

REQUEST FOR PROPOSALS (RFP)

Issue Date: September 16, 2020

RFP# 301-21-006

Title: Seed Laboratory Management Software System

Commodity Codes: 92003 (Application Service Provider – ASP – Web Based Hosted)

Issuing Agency: Commonwealth of Virginia
Virginia Department of Agriculture and Consumer Services
Procurement Office
102 Governor Street, Rm. 240
Richmond, VA 23219

Initial Period of Contract: June 1, 2021 through May 31, 2022 (with four one-year optional renewals)

Sealed proposals will be received until 2:00 pm, EST on Friday, October 23, 2020, for furnishing the goods/services described herein. All inquiries for information must be submitted in writing, via email, to:

Kevin Steinbrecher, A.P.P., CPPB, VCO, VCM
Director, Procurement and Support Services
Telephone: 804-225-4887
Fax: 804-371-8372
Email: Kevin.steinbrecher@vdacs.virginia.gov

If proposals are mailed or hand-delivered to the Issuing Agency, use the address shown above. Electronic proposals are not allowed and cannot be accepted.

PREPROPOSAL CONFERENCE: An optional preproposal teleconference will be held on Friday, September 25, 2020 at 2:00 p.m. (Reference: Section VII.H. for the details on joining the conference).

In compliance with this Request For Proposals (RFP) and all conditions imposed in this RFP, the undersigned firm hereby offers and agrees to furnish all goods and services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation, and the undersigned firm hereby certifies that all information provided below and in any schedule attached hereto is true, correct, and complete.

Name and Address of Firm:

Form fields for Name and Address of Firm, Date, By, Name, Title, eVA Vendor ID or DUNS #, Phone, E-mail, Fax.

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, sexual orientation, gender identity, political affiliation, or veteran status or any other basis prohibited by state law relating to discrimination in employment. Faith-based organizations may request that the issuing agency not include subparagraph 1.e in General Terms and Condition C. Such a request shall be in writing and explain why an exception should be made in that invitation to bid or request for proposal.

RETURN ALL PAGES ALONG WITH YOUR ORIGINAL PROPOSAL (Tab 1)

**VIRGINIA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
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I. PURPOSE

The purpose of this Request For Proposals (RFP) is to solicit proposals to establish a contract with one offeror to provide a Seed Laboratory Information Management System (software) with the capabilities as described within this RFP. The system must be able to report the results of its analysis to the Office of Plant Industry Services (OPIS) Seed Laboratory of the Virginia Department of Agriculture and Consumer Services (VDACS), an agency of the Commonwealth of Virginia.

II. BACKGROUND

- A. Established in 1877, VDACS promotes the economic growth and development of Virginia agriculture, provides consumer protection, and encourages environmental stewardship. The agency is headquartered in Richmond, Virginia, and has several field offices, four regional diagnostic animal health laboratories, and a global network of representatives promoting Virginia products internationally.
- B. The Seed Laboratory tests seed for the enforcement of the Virginia Seed Law. It also tests Certified Seed for the Virginia Crop Improvement Association (VCIA) to determine if they meet minimum certification standards. In addition, seed analysts conduct service sample testing for farmers, seed dealers, processors and consumers. In carrying out its seed testing responsibilities, the laboratory works closely with the Federal Seed Laboratory in Gastonia, N.C. for the enforcement of the Federal Seed Act.
- C. The current system utilized by VDACS is called Pure Harvest and is owned by Elmwood Solutions. The contract for these services expires after May 31, 2021. The annual amount paid for the services is approximately \$8,000.00. The current fee structure is as follows:

Monthly hosting fee: \$110.00
Per test support price: \$0.68
Minimum monthly fee (including hosting and support): \$440.00
- D. It is desired to have a contract in place for a June 1, 2021 start date. The Awarded Contractor may be required to perform services before this start date related to the implementation of the Seed Laboratory Management System.

III. STATEMENT OF NEEDS

A. Specific Requirements:

- 1. Offerors shall be a business regularly engaged in providing software services and support of laboratory information management systems that can provide support before, during and after testing in the process of analyzing all kinds of seed for both service samples and for regulatory samples. Processing includes the automated calculations for purity tests, noxious weeds per pound, germination and tetrazolium tests while applying tolerances and multiple unit factor formulas where they are needed helping to eliminate human error and increase efficiency. The lab reporting system shall be compliant with the standards set by the Association of Official

Seed Analysts (AOSA) and allow for both auto and custom remarks.

