Department of General Services

Division of Purchases and Supply
1111 E. Broad Street, P. O. Box1199
Richmond, Virginia 23219-1199

NOTICE OF CONTRACT

1. DATE:……..……..…May 2, 2011
2. COMMODITY NUMBER & NAME:….……..……..…….74055 Gases, Refrigerant
3. CONTRACT NUMBER: …..…….……..……..E194-758
4. CONTRACT PERIOD:...…….……..…April 1, 2010 through March 31, 2012
5. EFFECTIVE DATE:……..……...…..……May 1, 2011
6. SUPERCEDES:……..……...……..Contract Number E194-758-10
7. AUTHORIZED USERS: Commonwealth of Virginia State Agencies, local government public procurement units, Commissions, Authorities, Boards, Public Bodies and other Entities Authorized by the *Code of Virginia* are authorized to purchase products and services under the terms and conditions of this Contract.
8. CONTRACTORS' INFORMATION: ….……**Trigon Refrigerant Group. LLC**
   Contract Matters:
   Wayne Forbis, Director of Operations
   6222 Tower Lane, Suite B-3
   Sarasota, FL 34240
   Phone: 877-378-1510
   Direct: 941-284-2536
   Email: waynef@trigonrefrigerant.com
   eVA Vendor ID: VS0000058756
   DUNS #: 82-8355284
9. MINIMUM ORDER:……...……$200.00
10. DELIVERY: …….2 Days ARO
11. FOR FURTHER CONTRACT INFORMATION CONTACT: ...Tina M. Rodriguez, CPPB, VCO
    Telephone: (804) 786-1603
    E-mail: tina.rodriguez@dgs.virginia.gov
    (Preferred method of contact – email)

This contract is the result of a competitive bid program issued through the Commonwealth of Virginia; therefore, is deemed **MANDATORY**.

By: /s/ *Tina M. Rodriguez*

Tina M. Rodriguez, CPPB, VCO / Statewide Contract Officer

NOTE: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1or against a bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

INSTRUCTIONS

1. **NOTE TO ALL AUTHORIZED USERS OF THIS CONTRACT (as described in Number 7. above): In order to purchase from this contract, all purchase orders shall be submitted to the Contractor via the Commonwealth of Virginia's electronic procurement system, also known as eVA. For local governments, purchases should be placed through eVA to the fullest extent possible.**

2. ***All purchase orders issued to any Contractor within this Contract shall contain the designated Contract Number E194-758.**

3. Inspection on delivery and approval of vendor's invoice is the responsibility of receiving state agency, Virginia City, county, town or political subdivision.

4. Any complaint as to quality, faulty or delinquent delivery, or violation of contract provisions by contractor shall be reported to the Division of Purchases and Supply for handling with the contractor. Form "Complaint to State Vendor" (DGS-41-024), by which to facilitate the notification of the contractor and this office of complaints, is available from the Division of Purchases and Supply website www.eva.virginia.gov (Click on BUYER tab, click on PROCUREMENT COMPLAINT FORM).

Master Agreement - E194 - 758

NOTICE OF CONTRACT

Changes Effective May 1, 2011

Document Id: 758
Title: Gases, Refrigerant
Print Date: 3/23/2010
Procurement Folder: 50815
Procurement Type: Complex IFB
Contract Effective Begin Date: 4/1/2010
Contract Expiration Date: 3/31/2012
Minimum Order Amount: $200.00

Preparer Name: Tina M. Rodriguez, CPPB, VCO
Phone: (804) 786-1603
Email: tina.rodriguez@dgs.virginia.gov

Description: Provide Refrigerant Gases to the Commonwealth of VA state agencies, localities, public bodies, & other entities authorized under the Code of Virginia.

Created By: tmizelle1
Modified By: tmizelle1
Created On: 2010-03-23
Modified On: 2010-03-23

Contact Information
Tina M. Rodriguez, CPPB, VCO
Phone: (804) 786-1603
Email: tina.rodriguez@dgs.virginia.gov

Renewal Periods

Line Number	Renewal Period Length	Renewal Period Unit	Effective Date	Expiration Date	Notification Days (Prior to Expiration)
1	1	Years	4/1/2012	3/31/2013	90
2	1	Years	4/1/2013	3/31/2014	90
3	1	Years	4/1/2014	3/31/2015	90

Discount Offered

1% for payments made within 15 days of invoice

Authorized Departments

Commonwealth of Virginia state agencies, localities, public bodies, & other entities authorized under the *Code of Virginia*.

