



The College Of
WILLIAM & MARY

Office of Procurement
P.O. Box 8795
Williamsburg, Virginia 23187-8795
757/221-3952, Fax 757/221-3959

Best Value Acquisition (BVA)

Issue Date: **February 19, 2010**

Reference: **BVA# WM-1238-10**

To be considered, respond by: **March 11, 2010 BEFORE 2:00 pm EST**

The College of William and Mary will reject proposals received after the stated due date and time.

College of William and Mary
Office of Procurement
PO Box 8795
Williamsburg, VA 23187-8795

Offeror:

Firm:

Fax No:

Refer ALL Questions To: Gary L. Hundley, Sr. Procurement Officer at 757-221-3956 or glhund@wm.edu

Terms and Conditions

This solicitation is subject to:

- the provisions of the Commonwealth of VA Purchasing Manual for Institutions of Higher Education
- the General Terms and Conditions and Special Terms and Conditions contained herein.

NOTE: Firms are required to register in eVA prior to award. See provision "X" in General Terms and Conditions.

Complete the Following:

Offeror Signature: _____ Name (printed) _____

Name of Firm (printed) _____

Address: _____

Telephone No. _____ Email Address: _____

FEI/FIN No. _____ Date: _____

Minority-Owned Business: [] Yes [] No Women-Owned: [] Yes [] No

DMBE Certification Number: _____

This public body does not discriminate against faith-based organizations in accordance with the Rules Governing Procurement, § 3 of The Restructured Higher Education Financial and Administrative Operations Act (normally available at <http://www.virginia.edu/restructuring>) or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

RETURN OF THIS PAGE IS REQUIRED

I. Purpose

The purpose and intent of this Best Value Acquisition (BVA) is to solicit sealed proposals to establish a contract with one qualified Offeror through competitive negotiation to provide marketing services in a unique combination of print and interactive promotional material in a program custom designed to meet the unique needs for a specific doctoral program for the College of William and Mary in Williamsburg, Virginia.

II. Background

The College of William and Mary (College), chartered in 1693, is a Public College supported by the Commonwealth of Virginia and supervised by a Board of Visitors appointed by the Governor. The College serves the Commonwealth and the Nation by its dedication to excellence in education. It is distinctive in associating, in an institution of moderate size, the diversity of a university offering graduate and professional programs with the commitment to liberal education as an undergraduate college of arts and sciences. The College of William and Mary enrolls 7,650 students – approximately 5700 of those are undergraduate liberal arts students. The College's graduate and professional students are enrolled in one of five schools – education, law, business, marine science, or arts & sciences. In 2005, the Virginia General Assembly, with the support of the Governor and Virginia's institutions of higher education, adopted legislation known as the Higher Education Restructuring Act of 2005 (Act) to allow Virginia's public colleges and universities to have additional operating flexibility for financial and administrative matters. The College has taken advantage of this opportunity for greater autonomy in areas such as capital outlay and construction, leasing, finance and accounting, human resources, information technology, and procurement.

- A. **SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:** It is the goal of the College that 50% of its purchases are made from small businesses. This includes discretionary spending in prime contracts and subcontracts. 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, to include DMBE-certified women-owned and minority-owned businesses when they have received DMBE small business certification. 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.

All potential offerors are required to submit a Small Business Subcontracting Plan unless the offerors is registered as a DMBE-certified small business. No offerors 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 proposals.

B. **CONTRACT PARTICIPATION:**

It is the intent of this solicitation and resulting contract to allow for cooperative procurement. Accordingly, any public body, public or private health or educational institutions, or College's affiliated corporations may access any resulting contract if authorized by the contractor.

Participation in this cooperative procurement is strictly voluntary. If authorized by the Contractor, the resultant contract may be extended to the entities indicated above to purchase at contract prices in accordance with contract terms. The Contractor shall notify the College in writing of any such entities accessing the contract. No modification of this contract or execution of a separate contract is required to participate. The Contractor will provide semi-annual usage reports for all entities accessing the Contract. Participating entities shall place their own orders directly with the Contractor and shall fully and independently administer their use of the contract to include contractual disputes, invoicing and payments without direct administration from the College. The College shall not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by the Contractor to extend the contract. It is understood and agreed that the College is not responsible for the acts or omissions of any entity, and will not be considered in default of the contract no matter the circumstances.

