



COMMONWEALTH of VIRGINIA

SOLICITATION ~ OFFER ~ and AWARD

Goods and Non-Professional Services

Sealed Invitation for Bid (IFB) for Advertising ~ NIGP Commodity Code: 91500 · 91503

1. Contract #: N/A	2. IFB #: NCH-2010-0819	3. Date Issued: AUGUST 19, 2010	4. Due Date / Time: AUGUST 31, 2010 / 11:00 A.M. EST
For Information Contact: Nezette Howard, CPPB, VCO via email at: nezette.howard@dgs.virginia.gov			
5. ISSUING OFFICE: Department of General Services Consolidated Procurement Unit (CPU) 1100 Bank Street, Suite 724 Richmond, Virginia 23219		6. LOCATION WHERE SERVICES ARE TO BE PROVIDED: State Board of Elections Richmond, Virginia	

SOLICITATION

7. This is an advertised solicitation consisting of (1) the Purpose; (2) Scope of Work; (3) Mandatory General Terms and Conditions; Special Terms and Conditions; and other provisions, representations, certifications, or specifications as per attached or incorporated herein by reference. Sealed bids for furnishing the Services set forth in the schedule must be returned to the Issuing Office (Item #5 above.) If hand carried, deliver to the CPU located on the 7 th Floor of the address indicated above. Complete bids must be received prior to 11:00 A.M. local time on the Date Due indicated above in Item #4. Bids will be publicly opened at 11:10 A.M. (local time), August 31, 2010, in the CPU Conference Room, 1100 Bank Street, Seventh Floor, Suite 724, Richmond, Virginia.	
MANDATORY PRE-BID / WORK SITE CONFERENCE: There will be no Pre-bid conference held	
CLARIFICATION OF TERMS: If any prospective Bidder has questions about the specifications or other solicitation documents, the prospective Bidder should contact the Procurement Officer whose name appears on the face of this solicitation in writing via email or fax. No questions will be answered by telephone. All questions are due on or before 5:00 p.m. on Thursday, August 26, 2010 and will be answered in an addendum. Any revisions to the solicitation will be made only by an addendum issued by the Procurement Officer. The addendum, if necessary, will be posted online at http://www.eva.virginia.gov . It is the responsibility of the Bidder to download the addendum.	
Issued by: Nezette Howard, CPPB, VCO Senior Procurement Officer	<i>Nezette Howard /S/</i> _____ Signature

OFFER

In Compliance with the Terms and Conditions set forth in the solicitation, the undersigned agrees, if this offer is accepted, within 90 days from the date due above, to furnish any or all Bid Items awarded at the prices offered in the Schedule, delivered to the Ship To Address above within the time specified in the Schedule. All bidders are subject to the Mandatory and Special Terms and Conditions set forth herein.	
8. Company Name: _____	Contractor's TIN: _____
Address: _____	eVA Vendor ID or DUNS #: _____
City/State/ZIP: _____	State Corporation Commission ID #: _____
Signature: _____	Fax No.: _____
Printed Name: _____	Cell No.: _____
Title: _____	Email: _____
Telephone No.: _____	9. BILL TO: See Section V: Method of Payment

AWARD

10. ACCEPTED AS TO BID ITEM / CATEGORY NUMBERS:	11. AMOUNT:	12. AWARD DATE:
13. COMMONWEALTH'S REPRESENTATIVE:	14. COMMONWEALTH OF VIRGINIA By: _____	

NOTE: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, §2.2-4343.1 or against an Bidder because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

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I. PURPOSE:

The purpose and intent of this Invitation for Bid (IFB) is to establish a contract for the one (1) time purchase of Advertising Services (the "Services") for the purpose of newspaper advertising placement. This requirement is to fulfill a legal requirement for the State Board of Elections to publish Proposed Constitutional Amendments as required by the [Code of Virginia § 30-19.10](#):

II. SCOPE OF SERVICES:

The Contractor shall furnish all necessary labor, supervision, equipment, tools, materials and incidentals necessary to provide advertisement placement services for the advertising copy as supplied by the Commonwealth in Adobe PDF format, suitable for publication as 1 full page Broadsheet or two full facing tabloid pages in the list of specified newspapers on the dates delineated in Pricing Schedule Section, VI, A.

