



**TABLE OF CONTENTS FOR RFP**

<b>I.</b>	<b>PURPOSE</b>	<b>PAGE 3</b>
<b>II.</b>	<b>BACKGROUND</b>	<b>PAGE 3</b>
<b>III.</b>	<b>STATEMENT OF NEEDS</b>	<b>PAGE 4</b>
<b>IV.</b>	<b>DELIVERABLES</b>	<b>PAGE 4</b>
<b>V.</b>	<b>PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS</b>	<b>PAGE 6</b>
<b>VI.</b>	<b>EVALUATION AND AWARD CRITERIA</b>	<b>PAGE 8</b>
<b>VII.</b>	<b>MANDATORY PRE-PROPOSAL CONFERENCE</b>	<b>PAGE 8</b>
<b>VIII.</b>	<b>GENERAL TERMS AND CONDITIONS</b>	<b>PAGE 9</b>
<b>IX.</b>	<b>SPECIAL TERMS AND CONDITIONS</b>	<b>PAGE 14</b>
<b>X.</b>	<b>METHOD OF PAYMENT</b>	<b>PAGE 16</b>
<b>XI.</b>	<b>ATTACHMENTS:</b>	<b>PAGE 16</b>
	<b>A. Contractor Data Sheet</b>	
	<b>B. Small Business and Minority Participation Report</b>	

**I. PURPOSE:**

The purpose of this Request for Proposals (RFP) is solicit proposals to establish a contract or contracts through competitive negotiation for the provision of services listed below. **Proposals will be accepted that offer all or part of the listed services.** As an example, one contractor may be selected to provide claims administration while another contractor provides medical bill review.

- A. Claims administration
- B.. Medical Provider Bill Review
- C. Utilization Review and Hospital Bill Audit
- D. Discount Prescription Drug and Medical Supply Services

The services will be provided for the Uninsured Employer's Fund administered by the Virginia Workers' Compensation Commission. The Contractor will administer, process and investigate all claims on the Uninsured Employer's Fund.

**II. BACKGROUND:**

**A. Introduction**

The primary functions of the Workers' Compensation Commission are to process and adjudicate claims, provide information and monitor awards in workers' compensation cases.

The Code of Virginia requires that to be eligible for benefits under the Workers' Compensation Act an employee must be disabled and/or incur medical expenses from a work related accident or occupational disease. The type and duration of benefits payable under the Act and filing periods are statutory. There is no limit on the number of persons eligible to receive benefits.

The Commission administers the Uninsured Employer's Fund (UEF) (65.2-1200 to 1206, Virginia Workers' Compensation Act) that pays workers' compensation benefits when an uninsured employer is unable to meet the financial requirements of compensating an injured employee. The UEF also pays compensation benefits to injured employees of self-insured employers and members of group self-insurance associations when the employer or its surety is unable to satisfy the claim in whole or part. The UEF may be notified of a claim long after the claimant suffered an accident. A significant amount of medical expenses can be incurred on a claim prior to notice being given to the Uninsured Employer's Fund and an award entered. The Contractor will investigate not only the compensability of a claim, but whether there is jurisdiction and workers' compensation coverage.

Eighteen (18) Special Counsel in various locations throughout the Commonwealth represents the UEF. Their work is overseen and coordinated by the Contractor in conjunction with John A. Budesky, the Fund's Administrator (the Administrator) located in Richmond.

Funding for the Uninsured Employer's Fund comes from a tax assessed against insurance companies and self-insured employers.

