

Vendor's Manual

How to do
How to do

business with...



Norfolk Public Schools

The cornerstone of a proudly diverse community

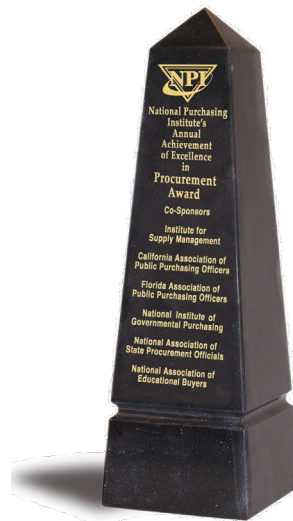


TABLE OF CONTENTS

I.	General	3
II.	Authority and Responsibility	3
III.	Bidder / Vendor List	3
IV.	Open Records	3
V.	Procurement Methods	4
1.	Competitive Sealed Bidding or Negotiation	4
2.	Small Purchases	4
3.	Small, Women, and Minority-Owned (SWaM) Businesses	4
VI.	General Requirements of Vendors	5
1.	Vendor Relations (School Board Policy DJG)	5
2.	Visits to DPS by Vendors	5
3.	Vendor Assistance to Norfolk Public Schools	5
VII.	Solicitations	5
1.	Pre-Bid or –Proposal Conference	6
2.	Receipt of Sealed Bids or Proposals	6
3.	Mistakes in Bids	6
4.	Withdrawal or Amending a Solicitation	7
5.	Late Bids or Proposals	7
6.	Bonds	7
7.	Insurance	7
8.	Specifications, Questions, and Comments	7
9.	Contractor Registration (License)	8
VIII.	Solicitation Responses	8
1.	Vendor Name and Address	8
2.	Signature on Bid or Proposal	8
3.	Pricing and Discounts	8
4.	Alternate Bids	8
5.	Taxes	9
6.	Time of Performance	9
IX.	Evaluation and Award	9
X.	Performance	10
1.	Delivery	10
2.	Loss or Damage in Transit	10
3.	Cancellation of Purchase Orders and Contracts	10
4.	Purchase Order Changes	10
5.	Termination for Default	10
6.	Termination for Convenience of Norfolk Public Schools	10
7.	Debarment	11
XI.	Disputes, Claims, Appeals, and Protest	13
XII.	Charges and Collection	14
1.	Purchasing Cards for Small Purchases	14
2.	Billing and Invoices	14
XIII.	Ethics	14
XIV.	Terms and Conditions	15

I. General

It is the policy of Norfolk Public Schools (NPS) to encourage full and open competition whenever practicable among potential contractors and suppliers. Furthermore, NPS seeks to maximize the educational value of every dollar expended [School Board Policy DJA].

All NPS procurements will be in accordance with the Virginia Public Procurement Act (VPPA) and other provisions of the Code of Virginia [School Board Policy DJF].

The guidelines included within this manual provide basic information to assist vendors in doing business with NPS. If you have specific questions regarding procurement or this manual please call the Purchases & Supply Department at 757-628-3880.

II. Authority and Responsibility

The Superintendent is authorized to purchase or contract for all supplies, materials, equipment, and contractual services required by the school division. The Superintendent has designated the Senior Director Purchases & Supply to serve as the purchasing agent for the Board and the school division subject to federal and state codes and School Board policies. The Superintendent has further delegated limited purchasing authority to School Principals, Senior Directors, and Directors. Generally, this delegated purchasing authority is up to \$2,500.

III. Bidder / Vendor List

Norfolk Public Schools (NPS) uses Virginia's eProcurement Portal (eVA) as a tool for many purchases over \$5,000. eVA is Virginia's online, electronic procurement system. This web-based vendor registration and purchasing system allows state agencies, colleges, universities and many local governments to use eVA to conduct all purchasing and sourcing activities for goods and services. Sourcing functionality supports posting of sealed and unsealed procurements and includes vendor notifications / invitations to respond via email.

All Vendors wishing to participate in various business opportunities with NPS or other Virginia entities, must first register with eVA to become a part of the Bidder / Vendor List. There are no fees to register.

