COMMONWEALTH OF VIRGINIA
DIVISION OF PURCHASES AND SUPPLY
1111 E. BROAD STREET
P. O. BOX 1199
RICHMOND, VIRGINIA 23218-1199

NOTICE OF CONTRACT AWARD REV. 1
MANDATORY AGENCY USE CONTRACT

1. DATE ..... February 2, 2008

2. COMMODITY NAME ..... Propane

3. CONTRACT NUMBER ..... PF 25012-08

4. CONTRACT PERIOD ..... March 1, 2008 through February 28, 2010

5. SUPERSEDES 4050301-70

6. AUTHORIZED USERS ..... State Agencies

7. CONTRACTORS' FEIN NUMBER ..... Pages 5 and 6

8. CONTRACTOR ..... Pages 5 and 6

9. DMBE SWAM Certification ..... SEE VENDOR SHEET PAGES 5 AND 6

10. CONTRACTORS' PHONE NUMBER ..... Pages 5 and 6

11. TERMS ..... Pages 6-13

12. DELIVERY ..... As Required by the Agency

13. F.O.B. ..... Destination

14. MINIMUM ORDER ..... N/A

15. FOR FURTHER CONTRACT INFORMATION CONTACT: ..... Robert A. Parolisi, VCO
Emai:l:robert.parolisi@dgs.virginia.gov Phone: (804) 786-0078 / Fax: (804) 786-5413

16. ADDITIONAL COPIES OF CONTRACTS AND ANY ASSOCIATED CONTRACT CHANGES MAY BE VIEWED AND PRINTED AT THE DPS WEBSITE: www.eva.virginia.gov/dps.

17. NOTICE TO ALL STATE AGENCIES: This contract is the result of a competitive bid program and its use is mandatory for all State Agencies (unless otherwise indicated in item 6 above) in the purchase of any commodity listed herein. If the commodity or services available under this contract cannot be used by an agency, a request to purchase other goods or services of a similar nature shall be submitted to the appropriate DGS/DPS contract/purchase officer for approval. A complete and factual written justification is necessary to support the request. Refer to Section 13.7a of the Agency Procurement and Surplus Property Manual.

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

Robert A. Parolisi VCO

By: _____
Statewide Commodity Contract Officer

INSTRUCTIONS

1. Purchase orders will be submitted to the Contractor via the Commonwealth of Virginia's electronic procurement system, also known as eVA. The orders will be governed by this agreement and the terms and conditions contained in the separate agreement for participation in eVA executed by the contractor. If this contract is authorized for use by localities, Virginia cities, counties, town and political subdivisions may use this contract only if the orders are placed through eVA.

   Written Purchase Orders Required by the Contractor. When required by the contractor, state agencies and public bodies will supply written purchase order forms for orders under $5,000.

   Verbal/Facsimile Orders. When a written purchase order is not required by the contractor, state agencies have the authority to place verbal and/or facsimile orders for requirements valued at less than $5,000.

2. If this contract is authorized for use by localities (see line item 6, page 1), Virginia cities, counties, towns and political subdivisions will use eVA to order items listed in this contract.

3. The applicable contract number, federal employer identification number (FEI), and item number (for itemized contracts) must be shown on each purchase order and copy, each facsimile transmission or given verbally when telephonic orders are placed.

4. Inspection on delivery and approval of vendor's invoice is the responsibility of receiving State Agency, Virginia City, County, Town or Political Subdivision.

5. 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. Preprinted forms (DGS-41-024), by which to facilitate the notification of the contractor and this office of complaints, are available from the Division of Purchases and Supply (786-8873).

SPECIAL CONDITIONS AND INSTRUCTIONS

1 SPECIFICATIONS: All propane supplied under any resulting contract shall conform to specifications for "commercial propane" as defined in the Gas Processors Association (G.P.A.) Publication No. 2140-75 (or latest revision) entitled G.P.A. LIQUIFIED PETROLEUM GAS SPECIFICATIONS AND TEST METHODS as issued by the Gas Processors Association, 1812 First Place, Tulsa, Oklahoma 74103. All propane gas furnished under any resulting contract shall have an approximate B.T.U. content of 2500 B.T.U./ per cubic foot, 91,600 B.T.U. per gallon, 21,600 B.T.U. per pound. The following conversion factors will be used, if necessary.

A. 4.23 pounds per liquid gallon – Railroad freight rate is based on 4.7 lbs. per gallon @ 60°F.

B. 8.547 cubic feet of vapor per pound @ 60°F.

All propane furnished and delivered under any resulting contract shall contain an approved non-corrosive odorant such as "Ethyl-Mercaptan" or "Thiophane" per National Fire Protection Association (NFPA) Pamphlet No. 58, latest edition.

2. APPLICABLE SAFETY CODE AND LAW: All applicable local, state, and federal safety codes, rules, law, etc. for the storage, handling and transportation of L.P. Gas (propane) shall be fully applicable to any resulting contract. As a minimum requirement, N.F.P.A. Pamphlet no. 58, latest revision, shall be fully applicable.

