

**Contract- E194 - 322**

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Document Id: 322

Title: Metal Detectors Hand-Held and Walk-Through

Print Date: 4/22/2009

Procurement Folder: 702

Procurement Type: Complex IFB

Effective Begin Date: 5/1/2010

Expiration Date: 4/30/2011

Minimum Order Amount: \$100.00

Maximum Order Amount: \$0.00

On Behalf Of Name: Lucinda Garwood

Phone: (804) 786-5412

Email: Lucinda.Garwood@dgs.virginia.gov

Preparer Name: Lucinda Garwood

Phone: (804) 786-5412

Email: lucinda.garwood@dgs.virginia.gov

Description: Garrett Metal Detectors, both Hand-Held and Walk-Through. The products listed on the attached Pricing Schedule are BRAND NAME products and NO substitutions or equal products will be accepted.

Created By: lg

Modified By: lg

Created On: 2009-04-22

Modified On: 2009-04-22

Contact Information

Lucinda Garwood

Phone: (804) 786-5412

Email: lucinda.garwood@dgs.virginia.gov

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**Vendor**

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Legal Name: TOWN POLICE SUPPLY

Contact Name: TOWN POLICE SUPPLY OF COLLINSVILLE

Location Legal Name: TPS COLLINSVILLE

Contact Email: missy@townpolice.com

Contact Phone: 800-752-5580

Vendor Type: Primary

MA Number: E194 - 322

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**Authorized Departments**

<b>Line Number</b>	<b>Department</b>	<b>Spending Limit</b>	<b>No Limit</b>	<b>Active</b>	<b>Exclude this Dept.</b>	<b>Ordered Amount</b>	<b>Attachments(Name - Desc)</b>
1	ALL	\$0.00	Yes	Yes	No	\$0.00	

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**Renewal Periods**

<b>Line Number</b>	<b>Renewal Period Length</b>	<b>Renewal Period Unit</b>	<b>Effective Date</b>	<b>Expiration Date</b>	<b>Notification Days (Prior to Expiration)</b>	<b>Attachments(Name - Desc)</b>
3	1	Years	5/1/2010	4/30/2011	90	

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**Lines**

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**Line: 1**Line Type: **Item**NIGP Code: **68044**Description: **Garrett PD 6500i, Model # 1168410, Walk-Through Metal Detector. To include initial 24 month manufacturer warranty, parts and labor. New gray color scheme available.**Doc Code: **RQN**Commodity Ref Line: **1**Doc Code: **IFB**Commodity Ref Line: **1**Quantity: **60**Unit: **each**Unit Price: **\$2,798.50000**Line Total: **\$167,910.00**

Discount %:

Catalog:

Market Price: **\$0.00000**Discounted Unit Price: **2798.5**

Effective From:

Effective To:

Estimated Delivery Days:

Delivery Type: **Per Terms and Conditions**Free On Board Name: **FOB Destination-Freight Prepaid****Ship To****Bill To**

Attention:

Attention:

Shipping Location: **eVA-Shipping Exception**Billing Location: **eVA-Billing Exception**Shipping Instructions: **As noted in each individual agency eVA order.**Billing Instructions: **As noted in each individual agency eVA order.**Free On Board Name: **FOB Destination-Freight Prepaid**Part Number: **1168410**Shipping Method: **Vendor**Product/Category: **PD6500I**MSDS Included: **No**Model: **PD6500I (1168410)**Hazardous Materials: **N/A**

Size:

Special Handling: **N/A**

Color:

Packing Instructions: **N/A**

Warranty Type:

Additional Handling Info:

Detailed Instructions: **OPERATOR'S MANUAL & DVD VIDEO**

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**Line: 2**

Line Type: **Item**

NIGP Code: **93673**

Description: **Garrett PD 6500i, Model # 1168410, Walk-Through Metal Detector - optional extended 12 month warranty (subsequent to initial Manufacturer's warranty). New gray color scheme available.**

Doc Code: **RQN**

Doc Code: **IFB**

Commodity Ref Line: **2**

Commodity Ref Line: **2**

Quantity: **10**

Unit Price: **\$300.00000**

Discount %:

Market Price: **\$0.00000**

Effective From:

Estimated Delivery Days:

Unit: **each**

Line Total: **\$3,000.00**

Catalog:

Discounted Unit Price: **300**

Effective To:

Delivery Type: **Per Terms and Conditions**

Free On Board Name: **FOB Destination-Freight Prepaid**

**Ship To**

Attention:

Shipping Location: **eVA-Shipping Exception**

Shipping Street Address 1: **SEE COMMENTS**

Shipping Instructions: **As noted in each individual agency eVA order.**

Free On Board Name: **FOB Destination-Freight Prepaid**

Shipping Method: **Vendor**

MSDS Included: **No**

Hazardous Materials: **N/A**

Special Handling: **N/A**

Packing Instructions: **N/A**

Additional Handling Info: **SEE IFB FOR COMMENTS CONCERNING WARRANTY.**

**Bill To**

Attention:

Billing Location: **eVA-Billing Exception**

Billing Street Address 1: **Same as Ship To Address**

Billing Instructions: **As noted in each individual agency eVA order.**

Part Number: **WARRANTY**

Product/Category: **N/A**

Model: **EXTENDED WARRANTY**

Size:

Color:

Warranty Type:

Detailed Instructions: **END USER TO CALL 1-800-752-5580 FOR SERVICE & REPAIRS.**

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**Line: 3**

Line Type: **Item**

NIGP Code: **68044**

Description: **Garrett Tactical Hand-Held  
Metal Detector (THD), Model # 1165900**

Doc Code: **RQN**

Commodity Ref Line: **3**

Doc Code: **IFB**

Commodity Ref Line: **3**

Quantity: **30**

Unit: **each**

Unit Price: **\$96.00000**

Line Total: **\$2,880.00**

Discount %:

Catalog:

Market Price: **\$0.00000**

Discounted Unit Price: **96**

Effective From:

Effective To:

Estimated Delivery Days:

Delivery Type: **Per Terms and Conditions**

Free On Board Name: **FOB Destination-  
Freight Prepaid**

**Ship To**

**Bill To**

Attention:

Attention:

Shipping Location: **eVA-Shipping  
Exception**

Billing Location: **eVA-Billing Exception**

Shipping Instructions: **As noted in each  
individual agency eVA order.**

Billing Instructions: **As noted in each  
individual agency eVA order.**

Free On Board Name: **FOB Destination-  
Freight Prepaid**

Part Number: **1165900**

Shipping Method: **Vendor**

Product/Category: **THD**

MSDS Included: **No**

Model: **THD**

Hazardous Materials: **N/A**

Size:

Special Handling: **N/A**

Color:

Packing Instructions: **N/A**

Warranty Type:

Additional Handling Info: **N/A**

Detailed Instructions: **OPERATOR'S  
MANUAL**

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**Line: 4**

Line Type: **Item**

NIGP Code: **68044**

Description: **Garrett SuperWand, Model # 1165800**

Doc Code: **RQN**

Commodity Ref Line: **4**

Doc Code: **IFB**

Commodity Ref Line: **4**

Quantity: **20**

Unit: **each**

Unit Price: **\$112.87000**

Line Total: **\$2,257.40**

Discount %:

Catalog:

Market Price: **\$0.00000**

Discounted Unit Price: **112.87**

Effective From:

Effective To:

Estimated Delivery Days:

Delivery Type: **Per Terms and Conditions**

Free On Board Name: **FOB Destination-Freight Prepaid**

**Ship To**

**Bill To**

Attention:

Attention:

Shipping Instructions: **As noted in each individual agency eVA order.**

Billing Instructions: **As noted in each individual agency eVA order.**

Free On Board Name: **FOB Destination-Freight Prepaid**

Part Number: **1165800**

Shipping Method: **Vendor**

Product/Category: **SUPER WAND**

MSDS Included: **No**

Model: **SUPER WAND # 1165800**

Hazardous Materials: **N/A**

Size:

Special Handling: **N/A**

Color:

Packing Instructions: **N/A**

Warranty Type:

Additional Handling Info: **N/A**

Detailed Instructions: **OPERATOR'S MANUAL**

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## **Terms And Conditions**

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### **Section 01**

#### **IMPORTANT INFORMATION**

ALL INFORMATION REGARDING THIS SOLICITATION IS INCLUDED IN THE TERMS AND CONDITIONS LISTED BELOW. PLEASE READ THE ENTIRE DOCUMENT. THIS PROCUREMENT HAS BEEN CLASSIFIED AS A SET-ASIDE AND IS RESTRICTED TO SMALL, WOMAN AND MINORITY OWNED BUSINESSES (SWAMB) ONLY. YOU MUST BE A CERTIFIED VENDOR WITH THE VIRGINIA DEPARTMENT OF MINORITY BUSINESS ENTERPRISE TO RESPOND TO THIS SOLICITATION. ATTACH A COPY OF SWAMB CERTIFICATION.

