

## PURCHASING

**Section 1. PURPOSE**

This policy is to define the methods by which the employees of the Bedford Regional Water Authority (“Authority”) make purchases of goods and services from non-governmental sources. All purchases made by the Authority shall conform to the terms and conditions contained in this policy, as well as the requirements in the Code of Virginia [§2.2-43](#) known as the Virginia Procurement Act (the “Act”). The Act requires that goods and services be procured at a reasonable price in a competitive process that is fair, impartial, and accessible to all qualified vendors. Factors to be considered in determining whether competitive principles are being satisfied include cost, quality, and capability, but does not include non-work related factors.

**Section 2. POLICY**

- A. Procurement: For goods and/or services exceeding two hundred thousand dollars (\$200,000), the following process shall be followed:
1. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation, unless otherwise authorized by law. Details of these procedures are contained in this policy.
  2. The competitive sealed bid and/or the competitive negotiation policies may be used on purchases regardless of the estimated cost, when it is felt that the best interest of the Authority would be served by doing so.
  3. Professional services shall be procured by competitive negotiation. Goods, services other than professional services, and insurance may be procured by competitive sealed bidding or competitive negotiation.
  4. The Board of Directors (“Board”) must approve of the award of all procurement purchases.
    - a. If the Board approves of a purchase through establishing and approving the funds for the purchase, including the adoption of a budget containing provisions for the purchase of such items, the Executive Director is then authorized to proceed with awarding the procured purchase contingent on the provisions in the resolution for the adopted budget.
    - b. If, when procuring the purchase, the costs are found to exceed the total budget approved by resolution by the Board, the Executive Director must then get Board authorization prior to awarding the purchase.
- B. Small Purchases: All purchases of supplies, materials, equipment, and contracted services that are expected to be equal to or less than two hundred thousand dollars (\$200,000) shall follow the Small Purchases Procedure that is documented in this policy.
- C. Sole Source: This purchasing method may be used when it is determined that there is only a single source for the item(s) or service(s) that can properly perform the intended function or task. In this situation, the procedure in Section 6 of this policy shall be utilized.
- D. Emergency Purchases: In case of emergency, as described in this policy, an exception to the above conditions of this policy may be made.

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- E. Public-Private Education Facilities and Infrastructure and Alternative Delivery: The Authority may utilize the alternative delivery methods contained in the Public-Private Education Facilities and Infrastructure Guidelines policy and/or Alternative Delivery policy as adopted by the Authority. See Operating Policy Manual 10.45 and 10.40.
- F. The Authority may also utilize eVa, Virginia's total e-Procurement Solution at [www.eva.virginia.gov](http://www.eva.virginia.gov). With eVa participants may order from vendor catalogs which include state and local contracts. Also, bid openings may be posted to the eVa site, serving as public bid announcement.
- G. Cooperative Procurement: In accordance with the provisions of [§2.2-4304](#) of the Code of Virginia; the Authority may utilize a joint procurement agreement for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods, services, or construction. In addition, the Authority may purchase from another public body's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies. Cooperative procurement may not be used for:
  - 1. Contracts for architectural or engineering services; or,
  - 2. Contracts for construction projects

### **Section 3. COMPETITIVE SEALED BIDS PROCEDURE**

- A. Competitive Sealed bidding can be utilized if the aggregate or the sum of all phases of the goods, nonprofessional services, construction, or insurance is expected to exceed \$200,000.
- B. Construction may be procured only by competitive sealed bidding, except as outlined in the competitive negotiation section of this policy.
- C. Bidding process: The following steps are required in the competitive sealed bid process as well as the requirements outlined in 2 CFR 200.319 and 200.320 of the Code of Federal Regulations :
  - 1. Develop specifications for the goods or construction services to be procured. These specifications should be clear and detailed. In addition, contractual terms and general conditions must be included. Pre-qualification requirements may also be included.
  - 2. An invitation to bid must be issued. It is recommended that a work statement be prepared; this statement identifies the required goods or services to be procured in a logical sequence, establish a realistic milestones or delivery schedules, and help determine supplier cost realism. The invitations to bid must include, at a minimum: the specifications, the contractual terms and conditions applicable to this procurement, and a statement of any requisite qualifications of the potential vendors. A minimum of ten (10) days public notice is required between the initial invitation and the bid due date. Public notice is defined as posting in a designated public area, or publication in a newspaper of general circulation, or both. Public notice may also be published on the Virginia Department of General Services' central electronic procurement website and other appropriate websites.
  - 3. If warranted, pre-bid conferences or site visits may be conducted.

