

## Appendix A

*The following is a list of terms and acronyms that are frequently used throughout VITA's IT procurement manual (ITPM or "Buy IT"), as well as the definition, if appropriate. VITA tries to keep statutory citations current, but the cited statutes, which are generally in parentheses at the end of the definition, control if there is any inconsistency with the text below.*

*Additional resources for identifying terms related to state information technology are available on VITA's website at <https://www.vita.virginia.gov/policy--governance/glossary/>.*

**"Contract value"** means the total of all considerations from all parties (public body, contractors and any third parties) for the initial period of the contract plus any possible renewal periods.

**"Chief Information Officer of the Commonwealth" (CIO)** is the agency head of VITA and has the powers and duties set forth in statute and as assigned by the Governor and Secretary of Administration (§ 2.2-2005 of the *Code of Virginia*).

**"Commercial off-the-shelf" (COTS)** means IT goods and services, usually software or a hosted application, which can be purchased and used immediately "as is," without modification, in the same form in which it was sold in the commercial marketplace.

**"DSBSD-certified small business"** means any entity certified by the Commonwealth's Department of Small Business and Supplier Diversity as a small, women-owned, minority-owned, or service disabled veteran-owned business, as defined in Virginia Code §§ 2.2-2000.1 and 2.2-4310, or a certified micro business as defined in Executive Order Number 35 (2019).

**"Executive branch agency" or "agency"** means any agency, institution, board, bureau, commission, council, public institution of higher education, or instrumentality of state government in the executive department listed in the appropriation act. However, "executive branch agency" or "agency" does not include the University of Virginia Medical Center, a public institution of higher education to the extent exempt from this chapter pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.) or other law, or the Virginia Port Authority. (§ 2.2-2006 of the *Code of Virginia*).

**"High-risk contract"** means any public contract with a state public body for the procurement of goods, services, insurance, or construction that is anticipated to either (i) cost in excess of \$10 million over the initial term of the contract or (ii) cost in excess of \$5 million over the initial term of the contract and meet at least one of the following criteria: (a) the goods, services, insurance, or construction that is the subject of the contract is being procured by two or more state public bodies; (b) the anticipated term of the initial contract, excluding renewals, is greater than five years; or (c) the state public body procuring the goods, services, insurance, or construction has not procured similar goods, services, insurance, or construction within the last five years. (§ 2.2-4303.01 of the *Code of Virginia*)

**"Information technology" (IT)** means communications, telecommunications, automated data processing, applications, databases, data networks, the Internet, management information systems, and related information, equipment, goods, and services. (§ 2.2-2006 of the *Code of*

Virginia)

**"Office of the Attorney General of Virginia" (OAG)** means the elected chief executive officer of the Department of Law and all of the personnel employed by him and acting under his authority, including Assistant and Deputy Attorneys General. (§ 2.2-500 *et seq.* of the *Code of Virginia*)

**"Public body"** means any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty and empowered by law to undertake the activities described in this chapter. "Public body" shall include (i) any independent agency of the Commonwealth, and (ii) any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia. (§ 2.2-4301 of the *Code of Virginia*. Note that "public body" is also a term defined elsewhere in the Code, so depending on the context, there may also be a need to refer to statutes other than this one, in the Virginia Public Procurement Act.)

**"SPOC"** means the single point of contact for a IT procurement, this is usually the agency procurement lead or sourcing specialist.

**"Supply Chain Management" (SCM)** is the division of VITA charged with developing, implementing and leading the Commonwealth's technology procurement policies, standards and guidelines, as well as acting as the central purchasing office for all IT goods and services for the Commonwealth. SCM is the developer of this IT procurement manual.

**"Telecommunications"** means any origination, transmission, emission, or reception of data, signs, signals, writings, images, and sounds or intelligence of any nature, by wire, radio, television, optical, or other electromagnetic systems. (§ 2.2-2006 of the *Code of Virginia*)

**"Virginia Information Technologies Agency" (VITA)** is a state agency in the executive branch, as set forth in § 2.2-2005 of the *Code of Virginia*.

**"Virginia Public Procurement Act" (VPPA)** –§ 2.2-4300 *et seq.* of the *Code of Virginia*, which governs (among other things) all VITA procurement activity, in accordance with § 2.2-2012 of the *Code of Virginia*.

## Appendix 1.0

VITA's key operating principles for IT procurement
➤ Invite, promote and sustain positive customer and supplier relationships;
➤ Strive for <i>solution</i> - not <i>product</i> - oriented procurements;
➤ Develop business driven and managed acquisitions;
➤ Think "enterprise-wise" to effectively leverage the Commonwealth's buying power;
➤ Negotiate <i>performance-based</i> contract vehicles that are fair and effective;
➤ Make best-value award decisions based on total cost of ownership throughout the technology life-cycle;
➤ Invite and promote participation and relationships with DSBSD certified small businesses, including small women-owned, minority-owned, service-disabled veteran-owned (SWaM) businesses, or micro businesses;
➤ Take advantage of suppliers' expert IT knowledge to drive creative solutions and innovation;
➤ Use procurement processes and contract vehicles to cultivate a common enterprise architecture;
➤ Maintain and honor the integrity of the Commonwealth and the public procurement profession in every procurement;
➤ Do all of the above while building and protecting public trust in accordance with the principles exemplified in the VPPA (§ 2.2-4300 (B) and (C) of the <i>Code of Virginia</i> ).

## Appendix 1.5.3

Telecommunications goods and services: Refer to: <https://vita.virginia.gov/services/>.

Internet and application service providers: Refer to: <https://vita.virginia.gov/services/>.

Printers/copiers: Procurement authority for non-Networked devices is delegated to executive branch agencies for printers which are not networked or shared and whose purchase price is up to \$250,000 per order. This means that agencies should order these and other consumables directly through eVA, utilizing an "R" code. Support is not available from VITA for printers ordered under this delegation.

Manufacturer's warranty applies. For printers/copiers available through VITA, go to: <https://vita.virginia.gov/supply-chain/place-an-order/>. Once at this site, select "VITA's IT Goods and Service List (Infrastructure/Non- Infrastructure)." All network attached printers and multifunction printers are under VITA's authority and should be requested utilizing the VR1

code. A list of choices is provided on the VITA Web site.

New printers will have a recurring monthly charge to cover service, support, network access and refresh of the devices. VITA will provide pricing via eVA for the applicable monthly charge.

Document imaging and management: Equipment and services for analog methods of data imaging and retrieval, such as microfilm, are not within VITA's procurement authority.

IT management and IT consulting contracts: Pursuant to the procurement authority granted to VITA in § 2.2-2012 of the *Code of Virginia* to enter into information technology service contracts, VITA has entered a statewide contract for IT consulting and staff augmentation services. Go to <https://www.vita.virginia.gov/procurement/it-contingent-labor/> to obtain more information.

Miscellaneous: Other IT procurements that are within VITA's procurement authority include: Geographic Information Systems services (GIS) systems and equipment;

- IT goods and services that support public broadcasting, radio/TV broadcast equipment (i.e., one-way transmission)
- IT-based badging systems
- 2-way satellite equipment
- Equipment needed to create, edit, and/or broadcast audio/video programming
- Digital x-ray equipment

Online research or educational material (standard "off the shelf" delivery of static information without customized or interactive functionality) such as: electronic magazines; electronic databases – Lexis/Nexis, Westlaw, Solinet; and electronic textbooks or reference materials.

### Appendix 5.3.1

Although VITA will try to keep these statutory listings up-to-date, remember to check the statute itself to confirm that there have been no changes relevant to your situation.

#### **§ 2.2-3104.01. Prohibited conduct; bids or proposals under the Virginia Public Procurement Act, Public-Private Transportation Act, and Public-Private Education Facilities and Infrastructure Act.**

- A. Neither the Governor, his political action committee, or the Governor's Secretaries, if the Secretary is responsible to the Governor for an executive branch agency with jurisdiction over the matters at issue, shall knowingly solicit or accept a contribution, gift, or other item with a value greater than \$50 from any bidder, offeror, or private entity, or from an officer or director of such bidder, offeror, or private entity, who has submitted a bid or proposal to an executive branch agency that is directly responsible to the Governor pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) (i) during the period between the submission of the bid and the award of the public contract under the Virginia Public Procurement Act or (ii) following the submission of a proposal under the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002 until the execution of a comprehensive agreement thereunder.
- B. The provisions of this section shall apply only for public contracts, proposals, or comprehensive agreements where the stated or expected value of the contract is \$5 million or more. The provisions of this section shall not apply to contracts awarded as the result of competitive sealed bidding as set forth in § 2.2-4302.1.
- C. Any person who knowingly violates this section shall be subject to a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater, and the contribution, gift, or other item shall be returned to the donor. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund and shall be used exclusively to fund the Council.

#### **§ 56-575.17:1. Contributions and gifts; prohibition during approval process.**

- A. No private entity that has submitted a bid or proposal to a public entity *that is an executive branch agency directly responsible to the Governor* and is seeking to develop or operate a qualifying project pursuant to this chapter, and no individual who is an officer or director of such a private entity, shall knowingly provide a contribution, gift, or other item with a value greater than \$50 or make an express or implied promise to make such a contribution or gift to the Governor, his political action committee, or the Governor's Secretaries, if the Secretary

is responsible to the Governor for an *executive branch* agency with jurisdiction over the matters at issue, following the submission of a proposal under this chapter until the execution of a comprehensive agreement thereunder. The provisions of this section shall apply only for any proposal or an interim or comprehensive agreement where the stated or expected value of the contract is \$5 million or more.

- B. Any person who *knowingly* violates this section shall be subject to a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund."

**§ 2.2-3103.1. Certain gifts prohibited.**

- A. For purposes of this section:

"Foreign country of concern" means any country designated by the Secretary of State to have repeatedly provided support for acts of international terrorism pursuant to the National Defense Authorization Act for Fiscal Year 2019, P.L. 115-232 § 1754(c), Aug. 13, 2018; the Arms Export Control Act § 40, 22 U.S.C. § 2780; or the Foreign Assistance Act of 1961 § 620A, 22 U.S.C. § 2370.

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals:

1. Who are members of a public, civic, charitable, or professional organization.
2. Who are from a particular industry or profession.
3. Who represent persons interested in a particular issue.

- B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is:

1. A lobbyist registered pursuant to Article 3 (§ 2.2-418 *et seq.*) of Chapter 4
2. A lobbyist's principal as defined in § 2.2-419
3. A person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee.

Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is:

1. a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4
2. a lobbyist's principal as defined in § 2.2-419
3. a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities.

Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged so long as such foreign dignitary is not a representative of a foreign country of concern. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B or C is a personal friend, the following factors shall be considered:

1. The circumstances under which the gift was offered
2. The history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them

3. To the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift.
  4. Whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.
- G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.
- H. During the pendency of a civil action in any state or federal court to which the Commonwealth is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any person that he knows or has reason to know is a person, organization, or business that is a party to such civil action. A person, organization, or business that is a party to such civil action shall not knowingly give any gift to the Governor or the Attorney General or any of their employees who are subject to the provisions of this chapter.
- I. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.
- J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any district court. However, nothing in this subsection shall be construed to authorize the acceptance of any gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of
- K. Virginia.

**§ 30-103.1. Certain gifts prohibited.**

A. For purposes of this section:

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.