Use of this contract does not preclude any participating entity from using other contracts or competitive processes as the need may be.

Vendor shall provide the amount of annual sales the firm has with each VASCUPP Member Institution. A list of the VASCUPP Members can be found at <http://web.wm.edu/procurement/documents/VASCUPP.pdf>. Vendor may be asked to provide semi-annual usage reports for all entities accessing this contract. Semi-annual reports, if requested, shall be provided within thirty days from date of request.

III. Description of Services

- A. **REQUIREMENTS**: The Contractor should provide marketing services in a unique combination of print and interactive promotional material in a program custom designed to meet the College's unique needs for a specific doctoral program. These services will integrate interactive web and internet communications with personalized, mailed materials. The contractor should maintain a database of supplied leads. All operations should be produced in house by one company. The School of Education (SOE) will provide leads from purchased lists and from its web site requests, photography, and copy for program recruitment materials. The contractor should design, create and link variable data areas with supplied database as detailed below:

1. **Introductory Search Piece**: Design, create, print and mail personalized direct mail introduction piece to recruits for the Executive EdD Program. This introductory search piece will be mailed in two intervals of 2800 – total of 5500 introductory pieces. Price includes a coordinated email piece to be sent the day after the prospect receives the printed and mailed search piece. The personalization will include 8 variables related to gender and ethnicity of the supplied prospects.

Introductory Search Mail pieces:

Size: 11x17

Paper: 80# Silk Cover

Ink: Process Color both sides

Quantity: 5500

Proof: Digital Color Proof

Bindery: Scores, perforates and folds to 5 5/8 X11

Delivery: Mailed to prospect from the contractor

Postage: Included in the price

2. **Follow Up Search Piece**: Design, create, print and mail personalized direct mail follow up Search piece card (price includes email coordinated with mail piece). Price includes a coordinated email piece. The personalization will include 8 variables related to gender and ethnicity of the supplied prospects.

Follow up Mail pieces:

Size: 5 1/2 x 8 1/2

Paper: 100# Silk Cover

Ink: Process Color both sides

Proof: Digital Color Proof

Bindery: Trim to size

Delivery: Mailed to prospect from the contractor- Nonprofit standard rate

Postage: Included in the price

3. **Personalized Websites and Online Data Collection**: Create personalized websites and online data collection for each prospect. Allows the SOE to develop specific questions for the prospect to answer and collects the information in a database, maintained by the contractor. Includes Landing page, Survey, Thank You page, client dashboard, and two automated email deliveries. Email #1 will have 6 Potential replies based on academic interest. Email #2 is generic and personalized with name. Images and copy are supplied by the SOE. The contractor shall design and program.
4. **Personalized URL's**- personalized url's provided to prospects (and include the prospect's name) are valid for three months after sending to the prospect. Includes a homepage that welcomes the student by name.
5. **Response Piece**: Design, create, print and mail personalized response piece based on responses provided by the survey mentioned above. Estimate is that 2100 prospects will request additional

information. The personalization will include 8 variables related to gender and ethnicity of the supplied prospects.

Response pieces:

Size: 11 X 17

Paper: 80# Silk Cover

Ink: Process Color both sides

Proof: Digital Color Proof

Bindery: Scores and folds to 8 ½ x 11 – Inserts into a clear bag and seals

Delivery: Mailed to prospect from the contractor- two times per month Postage: – 1st class postage included in the price

6. **Data and Reports:** Contractor should provide capacity to collect comprehensive data and generate reports. Reports should include
 - a) capability to view real time reports of all prospects;
 - b) how many times SOE personalized landing pages were visited and links were clicked;
 - c) show how prospects responded to survey questions
 - d) graphs that allow the College to graphically view activity and responses to survey
 - e) show the results of the email messages – i.e. let SOE know if the email was successfully sent, and if it was opened.
 - f) ability to download prospects information into a file that can be uploaded into the College's student information system – Banner.

