete response to the RFP. One (1) hardcopy original, so marked, (6) electronic copies each on separate CDs or Flash Drives, and (1) redacted version in both hard copy and electronic format on a CD or Flash Drive, must be submitted to the Issuing Agency. No other distribution of the proposal shall be made by the Offeror. A redacted version should include everything in the "original" submission with the exception of items protected as allowed in §2.2-4342. If offeror chooses not to "redact" information, a redacted version must be provided and labeled appropriately.

2. Proposal Preparation:

a. Responsiveness

Proposals shall be signed by an authorized representative of the Offeror. All information requested should be submitted. Failure to submit all information requested may result in the purchasing agency requiring prompt submission of missing information and/or giving a lower evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by the purchasing agency. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.

b. Content

Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.

c. Organization

Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, sub letter, and repeat the text of

the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub letter should be repeated at the top of the next page. The proposal should contain a table of contents which cross references the RFP requirements. Information which the Offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at the appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

d. Binding and Collation

The original proposal shall be contained in a single 3-ring binder. All documentation submitted with the proposal should be placed in that single volume. Electronic versions shall each be on a separate CD or Flash Drive labeled with offerors name and RFP # DHRM20-01. Electronic versions shall contain all information included in the original.

e. Ownership of Material

Ownership of all data, materials, and documentation originated and prepared for the State pursuant to the RFP shall belong exclusively to the State and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protection of Section 11-52D of the Code of Virginia, in writing, either before or at the time the data or other material is submitted. The written notice must SPECIFICALLY identify the data or materials to be protected and state the reason why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary, or trade secrets is NOT ACCEPTABLE and shall result in REJECTION of the proposal.

3. Oral Presentation

Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal. This will provide an opportunity for the Offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. The Issuing Agency will schedule the time and location of these presentations. Oral presentations are an option of the Purchasing Agency and may not be conducted.

B. SPECIFIC PROPOSAL REQUIREMENTS

Proposals should be as thorough and detailed as possible so that the Issuing Agency may properly evaluate the Offeror's capabilities to provide the required services. Emphasis should be placed on completeness and clarity of content. Proposal which are substantially incomplete or lack key information may be rejected. Offerors are required to submit the following items as a complete proposal:

1. Return the RFP cover sheet and all addenda acknowledgments, if any, signed and filled out as required.

2. **Capability, Qualifications, and Skill** - Offeror's financial capability, qualifications, and skill to perform the service stated in the proposal, to include but is not limited to:
- a. Background information about the company and experience in providing the services described herein.
 - b. Describe how the organization's infrastructure will enable Offeror to provide the quantity and quality of personnel required by the Commonwealth in implementing this contract. Describe organization's key personnel and organizational chart including Account Manager, management (internal and external support) and non-management employees that will be utilized to consult, perform and administer the overall executive search consulting services and associated customer services support functions. This information will include but not be limited to:
 - Background information about the company and the number of years in the executive search consulting services business.
 - Provide the number of **dedicated staff resources** that will be involved in the support of the resulting contract.
 - Provide resumes of key personnel (**personnel assigned as dedicated staff resources**) Provide key personnel's name, title and the narrative explaining key personnel's functions to be performed in support of this contract. (Account Manager, consulting, customer service functions, billing, etc.)
 - Specific reasons for selecting each of the personnel to be assigned to this contract.
 - Provide the number and physical location of local/regional office(s) that will service and administer the Commonwealth account.
 - If applicable, provide the city and state of other offices that will be servicing this account.
 - Provide the number of successful executive employment searches Offeror has placed within the last five years.
 - Provide the number of and reasons for unsuccessful executive employment searches Offeror has placed within the last five years.
 - Provide the average fill ratio of executive search request filled for other clients.
 - Provide the average time to fill request for executive employment searches for other clients. Include the method used to calculate average time to fill.
 - The Commonwealth prefers Contractor establish one point of contact for servicing the needs of this contract. This should include but not be limited to; where point of contact will be located, how the Commonwealth will communicate with point of contact, how process will operate, if Contractor will provide toll free access, web page, etc.
 - c. **Methodology:** The methodology must contain a comprehensive description of services, including but not limited to the following elements:
 - **General:** The proposal must contain sufficient detail to convey the methodology contemplated for use. Offerors must describe how services listed in the Statement of Need shall be performed.
 - **Deliverables:** Fully describe all of the deliverables to be submitted under the proposed contract.
 - **Work Schedule/Timeline:** Include a work schedule/timeline indicating when the elements of the work will be completed and when deliverables will be provided. Suggestions, if any, for streamlining the work schedule should be presented. Cost implications for streamlining the schedule should be presented, if applicable.