B. No legislator or candidate for the General Assembly required to file the disclosure form prescribed in § 30-111 or a member of his immediate family shall solicit, accept, or receive any single gift for himself or a member of his immediate family with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (ii) a lobbyist's principal as defined in § 2.2-419. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess in \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

D. Notwithstanding the provisions of subsection B, a legislator or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged so long as such foreign dignitary is not a representative of a foreign country of concern, as defined in § 2.2-3103.1. Such gift shall be accepted on behalf of the Commonwealth and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth, but the value of such gift shall not be required to be disclosed.

E. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B if such gift was provided to the legislator or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B may be a personal friend of the legislator or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

F. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection B when the legislator or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

G. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

### Appendix 7.1: 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 7.1.5

Further details regarding small business set-asides are as follows:

- All IT solicitations from \$0 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.
- For IT solicitations between \$10,000 and \$100,000 are set aside for small businesses if 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 then 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 over \$100,000: VITA delegates all IT procurements between \$100,000 and \$250,000 back to agencies (except for Cloud Services)

## Appendix 7.2: 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.
- Inform customers that in the course of procuring IT goods through an IFB or competitive sealed bidding, if a customer receives two or more responses from Energy Star Certified Suppliers, the customer must select between those offerors.
- 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 8.9

To develop good requirements for the solicitation, remember the following:

- Always thoroughly examine the IT business need being procured.
- Write a clear statement of project objectives and scope.
- Know the difference between wants and needs.
- Examine the requirements definition interactively with the business owner and customer, if different from the business owner and the technical SMEs.
- Conduct a thorough and comprehensive analysis of the requirements.
- Document the results unambiguously in sufficient detail.
- Put the requirements document under version control.

A good requirement states something that is necessary, verifiable and attainable. To be verifiable, a requirement must have criteria for acceptance. To be attainable, the requirement must be technically feasible and within budget, schedule and other constraints. The most common problems in writing requirements include:

- Making bad assumptions.
- Writing implementation (how to do something) instead of requirements (what the customer needs).
- Using incorrect industry technology terms.
- Missing, ambiguous or conflicting requirements.
- Overlooking future requirements and/or interface requirements for existing systems.
- Over-specifying.

### Appendix 8.9.5

Before any IT solicitation is released, the business owner, SMEs and the IT procurement professional should complete the checklist attached in Appendix 8.9.5 to verify completeness and quality of the requirements.

- **Applicability**: Do the requirements actually define what is being procured. Fixing a requirement error after delivery can cost up to 100 times the cost of fixing the implementation error.
- **Validity**: Do the requirements provide the functions which best support the agency's needs?
- **Consistency**: Are there any conflicts or ambiguities in the requirements?
- **Completeness**: Are all performance, technical and functional requirements and expectations required by the agency included?
- **Realism**: Can the requirements be implemented given available time, budget, resources and technology?
- **Verifiability**: Are the requirements realistically testable?
- **Comprehensibility**: Are the requirements easily understood?
- **Traceability**: Is the origin of the requirements clearly stated?
- **Adaptability**: Can the requirements be changed without a large impact on other requirements?



#### Appendix 9.4(A)

Below are the definitions of the different warranty types you may encounter in IT procurement.

Term	Definition
General warranty	A promise or affirmation given by the supplier regarding the nature, usefulness, or condition of the supplies, solution or performance of services furnished under a contract.
Express warranty	Means the warranty terms as defined in the contract.
Implied warranty of merchantability	Means the implication by sale of the item is that it is reasonably fit for ordinary purposes for which the item is used. Items must be of at least average, fair, or medium-grade quality and must be comparable in quality to those that will pass without objection in the trade or market for items of the same description.
Implied warranty of specifications	<p>Is interpreted as the supplier's specific warranty to the Commonwealth that its design specifications can be successfully used to perform a contract. When a supplier fails to perform because such specifications are defective, it can assert a constructive change claim in order to obtain an equitable adjustment in the contract price.</p> <p>Essentially, by providing the supplier with specifications to be followed in carrying out the contract work, the Commonwealth warrants that if the supplier complies with those specifications, an adequate result will follow.</p>

#### Appendix 9.4(B)

Each of the following factors should be considered when conducting an analysis of the warranties to be required in IT solicitation:

- For commercial items, use commercial or standard warranties rather than Commonwealth or agency-unique warranties.
- For non-commercial items, tailor warranty requirements to mirror existing market or trade practices.
- When a Commonwealth or agency-unique warranty is required, solicit the warranty as a separately priced line item, which the agency may or may not include in the final contract.
- If the agency is unsure about the benefits of an extended warranty, solicit offerors for the extended warranty as a separately priced option, especially for out-years.

- Take advantage of commercial warranties (including extended warranties, where appropriate and in the Commonwealth's best interest) offered by the supplier for the repair and replacement of commercial items.
- In solicitations for standard IT goods or services, require suppliers to offer the Commonwealth at least the same warranty terms, including offers of extended warranties, as those offered to the general public in customary commercial practice. For example, the supplier may provide warranty services to select high volume customers that are not offered to the general public. If the Commonwealth is not one of those select customers, do not expect to receive extra warranty services without having to pay extra for them.
- In some markets, customary commercial practices may exclude or limit the implied warranties contained in the Commonwealth's contract terms and conditions. In such cases, the Commonwealth must ensure that the express warranty provides for the repair or replacement of defective items discovered within a reasonable period of time after acceptance.
- Analyze the proposed warranty period as a price factor. In IT procurements, it is a buyer's best practice to insist that a warranty period begin after final acceptance of the product, service or solution rather than at time of delivery or installation and last for a longer negotiated period; however, a COTS software warranty may have a shorter warranty period (60, 90 days after installation.) Major technology solution contracts may necessitate a year-long warranty period after final acceptance and affect pricing but be worth it.
- Study the supplier's proposed warranties as price factors to ensure Commonwealth stakeholders and users comply with any restrictions that would void the warranty and negotiate these to the reasonable price benefit of the Commonwealth.

#### Appendix 9.6: Researching Historical Pricing Data

Research of historical market information can provide analysis of the acquisition situation for the product at some point(s) in the past. The following table presents research elements that should be considered when conducting historical pricing research and examining historical acquisition information.

Research element	You should be able to answer questions such as...
Trends in supply and demand	When did past acquisitions take place? Is there any indication of prevailing market conditions at that time?
Pattern of demand	What quantities were solicited for each acquisition? What quantities were acquired?
Trends in prices	What was the contract price?

	How did the unsuccessful offers compare with the successful offer?
Start-up costs and pricing strategy	<p>Did the contract price include one-time engineering, tooling, or other start-up costs?</p> <p>Should future contracts include similar or related costs?</p> <p>Were necessary start-up costs paid for in a manner separate from the price for the item or service?</p>
Sources of supplies or services	<p>How many sources were solicited for the prior acquisition? What specific sources were solicited?</p> <p>How many sources offered bids or proposals? What specific sources offered bids or proposals?</p>
Product characteristics	Are there any significant differences between the requirements documents for the prior contract and the current requirements?
Delivery/ performance terms	<p>What was the delivery or performance period in days, weeks, months, or years?</p> <p>In what month(s) were the supplies to be delivered, the service to be performed or the milestones/deliverables completed?</p> <p>Did the supplier meet the delivery or major deliverable or milestone targets?</p> <p>What was the FOB point?</p> <p>Were premium transportation costs or additional resources required for timely delivery or project completion?</p>
Ownership costs	What costs of ownership were associated with the acquisition?
Acquisition Method	What acquisition method was employed for past acquisitions?
Contract terms and conditions	<p>What were the general terms of past contracts?</p> <p>Are there any significant differences between terms of the last contract (e.g., packing requirements, type of contract, service/performance requirements) and those recommended for this acquisition?</p>
Problems	What problems (if any) were encountered during contract performance?

## Appendix 11.2

Effective procurement planning has a number of other proven benefits including:

- Development of a strong communication framework and structure for cross-functional information sharing.
- Improved schedule success through workload and resource planning and the assignment of roles and responsibilities for each procurement project team member.
- Increased project discipline by demanding systematic documentation of business needs, timelines, and costs while providing sufficient lead time and resources in the selection of appropriate procurement types and development of innovative contracting methods.
- Requiring a baseline commitment from the supplier community to adhere to the response parameters set forth in the solicitation.
- Enhanced structure and control over the amount of time and resources required to accomplish the objectives.
- Speedier negotiations and contract execution because contractual requirements are defined at the beginning of the project.
- Reduced miscommunication and disputes during the evaluation phase.
- Improved savings and cost-efficient IT assets for the Commonwealth by utilizing planning to encourage consolidation of requirements to achieve greater IT economies through innovative price reductions and/or quantity discounts.

## Appendix 11.3

The following table sets forth various key procurement team roles and the responsibilities of those roles in IT procurement. You should familiarize yourself with each procurement role to ensure a

Procurement role	Responsibilities
Agency procurement lead/sourcing specialist	<ul style="list-style-type: none"><li>• Be knowledgeable about the scope of work and the technical and business objectives of the project.</li><li>• Determine if VITA has a statewide IT contract that satisfies the IT business need, thereby eliminating a new procurement process.</li><li>• Develop procurement plan methodology and framework.</li><li>• Define and assign roles and responsibilities for the duration of the procurement process to each team member.</li><li>• Act as single point of contact (SPOC) for the team; the evaluation team, if different group; steering committee, if applicable; suppliers and procurement process oversight.</li></ul>

	<ul style="list-style-type: none"><li>• Coordinate and participate in assessing all potential project risks and including mitigation methods and RFP/contract language with appropriate stakeholders; i.e., business owner, project manager, information security officer, budget analyst.</li><li>• Participate with team in establishing well-defined evaluation criteria.</li><li>• Participate with team to develop a clear, concise scoring plan.</li><li>• Choose best contract type for project success.</li><li>• Obtain and maintain all confidentiality/non-disclosure agreements from team members, subject matter experts and evaluation team, if different group.</li><li>• Prepare RFP/solicitation and evaluation documents. VITA sourcing specialists must use VITA templates.</li><li>• Preside over the bidder/pre-proposal conference if held.</li><li>• Post solicitation documents and respond to supplier questions.</li><li>• Obtain clarification of supplier proposals if necessary.</li><li>• Along with team, participate in supplier product demonstrations and oral presentations, if held.</li><li>• Provide and maintain control of the price information from proposers.</li><li>• Participate in and lead proposal evaluations and contract negotiations.</li><li>• Serve as chairperson of evaluation team.</li><li>• Review and approve evaluation recommendation.</li><li>• Help tailor the contract to the unique needs of the project.</li><li>• Protect and manage the integrity of the project and the ability to get work done.</li><li>• Protect and manage the relationship with potential suppliers.</li><li>• Ensure the overall integrity of the procurement process through fair and open competition.</li><li>• Coordinate legal and/or CIO review and approval of procurement documentation required before release/execution.</li><li>• Award and post contract.</li><li>• Ensure the procurement file is complete</li></ul>
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Business owner	<ul style="list-style-type: none"> <li>• Define requirements.</li> <li>• Define budget, requested timeline and other possible constraints.</li> <li>• Ensure that the procurement aligns with the agency's and Commonwealth's IT strategic plan(s).</li> <li>• Define conditions of performance satisfaction and final acceptance.</li> <li>• Identify business needs such as: <ul style="list-style-type: none"> <li>○ demonstrations</li> <li>○ bonding/acceptance testing</li> <li>○ service levels</li> <li>○ milestones/payment terms</li> <li>○ required supplier technical and professional standards and certifications (agency, VITA, Commonwealth, federal, etc.)</li> </ul> </li> <li>• Support negotiations to ensure that final contract supports business needs and agency requirements.</li> <li>• Serve on evaluation team to evaluate the supplier responses.</li> <li>• Coordinate VITA PMD participation and PGR approval process.</li> </ul>
Agency Information Security Officer or AITR	<ul style="list-style-type: none"> <li>• Ensure solicitation includes all appropriate agency and VITA security policy requirements, including COV Ramp, if the procurement is or may be a cloud-based solution.</li> <li>• Collaborate with the SPOC and VITA security and COV Ramp stakeholders.</li> </ul>
Subject matter expert (SME)	<ul style="list-style-type: none"> <li>• Possess expert technical, industry-, commodity- or service-specific competence and/or knowledge for the project.</li> <li>• May be a member of team or a resource to the team.</li> </ul>
External consultant	<ul style="list-style-type: none"> <li>• External consultant technical, industry-, commodity- or service-specific competence and/or knowledge not available from an internal resource.</li> <li>• Provide advice or assistance to sourcing team members.</li> <li>• Function as a non-voting resource to the sourcing team.</li> <li>• Prohibited from benefiting from outcome of any award or participating in preparation of solicitation.</li> </ul>
Evaluation team members	<ul style="list-style-type: none"> <li>• Individuals designated/responsible to make award recommendation.</li> <li>• The procurement project team/evaluation team would typically include an agency representative (business owner), SMEs and be led by the agency procurement lead/sourcing specialist.</li> <li>• Each member participates to provide business, legal, technical and financial input according to their area of expertise. The members only evaluate their area of expertise as assigned.</li> </ul>
Single point of contact (SPOC)	<ul style="list-style-type: none"> <li>• Agency procurement lead/sourcing specialist serves this role. (See role responsibilities above.)</li> <li>• Is the designated resource for communications with suppliers and all others during the solicitation process?</li> </ul>