Below is the link to register your business with eVA:

<https://eva.virginia.gov/pages/eva-registration-buyer-vendor.htm>



IV. Open Records

Procurement proceedings, records, contracts, and orders are public records, open to the inspection of any citizen or any interested person, firm or corporation, in accordance with the **Virginia Freedom of Information Act (FOIA) and the Virginia Public Procurement Act (VPPA)**. Bid and proposal records are not available to the public for inspection until after the award except that any bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening and evaluation of all bids but prior to award, except in the event that the public body decides not to accept any of the bids and to rebid. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiation of proposals are completed but prior to award, except in the event that the public body decides not to accept any of the proposals and to re-solicit. Trade secrets or proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction shall not be subject to public disclosure under the Virginia FOIA; however, the bidder or offeror must invoke the protections of the VPPA

prior to or upon submission of the data or other materials, and must identify the data or material to be protected and state the reason why protection is necessary, and placed in a second file labeled Redacted.

V. Procurement Methods

1. Competitive Sealed Bidding or Negotiation: Used for the purchase of goods or services when the total cost is expected to exceed \$200,000 (\$80,000 for professional services). For these requirements, public notice is required for no less than twenty one (21) days prior to the date set for bids/proposals. Public notice will be accomplished by posting these solicitations on procurement websites used by NPS (eVA) and in the newspaper for all Requests for Proposals (RFPs) and construction Invitations for Bid (IFBs).
 - Sole Source: If NPS determines, in writing, there is only one source practicably available for a goods or services requirement, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation (*ref: Virginia Code §2.2-4303E*). For sole-source purchases \$100,000 and greater (\$50,000 for professional services), NPS will publicly post sole-source procurements on eVA.
2. Informal Solicitations: Used for the purchase of goods or services when the total cost is expected to exceed \$100,000 to less than \$200,000. For these requirements, public notice is required for no less than ten (10) days, prior to the date set for the quotes due. Public notice will be accomplished by posting these RFQ's Request for Quote on the eVA website.
3. Small Purchases: Small purchases are defined by NPS as purchases of goods and services estimated to be less than \$100,000 (\$80,000 for professional services). Purchases estimated at less than this threshold may be made in accordance with the delegated purchasing authority described above and the small purchase procedures as follows:
 - Purchases estimated to be **less than \$10,000** may be made based on a single quote. Additional competition should be sought, however, when practicable and when the quotation is not considered fair and reasonable. Where practicable and to avoid any appearance of impropriety or conflict of interest, purchases should be distributed among other qualified suppliers, to include small, women and minority-owned (SWaM) businesses in accordance with the SWaM policy below. Also, when required or practicable, quotations less than \$10,000 may be solicited verbally, but the vendor submitting the quotation, the date and amount of each quotation and the terms of the quotation shall be recorded in writing. **Note: NPS issues Purchase Cards (VISA) to cardholders to be utilized as the primary procurement method for requirements less than \$2,500.**
 - Small purchases, estimated to be **\$10,000 to less than \$100,000**, require soliciting a minimum of 3-4 valid sources. Use of eVA is recommended, unless authorized by the senior director, purchases and supply department. The solicitation shall include SWaM businesses in accordance with the SWaM policy below.
4. Small, Women, and Minority-Owned (SWaM) Businesses: NPS solicitations and contract awards shall not discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, status as a service-disabled veteran, or any other basis prohibited by state law and School Board policy relating to discrimination in employment. NPS is committed to ensuring fair consideration of all suppliers in its day-to-day procurement of services, supplies, and construction. Providing the opportunity for a wide-range of suppliers provides a competitive edge in producing high-quality, low-cost innovative products and services. NPS posts all formal solicitations and requests for quotes, on the Commonwealth's eVA e-procurement and vendor registration system. eVA

registered vendors include businesses listed by the Department of Small Business and Supplier Diversity (SBSD). The SDSD may be accessed through the following link: <http://www.dmbv.virginia.gov/>

VI. General Requirements of Vendors

1. Vendor Relations (School Board Policy DJG)

No vendor, agent, or sales representative may enter the schools to advertise or sell goods or services to employees or students unless otherwise provided herein. Any person/persons found soliciting goods or services to students and employees in the schools or on school property during school hours shall be subject to legal action.

Vendors are not permitted to make appointments with individual school board employees without the permission of the principal, or the superintendent, or the superintendent's designee. No vendor will be permitted to sell, arrange demonstrations of products or services, or take orders for goods or services without prior authorization from the superintendent, or the superintendent's designee.