III. GENERAL TERMS AND CONDITIONS

A. VENDORS MANUAL

This solicitation is subject to the provisions of the Commonwealth of Virginia Vendors Manual and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the Vendors Manual. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at <http://www.eva.virginia.gov/> under "Manuals."

B. APPLICABLE LAWS AND COURTS

This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the Contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (Code of Virginia, § 2.2-4366). ADR procedures are described in Chapter 9 of the Vendors Manual. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.

C. ANTI-DISCRIMINATION

By submitting their bids, bidders certify to the Commonwealth that they will conform to the provisions of the *Federal Civil Rights Act of 1964*, as amended, as well as the *Virginia Fair Employment Contracting Act of 1975*, as amended, where applicable, the *Virginians With Disabilities Act*, the *Americans With Disabilities Act* and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods,

services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E)

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the Contractor agrees as follows:
 - a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the 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 bids, bidders certify that their bids are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

E. IMMIGRATION REFORM AND CONTROL ACT OF 1986

By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

F. DEBARMENT STATUS

By submitting their bids, bidders certify that they are not currently debarred by the Commonwealth of Virginia from submitting offers 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 Commonwealth of Virginia 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 Commonwealth of Virginia under said contract.

H. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS

Failure to submit a bid on the official state form provided for that purpose shall be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the offer; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a offer as nonresponsive. As a precondition to its acceptance, the Commonwealth may, in its sole discretion, request that the bidder withdraw or modify nonresponsive portions of an offer 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 bidder has questions about the specifications or other solicitation documents, the prospective bidder should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. PAYMENT

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the 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.
- c. 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.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the *Virginia Debt Collection Act*.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and 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 Commonwealth shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. A contractor awarded a contract under this solicitation is hereby obligated:
 - i. To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - ii. To notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
- b. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (ii.) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

3. Each prime contractor who wins an award in which provision of a SWAM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

K. PRECEDENCE OF TERMS

The following General Terms and Conditions *VENDORS MANUAL*, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, *IMMIGRATION REFORM AND CONTROL ACT OF 1986*, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT 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 BIDDER

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

M. TESTING AND INSPECTION

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

N. ASSIGNMENT OF CONTRACT

A contract shall not be assignable by the Contractor in whole or in part without the written consent of the Commonwealth.

O. CHANGES TO THE CONTRACT

Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the Contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

P. DEFAULT

In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase

and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth 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 54-73-0076K.

R. INSURANCE

By signing and submitting a bid under this solicitation, the bidder certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The bidder further certifies that the contractor and any subcontractors will maintain this insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR THIS CONTRACTS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 per occurrence.
5. Motor Carrier's Liability - \$1,000,000 per occurrence.

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.virginia.gov) for a minimum of ten (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; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

U. NONDISCRIMINATION OF CONTRACTORS

A bidder 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 bidder employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

V. eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION

The eVA Internet electronic procurement solution, web site portal <http://www.eVA.virginia.gov>, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eProcurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All bidders must register in eVA; failure to register will result in the bid being rejected.

1. eVA Basic Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration,

electronic bidding, and the ability to research historical procurement data available in the eVA purchase transaction data warehouse.

2. eVA Premium Vendor Registration Service: \$25 Annual Registration Fee plus the appropriate order Transaction Fee specified below. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments.
3. For orders issued prior to August 16, 2006, the Vendor Transaction Fee is 1%, capped at a maximum of \$500 per order.
4. For orders issued August 16, 2006 and after, the Vendor Transaction Fee is:
 - a. DMBE-certified Small Businesses: 1%, capped at \$500 per order.
 - b. Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order.