B. **Timeline** – project should begin in May 2010.

C. **Contractor Qualifications** –

- a. The contractor should have the in-house capability to produce all elements listed in the Description of Services described herein.
- b. Should have experience working with institutions of higher education.
- c. Demonstrated understanding of the effectiveness of personalized communication and multi-faceted, interactive approaches to recruiting prospects.

IV. Submission Requirements

1. The Offeror shall submit one (1) original and four (4) copies of the proposal. If proposals are **mailed**: send directly to: College of William and Mary, Office of Procurement, P.O. Box 8795, Williamsburg, Virginia 23187-8795. If proposals are **hand delivered**, deliver to the College of William and Mary, Office of Procurement, Facilities Management Building, Lower Level Rear Entrance, Grigsby Drive, Williamsburg, VA 23185.
2. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities.
3. Ownership of all data, materials and documentation originated and prepared for the College of William and Mary pursuant to this solicitation shall belong exclusively to the College of William and Mary and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act. However, the Offeror must invoke the protections of Section 34.-5129 under the Rules Governing Procurement...Chapter 2, Exhibit J, Attachment 1, in writing, either before or at the time the data is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection of the proposal.
4. The return of this BVA form and all addenda acknowledgments, if any, signed and filled out as required.
5. A written narrative statement to include:

- a. Combination of marketing programs offered and interactive capabilities in providing marketing services.
- b. Offeror's number of years in business and experience in providing the services described herein.
- c. Detailed explanation of how Offeror plans to provide the services as stated in Description of Services with samples of work.
- d. The expertise of Offeror's staff which will be assigned to perform the services under any resulting contract, including brief resume for each.

6. Financial Proposal:

- a. Proposed price for all services. Describe the fees that will be charged for the Marketing Services. Ensure that fees are provided for all Marketing Services' categories proposed by the Offeror.

7. Return on Investment:

- a. The proposal shall state the return of investment by the College for the use of the Marketing Services.

8. Performance references:

- a. Corporate references - Provide a list of at least 3 references from companies where similar services were provided during the **past three-year period**. Each reference shall include the name of the organization, the complete mailing address, the name of the contact person and telephone number. Use Attachment A, Contractor Data Sheet.

V. Evaluation and Award Criteria

Proposals will be evaluated based upon the overall merits/value of the proposal including, but not limited to, price. Overall value will be judged based upon the information provided in the Offeror's proposal in response to the applicable submission requirements of this solicitation. Selection shall be made of one Offeror deemed to be fully qualified and best suited among those submitting proposals. The College reserves the right to conduct negotiations with one or more firms. The College may also award a contract without conducting negotiations. Therefore, Offerors are strongly encouraged to submit a comprehensive proposal fully addressing all applicable submission requirements. Failure to do so may result in the elimination of your proposal from consideration by the College. The College shall award the contract to the Offeror whose proposal reflects the best overall value to the College. The College may cancel this solicitation or reject proposals at any time prior to an award and is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous.

Evaluation Criteria:

- Combination of marketing programs offered and interactive capabilities in providing marketing services;
- Experience and qualifications of personnel assigned to provide marketing services, as stated in Description of Services;
- Performance references;
- Return on Investment;
- Proposed price;
- SWAM participation – Attachment C;

Criteria are listed in order of importance.

Evaluation Method: Numeric

VI. General Terms and Conditions

- A. **PURCHASING MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors and any revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual is normally available for review at www.wm.edu/procurement.
- 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 (*Rules Governing Procurement*, Chapter 2, Exhibit J, Attachment 1 § 56). 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 proposals, offerors certify to the College of William and Mary (hereinafter referred to as the College) 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 the *Rules Governing Procurement*, Chapter 2, Exhibit J, Attachment 1 § 10. 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. (The *Rules Governing Procurement*, Chapter 2, Exhibit J, Attachment 1 § 36 E).