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4. Following receipt of bids, a public opening of bids at a publicly stated time and place is required.
5. Once bids are opened, they must be evaluated with regard to the specifications and cost.

### **Section 4. COMPETITIVE NEGOTIATION PROCEDURE**

- A. This procedure must be in accordance with, and with priority being given to, [§2.2-4302.2](#) and [§2.2-4303](#) of the Code of Virginia.
- B. Competitive negotiation is the standard procedure for professional services and engineering contracts.
- C. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used by the Authority in the following instances:
  1. Fixed price design-build or construction management basis as provided in [Chapter 43.1](#) of the Code of Virginia (beginning at [§2.2-4378](#) et seq); or
  2. For excavation, grading or similar work upon real property upon a determination made in advance by the Authority and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination.
- D. Small Contracts: Single or term contracts for professional services may be procured under the small purchase procedures, as defined in this policy, without requiring competitive negotiation, provided the aggregate or the sum of all phases is not expected to exceed \$80,000.
- E. Large Contracts: All professional services with an aggregate or the sum of all phases that is expected to exceed \$80,000 shall be made on the basis of the competitive negotiation procedure. The following steps are necessary in competitive negotiation:
  1. Prepare a Request for Proposal (RFP) in accordance with §2.2-4302.2 of the Code. This document should describe the desired services and outline general conditions that will affect the services. A minimum of ten (10) days public notice must be given before the due date specified in the RFP.
  2. The proposals will be reviewed once responses are received.
  3. The public body shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services.
  4. Following these discussions, offers should be ranked in order of preference based on the consultant's ability to fulfill the requirements explained in the RFP.
  5. An attempt is then made to negotiate a contract with the first ranked bid. If an agreement cannot be reached, an attempt to negotiate a contract with the second ranked bid must be made and so on in this manner until an acceptable agreement is reached.
  6. The Executive Director must approve the contract prior to the commencement of the work being performed.

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- F. For Architectural and professional engineering term contracts, per Virginia Code [§ 2.2-4303.1](#), the term contracts shall be limited to a one-year terms, and may be renewable for up to four additional one-year terms. The sum for all projects performed in a one-year contract shall not exceed \$750,000.
- G. Competitive negotiation may be used in procuring non-professional services, goods, and insurance if the department shows in writing that sealed bidding would not be practicable or fiscally advantageous to the public. Non-professional services are defined as services that are not specifically identified as professional services as listed above. When competitive negotiation is used for non-professional services, the following steps must be followed:
1. Prepare a Request for Proposal (RFP) in accordance with §2.2-4302.2 of the Code. This document should describe the desired services and outline general conditions that will affect the services. A minimum of ten (10) days public notice must be given before the due date specified in the RFP. This can be done by posting to the Department of General Services' central electronic procurement website or other appropriate websites. Public bodies may also publish in a newspaper of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request.
  2. Once responses are received, the proposals must be reviewed.
  3. Negotiations with qualified offerors begin. Cost must be considered, but it does not need to be the sole determining factor in selection.
  4. The contract is awarded to the offeror with the best proposal.
  5. The Executive Director must approve the contract prior to the commencement of the work being performed.

