



**COMMONWEALTH OF VIRGINIA
DIVISION OF PURCHASES AND SUPPLY
PO BOX 1199, RICHMOND, VA 23218-1199**

CONTRACT # E194-1237

Contract Title: Drugs of Abuse Test Kits and Instrumentation

NOTICE OF CONTRACT CHANGE

Changes Are Highlighted in Red

1. DATE: October 21, 2011
2. CONTRACT PERIOD: March 22, 2011 through July 31, 2014
3. SUPERCEDES: N/A
4. AUTHORIZED USERS: Department of General Services,
Division of Consolidated Laboratory Services
5. CONTRACTOR: Siemens Healthcare Diagnostics
6. CONTRACTOR PHONE: Phone: 1-800-227-9948
Fax: 1-800-322-7982
7. TERMS: Net 30 Days
8. DELIVERY: 10 Days ARO
9. MINIMUM ORDER: \$250.00
10. FOR FURTHER CONTRACT INFORMATION CONTACT: **Nan Rowe**
Statewide Contract Officer
Phone: 804-786-3854
Fax: 804-786-5413
Email: nan.rowe@dgs.virginia.gov
11. Additional copies of contracts may be viewed and printed at the DPS website: www.eva.virginia.gov
12. NOTE: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, §2.2-4343, or against a bidder or offeror because of race, religion, color, sex national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

Contractor Information

Contractor Name: Siemens Healthcare Diagnostics

Contractor Address: Atlanta Customer Center
3090 Premiere Parkway, Suite 500
Duluth, GA 30047-9948

Contractor eVA ID Number: VC0000143440

Contractor Contact & Phone: Atlanta Customer Care
800-241-0420

DPS Contract Officer Comments: Use the above address and phone number for:

- all **eVA purchase orders** for reagents and,
- **no-charge phone orders** for calibrators and controls and Olympus consumables.

Contractor Contact & Phone: Maureen C. Kelly
Siemens Sales Representative
Voice Mail: 800-948-3234, ext. 2968
Mobile: 571-214-4897
Email: Maureen.kelly@siemens.com

DPS Contract Officer Comments: Use this contact person and phone number for:

- all **contract-related questions**

Contract Instructions

1. If this is a mandatory use contract as indicated on page one of this notice and the commodity or services available under this contract cannot be used by an agency, a request to purchase other goods or services of a similar nature shall be submitted to the appropriate DGS/DPS contract/purchase officer for approval. A complete and factual written justification is necessary to support the request. Refer to Section 13.7 of the *Agency Procurement and Surplus Property Manual*.
2. Unless otherwise instructed by the Division of Purchases and Supply, all departments, institutions and agencies of the Commonwealth of Virginia shall order items listed by issuing orders through eVA.

3. When placing an eVA non-catalog order, each line of the requisition must be identified with the contract item number, the contract item description and the contract number. The contract number should be inserted in the contract number field.
4. Inspection on delivery and approval of vendor's invoice is the responsibility of the receiving entity.
5. Any complaint as to quality, faulty or delinquent delivery, or violation of contract provisions by contractor shall be reported by the contract user directly to the contractor, with a copy provided to the Division of Purchases and Supply. Preprinted forms (DGS-41-024), by which to facilitate the notification of the contractor and this office of complaints, are available from the Division of Purchases and Supply (804-786-4634). The electronic version may be downloaded from the internet at the following link:
<http://eva.virginia.gov/learn-about-eva/files/VendorComplaintForm.doc>

Additional Information

REAGENTS: Locate the items on the Price List, and **enter the purchase order into eVA.** Reagents must be ordered “by the kit”, not “by the test”.

CALIBRATORS, CONTROLS AND OLYMPUS CONSUMABLES: Purchase Orders for these items are not required because they are no cost. Call the Atlanta Customer Care (ACC) at 800-241-0420 and order these items at no cost, without any additional freight charges. The calibrators, controls and Olympus consumables (no charge items) **should NOT be entered into eVA on a purchase order.**

Use DCLS Customer Ship To **Account Number 169950** when placing no-charge phone orders.

Shipping and Billing Information

DCLS CUSTOMER SHIP TO ACCOUNT NUMBER: 169950

Shipping Location: DGS - DIVISION OF
CONSOLIDATED LABORATORY
SERVICES

Billing Address: Same as Ship to Address

Shipping Street Address: 600 N. 5th Street

Shipping City/State/Zip: Richmond, VA 23219

Free On Board Name: FOB Destination-Freight
Prepaid

Commodity Information

Lot 1: Clinical Laboratory Reagents and Tests
NIGP Commodity Code: 19300

Line: 1

Commodity: 19300

Line Detail:

FDA cleared/approved Drug Testing Reagents and necessary instrumentation for the detection of drugs of abuse or their metabolites. See Specifications / Scope of Work below. See IFB # 1398 and Contractor's bid for further information.

