



### Chapter highlights

- **Purpose:** This chapter provides the policies and guidelines that the Commonwealth’s executive branch agencies and institutions shall follow to promote the Commonwealth’s socio-economic goals while procuring information technology (IT).
- Key points:
  - [Executive Order 35 \(2019\)](#) establishes a goal that the Commonwealth should make 42% of its purchases from small businesses including small businesses owned by women, minorities, service-disabled veterans and micro businesses.
  - Any executive branch agency’s goals under § [2.2-4310](#) of the *Code of Virginia* for participation by small businesses shall include within the goals a minimum of 3% participation by service disabled veteran businesses as defined in §§ [2.2-2001](#) and [2.2-4310](#) when contracting for goods and services.
  - VITA has developed procurement policies and guidelines designed to encourage eligible contract users and state agencies to procure IT products and services which help to minimize the environmental impact from the use and disposal of those products.

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**7.0 Introduction**

The Commonwealth's procurement professionals have leveraged the tremendous purchasing power of the state to demand lower prices and better quality products and services. Meanwhile, the Commonwealth is also increasing its demand for cleaner or "greener" products, for products made locally and for products manufactured or sold by small businesses. Using the considerable procurement leverage of the Commonwealth, VITA is committed to achieving the following socio-economic goals, as appropriate to the procurement:

- Encouraging the participation of a more diverse supplier base of small businesses, including small businesses owned by women, minorities, and service-disabled veterans in IT procurement transactions, as well as micro businesses.
- Promoting the procurement of energy-saving and environmentally-friendly information technology (IT) products.
- Substantially increasing the procurement of recycled content products,

**7.1 Small businesses, including small businesses owned by women, minorities and service disabled veterans and micro businesses**

**7.1.1 Overview**

VITA is dedicated to dramatically increasing IT value to the Commonwealth by providing world-class IT goods and services at competitive prices and rates. In conjunction, VITA is committed to increasing procurement opportunities for small businesses, including small businesses owned by women-, minority- and service disabled veteran-owned businesses and micro businesses. These small businesses can often provide innovative IT goods and services not readily available through larger corporations while fostering opportunities for small business growth. In line with these efforts, VITA is committed to enabling a minimum of three percent (3%) participation by service-disabled veteran businesses as defined in §§ [2.2-2000.1](#) and [2.2-4310](#) of the *Code of Virginia* when contracting for goods and services by VITA and by executive branch agencies. For more details on VITA's efforts to encourage small business participation, refer to Appendix A. Also, Refer to Virginia Public Procurement Act (VPPA) § [2.2-4310\(E\)](#) for definitions of small, small women-, minority- and service disabled veteran-owned businesses. Micro businesses are defined in [Executive Order 35 \(2019\)](#) as "certified small businesses that have no more than 25 employees and no more than \$3 million in average revenue over the three-year period prior to their certification.

**7.1.2 Required agency small business plans**

Each executive branch agency and institution of the Commonwealth shall prepare and adopt an annual race- and gender-neutral small business plan that specifies its small business

goals for procurement in accordance with [Executive Order 35 \(2019\)](#) . To the extent allowed by law, this public body does not discriminate against faith-based organizations in accordance with, § [2.2-4343.1](#) of the *Code of Virginia* 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. Please see § [2.2-4310](#) of the *Code of Virginia*.

Each agency is responsible for submitting an annual Small, Woman-Owned and Minority-Owned (SWaM) business plan to the Department of Small Business and Supplier Diversity (DSBSD) and the agency's appropriate cabinet secretary by September 1 of each year. Each plan shall include the annual designation of a SWaM Champion to ensure nondiscrimination in the solicitation and awarding of contracts.

Agencies which have been delegated procurement authority by VITA to conduct IT procurements shall establish internal procedures consistent with the provisions of the VPPA, [Executive Order 35 \(2019\)](#) and this manual to facilitate the participation of small businesses, including those small businesses owned by women, minorities, service-disabled veterans and micro businesses, in IT procurement transactions. All IT procurement procedures shall be in writing, comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to § [2.2-4310\(C\)](#) of the *Code of Virginia*, and shall include specific plans to achieve any goals established therein (Code of Virginia, § [2.2-4310\(B\)](#)).