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, or disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting 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 proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Offerors, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present, or promised, unless consideration of substantially equal or greater value was exchanged.
- E. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting their proposals, offerors 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 proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting proposals on contracts for the type of goods and/or 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 College all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the College under said contract.
- H. **MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR RFPs:** Failure to submit a proposal on the official state form provided for that purpose shall be a cause for rejection of the proposal. Modification of or additions to any portion of the RFP may be cause for rejection of the proposal; however, the College reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal as nonresponsive. As a precondition to its acceptance, the College may, in its sole discretion, request that the offerors withdraw or modify nonresponsive portions of a proposal which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.
- I. **CLARIFICATION OF TERMS:** If any prospective offerors has questions about the specifications or other solicitation documents, the prospective offerors should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revision to the solicitation will be made only by addendum issued by the buyer.
- J. **PAYMENT:**

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days; however, all goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, regardless of which public agency is being billed.
- c. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is to be made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- d. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be 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 College 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 (*Rules Governing Procurement*, Chapter 2, Exhibit J, Attachment 1 § 53).

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 College 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 College, 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 College.

K. **PRECEDENCE OF TERMS:** Paragraphs A-K of these General Terms and Conditions, *Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors*, shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

L. **QUALIFICATIONS OF OFFERORS:** The College may make such reasonable investigations as deemed proper and necessary, to determine the ability of the offerors to perform the services/furnish the goods and the offerors shall furnish to the College all such information and data for this purpose as may be requested. The College reserves the right to inspect offerors' physical facilities prior to award to satisfy questions regarding the offerors' capabilities. The College further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offerors fails to satisfy the College that such offerors is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

M. **TESTING AND INSPECTION:** The College 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 College.

O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any one 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 College 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 College's right to audit the Contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for

determining a decrease in price as the result of savings realized. The Contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The College 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 College within thirty (30) days from the date of receipt of the written order from the College. 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 (see General Conditions, clause Y herein) or, if there is none, in accordance with the disputes provisions of the *Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors*. 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 College, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the College may have.
- Q. **TAXES:** Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST -12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 10-546001718F-001.
- R. **INSURANCE:** By signing and submitting a proposal under this solicitation, the offeror certifies that if awarded the contract, it will have the following insurance coverages 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 § 25 of the *Rules Governing Procurement – Chapter 2, Exhibit J, Attachment 1 and 65.2-800 et seq. of the Code of Virginia*. The offeror further certifies that the Contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission. The awarded Contractor shall provide a copy to the College of the Declarations Page from each policy listed below along with a Certificate of Insurance naming the College as an additional insured.

INSURANCE COVERAGES AND LIMITS REQUIRED:

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 College must be named as an additional insured and so endorsed on the policy.
 4. Automobile Liability- \$1,000,000 – per occurrence. (Only used if motor vehicle is to be used in the contract).
- S. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract over \$50,000 as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA web site (www.eva.state.va.us) for a minimum of 10 days.
- T. **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; (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.
- U. **NONDISCRIMINATION OF CONTRACTORS:** An 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, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the 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/her objection, access to equivalent goods, service, or disbursements from an alternative provider.
- V. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the College 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. **CLAIMS PROCEDURE:** Contractual claims for payment under the Agreement shall be submitted in writing no later than sixty (60) days after the College states in a writing delivered to the Contractor that it has made its final payment to the contractor under the Agreement and that Contractor must submit any claim within 60 days thereafter. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

The College's procedure for deciding such contractual claims is:

The Contractor must provide the written claim to:

Director of Procurement
Grigsby Drive, Facilities Management Bldg, Lower Level
College of William and Mary
P.O. Box 8795
Williamsburg, Virginia 23187-8795