This does not prevent authorized representatives of firms regularly supplying goods and services to the school division from having access to the schools in the course of their regular routine business duties.

2. Visits to DPS by Vendors

Visits by vendors or their representatives to NPS Department of Purchases & Supply (DPS) are welcomed and encouraged. In order that the staff and vendors may schedule their time productively, an appointment is suggested. Appointments with DPS staff may be scheduled Monday through Friday on official business days (phone 757-628-3880).

3. Vendor Assistance to Norfolk Public Schools

Vendor sales efforts of a consultative or advisory nature are encouraged. They assist NPS in keeping current with the latest state of the art technology and materials and are a valuable source of information. The furnishing of product or service information by a vendor is considered to be normal sales effort and does not entitle the vendor to preferential treatment in the awarding of contracts.

Advice or assistance may be received from a vendor in identifying the features and characteristics needed by NPS; however, no person who prepares an Invitation to Bid or Request for Proposal for or on behalf of a public body shall (i) submit a bid or proposal for that procurement or any portion thereof or (ii) disclose to any bidder or offeror information concerning the procurement which is not available to the public. However, NPS may permit such person to submit a bid or proposal for that procurement or any portion thereof if NPS (School Board or School Board Purchasing Agent) determines that the exclusion of such person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of NPS (Code of Virginia, § 2.2-4373). This does not prohibit NPS schools and departments and vendors from freely exchanging information concerning what is sought to be procured and what is offered. The name of the vendor(s) providing assistance must be submitted with the requisition to the purchasing office. Such information is helpful to the buyer when identifying restrictive or proprietary features which could be challenged by other bidders or offerors causing delays and/or cancellations.

VII. Solicitations

Vendors should ensure the specific solicitation instructions are strictly followed. Any questions or need for clarification should be forwarded to the NPS Purchasing office promptly. Although solicitation procedures have precedence, the following emphasized items may be helpful to vendors:

1. Pre-Bid or –Proposal Conference

Pre-bid or pre-proposal conferences provide an opportunity for bidders/offerors to emphasize and clarify critical aspects of solicitations, eliminate ambiguities or misunderstandings, and permit vendor input. Attendance at conferences or site visits may be optional or mandatory. When mandatory attendance is stipulated, only bids or proposals from those vendors represented will be accepted. After the conference, an addendum shall be issued if a modification to the solicitation is required as a result of the conference. For mandatory conference/site visits, vendors are cautioned that NPS is authorized to establish a cut-off time for late arrival, after which no one will be permitted access to the conference.

2. Receipt of Sealed Bids or Proposals

Solicitations will state when sealed bids or proposals are to be received. Bid or proposal receipt deadlines and public openings scheduled during a period of suspended business operations (e.g. snow day that closes schools and all school operations) will be rescheduled for processing at the appropriate times on the next regular business day. It is imperative that the bid or offer be returned with the information listed on the template or information provided. Bids or proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other bids or proposals should be placed in the envelope.

Bidders/Offerors should be careful when electing to use private courier services to deliver their bids. It is solely the responsibility of the bidders/offerors to ensure that bids/proposals reach the designated address including Room # by the specified date and time as shown on the bid.

Bids/proposals received after the date and hour designated are automatically disqualified and will not be considered. The official time used in the receipt of responses is that time on the automatic time stamp machine located in the Department of Purchases & Supply.

3. Mistakes in Bids

a. Mistakes Discovered Before Opening: A bidder may correct mistakes discovered before the time and date set for receipt of bids by withdrawing and replacing or by correcting the bid.

b. Mistakes Discovered After Opening but Before Award

- Informality: An informality is a minor defect or variation of a bid or proposal from the exact requirements of the invitation for bids, or the request for proposals, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being purchased. NPS may, in its sole discretion, waive such informalities or permit the vendor to correct them, whichever procedure is in the best interest of the institution. Examples include the failure of a vendor to:

Return the number of signed bids or proposals required by the solicitation.

Sign the face of the bid or proposal in the space provided.

Acknowledge receipt of an addendum to the solicitation

- Judgment Errors: NPS may allow a vendor to withdraw a bid prior to award upon written request. Approval to withdraw a bid shall not be unreasonably withheld. However, if approval is given, NPS shall make no award to the vendor which withdrew its bid for a period of sixty calendar days. The vendor may not submit a replacement bid. This does not apply to construction bids.