Unit: Kit

Contractor Item No.: Multiple, See Price List below

Unit Price: See Price List below

Contract Details / Attachments

CONTRACT PRICING – Revised October 21, 2011 via a formal contract modification.
 Corrections are **highlighted in Red**, Additions are **highlighted in Green**.

NOTE: ORDER REAGENTS BY THE KIT USING eVA PURCHASE ORDER

Part #	Description	Bottle Strength	Packaging / Tests per Kit	Unit Price Per Kit	Unit Price Per Test
REAGENTS					
DAT Group M					
9K309UL	EMIT [®] II Plus Alcohol	115 mL	503	\$201.20	\$.40
DAT Group N					
9K409UL	Emit [®] II Plus Alcohol	1 L	4375	\$1750.	\$.40
DAT Group O					
9C309UL	EMIT [®] II Plus Amphetamine	115 mL	925	\$370	\$.40
9D029UL	EMIT [®] II Plus Barbiturate	115 mL	950	\$380	\$.40
9F029UL	EMIT [®] II Plus Benzodiazepine	115 mL	950	\$380	\$.40
9H029UL	EMIT [®] II Plus Cocaine Metabolite	115 mL	1070	\$428	\$.40
9X029UL	EMIT[®] II Plus Ecstasy Assay (moved to DAT Group V)	Small Kit	254	\$101.60	\$.40
9E029UL	EMIT [®] II Plus Methadone	115 mL	950	\$380	\$.40
9Q309UL	EMIT [®] II Plus Methaqualone	115 mL	1070	\$428	\$.40
9B309UL	EMIT [®] II Plus Opiate	115 mL	1120	\$448	\$.40
9J029UL	EMIT [®] II Plus Phencyclidine	115 mL	1149	\$459.60	\$.40
9G029UL	EMIT [®] II Plus Propoxyphene	115 mL	1149	\$459.60	\$.40

Part #	Description	Bottle Strength	Packaging / Tests per Kit	Unit Price Per Kit	Unit Price Per Test
DAT Group P					
9N029UL	EMIT® II Plus Cannabinoid	115 mL	980	\$392	\$.40
Syva Validity Test					
3T519UL	Creatinine Reagent Kit	Small Kit	910	\$182	\$.20
3T019UL	Creatinine Reagent Kit	Large Kit	3840	\$768	\$.20
3T079UL	Oxidant Reagent Kit – R	Large Kit	6440	\$1,288	\$.20
3T579UL	Oxidant Reagent Kit – R	Small Kit	700	\$140	\$.20
3T699UL	Syva Specific Gravity Validity Test - R	Large Kit	5355	\$1,071	\$.20
3T899UL	Syva Specific Gravity Validity Test – R	Small Kit	590	\$118	\$.20
3T289UL	Syva pH Validity Test – R	Large Kit	5630	\$1,126	\$.20
3T889UL	Syva pH Validity Test – R	Small Kit	620	\$124	\$.20
3T069UL	Syva Nitrate Test	Large Kit	3820	\$764	\$.20
3T569UL	Syva Nitrate Test	Small Kit	360	\$72	\$.20
DAT Group Q					
9C329UL	Emit® II Plus Amphetamine	1 L	8350	\$3340	\$.40
9D129UL	Emit® II Plus Barbiturate	1 L	8900	\$3560	\$.40
9F129UL	Emit® II Plus Benzodiazepine	1 L	8900	\$3560	\$.40
9H129UL	Emit® II Plus Cocaine Metabolite	1 L	9750	\$3900	\$.40
9X129UL	Emit® II Plus Ecstasy Assay Kit	1L	10,160	\$4064	\$.40
9E129UL	Emit® II Plus Methadone	1 L	8900	\$3560	\$.40
9Q129UL	EMIT® II Plus Methaqualone	1 L	9750	\$3900	\$.40
9B329UL	Emit® II Plus Opiate	1 L	10,245	\$4098	\$.40
9J129UL	Emit® II Plus Phencyclidine	1 L	10,370	\$4148	\$.40
9G129UL	Emit® II Plus Propoxyphene	1 L	10,370	\$4148	\$.40
DAT Group R					
9N129UL	Emit® II Plus Cannabinoid	1 L	8430	\$3372	\$.40
DAT Group V 25 mL – 30 mL					
3B309UL	Emit® II Plus Opiate	25 – 30 mL	292	\$116.80	\$.40
9C039UL	Emit® II Plus Amphetamine	25 – 30 mL	241	\$96.80	\$.40
9D039UL	Emit® II Plus Barbiturate	25 – 30 mL	248	\$99.20	\$.40
9E039UL	Emit® II Plus Methadone	25 – 30 mL	140	\$56	\$.40
9F039UL	Emit® II Plus Benzodiazepine	25 – 30 mL	248	\$99.20	\$.40
9G039UL	Emit® II Plus Propoxyphene	25 – 30 mL	300	\$120	\$.40
9H039UL	Emit® II Plus Cocaine	25 – 30 mL	279	\$111.60	\$.40
9J039UL	Emit® II Plus Phencyclidine	25 – 30 mL	300	\$120	\$.40
9K039UL	Emit® II Plus Alcohol	25 – 30 mL	140	\$56	\$.40
9N039UL	Emit® II Plus Cannabinoid	25 – 30 mL	256	\$102.40	\$.40
9Q039UL	Emit® II Plus Methaqualone	25 – 30 mL	279	\$111.60	\$.40
9X029UL	Emit® II Plus Ecstasy	25 – 30 mL	254	\$101.60	\$.40
9L039UL	Emit® II Plus LSD	25 – 30 mL	150	\$60	\$.40

