

Chapter highlights

Purpose: This chapter provides the policies and guidelines that the Commonwealth’s executive branch agencies and institutions shall follow to promote the Commonwealth’s socio- economic goals while procuring IT.

Key points:

- Executive Order 35 (2019) establishes a goal that the Commonwealth should exceed its target goal of 42% of its purchases from small businesses including small businesses owned by women, minorities, service-disabled veterans and micro- businesses.
- Any executive branch agency’s goals under § 2.2-4310 of the *Code of Virginia* for participation by small businesses shall include within the goals a minimum of 3% participation by service disabled veteran businesses as defined in §§ 2.2-2001 and 2.2-4310 when contracting for goods and services.

Executive Order 77 (2021) sets a statewide goal to reduce plastic pollution and eliminate the need for new solid waste disposal facilities in Virginia.

- VITA has developed procurement policies and guidelines designed to encourage eligible contract users and state agencies to procure IT products and services which help to minimize the environmental impact from the use and disposal of those products.

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7.0 Introduction

Using the considerable procurement leverage of the Commonwealth, VITA is committed to achieving the following socio-economic goals, as appropriate to the procurement:

- Encouraging the participation of a more diverse supplier base of small businesses, including small businesses owned by women, minorities, and service-disabled veterans in IT procurement transactions, as well as micro-businesses.
- Promoting the procurement of energy-saving and environmentally-friendly IT products.
- Substantially increasing the procurement of recycled content/products, including the procurement of energy- and water-efficient products,
- "Lead by example" to reduce plastic pollution and solid waste through the elimination of the buying, selling, or distribution of non-medical single use plastic and expanded polystyrene objects.

7.1 Small businesses, including small businesses owned by women, minorities and service-disabled veterans and micro-businesses

7.1.1 Overview

In conjunction with its objective to provide world class IT goods and services, VITA is committed to increasing procurement opportunities for small businesses, including small businesses owned by women-, minority- and service-disabled veteran-owned businesses and micro-businesses. These small businesses can often provide innovative IT goods and services not readily available through larger corporations while fostering opportunities for small business growth. In line with these efforts, VITA is committed to enabling a minimum of three percent (3%) participation by service-disabled veteran businesses as defined in Virginia Code §§ 2.2-2000.1 and 2.2-4310 when contracting for goods and services by VITA and by executive branch agencies. For more details on VITA's efforts to encourage small business participation, refer to [Appendix 7.1](#). Small, small women-, minority- and service disabled veteran-owned businesses are defined in Virginia Code § 2.2-4310(E); micro-businesses are defined in Executive Order 35 (2019).

7.1.2 Required agency small business plans

Each executive branch agency and institution of the Commonwealth shall prepare and adopt an annual race- and gender-neutral small business plan that specifies its small business goals for procurement.

Each agency is responsible for submitting an annual Small, Woman-Owned and Minority- Owned (SWaM) business plan to the Department of Small Business and Supplier Diversity (DSBSD) and the agency's appropriate cabinet secretary by September 1 of each year. Each plan shall include the annual designation of a SWaM Champion to ensure nondiscrimination in the solicitation and awarding of contracts.

Agencies which have been delegated procurement authority by VITA to conduct IT procurements shall establish internal procedures consistent with the provisions of the VPPA, Executive Order 35 (2019) and DSBSD requirements to facilitate the participation of small businesses in IT procurement transactions. Such IT procurement procedures shall be in writing, comply with law and actions required by the Governor, and include specific plans to achieve goals established therein.

7.1.3 Removal of barriers

All IT solicitations issued by VITA will be reviewed to identify and remove, when possible, any potential barriers or limitations to participation by small businesses prior to posting in eVA. In addition, VITA's annual SWaM plan will address VITA's ongoing attempts to ensure that all barriers or limitations to the participation of small businesses in IT procurement opportunities have been removed. Agencies operating under delegated authority should also review their solicitations to ensure removal of any possible barriers or limitations to small business participation.

7.1.4 Ordering against optional use and mandatory use statewide contracts

Set asides for small businesses (including set asides for micro-businesses) do not apply when ordering from a previously competitively procured mandatory use or optional use statewide IT contract established by VITA.

7.1.5 Set-asides for small businesses

The goal of the Commonwealth is that 42 percent or more of its discretionary spend be made from small businesses. Small businesses include, but are not limited to, DSBSD- certified micro-businesses, and women-minority- and service-disabled veteran-owned small businesses.

Set asides and small purchase requirements are addressed in VITA's Small Purchase Policy, at <https://www.vita.virginia.gov/procurement/policies--procedures/procurement-policies/> , and more information may be found in Appendix 7.1.5 of this manual.

7.1.6 Award to other than the lowest price bidder or highest-ranking offer or over \$100,000

All potential awards to other than the lowest price bidder or highest-ranking offeror must be approved in writing by VITA's SCM Director or their designee before issuance of such award.

7.1.7 Small business enhancement program

Virginia Code § 2.2-4310(C) provides that any enhancement or remedial measure authorized by the Governor for state public bodies may allow for small businesses certified by DSBSD or a subcategory of small businesses established as a part of the enhancement program to have a price preference over noncertified businesses competing for the same contract award, provided that the certified small business or the business in such subcategory of small businesses does not exceed the low bid by more than five percent.

