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I. Purpose.

This document provides procurement guidelines designed to enhance and expand contracting opportunities for small businesses, including micro businesses, women-owned, minority owned, and service-disabled veterans (SWaM) owned information technology(IT) and telecommunications small businesses, to participate in the Commonwealth's procurement process. All executive branch agencies are subject to this policy for the procurement of IT except those agencies explicitly exempted by the *Code of Virginia* or the Appropriations Act.

II. Definitions.

A. For the purposes of this policy, "small businesses" shall include, but not be limited to small, any category of small, small women-owned, small minority-owned, or small service disabled veteran-owned businesses. (SWaM). A small business is defined as a DSBSD-certified business with 250 or fewer employees, or gross receipts of \$10 million or less averaged over the previous three years. A small business shall include, but not be limited to, certified minority-owned and women-owned businesses and businesses owned by service-disabled veterans that meet the small business definition as defined by [§ 2.2-4310](#) of the *Code of Virginia*.

B. "Micro Businesses" – shall include those DSBSD designated and certified small businesses that have no more than twenty-five (25) employees and no more than \$3 million in annual revenue over the three-year period prior to their certification.

C. "DSBSD" – Department of Small Business and Supplier Diversity

D. SWaM or small businesses – small, small women-owned, and small minority-owned businesses (including small businesses owned by service-disabled veterans) and including micro businesses.

III. Enhancing Opportunities for Small, Women-and Minority-owned Businesses.

VITA is committed to enhancing and expanding contracting opportunities for small (including micro businesses) women-owned, and minority-owned (SWaM) businesses as well as small businesses owned by service-disabled veterans. The Commonwealth has a target goal of 42% of discretionary

spending for Executive Branch Agencies with DSBSD Certified small businesses. This percentage applies to discretionary spending in categories from which the Commonwealth derives procurement orders, prime contracts and subcontracts. VITA works closely with DSBSD to identify small businesses that provide information technology goods and services to support this goal and to develop means to provide outreach to the small business community. In line with these efforts, VITA has set a goal of a minimum of three percent (3%) participation by small businesses owned by service disabled veterans as defined in [§ 2.2-2001](#) and [§ 2.2-4310](#) of the *Code of Virginia* when contracting for information technology goods and services.

In accordance with [§ 2.2-4310](#) of the *Code of Virginia*, any enhancement or remedial measure authorized by the Governor for state public bodies may allow for small businesses certified by the DSBSD or a subcategory of small businesses established as a part of the enhancement program to have a price preference over noncertified businesses competing for the same contract award, provided that the certified small business or the business in such subcategory of small businesses does not exceed the low bid by more than five percent.

VITA will work with the Commonwealth's certified SWaM and designated micro-businesses IT and telecommunications suppliers to increase the number of contracts awarded to these suppliers. VITA's procurement guidelines provide for increasing SWaM participation on VITA's small procurements by implementing a set aside program for micro and other SWaM businesses. VITA will promote greater representation of small businesses on all IT contracts by actively recruiting SWaM businesses to bid on statewide cooperative procurement agreements and/or all contracts. As required by the *Code of Virginia*, VITA will post solicitations on [eVA](#) to enable small businesses to prepare potential bids or proposals.

IV. Initiatives.

VITA will support and encourage the participation of SWaM businesses through utilization of the following initiatives:

- A.** Identification and Outreach to potential SWaM IT businesses. VITA will offer to assist these businesses with DSBSD certification, [eVA](#) registration and provide education on VITA's procurement procedures.
- B.** All VITA solicitations will promote the use of partnerships with SWaM businesses and the use of SWaM subcontractors in providing IT goods and services to the Commonwealth.
- C.** VITA will provide procurement outreach and educational opportunities for SWaM businesses. Such opportunities will include, but not be limited to the following:
 - 1. Coordinate with DSBSD and the Department of General Services (DGS) for SWaM- related seminars and/or fairs for consistent, statewide communications;
 - 2. Hosting and participating in IT related procurement fairs and educational opportunities;
 - 3. Meet with SWaM-supplier organizations for input and perspective.
 - 4. Participate in a SWaM procurement advisory committee comprised of IT SWaM businesses which will assist VITA in enhancing opportunities for IT SWaM businesses as needed;
 - 5. Engage and educate internal sourcing consultants and purchasing specialists regarding SWaM policies and practices;

6. Update and maintain externally accessible web site for SWAMs;
7. Identify and publicize VITA's future contracting needs and procurement planning to assist SWaM suppliers in preparing to participate in upcoming VITA procurements;
8. Develop appropriate contract terms related to use of SWaM and SWaM subcontract spend reporting;

V. Competitive Requirements.

All solicitations up to \$10,000 shall be set aside for DBSBD certified micro businesses when the price quoted is fair and reasonable and does not exceed five percent (5%) of the lowest responsive and responsible noncertified bidder. These set asides would require soliciting a minimum of one (1) DBSBD-certified micro business, if available for all procurements up to \$10,000.