- Non-Judgmental Errors: If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly

evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

5. Withdrawal or Amending a Solicitation

A vendor may amend or withdraw a bid or proposal if NPS receives such a request in writing before the due date and hour. The request must be signed by a person authorized to represent the person or vendor that submitted the bid or proposal.

A public body will not cancel or reject an Invitation to Bid, a Request for Proposal, any other solicitation, bid or proposal pursuant to this section solely to avoid awarding a contract to a particular responsive and responsible bidder or offeror.

Solicitation amendments may be made by the issuance of an addendum prior to the time set for receipt of responses. Acknowledgement of receipt of an addendum must be returned prior to the time set for receipt of bids or proposals, or accompany the bid or proposal. Failure to acknowledge receipt of an addendum may be cause for rejection of the bid or proposal.

6. Late Bids or Proposals

To be considered, all bids or proposals must be received at the specific office location stipulated by the procuring staff on or before the date and hour designated on the solicitation. Vendors are responsible for the upload of the bid or proposal to the NPS Bonfire Tool, listed in the solicitation.. NPS is not responsible if the bid or proposal does not reach the specific destination by the appointed time. Bids or proposals received after the date and hour designated are automatically disqualified and will not be considered. The official time used in the receipt of responses is the time in the Bonfire application, and is reported as Eastern Standard Time, date/time stamp..

7. Bonds

A bid bond may be required in a solicitation and must accompany the bid. When required, a bid bond shall not exceed 5% of the amount bid (Code of Virginia, § 2.2-4336). Performance bonds and payment bonds, if requested, must be in an amount at least equal to 100% of the accepted bid or proposal (Code of Virginia § 2.2-4337) and must be filed by the vendor within ten (10) days after receipt of the purchase order or notice of award, unless a written determination is made that it is in the best interest of NPS to grant an extension. A certified check or cash escrow may be accepted in lieu of a bid, payment, or performance bond. If approved by NPS, a bidder may furnish a personal bond, property bond, or bank or savings and loan association's letter of credit on certain designated funds in the face amount required for the bid, payment or performance bond. Approval shall be granted only upon a determination that the alternative form of security offered affords protection to the institution equivalent to a corporate surety bond.

If a performance bond requirement is not stated in the solicitation and NPS later determines that a bond should be provided prior to the award of a contract, the contractor to whom the award will be made shall provide a performance bond, and NPS will pay the cost of the bond.

8. Insurance

Whenever work is to be performed at NPS facilities, the contractor is required to have insurance required by law and the institution's regulations to perform the type of work required. This includes Workers' Compensation, Employer's Liability, Commercial General Liability and Automobile Liability, and in certain types of programs Professional Liability/Errors and Omissions insurance coverage. In addition, for construction contracts, if any subcontractors are involved, subcontractors will also be required to have Workers' Compensation Insurance in accordance with Sections 2.2-4332 and 65.2-800 et seq. of the Code of Virginia. Stipulated insurance must be obtained prior to contract award and be maintained during the entire term of the contract. NPS Purchases & Supply Department

may require the contractor provide the certificate of insurance prior to the provision of any goods and services or the commencement of any work.

9. Specifications, Questions, and Comments

It is the intent of NPS to use specifications that encourage competition. Vendors are requested to inform the purchasing office whenever they have comments or questions concerning specifications or solicitation requirements. *Suggestions concerning new products or improvements to specifications are encouraged and will be considered. This information should be provided to the purchase office as early as possible but at least five (5) working days prior to bid or proposal due date to provide time to amend or cancel the solicitation before the scheduled receipt date.*

10. Contractor Registration (License)

State statutes and regulatory agencies require that some contractors be properly registered and licensed, or hold a permit prior to performing specific types of services. It is the vendor's responsibility to comply with the rules and regulations issued by State regulatory agencies. An unlicensed vendor submitting a bid or proposal where such license is required is non-responsive and is in violation of state law.

VIII. Solicitation Responses

1. Vendor Name and Address

Purchase orders or contracts will be issued only to the firm's name appearing on the bid or proposal form which shall be as declared on the vendor's W-9 federal tax identification form. If orders or payments are to be mailed to an address or addresses other than that shown on the face of the form, the bidder or offeror must so indicate and list the post office box, or street name and number, city, state, and zip code for the addressee.