### Appendix 11.7.2

The following decision points should be considered when conducting a build vs. buy analysis:

- Decide what the system requirements will be, based on the system's ultimate use. These requirements will dictate the points to consider during the build vs. buy analysis.
- Research the types of available market products available to meet the requirements. Analyze these products' strengths and weaknesses versus the requirements and how they compare to the design and implementation of a custom-built system.
- Develop a decision analysis spreadsheet for each product rated on cost, customization, schedule, supplier support, etc.
- Evaluate intangible factors that are hard to quantify. If the system needs repair or modification, it may be easier to find developers to support generic languages such as MS Visual Basic or Oracle than specialty programming languages. It is beneficial to own the source code so developers can work on the system. With a custom system, an agency can own the code if the contract is written correctly. With a packaged system, an agency will have to pay licensing fees and may not be able to obtain access rights to key parts of the code.
- Avoid purchasing more capability than is needed. Many packaged software systems have more features than an agency may need.

## Appendix 12.2

Below is a comprehensive list that provides a selection of considerations for SOW content ranging from simple to complex procurements—from a single IT component to a major systems design. The project team may glean useful reminders from this list even though all of them may not be pertinent to a particular procurement. Many of the details may be pulled from the requirements definition document to ensure completeness and accuracy.

Depending on the project's size, complexity, delegation and approval thresholds, the business owner must ensure compliance with any Commonwealth Project Management standards and requirements for building SOWs, located at this URL: <https://www.vita.virginia.gov/it-governance/project-management/>.

Introduction	This is a general description of the procurement.
Background	Provide information on the agency, the project/program and/or the services that are affected by this procurement. Include graphics of the user environment/flow of information/current business and operating environment.
Scope statement	Retract from the scope statement prepared in step 2 of this process.
Summary of technical, functional and performance objective(s)	Provide a general description of these objectives.
Summary of technical, functional and performance requirements	Provide a general description of these requirements including all desired solutions, products and/or services.
Specific technical, functional and performance requirements	Specific and detailed requirements must be fully described and include desired agency operating architecture/user environment, if known. If supplier will provide this as part of their proposal, then these requirements will be negotiated and finalized as the contract's definitive SOW exhibit. These would include all technical and functional requirements for all software and hardware, the solution and/or the system being procured and include any related services. If requirements development/system design is a deliverable, then this would be finalized prior to final development, implementation and testing and would become a separate deliverable under the SOW.
Requirements development	If this is part of what the supplier will do, so state and include references in the project's milestone schedule and the deliverables listing.
Custom development and test system environment	Same as previous item
Business design and technical design	Same as previous item
Interface/ integration/legacy systems requirements	Same as previous item. The solicitation must provide all known information about these so suppliers can sufficiently estimate and propose an approach and these requirements should be included in the final contract's SOW, milestone schedule and list of deliverables.



Data conversion	The agency should know and relay the condition of data that requires conversion. Typically, this can be a high cost and/or performance risk vulnerability area.
Bill of material	List all components of software and hardware and expected delivery dates
Testing	Include requirements for any installation, configuration, system, functional, product, beta/production testing and final acceptance testing. Consider carefully the testing duration and environment to emulate a true-to-life test.
Acceptance criteria and acceptance procedures	Include specific acceptance criteria for all deliverables from paper reports to final system turnover. It is advisable to define the agency approval time, supplier resubmit time and so on. Make sure that no conflicting information is provided here and/or in the actual contract language.
Risk management process	Include written requirements/procedures for contract duration and enhance frequency and risk areas (cost, schedule, design/development, interface, etc.) for monitoring/reporting depending on the complexity of the procurement. Written reports/deliverables may also be required. Establishing an escrow account may also be necessary for protecting ongoing use of supplier software in the case of supplier bankruptcy or other business change that could interrupt business continuity.
Quality control/assurance requirements	Describe all requirements for quality control by the supplier, quality assurance and monitoring by the agency or an independent IV&V resource, including all required plans, scheduled reporting and details around the how and when of metrics capture/validation. See <a href="#">Chapter 21</a> of this manual for an entire discussion of performance-based contracting and service level agreements.
Configuration/change management/engineering decision traceability requirements	Describe/list all required schematics, engineering drawings, plans, documents and other traceability deliverables to continue agency operational independence if necessary and to capture historical experience for future reference.
Project management requirements	Depending on the complexity of the procurement, these requirements can be simple or severe. Project management responsibilities can be shared between agency and supplier or performed by only one of the parties; however, it should be clearly stated. Certain Commonwealth project management standards may be required for major projects and those requiring VITA oversight.
Training and documentation requirements	May include offsite or onsite training as best-suited for the agency's budget. Include the number of participants, locations, type of training to be accomplished and all details as to trainer-led, train the trainer, classroom, computer or web-based, etc.
Meetings/reviews (design/project status/reviews)	Use for project control and to maintain project integrity and accountability. The supplier may or may not be required to attend; however, if they are they will include travel in their pricing. Virginia Department of Accounts per diem regulations do apply.

Maintainability and reliability and/or support and maintenance requirements	Include all requirements for maintenance and support while under warranty and for any out-years as budgeted and included in the contract. The related support services will normally be based on the supplier's regular commercial offering, unless otherwise negotiated.
Performance/functionality requirements	Include fault isolation, min-max tolerance parameters, mean-time-between failures, environmental conditions, etc. Service level expectations and incentives for meeting them may be included and monitored, for full payment or established percentage reductions to the supplier as necessary to encourage successful performance.
Contract deliverables	List all hardware, software, system/solution, and paper deliverables such as QA/QC plans, configuration control plans, test plans, IV&V plans/reports, monthly status reports, risk assessment plans, project/milestone plans, GANTTs, etc. Include date due, quantity, any required format, media (Paper, electronic, CD, DVD, etc.), when due, to whom/where for submission, days agency has to review/accept.
Standards/specifications/directives	Include all required agency/VITA/COVA/federal, commercial or industry, standards for SEI process, IT accessibility/508 compliance, HIPAA, environmental, packaging, size, format, etc., and specify if these are available for viewing or included as attachments. Be sure to include any baseline drawings or specs, glossary of technical terms, organizational charts, etc. Be sure not to overlook or exclude relevant Commonwealth standards located at this URL: <a href="https://www.vita.virginia.gov/it-governance/itrm-policies-standards/">https://www.vita.virginia.gov/it-governance/itrm-policies-standards/</a>
Govt. or supplier provisions	Specify any equipment, facilities, materials and resources that will be provided by the Commonwealth to the supplier or vice versa for contract performance. Include provide-by dates, transmittal requirements and return procedures.
Project schedule requirements/period of performance	Provide overall term and a milestone schedule (or request a proposed one from suppliers that will be included in any resultant contract) with expected or definite dates (calendar or "days after award"). Take project planning and milestone to the lowest level to best monitor performance status. Consider any project dependencies that may affect milestones and the overall schedule.
Place of performance	If other than supplier location, state the locations and percentage of time at offsite premises; include meeting attendance for supplier. If performance to take place at VITA or other authorized user location, be specific in expectations for attendance, background checks, office access, etc.

Special/key personnel requirements	If a requirement is in the solicitation for supplier to provide resumes of key personnel, these individuals can be named in the final negotiated SOW with a requirement for agency written approval for any replacements during the contract term. Include all this language then in the solicitation. If certain personnel are key to project success, name them specifically and designate how they will be replaced and when if they leave the project for any reason.
Pricing type	Identify that performance will be based on time & material and/or fixed price; however, the actual pricing schedule will be a stand-alone exhibit to the contract.
Technical point(s) of contact	Provide the names and contact information for the designated project managers and/or technical representatives, updating by contract modification as necessary during contract performance.
Any special warranty requirements	Make sure these do not duplicate any general warranty terms placed elsewhere in the contract document.
Security and/or access requirements	Include all agency/VITA/Commonwealth physical access and data access (hardcopy and electronic) and hosting requirements. VITA security requirements are located at this website: <a href="https://www.vita.virginia.gov/it-governance/itm-policies-standards/">https://www.vita.virginia.gov/it-governance/itm-policies-standards/</a> and reference to it should be included in the SOW, if applicable to the IT procurement. Dialogue with your VITA AITR/Project Management representatives regarding this is crucial to building any of these requirements.
Enterprise Cloud Oversight (COV Ramp) Requirements	Check the VITA statewide contract being used to issue this SOW. If it is <u>not</u> a Cloud Services or Software as a Service (SaaS) contract and does <u>not</u> include required Cloud/SaaS terms, or if the contract scope does <u>not</u> authorize and the product list does <u>not</u> include SaaS products, contact <a href="mailto:scminfo@vita.virginia.gov">scminfo@vita.virginia.gov</a> before going any further to determine next steps. If the contract does include the required Cloud/SaaS terms, contact <a href="mailto:enterpriseservices@vita.virginia.gov">enterpriseservices@vita.virginia.gov</a> to determine if the particular SaaS product has been COV Ramp approved or not and to determine next steps.

### Appendix 12.3.1

When considering a solution-based procurement, the project team should consider the following risk analysis questions to determine whether the solution-based approach is appropriate:

- Does the technology business problem present an opportunity for mutually beneficial risk sharing between us and a supplier?
- What factors could significantly impact the probability of completing our project on time and within budget?
- Is it possible to evaluate the proposed solutions equally?
- Can the solution(s) be evaluated based on a total cost of ownership analysis incorporating the anticipated cost of supporting the proposed solution and other

financial options?

Once the procurement team has decided that a solution-based RFP is appropriate, the following components of the RFP should include:

- The agency's organizational background and current business environment,
- A specific list of processes and procedures related to the project, legal or business mandates,
- Any project procedural or process documentation,
- The project's funding source,
- A clear definition of the agency's current technical environment including all current hardware and software being used, could be used or should be used to address the project requirements,
- A definition of the business or technology problem to be solved, but not a definition of the desired solution or the problem in terms of a desired solution,
- Specifications that describe the characteristics of a technology product, service or solution being sought.