Solicitations for IT goods and services greater than \$10,000 and up to \$100,000 shall be set aside for qualified DBSDB-certified Small businesses when the price quoted is fair and reasonable and does not exceed five percent (5%) of the lowest responsive and responsible noncertified bidder. Purchases over \$10,000 and up to \$100,000 require soliciting at least four (4) DBSBD-certified small business sources, if available, through eVA. In the event two or more DBSBD-certified small businesses cannot be identified as qualified to set aside the procurement under \$100,000, the procurement file shall be documented with the efforts through eVA and DBSBD to obtain the number of required sources and a competitive procurement will then be conducted. In estimating the total cost of the procurement, all possible renewal periods on a term contract must be considered to determine if the procurement will exceed \$100,000.

VI. Award to Other than the Lowest Price Bidder or Highest Ranking - Offeror over \$100,000.

Contracts over \$100,000 may be awarded to a reasonably priced or reasonably ranked DBSBD-certified and qualified small business bidder or offeror that is other than the lowest price bidder or highest ranking offeror. All potential awards to other than the lowest price bidder or highest ranking offeror must be approved in writing by VITA's Supply Chain Management Director or his designee before issuance of such award. In those instances, where an award is made to other than the lowest price bidder or highest ranked offeror, the award shall be made to the DBSBD-certified small business that is the lowest priced responsive and responsible bidder, or the DBSBD-certified highest ranking offeror.

VII. Set Asides.

All solicitations up to \$10,000 shall be set aside for DBSBD certified micro businesses. All solicitations between \$10,000 and \$100,000 shall be set-aside for qualified DBSBD- certified IT small businesses. Resulting awards may be made if the price quoted is fair and reasonable and does not exceed five percent (5%) of the lowest responsive and responsible noncertified bidder. Set asides, regardless of the amount of the solicitation or resulting contract, will not apply when the IT product or service has been previously competitively procured and may be ordered from a VITA statewide contract.

VIII. Prime Contractor Supplier Procurement and Subcontracting Plan.

All solicitations for contracts, regardless of amount, shall contain the requirement that the prime contractor must submit a "Supplier Procurement and Subcontracting Plan" to show all subcontractors the Supplier intends to use for direct performance of the contract. Such plans shall identify all planned utilization of (i) small businesses, (ii) subcategory of small businesses, (iii) small women-owned businesses, (iv) small minority-owned businesses, and (v) small service disabled veteran-owned businesses. For RFPs, small business participation may be an evaluation criterion. If Supplier will not be utilizing small businesses in its proposal, the Supplier shall submit the Supplier Procurement and Subcontracting Plan but indicate that no small businesses will be utilized in its provision of IT goods

and services to the Commonwealth.

Any resulting contract, regardless of amount will require that the following be included as a contractual requirement of the prime contractor who receives the contract award:

Small Business Procurement and Subcontracting Spend - Prime contractors shall submit to VITA a report of monthly subcontracting spend data. This data must include the prime contractor's total spend to all subcontractors who provide direct performance for obligations under the contract. Prime contractor's monthly subcontracting spend data must be submitted via the SRS webpage located at: <http://vita2.virginia.gov/procurement/srs/>.

Before final payment is made, the purchasing agency shall confirm that the prime contractor has certified compliance with the contract's Supplier Procurement and Subcontracting Plan. If there are any variances between the contract's Supplier Procurement and Subcontracting Plan and the reported actual small business (SWaM) participation, the prime contractor shall provide a written explanation for the contract file.