W. AVAILABILITY OF FUNDS

It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

X. SET-ASIDES

This solicitation is set-aside for DMBE-certified small business participation only when designated "SET-ASIDE FOR SMALL BUSINESSES" in the solicitation. DMBE-certified small businesses are those businesses that hold current small business certification from the Virginia Department of Minority Business Enterprise. DMBE-certified women- and minority-owned businesses are also considered small businesses when they have received DMBE small business certification. Small businesses must be certified by DMBE not later than the solicitation due date and time.

Y. BID PRICE CURRENCY

Unless stated otherwise in the solicitation, bidders shall state bid prices in US dollars.

Z. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH

A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked

or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

IV. SPECIAL TERMS AND CONDITIONS

A. SCOPE OF CONTRACT

The following paragraphs contain the Contractual terms and conditions by which the Commonwealth of Virginia, hereinafter referred to as "Commonwealth" or "State" or "DGS", will acquire services from the Contractor identified in block #8, page 1 of the Solicitation, hereinafter referred to as "the Contractor."

B. HEADINGS NOT CONTROLLING

Headings are for reference purposes only and shall not be considered in construing of the final award contract.

C. ADVERTISING

In the event a contract is awarded for supplies, equipment, or services resulting from this bid. No indication of such sales or services to the Department of General Services will be used in product literature or advertising. The contractor shall not state in any of its advertising or product literature that that the Department of General Services has purchased or uses any of its products or services, and the contractor shall not include the Department of General Services in any client list in advertising and promotional materials.

D. AUDIT

The Contractor shall retain all Contractual books, records, and other documents relative to matters under this Contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

Contractual records include, but are not limited to, this Contract and all executed orders, attachments, modifications, invoices, and correspondence between the parties to this Contract.

E. AWARD

The Commonwealth will make the award on a total sum basis to the lowest responsive and responsible bidder. The purchasing office reserves the right to conduct any test it may deem advisable and to make all evaluations. The Commonwealth also reserves the right to reject any or all bids, in whole or in part, to

waive informalities and to delete items prior to making the award, whenever it is deemed in the sole opinion of the procuring public body to be in its best interest.

F. BANKRUPTCY

If Contractor becomes insolvent, takes any step leading to its cessation as a going concern, fails to pay its debts as they become due, or ceases business operations continuously for longer than fifteen (15) business days, then DGS may immediately terminate this Contract and an Authorized User may terminate an order, on notice to Contractor, unless Contractor immediately gives DGS or such Authorized User adequate assurance of the future performance of this Contract or the applicable order. If bankruptcy proceedings are commenced with respect to Contractor, and if this Contract has not otherwise terminated, then DGS may suspend all further performance of this Contract until Contractor assumes this Contract and provides adequate assurance of performance thereof or rejects this Contract pursuant to [Section 365 of the Bankruptcy Code](#) or any similar or successor provision, it being agreed by DGS and Contractor that this is an executory contract. Any such suspension of further performance by DGS or Authorized User pending Contractor's assumption or rejection shall not be a breach of this Contract, and shall not affect the rights of DGS or any Authorized User to pursue or enforce any of its rights under this Contract or otherwise.

G. BID ACCEPTANCE

Any bid in response to this solicitation shall be valid for 90 days. At the end of the 90 days the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

H. BID SUBMITTALS

Bidder **shall** submit the following portions as a completed bid:

1. The Signed Cover Sheet, on Page 1
2. Section VII, entitled "Pricing Schedule"

I. BREACH

The Contractor shall be deemed in breach of this agreement if the Contractor: (a) fails to provide any service by the specified delivery date; (b) repeatedly fails to respond to requests for required service within the time limits set forth in this Agreement; (c) fails to comply with any other term of this Agreement and fails to cure such noncompliance within ten (10) days (or such greater period as is acceptable to the Commonwealth) following Contractor's receipt of a Show Cause Notice identifying such noncompliance; or (d) fails to provide a written response to the Commonwealth's Show Cause Notice within ten (10) days after receiving same.