B. **Demographics**

Approximate number of open claims: 330 @ 7/1/10

<u>Calendar Year</u>	<u>Claims Awarded</u>
2008	226
2009	223
2010 @ 8/31/10	116

Annual Expenditures: \$3.3 million for FY 2010

Location of claimants: State-wide

III. **STATEMENT OF NEEDS:**

- A. **Claim Administration:** Provide investigation, administration and ongoing monitoring of all claims referred to the UEF. Prepare reserves on all UEF claims. Assist Special Counsel in investigating, planning discovery, suggesting strategy and in preparation for UEF hearings, seeking Review and taking Appeals including the preparation of Hearing Memoranda. Process and pay all indemnity and medical benefits on compensable claims. Make suggestions and recommendations to the Special Counsel when information in file supports a change in condition application or other legal pleading or process. The Contractor will have the technical proficiency and flexibility to interact and exchange information with the Commission through automated systems in a mutually agreed format. The Contractor will receive and review all Special Counsel invoices for legal fees. The contractor will approve the invoices for payment or make suggestions for reductions and remit the invoices to the Administrator. Quarterly, the Contractor will report to the Administrator on the number of case referrals to each Special Counsel.
- B. **Provider Bill Review:** Provide medical provider bill review based upon CPT Codes of medical procedures and the diagnostic codes to assure that reasonable and customary charges are being paid by the Uninsured Employer's Fund. The Fund would have advantage of preferred provider agreements between the selected contractor and medical providers whenever possible.
- C. **Utilization Review:** Provide a Utilization Review Program for the determination of the need for inpatient hospital stays, approving pre-surgical lengths of stay and controlling the length of inpatient stay.
- D. **Drugs, Supplies and Apparatus:** Provide a mechanism for claimants to receive prescription drugs, medical supplies and apparatus at a discount utilizing generic drugs whenever possible.

IV. **DELIVERABLES:**

A. **Claims Administration**

**The Contractor has the obligation of maintaining all original files on-site for access by claimants and counsel consistent with FOIA laws and regulations.**

- 1. Investigation includes obtaining and verifying documentation of the claim, identifying jurisdictional issues and statutory employers, searching for possible insurance coverage, waivers of coverage and proper cancellation of coverage. Aggressive investigation into subrogation will be critical on all claims. Recorded statements will be taken from the parties. Basic investigation should be completed within 7 workdays. The Contractor shall assist and cooperate with the Special Counsel as requested including the preparation of Hearing Memoranda. No claim will be accepted or denied without proper authorization from the Commission.
- 2. An action plan shall be prepared on all claims with a hard copy placed in the file. The plan will detail what actions will be taken on the claim and the expected time for completion. Action plans will be updated as needed but at a minimum of every 60 days. All completed steps in the action plan will be supported by the appropriate authoritative documentation. Workers'

compensation reserves shall be established and periodically updated on each claim reflecting the expected ultimate cost. The reserves shall provide the information necessary for cash management planning.

3. The Contractor will make all medical and indemnity payments in accordance with the Virginia Workers' Compensation Act. Medical payments shall be subject to audit as indicated in Item B below. Funding for all medical and indemnity payments shall be from the Uninsured Employer's Fund through an agreed mechanism. The contractor shall be responsible for federal tax reporting specifically preparation of all Form 1099's.
4. All UEF claims will be monitored to insure timely receipt of medical reports and other information required to determine the need for medical treatment, independent medical exams and rehabilitation. Such determinations are to be made by appropriately qualified medical and rehabilitative practitioners. The Contractor shall monitor and document all offers of light duty or other employment and the outcome. The Contractor will provide suggestions and recommendations to the Special Counsel when information on file supports a Change in Condition Application or other legal pleading or process.
5. The Contractor shall provide the Administrator with written recommendations for claim settlements along with documentation supporting the recommendations. This may include fund attorney recommendations. Payment for counsel services will be from imprest funds upon approval by the Fund Administrator.
6. The Contractor shall provide all reports required by the Commission for which the data is available and assist the Commission in making presentations and responding to inquiries.
7. The Contractor shall provide the data necessary to maintain the Commission's Accounts Receivable Database. Describe your capability to transmit claim payment data electronically to the Commission.

**SUGGESTED FORMAT**

<b>Data Field</b>	<b>Data Type</b>	<b>Length</b>
Customer Number	Number	30
Invoice Number	Varchar2	30
VWC Claim Number	Varchar2	30
Check Number	Varchar2	15
Check Date	Date	<b>dd-mon-yyyy</b>
Check Amount	Number	15,2
Transaction Type	Varchar2	50
Transaction Code	Varchar2	50
Payment Period	Varchar2	50
Invoice Type	Varchar2	50
Invoice Date	Date	<b>dd-mon-yyyy</b>
Line	Varchar2	75

Description  
Employer  
Number      Varchar2

30

B. **Provider Bill Review:**

1. Offer technical and administrative services to the Commission to further improve the control of medical costs and administrative expenses. Review will be documented and sent to the Commission for final approval.
2. Offer the Uninsured Employer's Fund the advantages of established and future preferred provider agreements.
3. Assure that the fee schedule for Provider Bill Review Services will be acceptable to the Virginia Workers' Compensation Commission pursuant to Rule 14 of the Rules of the Commission. Provide expert testimony when cases are litigated.
4. Have a structure established to accept and handle all complaints from physicians and hospitals related to fee schedule reductions.