VITA's contracts and renewals may include a provision allowing final payment to be withheld until the prime contractor is in compliance with its Supplier Procurement and Subcontracting Plan. Prior to entering into a new contract or renewing a contract with a prime contractor, VITA shall review the prime contractor's record of compliance with its Supplier Procurement and Subcontracting Plan commitments. A prime contractor's failure to satisfactorily meet designated Supplier Procurement and Subcontracting Plan small business (SWaM) commitments shall be considered in determining the Supplier's eligibility for future contract awards and/or renewal of any existing contracts.

IX. VITA's Small Purchase Procedures – up to \$100,000.

A. IT Solicitations up to \$10,000 will be set aside for micro-businesses.

A minimum of one quotation from a qualified DBSBD-certified micro business, if available, is required and the award shall be made to that DBSBD-certified small business if the price is fair and reasonable and does not exceed five percent (5%) of the lowest responsive and responsible noncertified bidder. If more than one quote is solicited, the award will be made to the lowest responsive and responsible qualified DBSBD-certified micro business bidder. If the procurement is set aside and agencies, as defined by [§ 2.2-2006](#) of the *Code of Virginia* receive no acceptable bids or offers from micro businesses, the set aside may be withdrawn and the procurement resolicited utilizing non-set-aside procedures.

B. IT Solicitations from \$10,000 to \$100,000 will be set aside for small businesses.

If available, four (4) qualified DBSBD-certified small business sources should be solicited for all procurements between \$10,000 and \$100,000. If two or more DBSBD- certified small businesses cannot be identified as qualified to set aside the procurement under \$100,000, the procurement file shall be documented with VITA's efforts through [eVA](#) to obtain the number of required sources. An award may be made to a qualified, reasonably ranked small, minority or women-owned offeror, if available, that is other than the highest ranking offeror if the price submitted is fair and reasonable and does not exceed five percent (5%) of the lowest responsive and responsible noncertified bidder. If an informal RFP is utilized in lieu of Quick Quote the award shall be made to the highest ranking and qualified small, woman-or minority- owned offeror. If the procurement is set aside and agencies, as defined by [§ 2.2-2006](#) of the *Code of Virginia*, receive no acceptable bids or offers, the set aside may be withdrawn and the procurement resolicited utilizing non-set-aside procedures.

X. Solicitations over \$100,000.

Unless delegated, these solicitations shall be conducted by VITA. For delegated procurements, a set-aside solicitation may be conducted based on market research to locate qualified small businesses.

XI. Commitment to Removing Barriers.

VITA will review all solicitations prior to posting in order to identify and remove, whenever possible, any potential barriers or limitations to small business participation. In addition, VITA's annual SWaM plan shall outline ways in which VITA will work with procurement personnel to ensure nondiscrimination in the solicitation and awarding of contracts. To the extent allowed by law, 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, sexual orientation, gender identity or expression, political affiliation, or status as a service disabled veteran or any other basis prohibited by state law relating to discrimination in employment.

XII. Optional Use and Mandatory Statewide Contracts.

Set asides do not apply to orders placed against VITA's statewide contracts.

XIII. Mandatory Statewide Contracts.

In the event VITA awards a statewide contract for IT goods and/or services to a qualified DBSBD-certified small business VITA may, at its discretion, make the use of such contract mandatory for agencies as defined by [§ 2.2-2006](#) of the *Code of Virginia*. Mandatory Contracts are designated as such on VITA's website and in eVA.

XIV. Joint and Cooperative Procurements.

Purchases from joint and cooperatively procured contracts may be approved by the Chief Information Officer only if the purchase request satisfies the following criteria:

- A.** there is no VITA statewide contract available, or;
- B.** there is no qualified DBSBD-certified small business available that can provide the requested goods and services at a fair and reasonable price, or;
- C.** a VPPA-compliant joint and cooperatively procured contract is available for use.

XVI. Authority Reference(s)

[Executive Order 35](#). Advancing Equity for Small-, Women-, Minority-, and Service Disabled Veteran-Owned Business in State Contracting

[§ 2.2-2001](#) of the *Code of Virginia*. Contracting for information technology goods and services

[§ 2.2-2006](#) of the *Code of Virginia*. Definitions of “information technology” and “agency”

[§ 2.2-2012](#) of the *Code of Virginia*. Procurement of information technology

[§ 2.2-4303](#) of the *Code of Virginia*. Methods of Procurement

[§ 2.2-4310](#) of the *Code of Virginia*. Discrimination prohibited; participation of small, women-owned, minority-owned, and service disabled veteran-owned business.