The Contractor shall not be in breach of this Agreement if its default was due to causes beyond the reasonable control of, and occurred without any fault or negligence on the

part of, both the Contractor and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Commonwealth in its sovereign or Contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

In the event of breach, in addition to any other remedies provided by law, the Commonwealth may cancel its obligations with respect to any or all unaccepted Services. In no event shall any failure by the Commonwealth to exercise any remedy available to it be construed as a waiver of or consent to any breach.

J. CONTRACTUAL DISPUTES

In accordance with Section 2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the purchasing agency no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given to such agency at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The purchasing agency shall render a final decision in writing within thirty (30) days after its receipt of the Contractor's written claim.

The Contractor may not invoke any available administrative procedure under Section 2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the purchasing agency's decision on the claim, unless that agency fails to render its decision within thirty (30) days. The decision of the purchasing agency shall be final and conclusive unless the Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Section 2.2-4364, Code of Virginia or the administrative procedure authorized by Section 2.2-4365, Code of Virginia.

The Department of General Services, its officers, agents and employees, including, without limitation, the Contracting Officers, are executing this Agreement and any Orders issued hereunder, solely in its or their statutory and regulatory capacities as agent for the Commonwealth agency purchasing and receiving the goods or services in question and need not be joined as a party to any dispute that may arise there under.

In the event of any breach by the Commonwealth, Contractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Contractor's remedies include the right to terminate any license or support services hereunder.

K. CREDITS

Any credits due the State under the terms of this Contract may be applied against Contractor's invoices with appropriate information attached.

L. FAILURE TO DELIVER

In the event the Contractor fails for any reason to deliver in a timely manner or according to Contract terms the Services or items set forth in the Schedule, then the Commonwealth, at its own discretion, may give Contractor oral or written notice of such breach. Once notice by State is sent or given, State may immediately procure service(s) from another source. In no event shall State be held to pay Contractor any costs incurred by Contractor, including but not limited to ordering, developing, or delivering the service(s) which are subject of the State's notice of breach. This remedy is in addition to and not in lieu of any other remedy the Commonwealth may have under this agreement and the laws of the Commonwealth of Virginia.

M. IDENTIFICATION OF BID ENVELOPE

The signed bid should be returned in a separate envelope or package and identified as follows:

FROM:

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

Name of Procurement Officer: Nezette C. Howard, CPPB, VCO

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

If a bid is mailed, the bidder takes the risk that the envelope, even if marked as described above, may be inadvertently opened and the information compromised which may cause the bid to be disqualified. Bids may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other bids should be placed in the envelope.

N. NON-APPROPRIATION

All funds for payment services ordered under this Contract are subject to the availability and legislative appropriation for this purpose. In the event of non-appropriation of funds by the Legislature for the items under this Contract, the Commonwealth will terminate this Contract for those services for which funds have not been appropriated. Written notice will be provided to the Contractor as soon as possible after legislative action is completed.

If any purchases are to be supported by federal funding, and such funding is not made available, then the Commonwealth may terminate this Contract for goods or services dependent on such federal funds without further obligation.

O. TERMINATION FOR CONVENIENCE OF INDIVIDUAL ORDER

Any individual Order placed under this Agreement may be terminated, in whole or in part, by an Authorized User for its convenience, at any time up to thirty (30) days advance written notice to the Contractor. There are no other costs or obligations for termination for convenience.

P. AUTHORITY TO CONDUCT BUSINESS IN THE COMMONWEALTH

Contractor hereby warrants and certifies that it is authorized to transact business in the Commonwealth in accordance with § 2.2-4311.2 of the Code of Virginia, as a domestic or foreign business entity as required by the State Corporation Commission, if such is required by law. Such status shall be maintained throughout the term of the Contract, or any extension or renewal thereafter. In the event the Commonwealth should determine that the Contractor is in violation of this requirement, then the Parties hereby agree that the Contract is voidable at the sole discretion of the Commonwealth, and that Contractor shall bear all expenses for the completion of any work in progress or the transition of Services.