- Although the Contractor may, if it chooses, attempt to resolve its claim directly with the College department using the product or services rather than the one stated in the above paragraph, the Contractor must submit any unresolved claim in writing, no later than sixty (60) days after notice of final payment is delivered to the Contractor in accordance with the opening paragraph of this subsection (w), to the Director of Procurement if it wishes to pursue its claim.
- Upon receiving the written claim, the Director of Procurement will review the written materials relating to the claim and decide whether to discuss the merits of the claim with the contractor. If such discussion is to be held, the Director of Procurement will contact the Contractor and arrange such discussion.
- The Director of Procurement will mail his or her decision to the Contractor within sixty-(60) days after receipt of the claim. The decision will state the reason for granting or denying the claim.
- The Contractor may appeal the Director of Procurement's decision to:
Vice President for Administration
College Apartments
College of William and Mary
P.O. Box 8795
Williamsburg, Virginia 23187-8795

Upon receiving the written appeal, the Vice President for Administration will review the written materials relating to the claim and decide whether to discuss the merits of the claim with the Contractor. If such discussion is to be held, Vice President for Administration will contact the Contractor and arrange such discussion.

The Vice President for Administration will mail his or her decision to the Contractor within thirty (30) days after the Vice President for Administration's receipt of the appeal. The decision will state the reasons for granting or denying the appeal.

Nothing set forth in this section shall limit, delay or reduce the Contractor's ability to seek equitable relief from a court of competent jurisdiction in the Commonwealth of Virginia to the extent permitted by Virginia law. In addition, to the extent the College brings a claim against the Contractor, then the Contractor shall in no event be precluded from asserting a counterclaim for payments due under the Agreement regardless of whether such counterclaim is raised within the 60 day period specified above.

- X. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA internet electronic procurement solution, web site portal www.eva.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the College shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. **Winning Offeror must register in eVA prior to contract award; failure to register will result in the proposal being rejected.**
- a. eVA Vendor Registration Fee: The Department of General Services, Division of Purchases and Supply (DGS/DPS) is pleased to announce that vendors will not be charged a fee for eVA registrations and registration renewals that occur during the period 07/01/2009 through 06/30/2011. eVA-registered vendors will, however, be required to pay registration and registration renewal fees that were invoiced for periods prior to 07/01/2009. For additional information, contact eVA Customer Care by telephone (866-289-7367 or 804-371-2525) or by email (eVACustomerCare@dgs.virginia.gov).
 - b. eVA Basic Vendor Service: 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.
 - c. eVA Premium Vendor Service: 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.
 - d. 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 DMBE certified Small Business designation is understood to include DMBE certified Woman – and Minority – Owned Businesses as well.

The eVA transaction fee will be assessed approximately 30 days after each purchase order is issued. Any adjustments (increases/decreases) will be handled through eVA change orders.