NOTE: TO ORDER NO-CHARGE CALIBRATORS, CONTROLS AND OLYMPUS CONSUMABLES, CALL THE ATLANTA CUSTOMER CARE CENTER. DO NOT USE A WRITTEN PURCHASE ORDER.

CALIBRATORS AND CONTROLS					
Part #	Description	Bottle Strength	Packaging / Tests per Kit	Unit Price Per Kit	Unit Price Per Test
9A509	Emit Calibrator/Control Level 0			No Charge	Included
9A529	Emit Calibrator/Control Level 1			No Charge	Included
9A549	Emit Calibrator/Control Level 2			No Charge	Included
9A569	Emit Calibrator/Control Level 3			No Charge	Included
9A589	Emit Calibrator/Control Level 4			No Charge	Included
9A609	Emit Calibrator/Control Level 5			No Charge	Included
9K029	Calibrator Alcohol Negative			No Charge	Included
9K049	Control Alcohol, Low			No Charge	Included

9K059	Calibrator Alcohol 100			No Charge	Included
9K079	Control Alcohol, High			No Charge	Included
3T159UL	Creatinine Validity Calibrator 400			No Charge	Included
3T139UL	Creatinine Validity Calibrator 20			No Charge	Included
3T249UL	Creatinine Validity Calibrator 2			No Charge	Included
3T149UL	Creatinine Validity Calibrator 100			No Charge	Included
9X549UL	Emit II Plus Ecstasy Calibrator/Control Level 2 Kit			No Charge	Included
9X589UL	Emit II Plus Ecstasy Calibrator/Control Level 4 Kit			No Charge	Included
9X569UL	Emit II Plus Ecstasy Calibrator/Control Level 3 Kit			No Charge	Included
9X529UL	Emit II Plus Ecstasy Calibrator/Control Level 1 Kit			No Charge	Included
3T299UL	Oxidant Validity Calibrator/Control			No Charge	Included
3T629UL	Syva Specific Gravity Validity Calibrator 1.020			No Charge	Included
3T619UL	Syva Specific Gravity Validity Calibrator 1.002			No Charge	Included
3T459UL	Syva pH Validity Calibrator 11.0			No Charge	Included
3T479UL	Syva pH Validity Calibrator 12.0			No Charge	Included
3T399UL	Syva pH Validity Calibrator 3.0			No Charge	Included
3T489UL	Syva pH Validity Calibrator 9.0			No Charge	Included
3T499UL	Syva pH Validity Calibrator 4.5			No Charge	Included
3T389UL	Syva pH Validity Calibrator 2.0			No Charge	Included
9L009UL	LSD Calibrator 0, 10 mL			No Charge	Included
9L109UL	LSD Calibrator 0.5, 10 mL			No Charge	Included
9L209UL	LSD Calibrator 1.5, 10 mL			No Charge	Included
9L309UL	LSD Calibrator 2.5, 10 mL			No Charge	Included
9L419UL	LSD Control Level I, 25 mL			No Charge	Included
9L519UL	LSD Control Level II, 25 mL			No Charge	Included
3T329UL	Nitrate Validity Calibrator 200			No Charge	Included
3T309UL	Nitrate Validity Calibrator 500			No Charge	Included
3T179UL	Nitrate Validity Calibrator 1,000			No Charge	Included
3T129UL	Validity Negative Calibrator/Control			No Charge	Included
17010	UTAK Control Level 1 Kit 25 mL			No Charge	Included
17012	UTAK Control Level 3 Kit 25 mL			No Charge	Included
17013	UTAK Control Level 4 Kit 25 mL			No Charge	Included
17014	UTAK Control Level 5 Kit 25 mL			No Charge	Included