2. Offerors shall have the staff, supervision, and expertise to provide the services and any other agreed on deliverables to include any technical equipment, hardware and software.
3. Offerors should possess the capability to provide the following to support the requirements listed in this RFP:
 - a. A system that can be customized to (VDACS) needs. The system should allow for customization to include certain features within the database and on the reports (i.e. regulatory remarks on lab reports regarding violations)
 - b. A system that secures the data. No sensitive data should be stored in the system – no tax id, social security #s. Only names, emailing addresses, phone and fax numbers, and email addresses.
 - c. The ability to migrate and load all historical data from legacy system.
4. Offerors are expected to provide support between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, with the exception of holidays or inclement weather closures. Offerors should provide a toll free support phone number and an email address for prompt customer service.
5. The Awarded Offeror shall securely maintain and hold in confidence all the information entered and stored by VDACS.
6. The Awarded Offeror shall securely maintain and hold in confidence the results of any analysis or calculations performed by the system and any reports produced by the system.
7. The desired solution shall have the ability to perform the following:
 - A. Management of test data:
 1. Automated calculations for purity tests, noxious weeds per pound, germination and tetrazolium tests.
 2. Applies tolerances and multiple unit factor formulas where they are needed, helping to eliminate human error and save time.
 3. Maintain and process Two record types:
 - a. Regulatory (Inspector)
 - b. Service (Growers/farmers)
 4. Client data.
 5. Sample details.
 6. System prints lab cards for Service tests.
 7. System generates unique laboratory sample number for tracking.
 8. Generate and print bar code for samples.
 9. Scan and read bar code for samples.
 - B. The desired solution shall have the ability to perform Analysis Entry:
 1. Sample data:
 - a. Logging in sample information in two separate data groups, one for Service samples and one for Regulatory samples.
 - b. Enter all sample information: kind, variety, sample#, label info, collection location, inspector #, tests requested.
 - c. Type of sample: highway, service, regulatory, Virginia Crop Improvement Association (VCIA).
 2. Other crop.
 3. Germination test – number of seeds that adequately germinated.

- C. The desired solution shall have the abilities to perform compliance evaluation and calculations:
 - 1. Calculate compliance using industry standard formulas established by the AOSA.
 - 2. Supports loading of data updates to AOSA rules, tolerance tables, and parameters used for compliance calculations.

- D. The desired solution should have the abilities to calculate fees and billing:
 - 1. Calculate fees for violations based on a customer configurable fee structure.
 - a. Regulatory tests not charged.
 - b. Service Samples sent by clients are charged to customer.
 - 2. Record fees per test and client.
 - 3. Send invoice data files to the VDACS Revenue Management System.
 - 4. Accept payment data files from the VDACS Revenue Management System.

- E. The desired solution should have the abilities to generate reports:
 - 1. Provide a variety of standard, pre-built reports.
 - 2. Build VDACS custom reports.
 - 3. Allow VDACS access to system data to be able to build custom reports and interfaces.

- F. The desired solution must comply with standards as defined by the Commonwealth of Virginia.
 - 1. System must comply with the Commonwealth of Virginia (COV) SEC 501 Security Standard for systems not containing sensitive data.
 - 2. If the proposed solution is to be hosted at the vendor site, the vendor must comply with the COV SEC 525 Security Standard for Hosted Environments.
 - 3. The system must not require sensitive data to be stored in the system for proper functioning, including tax identification or social security numbers.
 - 4. The system must comply with the Americans with Disabilities Act Section 508 accessibility standards.

- G. The desired solution should have the abilities to perform User Account Maintenance.
 - 1. The system should allow the creation of a super-user account able to create, disable, and delete user accounts.
 - 2. The system should provide an account status report available for periodic account access review.
 - 3. The system must store account credentials securely in compliance with the security standards identified above.

- H. The desired solution shall include the migration of sample, test result, violation, and client data from the system currently in use.

B. COV Information Technology Standards and IT conformance requirements

- 1. The Awarded Offeror will be required to acknowledge and confirm annually that their solution conforms to the Commonwealth of Virginia (COV) SEC 501 Security Standard for systems not containing sensitive data. If the solution is to be hosted at a vendor site, the Awarded Offeror will be required to acknowledge and confirm that their solution conforms to the Commonwealth of Virginia, Hosted Environment Information Security Standard. These standards are publically available and maintained on the Commonwealth of Virginia Information Technology Agency website as listed below:

<https://www.vita.virginia.gov/media/vitavirginiagov/commonwealth-security/pdf/SEC501-11.2.pdf>

Failure to maintain these standards may result in the cancelation of the contract.

2. The Awarded Offeror will be required to perform annual vendor compliance activities as described below:
 - a. Complete and update the VDACS Security checklist regarding the application and any hosting environment.
 - b. Have vendor staff supporting the VDACS application complete annual security training and provide certification to VDACS that this is complete.
 - c. Confirm that support staff have undergone background checks upon employment and provide certification to VDACS that a background check was completed.
 - d. Have support staff review and sign the non-disclosure agreement annually.
3. If the proposed solution includes requirements for cloud services (Software as a Service, Platform as a Service or Infrastructure as a Service), in order to be awarded a contract an assessment will have to be conducted by VITA ECOS based on the Supplier's responses to Attachment F of the RFP, and the ECOS Assessment Form. Offerors should ensure that when submitting a proposal that it has provided sufficient and complete responses to reduce the need for additional information. The ECOS Assessment Form is provided as a separate attachment to this RFP as Exhibit A.

C. Pricing:

1. When reviewed, the desire is to evaluate price on a 3 year total cost of ownership basis, to include any required hardware or services necessary for the solution's implementation.
2. Offerors are expected to submit their pricing as follows: licensing costs, implementation and any data migration costs, and annual maintenance and support costs. (Refer to Attachment B, Pricing Schedule.)