VII. Special Terms and Conditions

- A. **ADVERTISING:** In the event a contract is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to the College will be used in product literature or advertising. The Contractor shall not state in any of its advertising or product literature that the College has purchased or uses its products or services without the prior written approval from the College.
- B. **ALTERATIONS TO PROPOSAL:** Prior to submission of proposals, alterations may be made, but they must be initialed by the person signing the proposal. The proper procedure is to draw a single line through the information to be changed, insert the desired information, and initial the change. Erasures, typewriter strike-overs, or the use of correction fluid on the proposal form that affect unit price, quantity, quality, or delivery may result in the rejection of the line item involved in the proposal.
- C. **BEST VALUE AWARD:** Selection shall be made to offeror deemed to be fully qualified and best suited among those submitting best value proposals on the basis of the evaluation factors included in this solicitation, including price, if so stated. Negotiations shall be conducted with the Offeror(s) whose proposal(s) represent the most advantageous and best offer. Awards may be made to a reasonably ranked DMBE-certified small business offeror that is other than the highest ranking offeror. Awards will be made on a best value basis to the Offeror which, in its opinion, represents the best overall combination of quality, price, and various elements of required goods/services, as stated in this solicitation, that in total are optimal relative to the College's needs. The College may cancel this solicitation 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 (Section 49-5371, Rules Governing Procurement: Chapter 2, Exhibit J, Attachment 1, Code of Virginia). Should the College 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.
- D. **AUDIT:** The Contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the College, whichever is sooner. The College, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.
- E. **OFFEROR UNDERSTANDING OF REQUIREMENTS:** It is the responsibility of each offeror to inquire about and clarify any requirements of this solicitation that are not understood. The College will not be bound by oral explanations as to the meaning of specifications or language contained in this solicitation. Therefore, all inquiries deemed to be substantive in nature must be in writing and submitted to the responsible buyer in the Office of Procurement. Offerors must ensure that written inquiries reach the buyer at least five (5) days prior to the time set for receipt of proposals. A copy of all inquiries and the respective response will be provided in the form of an addendum to all offerors who have indicated an interest in responding to this solicitation. Your signature on your proposal certifies that you fully understand all facets of this solicitation. These questions may be sent by FAX to 757-221-3959 using Attachment B Understanding of Requirements Form.
- F. **CANCELLATION OF CONTRACT:** The purchasing agency reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the Contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- G. **CONFLICT OF INTEREST:** The Offeror represents to the College that its entering into this agreement with the College does not entail any violation of the Virginia Conflict of Interest Act.
- H. **COPYRIGHTS:** Unless expressly agreed to the contrary in writing, all documents, reports, writings, video, images, photographs or papers of any nature prepared by a Contractor (or its contractor) in performing this Agreement will not be disclosed to any other person or entity without the written permission of the College and the College will own all copyrights thereto.
- I. **FINAL INSPECTION:** At the conclusion of the work, the Contractor shall demonstrate to the authorized owner's representative that the work is fully operational and in compliance with contract specifications and codes. Any deficiencies shall be promptly and permanently corrected by the Contractor at the Contractor's sole expense prior to final acceptance of the work.
- J. **IDENTIFICATION OF PROPOSAL ENVELOPE:** The signed proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: _____
Name of Offeror

March 11, 2010
Due Date

2:00 PM
Time

Street or Box Number

WM - 1238-10
BVA No.

City, State, Zip Code

BVA Title

Name of Buyer: Gary L. Hundley, VCO

The envelope should be addressed as directed on Page 1 of the solicitation.

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 proposal to be disqualified. Proposals may be hand delivered to the designated location in the Office of Procurement. No other correspondence or other proposals should be placed in the envelope.

