

NOTICE TO VENDORS

The following information is provided for guidance to Vendors to familiarize themselves with procedures for doing business with this facility. Information was gathered from the Commonwealth of Virginia's Vendor's Manual.

1. General. Public purchasing embraces a fundamental obligation to the general public to ensure that procurements are accomplished in accordance with the intent of the laws enacted by the appropriate legislative body. The intent of the Virginia General Assembly is set forth in the *Virginia Public Procurement Act (VPPA)*.

- a. The *VPPA* applies generally to every "public body" in the Commonwealth which § 2.2-4301 of the *Code of Virginia* defines to include "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"
- b. If there is to be a contract between a state agency and non-governmental vendor, the *VPPA* and the regulations set forth by the Division of Purchases and Supply, to include the *Vendors Manual*, apply regardless of the source of funds by which the contract is to be paid or which may or may not result in monetary consideration for either party. These documents also apply whether the consideration is monetary or non-monetary and regardless of whether the public body, the contractor, or some third party is providing the consideration.
- c. Vendors are highly encourage to review the complete Commonwealth of Virginia's Vendor Manual. To do so you may contact DGS/DPS at 804786-3842 or visit the State's web site at: www.dgs.state.va.us/dps or www.eva.state.us, for a downloadable version.

2. Application and Registration. Vendors desiring the opportunity to do business with Eastern State Hospital should provide a letter stating the goods and/or services they can provide. The letter must include your complete business name, address, payment address, phone number, fax number, and Federal Identification Number (FIN) (usually the same as your tax ID). Also include your DUNS # if available. Forward the letter to:

**Eastern State Hospital
Purchasing/Bldg. 1
P.O. Box 8791
Williamsburg, VA 23187-8791**

Vendors are responsible to notify the Agency if any of your business information changes.

3. Agency Purchasing Function. State agencies are authorized to make direct purchases of goods and printing within the limits delegated by DGS/DPS or DIT. Other requirements must be processed through DGS/DPS or DIT as applicable. Agencies are authorized to contract for services up to any dollar amount subject to applicable laws, regulations, this manual, and fiscal restraints. Exceptions to this provision are covered in paragraphs 1.6 and 1.7 of this manual. Agency personnel having "official responsibility" or procurement must comply with the *VPPA* and the policies and procedures set forth in the *Agency Procurement and Surplus Property Manual (APSPM)* and this manual. A list of agency purchasing offices and their addresses is available from the DGS/DPS Internet home page (www.dgs.state.va.us/dps) or on eVA (www.eva.state.va.us).

4. Preferences. Virginia Vendors. Preference is given to materials, equipment and supplies produced in Virginia, goods, or services or construction provided by Virginia persons, firms or corporations in the event of a tie bid (see 6.5). Whenever any bidder is a resident of any other state and that state under its laws allows a resident contractor of that state a preference, a like preference may be allowed to the lowest responsible bidder who is a resident of Virginia (*Code of Virginia*, § 2.2-4324).

5. Vendor Assistance to State Agencies. Vendor sales efforts of a consultative or advisory nature are encouraged. They assist agencies in keeping current with the latest state of the art technology and materials and are a valuable source of information. The furnishing of product or service information by a vendor is considered to be normal sales effort and does not entitle the vendor to preferential treatment in the awarding of contracts (see 3.6b of the Vendor's Manual). A vendor may offer, without compensation, assistance to agency personnel in developing specifications for a requirement and compete on that requirement. A purchasing office may provide the specifications to competing vendors for comment before issuing the solicitation (see 3.6b).

6. Personal Interest and Gifts. No vendor shall offer any gift, gratuity, favor, or advantage to any state employee who exercises official procurement responsibility, develops procurement requirements, or otherwise influences procurement decisions. State employees may attend vendor-sponsored seminars or trade shows where the buying staff will benefit from receiving product information and learning of new techniques and trends. Food, drinks, and give-away items offered to all participants at such functions may be accepted by state employees attending.

7. Notice of Pending Procurements. DGS/DPS publishes the *Virginia Business Opportunities (VBO)* on the Internet (www.eva.state.va.us) listing business opportunities anticipated to be over \$30,000 in value with state and some local government agencies. The intent of this policy is to broaden vendor participation and help Virginia companies, particularly small, women-owned, and minority-owned businesses, to know what bidding opportunities are available in state government. It also carries out the provision of § 2.2-4300C of the *Code of Virginia*, "that all qualified vendors have access to state business and no offeror be arbitrarily or capriciously excluded." Agencies are authorized to waive publication of emergency requirements, sole source procurements, procurements from mandatory sources, and purchases of items exempted by law from competitive procurement. The publication lists pertinent information such as the type of purchase, required location, response date, and point of contact. Public notice of pending procurements may also be published on other appropriate Web sites or posted at the agency.

