

### Chapter highlights

- Purpose: This chapter sets forth required and valuable award and post- award IT procurement policies and guidelines.
- Key points:
  - Upon completion of negotiations, if applicable, and before awarding any IT contract, the assigned procurement lead must validate the supplier is in compliance with certain critical contractual or statutory requisites.
  - Before awarding any IT contract valued at \$250,000 or greater, or a contract for a major project, agencies must obtain required VITA reviews and approvals. Additionally, the Procurement Governance Review (PGR) process must be followed for any technology investment valued at \$250,000 or greater.
  - It is recommended that within 30 days of contract award, a contract kick-off meeting be conducted.

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#### 29.0 Introduction

There are certain activities a procurement lead should perform during the award and post- award phases of a procurement's life cycle. These activities will ensure vital statutory compliance requisites are met and add value to the successful transition from negotiations to day one of contract performance.

#### 29.1 Before Award

Upon completion of negotiations, if applicable, and before awarding any IT contract, the assigned procurement lead must validate the supplier is in compliance with the following critical or statutory requisites:.

- Properly registered with eVA
- In Commonwealth compliance
  - Is registered with the State Corporation Commission and authorized to transact business in Virginia: <https://cis.scc.virginia.gov/EntitySearch/Index>
  - No sales tax delinquency with the Commonwealth ([Irms.Support@Tax.Virginia.Gov](mailto:Irms.Support@Tax.Virginia.Gov))

- Not included on the Commonwealth’s Debarment List: [https://logi.cgieva.com/External/rdPage.aspx?rdReport=Public.Reports.Report9020\\_Data](https://logi.cgieva.com/External/rdPage.aspx?rdReport=Public.Reports.Report9020_Data)
- In Federal compliance
  - Not listed on the Federal government’s Excluded Parties List if federal funds are used to fund any portion of the project or acquisition: <https://sam.gov/content/exclusions>,
  - Is not prohibited for use on federal systems by the Department of Homeland Security in accordance with § 2.2-5514 of the *Code of Virginia*

Unless exempted through legislation, before awarding any IT contract valued at \$250,000 or greater, or a contract for a major project, agencies must obtain required VITA reviews and approvals. Additionally, the Procurement Governance Review (PGR) process must be followed for any technology investment valued at \$250,000 or greater.

The procurement file must also include “High-Risk” identification and mitigation planning and reporting, as well as approvals by the OAG and VITA, in accordance with § 2.2-4303.01. If the procurement is a Cloud procurement, the procurement file must include the required COV Ramp Security Assessment approval, and any VITA Security contractual requirements or security exceptions. The Security Assessment and security exceptions may be considered supplier proprietary and not available for public disclosure, therefore a redacted version of the contract may also be required for such purposes. Prior to posting notice of award, the procurement file and contract must be prepared to be available for review by other suppliers.

Evaluation team members are requested to complete and submit the evaluation team survey in [Appendix 29.1](#) at the close of each procurement where an evaluation was conducted. The procurement’s lead or single-point-of-contact should provide team members with the survey form and submission details. VITA SCM is collecting and sharing lessons learned. Commonwealth IT procurement professionals and project managers may contact [scminfo@vita.virginia.gov](mailto:scminfo@vita.virginia.gov) if interested in obtaining and/or sharing evaluation team lessons learned.

#### 29.1.1 Contractual requirements for “major IT projects”

Contract terms and conditions for “major information technology projects”, as defined in as defined by § 2.2-2006 of the *Code of Virginia*, must include limitations on the liability of a supplier. According to § 2.2-2012.1 of the *Code of Virginia*, supplier liability for major IT project contracts may not exceed twice the aggregate value of the contract. Refer to Chapter 25 of this manual for more information on supplier liability limitations.