- K. **INDEMNIFICATION:** The Contractor agrees to indemnify, defend and hold harmless the College, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, equipment, or service of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of the using agency or to failure of the using agency to use the materials, goods, or equipment in the manner already and permanently described by the Contractor on the materials, goods or equipment delivered.
- L. **INDEPENDENT CONTRACTOR:** The selected Offeror shall not be an employee of the College, but shall be an independent contractor. The Contractor shall indemnify and hold the College harmless with respect to all withholding, social security, unemployment compensation and all other taxes or amounts of any kind relating to employment of any labor or other persons providing services to the College under this agreement. Nothing in this agreement shall be construed as authority for the Contractor to make commitments which shall bind the College or to otherwise act on behalf of the College, except as the College may expressly authorize in writing.
- M. **LATE PROPOSALS:** To be considered for selection proposals must be received by the Office of Procurement by the designated date and hour. The official time used in the receipt of proposals is that time on the automatic time stamp machine in the Office of Procurement. Proposals received in the Office of Procurement after the date and hour designated are automatically disqualified and **will not be considered**. The College is not responsible for delays in the delivery of mail by the U.S. Postal Service, private couriers, or the intra College mail system. **It is the sole responsibility of the offeror to ensure that its proposal reaches the Office of Procurement by the designated date and hour.** Proposal receipts and openings scheduled during a period of suspended state business operations will be rescheduled for processing at the same time on the next regular business day.
- N. **PRIME CONTRACTOR RESPONSIBILITIES:** The Contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime Contractor. The Contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.
- O. **RENEWAL OF CONTRACT:** Upon written agreement of both parties, the College may extend this contract for six (6) successive one (1) year periods, under the terms of the current contract, except as stated in 1 and 2 below. Such written notice shall be given approximately 60 days prior to the expiration date of each contract period.
1. If the College elects to exercise the option to extend the contract for an additional one-year period, the contract price(s) for the additional year shall not exceed the contract prices of the original contract increase/decrease by the percentage increase/decrease of the "other services" category of the CPI-W section for the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
 2. If the College elects to exercise the option to extend the contract for the second, third and fourth additional one-year periods, the contract prices (s) for the second, third and fourth additional one-year periods shall not exceed the contract price(s) of the first one-year extension period increased/decreased by no more than the percentage increase/decrease of the "other services" category of the CPI-W section for the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
- P. **WARRANTY:** All materials and equipment shall be fully guaranteed against defects in material and workmanship for a period of 365 days following date of delivery. Should any defect be noted by the owner, the College will notify the Contractor of such defect or nonconformance. Notification will state either (1) that the Contractor shall replace or correct, or (2) the owner does not require replacement or correction, but an equitable adjustment to the contract price will be negotiated. If the Contractor is required to correct or replace, it shall be at no cost to the College and shall be subject to all provisions of this clause to the same extent as materials initially delivered. If the Contractor fails or refuses to replace or correct the deficiency, the office issuing the purchase order may have the materials corrected or replaced with similar items and charge the Contractor the costs occasioned thereby or obtain an equitable adjustment in the contract price.
- Q. **WARRANTY (COMMERCIAL):** The Contractor agrees that the goods or services furnished under any award resulting from this solicitation shall be covered by the most favorable commercial warranties the Contractor gives any customer for such goods or services and that the rights and remedies provided therein are in addition to and do not limit those available to the Commonwealth by any other clause of this solicitation. A copy of this warranty should be furnished with the proposal.
- R. **eVA BUSINESS-TO-GOVERNMENT CONTRACTS AND ORDERS:** It is anticipated that the contract will result in multiple purchase orders (i.e., one for each delivery requirement) with the eVA transaction fee specified below assessed for each order.
- a. 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 assessed approximately 30 days after each purchase order is issued. Any adjustments (increases/decreases) will be handled through eVA change orders.

Internet electronic procurement solution, website portal www.eva.state.va.us, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution.

VIII. Method of Payment

All invoices shall show the contract number and/or purchase order number. Invoices for items or services ordered, delivered, and accepted shall be submitted by the Contractor to the address that appears on the College's assigned eVA order.

College of William and Mary
P.O. Box 8795
Williamsburg, VA 23187-8795

1. **QUALIFICATIONS OF OFFEROR.** The Offeror must have the capability and capacity in all respects to fully satisfy all of the contractual requirements. The Offeror's signature on the cover of this solicitation indicates that the Offeror certifies such.
2. **YEARS IN BUSINESS:** Number of years in business providing the types of services described in this solicitation _____Years _____Months Year business organized _____
3. **TYPE OF BUSINESS:** Please indicate if your firm is one or more of the following:
- | | |
|--|--|
| ☐ SMALL BUSINESS | ☐ INDIVIDUAL BUSINESS |
| ☐ WOMAN-OWNED BUSINESS | ☐ SOLE PROPRIETORSHIP |
| ☐ MINORITY-OWNED BUSINESS | ☐ PARTNERSHIP |
| ☐ SHELTERED WORKSHOP | ☐ CORPORATION |

This information is requested for informational purposes only.

4. **REFERENCES:** Provide a list of at least 4 current references, either College, Educational Institutions, and/or other companies that your firm is servicing. Include the length of service, dollar volume, year contract was entered into, and the name and address of the person The College can contact to verify the Contractor's qualifications. Such listing shall be comprehensive of your firm's customer base.

COMPANY NAME AND CONTACT	ADDRESS	PHONE NUMBER	SERVICES DELIVERED

DATE: _____

The following question concerns specifications, Section (number) _____
paragraph _____, page _____:

All responses to questions may be made by Addendum.