2. Signature on Bid or Proposal

All bids and proposals, and addenda returned by bidder or offeror must be signed in ink. The person signing the bid or proposal must be a person authorized by the bidder or offeror to sign bids or proposals. Typewritten signatures are not acceptable. The person signing must include his or her title, and if requested, must verify his or her authority to bind his or her company in contract. Failure to sign the face of the bid/proposal in the space provided will result in rejection of the bid/proposal except if the unsigned bid/proposal is accompanied by other signed documents indicating the bidder's/offeror's intent to be bound.

3. Pricing and Discounts

Solicitations normally request net price FOB Destination. The net price is the list price less trade or volume discounts offered. Unit prices, extensions, and/or gross total must be shown as requested in the pricing schedule. Prompt payment discounts offered must be clearly shown in the space provided and may be taken if payment is made within the specified time frame, e.g. 2% 20 days. NPS also prefers to pay via PCard. Discounts for prompt payment and acceptance normally will be a factor in award and will be specified in the solicitation. Correct pricing is extremely important, and price should be double-checked before submitting a bid or proposal. In the case of errors in the extension prices, the unit price shall govern.

4. Alternate Bids

An alternate bid is a bid submitted in knowing variance from the specifications and must be clearly distinguished as an alternate by the bidder. Frequently, alternate bids incorporate the latest technology and can result in substantial savings, not only in monetary terms but also in system-wide operational efficiencies. Vendors should contact buying offices with suggested revisions to specifications as soon as possible in the procurement process. An award cannot be made on an alternate bid; however, all bids may be rejected

and the requirement re-solicited with a revised specification using the feature of the alternate.

5. Taxes

Sales and Use Tax - Virginia's Sales and Use tax does not apply to sales of tangible personal property to NPS, for their use or consumption, if the purchases are pursuant to required official purchase orders to be paid for out of public funds. The tax applies when such sales are made without the required purchase orders and are not paid for out of public funds. No exemption is provided for state or local government employee purchases of meals or lodging whether purchases are pursuant to required official purchase orders or not.

6. Time of Performance

A specific date or number of calendar days required for delivery or performance after receipt of order may be stated in the terms and conditions of a solicitation. Otherwise, the date or number of days must be entered by the bidder/offeree in the space provided on the solicitation.

IX. Evaluation and Award

For Small Purchases, award shall generally be made to the responsible and responsive business offering the lowest acceptable quotation.

When the terms and conditions of multiple awards are so provided, awards may be made to more than one bidder/offeree. In procurement for professional services, award shall be made to the offeror who submits the more meritorious proposal with a price that is considered fair and reasonable.

Reciprocal Preferences - Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a percentage preference, a like preference shall be allowed to the lowest responsive and responsible bidder who is a resident of Virginia and is the next lowest bidder. If the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state a price-matching preference, a like preference shall be allowed to bidders who are residents of Virginia. If the lowest responsive and responsible Virginia bidder is unable to match the price, the preference shall be given to other Virginia bidders in ascending price order. If the lowest bidder is a resident contractor of another state with an absolute preference, the bid shall not be considered. DPS will post and maintain a listing of preference laws provided by other states on the eVA website. (Absolute preference defined, see Appendix A.) See www.eva.virginia.gov for a listing of state preference laws and (*Code of Virginia*, § 2.2-4324B).

Tie Bids/Quotes - In the event of tie bids/quotes, Norfolk Public Schools will resolve the tie by giving preference to goods produced in Virginia, goods or services or construction provided by Virginia persons, firms, or corporations; otherwise the ties will be broken in the following order:

- (1) Preference shall be given to the vendor that accepts the Norfolk Public School's Visa Procurement Credit Card.
- (2) Where goods are being offered and existing price preferences have already been taken into account, preference then shall be given to the bidder whose goods contain the greatest amount of recycled content
- (3) In the event that the tie bid has not been broken after the above tie breakers, Norfolk Public Schools will make a decision by lot (drawing or coin toss). This action must be witnessed and the results recorded by a Norfolk Public School's supervisor above the level of the buyer who posted the solicitation.

X. Performance

1. Delivery

Delivery must be made by the date or period specified in the purchase order or contract. If a contractor cannot make delivery as specified under an existing purchase order or contract, the contractor must immediately notify the ordering location. The contractor may offer a new delivery date; however, if it is not acceptable to the location and delivery cannot be made as originally specified, the contractor may be considered in default.