### **Section 5. SMALL PURCHASE PROCEDURE**

- A. Small purchase procedures shall provide for competition wherever practicable.
- B. The Executive Director, Deputy Director, and Department Managers are authorized to approve all small purchases as detailed below, provided that they are consistent with the expenditures planned in the budget that is approved by the Board.
- C. Purchases Not Exceeding \$10,000:
1. Purchases may be made upon receipt of a minimum of one (1) written or one (1) verbal quotation. Additional sources may also be solicited.
  2. If more than one quote is received, the award shall be made to the lowest responsive and responsible bidder.
  3. If the lowest priced item is not the best option for the Authority, a memorandum must be prepared justifying the purchase of a more expensive item, and the purchase must be approved by a Department Manager.
  4. A record of the quotation must be maintained. If a verbal quote is obtained, a record shall be kept of the name and address of the vendor(s) contacted, the item description or service offered, price quoted, delivery dates and terms, names of persons giving and receiving the prices and the date the information was obtained.

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5. Department Managers may authorize employees to make purchases in order to complete a job in progress or to make small repairs.
  6. An invoice or sales ticket must be submitted to the Department Manager along with a proper account code and description within 1 week of the purchase being made.
  7. Small purchases may be:
    - a. Charged to an open account at local vendors where the Authority has established an account for that purpose.
    - b. Purchased with the use of an Authority purchasing card for businesses where the Authority does not have an established account.
- D. Purchases Over \$10,000 But Less Than \$50,000:
1. Three (3) written or three (3) verbal quotes shall be solicited from vendors that are known to normally handle the items or service needed. Documentation of the verbal quotes must be prepared by Authority personnel, and submitted to the Executive Director or the Deputy Director for review prior to the purchase being made; the minimum documentation should include the names of the vendors, the name of the representative for each vendor, the date of the quote, and the amount of the quote.
  2. Verbal requests for quotations are generally the most expedient means for acquiring low-value items in a relatively short period of time. Bidders must be specifically informed that competitive quotations are being sought. A thorough description should be given of the item or service desired, the quantity, and the time frame in which delivery is expected to be made.
  3. Bids shall be evaluated and the responsive and responsible bidder offering the products and/or services that will provide the Authority with the lowest total cost will be awarded the contract. The Authority reserves the right to reject any and all bids in whole or in part, to waive any informality, and to delete items prior to making the award.
  4. If the lowest priced item is not the best option for the Authority a memorandum must be prepared justifying the purchase of a more expensive item, and the purchase must be approved by the Executive Director or the Deputy Director.
  5. The Authority may purchase used equipment and used material up to twenty thousand dollars (\$20,000) without obtaining quotes. The department manager requesting the purchase must submit documentation justifying the purchase to the Executive Director or Deputy Director prior to the purchase being made.
- E. Purchases Over \$50,000 But Less Than \$200,000:
1. A minimum of four (4) written quotations shall be solicited through a written request for quotation ("RFQ") from vendors that are known to normally handle the items or service needed. A formal advertisement is not required. Documentation of the solicitation and written quotes must be prepared by Authority personnel, and submitted to the Executive Director for review prior to the purchase being made; the minimum documentation should include the names of the vendors, the name of the representative for each vendor, the date of the quote, the amount of the quote, and any documentation provided by the vendor.
    - a. The RFQ shall be prepared with clear and detailed specifications for the goods or services needed
    - b. A specific time and place must be indicated in the RFQ for the receipt of the quotations. No quotations will be considered for approval when received after the specified time.

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- c. Confidentiality is vital to the informal written quotation procedure. No vendor shall be permitted to have access to information or quotations offered from other vendors until after the stated deadline. After the due date, such records shall be open to public inspection.
2. A bid tally will normally be sent to bidders with a notice of award, or upon request.
3. A file of documents related to each bid must be maintained in accordance with the Locality Record Retention Schedule available at the Library of Virginia's website.
4. If the lowest priced item is not the best option for the Authority a memorandum must be prepared justifying the purchase of a more expensive item, and the purchase must be approved by the Executive Director.
5. Bids shall be evaluated and the responsive and responsible bidder offering the products and/or services that will provide the Authority with the lowest total cost will be awarded the contract. The Authority reserves the right to reject any and all bids in whole or in part, to waive any informality, and to delete items prior to making the award.