### **Section 02**

#### **PAPER SUBMISSION**

PAPER RESPONSE ONLY. Submit a paper response to this solicitation. The bidder shall return the signed response in a sealed envelope. A faxed response is not considered a sealed response and will not be considered acceptable. The envelope should be addressed and delivered to the Commonwealth of Virginia, Department of General Services, Division of Purchases and Supply, 6th Floor, Room 6028, 1111 East Broad Street, Richmond, VA 23219. Bids may also be hand delivered to this location. The envelope should also provide the following information: Name of Bidder, Street or Box Number, City, State, Zip Code; and Solicitation Close Date and Time, Solicitation No., Solicitation Description, and Contract/Purchase Officer. If a solicitation response is not enclosed in an envelope as described above, the bidder takes the risk that the envelope may be inadvertently opened and the information compromised which may cause the bid to be disqualified. No other un-requested correspondence or other bids should be placed in the envelope. It shall be the responsibility of the responding Vendor to use express delivery service when submitting a sealed bid. DO NOT rely on regular delivery mail (USPS).

### **Section 03**

#### **PURPOSE**

The Department of General Services, Division of Purchases & Supply is seeking to establish a term contract with a qualified vendor to provide specific brand name metal detectors, both hand-held and walk-through, to various State Agencies and Other Public Bodies. As stated above, this procurement has been classified as a set-aside and is restricted to Small, Woman and Minority Owned Businesses (SWAMB). You must be a certified vendor with the Virginia Department of Minority Business Enterprise to Respond to this Solicitation.

## **Section 04**

### **EVA BUS TO GOV CONTRACT PART 1**

**eVA BUSINESS-TO-GOVERNMENT CONTRACTS:** The eVA Internet electronic procurement solution, web site portal [www.eva.state.va.us](http://www.eva.state.va.us) , 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. Failure to comply with the requirements in a. and b. below will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default. Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e procurement solution and agree to comply with the following:

## **Section 05**

### **EVA BUS TO GOV CONTRACT PART 2**

A. Submit a fully executed American Management Systems, Inc., (AMS) Trading Partner Agreement, a copy of which can be accessed and downloaded from [www.eva.state.va.us](http://www.eva.state.va.us). AMS is the Commonwealth's service provider to implement and host the eVA e-procurement solution. B. Provide an electronic catalog (price list) for items awarded under a term contract. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from [www.eva.state.va.us](http://www.eva.state.va.us).

## **Section 06**

### **CONTRACT TERM**

**THE INITIAL TERM OF THIS CONTRACT WILL BE FOR TWO YEARS BEGINNING APPROXIMATELY May 1, 2006 through April 30, 2008.**

## **Section 07**

### **RENEWAL OF CONTRACT**

This contract may be renewed by the Commonwealth upon written agreement of both parties for three (3) additional successive one (1) year periods under the terms and conditions of the current contract, and at a reasonable time (approximately 90 day) prior to expiration.

## **Section 08**

### **AWARD**

The Commonwealth will make the award on a GRAND TOTAL basis to the lowest responsive and responsible Bidder. The purchasing office reserves the right to conduct any test it may deem advisable to make all evaluations. The Commonwealth also reserves the right to reject any or all bids, in whole or in part, to waive informalities and to delete items prior to making the award, whenever it is deemed in the sole opinion of the procuring public body to be in its best interest.

## **Section 09**

## **BRAND NAME**

The products listed in the Commodity Response Information section of this bid are BRAND NAME products and NO substitution or equal product will be accepted.

## **Section 10**

### **BID ACCEPTANCE PERIOD**

Any response in reply to this solicitation shall be valid for 60 days. At the end of the 60 days the response may be withdrawn by the Vendor upon written request. If it is not withdrawn at that time, it remains in effect until an award is made or the solicitation is cancelled.

## **Section 11**

### **MANUFACTURER/SHIPPING POINT**

The bidders shall supply the name and address of the manufacturer of each item offered and the shipping point.

## **Section 12**

### **PRODUCT INFORMATION**

The Bidder shall clearly and specifically identify the brand name product being offered and enclose complete and detailed descriptive literature, catalog cuts and specifications with the bid. Failure to do so may cause the bid to be considered nonresponsive.