### **7.1.3 Removal of barriers**

VITA will review all VITA-issued IT solicitations prior to posting in [eVA](#) to identify and remove, when possible, any potential barriers or limitations to participation by small businesses, including those small businesses owned by women, minorities and service-disabled veterans and micro businesses. In addition, VITA's annual SWaM plan will address VITA's ongoing attempts to ensure that all barriers or limitations to the participation of small businesses in IT procurement opportunities have been removed. VITA's SWaM Champion works closely with VITA's procurement personnel and DSBSD to ensure nondiscrimination in sourcing, solicitations and awarding of contracts. Agencies operating under delegated authority should also review their solicitations to ensure removal of any possible barriers or limitations to small business participation.

### **7.1.4 Ordering against optional use and mandatory use statewide contracts**

Set asides for small businesses (including set asides for micro businesses) do not apply when ordering from a previously competitively procured mandatory use or optional use statewide IT contract established by VITA.

### **7.1.5 Set-asides for small businesses**

The goal of the Commonwealth is that 42 percent of its discretionary spend be made from small businesses. Small businesses include, but are not limited to, DSBSD-certified micro businesses, and women-, minority- and service-disabled veteran-owned small businesses.

- **IT solicitations up between \$10,000 and \$100,000 are set aside for small businesses.** If available, four (4) qualified DSBSD-certified small business sources should be solicited for all IT procurements between \$10,000 and \$100,000. If two or more DSBSD-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 the agency or institution receives no acceptable bids or offers, the set aside may be withdrawn and the procurement resolicited utilizing non- set-aside procedures.

- **IT solicitations from \$0 to \$10,000 are set aside for micro businesses:** All solicitations up to \$10,000 shall be set aside for DSBSD 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) DSBSD-certified micro business, if available for all procurements up to \$10,000.
- **IT solicitations over \$100,000:** Unless specifically delegated by VITA, IT solicitations over \$100,000 shall be conducted by VITA. For delegated procurements, a set-aside solicitation may be conducted based on market research to locate qualified small businesses.

#### **7.1.6 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 DSBSD-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 DSBSD-certified small business that is the lowest priced responsive and responsible bidder, or the highest ranking offeror.

#### **7.1.7 Small business enhancement program**

§ [2.2-4310\(C\)](#) of the *Code of Virginia* provides that any enhancement or remedial measure authorized by the Governor for state public bodies may allow for small businesses certified by 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.

#### **7.1.8 Solicitation sizing to encourage small business participation**

Agencies shall work to identify solicitations that may involve bundling and analyze those procurements to gauge their impact on small business suppliers. Agencies and institutions should work to facilitate participation by small businesses, including women-, service disabled veteran- and minority-owned small businesses, as well as micro businesses, through appropriate contract sizing including the use of small business partnering opportunities and the use of small businesses as subcontractors. When appropriate, agencies and institutions may divide potential IT acquisitions into reasonably small lots or

packages to permit offers on quantities or services less than the total requirement or project so that more than one small business may provide the needed IT goods or services. Delivery schedules should be realistic to encourage small business participation, and solicitations should be worded to encourage prime contractors, when appropriate, to subcontract with small businesses.

#### **7.1.9 Consultation with the Department of Small Business and Supplier Diversity (DSBSD)**

Each contracting agency, in consultation with DSBSD and VITA where practical, shall seek to identify those purchases in which contract sizing may influence the availability of purchasing opportunities to micro businesses or small business suppliers (a "size-related contract"). Where these purchases are identified, the agency shall determine whether there are a number of small businesses capable of meeting the purchasing requirements. If the agency identifies no DSBSD-certified small businesses capable of performing the contract requirements, then the agency shall consult with DSBSD to help identify available suppliers unless contract timing issues require the agency or institution to complete the contract process before DSBSD input can be obtained. For any size-related contract for which the agency determines that contract timing issues require contract award without identifying any small business suppliers or consultation with DSBSD, the agency may consult with DSBSD promptly after award of the contract to develop potential small business suppliers for the next similar procurement. Agencies shall work together with DSBSD and the Department of Business Assistance (DBA) to seek to increase the number of DSBSD-certified IT small businesses, including small businesses owned by women, minorities, service-disabled veterans and micro businesses that are available to do business with the Commonwealth.

VITA and other executive branch agencies shall strive to develop procurements and collaborate with DSBSD to locate available small businesses owned service-disabled veteran businesses to encourage their participation. Chapter 680 enacted by the 2018 General Assembly directs "Any executive branch agency's goals under § [2.2-4310](#) of the *Code of Virginia* for participation by small businesses shall include within the goals a minimum of 3% participation by service disabled veteran businesses as defined in § [2.2-2000.1](#) when contracting for goods and services."