C. **Utilization Review:**

1. Handle initial communication with doctors and hospitals to assure pre-admission certification. Ensure continuing stay review occurs within 24 hours of notice.
2. As cases are assigned (normally all bills \$5,000 or greater) provide hospital bill audit services to include:
  - a. Full bill/chart analysis when indicated.
  - b. Negotiation of specific charges in full review
  - c. Identification of unrelated duplicate charges.
  - d. Verification of results with the provider.
2. Contact the hospital within 48 hours of audit assignment. Conduct the audit at the earliest convenient date for the hospital. Reach a binding agreement with the hospital. Report the outcome to the representative for the Uninsured Employer's Fund in a timely manner.
3. Establish a structure to accept and handle all complaints related to these services.

D. **Drugs, Supplies and Apparatus:**

Provide a service that will reduce the cost of prescription drugs and medical supplies through discounts and the use of generic drugs wherever possible. Monitor the utilization of drugs to assure abuse and over-prescribing does not occur.

V. **PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS**

A. **General Requirements:**

1. RFP Response: In order to be considered for selection, Offerors must submit one (1) original and five (5) copies of a complete response to this RFP.
2. Proposal Preparation:
  - a. Proposals shall be signed by an authorized representative of the Offeror. All

requested information must be submitted. Failure to submit all information 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 on completeness and clarity of content. 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.

3. Oral Presentation: Offerors may be required to give an oral presentation of their proposal to the Purchasing 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 Purchasing 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.

**B. Specific Requirements:**

Offerors are required to submit the following items as a complete proposal:

1. The return of the RFP cover sheet and all addenda acknowledgments, if any, signed and completed as requested.
2. An executive written summary to include:
  - a. Experience in providing the services.
  - b. Approach to providing the services.
3. Provide anticipated time frames for performing the work set forth in the Statement of Needs section of this Request for Proposal, **particularly the tasks required for investigating, administering and paying claims**. Describe, in detail, your experience and qualifications to perform the work described in the Statement of Needs. Describe your ability to exchange or access information through automated systems.
4. Provide an overview of your expected needs from the Virginia Workers' Compensation Commission and details of any item you believe is important for us to know but is not covered elsewhere in this RFP.
5. Provide three (3) references, preferably in Virginia, for each service you are submitting a proposal for, including names, addresses and telephone numbers.
6. Describe the areas your organization does and does not serve in Virginia. State how you propose to expand your services to meet our geographic needs.
7. State and provide samples of the reports you will generate and how often .
8. State your ability to respond correctly and timely to inquiries received by telephone, by mail or in person. Identify current standards of performance.
9. Provide resumes for key people responsible for this account.
10. Each party shall appoint a contract representative who will be diligent in securing faithful performance of this contract. The Commission appoints John Budesky its Administrator. State your contract representative.
11. Describe how your fee schedule used to review medical providers' charges was derived. State the origin of the data utilized to establish rates, any geographic boundaries and how often it is

updated and communicated to clients.

12. State how the Virginia Workers' Compensation Commission can be assured that your medical services fee schedule is acceptable. How many clients in Virginia are using your schedule? Has your schedule ever been contested in a case before the Virginia Workers' Compensation Commission? What were the results of the hearing process or peer review process?
13. Describe your system for certifying admission to hospitals. Describe your method for processing appeals to denials of requests for pre-certification or continued hospitalization.
14. Describe your hospital bill audit procedures from assignment to final agreement including samples of reports.
15. Describe how you communicate prescription, medical supplies and medical apparatus availability.
16. Provide a description your proposed pricing.

**VI. EVALUATION AND AWARD CRITERIA:**

A. Proposals shall be evaluated by the Uninsured Employer's Fund of the Virginia Workers' Compensation Commission as follows:

Criteria

1. Demonstrated ability to provide services - thoroughness of proposal	25 points
2. Qualifications of staff assigned to the project - experience - certifications	25 points
3. Methodology and timetable for deliverables	20 points
4. Small Business Subcontracting Plan	20 points
5. References from at least three (3) sources	10 points

B. Award of Contract:

Selection shall be made of Offerors deemed to be fully qualified and best suited on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible, during which such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. Such discussions may also include non-binding estimates of total project costs. Methods to be utilized in arriving at a price for services may also be discussed.

At the conclusion of discussions outlined in the paragraph above, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the Commission shall select, in the order of preference, two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract can be successfully negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.