EQUIPMENT CONSUMABLES

Part #	Description	Bottle Strength	Packaging / Tests per Kit	Unit Price Per Kit	Unit Price Per Test
MU846500	Cuvettes	N/A		No Charge	Included
Part #	Description	Bottle Strength	Packaging / Tests per Kit	Unit Price Per Kit	Unit Price Per Test
OSR0001	Wash Solution	N/A		No Charge	Included
MU993400	Sample Probe	N/A		No Charge	Included
MU995800	Reagent Probe	N/A		No Charge	Included
PRDL3800	Printer Ribbon	N/A		No Charge	Included
MU959900	Mixing Rod Spiral	N/A		No Charge	Included
MU963800	O-Ring for Aspiration	N/A		No Charge	Included
ZM001800	G Type Syringe	N/A		No Charge	Included
MU920900	O-Ring Thermister	N/A		No Charge	Included
MU826700	Mixing Rod L-Shape (680, 2700)	N/A		No Charge	Included

K001-100	Rack ID Label (1400)	N/A		No Charge	Included
OE63165	15 mL Reagent Bottle w/Stopper	N/A		No Charge	Included

OTHER SPECIAL MATERIALS NEEDED

Part #	Description	Bottle Strength	Packaging / Tests per Kit	Unit Price Per Kit	Unit Price Per Test

OPTIONAL TESTING SUPPLIES AND CONSUMABLES

OPTIONAL REAGENT KITS

DAT Group V					
9L039UL	EMIT® II Plus LSD	25 mL	150	\$60	\$.40
DAT Group F					
9L119UL	EMIT® II Plus LSD Large Kit	500 mL	4605	\$1842.	\$.40

SPECIFICATIONS / SCOPE OF WORK

3.1 General

- a. The initial term of this contract will be for three (3) years. This contract may be renewed by the Commonwealth upon written agreement of both parties for two (2) additional successive one year periods under the terms and conditions of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration. **The contract pricing will be fixed unit pricing.**
- b. The specifications contained herein and in all other IFB attachments describe the minimum requirements for a term contract for use by the Department of General Services, Division of Consolidated Laboratory Services (DCLS), 600 North 5th Street, Richmond, VA 23219.

3.2 Scope

- a. Deleted
- b. A kit is all of the reagents, calibrators, controls, diluents, instrumentation, expendables, data management, shipping and handling, insurance and any other special materials needed for training, sample preparation, testing, equipment operation and maintenance, reporting and data management required for the semi-quantitative detection of drugs of abuse, drug metabolites or products within the sample used to assess sample integrity or validity. The samples tested will be human urine. The system should be adaptable to testing other body fluids as those technologies become available.

- c. A specific drug, drug metabolite or product used to assess sample integrity will be referred to as an analyte. The collection of calibrators, controls, diluents and reagents required to test one analyte will be referred to as a reagent kit.
- d. The estimated workload for one calendar year is approximately 400,000 tests, including validity tests. The annual workload for each analyte cannot be determined at this time. From the information available, the most frequently ordered tests will be opiates, cocaine, marijuana and alcohol. Quantities set forth are estimates only, and the Contractor shall supply at bid prices actual quantities as ordered, regardless of whether such total quantities are more or less than those shown. The contract shall contain no minimum purchase volumes.
- e. The Contractor must be able to consistently supply on a monthly basis all of the materials required to meet DCLS' workload.
- f. The Contractor must be a licensed distributor for all equipment, supplies and materials provided.

3.3 Standards and Controls

- a. All FDA Regulations on immunoassay kits in effect on the date of the Invitation for Bids shall apply. When changes are made to the FDA regulations, the Contractor shall update the product/s to remain in compliance with these regulations.

3.4 Reagents/Kits

- a. Reagent kits must be approved as a clinical enzyme immunoassay by the Food and Drug Administration.
- b. Products should be produced in an ISO-9001 certified manufacturing facility.
- c. Reagent kits should be bar-coded to facilitate identification and tracking.
- d. Reagents must require minimal or no preparation.
- e. Reagents must be stable (ex. stable for 30 days at 4 degrees C once opened or prepared).
- f. Test kits must have a minimum of a 12-week expiration dating when received by DCLS.
- g. Each shipment of kits shall have only one lot number.
- h. Several calibrators should be available for each analyte to afford multiple cutoffs and semi-quantitative analysis.
- i. The required positive/negative cutoff levels for each analyte are provided in section 3.5.

- j. The procedure for performing the test must be included in the kit as a package insert from the manufacturer to include safety, preparation and storage instructions.
- k. All lots of reagents will be assayed in the laboratory to verify compliance to the accompanying parameters. Lots, which fail to comply, must be replaced with an acceptable lot within 24 hours of notification.