#### 29.1.2 “High risk contracts” require review by OAG and VITA

Prior to awarding a “high risk contract,” as defined by § 2.2-4303.01 of the *Code of Virginia*, the solicitation (prior to posting) and the contract (prior to award) must be reviewed by both VITA and the OAG. Reviews will be conducted within 30 business days and will include an evaluation of the extent to which the contract complies with applicable state law, as well as an evaluation of the appropriateness of the contract’s terms and conditions. The review will also ensure the inclusion of distinct and measurable performance metrics, as well as penalties and incentives, to be used in the event that the contract’s performance metrics are not met.

Agencies are required to contact SCM ([scminfo@vita.virginia.gov](mailto:scminfo@vita.virginia.gov)) during the solicitation and contract planning stage prior to awarding a high-risk contract. SCM will assist the agency in preparing and evaluating the contract and identifying and preparing the required performance metrics and enforcement provisions.

## 29.2 Types of Awards

Although a single-contract award is the most common procurement vehicle other variations may be appropriate depending on the agency’s needs and the solicitation documents.

### 29.2.1 Split awards

Award of a definite quantity requirement may be split among suppliers. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only

when awards to more than one supplier for different amounts of the same item are necessary to obtain the total quantity or the required delivery. Documentation of reasons for split award shall be made part of the procurement file.

#### 29.2.2 Partial and multiple awards

Partial, progressive or multiple awards may be made where it is advantageous to VITA, the procuring agency or the Commonwealth. When the terms and conditions of multiple awards are provided in the invitation for bid or request for proposal, awards may be made to more than one supplier. Unless otherwise specified in the solicitation, agencies may award multi-line-item procurements, in whole or in part, or on an individual line-item basis. In determining whether to make separate line-item awards on a multi-line-item solicitation, consideration should be given to the administrative and management costs to the agency.

### 29.3 Award Documents

Award documents will vary according to the method of solicitation and agency protocol. Required IT terms and conditions for use in major projects and/or delegated procurements are located in Chapter 25 of this manual, IT Contract Formation. At a minimum, the award document shall include or incorporate by reference the specifications, descriptions or scope of work, general conditions, special and IT conditions and all other requirements contained in the solicitation, together with all written negotiations, modifications and proposal submitted by the supplier.

### 29.4 Contract Execution and Award

For agency-specific and VITA-delegated IT contracts, the procuring agency is responsible for finalizing their contract and announcing their award. VITA is responsible for finalizing contracts and announcing awards for statewide and non-VITA-delegated IT and telecommunications contracts. Once a contract is ready for award, the following activities should be coordinated by the procurement lead/sourcing specialist:

- Finalize the contract.
- Post the award(s) through publication in eVA and, if elected (refer to § 2.2-4303), a newspaper of general circulation. See section 29.5 below for additional guidance on award notices.
- Send two executable originals of the final contract to the supplier for signature. The supplier must always sign the final contract before it is signed by the agency.
- Once the supplier has signed and returned the two originals, review the contract documents to ensure the supplier has not made any changes that need to be addressed, present the contract originals to the appropriate VITA or agency executive for signature, depending on the dollar level or authority. Any award document can only be signed and issued by an authorized official of the agency. Return a fully executed original to the supplier.
- Issue letters or e-mails to all non-awarded suppliers to thank them for participating and encourage future interest. It is important to formally acknowledge the efforts of the non-selected suppliers.

### 29.5 Notice of Award and Notice of Intent to Award

Upon the completion of evaluation, and if the agency determines to make an award, the agency procurement lead will post either a notice of award or a notice of intent to award. If a notice of intent to award is used, the notice will be publicly posted ten (10) days prior to the actual award date of the contract. All award notices will be, at a minimum, publicly posted on eVA. Notice of award is the recommended document to be used as a unilateral award notice posted for public announcement. The notice of intent to award form is a format used to officially notify the public through public posting of the procuring agency's intent to issue an award but is not required. This notice may be used whenever considerable supplier interest was expressed about the potential award and/or an agency determines it is in the best interest of the procurement process. The notice should not be posted until after completion of the evaluation and negotiation phases, and, if CIO approval is required, until after official written approval is received by the procuring agency. The notice shall be date stamped and publicly posted for the ten-day period allowed for protest (*Code of Virginia*, § 2.2-4360).