IV. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS:

GENERAL INSTRUCTIONS:

- A. RFP RESPONSE:** In order to be considered for selection, Offerors must submit a complete response to this RFP. **One (1) original hard copy (paper)** of the entire proposal, including all attachments and proprietary information clearly marked "Original" on the outside of the proposal, and **four (4) copies**, so marked, of each proposal must be submitted to VDACS Procurement office.

If applicable, the outside of the proposal must be marked to denote proprietary information.

1. PROPOSAL PREPARATION:

- a. Proposals shall be signed by an authorized representative of the Offeror. All information requested should be submitted. Failure to submit all information requested may result in the purchasing agency requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals that are substantially incomplete or lack key information may be rejected by the purchasing agency. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.

- b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
 - c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number and sub letter and to repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub letter should be repeated at the top of the next page. The proposal should contain a table of contents that cross references the RFP requirements. Information that the offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.
 - d. As used in this RFP, the terms "must", "shall", "should" and "may" identify the criticality of requirements. "Must" and "shall" identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as "should" or "may" are highly desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual "must" and "shall" items may not be fully satisfied, but it is the intent to satisfy most, if not all, "must" and "shall" requirements. The inability of an Offeror to satisfy a "must" or "shall" requirement does not automatically remove that Offeror from consideration; however, it may seriously affect the overall rating of the Offerors' proposal.
 - e. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
 - f. Ownership of all data, materials, and documentation originated and prepared for the State pursuant to the RFP shall belong exclusively to the State and be subject to public inspection in accordance with the *Virginia Freedom of Information Act*. Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the *Virginia Freedom of Information Act*; however, the offeror must invoke the protections of § 2.2-4342F of the *Code of Virginia*, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document or prequalification application, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection of the proposal. If, after being given reasonable time the offeror refuses to withdraw an entire classification designation, the proposal will be rejected.
2. **Oral Presentation**: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the agency. This provides an opportunity for the offeror to clarify or elaborate on the proposal. This is a fact-finding and explanation session only and does not include negotiation. The issuing agency will

schedule the time and location of these presentations. Oral presentations are an option of the purchasing agency and may or may not be conducted.

3. **Demonstration:** Offerors who submit a proposal in response to this RFP may be required to provide a web-based online demonstration of their software or application solution to the agency. This provides an opportunity for the offeror to show their software and how well it meets the agency's needs. This is a fact finding session only and does not include negotiation. The agency would schedule the time and location of these presentations. Demonstrations are an option of the purchasing agency and may or may not be conducted.

B. SPECIFIC REQUIREMENTS OF PROPOSAL: Proposals should be as thorough and detailed as possible so that the Agency evaluation team may properly evaluate your capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal. The proposal response must be submitted in the same order as outlined below, to include the same "TAB" headings.

Tab 1. Return of the RFP cover sheet and all addenda acknowledgments, if any, signed and filled out as required.

Tab 2. Offeror Data Sheet (Attachment A) and Proposed Pricing Schedule (Attachment B).

Tab 3. A written narrative statement to include:

- (a) Experience of your firm and its staff in providing the services described in the Statement of Needs (Section III.).
- (b) Names, qualifications, and experience of lead personnel to be assigned to the project; and
- (c) Capacity to provide services within your firm's current workload commitments and the VDACS-desired start date.

Tab 4. Specific approach and plan for providing the goods/services described herein including, but not limited, to the following:

- (a) Describe your plan for installing and configuring the software for VDACS use;
- (b) Describe the process whereby VDACS will request support for issues with the system;
- (c) Describe the process for installing periodic patches, updates, and upgrades to the solution;
- (d) Describe the process that will be utilized should VDACS need to request custom reports or changes to the application;
- (e) Describe the means by which annual updates to AOSA rules, tables of tolerances or formula parameters is accomplished;
- (f) Describe your data protection plan and processes to ensure no data is lost in the case of a hardware or software failure;
- (g) Explain your process for ensuring quality control;

- Tab 5. Small Business Subcontracting Plan – Summarize the planned utilization of DSBSD-certified small businesses under the contract to be awarded as a result of this solicitation. Submit both pages of Attachment C.
- Tab 6. State Corporation Commission Form, submit Attachment D.
- Tab 7. Exceptions, submit Attachment E: Does your Firm accept Section III, “STATEMENT OF NEEDS”, Section VI, the “GENERAL TERMS AND CONDITIONS”, Section VII, the “SPECIAL TERMS AND CONDITIONS,” and Section VIII, INFORMATION TECHNOLOGY TERMS AND CONDITIONS, as presented in the RFP?
- Tab 8. ECOS Assessment Form, submit Attachment F: Identify whether the proposed solution is a hosted or Software as a Service solution, and if it is, include a completed ECOS Assessment Form (Exhibit A). The completed form would be forwarded to the Virginia Information Technology Agency for assessment and approval prior to a contract being awarded.
- Tab 9. Cloud Services Additional Contract Terms and Conditions Exceptions, submit Attachment G. If your proposed solution is a hosted or Software as a Service solution, does your firm accept the terms and conditions as outlined in Exhibit B?