3.5 Drug Assays/Cutoff Levels

Drug Assays	Required Cutoff Level
1) Amphetamines	500 ng/mL
2) Barbiturates	200 ng/mL
3) Benzodiazepine	200 ng/mL
4) Cocaine Metabolites	150 ng/mL
5) Cannabinoids	20 ng/mL
6) Ecstasy	300 ng/mL
7) Ethyl Alcohol	40 mg/dL
8) Deleted	
9) Methadone	150 ng/mL
10) Methaqualone	300 ng/mL
11) Opiate	300 ng/mL
12) Phencyclidine	25 ng/mL
13) Propoxyphene	300 ng/mL
14) Creatinine	20 mg/mL

3.6 Equipment / Instrumentation

- a. All automated equipment required to prepare reagents, process and test samples must be included in the reagent kit pricing.
- b. At least two (2) and no more than (3) identical pieces of automated equipment used to prepare reagents, process and test samples are required.
- c. Testing instrumentation must include all computer equipment, printers and software necessary to analyze samples, capture workload data and maintain quality control information.
- d. Equipment must be high quality and low maintenance.
- e. The combined equipment (running at the same time) must have a random access throughput of at least 700 tests per hour. Each piece of equipment must have multiple sample racks with each capable of holding 30 or more samples to support continuous sample loading without stopping test operations. Each piece of equipment must have built in reagent refrigeration, high quality glass cuvettes or equivalent, and should have an auto-calibration sensor/alarm or auto-calibration mode.
- f. Equipment must have STAT interruption capability and use high precision optics.

- g. Equipment should have high precision sample and reagent delivery using less than 400 microliters of reagent.
- h. Reaction volume must be 8 tests/sample or greater.
- i. The equipment must have unidirectional interface capability and should have a bidirectional interface capability with DCLS data management systems.
- j. The equipment must have data storage capability for no less than 2,000 samples.
- k. DCLS will provide the necessary space, power and water needed to sustain the equipment.
- l. Equipment may be added to or removed from this contract at any time, so long as performance, reliability and service are not reduced. The Contractor may add or remove equipment by submitting a letter to the DCLS with a copy to the contract officer with a description of the equipment, with its serial number and stating what action is being taken and when.
- m. The title shall at all times remain with the Contractor.
- n. Maintenance is the responsibility of the titleholder, as described in section 3.11.
- o. All products furnished under the contract shall be new, unused equipment and products with full Original Equipment Manufacturer (OEM) warranties.

3.7 Data Management

- a. All equipment must interface with DCLS devices to track reagent and sample flow, batch samples, audit user activity, enable rapid data input, read barcodes and electronically transmit data to DCLS LIMS.
- b. The Contractor's instrument and software must be compatible with common windows-based tools and must be capable of being interfaced or have compatibility with StarLIMS software at the time of bid submission.
- c. Deleted
- d. System must provide administrative, statistical, and quality assurance reports.
- e. The instruments provided by the Contractor should be integrated with each other.

3.8 Shipping

- a. Materials must be stored, packaged and shipped as defined by product manufacturer.
- b. The Contractor shall be responsible for all costs to properly deliver kits to DCLS on a periodic basis (monthly).

3.9 Installation

- a. The Contractor shall deliver all equipment and components necessary to perform testing to DCLS and render it fully operational within 30 calendar days of contract award. The bidder must state their ability to meet this requirement. This date may be a factor in making the award.
- b. The Contractor shall be responsible for all shipping and installation costs for instrumentation or any component needed to perform the assay.
- c. The Contractor shall unpack, install and validate the assay system by successfully analyzing the assay's quality control.
- d. The Contractor shall be responsible for all costs associated with the removal of instrumentation at termination of this contract.

3.10 Training

- a. The Contractor must provide all of the onsite training necessary to operate equipment and complete test procedures.
- b. Training should be provided by the Contractor at DCLS within 14 calendar days, and must be provided within 30 calendar days, of equipment installation.
- c. The training shall be provided at no additional charge. The training must allow for individual and small group training.

3.11 Technical Service, Support and Maintenance

- a. Technical assistance must be available by telephone between the hours of 8:00 a.m. and 5:00 p.m. Eastern Time, Monday through Friday. When phone assistance is insufficient, the Contractor must provide onsite response and should provide the onsite response by the next workday.
- b. Onsite maintenance shall be the responsibility of the Contractor at no additional charge to the DCLS. The Contractor shall provide all technical support personnel (labor), supervision, evaluation, travel, transportation, equipment, materials, tools, supplies and incidentals to furnish, deliver, and install and maintain the equipment.
- c. The Contractor must repair or replace broken or malfunctioning equipment within ten (10) working days of notification.
- d. Deleted
- e. The Contractor is responsible for the shipment, installation, removal and maintenance of broken, malfunctioning or contaminated equipment.