Upon expiration of the ten-day period, the appropriate award document may be issued. Notices of intent to award are not routinely used by VITA but can be used at an agency's discretion. Upon the award of a contract as a result of this RFP, VITA will promptly post a notice of award on eVA. No award decision will be provided verbally. Any final contract, including pricing, awarded as a result of this RFP shall be made available for public inspection.

## 29.6 Post-Award Activities

### 29.6.1 Documentation and filing

Upon completion of the posting period, the procurement file is filed according to the respective agency's contract administration activities. For VITA contracts, VITA procurement staff must provide contract documentation and information, as well as VITA SCM website data and eVA catalog data, as applicable, in accordance with then-current internal SCM procedures. Appendix 29.6.1 includes a procurement file checklist that should be completed and included in the procurement file. Other agencies may use this form as a best practice; however, at a minimum, the procurement file should include:

- Signed contract documents
- Copy of the notice of award as posted in eVA for 10days

### 29.6.2 Contract kickoff meeting

A contract kickoff or orientation meeting is an interaction between the agency and the supplier held shortly after the award of a contract. It is recommended that within 30 days of contract award, a contract kickoff meeting be conducted. Attendees should include the procuring agency's procurement lead, contract manager/administrator, business owner/project manager, technical leads and agency SWaM representative (and for VITA, the IFA Coordinator, as applicable); supplier's project or account manager, contract manager, and key technical personnel; and any other significant stakeholders who have a part in the successful performance of the contract.

The purpose of this meeting will be to review all contractual obligations for both parties, all administrative and reporting requirements, and to discuss any other relationship, responsibility, communication and performance criteriaset forth in the contract. Not every contract requires a full-scale formal kickoff meeting, but following award, each contract should be accompanied by a discussion to ensure the parties agree on the performance expectations, requirements and the administrative procedures applicable under the terms of the contract. The agency's procurement lead should make a decision as to whether a kickoff meeting is necessary or if a telephone conference will be sufficient. VITA's sourcing and/or procurement staff will conduct these for VITA contracts in accordance with then-current internal procedures. For less complex, low- dollar value contracts, a telephone call to the supplier to review major points of the contract may be adequate. The following factors may be used to determine the need for a formal meeting or telephone review:

- Type of contract
- Contract value and complexity
- Length of contract, period of performance and/or thedelivery
- Requirements
- Procurement history of the supplies or servicesrequired
- Expertise/track record of the supplier
- Urgency of deliveryschedule
- Agency's prior experience with thesupplier
- Any special or unusual payment requirements
- Criticality or complexity of the contract

The kickoff meeting should not be used to change the terms of the contract, but should accomplish the

following:

✓	Review of the contractual terms and conditions
✓	Review and coordination of any required insurance and insurance certificates
✓	Identification of roles and responsibilities to include the parties' contract managers/administrators, project managers, key technical leads, etc.
✓	Reinforcement of the contract's performance expectations, measurements and any remedies
✓	Review of any incentive arrangement(s)
✓	Reinforcement of any partnering arrangement(s).
✓	Discussion of the project schedule and milestones.
✓	Revisit and/or clarify the contract's functional and technical requirements including any security, confidentiality, IT accessibility and/or Section 508 compliance.
✓	Reporting requirements, as applicable, including SWaM, sales, status, service level, etc.
✓	Applicable contract administration procedures, including delivery, inspection and acceptance of deliverables, modifications, contract monitoring and progress measurement
✓	Review of eVA ordering procedures, if applicable
✓	Review invoicing and payment requirements and procedures
✓	Restate delivery, inspection and acceptance criteria
✓	Explanation of the limits of authority for the personnel of both parties
✓	Procedures for escalation

After the kickoff meeting, the procurement lead should prepare a memorandum for the file detailing the items covered. It should include areas requiring resolution, a list of participants, and, in particular, those individuals assigned responsibilities for further action and the due dates for those actions. Copies of the memorandum should be distributed to all participants.