V. EVALUATION AND AWARD CRITERIA

A. Evaluation Criteria: Proposals shall be evaluated using the following criteria:

CATEGORY	POINT VALUE
Plans and approach for providing the services and how well the solution meets the agency’s requirements.	50
Experience and qualifications of the firm, assigned staff, and subcontractors (if applicable)	15
Price of services	15
Small Business Subcontracting Plan	20

B. Award Criteria: Reference Section VII.B. During the initial review of proposals, evaluations will be made on the categories listed above except for the Price of services. Offerors must include pricing in their proposal as instructed and submit the Attachment B, Proposed Pricing Schedule. The initial review of proposals will be an evaluation on the plans and approach for providing the services and how well the solution meets the agency’s requirements, experience and qualifications of the firm, assigned staff, and subcontractors (if applicable), and the small business subcontracting plan. Only these three categories of the Evaluation Criteria will be scored at this stage. For those offerors selected to proceed in the solicitation process (i.e.: short list), negotiations and evaluation scoring will be conducted using all four categories listed above.

VI. GENERAL TERMS AND CONDITIONS

A. **VENDORS MANUAL**: This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The process for filing a complaint about this solicitation is in section 7.13 of the *Vendors Manual*. (Note section 7.13 does not apply to protests of awards or formal contractual claims.) The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is

normally available for review at the purchasing office and is accessible on the Internet at www.eva.virginia.gov under "I Sell To Virginia".

- B. **APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. **ANTI-DISCRIMINATION:** By submitting their (bids/proposals), (bidders/offerors) certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender sexual orientation, gender identity, or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. If the contractor employs more than five employees, the contractor shall (i) provide annual training on the contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.
- e. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the Commonwealth may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment from State contracting regardless of whether the specific contract is terminated.

f. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the contractor, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this contract.

2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

D. **ETHICS IN PUBLIC CONTRACTING:** By submitting their (bids/proposals), (bidders/offerors) certify that their (bids/proposals) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other (bidder/offeror), supplier, manufacturer or subcontractor in connection with their (bid/proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** Applicable for all contracts over \$10,000: By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

F. **DEBARMENT STATUS:** By participating in this procurement, the vendor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting a response for the type of goods and/or services covered by this solicitation. Vendor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the Commonwealth of Virginia.

If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.

G. **ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

H. **MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR IFBs AND RFPs:** Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

I. **CLARIFICATION OF TERMS:** If any prospective (bidder/offeror) has questions about the specifications or other solicitation documents, the prospective (bidder/offeror) should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. **PAYMENT:**

1. **To Prime Contractor:**

a. Invoices for items ordered, delivered, and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state

contract number and/or purchase order number; social security number (for individual contractors), or the federal employer identification number (for proprietorships, partnerships, and corporations).

- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase order that are to be paid for with public funds shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance with *Code of Virginia*, § 2.2-4363 and 2.2-4364. Upon determining that invoiced charges are not reasonable, the Commonwealth shall notify the contractor of defects or improprieties in invoices within fifteen (15) days as required in *Code of Virginia*, § 2.2-4351. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. Within seven (7) days of the contractor's receipt of payment from the Commonwealth, a contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
- b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

- 3. Each prime contractor who wins an award in which provision of a SWAM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.
- K. **PRECEDENCE OF TERMS:** The following General Terms and Conditions *VENDORS MANUAL*, *APPLICABLE LAWS AND COURTS*, *ANTI-DISCRIMINATION*, *ETHICS IN PUBLIC CONTRACTING*, *IMMIGRATION REFORM AND CONTROL ACT OF 1986*, *DEBARMENT STATUS*, *ANTITRUST*, *MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS*, *CLARIFICATION OF TERMS*, *PAYMENT* shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- L. **QUALIFICATIONS OF OFFERORS:** The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the (bidder/offeror) to perform the services/furnish the goods and the (bidder/offeror) shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect (bidder's/offeror's) physical facilities prior to award to satisfy questions regarding the (bidder's/offeror's) capabilities. The Commonwealth further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (bidder/offeror) fails to satisfy the Commonwealth that such (bidder/offeror) is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- M. **TESTING AND INSPECTION:** The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.
- O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:
1. The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
 2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt, unless the contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the contractor shall, in writing, promptly notify the Purchasing Agency of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Purchasing Agency's written decision affirming, modifying, or revoking the prior written notice. If the Purchasing Agency decides to issue a notice that requires an adjustment to compensation, the contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the

correct number of units independently; or

- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

P. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

Q. **INSURANCE:** By signing and submitting a bid or proposal under this solicitation, the bidder or offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder or offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000
3. Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia shall be added as an additional insured to the policy by an endorsement.
4. Errors and Omissions - \$1,000,000 per occurrence

R. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA VBO (www.eva.virginia.gov) for a minimum of 10 days.

S. **DRUG-FREE WORKPLACE:** Applicable for all contracts over \$10,000: During the performance of this

contract, the contractor agrees to (i) provide a drug- free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- T. **NONDISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- U. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS:** The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eprocurement solution by completing the free eVA Vendor Registration. All offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the proposal being rejected.

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

- a. For orders issued July 1, 2014 and after, the Vendor Transaction Fee is:
- (i) DMBE-certified Small Businesses: 1%, capped at \$500 per order.
 - (ii) Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order.
- b. Refer to Special Term and Condition “eVA Orders and Contracts” to identify the number of purchase orders that will be issued as a result of this solicitation/contract with the eVA transaction fee specified above assessed for each order.