#### **7.1.10 Establishing mandatory use statewide contracts**

In the event VITA awards a statewide contract for IT goods or services to a qualified DSBSD-certified small business, VITA may, at its discretion, make the use of such contract mandatory for agencies and institutions of higher education, except those explicitly exempted by the *Code of Virginia*. Mandatory contracts are designated as such in the actual contract document, which may be accessed for viewing on VITA's Web site at: <https://vita.cobblestonesystems.com/public/>

#### **7.1.11 Prime contractor requirements**

VITA solicitations for contracts, regardless of amount will require that the following be included as a contractual requirement of the prime contractor who receives the contract award:

- **Monthly Report of Sales and Supplier Procurement and Subcontracting Report:**  
Prime contractors shall submit to VITA: (1) a monthly report of all sales for which the

prime contractor has received full and complete payment for under each contract; and (2) a report of monthly subcontracting spend for all subcontractors who provide direct performance for the prime contractor under each contract. The prime contractor will submit these reports using the instructions and further detailed requirements and methods found on the Supplier & Vendor Reporting Requirements webpage at this URL: <https://www.vita.virginia.gov/supply-chain/supplier-reporting/>.

- **Supplier Procurement and Subcontracting Plan:** Prime contractors shall include a Supplier Procurement and Subcontracting Plan in all proposals. The inclusion of the Supplier Procurement and Subcontracting Plan may be considered when evaluating each bid or offer. The subsequent monthly reports shall reflect compliance with the Supplier Procurement and Subcontracting Plan, subject only to shortfalls and to shortfalls arising from subcontractor default. When such business has been subcontracted to these firms, the contractor agrees to furnish the agency the following information: name of firm, phone number, overall commitment percentage, category type (small; small and women-owned; or small and minority-owned, small business owned by a service- disabled veteran, micro business, etc.), and type of product/service provided, each month. Final payment under the contract in question may be withheld or the contract may not be renewed, if applicable, until such certification and/or required reporting is delivered and, if necessary, confirmed by the agency or institution, or other appropriate remedies may be assessed in lieu of withholding such payment.

## **7.2 Green procurement**

### **7.1.12 Overview**

VITA and the Commonwealth are committed to encouraging the procurement of IT goods and services which use fewer resources, including energy, in order to decrease pollution and energy costs. Such IT goods must also meet all price and performance requirements of the Commonwealth. VITA has developed procurement guidelines designed to encourage state agencies and institutions to procure IT products and services which help to minimize the environmental impact from the use and disposal of those products. Computers and other IT products are an important focus of environmentally-friendly purchasing activities due to their high prominence in the waste stream, their numerous hazardous chemical components and their significant energy use. More details about VITA's green procurement objectives are listed in Appendix B. The overall energy costs, as well as the environmentally friendly disposal costs, for IT equipment may be considered in overall lifecycle costs.

### **7.1.13 Petitioning for less toxic goods or products**

Any supplier, who manufactures, sells or supplies IT goods or services may petition VITA to include requirements for less toxic goods and services into its procurement process. The supplier shall submit, prior to or during the procurement process, documentation which establishes that the IT goods or services being offered meet the applicable performance standards. If VITA determines that the documentation establishes that the less toxic products meet or exceed the performance standards set forth in the applicable specifications, VITA shall incorporate the specifications for the less toxic goods and products into its procurement process. Agencies procuring IT goods and services under their delegated procurement authority are instructed to revise their procedures and specifications on a continuing basis to encourage the use of less toxic goods and products; however,

agencies are not required to purchase, test or evaluate any particular good or product other than those that would be purchased under regular purchasing procedures. (*Code of Virginia*, § [2.2-4314](#)).

**7.1.14 Procurement of recycled goods and products**

VITA and the Commonwealth are committed to the reduction of energy use and waste products through the use of recycled materials. Agencies are encouraged to promote the procurement and use of recycled goods. Through its programs the Department of Environmental Quality will assist agencies in increasing agency awareness of the benefits of using such products. Agencies shall, to the greatest extent possible, adhere to any recycled products procurement guidelines established by VITA (*Code of Virginia*, § [2.2-4323\(C\)](#)).

