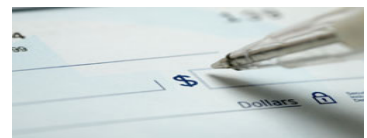




**VENDOR MANUAL**

**HOW TO DO BUSINESS WITH**

**PORTSMOUTH PUBLIC SCHOOLS**





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# Purchasing Office Staff Contacts

The following Purchasing Office staff and contact information is provided to assist vendors in conducting business with PPS.

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## I. INTRODUCTION

The PPS Purchasing Office serves as a liaison between vendors and all PPS schools and departments. The goal of the Purchasing Office is to provide goods and services necessary to support the education of children, in the proper quantity and quality, at the lowest possible cost, to all PPS schools and departments. Procurement activities are performed in accordance with applicable PPS policies and the Virginia Public Procurement Act to ensure all vendors have access to compete for PPS business.

As such, it is also the policy of PPS to: (1) provide minorities and women equal opportunity to participate in all aspects of the School Board contracting and purchasing programs including, but not limited to, participation in procurement contracts for materials, services, construction and repair work activities, and lease agreements; (2) prohibit discrimination against any person or business in pursuit of these opportunities on the basis of race, color, sex, religion, national origin, age, disability, or status as a service-disabled veteran, and (3) to conduct its contracting and purchasing programs so as to prevent any discrimination prohibited by state law and federal law relating to discrimination in employment.

To this end, in July of 2010, the Portsmouth School Board commissioned a Procurement Study to ascertain whether there was a compelling interest to establish a narrowly-tailored Minority and Woman Owned Business Enterprise Program. The Study was conducted by MGT of America, Inc. and presented to the Portsmouth School Board on January 19, 2011. As a result of the findings, on September 27, 2012, the Portsmouth School Board unanimously approved the PPS M/WBE Policy; and entered into a contract with Transformation Consulting to develop and implement the M/WBE Program.

The purpose of this handbook is to assist vendors in understanding the procurement policies and procedures of PPS.

## **II. AUTHORITY AND RESPONSIBILITY**

The Division Superintendent with the School Board's formal approval may designate a qualified employee to serve as the purchasing agent for the Board. In this capacity, the agent for the Board may purchase or contract for all supplies, materials, equipment, and contractual services required by the school division subject to federal and state codes and School Board policies. All purchases made by the school division will be in accordance with the Virginia Public Procurement Act (VPPA). The Superintendent has designated the Purchasing Manager as the Purchasing Agent for the school division. The Superintendent has also delegated limited purchasing authority to School Principals, Directors, and some Managers/Coordinators/Supervisors. Generally, this delegated purchasing authority is up to \$15,000. However, orders cannot be placed until a Purchase Order (PO) is signed by the division Purchasing Agent. PPS may not pay any vendor that has processed an order for PPS without a PO in place and signed by the division Purchasing Agent. All competitive and sole source purchases of \$50,000 and higher must be approved by the School Board prior to award.

On December 18, 2015, the Portsmouth Public School Board approved changes to the School Board Purchasing Authority (DJA-P) and the M/WBE Program Policy (DJFC). When purchases are over \$5,000 and under \$15,000, the buyer must utilize eVA's procurement system or submit a MUNIS requisition and attach a minimum of 3 quotes, one of which must be from an M/WBE vendor. If the buyer encounters difficulty in getting quotes, they are to contact the Purchasing Office for assistance. When a non-M/WBE vendor is proposed with 3 quotes, Good Faith Effort (GFE) documentation is required. For purchases over \$15,000 and up to \$100,000 and for professional services, up to \$60,000, specifications for the goods and/or services shall be prepared and forwarded to the Purchasing Office, attached to a MUNIS requisition. The Purchasing Office will follow VPPA to determine the best method of purchase in accordance with M/WBE Policy.

## **III. PUBLIC 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/offeror, upon request, shall be afforded the opportunity to inspect bid/proposal 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 any proprietary data or other materials, and must identify the data or material to be protected and state the reason why protection is necessary. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection. Any inspection of procurement transaction records shall be subject to reasonable restrictions, as solely determined by PPS, to ensure the security and integrity of the records.