For orders issued prior to July 1, 2014 the vendor transaction fees can be found at www.eVA.virginia.gov.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, typically within 60 days of the order issue date. Any adjustments (increases/decreases) will be handled through purchase order changes.

- V. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the agency

shall be bound hereunder only to the extent that the legislature has appropriated funds that are legally available or may hereafter become legally available for the purpose of this agreement.

- W. **SET-ASIDES IN ACCORDANCE WITH THE SMALL BUSINESS ENHANCEMENT AWARD PRIORITY.** This solicitation is set-aside for award priority to DSBSD-certified micro businesses or small businesses when designated as “Micro Business Set-Aside Award Priority” or “Small Business Set-Aside Award Priority” accordingly in the solicitation. DSBSD-certified micro businesses or small businesses also include DSBSD-certified women-owned and minority-owned businesses when they have received the DSBSD small business certification. For purposes of award, bidders/offerors shall be deemed micro businesses or small businesses if and only if they are certified as such by DSBSD on the due date for receipt of bids/proposals.
- X. **BID PRICE CURRENCY:** Unless stated otherwise in the solicitation, offerors shall state offer prices in US dollars.
- Y. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
- Z. **CIVILITY IN STATE WORKPLACES:** The contractor shall take all reasonable steps to ensure that no individual, while performing work on behalf of the contractor or any subcontractor in connection with this agreement (each, a “Contract Worker”), shall engage in 1) harassment (including sexual harassment), bullying, cyber-bullying, or threatening or violent conduct, or 2) discriminatory behavior on the basis of race, sex, color, national origin, religious belief, sexual orientation, gender identity or expression, age, political affiliation, veteran status, or disability.

The contractor shall provide each Contract Worker with a copy of this Section and will require Contract Workers to participate in agency training on civility in the State workplace if contractor’s (and any subcontractor’s) regular mandatory training programs do not already encompass equivalent or greater expectations. Upon request, the contractor shall provide documentation that each Contract Worker has received such training.

For purposes of this Section, “State workplace” includes any location, permanent or temporary, where a Commonwealth employee performs any work-related duty or is representing his or her agency, as well as surrounding perimeters, parking lots, outside meeting locations, and means of travel to and from these locations. Communications are deemed to occur in a State workplace if the Contract Worker reasonably should know that the phone number, email, or other method of communication is associated with a State workplace or is associated with a person who is a State employee.

The Commonwealth of Virginia may require, at its sole discretion, the removal and replacement of any Contract Worker who the Commonwealth reasonably believes to have violated this Section.

This Section creates obligations solely on the part of the contractor. Employees or other third parties may benefit incidentally from this Section and from training materials or other communications distributed on this topic, but the Parties to this agreement intend this Section to be enforceable solely by the Commonwealth and not by employees or other third parties.

VII. SPECIAL TERMS AND CONDITIONS

- A. **AUDIT:** The contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.
- B. **AWARD:** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia, § 2.2-4359D*). Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.
- C. **CANCELLATION OF CONTRACT:** The purchasing agency reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may also be terminated by the contractor, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- D. **eVA ORDERS AND CONTRACTS:** It is anticipated the solicitation/contract will result in one purchase order(s) annually with the applicable eVA transaction fee assessed for each order.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following: If this solicitation is for a term contract, failure to provide an electronic catalog (price list) or index page catalog for items awarded will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from www.eVA.virginia.gov. Contractors should email Catalog or Index Page information to eVA-catalog-manager@dgs.virginia.gov.

- E. **RENEWAL OF CONTRACT:** This contract may be renewed by the Commonwealth for four (4) successive one year periods under the terms and conditions of the original contract except as stated in 1. and 2. below. Price increases may be negotiated only at the time of renewal. Written notice of the Commonwealth's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
1. If the Commonwealth elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract increased/decreased by more than the percentage increase/decrease of the Other Services category of the CPI-U section of the Consumer Price Index of the United States

Bureau of Labor Statistics for the latest twelve months for which statistics are available.

2. If during any subsequent renewal periods, the Commonwealth elects to exercise the option to renew the contract, the contract price(s) for the subsequent renewal period shall not exceed the contract price(s) of the previous renewal period increased/decreased by more than the percentage increase/decrease of the Other services category of the CPI-U section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

- F. **IDENTIFICATION OF PROPOSAL ENVELOPE:** If a special envelope is not furnished, or if return in the special envelope is not possible, the signed proposal should be returned in an envelope or package, sealed and identified as follows:

Solicitation Number and Title: RFP 301-21-006 Seed Laboratory Management Software System

From: _____ October 23, 2020 2:00 PM
Name of Offeror Due Date Time

Street or Box Number

City, State, Zip Code

DSBSD-certified Micro Business or Small Business No. _____

Kevin Steinbrecher, Director of Procurement & Support Services
Name of Contract Officer

- G. **SUBMISSION OF SMALL BUSINESS SUBCONTRACTING PLAN, EVIDENCE OF COMPLIANCE WITH SMALL BUSINESS SUBCONTRACTING PLAN, AND SUBCONTRACTOR REPORTING:**