7.1.8 Solicitation sizing to encourage small business participation

Agencies shall work to identify solicitations that may incentivize bundling and analyze those procurements to gauge their impact on small business suppliers. Agencies and institutions should work to facilitate participation by small businesses, as well as micro-businesses, through appropriate contract sizing including the use of small business partnering opportunities and the use of small businesses as subcontractors. When appropriate, agencies and institutions may divide potential IT acquisitions into reasonably small lots or packages to permit offers on quantities or services less than the total requirement or project so that more than one small business may provide the needed IT goods or services.

Delivery schedules should be realistic to encourage small business participation, and solicitations should be worded to encourage prime contractors, when appropriate, to subcontract with small businesses.

Additionally, a public body may include a proposer's employment of persons with a disability as a factor in evaluating the submitted proposal. See Chapter 24 for further guidance on evaluating proposals.

7.1.9 Consultation with the Department of Small Business and Supplier Diversity (DSBSD)

Each contracting agency, in consultation with DSBSD and VITA where practical, shall seek to identify those purchases in which contract sizing may influence the availability of purchasing opportunities to micro-businesses or small business suppliers (a "size- related contract").

Where these purchases are identified, the agency shall determine whether there are a number of small businesses capable of meeting the purchasing requirements. If the agency identifies no DSBSD-certified small businesses capable of performing the contract requirements, then the agency shall consult with DSBSD to help identify available suppliers unless contract timing issues require the agency or institution to complete the

contract process before DSBSD input can be obtained. For any size- related contract for which the agency determines that contract timing issues require contract award without identifying any small business suppliers or consultation with DSBSD, the agency may consult with DSBSD promptly after award of the contract to develop potential small business suppliers for the next similar procurement. Agencies shall work together with DSBSD and the Department of Business Assistance (DBA) to seek to increase the number of DSBSD- certified IT small businesses that are available to do business with the Commonwealth.

Additionally, VITA and other executive branch agencies shall strive to develop procurements and collaborate with DSBSD to locate available small businesses owned service-disabled veteran businesses to encourage their participation in order to meet the target of at least 3% participation by such service disabled veteran businesses.

7.1.10 Establishing mandatory use statewide contracts

In the event VITA awards a statewide contract for IT goods or services to a qualified DSBSD-certified small business, VITA may, at its discretion, make the use of such contract mandatory for agencies and institutions of higher education, except those explicitly exempted by the *Code of Virginia*. Mandatory contracts are designated as such in the actual contract document, which may be accessed for viewing on VITA's Web site at:

<https://vita.cobblestonesystems.com/public/>

7.1.11 Prime contractor requirements

VITA solicitations for contracts, regardless of amount, have contractual language that requires the prime contractor who receives the contract award include reports on the following information throughout the term of the contract:

- Monthly Report of Sales and Supplier Procurement and Subcontracting Report showing (1) a monthly report of all sales for which the prime contractor has received full and complete payment for under each contract; and (2) a report of monthly subcontracting spend for all subcontractors who provide direct performance for the prime contractor under each contract. -
- Supplier Procurement and Subcontracting Plan: All prime contractors are required to include a Supplier Procurement and Subcontracting Plan in their proposals setting forth anticipated subcontractor spend percentages with SWaM businesses. Subsequent monthly reports are required to verify the prime contractor's compliance with its Supplier Procurement and Subcontracting Plan, and explain any variances of greater than 20% between the plan and actual subcontractor spend.

A copy of the Supplier Procurement and Subcontracting Plan form is available under the Policy, "IT Procurement Policy for Enhancing Opportunities for Small, Women- and Minority-Owned Businesses" at

<https://www.vita.virginia.gov/procurement/policies--procedures/procurement-policies/>

7.1.12 VITA's Strategic plan on diversity, equity, and inclusion

The CIO will establish and maintain a comprehensive strategic plan and report on that plan, pursuant to Virginia Code § 2.2-602(B) and in coordination with Governor's Office personnel.

The strategic plan will include best practices that: (i) proactively address potential barriers to equal employment opportunities pursuant to federal and state equal employment opportunity laws; (ii) foster pay equity pursuant to federal and state equal pay laws; (iii) address hiring, promotion, retention, succession planning, and agency leadership opportunities; and (iv) promote employee engagement and inclusivity in the workplace.

7.2 Green procurement

7.2.1 Overview

VITA and the Commonwealth are committed to encouraging the procurement of IT goods and services which use fewer resources, including energy, to decrease pollution and energy costs. Such IT goods must also meet all price and performance requirements of the Commonwealth. VITA has developed procurement guidelines designed to encourage state agencies and institutions to procure IT products and services which help to minimize the environmental impact from the use and disposal of those products.

IT products are an important focus of environmentally-friendly purchasing activities their high prominence in the waste stream, their numerous hazardous chemical components and their significant energy use. More details about VITA's green procurement objectives are listed in [Appendix 7.2](#). The overall energy costs, as well as the environmentally friendly disposal costs, for IT equipment may be considered in overall lifecycle costs.