2. Loss or Damage in Transit

Delivery by a contractor to a common carrier does not constitute delivery to NPS. Any claim for loss or damage incurred during delivery shall be between the contractor and the carrier. NPS accepts title only when goods are received regardless of the F.O.B. point. The receiving school/department will note all apparent damages in transit on the freight bill and notify the contractor. Discovery of concealed damage or loss will be reported by the receiving school/department to the carrier and the contractor within seven days of receipt and prior to removal from the point of delivery if possible. The contractor shall make immediate replacement of the damaged or lost merchandise or be in default of the contract. It shall be the contractor's responsibility to file a claim against the carrier. If damage is to a small quantity, with the approval of the agency, the contractor may deduct the amount of damage or loss from the invoice to NPS, in lieu of replacement.

3. Cancellation of Purchase Orders and Contracts

Orders or contracts may be canceled without a vendor's consent as provided in Termination for Default and Termination for the Convenience of NPS. A vendor may request cancellation, and NPS will grant relief if the vendor is prevented from specific performance, including timely delivery, by an act of war, order of legal authority, act of God, or other unavoidable causes not attributed to the vendor's fault or negligence. Failure of a vendor's source to deliver is generally not considered to be an unavoidable cause. The burden of proof for need of such relief rests with the vendor.

NPS reserves the right to cancel all contracts with any vendor who fails to perform under any single contract.

4. Purchase Order Changes

A purchase order change is used to correct errors, to add or delete quantities, or to make adjustments to the original order. It may also be used to cancel an order. A vendor who deviates from the requirements of a purchase order or contract prior to receipt of an authorized change order, does so at its own risk.

5. Termination for Default

In case of default by a contractor for failure to deliver or perform in accordance with the contract specifications or terms and conditions, NPS may procure the articles or services from other sources and hold the defaulting contractor responsible for any resulting additional purchase and administrative costs. NPS will normally repurchase from the next low bidder or purchase competitively by re-solicitation. If the repurchase results in increased costs to NPS, a letter will be sent to the defaulted contractor requiring payment for additional costs. When repayment is requested, the contractor will be suspended until repayment has occurred.

6. Termination for Convenience of Norfolk Public Schools

A purchase order or contract may be terminated for the convenience of NPS by delivering to the contractor a notice of termination specifying the extent to which performance under the purchase order or contract is terminated, and the date of termination. After receipt of a notice of termination, the contractor must stop all work or deliveries under the purchase order or contract on the date and to the extent specified. If the purchase order or contract is for commercial items sold in substantial quantities to the general public and no specific

identifiable inventories were maintained exclusively for NPS use, no claims will be accepted by NPS. Payment will be made for items shipped or services provided prior to receipt of the termination notice, unless otherwise specified in the contract.

If the purchase order or contract is for items being produced exclusively for the use of NPS, and raw materials or services must be secured by the contractor from other sources, the contractor shall order no additional materials or services except as may be necessary for completion of any portion of the work which was not terminated. NPS may direct the delivery of the fabricated or non-fabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of the work, or direct the contractor to sell the same, subject to NPS approval as to price.

The contractor may, with the approval of NPS, retain the same, and apply a credit to the claim. The contractor must complete performance on any part of the purchase order or contract not terminated.

The contractor must submit any termination claim within 120 days after receipt of the notice of termination, or such longer period as NPS for good cause may allow. This claim will be in a form and with certifications prescribed by the NPS Purchasing Office. Termination for convenience claims will be considered for only actual expenses incurred up to the time of termination.

7. Debarment

Debarment as used in this section means action taken by the School Board of the City of Norfolk to exclude individuals or firms from contracting with NPS for particular types of goods or nonprofessional services for specified periods of time. Debarment does not relieve the contractor of responsibility for existing obligations.

The purpose of debarment is to protect NPS from risks associated with awarding contracts to persons or firms having exhibited an inability or unwillingness to fulfill contractual requirements, and to protect NPS's interests and the integrity of the school systems' procurement process by preventing individuals or firms who have displayed improper conduct from participating on Commonwealth requirements for specific periods of time.