Vendor Contact Information

Legal Name: Trigon Refrigerant Group, LLC
Address: 6222 Tower Lane, Suite B-3, Sarasota, FL 34240
Toll Free : 877-378-1510
Direct : 941-284-2536
MA Number: E194 - 758

Contact: Wayne Forbis, Director of Operations
Contact Email: waynef@trigonrefrigerant.com

Vendor Type: Primary
DUNS #: 82-8355284
eVA ID #: VS0000058756

Lines

Line: 1
Line Type: Item
NIGP Code: 74055
Description: R11 200 lb. cylinder/drum (CFC-11).
Part Number: **R-11-200**
Unit: pound
Unit Price: $6.84000
Total:
Free On Board Name: FOB Destination-Freight Prepaid
Hazardous Materials: NON HAZORDOUS
Delivery: 2 days ARO

Line: 2
Line Type: Item
NIGP Code: 74055
Description: R12 25/30 lb cylinder (CFC 12).

Part Number: **R12-30**
Unit: pound
Unit Price: $12.29000
Total:
Free On Board Name: FOB Destination-Freight Prepaid
Hazardous Materials: YES Delivery: 2 days ARO

Line: 3
Line Type: Item
NIGP Code: 74055 **Description: R12 50 lb. cylinder (CFC 12).**

Part Number: **R-12-50**
Unit: pound
Unit Price: $12.29000
Total:
Free On Board Name: FOB Destination-Freight Prepaid
Hazardous Materials: YES Delivery: 2 days ARO

Line: 4
Line Type: Item
NIGP Code: 74055 **Description: R12 145 lb. cylinder (CFC 12).**

Part Number: **R-12-145**
Unit: pound
Unit Price: $12.29000
Total:
Free On Board Name: FOB Destination-Freight Prepaid
Hazardous Materials: YES Delivery: 2 days ARO

Line: 5
Line Type: Item
NIGP Code: 74055 **Description: R22 25/30 lb. cylinder (HCFC 22).**

Part Number: **R-22-30** (Contract Change 1)
Unit: pound
Unit Price: $4.90000 / lb
Total:
Free On Board Name: FOB Destination-Freight Prepaid
Hazardous Materials: YES Delivery: 2 days ARO

Line: 6
Line Type: Item
NIGP Code: 74055 **Description: R22 125 lb. cylinder (HCFC 22).**

Part Number: **R-22-125**
Unit: pound
Unit Price: $4.28000
Total:
Free On Board Name: FOB Destination-Freight Prepaid
Hazardous Materials: YES Delivery: 2 days ARO

Line: 7
Line Type: Item
NIGP Code: 74055 **Description: R502 30 lb. cylinder (CFC 502).**

Part Number: **R-502-30**
Unit: pound
Unit Price: $13.50000 Line Total: $8,100.00
Total:
Free On Board Name: FOB Destination-Freight Prepaid
Hazardous Materials: YES Delivery: 2 days ARO

Line: 8
Line Type: Item
NIGP Code: 74055 **Description: R502 125 lb. cylinder (CFC 502).**

Part Number: **R-502-125**
Unit: pound
Unit Price: $13.50000
Total:
Free On Board Name: FOB Destination-Freight Prepaid
Hazardous Materials: YES Delivery: 2 days ARO

Line: 9
Line Type: Item
NIGP Code: 74055 **Description: R134A 30 lb. cylinder.**

Part Number: **R-134A-30** (Contract Change 1 and 2)
Unit: pound
Unit Price: $9.33200 / lb $279.96 / each 30 lb Cylinder
Total:
Free On Board Name: FOB Destination-Freight Prepaid

Hazardous Materials: YES Delivery: 2 days ARO

Line: 10
Line Type: Item
NIGP Code: 74055 **Description: R404A 24lb. cylinder.**

Part Number: **R-404A-24** (Contract Change 1 and 2)
Unit: pound
Unit Price: $9.239 / lb $221.74 / each 24 lb Cylinder
Total:
Free On Board Name: FOB Destination-Freight Prepaid
Hazardous Materials: YES Delivery: 2 days ARO

Line: 11
Line Type: Item
NIGP Code: 74055 **Description: R410A 25 lb. cylinder.**

Part Number: **R-410A-25** (Contract Change 1 and 2)
Unit: pound
Unit Price: $8.570 / lb $214.26 / each 25 lb Cylinder
Total:
Free On Board Name: FOB Destination-Freight Prepaid
Hazardous Materials: YES Size:

Terms and Conditions

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 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.

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) 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.

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.

SET ASIDES

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 (1 of 4)

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 (2 of 4)

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 (3 of 4)

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 (4 of 4)

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

eVA REGISTRATION (1 of 2)

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 REGISTRATION (2 of 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.

BID PRICE CURRENCY:

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

SPECIAL TERMS & CONDITIONS

AWARD

The Commonwealth will make award(s) to the **lowest responsive and responsible bidder on a**

Grand Total basis. The purchasing office reserves the right to conduct any test it may deem advisable and to make all evaluations. The right is reserved to make a separate award of each item, a group of items or all items, and to make an award either in whole or in part, whichever is deemed in the best interest of the Commonwealth. 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.