Use technology questions to drive specifications instead of including mandatory requirements in the solicitation. The goal is to invite maximum reasonable competition while procuring the best technology solution for the Commonwealth. Pose questions to suppliers in the solicitation to drive requirements, such as: "What is the industry standard for this product and does your product(s) meet or exceed such standard?" The proposed definitive responses, as negotiated, will then become part of the final SOW in the contract.

### Appendix 13.1

In addition to the main project skills required of PPT members, the following are important qualities to look for when considering members for your PPT:

- Strategic thinking ability to understand and conceptualize the potential improvement in an IT service area(s).
- IT project management and technical skills to convert strategic thought into practical plans for the project's total IT life-cycle.
- Understanding of the Commonwealth's and the public body's strategic IT objectives to foster those objectives and to deter potential short- and long-term conflicts.
- Risk assessment and mitigation skills to help reduce potential IT technical, schedule, cost, security, confidentiality, and/or contractual obstacles and issues.
- Procurement skills for the specialized complexity associated with IT acquisitions.
- Negotiation skills for IT products/services/solutions with the competency to arrive at a satisfactory conclusion.
- Enthusiasm and drive to see the project succeed.
- Objectivity to ensure that all proposals will be viewed equally based on their merits.

### Appendix 13.2: Procurement Project/Evaluation Team Confidentiality and Conflict of Interest Statement

A copy of the VITA "Procurement Project/Evaluation Team Confidentiality and Conflict of Interest Statement" template can be obtained at the SCM website at the following URL:  
<https://www.vita.virginia.gov/procurement/policies-procedures/procurement-forms/>

Appendix 16.0: Sole Source Procurement Approval Request Form

This form is available on VITA SCM's website at the following URL:

<https://www.vita.virginia.gov/procurement/policies-procedures/procurement-forms/>

Appendix 16.5: Price Reasonableness Determination Form

This form is available on VITA SCM's website at the following URL:

[https://www.vita.virginia.gov/media/vitavirginiagov/supply-chain/docs/Price\\_Reasonableness\\_Determination\\_Form.docx](https://www.vita.virginia.gov/media/vitavirginiagov/supply-chain/docs/Price_Reasonableness_Determination_Form.docx)

Appendix 17.3: Emergency Procurement Notification Form

This form is available on VITA SCM's website at the following URL:

<https://www.vita.virginia.gov/procurement/policies-procedures/procurement-policies/>

## Appendix 20.4: Joint and/or Cooperative Procurement Quick Facts

Joint and/or Cooperative procurement approvals required:

- CIO must approve all IT joint and/or cooperative procurement arrangements and all IT procurements from jointly and cooperatively procured contracts regardless of the amount of the IT purchase.
- Enterprise Cloud Oversight Services (COV Ramp) process: Regardless of the amount, if the Joint and/or Cooperative Procurement involves an off-premise (cloud hosted) solution, agencies must follow the Enterprise Cloud Oversight Services (COV Ramp) Process. See [COV Ramp \(formerly ECOS\) | Virginia IT Agency](#). A Security Assessment of the cloud service will need to be completed by the supplier and approved by Enterprise Services, via a work request 1-003, and special Cloud Services Terms & Conditions must be included in the contract prior to award.
- Public body can sponsor, conduct or administer an IT joint and/or cooperative procurement arrangement on behalf of other public bodies, agencies, institutions, or localities of several states for combining requirements to increase efficiency and reduce administrative expenses if approved by the CIO.
- A public body may purchase from another public body's contract even if it did not participate in the RFP or IFB, if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies and the procurement is approved by the CIO.
- Any authority, department, agency may participate in, sponsor conduct or administer a joint and/or cooperative procurement arrangement with public bodies, private health or educational institutions or with public agencies of the several states, territories of the U.S. or D.C. for the purposes of combining requirements to effect cost savings or reduce administrative expense in any acquisition of IT goods and services upon CIO approval.
- Sponsoring a joint and/or cooperative procurements
- All public bodies including agencies must request CIO approval to sponsor, conduct or administer joint and/or cooperative procurement arrangements regardless of the amount of the resulting contract. In order to obtain CIO approval, agencies and institutions should forward a completed [IT Joint and/or Cooperative Procurement Approval Request Form](#) to [scminfo@vita.virginia.gov](mailto:scminfo@vita.virginia.gov).
- If a joint and/or cooperative procurement arrangement is approved, the agency must specify in the solicitation that the procurement is being conducted on behalf of other public bodies. The inclusion of this language allows additional agencies and institutions not named in the solicitation to purchase from the resulting contract.
- An agency that sponsors a joint and/or cooperative procurement must serve as the contract manager and administrator for the contract.
- Using jointly and cooperatively procured contracts.
- Agencies desiring to purchase IT from jointly and cooperatively procured contracts must request CIO approval before doing so regardless of the amount of the purchase. In order to obtain CIO approval, agencies should forward a completed [IT Joint and/or Cooperative Procurement Approval Request Form](#) to [scminfo@vita.virginia.gov](mailto:scminfo@vita.virginia.gov).
- Agencies are not permitted to procure IT from jointly and cooperatively procured contracts if the same items are available on an existing statewide contract or an



Office of Small Business Assistance and Certification-certified small business, including small businesses owned by women, minorities, and service-disabled veterans as well as micro businesses, is available to provide the goods or services at fair and reasonable prices.

- Jointly and cooperatively procured contracts, including GSA contracts, typically should not be used for procurements involving intellectual property rights or that include service level agreement

#### Appendix 20.1.4

The following are a list of issues that may cause a procuring agency difficulty in establishing or utilizing a joint and/or cooperative procurement. Keep in mind that these are merely examples and not exhaustive of the issues an agency may face.

- **Legal compliance:** Although most procurement laws are similar, there may be differences in government procurement statutory requirements or procedures. Some governments require strict compliance with their own procurement laws when using joint and/or cooperative contracts awarded by other governments. Communication and participation in the procurement process by joint and/or cooperative members will help the joint and/or cooperative contract achieve universal compliance.
- **Buy local laws:** Many jurisdictions have laws that favor or give preference to local suppliers. These laws may interfere with the ability of a public body to develop and award a joint and/or cooperative contract or may prevent agencies from using a joint and/or cooperative contract.
- **Open competition:** Many government procurement programs maintain lists of suppliers who register to compete for contracting opportunities and are required to post public advertisements for invitations for bids or proposals. Difficulty can arise in ensuring local suppliers have an opportunity to compete for the joint and/or cooperative IT contract due to differences in notification requirements.
- **Small business participation:** Some small businesses may be able to handle business for one state or local jurisdiction, but may not be able to handle the combined requirements or needs of multiple governments. Encouraging local delivery and service networks and utilization of small business subcontractors will provide opportunities for these small businesses to continue to serve joint and/or cooperative members.
- **Forms and terms:** With the exception of federal statutory regulations, most state and local governments use unique procurement contract terms and conditions, therefore, a joint and/or cooperative IT contract awarded by one jurisdiction may not conform to the required terms and conditions of another.
- **Attention to pricing:** Although most joint and/or cooperative contracts generate considerable cost savings for governments, not all joint and/or cooperative contracts achieve best value. Suppliers may offer higher prices because many of the joint and/or cooperative members are small or located in remote areas. If contract usage estimates are inaccurate, price may be based on much lower than actual usage. Pricing is much more likely to be unfavorable in piggyback contracts because usage is difficult to estimate beforehand. In addition, the

supplier may price the contract high because of high administrative costs associated with the joint and/or cooperative agreement.

- **Time and resources:** It takes more time and effort to award a contract that serves multiple governments and agencies than it does for a contract that serves one agency. In theory, joint and/or cooperative IT contract time and resource investments are more than recovered by using joint and/or cooperative IT contracts awarded by other public bodies. Time and resource requirements can also be reduced by using volunteers from other governments to assist with the procurement, draft specifications or participate in the evaluation process.
- **Watch piggybacking:** Since "piggyback" contracts are not based on aggregated volume, agencies "piggybacking" on another entity's contract may not benefit from true economies of scale. Piggybacking off of another public entity's contract does not always produce best value. In some cases, entities may piggyback off of an existing joint and/or cooperative but fail to notify the lead state or complete a participating addendum to the contract. This can result in undocumented contract activity and volume and impact volume discounts.
- **Fees:** Many joint and/or cooperative purchasing programs assess usage and access fees to other governmental entities to use their joint and/or cooperative contracts. Fees range from one time or annual enrollment fees to transaction fees ranging from less than 1% to 2% of the value of every purchase. These fees may be collected directly by the joint and/or cooperative lead contract administering entity or from the supplier.

## Appendix 20.2 Steps for Ordering IT Services Utilizing GSA Technology Contracts

When ordering IT services from GSA, contact VITA's SCM Division at [scminfo@vita.virginia.gov](mailto:scminfo@vita.virginia.gov) prior to completing the following:

1. Prepare a request for quotation (RFQ) that includes:
  - **Statement of work:** Include detail on the work to be performed, the location of the work, the period of performance, the deliverable schedule, the applicable performance standards and any special requirements (e.g., security clearances, reports, travel, and special knowledge).
  - **Evaluation criteria:** At a minimum, include evaluation of a project plan for performing the task, price, experience and past performance.
  - **Pricing:** A firm-fixed price order shall be requested, unless the ordering agency makes a determination that it is not possible to estimate accurately or with any reasonable degree of confidence the extent or duration of the work or costs. When such a determination is made, a labor-hour or time-and-materials quotation may be requested. The firm-fixed price of the order should also include any travel costs or other direct charges related to performance of the services ordered. A ceiling price must be established for labor-hour and time-and-materials orders.
  - **Special pricing:** A requirement for pricing information that ties the offered prices to the GSA IT contract prices and seeks additional price reductions where appropriate.
2. Transmit the RFQ to GSA IT contractors

- **Obtain three quotes:** Provide the RFQ (including the statement of work and evaluation criteria) to at least three GSA suppliers that offer the IT services requested and to any other GSA suppliers that request copies.

**Note:** Each GSA IT contract has a maximum order threshold, which will vary by special item number. The maximum order threshold represents the point where, given the dollar value of the potential order, the ordering activity shall seek a price reduction.

3. Evaluate responses and place the order or establish the blanket purchase agreement
  - **Conduct evaluations:** Evaluate all responses received using the evaluation criteria in the RFQ. GSA has already determined that the hourly rates for services contained in the supplier's price list are fair and reasonable. However, the customer is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total firm-fixed price or ceiling price is fair and reasonable.
  - **Make award:** Place the purchase order with the GSA supplier that represents the IT best value.

## Appendix 21.7

Surveillance results may be used as the basis for contract actions, including payment deductions, if provided in the contract or SOW. Acceptable surveillance methods include:

- **100 percent inspection:** This method, where performance is inspected/evaluated at each deliverable occurrence, is too expensive to be used in most cases. It is usually most appropriate for:
  - infrequent tasks
  - for small quantity but highly important products or services, or
  - when there are written deliverables and stringent requirements such as tasks required by law, safety or security.
- **Random sampling:** This is usually the most appropriate method for recurring tasks. With random sampling, services are sampled to determine if the level of performance is acceptable. Random sampling works best:
  - frequent tasks
  - when the number of instances of the services being performed is very large and a statistically valid sample can be obtained.
  - for large quantity, repetitive activities with objective and measurable quality attributes.
- **Periodic inspection:** This method, sometimes called "planned sampling" uses a comprehensive evaluation of selected outputs. Inspections may be daily, weekly, monthly, quarterly or unscheduled. Sample results are applicable only for the specific work inspected.
- **Direct observation:** This method can be performed periodically or through inspection(s).
- **Management information systems:** This method evaluates outputs through the use of management information reports.
- **User survey:** The user survey method combines elements of validated user complaints and random sampling. Random surveys are conducted to solicit user satisfaction. It is appropriate for high quantity activities.
- **Validated user/customer complaints:** This method is highly applicable to services provided in quantity and where quality is highly subjective. It relies on system or contract users to identify supplier performance deficiencies where complaints are then investigated and validated.
- **Progress or status meetings:** Scheduled reoccurring meetings with contract users and suppliers are conducted to discuss progress made, problems encountered, problems resolved and/or plans for the next reporting period.
- **Supplier progress reports:** The agency conducts analyses on regularly occurring progress reports delivered by the supplier.
- **Performance reporting:** The agency evaluates performance or other required metrics for a specific time period.