- A. Submission of Small Business Subcontracting Plan: It is the goal of the Commonwealth that 42% of its purchases be made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All bidders/offerors are required to submit a Small Business Subcontracting Plan. The contractor is encouraged to offer such subcontracting opportunities to DSBSD-certified small businesses. This shall include DSBSD-certified women-owned and minority-owned businesses when they have received DSBSD small business certification. Where it is not practicable for any portion of the goods/services to be subcontracted to other suppliers, the bidder/offeror shall note such on the Small Business Subcontracting Plan. No bidder/offeror or subcontractor shall be considered a small business unless certified as such by the Department of Small Business and Supplier Diversity (DSBSD) by the due date for receipt of bids or proposals.
- B. Evidence of Compliance with Small Business Subcontracting Plan: Each prime contractor who wins an award in which provision of a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution timely reports substantiating compliance in accordance with the small business subcontracting plan. If a variance exists, the contractor shall provide a written explanation. A subcontractor shall be considered a Small Business for purposes of a contract if and only if the subcontractor holds a certification as such by the DSBSD. Payment(s) may be withheld until the purchasing agency confirms that the contractor has certified compliance with the contractor's submitted Small Business Subcontracting Plan or is in receipt of a written explanation of the variance. The agency or institution reserves the right to pursue other appropriate remedies for non-compliance to include,

but not be limited to, termination for default.

C. **Prime Contractor Subcontractor Reporting:**

1. Each prime contractor who wins an award greater than \$100,000, shall deliver to the contracting agency or institution on a quarterly basis, information on use of subcontractors that are DSBSD-certified businesses or ESOs. The contractor agrees to furnish the purchasing office at a minimum the following information: name of firm, phone number, total dollar amount subcontracted, category type (Businesses that are DSBSD-certified small, women-owned, minority-owned, Service Disabled Veteran, or Employment Services Organization) and type of product/service provided, at the frequency required.
2. In addition each prime contractor who wins an award greater than \$200,000 shall deliver to the contracting agency or institution on a quarterly basis, information on use of subcontractors that are **not** DSBSD-certified businesses. The contractor agrees to furnish the purchasing office at a minimum the following information: name of firm, phone number, total dollar amount subcontracted and type of product/service provided, at the frequency required.

- H. **OPTIONAL PRE-PROPOSAL CONFERENCE:** An optional pre-proposal teleconference will be held at 2:00 p.m. on Friday, September 25, 2020. The purpose of this teleconference is to allow potential offerors an opportunity to present questions and obtain clarification relative to any facet of the solicitation.

While attendance at this teleconference will not be a prerequisite to submitting a proposal, offerors who intend to submit a proposal are encouraged to participate. Any changes resulting from this teleconference will be issued in a written addendum to the solicitation.

Webex Event address for attendees:

<https://covaconf.webex.com/covaconf/j.php?MTID=m2d9874a3252af6e196bee74b45aaedf1>

Event number: 171 031 6784

Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code.

+1-866-692-4530 US Toll Free

Access code: 171 031 6784

- I. **PRIME CONTRACTOR RESPONSIBILITIES:** The contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime contractor. The contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.
- J. **SUBCONTRACTS:** No portion of the work shall be subcontracted without prior written consent of the purchasing agency. In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish the purchasing agency the names, qualifications and experience of their proposed subcontractors. The contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.
- K. **CONTINUITY OF SERVICES:**

1. The Contractor recognizes that the services under this contract are vital to the Agency and must be continued without interruption and that, upon contract expiration, a successor, either the Agency or another contractor, may continue them. The Contractor agrees:
 - (b) To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor;
 - (c) To make all Agency owned facilities, equipment, and data available to any successor at an appropriate time prior to the expiration of the contract to facilitate transition to successor; and
 - (d) That the Agency Contracting Officer shall have final authority to resolve disputes related to the transition of the contract from the Contractor to its successor.
2. The Contractor shall, upon written notice from the Contract Officer, furnish phase-in/phase-out services for up to ninety (90) days after this contract expires and shall negotiate in good faith a plan with the successor to execute the phase-in/phase-out services. This plan shall be subject to the Contract Officer's approval.
3. The Contractor shall be reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations) and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract. All phase-in/phase-out work fees must be approved by the Contract Officer in writing prior to commencement of said work.

L. **STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:** Pursuant to Code of Virginia, §2.2-4311.2 subsection B, an offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its proposal the identification number issued to it by the State Corporation Commission (SCC). Any offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its proposal a statement describing why the offeror is not required to be so authorized. Indicate the above information on the SCC Form provided. Contractor agrees that the process by which compliance with Titles 13.1 and 50 is checked during the solicitation stage (including without limitation the SCC Form provided) is streamlined and not definitive, and the Commonwealth's use and acceptance of such form, or its acceptance of Contractor's statement describing why the offeror was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Contractor as demonstrating compliance.

M. **E-VERIFY PROGRAM:** EFFECTIVE 12/1/13. Pursuant to *Code of Virginia*, §2.2-4308.2., any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply with these provisions shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program. If requested, the employer shall present a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify.