### **Section 6. SOLE SOURCE PROCEDURE**

- A. Justification that there is only a single source practically available to purchase an item or service must be well documented in writing prior to the purchase being made or the contract being issued. The writing shall document the basis for this determination.
- B. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation.
- C. Approval and documentation for any sole source purchase must be approved as follows:
  1. For contracts or purchases less than or equal to fifty thousand dollars (\$50,000), the expenditure(s) must be documented and approved in the same manner as in the Small Purchases section of this policy.
  2. For contract or purchases exceeding fifty thousand dollars (\$50,000), the expenditure(s) must be approved by the Board of Directors of the Authority and documentation shall be provided as necessary to obtain the approval of the board.
- D. The Authority shall issue a public written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted in a designated public area or published in a newspaper of general circulation on the day the Authority awards or announces its decision to award the contract, whichever occurs first. Public notice may also be published on the Department of General Services' central electronic procurement website and other appropriate websites.
- E. Generally, no practical purpose is served by soliciting bids for an item or service which is available only from a single source.

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- F. Sole source items are usually purchased at a higher cost due to not permitting competition. It is important to search out competing products or services which functionally perform as well or better than those sometimes considered to be sole source. Sole source shall only be used after all other procurement or purchasing methods have been fully evaluated and exhausted.

### **Section 7. EMERGENCY PURCHASES PROCEDURE**

- A. An emergency exists when a breakdown in an essential service occurs or under any other circumstances when supplies are needed for immediate use in work which may virtually affect the safety, health, or welfare of the public. Emergency purchases shall be limited to materials and/or services for which delivery will commence within 24 hours after the placement of an order.
- B. A true emergency will almost always occur as a result of needing parts or labor for repairs to equipment which must be kept in operating order. The use of emergency purchases for failure to anticipate normal needs must be avoided. The following examples indicate poor planning on the part of the department concerned:
  - 1. Depletion of stock due to lack of foresight in anticipating needs.
  - 2. Repairs that have been needed for some time on buildings or equipment becoming an emergency overnight.
  - 3. The ordering of materials for projects on a last minute basis when those materials should have been ordered weeks or months prior to time of use.
- C. Before a contract may be awarded in the event of an emergency without competitive seal bidding or competitive negotiation, such procurement shall be made with such competition as is practicable under the circumstances and a written determination shall be made by the Executive Director of the basis for the emergency and for the selection of the particular contractor. This determination shall be included in the contract file. The Authority shall also issue a written notice stating that the contract is being awarded on an emergency basis and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Authority's website and may be published in a newspaper of general circulation on the day the Authority awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as practicable. The public notice of determination shall be posted for at least ten (10) days.

### **Section 8. DEBARMENT PROCEDURE**

- A. Prospective contractors may be debarred from contracting for particular types of supplies, services, insurance, or construction for specified periods of time.
  - 1. A detailed written report must be submitted to the Executive Director by the department in charge of the bid or quote stating what the violations or omissions are and what harm they have or may have caused the Authority.
  - 2. The Executive Director will examine the complaint and may contact the contractor in an effort to settle the dispute under the terms and conditions of the contract.
  - 3. Should the contractor be unwilling or unable to meet the terms and conditions as specified in the contract, the responsible department may recommend to the Executive Director to begin

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- legal proceedings or debar the contractor from future bids for a stated period of time, depending on the seriousness of the violation or omission.
4. The debarment period may be one (1) year or more for the first violation. Subsequent violations may result in permanent debarment.
  5. The responsible department will notify the contractor in writing of a debarment decision and its time period. After the contractor has received the written notice of debarment, he or she may make a written request to the Executive Director to present any additional facts pertinent to the debarment decision.

### **Section 9. RESPONSIBILITIES AND FUNCTIONS**

- A. All correspondence with suppliers regarding bids or quotations shall be directed to the department or authorized employee handling that bid or quote.
- B. The responsible department, or authorized employee, under the direction of the Executive Director shall be responsible for the following purchase and supply functions:
  1. The purchase or lease for use by the Authority: all supplies, materials, equipment, and contractual services.
  2. Provision for competitive bids for all purchases or contracts whenever practical.
  3. Consolidating purchases of like or common items or services to obtain maximum economic benefits.
  4. Follow up orders with vendors if delivery is not made within a specified time period.