Should the Commission determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror (*Code of Virginia*, Section 11-37). At any time during the negotiations, the Commission may terminate all negotiations and re-advertise the requirement. The reason for such termination is to be made a part of the file.

**VII. MANDATORY PRE-PROPOSAL CONFERENCE:** A mandatory preproposal conference will be at 9:30 AM, September 29, 2010, in Courtroom A of the Workers' Compensation Richmond headquarters building. The purpose of this conference is to allow potential offerors an opportunity to present questions and obtain clarification relative to any facet of this solicitation.

Due to the importance of all offerors having a clear understanding of the specifications/scope of work and requirements of this solicitation, attendance at this conference will be a prerequisite for submitting a proposal. Proposals will only be accepted from those offerors who are represented at this preproposal conference. Attendance at the conference will be evidenced by the representative's signature on the attendance roster. No one will be admitted after 9:35 AM.

Bring a copy of the solicitation with you. Any changes resulting from this conference will be issued in a written addendum to the solicitation.

**VIII. GENERAL TERMS AND CONDITIONS:**

- A. VENDOR'S MANUAL: This solicitation is subject to the provisions of the Commonwealth of Virginia Vendor's Manual and any revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the Vendor's 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](http://www.eva.virginia.gov) under "Vendors Manual" on the vendors tab.
- 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 and any litigation with respect thereto shall be brought in the 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, Section 2.2-4366*). ADR procedures are described in Chapter 9 of the Vendor's Manual. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. ANTI-DISCRIMINATION: By submitting their bid, Bidders 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 Section 2.2-4311 of the Virginia Public Procurement Act. 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, 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, Section 2.2-4343.IE*)

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, 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 purposes of meeting these requirements.
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 bid, Bidders certify that their bid is made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their bid, 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: By submitting their bid, Bidders certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
- F. DEBARMENT STATUS: By submitting their bid, Bidders certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids on contracts for the type of services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- 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 the 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 services purchased or acquired by the Commonwealth of Virginia under said contract.
- H. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR RFP'S: 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 has questions about the specifications or other solicitation documents, the prospective bidder 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 contract. All invoices shall show the state contract 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 services provided under this contract, 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 the date of offset 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 materials 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 researched and challenged, and that portion of the invoice held in abeyance until a settlement can be

reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. 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, Section 2.2-4363*).

2. To Subcontractors:

a. A Contractor awarded a contract under this solicitation is hereby obligated:

- 1) To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth 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.

- K. PRECEDENCE OF TERMS: Paragraphs A-J of these General Terms and Conditions 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 BIDDERS: The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the Bidder to perform the services and the Bidder 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 physical facilities prior to award to satisfy questions regarding the Bidder's capabilities. The Commonwealth further reserves the right to reject any bid if the evidence submitted by, or investigations of, such Bidder fails to satisfy the Commonwealth that such Bidder is properly qualified to carry out the obligations of the contract and to provide the services 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 scope of the contract. An 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. 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 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's Vendor's 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 that 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 REQUIRED FOR MOST CONTRACTS:

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. 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 must be named as an additional insured and so endorsed on the policy.

Professional Liability/Errors and Omissions coverage:\$1,000,000 per occurrence, \$3,000,000 aggregate.

- R. ANNOUNCEMENT OF AWARD: Upon the award or announcement of the decision to award a contract of \$50,000 as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA website ([www.eva.virginia.gov](http://www.eva.virginia.gov)) for a minimum of ten days.
- S. DRUG-FREE WORKPLACE: 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, national origin, age, disability, faithbased 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: The eVA Internet electronic procurement solution, website portal [www.eVA.virginia.gov](http://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 either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All bidders or offerors must register in eVA; failure to register will result in the bid/proposal being rejected.
  - a. eVA Basic Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, electronic bidding, and the ability to research historical procurement data available in the eVA purchase transaction data warehouse.
  - b. eVA Premium Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments.
  - c. 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.The eVA transaction fee will be invoiced approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice 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 of the funds available or which may hereafter become available for the purpose of this agreement.
  
- W. SET-ASIDES: This solicitation is set-aside for DMBE-certified small business participation only when designated "SET-ASIDE FOR SMALL BUSINESSES" in the solicitation. DMBE-certified small businesses are those businesses that hold current small business certification from the Virginia Department of Minority Business Enterprise. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have DMBE small business certification. For purposes of award, bidders/offerors shall be deemed small business if and only if they are certified as such by DMBE on the due date for receipt of bids/proposals.
  