- **Outcome and Performance Measurement:** Describe the impacts/outcomes Offerors intend to achieve, including how these outcomes would be monitored, measured and reported to Commonwealth management. Indicate which services, tests, etc. are performed and methods used to evaluate. To include but not be limited to skills testing, skill assessments, automated skill matching, personal interviews, college recruiting, reference checks, drug screening, background checks, prior employment verification, employment and assignment performance evaluation. Offeror shall provide confirmation of test validity.
 - **Overall Risk:** Define risks significant to the success of the work. Include how you propose to effectively monitor and manage these risks, including the reporting of risks to Commonwealth Management (i.e., how you manage staff turnover or other issues that may negatively impact the work, their potential and how you would propose to mitigate them).
- d. **Outcomes of Search Actions:** A detailed description of the company's record for successful and unsuccessful search and recruit actions in the public sector.
- e. **Audited Financial Statements:** Offerors will provide copies of their most recent audited financial statements and annual reports.
3. **References:** Provide a minimum of five (5) references in Attachment A. Three of the five references executive search consulting service is currently being performed. References will include company name, contact name and title, phone number and address, and length of contract, annual billings provided through executive search services, and narrative statement of the scope of services provided. It is important that references include at least three from the public sector and one similar in scope to the Commonwealth and a recent account Offeror has lost with an explanation thereof. These references must also be pertinent to the Offeror's personnel that are to be assigned to this contract. Provide a minimum of (3) references in Attachment B for each subcontractor supplying executive consulting services in conjunction with Offeror. References will include company name, contact name and title, phone number and address, and length of contract, annual billings positions provided executive search services, and narrative statement of the scope of services provided. It is important that references include at least one from the public sector and one similar in scope to the Commonwealth and a recent account subcontractor has lost with an explanation thereof.
4. **Price Proposal:** Price should be provided in each of the following two ways:
- a. Fixed price per search and/or recruit action for a complete search with all services included.
 - b. Price for each of the following sets of services:
 - Position planning/advertising/marketing and sourcing
 - Screening and evaluation of applicants with recommendations
 - Interview preparation and coordination
 - Background and reference checks
 - c. Time and materials price associated with each search and/or recruitment action.

5. **Other:** Any other information which the Offeror feels the Commonwealth should consider in evaluating the proposal. Describe any problems, challenges and impact thereof Offeror foresees in fulfilling contract requirements.
6. **SWAM Utilization:** Summarize the planned utilization of SBSD certified small businesses and businesses owned by women and minorities under the contract to be awarded as a result of this solicitation. Forms for submission of this data are provided as Attachment C herein.

V. EVALUATION AND AWARD CRITERIA

A. EVALUATION

Proposals will be evaluated by an Evaluation Team using the following criteria. The criteria are not necessarily given below in priority order.