### **Section 10. ETHICS IN PUBLIC CONTRACTING**

- A. Each Authority officer or employee who has official responsibility for the procurement of goods, services, insurance, or construction must be familiar with Virginia Code [§2.2-4367](#) through [§2.2-4377](#) (Ethics in Public Contracting).
- B. No employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a vendor or subcontractor any payment, loan, subscription, advance, deposit of money, services,
- C. Kickbacks are prohibited as follows:
  1. No contractor or subcontractor shall demand or receive from any of their suppliers or contractors, as an inducement for the award of a subcontract or order, any payment loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.
  2. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.
  3. No person shall demand or receive any payment, loan, subscription, advance, and deposit of money, services or anything of value in return for an agreement not to compete on a public contract.
  4. If a subcontractor or supplier makes a kickback or other prohibited payment as described herein, the amount thereof shall be conclusively presumed to have been included in the price



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- of the subcontract or order and ultimately borne by the Authority and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from the other offending parties.
- D. No person who, for compensation prepares an invitation for bids or request for proposals for or on behalf of the Authority shall: (1) submit a bid or proposal for that procurement or any portion thereof; or (2) disclose to any vendor information concerning the procurement which is not available to the public. However, the purchasing agent, with concurrence of the Authority attorney, may permit the person to submit a bid or proposal for that procurement or any part thereof, if it is determined that exclusion of the person would limit the number of potential vendors in a manner contrary to the best interests of the Authority.
- E. No building materials, supplies or equipment for any building or structure constructed by or for the Authority shall be sold by or purchased from any person employed as an independent contractor by the Authority to furnish architectural or engineering services, but not construction, for such building or structure or from any partnership, association or corporation in which the architect or engineer has a personal interest as defined in Section 12. No building materials, supplies or equipment for any building or structure constructed by or for the Authority shall be sold by or purchased from any person which has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in such building or structure to the independent contractor, employed by the Authority to furnish architectural or engineering services in which such person has a personal interest as defined in Section 12.
- F. No employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious, or fraudulent statements or representations; or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry.

### **Section 11. CONDITIONS AND INSTRUCTIONS**

- A. Bids and amendments thereto or withdrawal of bids submitted that are received by the Authority after the date and time specified for bid opening will not be considered. It will be the responsibility of the bidder to see that the bid is delivered to the Authority by the specified time and date. There will be no exceptions. Date of postmark will NOT be considered. Phone, email and facsimile bids are not accepted.
- B. Prices should be stated in units of quantity specified with packing and delivery to destination included, less federal, state, and local taxes.
- C. The time of proposed delivery must be stated in definite terms. If the time for differed commodities varies, the bidder shall so state.
- D. Samples, when requested, must be furnished free of expense, and if not destroyed will, upon request, be returned at the bidder's risk and expense.

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- E. Quotations must show unit price, amount, and grand total or bid may be rejected. In case of error in the computation of total prices, the unit price shall govern.
- F. Unless qualified by the provision “No Substitute,” the use of the name of a manufacturer, brand, make, or catalog designation in specifying an item does not restrict bidders to the manufacturer, brand, make, or catalog designation identification. This is used to simply indicate the character, quality, and/or performance equivalence of the commodity desired, but the commodity on which bids are submitted must be of such character, quality, and/or performance equivalence that it will serve the purpose for which it is to be used equally as well as that specified. In submitting bids on a commodity other than as specified, the bidder shall furnish complete data and identification with respect to the alternate commodity proposed to be furnished.

Consideration will be given to bids submitted on alternate commodities to the extent that such action is deemed to serve the best interests of the Authority. If the bidder does not indicate that the commodity proposed to furnish is other than specified, it will be construed to mean that the bidder proposes to furnish the exact commodity described.