Causes for Debarment. An individual or firm may be debarred for any of the following reasons:

a. Breach (including anticipatory breach) of contract with NPS. As examples of Breach, failure of the vendor to comply with provisions 1. or 2. of the Commonwealth's "ANTIDISCRIMINATION" clause, or failure to comply with a Most Favored Customer Clause included in its contract. For default action see 7.14.

b. Stating an unwillingness or inability to honor a binding bid. A mere request to withdraw a bid, which does not otherwise state an unwillingness or inability to perform, is not a cause for debarment. July 2021 version

c. Asserting facts related to procurement matters without having reasonable grounds at that time to believe that the facts are true. Examples include but are not limited to: falsifying or misrepresenting manufacturer's specifications in order to appear responsive to a solicitation; or asserting, without reasonable belief in its accuracy, information in support of an invoice, claim, protest, contract amendment, qualification application, or administrative or judicial appeal document. It is not necessary for the presentation to actually affect a decision, and it is not a defense that the recipient of the communication knew or should have known the true facts.

- d. Conferring or offering to confer any gift, gratuity, favor, or advantage, present or future, upon any employee of NPS who exercises any "official responsibility" for a "procurement transaction" as those terms are defined in the Code of Virginia, § 2.2-4368. It is not necessary that the offer be accepted by the employee, or that the offer is made with intent to influence the employee in an official act. Extending to NPS employee exercising official responsibility for a procurement transaction any discount or privilege not available to all NPS employees is considered to be offering an advantage.
- e. Failing to disclose a condition constituting a conflict of interest by any officer, director, owner, or partner of the vendor in a contract or purchase order awarded by NPS (Code of Virginia, § 2.2-3106).
- f. Any cause indicating that the individual or firm lacks the moral and business integrity and reliability that will assure good faith performance.
- g. A determination by the Senior Director of NPS that a vendor has used abusive or obscene language or a threatening manner toward NPS purchasing personnel during the performance of their duties or as a result of the performance of their duties.
- h. Sale, under nonemergency conditions, of building materials, supplies, or equipment for any building or structure constructed by or for the Commonwealth by an independent contractor employed to furnish architectural or engineering services, but not construction for such building or structure or from any partnership, association or corporation in which such architect or engineer has a personal interest (Code of Virginia, § 2.2-3101 and § 2.2-4374).
- i. Sale, under nonemergency conditions, of building materials, supplies or equipment for any building or structure constructed by or for NPS by any person who has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in such building or structure to the independent contractor employed by NPS to furnish architectural or engineering services in which such person has a personal interest as defined in Code of Virginia, § 2.2-3101.
- j. Sale of goods or services to NPS when such sale is prohibited by any debarment then in effect.
- k. Consent of the firm or individual being debarred.
- l. Conviction of any criminal offense involving public contracting. Examples include, but are not limited to, bribery (Code of Virginia, § 18.2-447) and knowingly making a false statement in regard July 2021 version to collusion on a solicitation (Code of Virginia, § 18.2-498.4). Conviction for any of the above of any officer, director, owner, partner, agent, or related business entity of a vendor shall constitute grounds for the removal of the vendor.
- m. Court judgment finding a violation of either federal or state antitrust laws.
- n. Conviction of any offenses indicating a lack of moral or business integrity.
- o. Failure to pay reprocurement costs pursuant to a contract termination for default.
- p. Failure to comply with the provisions of the E-Verify program (Code of Virginia, §2.2-4308.2).
- q. Failure to pay Vendor Transaction Fees invoiced by the Commonwealth of Virginia Department of General Services.

r. Creating or using an entity for the purpose of circumventing a debarment decision against another individual or firm.

s. Effective January 1, 2021; failure of an employer, or any officer or agent of the employer, to properly classify an individual as an employee in accordance with §58.1-1900 of the Code of Virginia.

It is not necessary that there be a judicial determination of violations contained in subparagraphs a. through l. and p. for debarment to occur.

If the debarring official finds that the cause for debarment reflects on the contractor's traits or tendencies only with regard to certain goods or services, the debarment may apply only to such goods or services. Otherwise the debarment shall apply to all goods and services within the purview of the debarring agency.

NPS verifies the Debarment status of all vendors they do business with of \$2,500 and over, using the official U.S. Government Website sam.gov.

XI. Disputes, Claims, Appeals, and Protest

Disputes/Claims

Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing in this section shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment. Written claims and unresolved disputes must be submitted to the Senior Director Purchases & Supply.