- f. The Contractor shall provide necessary preventive maintenance, required testing and inspection, calibration and/or other work necessary to maintain the equipment in complete operational condition during the contract period as recommended by the OEM. The Contractor shall coordinate a schedule with DCLS. Said schedule will remain in effect throughout the life of the contract unless a scheduling conflict arises between the parties. In the event a conflict in schedules occurs, a schedule change shall be coordinated between the parties until a mutually agreed upon date/time can be set.
- g. The Contractor shall provide with each piece of equipment, at no cost to the DCLS, one operations and maintenance manual for each instrument provided. **Note:** The maintenance manual will only be used as a reference – DCLS will **not** perform any maintenance on the instrumentation and components.

Special Terms and Conditions

- A. **ADVERTISING:** In the event a contract is awarded for supplies, equipment, or services resulting from this bid, no indication of such sales or services to the Division of Consolidated Laboratory Services will be used in product literature or advertising. The Contractor shall not state in any of its advertising or product literature that the Division of Consolidated Laboratory Services has purchased or uses any of its products or services, and the Contractor shall not include the Division of Consolidated Laboratory Services in any client list in advertising and promotional materials.
- B. **AUDIT:** The Contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- C. **CANCELLATION OF CONTRACT:** The purchasing agency reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. 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. **CONFIDENTIALITY OF INFORMATION:** The Contractor shall recognize all privacy regulations, to include but not be limited to, the U.S. Department of Health & Human Services Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Patient Safety and Quality Improvement Act of 2005.

The Contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store personally identifiable information as

part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the securing of such information. Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.

- E. **CONTRACT DOCUMENTS**: The contract entered into by the parties shall consist of the Invitation for Bids, the bid submitted by the Contractor; General Terms and Conditions, these Special Terms and Conditions; the specifications; and all modifications and addenda to the foregoing documents, all of which shall be referred to collectively as the contract documents.
- F. **CONTRACT TERM**: The initial term of this contract will be for three (3) years.
- G. **CONTRACT RENEWAL**: This contract may be renewed by the Commonwealth upon written agreement of both parties for two (2) additional successive one (1) year periods, under the terms and conditions of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration.
- H. **DELIVERY**: All orders shall be shipped directly to DCLS within 10 days after receipt of purchase order. The Contractor shall carry an adequate stock to ensure such delivery service for the duration of the contract. Contractor shall communicate to the ordering agency by telephone any situation which will delay delivery beyond 10 days from receipt of order, indicating which items are back-ordered and when delivery will be completed. Repetitive back orders will not be tolerated; if notification is not received within 10 days from receipt of purchase order regarding completion of back orders within 30 days, the contract may be regarded as being in default. Two such defaults during the period of the contract may be cause for removal from the Commonwealth's bidder's list for those items or similar products and cancellation of the items and award to other parties.
- I. **eVA BUSINESS-TO-GOVERNMENT CONTRACTS AND ORDERS**: The solicitation/contract will result in one (1) purchase order(s) with the eVA transaction fee specified below assessed for each order. The Vendor Transaction Fee is:
 - a. DMBE-certified Small Businesses: 1%, Capped at \$500 per order.
 - b. Businesses that are not DMBE-certified Small Businesses: 1%, Capped at \$1,500 per order.

The eVA transaction fee will be assessed approximately 30 days after each purchase order is issued. Any adjustments (increases/decreases) will be handled through eVA change orders.

Internet electronic procurement solution, website portal www.eva.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution.

- J. **LABELING OF HAZARDOUS SUBSTANCES**: If the items or products requested by this solicitation are “Hazardous Substances” as defined by § 1261 of Title 15 of the United States Code (U.S.C.) or “Pesticides” as defined in § 136 of Title 7 of the United States Code, the Contractor certifies and warrants that the items or products to be delivered under this contract shall be properly labeled as required by the foregoing sections and that by delivering the items or products the Contractor does not violate any of the prohibitions of Title 15 U.S.C. § 1263 or Title 7 U.S.C. § 136.
- K. **LATEST SOFTWARE VERSION**: Any software product(s) provided under the contract shall be the latest version available to the general public as of the due date of this solicitation.
- L. **MINIMUM ORDER**: Minimum Orders are set at \$250.00. Orders will be F.O.B. Destination to ordering agency within the Commonwealth of Virginia. For orders of less than \$100.00 the Contractor will be permitted to add actual transportation cost (prepaid) to invoice for payment, or the agency may purchase such orders off contract from other sources. Partial shipments of less than minimum order value which are made at the option of the Contractor shall be made F.O.B. Destinations with no transportation charges added. If at the agency’s request shipments are below the minimum order value, the Contractor may add actual transportation to invoice for payment.
- M. **NEW EQUIPMENT**: All products furnished under the contract shall be new, unused equipment and products.
- N. **NEW PRODUCTS**: It is expected that during the term of the contract, the Contractor may introduce new products into their product offering. The Contractor must notify DCLS and the Contract Officer in writing of all planned/new drugs of abuse testing products. The written notification must include the product and the suggested reagent kit price and the date the new product will be available to be added to the contract. No new products shall be sold by the Contractor against this contract unless and until a formal contract modification is processed by the Contract Officer to add the new products to the contract.
- O. **PRICE ESCALATION / DEESCALATION**: The Contract pricing is fixed unit pricing. Price adjustments may be permitted only for changes in the Contractor's cost of materials based on the current market for this or similar products. Consumers Price Indices, Producers Price Indices, other appropriate indices or other supporting documentation as approved by the Division of Purchases and Supply, will be used as a guide to determine price increases or decreases. No price increases will be authorized for **365** calendar days after the effective date of the contract. Price escalation may be permitted only at the end of this period and each **365** days thereafter and only where verified to the satisfaction of the purchasing office. However, "across the board" price decreases are subject to implementation at any time and shall be immediately conveyed to the Commonwealth. **Contractor shall give not less than 30 days advance notice of any price increase to the purchasing office. Any approved price changes will be effective only at the beginning of the calendar month following the end of the full 30 day notification period.** The Contractor shall document the amount and proposed effective date of any general change in the price of materials. Documentation shall be supplied with the Contractor’s request for increase which will: (1) verify that the requested price increase is general in scope and not applicable just to the Commonwealth of Virginia; and (2) verify the amount or percentage of increase which is being passed on to the

