

**Virginia Department of Health
Office of Drinking Water**

Drinking Water State Revolving Fund (DWSRF)



Professional Services Procurement

Professional Services Procurement

Table of Contents

Introduction	Page 1
The policies and procedures described in this manual apply to...	Page 2
Competitive Negotiation	Page 2
RFP is Required to Include	Page 2
RFP Public Notice	Page 3
RFP Evaluation and Discussion Process	Page 3
RFP Negotiation Process	Page 3
Term Contracts	Page 4
Multiphase Contracts	Page 4
Disadvantaged Business Enterprises (DBEs) – Identification and Solicitation	Page 4
Fair Share Objectives	Page 5
Good Faith Efforts	Page 5
Additional Information for Seeking and Utilizing DBEs	Page 6
Small Purchase Procedure	Page 6
Required Documentation for VDH Review	Page 6
VDH Assistance and Information	Page 6
Website Resources	Page 7

Introduction

The Virginia Drinking Water State Revolving Fund (DWSRF) is a program of the Virginia Department of Health-Office of Drinking Water (VDH-ODW). The DWSRF program receives federal funds from the U.S. Environmental Protection Agency (EPA). Funding is used to provide low interest rate loans and principal forgiveness loans (grants) to finance drinking water improvement projects including construction, planning, and design.

As a condition of accepting DWSRF funds, state and federal regulations require that fund recipients comply with state and federal procurement policies when soliciting and contracting for professional services. These procedures include competitive negotiation and direct solicitation of Disadvantaged Business Enterprises (DBEs).

The purpose of the state and federal procurement policies is to ensure that all procurement be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety. It also ensures that all qualified vendors have access to public business, that no offeror be excluded, and that procurement procedures involve openness and administrative efficiency.

This manual is not intended to be a comprehensive description of all procurement requirements. For additional information on specific procurement requirements, refer to the [Virginia Public Procurement Act](#) and the Drinking Water Funding Procedural Guidelines, [Guidance Package 4](#).

DWSRF Activities

Construction Assistance: The VDH ODW awards funds for construction projects annually to waterworks. The development of engineering plans and specifications are included as eligible expenses.

Planning and Design Assistance: Funds are awarded annually to small, community waterworks for planning and design activities.

The policies described in this manual apply to both construction and planning and design activities that include the procurement of professional services.

The policies and procedures described in this manual apply to...

Public Bodies	...any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty. This includes any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia. Public bodies are required to comply with the Virginia Public Procurement Act (VPPA) during the procurement of professional services associated with DWSRF projects, regardless of any other mitigating factor, such as municipality population.
Private Bodies	Any organization that does not meet the criteria of a public body. Private bodies are required to comply with federal procurement regulations, (i.e. 40 CFR Part 31.36 – Procurement) during the procurement of professional services associated with DWSRF projects.

Competitive Negotiation Process

Competitive negotiation is required for the selection of a professional service contractor, such as professional engineering for DWSRF projects. Competitive negotiations are executed by use of a Request for Proposal (RFP) process.

RFPs are the first stage in the procurement process. RFPs are documents that clearly indicate the requested scope of service and invites potential vendors to submit proposals for these services to be provided.

RFP is Required to Include:

- Description, in general terms, of the scope of service sought to be procured;
- Factors to be used during the evaluation of proposals;
- Applicable contractual terms and conditions;
- Any unique capabilities or qualifications that will be required by the contractor;
- Encourage offerors to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts;
- Offerors shall be informed of any ranking criteria that will be used in addition to the review of the professional competence of the offeror;
- DO NOT request that offerors furnish estimates of man-hours or cost for services.

Mistake to Avoid

The RFP does not specify the factors that will be used to evaluate the submitted proposals (evaluation criteria).

For further clarification please refer to the relevant Virginia State Code at:

<http://law.lis.virginia.gov/vacode/title2.2/chapter43/>

Examples of currently posted RFPs are available on the Department of General Services' eVA website.

- Go to: <http://www.eva.virginia.gov/pages/eva-public-access.htm>
- Scroll down to the header "Virginia Business Opportunities (VBO) and click the link
- Once on the Vendor Self Serve site, select "Advanced Search". Type in ENGINEER for the keyword search; check the box next to Professional Services; and select RFP from the "type" drop down box.