VIII. INFORMATION TECHNOLOGY TERMS AND CONDITIONS:

A. **NON-VISUAL ACCESS TO TECHNOLOGY:** The product can be modified to be accessible and compliant with the Information Technology Access Act, §§ 2.2-3500 through 2.2-3504 of the Code of Virginia.

- B. **EXCESSIVE DOWNTIME**: Should the software solution or system become inoperable outside of scheduled maintenance for a period of more than 24 hours, the contractor agrees to pro-rate maintenance charges to account for each full day of inoperability.
- C. **SECURITY COMPLIANCE**: Contractor agrees to comply with all provisions of the then-current Commonwealth of Virginia security procedures, published by the Virginia Information Technologies Agency (VITA) and which may be found at: (<https://www.vita.virginia.gov/it-governance/itrm-policies-standards/>) or a successor URL(s), as are pertinent to contractor's operation. Contractor further agrees to comply with all provisions of the relevant Commonwealth agency's then-current security procedures as are pertinent to contractor's operation and which have been supplied to contractor by the Commonwealth agency. Contractor shall also comply with all applicable federal, state and local laws and regulations. For any Commonwealth location, additional security procedures may include but not be limited to: background checks, records verification, photographing, and fingerprinting of contractor's employees or agents. Contractor may, at any time, be required to execute and complete, for each individual contractor employee or agent, additional forms which may include non-disclosure agreements to be signed by contractor's employees or agents acknowledging that the Commonwealth information with which such employees and agents come into contact while at the Commonwealth site is confidential and proprietary.

Any unauthorized release of proprietary or personal information by the contractor or an employee or agent of contractor shall constitute a breach of its obligations under this Section and the contract. Contractor shall immediately notify the Commonwealth of any Breach of Unencrypted and Unredacted Personal Information, as those terms are defined in Virginia Code §18.2-186.6, and other personal identifying information, such as insurance data or date of birth, provided by the Commonwealth to Contractor. Contractor shall provide the Commonwealth, including VITA, the opportunity to participate in the investigation of the Breach and to exercise control over reporting the unauthorized disclosure, to the extent permitted by law.

- D. Contractor shall indemnify, defend, and hold the Commonwealth, VITA, their officers, directors, employees and agents harmless from and against any and all fines, penalties (whether criminal or civil), judgments, damages and assessments, including reasonable expenses suffered by, accrued against, or charged to or recoverable from the Commonwealth, VITA, their officers, directors, agents or employees, on account of the failure of Contractor to perform its obligations pursuant this Section.
- E. **ANNUAL REQUIREMENTS**: Contractor shall notify VDACS of any workers no longer assigned to VDACS projects to ensure that access is terminated. Contractor shall ensure the following are completed at the beginning of the contract and annually thereafter.
1. Complete and update the VDACS Security checklist.
 2. Support staff complete annual security training and provide certification to VDACS that this is complete.
 3. Support staff have undergone background checks upon employment and provide certification to VDACS that a background check was completed.
 4. Support staff review and sign the non-disclosure agreement annually.

Within twenty-four (24) hours of a suspected security breach, the contractor agrees to notify the agency's Information Security Officer with the following information:

1. Date of breach
2. A brief description of the breach
3. Description of the roles and persons involved in the breach
4. Type of content breached

5. Impact analysis of breach
6. Number of individuals or records impacted by the breach
7. Actions taken to mitigate the breach
8. Current Status of the Breach (under investigation or resolved)
9. Corrective actions taken and steps planned to prevent a similar breach.

IX. METHOD OF PAYMENT:

The Awarded Offeror's fees will be paid by check or electronic transfer per the Code of Virginia § 2.2-4350 prompt payment of bills by state agencies, upon receipt of a valid and complete invoice(s) for services. All invoices shall be detailed, reference the appropriate eVA purchase order number, and include a clear breakdown of the charges. Invoices shall be submitted to the VDACS Finance Office as indicated on the purchase order.

ATTACHMENT A

**OFFEROR DATA SHEET
To Be Completed By Offeror**

1. **QUALIFICATIONS OF OFFEROR**: The Offeror must have the capability and capacity in all respects in order to fully satisfy all of the contractual requirements.

2. **YEARS IN BUSINESS**: Indicate the length of time you have been in the business of performing the services identified in this solicitation: ____years ____months.

3. **REFERENCES**: Indicate below a listing of at least three (3) contracts your company services. Include the name and address of the person the agency has your permission to contact.

Client Name	Dates of Service	Address	Contact Person	Phone	Email address

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**ATTACHMENT B
Pricing Schedule**

Proposed price must include all work and costs associated with providing the proposed solution.

Item	Year 1 Cost	Year 2 Cost	Year 3 Cost	Total Cost
Licensing <ul style="list-style-type: none">• Details...				
Implementation <ul style="list-style-type: none">• Details...				
Support and Maintenance <ul style="list-style-type: none">• Details...				
Column totals for Year 1, Year 2, Year 3, and Total Cost tabulations:				

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ATTACHMENT C

Small Business Subcontracting Plan

It is the goal of the Commonwealth that over 42% of its purchases be made from small businesses. All potential offerors are required to return this document with their response.