DELIVERY SERVICE / DELIVERY POINT

Delivery of all requested contract items shall be made within three (3) calendar days after receipt of purchase order. Contractor shall carry an adequate stock to insure such delivery service for the duration of the contract. Except when otherwise specified herein, all items shall be F.O.B. delivered any point within the Commonwealth of Virginia as directed by the 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. **Vendor Response:** 2 days ARO.

MINIMUM ORDERS

Minimum orders will be $200.00 for F.O.B. destination, meaning actual freight costs are included in the price offered. For orders of less than $200.00, 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.

ADDITIONAL INFORMATION

The Commonwealth reserves the right to ask any bidder to submit information missing from its bid, to clarify its bid, and to submit additional information which the Commonwealth deems desirable.

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.

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.

CONTRACT TERM

The initial term of this contract will be for two (2) years beginning approximately on or before April 1, 2010, through March 31, 2012.

EXTRA CHARGES NOT ALLOWED

The bid price shall include all applicable freight, delivery, eVA fees; extra charges will not be allowed.

PURCHASE VOLUME REPORT

The Contractor shall furnish the Division of Purchases and Supply Contract Officer quarterly reports of the total dollar volume of purchases. The reports shall include ordering agency, purchase order number, date of purchase, 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, etc..

PRICE ESCALATION/DE-ESCALATION

Price adjustments may be permitted only for changes in the Contractor's cost of materials. Consumers Price Indices, Producers Price Indices or other appropriate indices 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 **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. 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.

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.

EXCISE TAX

Excise tax ozone-depleting refrigerant (CFCs') gases shall be included in the respective bid prices. For future excise tax increases issued by the federal government, sufficient documentation (as approved by the Department of General Services) should be submitted to the Contract Officer. After said documentation has been received and approved by the Contract Officer, future increases in the Federal Excise Tax will be applied as an Automatic Price Adjustment when they become effective.

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, then the bidder, by submitting his bid, 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 bidder does not violate any of the prohibitions of Title 15 U.S.C. § 1263 or Title 7 U.S.C. § 136.

MATERIAL SAFETY DATA SHEETS

Material Safety Data Sheets and descriptive literature shall be provided with the bid for each chemical and/or compound offered. **Failure on the part of the bidder to submit such data sheets may be cause for declaring the bid as nonresponsive.**

CONTAINERS

Refillable cylinders shall remain the property of the Contractor. The using agency will notify the Contractor when containers are empty and are ready for pick-up. Empty containers shall be picked up by the Contractor or returned freight collect via common carrier when specified by the Contractor.

In the event the using agency retains the refillable cylinder for more than 180 calendar days, the Contractor may charge the using agency a demurrage fee for each calendar day beyond the initial 180 day period. Demurrage fee shall be the same as a lower than the one which the Contractor charges his best customers and shall apply during the life of the Contract. By signing this bid, the bidder hereby certifies compliance with this requirement.

Upon written notification that cylinders are ready for pick-up, such demurrage fees shall no longer apply thereafter. **Deposits will not be allowed.** In the event containers are lost or damaged beyond use, the using agency will be responsible fore replacing the container(s) or compensating the Contractor for the actual value of such container(s) as listed on the quotation sheet. The listed value shall be the actual cost of the cylinder.

ADDITIONAL REFRIGERANT GASES / REMOVAL OF REFRIGERANT GASES

The Commonwealth reserves the right to add additional refrigerant gases to the Contract at the Contractor's most favorable commercial rate, or the Commonwealth may establish a separate Contract for such refrigerant gases, when deemed to be in the best interest of the Commonwealth. Also, the Commonwealth reserves the right to remove refrigerant gases that have become obsolete or that are not being utilized by the using agencies to the fullest capacity.

RENEWAL OF CONTRACT

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

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.

eVA BUSINESS-TO-GOVERNMENT CONTRACTS AND ORDERS

It is anticipated that the contract will result in multiple purchase orders (i.e., one for each delivery requirement) with the eVA transaction fee specified below assessed for each order."

a. For orders issued prior to August 16, 2006, the Vendor Transaction Fee is 1%, capped at a maximum of $500 per order.
b. 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 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 usiness 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 and agree to comply with the following:

If this solicitation is for a term contract, failure to provide an electronic catalog (price list) or index page catalog for items awarded will be just cause for the Commonwealth to reject your bid or terminate this contract for default. 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.virginia.gov. Contractors should email Catalog or Index page information to eVA-catalog-manager@dgs.virginia.gov.

CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION

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 security 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.

CERTIFIED USERS

Federal law requires that all users of refrigerant gases be certified; therefore, the Contractor shall take appropriate action to ascertain that the ordering agency/public bodies has a certified technician on staff.