Questions Submitted by: _____
NAME

ORGANIZATION

PAGE _____

Questions must be FAXED five (5) days prior to proposal opening to: (757) 221-3959
Buyer: Gary L. Hundley, VCO

SWAM (Small, Women and Minority-owned Businesses) Utilization Plan Definitions

Small Business: "Small business " means an independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. Note: This shall not exclude DMBE-certified women- and minority-owned businesses when they have received DMBE small business certification.

Women-Owned Business: Women-owned business means a business concern that is at least 51% owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or non-citizens who are in full compliance with the United States immigration law.

Minority-Owned Business: Minority-owned business means a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.

All small businesses must be certified by the Commonwealth of Virginia, Department of Minority Business Enterprise (DMBE) by the due date of the solicitation to participate in the SWAM program. Certification applications are available through DMBE online at www.dmbv.virginia.gov (Customer Service).

Offeror Name: _____

Preparer Name: _____ **Date:** _____

Instructions

- A. If you are certified by the Department of Minority Business Enterprise (DMBE) as a small business, complete only Section A of this form. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received DMBE small business certification.
- B. If you are not a DMBE-certified small business, complete Section B of this form. For the offeror to receive credit for the small business subcontracting plan evaluation criteria, the offeror shall identify the portions of the contract that will be subcontracted to DMBE-certified small business in this section. Points will be assigned based on each offeror's proposed subcontracting expenditures with DMBE certified small businesses for the initial contract period as indicated in Section B in relation to the offeror's total price.
- C. If you are not certified by DMBE as a small business and cannot identify any subcontracting opportunities to subcontract part of this contract with a DMBE-certified business, only provide the information requested in Section C of this form.

Section A

If your firm is certified by the Department of Minority Business Enterprise (DMBE), are you certified as a (check only one below):

_____ Small Business

_____ Small and Women-owned Business

_____ Small and Minority-owned Business

Certification number _____

Certification date: _____

Section B

Populate the table below to show your firm's plans for utilization of DMBE-certified small businesses in the performance of this contract. This shall include DMBE-certified women-owned and minority-owned businesses that meet the small business definition and have received the DMBE small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.

Plans for Utilization of DMBE-Certified Small Businesses for this Procurement

Small Business Name & Address DMBE Certificate #	Status if Small Business is also: Women (W), Minority (M)	Contact Person, Telephone & Email	Type of Goods and/or Services	Planned Involvement During Initial Period of the Contract	Planned Contract Dollars During Initial Period of the Contract
Totals \$					

Section C

Respond to how your business has met or exceeded at least two of the following indicators within the past 24 months. Your response may include any good faith efforts made regarding this procurement.

C. Good Faith Effort Indicators by the Offeror

1. Identify areas of work your business has subcontracted to DMBE-certified small businesses for other contracts. Include company names, dates, dollar amounts, and percentages on a per contract basis.
2. List research efforts conducted by your business in the past to locate DMBE-certified small businesses by advertising in publications or in the classified section of the newspaper where small businesses are likely to see it. List specific publications and dates.
3. List small business outreach meetings, conferences, or workshops conducted by your firm to locate DMBE-certified small businesses—including the dates, participation numbers, and results.
4. Provide documented correspondence (i.e., certified mail, email, receipt of fax transmissions, etc.) to small businesses from the lists provided by DMBE and other outreach agencies and organizations which indicates your solicitation of such for utilization of subcontracting opportunities on other contracts for which your business has competed.
5. List areas of work which your business has subcontracted with DMBE-certified small businesses for upcoming contracts—including the name of the business, certification number, dates, dollar amounts, and percentages on a per contract basis.
6. Provide documentation of any assistance offered to interested small businesses in obtaining bonds, lines of credit, and/or insurance for any present or past contracts your business has in place.
7. Provide documentation of follow-up on initial contacts with DMBE-certified small businesses (e.g., telephone call logs, emails, certified letters, etc.). Be sure to list the small business name and dates of contact.