3. INDEMNIFICATION: The successful bidder shall, at all times during the life of the contract, carry adequate insurance in accordance with attached "General Conditions for Insurance." Contractor shall provide a properly completed certificate of such on attached forms no later than 14 calendar days after notice of award and before any deliveries of propane gas may commence. IMPORTANT NOTE: Cancellation of insurance will automatically place the contractor in default. Contractor shall keep proper insurance in full force and effect at all times during the life of the contract.

4 NUMBER OF LOCATIONS: The number of locations at each agency served and the quantity of gas may be increased or decreased as to the needs of the institution.

5. RENEWAL OF CONTRACT: Contracts may be renewed by the Commonwealth upon written agreement of both parties for two consecutive two (2) year terms, under the terms of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration. The Commonwealth may re-bid its Propane requirements after the first two years of the original Contracts.

6. Price Adjustments. During the current term of the contract, price escalation may be allowed every 365 days, if justified. The contract officer makes the decision to allow or deny a request for increase based upon the documentation submitted by the contractor. The contractor is required to pass on any price reductions immediately. **IMPORTANT!** All price increases must be approved by the contract officer. Contract users will be sent a Notice of Contract Change from this office as official notification of such changes, if approved.

7. Price Basis**. All contractors will use as their price basis the weekly pricing listed at Apex NC. UNIT PRICES**: The total unit price will be in gallons and consist of the cost of Propane from Apex, North Carolina and a Differential to include all other costs. Any and all supporting equipment (tanks, gauges, valves etc.) will be supplied at no cost to the using Agencies/Public Bodies by Offerors.

8. RATE OF DELIVERY: Delivery shall begin March 1, 2008 and continue as ordered throughout the contract period. The Contractor shall service all tanks on an automatic basis, unless otherwise directed by the using agency/Public Body.

9. MINIMUM AMOUNT: Any state Agency/Public Body whose annual usage of Propane does not exceed

$2,000.00 annually may opt out of using this Contract. Any State Agency/Public Body using less than $2,000.00 annually is encouraged to use the Commonwealths Small Purchase Charge Card to pay for the Propane.

10. Invoicing. **Vendors will display price basis information on each invoice.**

11. DIFFERENTIAL - No adjustment will be permitted in the differential during the term of this contract.

12. 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.

CONTRACTOR'S RESPONSIBILITIES:

A. It shall be the responsibility of the contractor/supplier to maintain sufficient gas for satisfactory uninterrupted operation at each location. In the event of emergency, each contractor/supplier shall have available services to supply needs of the agency/institution and be in a position to delivery whenever required. The contractor/supplier shall file with the agency/institution an emergency telephone number for calling nights, holidays and Sundays.

B. Any Contractor-supplied meters used to measure quantity of gas consumed shall be first grade, accurate instruments. In the event the agency/institution is not satisfied with the operations of any meter, the supplier must replace such meter with an instrument which is approved by the institution.

C. Metered tank truck delivery and invoices: For those contractors that use metered tank truck delivery instead of stationary meters, contractor shall leave a delivery ticket with a responsible agency representative, showing the exact number, to the tenths of a gallon, of propane delivered. All meters on tanks trucks shall be accurate instruments and shall be certified and calibrated in accordance with local and state law. All invoices rendered against metered tank truck delivery shall show the following minimum information:

1. Agency name and location
2. Date of delivery
3. Number of gallons delivered
4. Contract unit price in price per gallon
5. Total (extended) amount

D. New contractor, if other than the present vendor, shall make all arrangements for transfer or replacement of contractor-owned storage tanks and equipment where applicable and at no cost to the Commonwealth. Service to the institution to be interrupted one (1) hour

maximum during the transfer or replacement. All piping except connectors, etc., for directly hooking up the tanks, meters and regulating equipment shall be supplied by the using agency or institution.

E. Your propane gas supplier should have some input in recommending the proper size tank for your location(s). Your cooperation with the supplier is necessary.

F. RATE OF DELIVERY: Delivery shall begin after contract award and continue as ordered throughout the contract period. The Contractor shall service all tanks on a degree-day basis and shall supply such fuels when the tank level reaches approximately one-fourth (1/4) capacity, unless otherwise directed by the using agency/institution.

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G. SERVICE PERIOD: On-site maintenance services shall carry a FOUR (4) hour response time, following initial notification, and be available during the normal working hours of 8:00AM to 5:00PM, Monday through Friday, excluding state holidays. All necessary repairs or corrections shall be completed within 24 hours of the initial notification.

H. Contractors shall contact each agency to familiarize themselves with the exact services required. Failure to properly inspect job site(s) will not be considered as valid reason for failure to comply with the terms and conditions of the contract.

I **Reports** – Semi-annually each Contractor will provide to the Contracting Officer, an Excel

1. **Spread Sheet showing the following:**
2. **Agency Delivery Location and gallons delivered to that location.**
3. **Posted Apex, North Carolina Pricing**
4. **Differential**
5. **Total Price per gallon**

Each Contractor will submit its first Report no later than September 10, 2008 with the second report due March 10, 2009, etc.