A contractor may not institute legal action prior to receipt of the Senior Director Purchases & Supply's decision on the claim unless that office fails to render such decision within thirty (30) days. The decision of the Senior Director Purchases & Supply shall be final and conclusive unless the contractor, within six months of the date of the final decision on the claim, institutes legal action as provided in the Code of Virginia, § 2.2-4364.

Appeal

A decision denying withdrawal of bid shall be final and conclusive unless the bidder appeals the decision within 10 days after receipt of the decision by invoking administrative procedures meeting the standards of the Code of Virginia, Section 2.2-4365, if available, or in the alternative by instituting legal action as provided in the Code of Virginia, Section 2.2-4364 and any procedures established by NPS.

If no bid bond was posted, a bidder refused withdrawal of a bid prior to appealing, shall deliver to the institution a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.

If, upon appeal, it is determined that the decision refusing withdrawal of the bid was not an honest exercise of discretion, but rather was arbitrary or capricious or not in accordance with the Constitution of Virginia, applicable state law or regulation, or the terms or conditions of the Invitation for Bid, the sole relief shall be withdrawal of the bid.

Protest

Any bidder or offeror who desires to protest the award or decision to award a contract shall submit such protest in writing to the Senior Director Purchases & Supply, no later than 10 days after public notice of the award or the announcement of the decision to award, whichever occurs first.

Public notice of the award or announcement of the decision to award shall be given by the public body in the manner prescribed in the terms or conditions of the Invitation to Bid or Request for Proposal. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than 10 days after posting or publication of the notice of such contract as provided in the Code of Virginia, Section 2.2-4303. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under the Code of Virginia, Section 2.2-4342, then the time within which the protest must be submitted shall expire 10 days after those records are available for inspection by such bidder or offeror under the Code of Virginia, Section 2.2-4342, or at such later time as provided in this section. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror.

The written protest shall include the basis for the protest and the relief sought. The Senior Director Purchases & Supply shall issue a decision in writing within 10 days stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within 10 days of receipt of the written decision by invoking administrative procedures meeting the standards of the Code of Virginia, Section 2.2-4365, if available, or in the alternative by instituting legal action as provided in the Code of Virginia, Section 2.2-4364.

XII. Charges and Collection

1. Purchasing Cards for Small Purchases

In an effort to streamline purchasing and invoice processing steps and sharply reduce paperwork, NPS has delegated authority to schools and departments to use purchasing (charge cards) for transactions up to \$2,500 (In certain circumstances, other limits may be authorized by the Senior Director Purchases & Supply) for the purchase of goods and services.

2. Billing and Invoices

Invoices must be submitted to NPS to the address cited on the Purchase order/contract. Standard payment terms are NET 30. Prompt payment discounts may be taken if offered and payment is made within the prescribed time-frame. If the vendor accepts credit cards in the normal course of business, NPS reserves the right to make payment using the NPS credit card. Invoices shall reference the purchase order or contract number and be in accordance with PO/contract payment terms. Partial Payments may be paid when portions of the goods or services have been received and accepted and have been properly invoiced by the vendor, and partial payment is authorized by the governing contract.

XIII. Ethics

Due to the extraordinary trust and responsibility exercised by public officials conducting procurement transactions and because of the legitimate expectations by the public that this trust and responsibility be exercised properly, laws of the Commonwealth dictate a higher standard of conduct for procurement officials than for public employees generally. Procurement officials and contractors must be cognizant of these laws which include the Virginia Public Procurement Act, the State and Local Government Conflict of Interests Act, and the Virginia Governmental Frauds Act. No State employee having official responsibility for procurement transactions:

1. shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value present or promised, unless consideration of substantially equal or greater value is exchanged (Code of Virginia, Section 2.2-4371);
Or

2. shall accept employment from any bidder, offeror or vendor with whom the employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the State unless the employee or former employee provides written notification to the president of the institution prior to commencement of employment by that bidder, offeror or vendor (Code of Virginia, Section 2.2-4370).

Additionally, in accordance with Code of Virginia, sections 2.2-4371 and 2.2-4372:

1. No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a 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 is exchanged.
2. No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.
3. No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.
4. No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.

If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the public body and shall be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

XIV. Terms and Conditions

As specified on NPS Purchase Order Form, NPS Contracts/Agreements, and as detailed in the respective solicitations.