#### Appendix 21.4

The table below provides information on various types of performance incentives an agency may elect to employ to guarantee contract performance:

Type of incentive	Description
Cost-based	Relate profit or fee to results achieved by the supplier in relation to identified cost-based targets.
Award fee	Allows suppliers to earn a portion (if not all) of an award fee pool established at the beginning of an evaluation period.
Share-in-savings	Supplier pays for developing an end item and is compensated from the savings it generates. Established baseline of costs is extremely important.
Share-in-revenue	Generates additional revenue enhancements; compensation based on sharing formula.
Balanced scorecard	Used when performance is less tangible, i.e., quality of lead personnel or communication and resolution of issues.
Past performance	Information used as part of the decision process to exercise contract options or to make contract awards.
Non-performance Incentives	Specified procedures for reductions in payment when services are not performed or do not meet contract requirements.

## Appendix 22.0: IT IFB Process Overview

If you prefer that VITA conduct any particular technology procurement on your behalf, contact: [scminfo@vita.virginia.gov](mailto:scminfo@vita.virginia.gov). Otherwise, please refer to VITA's Authority and Delegation Policy at: <https://www.vita.virginia.gov/procurement/policies-procedures/procurement-policies/> for IT procurement authority delegation and approval thresholds and compliance requirements. The following table provides a step-by- step reference for the IFB procurement process:

STEP	PROCESS
1	Review the statewide technology contracts available on VITA's website ( <a href="https://vita.cobblestonesystems.com/public/">https://vita.cobblestonesystems.com/public/</a> ) to determine that there is no statewide technology contract available for the particular technology good or service to be procured. Statewide contracts can offer significant price discounts over individual procurements.
2	Prepare the IFB document and include IT terms and conditions, technical and functional requirements and specifications, reporting or inspection requirements and any bidder qualifications.
3	Post the IFB in eVA, and if desired, a newspaper of general circulation for at least 10 days prior to due date set for receipt of bids. Bids may be solicited directly from potential bidders.
4	Host a pre-bid conference, if applicable.
5	Issue any amendments that are necessary in eVA and answers to all questions received during bid period.
6	Receive and keep sealed bids until date and time stated in the IFB. Late bids shall not be considered.
7	Publicly open the bids on the specified date and time given in the IFB.
8	Read the bids aloud, including announcement of all bids received. Log the respondents' names and bid totals.
9	Responsiveness of bids based upon the requirements set forth in the solicitation
10	Determine if bids responsive, bidders responsible. The lowest responsive bidder is then evaluated to determine if the firm is responsible.
11	Award to the lowest responsive and responsible bidder. If the provision for award to other than the lowest priced bidder was included in the IFB, the award may be made to a reasonably priced DSBSD-certified small business bidder that is other than the lowest responsive and responsible bidder so long as it does not exceed 5 percent (5%) of the noncertified bidder. If the award is made to other than the lowest priced bidder, the award shall be made to the next lowest responsive and responsible DSBSD certified small business bidder.
12	Issue award.
13	Post award in eVA.
14	Await 10-day protest period.
15	Manage and administer the contract.

## Appendix 23.0: Two-Step and Combined Two-Step Competitive IFB Process Quick Sheet

### Two-step IFB process

- Prepare an IFB requesting unpriced technical offers only.
- Post IFB in eVA
- Post any amendments to IFB in eVA
- Receive unpriced technical offers.
- Evaluate unpriced technical offers.
- Identify acceptable unpriced technical offers.
- Invite offerors who submitted acceptable unpriced technical offers to submit pricing offers.
- Pricing bids are tabulated via eVA.
- Contract is awarded to the lowest responsive and responsible bidder unless solicitation provides for set aside to a reasonably priced DSBSD-certified small business including small businesses owned by women, minorities and service-disabled veterans as well as micro businesses.

### Combined two-step IFB process

- IFB requires bidders to submit technical proposals and price bids in response to IFB.
- Offerors are submitted in separate envelopes labeled “technical proposal” and “bid price.”
- Technical proposals are evaluated, and acceptable technical proposals are identified.
- “Bid price” envelopes for those technical proposals identified as acceptable are opened.

Award is made to the lowest responsive and responsible bidder unless set aside to a reasonably priced DSBSD-certified small business including small businesses owned by women, minorities and service-disabled veterans as well as micro businesses provision was included in the solicitation.

### Appendix 24.5: Checklist of Issues to Resolve Before and During RFP Preparation

The following issues should be resolved by the PPT during the preparation of an RFP.

<b>Issues/questions to resolve</b>	<b>YES</b>	<b>NO</b>
Has the agency accepted that we must use “best value” methodology in this acquisition?		
Has the agency included requirements and links in the RFP for VITA-required ITRM PSGs for Security, Data Standards, Enterprise Architecture and IT accessibility and Section 508 compliance? How will these requirements affect the specifications/requirements in the RFP? What is the emergency or back up plan for standby commodities or services?		
Has the agency determined any constraints on RFP flexibility as a result of full or partial federal funding?		
Has the agency considered Commonwealth strategic objectives and ensured there is no potential conflict?		
Has the agency considered all legacy systems and interface requirements that will be affected by this project and taken all associated risks into account? Are these systemic relationships clearly defined in the RFP?		
Would this be an appropriate procurement to designate as a set-aside for DSBSD-certified small businesses, including small businesses owned by women, minorities and service-disabled veterans as well as micro businesses?		
Has the agency analyzed the impact of the RFP process on these small businesses to remove barriers and limitations?		
Can the RFP be structured to promote the inclusion of small businesses in the solution?		
Would a supplier be able to form a consortium of smaller suppliers to submit one proposal in response to an RFP?		
Does the RFP include a requirement to submit a Supplier Procurement and Subcontracting Plan?		
Has the agency determined if subcontractors may be used? How will they be identified? What are reporting requirements for subcontracting?		
Avoid discouraging brand specifications. In PC RFPs, brand names cannot be used in specifications. Is the project equipment required to be a certain brand name or would an equivalent suffice? Will the RFP allow suppliers to propose multiple options to provide the solution to the same functional requirement? If so, RFP should state that each option will be fully considered by the evaluation team prior to the evaluation of the full proposals.		



Issues/questions to resolve	YES	NO
Has the customer analyzed potential supplier management issues and contract management issues if contracts will be offered to multiple suppliers?		
Risk of loss – What are the insurance (i.e., errors and omissions, cyber security liability) and performance or surety bond requirements of the project? Bonds are not generally used for IT procurements.		
Has the agency established objective evaluation and weighting criteria and developed the evaluation scoring? The criteria must be available to bidders in the RFP or by amendment prior to proposal due date.		
What type of contract will be utilized and what terms and conditions are negotiable or not negotiable? Are there special IT or federal terms and conditions that need to be included and are these negotiable? Are there special data protection/access/security/backup terms that need to be included to align with the requirements? If this is a Software as a Service (SaaS) procurement, have required approvals been given by CIO and does the RFP sufficiently address SaaS requirements and include SaaS terms and conditions?		
Has the agency planned how the project should be implemented, what deliverables and milestones the supplier will be expected to meet?		
What are the invoice and payment specifications? Are payments tied to delivery or milestones? Should payment holdbacks be included as an incentive to the supplier and a protection to the agency? Are there discounts/penalties to be applied if delivery or milestones are not met?		
What will the supplier need to supply for record keeping and reporting? What needs to be reported, how often and to whom?		
Has the agency established clear and sufficient metrics and performance measures to include in the contract to measure project success and supplier's performance? Will the contract contain benchmarking of price?		
What changes to performance and/or contract specifications would require a formal contract amendment? Will any performance and/or payment time frames continue beyond the contract term and if so, how will they be managed?		
What are the agency's requirements for the contract and/or project manager(s)?		

Issues/questions to resolve	YES	NO
Did we address and include these: <ul style="list-style-type: none"> <li>• Supplier Procurement and Subcontracting Plan requirement</li> <li>• What certifications, licenses or statutory requirements will supplier have to meet and/or provide?</li> </ul>		
Supplier must show proof of Workers Compensation insurance and other insurance		
Have we conducted a quality review to remove redundancies, conflicting language/terms and ambiguous statements/requirements? <ul style="list-style-type: none"> <li>• Have we scheduled sufficient time in the RFP timeline to obtain all required reviews or approvals by VITA, OAG or other (i.e., federal reviews)?</li> </ul>		
Have we included all Code of Virginia requirements for determining if the procurement/project is designated as a High-Risk solicitation/contract in accordance with § 2.2-4303.01?		

#### Appendix 24.5.1: Contents of a Quality IT RFP

Section	Section content	Content description
1.	Introduction	Provides a statement of the problem and must be detailed enough for suppliers to grasp the business issues driving the RFP and the technical issues that may have precipitated the problem.
2.	Proposal instructions and administration	Contains all administrative requirements and information with which a supplier must comply in order to submit an acceptable proposal. This section includes ground rules for the procurement, from submitting the RFP to awarding the contract and should contain the following types of information: <ul style="list-style-type: none"> <li>• if and when a pre-proposal conference will be held</li> <li>• relevant dates for the procurement cycle</li> <li>• requirements for preparing and submitting proposals (i.e., Code of Virginia requirements, as well as proposal protocol)</li> <li>• how proposals will be evaluated</li> <li>• RFP Single Point of Contact name and contact information</li> </ul>

Section	Section content	Content description
		<ul style="list-style-type: none"> <li>• when, where and to whom proposals are due</li> <li>• other information that is required for a supplier to be fully responsive</li> </ul> <p>If the instructions are incomplete or unclear, suppliers may overlook critical meetings or milestones. Some suppliers may view the lack of quality instructions as a sign of a weak project team or conflicted project which could influence major industry suppliers to not submit proposals. Failure of a supplier to comply with the RFP's administrative requirements may be cause for proposal rejection. This section should present clear rules for responding to the RFP and to make suppliers aware of the penalties for not following them.</p>
3.	Proposal format	Provides details on how proposals are to be formatted and bound and the required media (i.e., hardcopy, CD, etc.). It is helpful to include a table to show if various proposal sections are to be submitted separately; i.e., technical from cost, redacted, etc.). This section should not duplicate or conflict with the proposal instructions in section 2.
4.	Present situation	Accurately describe the agency's organizational background and the project's current business and technical environments so suppliers can effectively and accurately propose solutions to adapt or modify that environment to satisfy the new requirements. Description of the current business environment should include all users and benefactors of the current business services and processes affected. Description of the current technical environment should be a clear definition including all current hardware and software being used, what could be used or should be used to address the project requirements, as well as current interfaces to other existing systems/platforms and/or applications. Workflow and application interfaces may be presented using visuals.
5.	Functional and technical requirements	Provides functional and technical requirements and enough information to enable suppliers to understand the issues and prepare a complete and firm proposal. This overview should address both the current business application and the technical environment (hardware, software, communications). It is recommended that agencies allow suppliers to suggest how they will solve the problem as part of a solution-based proposal. The technical and functional