## **Section 13**

### **DELIVERY SERVICE**

Delivery of all requested contract items shall be made within 21 calendar days after receipt of purchase order. Contractor shall carry an adequate stock to insure such delivery service for the duration of the contract.

## **Section 14**

### **DELIVERY POINT**

Except when otherwise specified herein, all items shall be F.O.B. delivered any point within the Commonwealth of Virginia as directed by ordering department, institution or agency of the Commonwealth or Public bodies of the Commonwealth as defined in Section 2.2-4301 of the Virginia Public Procurement Act.

## **Section 15**

### **CONTACT INFORMATION**

The bidders shall provide a list of the telephone numbers, facsimile number, e-mail address, name of responsible persons of your company who may be contacted regarding this contract and required reports.

## **Section 16**

## **(NEW) PURCHASE REPORT**

The Contractor shall furnish the Division of Purchases and Supply reports of the total dollar volume of purchases by ordering Agency and the total number of each contract item ordered under this contract with dollar amounts on a quarterly basis, i.e., 1st quarter = July, August & September - submit report by October 30th; 2nd quarter = October, November & December - submit report by January 30th.

## **Section 17**

### **MINIMUM ORDERS**

Minimum orders will be \$100.00 for F.O.B. delivery 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 order off contract from other sources. Partial shipments of less than the minimum order value which are made at the option of the contractor, shall be made F.O.B. Destination with no transportation charges added. If at the agency's request shipments are below the minimum order value, the contractor may add actual transportation cost to invoice for payment.

## **Section 18**

### **PRICE CHANGES PART 1**

Price adjustments may be permitted only for changes in the Contractor's cost of materials not to exceed the increase in the following index/indices: Producer's price index will be used as a guide in determining adjustments: Producer's Price Index Table 6-1176-0209. No price increases will be authorized for 180 calendar days after the effective date of the contract. Price escalation may be permitted only at the end of this period and each 180 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.

## **Section 19**

### **PRICE CHANGES PART 2**

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.

## **Section 20**

## **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.

### **Section 21**

#### **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.

### **Section 22**

#### **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.

### **Section 23**

#### **AVAILABILITY OF FUNDS**

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.

### **Section 24**

#### **RETURN POLICY**

Exchange for credit may be accomplished by ordering agencies consistent with the contractor's published return goods policy. A copy of bidder's published return goods policy should accompany the bid. Failure to submit the policy may be cause for rejection of the bid.

### **Section 25**

#### **TRAINING**

Under Commodity Response Information, Commodity Group 1, Line 1 - Brand Name Product Garrett 6500i Walk-Through Metal Detector, the awarded Contractor shall provide a minimum of one (1) hour training, led by a sales representative and/or one instructional video/DVD in English, provided at no additional cost to the Commonwealth for each ordering Agency. Training shall be held at the using/ordering Agency facility.

## **Section 26**

### **INSTALLATION**

It shall be the responsibility of the using/purchasing Agency for the installation of the equipment listed in Group 1, Line 1, Garrett 6500i Walk-Through Metal Detector.

## **Section GEN**

### **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.dgs.state.va.us/dps](http://www.dgs.state.va.us/dps) under "Manuals."

### **APP. LAWS AND COURTS**

**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 (1 of 2)**

**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 (2 of 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**

**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**

**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**

**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**

**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**

**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**

**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.

### **PAYMENT (1 of 3)**

**PAYMENT (part 1 of 3):**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 (2 of 3)**

**PAYMENT (part 2 of 3):** 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 (3 of 3)**

PAYMENT (part 3 of 3): 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..

### **PRECEDENCE OF TERMS**

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**

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**

**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**

**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 CONTRACT (1 of 2)**

**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 CONTRACT (2 of 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**

**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**

**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**

**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**

**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 (1 of 3)**

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 (2 of 3)**

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 (3 of 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**

**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](http://www.eva.virginia.gov)) for a minimum of 10 days.

#### **DRUG-FREE WORKPLACE**

**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**

**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.

#### **eVA REGISTRATION**

**eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA Internet electronic procurement solution, web site portal [www.eva.state.va.us](http://www.eva.state.va.us), 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. 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. a.) eVA Basic Vendor Registration Service: \$25 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, and electronic bidding. b.) eVA Premium Vendor Registration Service: \$200 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. 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, and ability to research historical procurement data, as they become available.