- G. The bidder declares that the bid is not made in connection with any other bidder submitting a bid for the same commodity or commodities and that the bid is bona fide and is in all respects fair and without collusion or fraud.
- H. Bids shall be evaluated and the responsive and responsible bidder offering the lowest total cost will be awarded the contract. The Authority reserves the right to reject any and all bids in whole or in part, to waive any informality, and to delete items prior to making the award.
- I. Each bid is received with the understanding that the acceptance in writing by the Authority of the offer to finish any or all of the commodities and/or services described therein, shall constitute a contract between the bidder and the Authority which shall bind the bidder on his part to furnish and deliver the article quoted on at the prices stated and in accordance with the conditions of said accepted bid; and the Authority on its part to order from such contractor, except for causes beyond reasonable control; and to pay for, at the agreed prices, all articles and services specified and satisfactorily delivered.
- J. Any equipment delivered must be standard, new equipment of the latest model except as otherwise specifically stated in the bid. Where any part of nominal appurtenances of equipment is not described, it shall be understood that all the equipment and appurtenances which are usually provided in the manufacturer’s stock model shall be furnished.
- K. In event of default by the contractor, the Authority reserves the right to procure the commodities and/or services from other sources and hold the contractor liable for any excess cost occasioned thereby. If, however, public necessity requires the use of materials or supplies not conforming to the specifications, they may be accepted and payment therefore shall be made at a proper reduction in price.

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- L. All prices and notations must be in ink or typewritten. No erasures are permitted. Mistakes may be crossed out and corrections typed adjacent. Corrections must be initialized and dated in ink by the person signing the quotation.
- M. All quotations must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- N. All quotations should be verified carefully prior to submission to the Authority as they cannot be withdrawn or corrected after being opened except in strict accordance with §2.2-4330 of the Code.
- O. At the Authority's option, vendors located in the immediate area may have an advantage in case of close or tie bids. Considerations will be given on the basis of service capabilities, parts, and/or stock inventories. Previous unsatisfactory performance of delivery and/or service of similar commodities will be considered in the final determination.
- P. For all construction contracts exceeding \$500,000 the Authority shall require the contractor to furnish (1) a performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications, and conditions of the contract, and (2) a payment bond in the sum of the contract amount for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment of all materials furnished or labor supplied or performed in furtherance of the work.
- Q. A public body may require bid, payment, or performance bonds for contracts for goods or services if provided in the Invitation to Bid or Request for Proposal.
- R. Contracts over \$10,000 must contain the following provision: Drug free workplace to be maintained by Contractor. 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 in accordance with this chapter, 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.

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- S. All bidders will normally be afforded equal opportunities to quote and to compete in public bidding. The Authority reserves the right to debar any bidder that has demonstrated unsatisfactory performance in previous contracts.

### Section 12. DEFINITIONS

- A. This section provides specific definitions of terms frequently used in the wording or requisitions, quotations, bids, requests for proposals (RFP), and the Authority conditions and instructions.
1. *As is*: a term indicating that goods offered for sale are without warranty or guarantee. The purchaser has no recourse on the seller for the quality or condition of goods.
  2. *Bid*: an offer, as a price, whether for payment or acceptance. A quotation specifically given to a prospective purchaser upon his request, usually in competition with other vendors. An offer, by a buyer, to a vendor, as at an auction.
  3. *Bond (performance)*: a bond executed in connection with a contract and which secures the performance and fulfillment of all the undertakings, covenants, terms, conditions, and agreements contained in the contract.
  4. *Certificate of Compliance*: a supplier's certification to the effect that the supplies or services in question meet certain specified requirements.
  5. *Common Carrier*: a person or corporation, licensed by an authorized state, federal, or other government agency, engaged in the business of transporting personal property from one place to another for compensation. A common carrier is bound to carry for all who tender their goods and the price for transportation.
  6. *Consignee*: the person or organization to whom a shipper directs the carrier to deliver goods. Such person or organization is generally the buyer of goods and is called a "consignee" on a bill of lading.
  7. *Contract*: a deliberate agreement between two (2) or more competent persons to perform or not to perform a specific act or acts. A contract may be verbal or written.
  8. *Contract Carrier*: by motor vehicle, any person, or corporation, not a common carrier, who under special and individual contracts or agreements transports passengers or property by motor vehicle for compensation.
  9. *Invitation for Bids*: a request, verbal or written, which is made to prospective suppliers for their quotation on goods or services desired by the prospective purchaser.
  10. *Invoice*: a document showing the character, quantity, price, terms, nature of delivery, and other particulars of goods sold or of services rendered; a bill.
  11. *Letter of Intent*: a preliminary contractual agreement customarily used in situations where the items, quantities, price, and delivery dates are known, but where the principal contract provisions require additional time-consuming negotiations. It is used to enter into interim agreements, pending a definitive contract, so as to permit the start of construction, production, or delivery of the supplies or materials.
  12. *Personal interest*: means a financial benefit or liability accruing to an officer or employee or to a member of their immediate family. Such interest shall exist by reason of: (1) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (2) annual income that exceeds or may reasonably be anticipated to exceed \$10,000 from ownership in real or personal property or a business; (3) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or