Section	Section content	Content description
		<p>requirements section includes questions to which suppliers must respond, such as:</p> <ul style="list-style-type: none"> <li>• critical success factors</li> <li>• functional specifications for the current system</li> <li>• functional specifications for the projected system</li> <li>• performance specifications</li> <li>• service level expectations</li> <li>• hardware requirements (if mandatory)</li> <li>• software requirements</li> <li>• security and data protection requirements</li> <li>• communications requirements (if mandatory)</li> <li>• testing requirements</li> <li>• whether their solution complies (or can comply) with VITA Security, Data Standards and Enterprise Architecture and IT Accessibility/508 Compliance ITRMPSGs</li> </ul> <p>Project management requirements state the conditions for managing and implementing the project. This section should provide suppliers with information they need to develop a project plan, risk mitigation plan or other management plan, as required for the complexity and mission criticality of the project and that spans requirements definition, implementation, installation, testing, training, maintenance, and other phases of the project. The proposed project plan provides assurance that the supplier has the resources required to perform the contract successfully. The project management plan typically contains the following:</p> <ul style="list-style-type: none"> <li>• staffing requirements</li> <li>• site preparation responsibilities</li> <li>• delivery and installation schedule and plan</li> <li>• system acceptance test requirements</li> <li>• system maintenance requirements</li> <li>• system training requirements</li> <li>• documentation requirements</li> </ul> <p>Agencies should remember that it is possible a supplier can meet the technical requirements but cannot meet the management requirements as evidenced in their poor or inadequate responses to this section. The management section will help differentiate between suppliers with mature or immature management capabilities.</p>

Section	Section content	Content description
		You may ask suppliers to identify all assumptions and any potential risks associated with the RFP and desired project objectives; and/or ask them to describe in detail a similar project and how they resolved problems or issues that occurred during their performance to their customer's satisfaction.
6.	Clear and distinct Performance Measures and Enforcement Provisions	<p>IT solicitations and contracts that meet the definition of "high risk," as defined in § 2.2-4303.01 of the Code of Virginia, must include clear and distinct performance measures and enforcement provisions, including remedies in the case of Supplier non-performance.</p> <p>Use the tools below to learn more about clear and distinct performance measures and enforcement provisions, including remedies:</p> <ol style="list-style-type: none"> <li>1. <a href="#">Minimum Requirements Matrix for Major IT Procurements, High Risk IT Procurements, and Delegated Procurements</a></li> <li>2. <a href="#">Performance Metrics Tool</a></li> </ol>
7.	Supplier profile	<p>Suppliers are asked to describe their business and professional qualifications and to provide references. They should be asked to present detail about their corporate and financial status and the customers who will serve as references for their professional performance and integrity. The following examples are what is typically required in this section:</p> <ul style="list-style-type: none"> <li>• Supplier's corporate history, organizational structure, locations and business-size status (i.e., DSBSD-certification status, if applicable).</li> <li>• Supplier's general background experience and capability for providing the type of solution or product being offered.</li> <li>• A description of the relationship between supplier and any proposed partner/subcontractor/manufacturer, if any, and how long this relationship has been in existence.</li> <li>• Evidence that supplier has the necessary technical, operational and management skills, staff and financial resources and viability to perform the contract.</li> </ul>

Section	Section content	Content description
		<ul style="list-style-type: none"> <li>• A list of same/similar currently installed products, systems or solutions.</li> <li>• Names of customers with similar projects, configurations and/or applications who can provide references, including contact names and telephone numbers.</li> <li>• Supplier's qualifications, including resumes, company profile and business processes.</li> <li>• Supplier's usual method of providing services including a description of the work plan, methods to be used and a sample schedule of deliverables/timeline for project completion.</li> </ul>
8.	SWaM Section	Suppliers are asked to provide a "Supplier Procurement and Subcontracting Plan" that states the overall commitment percentage that Supplier anticipates spending directly with subcontractors in performing the requirements of the contract. Additionally, Suppliers are asked to provide a list of all subcontractors it anticipates using in Supplier's performance of the contract. The list of subcontractors should designate those subcontractors that are SWaM businesses, as well as those that are non-SWaM businesses. In the event that a Supplier does not anticipate using subcontractors in the performance of a contract, the Supplier are asked to state this fact in their response.
9.	Pricing information	<p>Specifies how suppliers are to provide pricing information and provides a detailed format for them to follow in developing their price proposals. Instructions should be clear enough to ensure that price proposals can be compared on an equal basis. To facilitate this comparison, consider providing a sample spreadsheet that breaks the proposed system into components such as the following:</p> <ul style="list-style-type: none"> <li>• system software</li> <li>• application development software</li> <li>• installation</li> <li>• maintenance</li> <li>• training</li> <li>• documentation</li> <li>• project management</li> <li>• integration of unique hardware or software</li> <li>• license fees (ongoing)</li> </ul>

Section	Section content	Content description
		<p>Include a pricing schedule/scenario as an example of how proposal prices must be submitted. If lump sum pricing is not advantageous, use a pricing scenario to obtain prices for unknown quantities or hours. Ask for a breakout of recurring versus non-recurring costs. The pricing schedule should be tied to deliverables and must coincide with the method of payment stipulated in the solicitation.</p> <p>When looking at pricing schedules, pay attention to pricing that involves one-time costs versus recurring costs. The initial price of a software package is a one-time cost; annual maintenance and software licensing fees are recurring costs which must be identified to develop a project's total life-cycle cost. Pricing is not usually the sole determinant for award but should be used to break a tie between two suppliers with equally good technical and management proposals.</p> <p>For complex projects, you may also ask suppliers to submit a milestone pricing schedule to which holdback percentages can be applied to be paid after final acceptance on the final invoice. This motivates suppliers and adds protection for the agency if final acceptance is delayed or problematic. It also allows easier contract severability at any milestone if the supplier is non- performing.</p>
10.	Agency standard agreement (i.e., contract template)	<p>Contains a proposed contract template with nondisclosure agreements, confidentiality, data protection and security requirements, warranties, licensing agreement requirements and other statutory, legal and IT-specific terms and conditions, or any federal flow-down terms that may be required. Suppliers should be asked to redline the proposed contract template to highlight all exceptions they cannot agree to. Suppliers should not redline the liability clause at this time.</p> <p>They can raise issues or comments for the first-time during negotiations later. Identify showstopper issues during the proposal evaluation period because it is possible to select a supplier who will not accept the agency's contract.</p>
11.	Supplier's section (optional)	<p>Allows suppliers to include information they feel is relevant although not required or requested in the RFP. They can also discuss potential issues that are relevant to the RFP and to their proposal. For example, a supplier may have additional</p>

Section	Section content	Content description
		product features to demonstrate that are outside the scope of the RFP, present a unique solution that was not anticipated by the buyer, or may provide a solution to a problem evident in the RFP that other suppliers did not consider. Even if this particular supplier does not win, the explanation of the problem and the potential solution may still be worth considering.
12.	Appendices	<p>Contain bulky but relevant information such as network diagrams, technical requirements studies, project plan outlines and other detailed information. Examples include the following:</p> <ul style="list-style-type: none"> <li>• Spreadsheets with statistical information.</li> <li>• Communications network drawings and plans.</li> <li>• List of current equipment.</li> <li>• Standards used within the company.</li> <li>• Tentative project plan with dates.</li> <li>• Contract template</li> <li>• Small business subcontracting plan form</li> <li>• Supplier-completed State Corporation Commission form as registered to transact business in the Commonwealth.</li> </ul> <p>The information is then available to the supplier but does not distract from the narrative portion of the RFP. Note: Tell suppliers whether they must use this information when developing their proposals.</p>



### Appendix 24.5.6

The most common evaluation criteria used in IT procurements are assessment of the supplier's:

- Proposal quality including required submission and format, readability, neatness, and clarity. The proposal should be logical, reasonable and professional
- Understanding and responsiveness to the RFP's requirements, terms and conditions.
- Technical approach and compliance with the RFP's technical requirements.
- Overall approach to performing the contract or meeting the requirements of the RFP, including warranty offerings.
- Proposed plan for performing needed services.
- Overall understanding of the project and the business need(s).
- Experience on projects of similar size and scope
- Proposed methodology for performing the project.
- Proposed implementation/orientation/start-up procedures and efforts.
- Commitment and flexibility to the project's schedule requirements.
- Approach and plan for managing the project.
- Training, reports and documentation offered.
- Proposed maintenance plan and costs.
- Expansion and upgrade capabilities and costs.
- Problem resolution/escalation process.
- Willingness and approach to meet environmental objectives (if applicable).
- Non-acceptance of statutory and crucial contractual terms and conditions.

### Appendix 24.11.1

Below is a chart of the different steps, and the personnel responsible for them, during the RFP evaluation stage.

#	RFP process steps: evaluation through award	Responsible unit
1.	RFP due date	SPOC
2.	Opening of proposal submissions	SPOC
3.	Administrative screen: vendor compliance with mandatory as well as basic submission requirements	SPOC
4.	Business and technical evaluation	PPT and/or ET, SMEs as specialized input
5.	Reference checks	SPOC, PPT and/or ET, SMEs as specialized input
6.	Interviews, demonstrations, presentations and/or site visits	SPOC, PPT and/or ET, SMEs as specialized input
7.	Clarifications	SPOC

8.	Reviewing proposals and preparing a negotiation strategy	SPOC, PPT and/or ET team members, SMEs as specialized input
9.	Contract negotiations – SPOC hosts and leads	SPOC, PPT and/or ET team members, SMEs as specialized input
10.	Evaluation summary and evaluation team signoff	SPOC, ET, SMEs as specialized input
11.	Contract award	SPOC
12.	Procurement summary	SPOC
13.	Contract management	Sourcing agency contract administration and management.

#### Appendix 24.14: 10-Step Process for Evaluating Proposals

The following chart provides a high-level overview of the RFP proposal evaluation process.

Step	Evaluation Procedure
1.	An initial evaluation will be conducted by the SPOC to ensure “prerequisites” are met.
2.	Suppliers not meeting “prerequisites” will be eliminated from further consideration.
3.	The evaluation team (ET) will then review proposals based on the evaluation factors contained in the RFP.
4.	A “short list” is determined after reviewing evaluation results.
5.	Suppliers on the short list may be asked to deliver presentations or demonstrations.
6.	Another evaluation meeting may be held, and two or more suppliers may be selected for negotiation.
7.	Preliminary negotiations may be conducted with each selected supplier. Preliminary negotiations allow modification of proposals, including price and negotiable terms and conditions.
8.	Perform a total solution cost analysis on top proposals.
9.	After steps 7 and 8 are completed with each of the selected suppliers, the ET may select the supplier(s) which, in its opinion, has made the best proposal. The ET is not required to furnish a statement explaining why a particular proposal was not deemed to be the most advantageous. If an executive steering committee was used during the acquisition process, notify the committee of the selection and obtain their approval to proceed with final negotiations and contract award.
10.	Complete final negotiations. Funding must be confirmed prior to award. Obtain required reviews/approvals of final contract with CIO, OAG, other. A contract may be awarded to the supplier(s), and notice of award shall be posted in the manner prescribed in the terms or conditions of the RFP.



### Appendix 25.6.10

The following table offers high-level questions that you may need to consider when forming your solicitation and contract to ensure compliance with the rules and regulations governing the use of federal funds in procurements.