**7.1.15 Agency guidelines**

VITA has developed the following guidelines to assist IT procurement professionals in identifying IT suppliers and IT goods and services which have demonstrated product improvement on key environmental attributes and initiatives. Nothing in these guidelines shall be construed as requiring the Commonwealth, VITA or any executive branch agency or institution or supplier to procure IT products or services that do not perform adequately for their intended use or are not available at a reasonable, competitive price in a reasonable period of time:

Attribute	Guideline
Manufacturer "take back" of equipment	This can be accomplished through a lease or a contractual provision whereby the seller agrees to be responsible for taking back the products and providing for appropriate re-use or recycling when the buyer no longer needs the product. However, it is mandatory that any such returned equipment have all Commonwealth data removed in compliance with VITA's data removal standards at this location: <a href="https://www.vita.virginia.gov/it-governance/itrm-policies-standards/">https://www.vita.virginia.gov/it-governance/itrm-policies-standards/</a> .
Reduction of toxic components	IT good manufacturers must demonstrate they are complying with the European Union's Directive – Restriction of Hazardous Substances – which requires the phase out of lead, mercury, hexavalent chromium, cadmium and certain brominated flame retardants (PBBs and PBDEs).
Increased recycled content	Purchasing consideration should be given to IT products that use recycled content and products that can easily be recycled.
Reduced packaging	IT suppliers should be encouraged to use reduced and/or recycled packaging for shipping, to minimize quantity and weight of non-recyclable packaging and to produce user manuals that are easily recyclable.
Shelf life and supportability	IT goods should be evaluated on upgradeability and longevity to avoid short replacement cycles and reduce waste.

Energy efficiency	IT suppliers should be encouraged to produce equipment that meets Energy Star specifications including: <ul style="list-style-type: none"> <li>• Offer equipment which meets the current U.S. Environmental Protection Agency’s and Department of Energy’s Energy Star guidelines.</li> <li>• Equipment shall be configured so it automatically enters a low-power mode after a period of inactivity. When equipment in a low-power mode is used again, it automatically returns to active mode.</li> <li>• Computers shall be shipped with power management feature enabled.</li> <li>• Provide integrated computer systems, where the CPU and monitor will together enter a low-power mode of no more than 45 watts after a specified period of inactivity.</li> <li>• Deliver all products configured for automatic energy-saving features per current Energy Star specifications.</li> </ul>
Clean manufacturing practices	Identify and encourage IT suppliers who minimize the use of toxic and hazardous components in their manufacturing and production processes.
Design for reuse and recycling	Identify and reward suppliers of IT products that use recycled content and produce goods that can easily be recycled. At a minimum, IT manufacturers should be encouraged to comply with the European Union’s WEEE Directive, which requires manufacturers to recycle or reuse more than half of their old equipment on the market by 2006.

### 7.3 Preferences

In order to protect the viability of Virginia’s businesses, promote recycling and other important social or economic initiatives or goals, the Virginia General Assembly has enacted statutory preferences for Virginia products with recycled content, for Virginia firms in the case of a tie bid with a non-state firm, for recycled paper and paper products used by state agencies and for local products and firms. There are other statutory preferences outlined in the *Code of Virginia*; however, they are not directly related to the procurement of IT goods and services. These preferences are to be used by agencies and institutions in solicitations and contract awards, when appropriate. § [2.2-4324\(A\)](#) of the *Code of Virginia* provides that in the case of a tie bid between a Virginia supplier and a non-Virginia supplier, preference shall be given to goods or services provided by Virginia persons, firms or corporations.

Whenever the lowest bidder is a resident of another state which allows a percentage preference for its state suppliers, a like preference will be allowed to the lowest Virginia-based bidder. If the lowest bidder is a non-Virginia resident and its state allows a price-matching preference, a like preference shall be allowed to Virginia bidders. If the lowest Virginia bidder is unable to match the price, the preference shall be given to other Virginia bidders in ascending price order. If the lowest bidder is based in a state with an absolute preference, that bid will not be allowed. DGS is charged with maintaining a list of states with absolute and percentage preferences. This list is available at the following eVA link: <https://eva.virginia.gov/>.



## **Appendix A**

### **VITA's Ongoing Small Business Initiatives**

VITA will work with the Commonwealth's DSBSD certified small businesses, including those owned by women, minorities, and service-disabled veterans and micro businesses to increase their participation in IT solicitations and to increase the number of IT 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 businesses and small businesses. VITA will promote greater representation of small businesses on all IT contracts through actively recruiting SWaM, small businesses, including those owned by women, minorities, and service-disabled veterans and micro 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.