1. Capability, Qualifications, and Skill (see detailed description above) - **30 percent**
2. Innovation, Efficiency, and Effectiveness of the Methodology (success record in the public sector) - **30 percent**
3. References from other clients - **10 percent**
4. Proposed price - **10 percent**
5. SWAM Utilization - **20 percent (Provide utilization for first year only)**

B. AWARD OF CONTRACT

Selection shall be made of two or more Offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the Offerors so selected. **Price shall be considered, but need not be the sole determining factor.** After negotiations have been conducted with each Offeror so selected, the agency shall select the Offeror or Offerors which, in its opinion, have made the best proposal, and shall award the contract(s) to Offeror(s). The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous (Code of Virginia, § 2.2-4359D). Should the Commonwealth determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the Offeror's proposal as negotiated.

VI. REPORTING AND DELIVERY REQUIREMENTS

The Contractor shall meet the following reporting and delivery requirements:

- A. **Semi-Annual Usage Report:** The Contractor shall provide semi-annual usage report to DHRM. Report shall provide at a minimum: Contact person at hiring agency, date executive search request received, date position filled, position title, number of candidates presented, candidates with veterans status and type of background checks performed (if applicable). Reports will be provided to DHRM in a mutually agreed upon electronic format.
- B. **On Demand Reports:** The Contractor shall provide on demand reports are due within two weeks of request. The Contractor will have the capability to provide detailed reports, in electronic format.

C. **Customer Evaluation Survey:** The Contractor shall conduct a customer evaluation survey at the completion of each recruitment and provide the final results of the survey to the Commonwealth Contract Administrator.

D. **Applicant Data Requirements:** The Contractor shall provide applicant data to meet the Commonwealth of Virginia state government requirements including:

For purposes of compliance with Section 2.2-2903 of the Code of Virginia, veterans who have received an honorable discharge and have provided more than 180 consecutive days of full-time active-duty in the armed forces of the United States or reserve components thereof, including the National Guard.

For purposes of compliance with Section 2.2-2903 of the Code of Virginia, veterans who have received an honorable discharge and have a service connected disability rating fixed by the United States Department of Veteran Affairs.

Veterans who have served during the Vietnam Conflict 22861-3775.

For purposes of compliance with Section 2.2-2903 of the Code of Virginia, applicants who are the surviving spouse, or child, of a veteran who was killed in the line of duty.

For purposes of compliance with Section 2.2-2903 of the Code of Virginia, applicants who are members of the National Guard who (i) are presently serving as a member of the Virginia National Guard and (ii) have satisfactorily completed required initial active-duty service

Gender (male or female)

Racial or Ethnic Group with Which Applicants Identify

- Hispanic or Latino
- White (Non-Hispanic or Latino)
- Black or African American (Non-Hispanic or Latino)
- Asian (Non-Hispanic or Latino)
- Native Hawaiian or Other Pacific Islander (Non-Hispanic or Latino)
- American Indian or Alaska Native (Non-Hispanic or Latino)
- Two or More Races (Non-Hispanic or Latino)

E. **Small Women and Minority-Owned (SWAM) Business:** The Contractor who is awarded a contract in which provision of a small, women or minority-owned (SWAM) procurement plan.

When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm, phone number, total dollar amount subcontracted, category type (small, women, or minority-owned), and type of product/service provided. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by DHRM or other appropriate remedies may be assessed in lieu of withholding such payment.

The Contractor shall provide to DHRM documentation that the contractor has utilized SWAM in accordance with its SWAM utilization plan. Documentation shall be provided on or before request for final payment.

VII. METHOD OF PAYMENT

In accordance with the Commonwealth of Virginia Prompt Payment Act, invoices shall be payable within thirty (30) days after executive search and hiring process is complete and receipt of valid invoice. At a minimum, the following information shall be annotated on all invoices:

- Contract Number
- Agency Requesting Services
- Contractor's Federal Tax Identification Number (FIN) or Social Security Number (SSN), if applicable.
- Contractor's address, telephone number, and point of contact
- Date's of provided services
- Type of services provided

VIII. GENERAL TERMS AND CONDITIONS

- A. **VENDORS MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under "Vendors Manual" on the vendors tab.
- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** By submitting their proposals, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

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

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there

is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - d. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.
 - e. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

- D. **ETHICS IN PUBLIC CONTRACTING**: By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986**: Applicable for all contracts over \$10,000: By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- F. **DEBARMENT STATUS**: By participating in this procurement, the vendor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this solicitation. Vendor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia.