Vendor Ref. No.	Vendor #		Telephone
1	VS0000028967	BLOSSMAN GAS INC. 26 N. LIBERTY AVENUE ASHVILLE, NC 28801 MR. JESSIE W. JOHNSON NET ½% - 10 OR NET30 DAYS E-MAIL: jessiej@blossmangas.com DUNS #: 00-821-2987	(828) 251-0027 Phone (828) 232-0140 FAX

2	C12171	DAVENPORT ENERGY 108 SOUTH MALL P. O. BOX 879 CHATHAM, VA 24531 BRUCE GILBERT / RUTH BARNARD NET 30 DAYS E-MAIL: BGILBERT@DAVENPORTENERGY.COM DUN #: 02-368-2586 DMBE SWAM CERTIFICATION: **SMALL**	(434) 432-0251 Phone (434) 432-2133 FAX
3	C11511	DIXIE GAS AND OIL CORPORATION P. O. BOX 900 VERONA, VA 24482 MR. DAN ALEXANDER NET 30 DAYS DUN #: 02-398-0535 E-MAIL: ALEXDK@DIXIEGAS.COM DMBE SWAM CERTIFICATION: **SMALL**	(540) 248-6273 Phone (540) 248-2524 FAX
4	C11975	FOSTER FUELS INC. P.O. BOX 190 BROOKNEAL, VA 24528 MR. STEPHEN TIBBS NET 30 DAYS DUNS #: 023669401 E-MAIL: STEVE.TIBBS@FOSTERFUELS.COM DMBE SWAM CERTIFICATION: **SMALL**	(434) 376-2322 Phone (434) 376-5969 FAX
5	C12580	REVERE GAS AND APPLIANCE P. O. BOX 100 HARTFIELD, VA 23071 MR. JIM TROTTER jtrotter@revergas.com or MR. CARLTON REVERE E-MAIL: CARLTONREVERE@REVEREGAS.COM NET 1% 10 or NET 30 DAYS DUNS #: 023765969 DMBE SWAM CERTIFICATION: **SMALL**	(804) 776-9724 Phone (804) 776-7673 FAX (804) 776-6834 Corp. Off.
6	C3462	SUBURBAN PROPANE, L.P. 9415 HULL STREET ROAD SUITE C RICHMOND, VA 23236 MR. TOM KRUPA	(804) 745-7865 Phone (804) 745-7887 FAX

NET 30 DAYS
E-MAIL: GHELMLING@SUBURBANPROPANE.COM
DUNS #: 93-924-1584

REVISION 1 OF THIS ORDER IS ISSUED TO ADD THE FOLLOWING NEW VENDORS WHO RESPONDED TO SOLICITATION # 992, IFB # E194-1162-1, FOLDER # 27847, AND WERE AWARDED CONTRACTS. FOR THE EXISTING VENDORS WHO WERE AWARDED ADDITIONAL COUNTIES/CITIES PLEASE SEE PRICING SCHEDULE. THE FOLLOWING VENDOR ADDITIONS ARE:

7. E1244
CAPITOL OIL COMPANY, INC.
P.O. BOX 26664
RICHMOND, VA 23261
MR. JOHN ZACHARIAS
(804) 271-1220 PHONE
(804) 743-3392 FAX
NET 30 DAYS
E-MAIL CAPITOL@MINDSPRING.COM
DUNS #: 023896251

8. C5475
AMERIGAS PROPANE
460 NORTH GULPH ROAD
KING OF PRUSSIA, PA 19406
(201) 529-5729 PHONE
(201) 529-3956 FAX
MR. PHIL DUNLAP
NET 30 DAYS
E-MAIL: PHIL.DUNLAP@AMERIGAS.COM
DUNS #: 835496539

9. E28372
ORANGE- MADISON COOP.
13323 JAMES MADISON HGY.
P.O. BOX 590
ORANGE VA 22960
(540) 672-2977 PHONE
(540) 672-5664 FAX
MS. ESTHER HURT
NET 30 DAYS
E-MAIL: ESTHER.HURT@SSCOOP.COM
DUNS #: 023862642
DMBE SWAM CERTIFICATION: **SMALL**

10. VS000000255
SHARP ENERGY INC.
P.O. BOX 160
BELLE HAVEN, VA 23306
MR. JOHN L. THORNTON
NET 30 DAYS

PHONE 757-442-4328
DUNS# 510313052

GENERAL 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 submitting their (bids/proposals), (bidders/offerors) certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of 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 equal 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 equal 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.state.va.us) 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 (1 of 2)

eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION: 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.

eVA REGISTRATION (2 of 2)

a.) eVA Basic Vendor Registration Service: $25 Annual 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 Fee plus the appropriate 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.

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. Small businesses must be certified by the Virginia Department of Minority Business Enterprise not later than the solicitation due date and time. DMBE-certified women- and minority-owned businesses are also considered small businesses when they have received DMBE small business certification.