The screenshot shows the AMS ADVANTAGE Vendor Self-Serve website. The search bar contains the text "ENGINEER". The "Request for Proposal (RFP)" dropdown is selected. The "Professional Services" checkbox is checked. The search results table lists several RFPs, including "Environmental Services", "A/E Services", and "Analysis & Consulting Services for PPEA Proposals".

Solicitation	Agency/Category	Dates
Environmental Services RFP: 14-3022-AC1	Henrico County Govt. Henrico County Govt Cecilia Stover Professional Services Request for Proposals (RFP)	Published On: 4/11/14 Amended On: Closing On: 5/14/14 3:00 PM Intent Posted On:
A/E Services RFP: 4-19-2014	Fairfax County Govt. FAIRFAX GOVT. Casey Sheehan Professional Services Request for Proposals (RFP)	Published On: 4/10/14 Amended On: Closing On: 5/14/14 4:00 PM Intent Posted On:
RFP RFP: TAZEWELL COUNTY BOARD OF SUPERVISORS	Local Govt. and Public Bodies Tazewell County Matt Anderson Professional Services Request for Proposals (RFP)	Published On: 4/8/14 Amended On: Closing On: 4/24/14 2:00 PM Intent Posted On:
Analysis & Consulting Services for PPEA Proposals	Local Govt. and Public Bodies LOUISA COUNTY PROCUREMENT Lori Lyons	Published On: 4/7/14 Amended On: 4/9/14

For additional guidance, sample RFP formats for professional engineering services are located on the DGS Forms Center website: <http://www.dgs.state.va.us/FormsCenter/tabid/820/Default.aspx>

- o Type "RFP" into the box and press Search.

The screenshot shows the Virginia.gov Department of General Services Forms Center website. The search bar contains the text "RFP". The search results table lists several RFPs, including "RFP for A/E Services (Standard Format)", "RFP for A/E Services (Format for Term Services)", "RFP for Project Inspection Services", and "RFP for Project Inspection Services (Pricing Schedule)".

Form Number	Form Name	Division	Category	Description
DGS 33-303	RFP for A/E Services (Standard Format)	DES	BCOM	Revised 04/14
DGS 33-304	RFP for A/E Services (Format for Term Services)	DES	BCOM	Revised 05/12
DGS 33-308	RFP for Project Inspection Services	DES	BCOM	Revised 05/12
DGS 33-312	RFP for Project Inspection Services (Data Form)	DES	BCOM	Revised 02/11
DGS 33-316	RFP for Project Inspection Services (Pricing Schedule)	DES	BCOM	Revised 02/11
DGS 33-320	RFP for Testing Services	DES	BCOM	Revised 04/08
DGS 33-324	RFP for Value Engineering Services	DES	BCOM	Revised 05/12

RFP Public Notice

- Post at least 30 days prior to the date set for receipt of the proposals;
- Publish in a newspaper of general circulation in the area that the contract is to be performed. This will provide reasonable notice to the maximum number of offerors expected to submit proposals;
- Posting on the [Department of General Services' Central Electronic Procurement Website](#) or other appropriate websites is encouraged but not required. Proposals may be directly solicited from potential contractors.

Mistake to Avoid

Although the VPPA requires an RFP to be advertised for 10 days prior to the receipt of proposals, EPA's Good Faith Efforts for DBEs require a minimum of 30 calendar days when possible.

RFP Evaluation & Discussion Process

- 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;
- Repetitive informal interviews are permissible;
- May discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services;
- Proprietary information from competing offerors shall not be disclosed to the public or to competitors during the discussion stage.
- On the basis of the evaluation factors published in the RFP and all information developed in the selection process to this point, selection shall be made in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious.

Mistake to Avoid

Not engaging in individual discussions with a minimum of two offerors.