Contractor by the Contractor's suppliers. The purchasing office will notify the using agencies and Contractor in writing of the effective date of any increase which it approves. However, the Contractor shall fill all purchase orders received prior to the effective date of the price adjustment at the old contract prices. The Contractor is further advised that decreases which affect the cost of materials are required to be communicated immediately to the purchasing office.

- P. **PRIME CONTRACTOR RESPONSIBILITIES:** The Contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The Contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.
- Q. **PRODUCT AVAILABILITY/SUBSTITUTION:** Substitution of a product, brand or manufacturer after the award of contract is expressly prohibited unless approved in advance in writing by the Contract Officer. The Agency may, at its discretion, require the contractor to provide a substitute item of equivalent or better quality subject to the approval of the Contract Officer, for a price no greater than the contract price, if the product for which the contract was awarded becomes unavailable to the contractor.
- R. In the event any item on the contract is to be discontinued and/or replaced by a new item, the Contractor must notify DCLS and the Contract Officer in writing in advance of the product discontinuance/replacement. This also applies to any changes to the Contractor's part numbers, packaging, bottle strengths, etc. A formal contract modification will be processed by the Contract Officer to reflect these types of changes.
- S. **PURCHASE VOLUME REPORT:** The Contractor shall furnish quarterly volume reports (January, February and March=1st quarter; April, May, and June=2nd quarter; July, August, and September=3rd quarter; and October, November, and December=4th quarter) within 15 days of the end of each quarter of the sales made under this contract. Report shall list item(s) and or services performed during the previous quarter along with the order number and dollar value. These reports shall include: item purchased, date purchased, agency, quantity, each price, extended price, and eVA purchase order number.
- T. **QUALIFIED REPAIR PERSONNEL:** All warranty or maintenance services to be performed on the items specified in this solicitation as well as any associated hardware or software shall be performed by qualified technicians properly authorized by the manufacturer to perform such services. The Commonwealth reserves the right to require proof of certification prior to award and at any time during the term of the contract.
- U. **QUANTITIES:** Quantities set forth in this solicitation are estimates only, and the contractor shall supply at bid prices actual quantities as ordered, regardless of whether such total quantities are more or less than those shown.
- V. **SOFTWARE UPGRADES:** The Commonwealth shall be entitled to any and all upgraded versions of the software covered in the contract that becomes available from the contractor. The maximum charge for upgrade shall not exceed the total difference between the cost of

the Commonwealth's current version and the price the contractor sells or licenses the upgraded software under similar circumstances.

- W. **STANDARD ITEMS**: No standard items shall be deleted. Standard items shall be those listed in the manufacturers most recent published literature for the item(s) offered.
- X. **SUBCONTRACTS**: In the event that the Contractor desires to subcontract some part of its obligation hereunder, the Contractor shall furnish the Commonwealth with the names, qualifications and experience of their proposed Subcontractors. No portion of the contract shall be subcontracted without prior written consent of the Commonwealth. The Contractor shall remain fully liable and responsible for its Subcontractor(s) and shall assure compliance with all requirements of the contract. The bidder must include all planned subcontractors in the space provided on Exhibit A - Bidder Data Sheet.
- Y. **WARRANTY (COMMERCIAL)**: The contractor agrees that the supplies or services furnished under any award resulting from this solicitation shall be covered by the most favorable commercial warranties the manufacturer and contractor gives any customer for such supplies or services and that the rights and remedies provided therein are in addition to and do not limit those available to the Commonwealth by any other clause of this solicitation. Copies of these warranties shall be furnished with the bid.