- I. Initiatives.** VITA will support and encourage the participation of small businesses, including those owned by women, minorities, and service-disabled veterans and micro businesses through utilization of the following initiatives:
- A.** Identification and outreach to potential small IT businesses, including those owned by women, minorities, and service-disabled veterans and micro businesses. VITA will 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 small businesses, including those owned by women, minorities, and service-disabled veterans and micro 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. Host and participate 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 to 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. Maintain a SWaM email address and other communications channels (i.e. mail and phone) for direct, SWaM-related purchasing and contracting inquiries to VITA;
  8. Identify and publicize VITA's future contracting needs and procurement planning to assist small businesses, including those owned by women, minorities, and service-disabled veterans and micro businesses suppliers in preparing to participate in upcoming VITA procurements;
  9. Develop appropriate contract terms related to use of SWaM and SWaM subcontract spend reporting.
- VITA's procurement professionals play an integral role in improving the participation of these businesses in the Commonwealth's IT procurement processes. In order to facilitate an increase in access and participation by this business community in VITA's procurements, VITA will post subcontract opportunities and provide directions on how such businesses can qualify or compete for them. VITA will assist these suppliers in identifying the business opportunity, any qualification or prequalification requirements for subcontractors and where to obtain technical data needed to successfully respond to the subcontract opportunity.

VITA will work with the Commonwealth's small IT businesses to increase participation in solicitations and to increase the number of contracts awarded. VITA's procurement guidelines will provide for increasing small business participation on VITA's small procurements (up to \$100,000) through a set-aside program for small businesses and for the implementation of other small business enhancement tools. VITA will promote greater representation of small businesses on all IT contracts through actively recruiting small businesses, including those owned by women, minorities, and service-disabled veterans and micro businesses to bid on all statewide joint and cooperative procurements. In compliance with § [2.2-4302.2](#) of the *Code of Virginia*, VITA will post upcoming solicitations on the eVA "[Future Procurements](#)" page to enable small businesses to prepare potential bids or proposals.

A supplier which is a small business but which is not yet certified with DSBSD must receive certification prior to award: <http://www.sbsd.virginia.gov/>. DSBSD-certified businesses that are women-, minority- and service disabled veteran-owned businesses and micro businesses shall also be considered small businesses when they have received DSBSD small business certification.

## **Appendix B**

### **VITA's Green Procurement Objectives**

In order to support and increase environmentally friendly or "green procurement" for the purchase of IT goods and services across the Commonwealth, VITA and its Supply Chain Management Division (SCM) are committed to achieving the following objectives:

- Educate all VITA procurement staff on the requirements of federal "green" procurement programs.
- Create and publicize opportunities to purchase environmentally-friendly, energy-saving or "green" IT products and services for the Commonwealth.
- Increase purchases of "green" IT products and services consistent with VITA's mission.
- Reduce the amount of solid waste generated from VITA-procured IT products. VITA and its customer agencies will review how IT supplies, materials, and equipment are manufactured, purchased, packaged, delivered, used and disposed in order to reduce the amount of solid waste produced.
- Encourage VITA's IT suppliers to offer high quality, environmentally sound and environmentally preferable IT products and services to the Commonwealth at competitive prices.
- Encourage VITA's IT service providers to consider environmental impacts of service delivery.
- Encourage recycling, market development and use of recycled/recyclable materials through contractual relationships and purchasing practices with the Commonwealth's IT suppliers, contractors, businesses and other governmental agencies.
- Encourage the procurement of IT goods and services which reduce the consumption of energy and natural resources.
- Expand markets for environmentally-friendly and energy-saving IT products and services within the Commonwealth.
- Develop specifications and requirements aimed at eliminating barriers to the procurement of recycled-content IT products.
- Develop and maintain market information about environmentally sound and preferable IT products and recycled IT products which are available to be purchased by VITA, executive branch agencies whenever possible.
- Serve as a model for the Commonwealth to influence IT waste prevention, recycling and energy-saving procurement efforts.

**Appendix C**  
**Supplier Procurement and Subcontracting Plan**

This form is available under the Policy, "IT Procurement Policy for Enhancing Opportunities for Small, Women- and Minority-Owned Businesses" on VITA SCM's website at the following URL: <https://www.vita.virginia.gov/supply-chain/scm-policies-forms/scm-policies/>