If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.

- G. **ANTITRUST**: By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the

Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

H. **MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR IFBs AND RFPs**

1. Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

I. **CLARIFICATION OF TERMS:** If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. **PAYMENT:**

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and -4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. Within seven (7) days of the contractor's receipt of payment from the Commonwealth, a contractor awarded a contract under this solicitation is hereby obligated:

- (1) To pay the subcontractor(s) for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
- b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.
3. Each prime contractor who wins an award in which provision of a SWaM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the Small Business Participation procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.
- K. **PRECEDENCE OF TERMS:** The following General Terms and Conditions *VENDORS MANUAL*, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- L. **QUALIFICATIONS OF OFFERORS:** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- M. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.
- O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt, unless the contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the contractor shall, in writing, promptly notify the Purchasing Agency of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Purchasing Agency's written decision affirming, modifying, or revoking the prior written notice. If the Purchasing Agency decides to issue a notice that requires an adjustment to compensation, the contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
- b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or
- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

Q. **TAXES: (NOT APPLICABLE)** Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be

issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

If sales or deliveries against the contract are not exempt, the contractor shall be responsible for the payment of such taxes unless the tax law specifically imposes the tax upon the buying entity and prohibits the contractor from offering a tax-included price.

- R. **USE OF BRAND NAMES: (NOT APPLICABLE)** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict offeror to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equivalent of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The offeror is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Commonwealth to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Normally in competitive sealed bidding only the information furnished with the bid will be considered in the evaluation. Failure to furnish adequate data for evaluation purposes may result in declaring a bid nonresponsive. Unless the offeror clearly indicates in its proposal that the product offered is an equivalent product, such proposal will be considered to offer the brand name product referenced in the solicitation.
- S. **TRANSPORTATION AND PACKAGING: (NOT APPLICABLE)** By submitting their proposals, all offerors certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.
- T. **INSURANCE:** By signing and submitting a proposal under this solicitation, the 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 offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure

that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)

<u>Profession/Service</u>	<u>Limits</u>
Accounting	\$1,000,000 per occurrence, \$3,000,000 aggregate
Architecture	\$2,000,000 per occurrence, \$6,000,000 aggregate
Asbestos Design, Inspection or Abatement Contractors	\$1,000,000 per occurrence, \$3,000,000 aggregate
Health Care Practitioner (to include Dentists, Licensed Dental Hygienists, Optometrists, Registered or Licensed Practical Nurses, Pharmacists, Physicians, Podiatrists, Chiropractors, Physical Therapists, Physical Therapist Assistants, Clinical Psychologists, Clinical Social Workers, Professional Counselors, Hospitals, or Health Maintenance Organizations.)	\$2,150,000 per occurrence, \$4,250,000 aggregate (Limits increase each July 1 through fiscal year 2031per <i>Code of Virginia</i> § 8.01-581.15.)
Insurance/Risk Management	\$1,000,000 per occurrence, \$3,000,000 aggregate
Landscape/Architecture	\$1,000,000 per occurrence, \$1,000,000 aggregate
Legal	\$1,000,000 per occurrence, \$5,000,000 aggregate
Professional Engineer	\$2,000,000 per occurrence, \$6,000,000 aggregate
Surveying	\$1,000,000 per occurrence, \$1,000,000 aggregate

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 on the DGS/DPS eVA VBO (www.eva.virginia.gov) for a minimum of 10 days.