- X. BID PRICE CURRENCY: Unless stated otherwise in the solicitation, bidders/offerors shall state bid/offer prices in US dollars.

- Y. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A contractor organized as a stock or non-stock 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.

**IX. SPECIAL TERMS AND CONDITIONS:**

- A. ADVERTISING: In the event a contract is awarded for supplies, equipment, or services resulting from the bid, no indication of such sales or services to the Commission will be used in product literature or advertising. The Contractor shall not state in any of the advertising or product literature that the Commonwealth of Virginia or any agency or institution of the Commonwealth has purchased or uses its products or services.
- B. AUDIT: The Contractor hereby agrees to 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.
- C. AWARD OF CONTRACT: 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. See Section VI.B for additional information.
- D. CANCELLATION OF CONTRACT: The Commission reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon sixty (60) days written notice to the contractor. In the event the initial contract period is for more than twelve months, the resulting contract may be terminated by either party, without penalty, after the initial twelve months of the contract period upon sixty (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.
- E. RENEWAL OF CONTRACT: This contract may be renewed by the Commonwealth upon written agreement of both parties for five (5) successive one year periods, under the terms of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration.
- F. IDENTIFICATION OF BID ENVELOPE: If a special envelope is not furnished, or if return in the special envelope is not possible, the signed bid should be returned in a separate envelope or package, sealed and identified as follows:

From: \_\_\_\_\_

Name of Bidder	Due Date	Time
_____		
Street or Box Number	RFP Number	
_____		
City, State, Zip Code	RFP Title	

Name of Buyer \_\_\_\_\_

If a proposal not contained in the special envelope is mailed, the Offeror takes the risk that the envelope, even if marked as described above, may be inadvertently opened and the information compromised which may cause the bid or proposal to be disqualified. Proposals may be hand delivered to the designated location in this solicitation. No other correspondence or other proposals should be placed in the envelope.

• G. SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:

A. It is the goal of the Commonwealth that 40% of its purchases be made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All potential bidders/offers are required to submit a Small Business Subcontracting Plan. Unless the bidder/offeror is registered as a DMBE-certified small business and where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to DMBE-certified small businesses. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received DMBE small business certification. No bidder/offeror or subcontractor shall be considered a Small Business, a Women-Owned Business or a Minority-Owned Business unless certified as such by the Department of Minority Business Enterprise (DMBE) by the due date for receipt of bids or proposals. If small business subcontractors are used, the prime contractor agrees to report the use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business with the DMBE certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided.

B. 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 on an annual basis, evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the small business subcontracting plan. When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm with the DMBE certification number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by the agency or institution. The agency or institution reserves the right to pursue other appropriate remedies to include, but not be limited to, termination for default.

C. Each prime contractor who wins an award valued over \$200,000 shall deliver to the contracting agency or institution on an annual basis, information on use of subcontractors that are not DMBE-certified small businesses. When such business has been subcontracted to these firms and upon completion of the contract, 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 or service provided.

• H. MODIFICATION OF CONTRACT: The Commission may, upon mutual agreement with the Contractor, issue written modifications to the scope of work/specifications of this contract, and within the general scope thereof, except that no modifications can be made which will result in an increase of the original contract price by a cumulative amount of more than \$10,000 or 25%, whichever is greater, without the advance written approval of the Governor or his designee. The written modification shall stipulate the mutually agreed price for the specific addition to/deletion from the scope of work/specifications that shall be added to or deducted from the contract amount.

• I. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION: The contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.

- J. CONTINUITY OF SERVICES:
  - a) 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, ~~to~~ continue them. The Contractor agrees:
    - (i) To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor;
    - (ii) 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
    - (iii) 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.
  - b) The Contractor shall, upon written notice from the Contract Officer, furnish phase-in/phase-out services for ~~p~~ 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.
  - c) 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 ~~is~~ must be approved by the Contract Officer in writing prior to commencement of said work.
- K. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER: Pursuant to Code of Virginia, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or 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 bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

**X. METHOD OF PAYMENT:**

- A. The Contractor shall be paid on the basis of monthly invoices submitted.
- B. Payment terms will be 30 days after invoice for work performed the preceding month.
- C. Invoices shall be submitted to:

Workers' Compensation Commission  
Financial Office  
1000 DMV Drive  
Richmond, VA 23220

**XI. ATTACHMENTS:**

- Attachment A - Contractor Data Sheet
- Attachment B - Small Business and Minority Participation Report

**ATTACHMENT A**

DATA SHEET

TO BE COMPLETED BY THE OFFEROR

- A. QUALIFICATION OF BIDDER: The Bidder must have the capability and capacity in all respects to satisfy fully all of the contractual requirements.