RFP Negotiation Process

- Negotiations shall be conducted with the offeror ranked first. If a contract can be satisfactorily and advantageously negotiated, at a price considered fair and reasonable, the award shall be made to that offeror;
- If a contract cannot be established, negotiations with the offeror ranked first shall be formally terminated and negotiations shall be conducted with the offeror ranked second, and so on until a contract can be negotiated at a fair and reasonable price.
- If the terms and conditions for multiple awards are included in the Request for Proposal, contracts may be awarded to more than one offeror.
- Should it be determined in writing and by 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.

Term Contracts

A contract for architectural or professional engineering services relating to construction projects may be negotiated for multiple projects as long as the following are met:

- The projects require similar experience and expertise;
- The nature of the projects is clearly identified in the RFP;
- The contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized (explained in the next sections), whichever occurs first.

Term contracts may be renewable for four additional one-year terms at the option of the public body. However, the following must apply:

- The fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed;
- The sum of all projects performed in one contract term shall not exceed \$500,000, except that in any locality, authority, sanitation district, metropolitan planning organization, or planning district commission with a population in excess of 80,000, the sum of all such projects shall not exceed \$5 million;
- The project fee of any single project shall not exceed \$100,000, except that in any locality or any authority or sanitation district with a population in excess of 80,000, such fee shall not exceed \$2 million;
- Any unused amounts from the first contract term shall not be carried forward to the additional term.

Mistakes to Avoid

- **Utilizing a Term Contract for a project that exceeds the following limits:**

- A term contract can be no longer than one year, (but allows the option to renew for up to four additional one year terms for a total of five years).
- The project fee of a single project shall not exceed \$100,000.
- The sum of all projects performed under a single term shall not exceed \$500,000.

Competitive negotiations for term contracts may result in awards to more than one offeror as long as the RFP states and the public body has established procedures for distributing multiple projects among the selected contractors during the contract term.

Multiphase Contracts

A multiphase contract for professional services that is satisfactory and advantageous may be negotiated and awarded. This contract must be based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases.

Prior to the procurement of a multiphase contract, the anticipated intended total scope of the project must be stated and determined in writing that the nature of the work is such that the best interests of such public body require awarding the contract.

DBEs - Identification and Solicitation

As a condition of accepting federal funds, EPA regulations require that fund recipients (and any sub-recipients, such as prime contractors) provide meaningful opportunities for Disadvantaged Business Enterprises (DBEs) to participate in contracts and subcontracts for DWSRF funded construction projects and planning activities.

The goal of this policy is to make disadvantaged firms aware of contracting opportunities to the fullest extent possible through outreach and recruitment activities. DWSRF loan and grant recipients and prime contractors fulfill DBE requirements by making good faith efforts to provide project information to qualifying DBE service providers, documenting their efforts, and providing summary reports on this activity to VDH and EPA.

Fair Share Objectives

Every three years, the Virginia DWSRF negotiates DBE participation goals with EPA for any funded project. These goals, referred to as **Fair Share Objectives**, are included in award contracts and subcontracts. However, Fair Share Objectives are not a quota, and apply only to the desired level of DBE participation. The chart below shows the participation goals negotiated between EPA and VDH for the 2012 through 2014 federal fiscal years. Participation goals are renegotiated every three years and will change beginning fiscal year 2016.

Making a **good faith effort** to create participation opportunities for DBE firms is the mechanism for complying with the DBE program requirement. DWSRF recipients and prime contractors who document their meaningful actions to fulfill the good faith effort requirements will have met the requirement, even if the participation goals are not met. Recipients will not be penalized if actual MBE and WBE participation is below the goals. However, recipients must continue to make good faith efforts even if actual participation has reached the goal.

Procurement Category	MBE Goal (%)	WBE Goal (%)
Construction	7.40	4.80
Services	5.00	3.20
Equipment	7.70	3.60
Supplies	1.60	2.50

Good Faith Efforts

The following good faith efforts apply to the procurement categories involving EPA financial assistance funds:

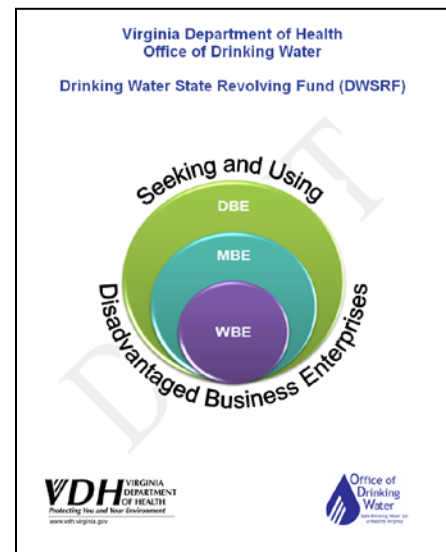
1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, state and local government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, state and local government recipients, this will include dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

5. Use the services and assistance of the Virginia Department of Small Business and Supplier Diversity (SBSD), the Virginia Department of Transportation (VDOT), the United States Small Business Administration (SBA), and the Minority Business Development Agency (MBDA) of the U.S. Department of Commerce to find and recruit DBE participation.
6. If the prime contractor awards subcontracts, require the prime contractor to take the above steps.

Additional Information for Seeking and Utilizing DBEs

For detailed information on fulfilling the requirements of DBE participation, refer the manual titled, [Seeking and Using Disadvantage Business Enterprises](#). This manual is available on the ODW website and includes the following information:

- Goods & Services Covered by this Policy
- Fair Share Objectives
- Good Faith Efforts
- Identification of DBE Firms
- What to include in a DBE direct solicitation
- Utilization of newspaper to solicit DBE participation
- Making personal contacts to DBE firms
- Documentation of Good Faith Efforts
- When to submit Good Faith Effort information to VDH
- Bidder's List
- Additional and ongoing requirements for recipients
- Additional and ongoing requirements for contractors



Small Purchase Procedure

ATTACHMENT #6
(1 page)

**THE VIRGINIA PUBLIC PROCUREMENT ACT (the "Act")
PROCUREMENT REQUIREMENTS FOR SMALL PURCHASES**

The Drinking Water Revolving Fund Program and Water Supply Assistance Grant Fund Program require all recipients to follow the provisions of the Act. Sections 2.2-4280 (2) of the Act allows for the establishment of purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for goods and services other than professional services if the aggregate or the sum of all phases is not expected to exceed \$100,000; however, such small purchase procedures shall provide for competition whenever practicable. For local public bodies, such purchase procedures may allow for single or term contracts for professional services without requiring competitive negotiation, provided the aggregate or the sum of all phases is not expected to exceed \$60,000. Completion and signing of this document acknowledges adoption and compliance with the Act and following contracting procedures.

Project Number and Name: _____

A. Contract Information:

Name and Address of Bidder/ Offeror: _____ Amount of Contract: _____ (attach copy of contract)

_____ Date of Contract: _____

Describe goods or services to be provided: _____

B. Documentation of Procurement Efforts:

List bidders/offers. Within indirect solicitations of a minimum of five bidders/offers is required. Also document method of solicitation (e.g., written informal letter, fax or e-mail describing goods or services to be purchased with bid request or indirect solicitation via telephone), and whether a response was given to the solicitation. Indicate price quoted for goods and services, if a response was received. It is noted that the Act requires that you select bidders/offers; the Act does not require that you receive a response to your solicitation.

MSB/WBE firms must be included as part of the solicitation. Attach documentation to support direct solicitations and price information received, if available.

Bidder/Officer	Date Contacted	Method of Solicitation	Response/Quote	Price of goods/services
1)				
2)				
3)				
4)				

For professional services contracts only: Indicate at least three criteria (other than cost) considered in your selection of the bidders/offers (e.g., knowledge of waterworks, past record of performance on waterworks, experience of key persons assigned to the project, etc.). Please attach additional information.

Authorized Signatures

Date

A public body may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed \$60,000; however, such small purchase procedures shall provide for competition wherever practicable.

Complete the *Procurement Requirements for Small Purchases* form when utilizing the small purchase procedure. This checklist is available on the VDH website and is included as Attachment 7 of the [Contract Inserts](#).