V. **DRUG-FREE WORKPLACE:** Applicable for all contracts over \$10,000:

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

W. **NONDISCRIMINATION OF CONTRACTORS:** A offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the offeror

employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

- X. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS:** The eVA Internet electronic procurement solution, web site portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution by completing the free eVA Vendor Registration. All offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the proposal being rejected.

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

- a. For orders issued July 1, 2014, and after, the Vendor Transaction Fee is:
 - (i) DSBSD-certified Small Businesses: 1%, capped at \$500 per order.
 - (ii) Businesses that are not DSBSD-certified Small Businesses: 1%, capped at \$1,500 per order.
- b. Refer to Special Term and Condition "eVA Orders and Contracts" to identify the number of purchase orders that will be issued as a result of this solicitation/contract with the eVA transaction fee specified above assessed for each order.

For orders issued prior to July 1, 2014, the vendor transaction fees can be found at www.eVA.virginia.gov.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, typically within 60 days of the order issue date. Any adjustments (increases/decreases) will be handled through purchase order changes.

- Y. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent that the legislature has appropriated funds that are legally available or may hereafter become legally available for the purpose of this agreement.

- Z. **SET-ASIDES IN ACCORDANCE WITH THE SMALL BUSINESS ENHANCEMENT AWARD PRIORITY:** This solicitation is set-aside for award priority to DSBSD-certified micro businesses or small businesses when designated as "Micro Business Set-Aside Award Priority" or "Small Business Set-Aside Award Priority" accordingly in the solicitation. DSBSD-certified micro businesses or small businesses also include DSBSD-certified women-owned and minority-owned businesses when they have received the DSBSD small business certification. For purposes of award, offerors shall be deemed micro businesses or small businesses if and only if they are certified as such by DSBSD on the due date for receipt of proposals.

- AA. **BID PRICE CURRENCY:** Unless stated otherwise in the solicitation, offerors shall state offer prices in US dollars.
- BB. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

IX. SPECIAL TERMS AND CONDITIONS

A. COST LIMITS

The Contractor is responsible for all the costs of implementing and administering the program. The Department is responsible for ensuring that the Contractor receives payment of all fees that are established pursuant to the contract which results from this RFP. Any cost incurred by the Contractor to address the tasks and responsibilities identified in this RFP which exceeds the contractually established fees is the risk of the Contractor.

B. RENEWAL OF CONTRACT

The term of this contract is three years with three one-year renewal options. For the one-year renewal options, the contract may renew annually subject to the following.

1. The Contractor shall advise the Department in writing no later than 2:00 PM on the last business day before July 1 that the offeror is willing to renew the contract on the same terms and conditions as currently in force or as modified pursuant to a request from the Department.
2. All Contractors require a finding by the Department that the Contractor's performance has been satisfactory. Such findings are within the sole discretion of the Department but will be based on materially important issues such as the plan's accreditation status (if applicable), employee satisfaction, and the amount of liquidated damages due the Department because of failure of the Contractor to meet standards.
3. If the Commonwealth elects to exercise the option to renew the contract for an additional one-year period, the contract price for the additional one year shall not exceed the contract price of the original increased/ decreased by more than the percentage increase/decrease of the services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
4. If during any subsequent renewal periods, the Commonwealth elects to exercise the option to renew the contract, the contract price for the subsequent renewal period shall not exceed the contract price of the previous renewal period increased/decreased by more than the percentage increased/decreased of the services category of the CPI-W section of the Consumer Price Index of the United States Bureau of labor Statistics for the latest twelve months for which statistics are available.

C. TERMINATION, SUSPENSION and CANCELLATION of CONTRACT

In the event of emergency requirements which could not have reasonably been foreseen, the Department reserves the right to cancel and terminate this contract, in part or in whole without penalty, upon 60 days written notice to the Contractor.

Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

D. PAYMENTS and INTEREST

1. The standard form of payment utilized by the Commonwealth is by EDI (See Appendix 9 for description). Unless a different method is agreed upon through negotiations, each Contractor must complete the EDI agreements required by the Department of Accounts.
2. The Contractor shall deliver only those services actually ordered by the Department. The Department will accept and pay only for those services which have been fully rendered. The Contractor shall invoice the Department each month for services provided during the prior month. Payment will be made by the Department within 30 days of receipt of an approved invoice by the Commonwealth's EDI payment method. Refer to Attachment Three for EDI information.

E. AUDITS

The Contractor shall assist the Department and the Department's auditors, who may be employees of the Department, employees of other Contractors, or agents of the Department, in the conduct of audits. This assistance shall include the provision of secure, quiet office space, including furnishings and telephones needed by the auditors.

The Contractor agrees to retain all books, records, and other documents relative to the contract which results from this RFP for five (5) years after final payment, or until the conclusion of any audit by the Commonwealth, whichever is sooner. The Department, its authorized agents, and State Auditors, shall have full access to, and the right to examine, any of the Contractor's materials relevant to the contract which results from this RFP.

F. CONTRACT REPRESENTATIVES

Both the Department and the Contractor shall appoint a contract representative who shall ensure that the provisions of this contract are adhered to. The Department hereby appoints the Employment and Shared Service Manager.

The Contractor shall provide the full name and address of their contract representative including telephone and fax number. In the event of a change in contract representatives, an official written notice shall be provided within 15 days of the change.

G. CONFIDENTIALITY OF INFORMATION

The Contractor shall treat all information utilized in its performance of the contract as confidential, personal information. The Contractor shall handle all confidential information in accordance with the Virginia Privacy Protection Act, Virginia Code Section 2.1-377 et seq.. All files, computer data bases and other records developed or maintained pursuant to the execution of the contract are the property of the Department, and shall be delivered to the Department upon demand. The Contractor merely serves as the custodian of the files, and acts as agent for the Department in the payment for services and the performance of other assigned tasks, including assisting the Department with requests under the Virginia Freedom of Information Act.

H. SEVERABILITY

In the event any portion of the contract shall be determined by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed void and the remainder of the contract shall continue in full force and effect.

I. FORCE MAJEURE

Neither party shall be deemed to be in default of any of its obligations hereunder, if, and so long as, it is prevented from performing such obligations by an act of war, hostile foreign action, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

J. SUBCONTRACTING

The Contractor is fully responsible for all work performed under the contract. The Contractor may not assign, transfer, or subcontract any interest in the contract, without prior written approval of the Department. The Contractor shall require all subcontractors to comply with all provisions of this RFP. The Contractor will be held liable for contract compliance for all duties and functions whether performed by the Contractor or any subcontractor.

K. DISPUTES

In accordance with section 2.2-4363 of the Code of Virginia, disputes arising out of the contract, whether for money or other relief, may be submitted by the Contractor for consideration by the Department. Disputes must be submitted in writing, with all necessary data and information, to the Director of the Department of Human Resource Management at the James Monroe Building, 12th Floor, 101 North 14th Street, Richmond, Virginia 23219. Disputes will not be considered if submitted later than sixty (60) days after the final payment is made by the Department under the contract. Further, no claim may be submitted unless written notice of the Contractor's intention to file the dispute has been submitted at the time of the occurrence or at the beginning of the work upon which the dispute is based. The Department shall render a final written decision regarding the dispute not more than ninety (90) days after the dispute is submitted, unless the parties agree to an extension of time. If the Department does not render its decision within 90 days, the Contractor's sole remedy will be to institute legal action, pursuant to section 2.2-4364 of the Code of Virginia. The Contractor shall not be granted relief as a result of any delay in the Department's decision.

During the time that the parties are attempting to resolve any dispute, each party shall proceed diligently to perform its duties.

L. CONTRACTOR AFFILIATION

If an affiliate (as defined below in this paragraph) of the Contractor takes any action which, if taken by the Contractor, would constitute a breach of the contract, the action taken by the affiliate shall be deemed a breach by the Contractor. "Affiliate" shall mean a "parent," subsidiary or other company controlling, controlled by, or in common control with the Contractor, sub Contractor or agents of the Contractor.