- B. YEARS IN BUSINESS: Indicate the length of time you have been in business providing this type of service.
- C. REFERENCES: Indicate below a listing of at least three (3) current clients, either commercial or governmental, that your firm has provided or is providing this type of service. Include the length of service and the name and address, telephone and fax numbers of the person the VWC has your permission to contact. Verify the contact person, telephone number, and fax number listed below that are current and up-to-date prior to submitting them.

Organization/Company: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_  
 Phone No.: \_\_\_\_\_ Fax: \_\_\_\_\_

Organization/Company: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_  
 Phone No.: \_\_\_\_\_ Fax: \_\_\_\_\_

Organization/Company: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Contact Person: \_\_\_\_\_  
 Phone No.: \_\_\_\_\_ Fax: \_\_\_\_\_

- D. List full names and addresses of Offeror and any branch offices which may be responsible for administering this contract:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ATTACHMENT B**

1. Participation by Small Businesses:
  - a. Offeror ( ) is, ( ) is not a small business concern. For the purposes of this procurement, a small business is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is contracting and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the United States Small Business Administration.
  - b. List in the following format small business with the Offeror currently contracts or does business and dollar amounts spent with each of these businesses in the most recent twelve-month period for which data is available:

Firm Name				% Total Company
Address &	Type Goods/	Contact	Dollar	Expenditures
<u>Phone Number</u>	<u>Services Person</u>		<u>Amounts</u>	<u>For Goods &amp; Services</u>

- c. Describe Offeror's plans to involve small businesses in the performance of this contract either as part of a joint venture, as a partnership, as subcontractors or as suppliers. Offerors are encouraged to provide additional information and expand upon the following format:

Firm Name				
Address &	Type Goods/	Contact	Dollar	
<u>Phone Number</u>	<u>Services Person</u>		<u>Amounts</u>	<u>% of Total Contract</u>

2. Participation by Businesses Owned by Woman:

- a. Offeror ( ) is, ( ) is not a women's business enterprise or women-owned business. For the purpose of this procurement, a women-owned business is a concern that is at least 51 percent owned by a woman or women who also control and operate it. In this context, "control" means exercising the power to make policy decisions, and "operate" means being actively involved in the day-to-day management.
- b. List, in the following format, businesses owned by women with which the Offeror currently contracts or does business and dollar amounts spent with each of these businesses in the most recent twelve month period for which data are available:

Firm Name				% Total Company
Address &	Type Goods/	Contact	Dollar	Expenditures
<u>Phone Number</u>	<u>Services Person</u>		<u>Amounts</u>	<u>For Goods &amp; Services</u>

- c. Describe Offeror's plans to involve businesses owned by women in the performance of this contract either as part of a joint venture, as a partnership, as subcontractors or as suppliers. Offerors are encouraged to provide additional information and expand upon the following format:

Firm Name				
Address &	Type Goods/	Contact	Dollar	
<u>Phone Number</u>	<u>Services Person</u>		<u>Amounts</u>	<u>% of Total Contract</u>

3. Participation by Businesses Owned by Minorities:

- a. Offeror ( ) is, ( ) is not a minority business enterprise or minority-owned business. For the purpose of this procurement, a minority-owned business is a concern that is owned and controlled by one or more socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to, Blacks, Hispanic Americans, Asian Americans, American Indians, Eskimos, and Aleuts.
- b. List, in the following format, businesses owned by minorities with which the Offeror currently contracts or does business and dollar amounts spent with each of these businesses in the most recent twelve month period for which data is available:

Firm Name				% Total Company
Address &	Type Goods/	Contact	Dollar	Expenditures
<u>Phone Number</u>	<u>Services Person</u>		<u>Amounts</u>	<u>For Goods &amp; Services</u>

- c. Describe Offeror's plans to involve minority businesses in the performance of this contract either as part of a joint venture, as a partnership, as subcontractors or as suppliers. Offerors are encouraged to provide additional information and expand upon the following format:

<u>Firm Name</u>	<u>Type Goods/</u>	<u>Contact</u>	<u>Dollar</u>
<u>Address &amp;</u>	<u>Services</u>	<u>Person</u>	<u>Amounts% of Total Contract</u>
<u>Phone Number</u>			