1.	Are there unique requirements from the federal funding source that need to be in the solicitation or contract?
2.	Are there any restrictions on use or spend of this federal funding? If so, does your solicitation or contract clearly specify these?
3.	Does the funding source require theirs or another entity's review/approval of the solicitation or contract that could affect your procurement schedule?
4.	Do you need to align dates of any spend requirements or deadlines that could affect schedules for any deliverables, a project plan and/or milestone payments?
5.	Are there any contractual terms and conditions that must be included in your solicitation or contract? Are there any that must be flowed down to your supplier?
6.	Are there any special technical specifications, regulations or rules the feds may require that you include in the solicitation or RFP?
7.	Is there any special expenditure reporting of the funds? If yes, does this affect reporting requirements that the supplier must submit to your agency?
8.	Are there unique audit requirements (cost or price records) that the supplier would need to comply with? Are there any special records retention requirements to include in the solicitation or contract?
9.	Are there any unique accounting standards for suppliers to follow (which may affect pricing review/approvals)?
10.	Are there any required federal forms that supplier would need to complete?
11.	Are there any federal agreements (i.e., Business Associate Agreement, Non-Disclosure Agreement or other) that supplier must sign and comply with?
12.	Are there any special data rights, security or work product requirements that need to be included in the solicitation or contract?
13.	Are there any restrictions or requirements on the supplier's use of subcontractors?
14.	Are there any interdependencies on other state or federal entities that should be considered in the solicitation's or contract's schedules or deliverables?

### Appendix 25.7.1

The following table offers general guidelines on which provisions to use for different types of IT procurements:

Description of procurement	Use this contract template	Comments
All	All non-telco contract definitions and contract clauses are included in the individual contract templates below.	You may delete any definitions and clauses that clearly do not apply to your procurement; you may add project specific definitions and clauses with approval
Software as a Service (SaaS), Platform as a Service (PaaS), Infrastructure as a Service (IaaS)  ( <b>Note to SCM Sourcing:</b> check with Director, Enterprise Services, for PaaS and IaaS procurements for applicability of all terms or	Cloud Services	Use a Cloud Services contract when you desire to procure a SaaS or PaaS solution.  Both a whole Cloud Services template and an exhibit of Cloud Services clauses that may be added to the Solution template are available for your use,
Hardware or equipment and maintenance/support	Hardware and maintenance	Include the warranty worksheet, which allows a supplier to identify its standard warranty and
Licensing of COTS software and purchase of maintenance/support for the software, including	Software off the shelf	
IT services, not to include any software development	Services	
Maintenance/support services for COTS or custom- developed software, including upgrades but no new	Software maintenance	

Custom software, any software development services, systems development/design, software-based systems, projects involving software and where work product will result	Solution	The Solution template provides clauses covering the whole Solution, which may be made up of solution design and approach, other related services and all components including
Telecommunications	Telco	This template includes a majority of the definitions and clauses found in all the other templates, but has many unique telco-related
Value-added reseller (VAR) products	License Agreement Addendum	This is not a contract template. It should be included as a solicitation attachment. It is VITA's language ONLY when the supplier is a reseller of the software, or when the software is an integral part of the supplier's product, and the supplier does not have the right to license the software itself (e.g., when a software licensor requires the VAR supplier to pass through the licensor's terms and conditions). The solicitation must state that VITA requires the software licensor to execute this addendum to address terms and conditions in their license agreement which VITA, as a government entity, by law or by policy, cannot agree to. It is the supplier's responsibility to secure the software licensor's consent to this addendum or to other terms and conditions acceptable to the Commonwealth.

### Appendix 25.7.3

The following is intended as a generalized example of contractual language required for high-risk IT procurements, defined by § 2.2-4301.01. This language should be customized for your project and be included in the solicitation and contract documents for the high-risk procurement:

*“(Your agency name) has developed a set of supplier performance measures relating to Supplier’s performance under this Contract and which are attached hereto and incorporated by reference as Exhibit XX. Supplier agrees to be bound by and perform its obligations under this Contract pursuant to the PERFORMANCE MEASURES. The remedies for Supplier’s failure to meet the PERFORMANCE MEASURES are set forth in Exhibit XX.*

*Supplier and (Your agency name) agree to meet within 30 calendar days of the Effective Date of this Contract to set forth the methodology and designated personnel of each Party to provide, collect, monitor, and report the PERFORMANCE MEASURES performance data and mutually agreed-to incentives and remedies. Supplier agrees to provide to (Your agency name) a report of its performance against the PERFORMANCE MEASURES no less than once every six (6) months throughout the Term of this Contract. Supplier’s report must include a comparison of its PERFORMANCE MEASURES performance against the agreed-to targets and, in the event of any shortfall by Supplier, proposed remediation measures. Supplier will report its PERFORMANCE MEASURES performance for the Contract in aggregate and for each order or SOW over \$1,000,000. Any instances of Supplier non-compliance will be recorded in Supplier’s Contract file and shared with Contract stakeholders. Supplier further agrees that any degradation or failure of Supplier’s performance obligations may result in failure to renew the Contract, termination for convenience of the Contract or termination for breach of the Contract. VITA will have all rights and remedies available at law.”*

### Appendix 25.8.8

The language excerpted below is standard VITA contract language addressing transition assistance at the end of the contract term, customized for agency use. Agencies are advised to include this language, or language substantially similar, in their IT contracts:

*“Prior to or upon expiration or termination of this Contract and at the request of Agency, Supplier shall provide all assistance as Agency may reasonably require transitioning Name of Project/Contracted Services to any other supplier with whom Agency contracts for provision of a Project services. This obligation may extend beyond expiration or termination of the Contract for a period not to exceed six (6) months. In the event of a termination for breach and/or default of Supplier, Supplier shall provide such assistance at no charge or fee to Agency; otherwise, Supplier shall provide such assistance at the hourly rate or a charge applicable under the Agreement or as otherwise agreed upon by Supplier and Agency.”*

### Appendix 25.8.18

The following are standard contract indemnification provisions. Agencies are strongly encouraged to engage their OAG representative in adapting the VITA language, or any other indemnification language the agency wishes to use, before inclusion in its contract.

**A. Indemnification Generally**

*Supplier shall defend, indemnify, and hold harmless the Commonwealth and agencies, and their officers, directors, agents, and employees (collectively "Commonwealth Indemnified Parties") from and against any and all third-party losses, damages, claims, demands, proceedings, suits and actions, including any related liabilities, obligations, losses, damages, assessments, fines, penalties (whether criminal or civil), judgments, settlements, expenses (including attorneys' and accountants' fees and disbursements), and costs (each a "Claim" and, collectively, "Claims) to the extent the Claims in any way relate to, arise out of, or result from:*

- i. any negligent act, negligent omission, or intentional or willful conduct of Supplier or any Supplier Personnel;*
- ii. a breach of any representation, warranty, covenant, or obligation of Supplier contained in this Contract;*
- iii. any defect in the Supplier-provided products or services; or*
- iv. any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Supplier-provided products or services.*

**B. Defense of Claims**

*Supplier will be solely responsible for all costs and expenses associated with the defense of all third-party Claims against Commonwealth Indemnified Parties. Selection and approval of counsel, and approval of any settlement, shall be accomplished in accordance with all applicable laws, rules, and regulations."*

**C. Duty to Replace or Reimburse**

*In the event of a Claim pursuant to any actual or alleged infringement or misappropriation of any third party's intellectual property rights by any of the Supplier-provided products or services, or Supplier's performance, Supplier shall, at its expense and option, either (a) procure the right to continue use of such infringing products or services, or any components thereof; or (b) replace or modify the infringing products or services, or any components thereof, with non-infringing products or services satisfactory to VITA.*

*In the event that the Agency cannot use the affected Deliverable, Product, Licensed Services, or Services, including any Components, then Supplier shall reimburse the Agency for the reasonable costs incurred by the Agency in obtaining an alternative product or service.*

**D. Supplier Dispute of Obligation to Indemnify**

*If a Claim is commenced against any Commonwealth Indemnified Parties by a third party alleging an infringement of the third party's intellectual property rights and Supplier is of the opinion that the allegations in the third-party Claim, in whole or in part, are not covered by the indemnification provision in this Contract, then In the event that Supplier disputes any of its obligations to defend or indemnify any Commonwealth*



*Indemnified Party, then Supplier shall immediately notify VITA and the affected Authorized User(s) in writing and shall, nonetheless, take all reasonable steps to protect the rights, remedies, and interests of the Commonwealth Indemnified Parties in the defense of the Claim, including to secure a continuance to permit VITA and the affected Authorized User(s) to appear and defend their interests in cooperation with Supplier as is appropriate, including any jurisdictional defenses VITA or the affected Authorized User(s) may have."*

Appendix 27.5(A): IP/IT Contract Checklist

	Agreement should contain	What it means	
1	Software functionality <ul style="list-style-type: none"> <li>written representations</li> <li>documentation</li> </ul>	All solicitation requirements and supplier representations, certifications, verifications must be included in agreement.	√
2	Service level agreements <ul style="list-style-type: none"> <li>response time</li> <li>capacity</li> <li>interface compatibility</li> </ul>	Include service level agreements where supplier agrees to specific levels of service.	√
3	System configuration <ul style="list-style-type: none"> <li>Compatibility</li> <li>Capacity</li> </ul>	If performance is not met by supplier, (current, not future state) should be specifically included in agreement.	√
4	New software <ul style="list-style-type: none"> <li>Upgrade path</li> <li>Will it work?</li> </ul>	If system is or requires new software development, detail supplier's responsibility to ensure it performs as promised with current platform.	√
5	Anti-virus protection <ul style="list-style-type: none"> <li>Upon delivery</li> <li>In use</li> </ul>	The agreement should include how the antivirus component will work and when it will be fully operational.	√
6	Anti-vaporware protection <ul style="list-style-type: none"> <li>Does the product exist?</li> <li>If not, when?</li> </ul>	Same as above.	√
7	Intellectual property ownership <ul style="list-style-type: none"> <li>Upon delivery</li> <li>In use</li> <li>In bankruptcy</li> </ul>	IP ownership and usage/access rights should be clearly defined in the contract. Supplier may own all rights when system delivered, but who owns customizations and who owns in the event of supplier's bankruptcy?	√
8	Regulatory compliance <ul style="list-style-type: none"> <li>Federal</li> <li>State</li> </ul>	If system is required to follow certain federal or state regulations or requirements, include them in agreement. If supplier warrants full compliance, that should be included as service level with requisite discounts or penalties resulting from compliance failure.	√
9	Change of date warranty <ul style="list-style-type: none"> <li>New year</li> <li>Other significant dates</li> </ul>	If data or system is date reliant, these requirements and supplier's agreement that system will meet them should be included.	√