M. TRANSFER OF FILES

If for any reason the Department decides to no longer contract with the Contractor, the Contractor agrees to transfer to the party designated by the Department, at no cost, all data, records, computer files, other files, and materials of any sort that were maintained for the

Commonwealth. The Contractor agrees to assist the Department in understanding, using, and transferring all files and records, including those maintained in computer language.

N. INDEMNIFICATION

The Contractor agrees to indemnify, defend, and hold harmless the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages, and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any services of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of the Department.

O. IDENTITY THEFT:

The Contractor assures that any and all personal information and data obtained as a result of performing contractual duties associated with this contract shall be held in strict confidence. Such information shall not be divulged without written permission from the individual and this Agency.

1. All personal information whether electronic or hard copy shall be stored in a manner that will prevent intrusion by unauthorized persons.
2. All intrusions or suspicion of intrusion into secured files containing personal information shall be reported to the Agency within 24 hours of detection.
3. All remedies suggested by the Contractor shall be approved by the Agency prior to being implemented.

P. ADDITIONAL USERS

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

ATTACHMENT A

OFFEROR DATA SHEET

The following information is required as part of your response to this solicitation. Failure to complete and provide this sheet may result in your proposal being scored lower.

Qualification: The vendor must have the capability and capacity in all respects to satisfy fully all of the contractual requirements.

Vendor's Primary Contact: Name: _____ Phone: (____)_____

Years in Business: Indicate the length of time you have been in business providing this type of good or service: _____ Years _____ Months

Vendor Information: FIN or FEI Number: _____ Company, Corporation, or Partnership.

Social Security Number: _____ If Individual

Indicate below a listing of at least five (5) current or recent accounts, either commercial or governmental, that your company is servicing, has serviced, or has provided similar goods. Include the length of service and the name, address, and telephone number of the point of contact.

A. Company: _____ Contact: _____

Phone: (____) _____ Fax: (____) _____

Project: _____

Dates of Service: _____ \$ Value: _____

B. Company: _____ Contact: _____

Phone: (____) _____ Fax: (____) _____

Project: _____

Dates of Service: _____ \$ Value: _____

C. Company: _____ Contact: _____

Phone: (____) _____ Fax: (____) _____

Project: _____

Dates of Service: _____ \$ Value: _____

D. Company: _____ Contact: _____

Phone: (____) _____ Fax: (____) _____

Project: _____

Dates of Service: _____ \$ Value: _____

E. Company: _____ Contact: _____

Phone: (____) _____ Fax: (____) _____

Project: _____

Dates of Service: _____ \$ Value: _____

ATTACHMENT B

OFFEROR SUBCONTRACTOR DATA SHEET

The following information is required as part of your response to this if Offeror is utilizing a subcontractor as part of this solicitation response. Failure to complete and provide this sheet may result in your proposal being scored lower.

Qualification: The vendor must have the capability and capacity in all respects to satisfy fully all of the contractual requirements.

Vendor's Primary Contact: Name: _____ Phone: (____)_____

Years in Business: Indicate the length of time you have been in business providing this type of good or service: _____ Years _____ Months

Vendor Information: FIN or FEI Number: _____ Company, Corporation, or Partnership

Social Security Number: _____ If Individual

Indicate below a listing of at least five (5) current or recent accounts, either commercial or governmental, that your company is servicing, has serviced, or has provided similar goods. Include the length of service and the name, address, and telephone number of the point of contact.

