

IT HIGH RISK SOLICITATIONS AND CONTRACTS REQUIRE VITA AND OAG REVIEW

In 2019, the General Assembly added §2.2-4303.01 “High-risk contracts; definition; review” to the Virginia Public Procurement Act.

1. 2.2-4303.01(A) defines **high risk contracts**:

“High-risk contract” – means any public contract with a state public body that is anticipated to either:

- i. Cost >\$10M over the initial term of the contract **OR**
 - ii. Cost > \$5M over the initial term of the contract and meet one of the following criteria:
 - The goods or services that are the subject of the contract are being procured by 2 or more state bodies.
 - The anticipated term of the initial contract, excluding renewals, is greater than 5 years OR
 - The state public body procuring the goods or services has not procured similar goods or services within the past 5 years.
2. 2.2-4303(B) requires that **PRIOR** to issuing a **solicitation** for a high-risk IT contract, a state public body shall submit such solicitation for review by:
- i. VITA and OAG
 - ii. Such reviews:
 - Shall be completed within 30 business days
 - Evaluate if the solicitation complies with applicable law and policy
 - Evaluate the appropriateness of the solicitation’s terms and conditions.
 - Ensure that such solicitations contain distinct and measurable performance metrics and clear enforcement provisions, including penalties or incentives to be used in the extent that contract performance metrics or other provisions are not met.
3. 2.2-4303(C) requires that **PRIOR** to **AWARD** of a high risk IT contract the contract shall be reviewed by:
- i. VITA and OAG
 - ii. Contract reviews shall:
 - Be completed within 30 business days
 - Evaluate if contract complies with applicable state law and policy
 - Evaluate the legality and appropriateness of the contract’s terms and conditions. Ensure that such contracts contain distinct and measurable performance metrics and clear enforcement provisions, including penalties or incentives to be used in the event that contract performance metrics or other provisions are not met.



Supply Chain Management

VITA is issuing a High Risk Solicitation and Contract policy (eff. 07/01/2019), which requires agencies who are planning to conduct an IT procurement under a delegation of authority to notify VITA 's SCM Division immediately. SCM will provide advice and consulting services to these agencies to assist them in preparing the required performance metrics and enforcement provisions. Agencies are advised to contact scminfo@vita.virginia.gov to notify VITA of an upcoming high risk procurement.