7.2.2 Petitioning for less toxic goods or products

Any supplier, who manufactures, sells or supplies IT goods or services may petition VITA to include requirements for less toxic goods and services into its procurement process. The supplier shall submit, prior to or during the procurement process, documentation which establishes that the IT goods or services being offered meet the applicable performance standards. If VITA determines that the documentation establishes that the less toxic products meet or exceed the performance standards set forth in the applicable specifications, VITA shall incorporate the specifications for the less toxic goods and products into its procurement process. Agencies procuring IT goods and services under their delegated procurement authority are instructed to revise their procedures and specifications on a continuing basis to encourage the use of less toxic goods and products; however, agencies are not required to purchase, test or evaluate any particular good or product other than those that would be purchased under regular purchasing procedures. (*Code of Virginia*, § 2.2-4314).

7.2.3 Procurement of recycled goods and products

VITA and the Commonwealth are committed to the reduction of energy use and waste products through the use of recycled materials. Agencies are encouraged to promote the procurement and use of recycled goods and agencies shall, to the greatest extent possible, adhere to any recycled products procurement guidelines established by VITA (*Code of Virginia*, § 2.2-4323(C)).

7.2.4 Agency guidelines

Pursuant to Virginia Code § 2.2-4328.1, if an agency receives two or more bids in response to an IFB for IT goods from offerors that are Energy Star Certified, meet the Federal Energy Management Program's (FEMP) designated efficiency requirements, appear on the FEMP Low Standby Power Product List, or are WaterSense Certified, the agency may only select among those offerors.

VITA has developed the following guidelines to assist IT procurement professionals in identifying IT suppliers and IT goods and services which have demonstrated product improvement on key environmental attributes and initiatives. Nothing in these guidelines shall be construed as requiring the Commonwealth, VITA or any executive branch agency or institution or supplier to procure IT products or services that do not perform adequately for their intended use or are not available at a reasonable, competitive price in a reasonable period of time:

Attribute	Guideline
Manufacturer "take back" of equipment	This can be accomplished through a lease or a contractual provision whereby the seller agrees to be responsible for taking back the products and providing for appropriate re-use or recycling when the buyer no longer needs the product. Many manufacturers have trade-in or buy-back programs. Use of such programs is permissible when done in compliance with VITA's data removal standards: https://www.vita.virginia.gov/it-governance/itrm-policies-standards/ .
Reduction of toxic components	IT good manufacturers must demonstrate they are complying with the European Union's Directive - Restriction of Hazardous Substances - which requires the phase out of lead, mercury, hexavalent chromium, cadmium and certain brominated flame retardants (PBBs and PBDEs).
Increased recycled content	Purchasing consideration should be given to IT products that use recycled content and products that can easily be recycled.

Reduced packaging	IT suppliers should be encouraged to use reduced and/or recycled packaging for shipping, to minimize quantity and weight of non-recyclable packaging and to produce user manuals that are easily recyclable.
Shelf life and supportability	IT goods should be evaluated on upgradeability and longevity to avoid short replacement cycles and reduce waste.
Energy efficiency	IT suppliers should be encouraged to produce equipment that meets Energy Star specifications including: • Offer equipment which meets the current U.S. Environmental Protection Agency's and Department of Energy's Energy Star guidelines. • Equipment shall be configured so it automatically enters a low- power mode after a period of inactivity. When equipment in a low- power mode is used again, it automatically returns to active mode. • Computers shall be shipped with power management feature enabled. • Provide integrated computer systems, where the CPU and monitor will together enter a low-power mode of no more than 45 watts after a specified period of inactivity. • Deliver all products configured for automatic energy-saving features per current Energy Star specifications • (Required only for IFB and competitive sealed bidding procurement methods): Meet energy- and water-efficiency criteria established in § 2.2-4328.1)
Clean manufacturing Practices	Identify and encourage IT suppliers who minimize the use of toxic and hazardous components in their manufacturing and production processes.
Design for reuse and recycling	Identify and reward suppliers of IT products that use recycled content and produce goods that can easily be recycled.

7.3 Preferences

The Virginia General Assembly has enacted statutory preferences for Virginia products with recycled content, for Virginia firms in the case of a tie bid with a non-state firm, for recycled paper and paper products used by state agencies and for local products and firms. There are other statutory preferences outlined in Virginia Code §2.2-4324; however, they are not directly related to the procurement of IT goods and services. These preferences are to be used by agencies and institutions in solicitations and contract awards, when appropriate.

7.4 Expanding Opportunities for Virginians with Disabilities

Federal and state law and executive actions reaffirm and expand upon the Commonwealth's commitment to the increased inclusion of, and expansion of opportunities for, individuals with disabilities. This includes ensuring that the Commonwealth's websites are readily accessible to individuals with disabilities.

VITA supports such efforts and continues to work with other state agencies to improve the accessibility of the Commonwealth's websites for Virginians with disabilities. VITA encourages Suppliers to support the advancement of opportunities for disabled Virginians by expanding and improving upon accessibility of the Commonwealth websites.