Required Documentation for VDH Review

VDH will review the procurement procedures of DWSRF recipients to ensure that professional services were procured in accordance with state and federal requirements. Once reviewed and approved, DWSRF recipients may seek reimbursement for project expenses. The following are items that VDH will review to ensure compliance:

- Issuance of RFP and proof of publishing and posting.
- Identification and direct solicitation of DBE firms.
- Completion of *VDH MBE/WBE Compliance Checklist*.
- Copy of evaluation criteria used
- Ranking of Respondents
- Statement detailing with whom negotiations were conducted.
- Copy of the executed contract.

VDH Financial and Construction Assistance Program
PROFESSIONAL SERVICES PROCUREMENT REVIEW CHECKLIST

VDH items must be completed in full and submitted with the required documentation to Mr. Thomas Edgson, Project Officer, at 333 Governor Street, 9th Floor, Richmond, Virginia 23219, to verify Engineering Procurement Procedures.

Project Title: _____ Date: _____
 Project Number: _____
 Submitted by: _____

I. Firm Information

Firm name: _____
 Address: _____
 Phone number: _____
 Service Provided: _____

Date RFP Issued: _____ Contract Date: _____
 Date for Receipt of Proposals: _____ Contract Amount: \$ _____
(At least 10 calendar days prior date RFP issued)

II. Required Documentation

If procured via competitive negotiations (all items are required)

Advertisement	
Certificate of Publication/Advertisement with MBE/WBE language	☐
RFP to include scope of services listed, evaluation criteria, and contact information	☐
MBE/WBE Requirements	
Documentation of MBE/WBE contractor search (SMBS website printed)	☐
Copy of direct solicitation to MBE/WBE firms (certified letters/emails, a mail, fax receipt)	☐
Evaluation of Respondents	
Scoring sheet with evaluation criteria	☐
Ranking of qualified respondents	☐
Statement detailing with whom negotiations were conducted (at least two respondents)	☐
(This may be in the form of a final meeting minutes)	
Contract (to be submitted after VDH has approved procurement procedure)	☐
Executed contract with top ranked respondent for final price amount	☐
(For non contract phone provide general terms and task order, the final price amount for the task order cannot exceed \$100,000)	

If procured via a small purchase procedure for purchases under \$100,000 (all items are required)

Procurement Requirements for Small Purchase Form

MBE/WBE Requirements	
Documentation of MBE/WBE contractor search (website printed)	☐
Copy of direct solicitation to MBE/WBE firms (certified letters/emails, a mail, fax receipt)	☐
Contract (to be submitted after VDH has approved procurement procedure)	☐
Executed contract with top ranked respondent for final price amount	☐

VDH Assistance and Information

This manual is focused on procurement requirements for professional services associated with your planning grant or DWSRF construction project. For more information on procurement, please see the complete procurement guidance package at [Guidance Package 4](#) or the [Virginia Public Procurement Act](#). If you need additional assistance, contact the DWSRF Project Engineer assigned to your project, or the DWSRF Project Officer at (804) 864 7507.

Website Resources

VDH – DWSRF:

<http://www.vdh.virginia.gov/drinking-water/financial-construction-assistance-programs/>

VDH – Guidance Package 4:

<http://www.vdh.virginia.gov/content/uploads/sites/14/2016/09/PG-4-Procurement.pdf>

VDH – Contract Inserts:

<http://www.vdh.virginia.gov/content/uploads/sites/14/2017/01/Contract-Inserts.pdf>

Virginia Public Procurement Act:

<http://law.lis.virginia.gov/vacodepopularnames/virginia-public-procurement-act/>

VDH Manual – Seeking and Using Disadvantaged Business Enterprises:

<http://www.vdh.virginia.gov/content/uploads/sites/14/2017/01/DBE-Manual.pdf>

Virginia Dept. of Small Business and Supplier Diversity (SBSD):

<http://sbsd.virginia.gov/>

EPA Small Business Program:

http://www.epa.gov/osbp/dbe_team.htm

Department of General Services' Central Electronic Procurement Website:

<https://vendor.eprocgipdc.com/webapp/VSSAPPX/Advantage>

VDH – ODW Contact Information

<http://www.vdh.virginia.gov/drinking-water/contact-us/>

**Office of Drinking Water
Virginia Department of Health
109 Governor Street, 6th Floor
Richmond, VA 23219**