10	<p>Limitation of liability</p> <ul style="list-style-type: none"> <li>• Penalties</li> <li>• Caps</li> </ul>	<p>Make sure supplier agrees to liability if: 1) system fails; 2) system has to be replaced; 3) system failure affects other systems or transactions, etc.</p> <p>For all major IT projects, supplier liability should not exceed twice the value of the contract.</p>	✓
11	<p>Supplier indemnifications</p> <ul style="list-style-type: none"> <li>• Negligence</li> <li>• Willful acts</li> </ul>	<p>All suppliers providing services to the Commonwealth should be required to indemnify the Commonwealth for the negligence or willful acts of its employees, agents, etc.</p>	✓
12	<p>Scope of use</p> <ul style="list-style-type: none"> <li>• Number of sites</li> <li>• Number of users</li> <li>• Customers</li> <li>• Third parties</li> </ul>	<p>Scope of license use should be very specific and included in agreement. Commonwealth, if possible, should have perpetual, non-revocable, transferable and unlimited license.</p>	✓
13	<p>Conversion</p> <ul style="list-style-type: none"> <li>• Initial phase</li> <li>• Planning and documentation requirements</li> <li>• Exit strategy</li> </ul>	<p>Include supplier's plan for system conversion, if any. If contract is terminated or upon system failure, describe supplier's exit plan.</p>	✓
14	<p>Modifications</p> <ul style="list-style-type: none"> <li>• Upon agency's request</li> <li>• Upon regulator's request</li> <li>• Upon supplier's request</li> </ul>	<p>Define who can request modifications. Describe modification process and change control management process for complex projects. All modifications must be in writing and signed by both parties.</p>	✓
15	<p>Acceptance testing</p> <ul style="list-style-type: none"> <li>• Standards</li> <li>• Payment</li> </ul>	<p>Detail acceptance criteria (functional and technical) and how system must perform to meet acceptance. List milestone events; i.e., delivery, installation, acceptance testing, etc., that trigger milestone payments. Define what constitutes final acceptance and final payment.</p>	✓
16	<p>Access to data</p> <ul style="list-style-type: none"> <li>• Customer owns data</li> <li>• Backing up data</li> </ul>	<p>Specify Commonwealth's rights to data if hosted, continued ownership in data, backup and storage requirements.</p>	✓
17	<p>Security</p> <ul style="list-style-type: none"> <li>• Customer services</li> <li>• Related networks</li> </ul>	<p>Detail supplier's responsibility for security compliance, access and reporting security issues. Suppliers are responsible for compliance with Commonwealth security policies, standards and guidelines. Security compliance may be a service level in the agreement.</p>	✓
18	<p>Costs and fees</p> <ul style="list-style-type: none"> <li>• Most favored nation</li> <li>• Caps on increases</li> </ul>	<p>All prices should be agreed to up front and included in agreement. Include caps on price increases. Require supplier to provide same prices to Commonwealth as to any other customer.</p>	✓
19	<p>Confidentiality</p> <ul style="list-style-type: none"> <li>• Post-termination</li> <li>• Confidentiality agreements</li> </ul>	<p>Specify supplier's responsibility to maintain confidentiality of Commonwealth systems, data, information, etc. Do all of supplier's employees sign confidentiality agreements? What if supplier breaches confidentiality?</p>	✓

20	<p>Employees</p> <ul style="list-style-type: none"> <li>Hiring and exit procedures</li> <li>Account managers</li> </ul>	Can Commonwealth hire supplier's employees? What is procedure for removal or non-performance of supplier's employee?	✓
21	<p>Priority</p> <ul style="list-style-type: none"> <li>SLAs</li> <li>Timelines</li> </ul>	Agreement should establish which service levels have priority. Supplier's priority should be to maintain service levels with minimum disruptions to business continuity and compliance with security procedures. Include performance criteria, reporting and incentives/remedies/penalties.	✓
22	<p>Rights to software</p> <ul style="list-style-type: none"> <li>Escrow</li> <li>Modifications</li> </ul>	Who owns software? Who owns licenses? What rights do licenses confer? Who owns customizations and modifications? These should be agreed upon and included in agreement.	✓
23	<p>Assignment</p> <ul style="list-style-type: none"> <li>To affiliates</li> <li>To merged entities</li> </ul>	Assignment should require mutual written consent and notice. Include who licenses or software can be assigned to.	✓
24	<p>Disaster recovery</p> <ul style="list-style-type: none"> <li>Procedures</li> <li>Scope</li> <li>Periodic testing</li> <li>State of readiness</li> <li>Replacements and upgrades</li> </ul>	The agreement should detail supplier's responsibilities for disaster recovery. Procedures should be in writing and supplier should be required to test disaster recovery procedures on a specified schedule.	✓
25	<p>Maintenance agreements</p> <ul style="list-style-type: none"> <li>Updates, modifications and new versions</li> <li>Separate contracts</li> </ul>	Will supplier maintain software after warranty period? For how long? What does maintenance include? Will maintenance agreement be a separate contract?	✓
26	<p>Bankruptcy</p> <ul style="list-style-type: none"> <li>Create present rights</li> <li>Escrow agreements</li> </ul>	Detail each party's ownership and license rights in the event of supplier's bankruptcy.	✓
27	<p>Termination</p> <ul style="list-style-type: none"> <li>At customer's option</li> <li>Upon bankruptcy</li> <li>Breach/default</li> <li>Non-appropriation of funds</li> <li>Transition of services</li> </ul>	Agreement must provide for agency's ability to terminate the contract. The Commonwealth does not allow suppliers to terminate agreements as this will interfere with our ability to provide public services. A transition plan and supplier's transition support should be included.	✓

### Appendix 27.5(B): Best Practice Tips for Software Agreements

The list below includes best practices for software procurement that may achieve increased benefits:

- Define what is to be accomplished with the software, the current and desired platform/environment and all functional and technical performance expectations in the solicitation and contract. Because these must be comprehensive and complete, impacted end users should be part of any project planning and pre-purchase committee discussions.
- A supplier may insist that the agency accept its standard software license terms, but negotiations should be pursued if possible. VITA and other Virginia public bodies are subject to mandatory terms and limitations on their authority, such that accepting the supplier's standard terms may put the Commonwealth at risk. Software contract negotiation assistance may be obtained by contacting: [scminfo@vita.virginia.gov](mailto:scminfo@vita.virginia.gov).
- Attempt to spread payments out based on events or milestones. Just like working with a home contractor, paying for everything at once can reduce the agency's leverage if there is a problem later. Carefully map all payments to clearly defined, pre-negotiated milestones, service levels and/or acceptance criteria; include exact deliverable dates.
- Ensure contract termination policies and requirements are clear and in writing.
- Spell everything out. Although it may be more work, put deliverable requirements—specifics of what a product will do at what time—in the contract. Include consequences if the software does not perform as expected. A service-level agreement might say that for every hour a server is down past 24 hours, the supplier credits the agency \$1,000.
- Do not automatically accept the first price the supplier offers. The agency should strive for better pricing without destroying the customer-supplier relationship. If that relationship isn't positive, an agency might secure a good price for the first contract term, commit to a product, and then see a significant price increase in following years or in support and maintenance services. Be persistent in efforts to lower prices. If the supplier cannot or will not lower prices, ask who in their chain of command has the authority to negotiate and work with that person. Remind suppliers that if the Commonwealth or your agency adopts a new technology, other state or local government customers may follow.
- An agency may leverage its buying power by being part of a larger group of buyers and purchasing off a VITA statewide contract. This increases the supplier's potential customers and can result in lower prices.
- Negotiate multi-year contracts for a percentage discount. Agencies should expect to receive a 5% to 15% discount off the final discounted price. Be careful to not mix a multi-year discount in with a volume discount. The multiyear discount and the volume discount should be negotiated separately and subtracted from the original price.
- Be clear about the rights to your data. Suppliers should be bound by a confidentiality agreement. At contract termination, a supplier is required to give all Commonwealth or agency data back in a usable format.
- Ensure that the software license being procured is perpetual and never runs out, including at the end of the software contract, when maintenance fees expire or if the company is acquired or goes bankrupt.



#### Appendix 29.1: Evaluation Team Survey

Supply Chain Management is constantly looking for ways to refine our processes and deliver the best experience and results. Please assist us by taking a few moments to complete an Evaluation Team Survey, which may be downloaded from VITA SCM website, under the Forms section at the following URL: <https://www.vita.virginia.gov/procurement/policies-procedures/procurement-forms/>.

## Appendix 29: Procurement File Checklist

<b>Agency:</b>	<b>RFP#:</b>
<b>PGR #:</b> (if applicable)	<b>IFB #:</b>

Item	Date	Initials
PGR document (if applicable)		
Approval from CIO (as required)		
Justification to issue (RFP)		
Final draft of solicitation and contract template(s)		
Evaluation Criteria/weights		
Public notice of solicitation (State agencies must post in eVA and, if desired, a newspaper of general circulation. Localities are encouraged to post in eVA and must do so if they elect not to publish in a newspaper of general circulation in their area).		
List of SWAM suppliers solicited		
Amendments (if posted)		
Supplier Q & A (if posted)		
Pre-bid or Pre-proposal attendees		
Recording from Pre-bid (proposal) conference (if avail)		
List of suppliers submitting responses to solicitation		
Instructions to Evaluation Team (including non-disclosure agreement)		
Consensus evaluation form(s)		
Evaluation Team Report		
Check for Federal debarment. Print EPLS.		
Check Virginia tax status: ( <a href="mailto:lrms.Support@Tax.Virginia.Gov">lrms.Support@Tax.Virginia.Gov</a> )		
Check for Virginia debarment: <a href="https://logi.cgieva.com/External/rdPage.aspx?rdReport=Public.Reports.Report9020_Data">https://logi.cgieva.com/External/rdPage.aspx?rdReport=Public.Reports.Report9020_Data</a>		
Validate SCC identification no. for supplier authorization to transact business in the Commonwealth ( <a href="http://www.scc.virginia.gov/clk/bussrch.aspx">http://www.scc.virginia.gov/clk/bussrch.aspx</a> )		
Validate Supplier's products or services are not included on the U.S. Homeland Security prohibition list. (Check with VITA Security if needed.)		



Validate supplier eVA registration		
If this is a Cloud procurement, validate that the required COV Ramp Security Assessment has been approved or requires contractual requirements or security exceptions.		
Notice of Award		
Final Contract (will go to contract file)		

### Appendix 34.2.5

The following examples are provided to illustrate how a supplier's or product's technical performance can be captured and monitored.

- Service level agreements will often require that the supplier provide monthly performance reports that indicate how well they met the performance requirements in order that related monthly invoices reflect any non-performance penalties/incentives (usually tied to a percentage of service level attainment or non-conformance). Such performance parameters may be linked, for example, to "uptime" and "downtime" of a system or web-hosted application or to "response time" and "remedy time" for the procured service.
- Acceptance criteria may require, for instance, that 100 simultaneous users of a system will not degrade system performance or impact the required maximum time it takes for a user to complete a certain electronic "transaction" or "function." If the system's built-in self-monitoring design captures degradation or error capture, then reports can be generated by the agency's system administrator and reported to contract stakeholders.
- Schedule and budget—Schedule and budget are two risk-critical performance areas common to non-IT as well as IT contracts. Schedule and budget performance have the potential to severely impact the agency's funding sources—Commonwealth and/or federal grant—and dependent planned or existing technology projects, as well as the supplier's financial condition.

Here's a hypothetical example: A contract for developing and implementing a replacement for a critical incident tracking system that links into multiple statewide databases and a federal database was awarded by a Commonwealth agency on January 1, 2008. The application software of the current 10-year-old system will no longer be supportable or operational after June 30, 2009. The contract includes a major project milestone deliverable for a 60-day acceptance testing to be complete February 1, 2009. The total contract fixed price is \$3 million dollars—half from General Funds and half from a federal matching grant. Thirty days into the acceptance testing a major error occurs that the supplier cannot fix without redesigning a critical interface. By this point in time in the project, due to payments triggered by the completion of interim milestones, \$2.5 million of the project budget has been paid to the supplier. With only 6 months and only \$500,000.00 in funds remaining before the old system goes away— "Houston, we have a problem."

You can see how budget and schedule performance have the potential to impact both immediate and extended stakeholders. We'll never know how this project turned out and who suffered the biggest impact, but more than likely it ended up in litigation.