A. Company: _____ Contact: _____

Phone: (____) _____ Fax: (____) _____

Project: _____

Dates of Service: _____ \$ Value: _____

B. Company: _____ Contact: _____

Phone: (____) _____ Fax: (____) _____

Project: _____

Dates of Service: _____ \$ Value: _____

C. Company: _____ Contact: _____

Phone: (____) _____ Fax: (____) _____

Project: _____

Dates of Service: _____ \$ Value: _____

D. Company: _____ Contact: _____

Phone: (____) _____ Fax: (____) _____

Project: _____

Dates of Service: _____ \$ Value: _____

E. Company: _____ Contact: _____

Phone: (____) _____ Fax: (____) _____

Project: _____

Dates of Service: _____ \$ Value: _____

ATTACHMENT C

SMALL BUSINESS SUBCONTRACTING PLAN

Definitions

Small Business: "Small business" means an independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. Note: This shall not exclude SBSD-certified women- and minority-owned businesses when they have received SBSD small business certification.

Women-Owned Business: Women-owned business means a business concern that is at least 51% owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or non-citizens who are in full compliance with the United States immigration law.

Minority-Owned Business: Minority-owned business means a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.

All small businesses must be certified by the Commonwealth of Virginia, Department of Minority Business Enterprise (SBSD) by the due date of the solicitation to participate in the SWAM program. Certification applications are available through SBSD online at www.SBSD.virginia.gov (Customer Service).

Offeror Name: _____

Preparer Name: _____ Date: _____

Instructions

- A. If you are certified by the Department of Minority Business Enterprise (SBSD) as a small business, complete only Section A of this form. This shall not exclude SBSD-certified women-owned and minority-owned businesses when they have received SBSD small business certification.
- B. If you are not a SBSD-certified small business, complete Section B of this form. For the offeror to receive credit for the small business subcontracting plan evaluation criteria, the offeror shall identify the portions of the contract that will be subcontracted to SBSD-certified small business in this section. Points will be assigned based on each offeror's proposed subcontracting expenditures with SBSD certified small businesses for the initial contract period as indicated in Section B in relation to the offeror's total price.

Section A

If your firm is certified by the Department of Minority Business Enterprise (SBSD), are you certified as a **(check only one below)**:

_____ Small Business

_____ Small and Women-owned Business

_____ Small and Minority-owned Business

Certification number: _____ Certification Date: _____

Section B

Populate the table below to show your firm's plans for utilization of SBSD-certified small businesses in the performance of this contract. This shall not exclude SBSD-certified women-owned and minority-owned businesses when they have received the SBSD small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.

ATTACHMENT D

Proprietary/Confidential Information Identification

Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protections of Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protections of § 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected including the section of the proposal in which it is contained and the pages numbers, and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. In addition, a summary of proprietary information submitted shall be submitted on this form. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. If, after being given reasonable time, the offeror refuses to withdraw such a classification designation, the proposal will be rejected. The purpose of providing a redacted version of proposals is to facilitate public information requests.

SECTION/TITLE	PAGE NUMBERS	REASON(S) FOR WITHHOLDING FROM DISCLOSURE

ATTACHMENT E

Executive Search Consulting Firm: Month/Year:

Date Report Submitted:

Commonwealth of Virginia Executive Search Consulting Firm Usage Report

Agency Name	Title of Position for Recruitment	Salary Hired Candidate Accepted	Total Number of Candidates Referred to Agency	Number of Minority Candidates Referred to Agency	Number of Female Candidates Referred to Agency	Number of Candidates with Veteran Status Referred to Agency	Type of Background Check Conducted
Virginia Economic	Pres & CEO	\$260,500	6	n/a	2	n/a	Education
Virginia Economic	Executive Director	n/a	12	n/a	0	n/a	Education
Virginia Department of	Commissioner	n/a	10	n/a	1	n/a	Education
Virginia Department of	Commissioner	\$189,000	7	n/a	0	n/a	Education
Virginia Department of	Commissioner, VDOT	n/a	8	n/a	2	n/a	Education
Commonwealth of Virginia	Director, Dept. of Medical Assistance	\$185,000	9	n/a	4	n/a	Education