Small Business: "Small business (including micro)" means a business which holds a certification as such by the Virginia Department of Small Business and Supplier Diversity (DSBSD) on the due date for proposals. This shall also include DSBSD-certified women- owned and minority-owned businesses and businesses with DSBSD service disabled veteran owned status when they also hold a DSBSD certification as a small business on the proposal due date. Currently, DSBSD offers small business certification and micro business designation to firms that qualify.

Certification applications are available through DSBSD online at www.SBSD.virginia.gov (Customer Service).

Offeror Name: _____

Preparer Name: _____ **Date:** _____

Who will be doing the work: I plan to use subcontractors I plan to complete all work

Instructions:

- A. If you are certified by the DSBSD as a micro/small business, complete only Section A of this form.
- B. If you are not a DSBSD-certified small business, complete Section B of this form. For the offeror to receive credit for the small business subcontracting plan evaluation criteria, the offeror shall identify the portions of the contract that will be subcontracted to DSBSD-certified small business for the initial contract period in Section B.

Offerors which are small businesses themselves will receive the maximum available points for the small business participation plan evaluation criterion, and do not have any further subcontracting requirements.

Offerors which are not certified small businesses will be assigned points based on proposed expenditures with DSBSD-certified small businesses for the initial contract period in relation to the offeror's total price for the initial contract period.

Points will be assigned based on each offeror's proposed subcontracting expenditures with DSBSD-certified small businesses for the initial contract period as indicated in Section B in relation to the offeror's total price.

Section A

If your firm is certified by the DSBSD provide your certification number and the date of certification.

Certification number: _____ Certification Date: _____

RETURN OF THIS PAGE IS REQUIRED (Tab 5)

ATTACHMENT C

Section B

If the "I plan to use subcontractors" box is checked, populate the requested information below, per subcontractor to show your firm's plans for utilization of DSBSD-certified small businesses in the performance of this contract for the initial contract period in relation to the offeror's total price for the initial contract period. Certified small businesses include but are not limited to DSBSD-certified women-owned and minority-owned businesses and businesses with DSBSD service disabled veteran-owned status that have also received the DSBSD small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc. It is important to note that these proposed participation will be incorporated into the subsequent contract and will be a requirement of the contract. Failure to obtain the proposed participation dollar value or percentages may result in breach of the contract.

B. Plans for Utilization of DSBSD-Certified Small Businesses for this Procurement

Subcontract #1

Company Name: _____ SBSD Cert #: _____
Contact Name: _____ SBSD Certification: _____
Contact Phone: _____ Contact Email: _____
Value % or \$ (Initial Term): _____ Contact Address: _____
Description of Work: _____

Subcontract #2

Company Name: _____ SBSD Cert #: _____
Contact Name: _____ SBSD Certification: _____
Contact Phone: _____ Contact Email: _____
Value % or \$ (Initial Term): _____ Contact Address: _____
Description of Work: _____

Subcontract #3

Company Name: _____ SBSD Cert #: _____
Contact Name: _____ SBSD Certification: _____
Contact Phone: _____ Contact Email: _____
Value % or \$ (Initial Term): _____ Contact Address: _____
Description of Work: _____

Subcontract #4

Company Name: _____ SBSD Cert #: _____
Contact Name: _____ SBSD Certification: _____
Contact Phone: _____ Contact Email: _____
Value % or \$ (Initial Term): _____ Contact Address: _____
Description of Work: _____

(Add additional Subcontractor information lines, if needed.)

RETURN OF THIS PAGE IS REQUIRED (Tab 5)

ATTACHMENT D

State Corporation Commission Form

Virginia State Corporation Commission (SCC) registration information.

The Offeror:

is a corporation or other business entity with the following SCC identification number: _____ **-OR-**

is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from Offeror's out-of-state location) **-OR-**

is an out-of-state business entity that is including with this proposal an opinion of legal counsel which accurately and completely discloses the undersigned Offeror's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the *Code of Virginia*.

****NOTE**** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver):

RETURN OF THIS PAGE IS REQUIRED (Tab 6)

**ATTACHMENT E
EXCEPTIONS**

Complete the following. Check one option only.

_____ Firm does not take any exceptions to the Statement of Needs, General Terms and Conditions, Special Terms and Conditions, or Information Technology Terms and Conditions.

OR

_____ Firm takes the following exception(s): (include page and section number and description of exception).

RETURN OF THIS PAGE IS REQUIRED (TAB 7)

ATTACHMENT F

ECOS Assessment Form

_____ Firm is not proposing a hosted software as a service solution.

OR

_____ Firm is proposing a hosted or software as a service solution, and has included the completed ECOS Assessment Form (Exhibit A).

RETURN OF THIS PAGE IS REQUIRED (TAB 8)

ATTACHMENT G
Cloud Services Additional Contract Terms and Conditions
EXCEPTIONS

Complete the following. Check one option only.

_____ Proposed solution is not hosted or Software as a Service.

OR

_____ Firm does not take any exceptions to the Cloud Services Additional Contract Terms and Conditions (Exhibit B).

OR

_____ Firm takes the following exception(s): (include page and section number and description of exception from Exhibit B).

RETURN OF THIS PAGE IS REQUIRED (TAB 9)