8. Terms and Conditions. Terms and Conditions and Instructions to Vendors included with the DGS/DPS Agency Purchase Order (APO) or incorporated by reference in the eVA Direct Order (DO) form are shown in Appendix B. Solicitations contain general terms and conditions which incorporate the procedures and provisions of this manual as well as all applicable statutory provisions such as the *Virginia Fair Employment Contracting Act (Code of Virginia, §§ 2.2-4200 through 2.2-4201)*. The General Terms and Conditions that are typically used in agency contracts are found in Appendix B. These provisions apply to all written solicitations issued by state agencies for procurements that are subject to the DGS/DPS's *Agency Procurement and Surplus Property Manual (APSPM)* unless changed, deleted, or revised by the legal advisor to the agency or institution. Special conditions may change or rescind the procedures and provisions of this manual, and the solicitation should be read with care prior to submission of a bid or proposal. A bidder or offeror is not permitted to challenge the validity of the terms or conditions of the Invitation for Bids or Request for Proposal (*Code of Virginia, § 2.2-4360*). Modification of, or additions to, the General Terms and Conditions of an RFP may be cause for rejection of the proposal. No modification of or addition to any provisions of a contract shall be effective unless reduced to writing and signed by the parties to the contract.

9. Taxes.

- a. **Excise.** The Commonwealth of Virginia generally is exempt from paying federal excise taxes, except it must pay excise taxes for air transportation, the cost of which is generally defined as any amount paid within the United States for transportation of any person by air. Certain vaccines require that an excise tax be paid by the purchasing activity.
- b. **State Sales.** The Commonwealth of Virginia is generally exempt from paying Virginia's sales taxes on purchases of tangible personal property for its use or consumption. Sales tax, however, is paid by the Commonwealth on materials and supplies that are installed and become a part of real property, e.g., glued-down carpet. Contractors are not exempt from paying taxes on these categories, as they are considered to be a cost of doing business and should be considered in pricing when preparing a bid on a state contract. (Virginia Retail Sales and Use Tax Regulations, §§ 630-10-27 and 630-10-45. Also see §§ 58.1-603 and 58.1-604). If further interpretive assistance is required, contact the Department of Taxation, Office of Customer Services, 804-367-8037.
- c. **Sales and Use Tax - State Government and Political Subdivisions.** Virginia's Sales and Use tax does not apply to sales of tangible personal property to the Commonwealth of Virginia or to its political subdivisions, for their use or consumption, if the purchases are pursuant to required official purchase orders to be paid for out of public funds. The tax applies when such sales are made without the required purchase orders and are not paid for out of public funds. No exemption is provided for state or local government employee purchases of meals or lodging whether purchases are pursuant to required official purchase orders or not.
- d. **Sales and use Tax - Contractors.** Persons who contract with the Commonwealth or its political subdivisions to perform a service, and in conjunction therewith, furnish some tangible personal property, are deemed to be the consumers of all such property and are not entitled to exemption on the grounds that a governmental entity is a party to the contract. This is true even though title to the property provided may pass to the government and/or the contractor may be fully and directly reimbursed by the government. This same principle applies to persons who enter into contracts with a governmental entity to perform real property construction or repair.

10. Purchase Order, Authority and Shipment. A purchase order is a document used by a state agency or institution to execute a purchase transaction with a vendor, and is required for purchases over \$5,000. The order number should be shown on all bills of lading, packing slips, back orders, invoices, etc. The receipt of a purchase order authorizes shipment. Purchase orders For requirements-type contracts, the receipt of a notice of award establishing a contract does not authorize shipment. Shipment is only authorized by the receipt of an agency purchase order written against the contract. Contractors who accept and deliver an order without a written purchase order or other properly executed Commonwealth contract form do so at their own risk. Purchase orders below \$5,000 will be issued at the discretion of the agency or upon the contractor's request. The term purchase order, as used in this manual, includes eVA direct orders (DO).

11. Purchase Order Changes. A purchase order change is used to correct errors, to add or delete small quantities of goods,

or to make other minor adjustments in the original orders. It may also be used to cancel an order (see 7.14 & 7.15). A contractor who deviates from the requirements of a purchase order or contract prior to receipt of an authorized change order does so at its own risk (see 7.17).

12. Billings and Invoices. In order to receive payment invoices must be submitted to the state agency concerned. Prompt payment discounts will be taken if offered and payment is made within the prescribed time frame. Time will be computed from the date of delivery or performance or from the date a valid invoice is received, whichever is later. Invoices should reference the purchase order or contract number and be in accordance with the terms of such.

13. Partial Payments. Agencies may initiate partial payments when portions of the goods have been received in good condition and have been properly invoiced by the contractor and partial payment is authorized by the governing contract.

14. Prompt Payment of Bills (*Code of Virginia*, §§ 2.2-4347 through 2.2-4354). As a state agency ESH when acquiring goods or services or conducting any other type of contractual business with nongovernmental, privately owned enterprises shall promptly pay for the completely delivered goods or services by the required payment date. Payment is deemed to have been made when offset proceedings have been instituted, as authorized under the Virginia Debt Collection Act (*Code of Virginia*, § 2.2-4801 et seq.).

Note: The Commonwealth of Virginia's standard payment terms are NET 30.