General Terms and Conditions

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 "Vendor" tab.

APPLICABLE LAWS AND COURTS: This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the 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.

ANTI-DISCRIMINATION (part 1 of 2): By submitting their (bids/proposals), (bidders/offerors) certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as

amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender 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). (continued on part 2)

ANTI-DISCRIMINATION (part 2 of 2): 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 these requirements. 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.

ETHICS IN PUBLIC CONTRACTING: By submitting their (bids/proposals), (bidders/offerors) certify that their (bids/proposals) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeror), supplier, manufacturer or subcontractor in connection with their (bid/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.

IMMIGRATION REFORM AND CONTROL ACT OF 1986: 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.

DEBARMENT STATUS: By submitting their (bids/proposals), (bidders/offerors) certify that

they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

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.

MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR IFB's: Failure to submit a bid on the official state form provided for that purpose shall be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the bid; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the Commonwealth may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.

CLARIFICATION OF TERMS: If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/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.

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.

QUALIFICATIONS OF (BIDDERS/OFFERORS): The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the (bidder/offeror) to perform the services/furnish the goods and the (bidder/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 (bidder's/offeror's) physical facilities prior to award

to satisfy questions regarding the (bidder's/offeror's) capabilities. The Commonwealth further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the Commonwealth that such (bidder/offeror) is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

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.

ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

CHANGES TO THE CONTRACT (part 1 of 2): Changes can be made to the contract in any of the following ways: (1.) The parties may agree in writing to modify the scope of the contract. An 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. 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: (2a.) By mutual agreement between the parties in writing; or (2b.) 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 (continued on part 2)

CHANGES TO THE CONTRACT (part 2 of 2): (2c.) 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.

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.

TAXES: 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.

USE OF BRAND NAMES: Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict (bidders/offerors) 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 (bidder/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 (bidder/offeror) clearly indicates in its (bid/proposal) that the product offered is an equivalent product, such (bid/proposal) will be considered to offer the brand name product referenced in the solicitation.

TRANSPORTATION AND PACKAGING: By submitting their (bids/proposals), all (bidders/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.

INSURANCE (part 1 of 3): 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 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.

(continued in part 2)

INSURANCE (part 2 of 3) MINIMUM INSURANCE COVERAGES AND LIMITS

REQUIRED FOR MOST CONTRACTS: 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. 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 per occurrence. (Only used if motor vehicle is to be used in the contract.). (continued in part 3)

INSURANCE (part 3 of 3): NOTE: In addition, various Professional Liability/Errors and Omissions coverage are required when soliciting those services as follows: Profession/Service /Limits, 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.) \$1,750,000 per occurrence, \$3,000,000 aggregate, (Limits increase each July 1 through fiscal year 2008, as follows: July 1, 2005 - \$1,800,000, July 1, 2006 - \$1,850,000, July 1, 2007 - \$1,925,000, July 1, 2008 - \$2,000,000. This complies with §8.01-581.15 of the Code of Virginia. 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

ANNOUNCEMENT OF AWARD: Upon the award or the announcement of the decision to award a contract over \$50,000, as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA website (www.eva.virginia.gov) for a minimum of 10 days.

DRUG-FREE WORKPLACE: 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.

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

It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

This solicitation is set-aside for DMBE-certified small business participation only when designated "SET-ASIDE FOR SMALL BUSINESSES" in the solicitation. DMBE-certified small businesses are those businesses that hold current small business certification from the Virginia Department of Minority Business Enterprise. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received the DMBE small business certification. For purposes of award, bidders/offerors shall be deemed small businesses if and only if they are certified as such by DMBE on the due date for receipt of bids/proposals.

PAYMENT (part 1 of 4): 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 the date of offset 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.(Continued on part 2)

PAYMENT (part 2 of 4): 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 researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. 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.) A contractor awarded a contract under this solicitation is hereby obligated: (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth 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. (continued on part 3)

PAYMENT (part 3 of 4): 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 SWAM 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.

PAYMENT (part 4 of 4): The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION (part 1 of 2): 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 either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All bidders or offerors must register in eVA; failure to register will result in the bid/proposal being rejected. (Continued on part 2)

eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION (part 2 of 2): a. eVA Basic Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, electronic bidding, and the ability to research historical procurement data available in the eVA purchase transaction data warehouse. b. eVA Premium Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments. c. For orders issued prior to August 16, 2006, the Vendor Transaction Fee is 1%, capped at a maximum of \$500 per order. d. For orders issued August 16, 2006 and after, the Vendor Transaction Fee is: (i)DMBE-certified Small Businesses: 1%, capped at \$500 per order. (ii)Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order. The eVA transaction fee will be invoiced approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

BID PRICE CURRENCY: Unless stated otherwise in the solicitation, bidders/offerors shall state bid/offer prices in US dollars.

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.