V. METHOD OF PAYMENT

For valid invoices in the amount of \$5,000.01 or more, payment will be made monthly within 30 days of receipt of a valid invoice for all services provided during the previous month. The Contractor shall submit a valid invoice to the following address by the 10th day of the month following the month in which services were rendered. Invoices shall be mailed to:

State Board of Elections
ATTN: Fiscal Services
1100 Bank St.
First floor
Richmond, Virginia 23219

For valid invoices in the amount of \$5,000.00 or less, payment may be made using the Commonwealth of Virginia's Small Purchase Charge Card (SPCC). The SPCC currently used is a VISA card issued through the Bank of America. Vendors are encouraged, but not currently required, to complete any changes to their eVA registration that would enable them to receive these types of payments electronically.

VI. PRICING SCHEDULE

- A. The following Pricing Schedule denotes proposed schedules for newspaper run dates. In order to be responsive to this IFB a Bidder shall submit pricing for ALL CATEGORIES LISTED herein.

If a Bidder enters \$0, N/A, or leaves the Unit Cost blank, changes any portion of the scope-of-work, terms and conditions, or any other element of this IFB, shall be considered nonresponsive and their Bid shall be rejected. (Reference Section 3.8 of the Commonwealth of Virginia's *Vendors Manual*.)

<u>Item #</u>	<u>Newspaper</u>	<u>Ad Size</u>	<u>Run Date</u>	<u>Cost</u>
1.	Daily Press (Newport News , VA)	Full Page	9/29/10	\$
2.	Daily Press (Newport News , VA)	Full Page	10/27/10	\$
3.	Virginian-Pilot (Norfolk, VA)	Full Page	9/29/10	\$
4.	Virginian-Pilot (Norfolk, VA)	Full Page	10/27/10	\$
5	Richmond Times-Dispatch (Richmond, VA)	Full Page	9/29/10	\$
6.	Richmond Times-Dispatch (Richmond, VA)	Full Page	10/27/10	\$
7.	The Roanoke Times (Roanoke, VA)	Full Page	9/29/10	\$
8.	The Roanoke Times (Roanoke, VA)	Full Page	10/27/10	\$
9.	Washington Times (Washington, DC)	Full Page	9/29/10	\$
10.	Washington Times (Washington, DC)	Full Page	10/27/10	\$
11.	Washington Examiner – VA Zone	2 Facing Full Pages	9/30/10	\$
12.	Washington Examiner – VA Zone	2 Facing Full Pages	10/28/10	\$
13.	Washington Post – VA Zone (either Thursday "Local Living" or Friday "Weekend")	2 Facing Full Pages	9/30/10	\$
14.	Washington Post – VA Zone (either Thursday "Local Living" or Friday "Weekend")	2 Facing Full Pages	10/28/10	\$
Grand Total				\$

VII. ATTACHMENTS

Attachment A – Vendor Data Sheet

VENDOR DATA SHEET

Note: The following information is required as part of your response to this bid. Failure to submit all information requested may result in the purchasing agency requiring prompt submission of missing information and/or giving a lowered evaluation of the bid.

1. Qualification: The vendor must have the capability and capacity in all respects to fully satisfy all of the contractual requirements.
2. Vendor's Primary Contact:
Name: _____ Phone: _____
3. Years in Business: Indicate the length of time you have been in business providing this type of goods or services:
_____ Years _____ Months
4. Vendor Information:
FIN or FEI Number (If Company, Corporation, or Partnership): _____
Social Security Number (If Individual): _____
5. Indicate below a listing of at least three (3) current or recent accounts, either commercial or governmental, that your company is servicing, has serviced, or has provided similar goods and/or services. Include the length of service and the name, address, and telephone number of the point of contact.
 1. Company: _____ Contact: _____
Address: _____
Phone : (____) _____ Email: _____
Project: _____
Dates of Service: _____ \$ Value: _____
 2. Company: _____ Contact: _____
Address: _____
Phone : (____) _____ Email: _____
Project: _____
Dates of Service: _____ \$ Value: _____
 3. Company: _____ Contact: _____
Address: _____
Phone : (____) _____ Email: _____
Project: _____
Dates of Service: _____ \$ Value: _____

I certify the accuracy of this information.

Signed: _____ Title: _____