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- provided by a business that exceeds; or may reasonably be anticipated to exceed, \$10,000 annually; (4) ownership of real or personal property of the interest exceeds \$10,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; or (5) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business.
13. *Personal interest in a contract*: means a personal interest which an officer or employee has in a contract with a government agency, whether due to them being a party to the contract or due to a personal interest in a business which is a party to the contract.
  14. *Professional Services*: as used here, it shall be defined as contract services to include accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, or professional engineering.
  15. *Quotation*: a statement of price, terms of sale, and description of goods or services offered by a vendor to a prospective purchaser; a bid. When given in response to an inquiry, is usually considered an offer to sell. The stating of the current price of a commodity; the price so stated.
  16. *Specification*: a clear, complete, and accurate statement of the technical requirements descriptive of a material, an item, or a service, and of the procedure to be followed to determine if the requirements are met.
  17. *Terms of Payment*: all purchase transactions require a payment for the goods or services received. Payment is made in negotiable funds in accordance with the terms agreed between buyer and seller.
  18. *Vendor*: any supplier of goods or services.

### Section 13. REFERENCES

- A. Virginia Procurement Act: The Virginia Procurement Act may be accessed by the following web address: <https://law.lis.virginia.gov/vacode/title2.2/chapter43/>.
- B. Uniform Guidance for Federal awards: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>, and <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200#200.319>

### Section 14. REVISIONS

- A. This policy was approved and adopted by the Authority's Board of Directors on March 26, 2013, effective July 1, 2013.
- B. This policy was modified as follows:
  1. Approved July 15, 2014, effective July 16, 2014:
    - a. Section 2.E-F was added to explain Used Equipment and Material and to clarify contract usage.
    - b. Section 5.A.4 and Section 5.C.1 were added to provide clarification.
  2. Approved April 21, 2015, effective April 22, 2015:
    - a. Section 4 was modified to explain procedure for less than \$60,000
    - b. Section 5 was modified to provide clarification, and to update the maximum purchase to \$100,000 to match state code.
    - c. Section 7 was amended to include the process for justification for emergency

PURCHASING

- procurement.
3. Approved September 18, 2018, effective September 19, 2018:
    - a. Numerous changes were made throughout the policy to reflect changes to the Code of Virginia.
    - b. Section 10 was added to cover the Ethics in Public Contracting.
  4. Approved June 16, 2020, effective June 17, 2020:
    - a. Changes were made to Section 4 to reflect updates to the Code of Virginia.
  5. Approved October 18, 2022, effective October 19, 2022:
    - a. Changes were made to revise the dollar limits under Section 3, Section 4 and Section 5.
    - b. Assistant Executive Director position was changed to Deputy Director.
  6. Approved May 21, 2024, effective May 22, 2024:
    - a. Clarified Section 1 for federal awards and added Uniform Guidance reference to Section 13.