#### **IV. ETHICS**

The ethical responsibilities of PPS employees and agents of PPS having responsibility for a procurement transaction are set out in Article 6 of the VPPA, Ethics in Public Contracting, § 2.2-4367 through § 2.2-4377. It will be the responsibility of the Purchasing Agent to assure that all procurement practices and transactions are within the framework and guidelines set forth by the School Board Policy DJA, Fiscal Management, Purchasing Authority and Policy DJA-P, Procedures.

#### **V. CONFLICT OF INTEREST**

Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no PPS official or employee having official responsibility for the procurement transaction, or a member of the bidder or offeror's immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.

#### **VI. GENERAL**

##### **A. Compliance with State Law; Foreign and Domestic Businesses Authorized to Transact Business in the Commonwealth.**

1. 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 or as otherwise required by law.
2. A bidder/offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 will include in its bid or proposal the identification number issued to it by the State Corporation Commission in the space provided. Any bidder/offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement why the bidder/offeror is not required to be so authorized. Bidder/offeror is to include the VA Code reference authorizing the exemption in said statement.
3. Any bidder/offeror described in the foregoing Subsection 2. that fails to provide the required information shall not receive an award unless a waiver of this requirement is granted by the Superintendent or designee.
4. Any business entity described in the foregoing Subsection 1. that enters into a contract with PPS 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.

##### **B. Employment Discrimination Prohibited.** VPPA § 2.2-4311 prohibits employment discrimination by contractors hired by PPS and requires that every PPS contract over ten thousand dollars (\$10,000) include language to this effect.

##### **C. M/WBE Program.** The objectives of the M/WBE Program Policy are:

- To provide M/WBEs equal access to opportunity for participation in School Board contracts and purchases.

- To provide procedures for determining and monitoring M/WBE participation and compliance with the M/WBE requirements, which are stated in the Policy.
- To increase awareness of this M/WBE Program and identify M/WBE vendors.
- To increase the potential for M/WBE participation in PPS procurements.
- To provide training and financial assistance for M/WBEs.
- To promote awareness of this M/WBE Program throughout Portsmouth Public Schools and the Community.

All vendors that do business with PPS are required to comply with PPS's M/WBE Policy and Procedures. The policy can be accessed at the following website:

<http://ppsk12.us/common/pages/DisplayFile.aspx?itemId=3675725>.

**D. Office Hours.** PPS business hours are from 8:00 A.M. to 4:30 P.M., Monday through Friday, excluding PPS holidays. A listing of PPS holidays is available on the PPS web site at <http://ppsk12.us/home>.

**E. Unscheduled Closure.** In the event PPS declares administrative or liberal leave on a day of a scheduled bid opening or receipt of proposals, the bid opening or receipt of proposals deadline will be extended to the next business day.

**F. Visits.** Sales representatives are valuable resources for obtaining specifications and information on product advancements. PPS values their visits. Purchasing staff is available to discuss the ideas and concerns of a vendor. However, Purchasing recommends that sales representatives call for an appointment to ensure the PPS staff is available; and to avoid potentially long wait times for the vendor.

**G. Bidder's List.** PPS uses eVA (Commonwealth of Virginia's eProcurement System) for posting of solicitations valued at \$15,000 and above. eVA maintains the lists of prospective bidders categorized by class and type of commodity for PPS. To be placed on a bidders' list, vendors should register on-line with eVA at [www.eva.virginia.gov](http://www.eva.virginia.gov). It is the responsibility of each vendor to keep its business profile current by notifying eVA when changes occur regarding the products or services offered business classification, certification status, address and other contact information, or ownership. Registration on the bidder's list will generate notifications to the vendor when a PPS Request For Quotation (RFQ), Invitation For Bid (IFB), or Request For Proposal (RFP) is posted on the web site. It is the vendor's responsibility to check the notices posted by the Purchasing Office.

**H. Posting Bid Notices.** The Purchasing Office seeks maximum feasible competition. In achieving this goal, PPS publicizes IFB's and RFP's as follows:

- Posting on eVA at [www.eva.virginia.gov](http://www.eva.virginia.gov);
- Providing access to the eVA site on the PPS Purchasing Office website at <http://ppsk12.us/departments/departmentsn-z/purchasingoffice>; and
- Advertising RFPs in the Virginian Pilot.



## VII. METHODS OF PROCUREMENT

PPS uses five (5) primary methods of procurement when soliciting competition for goods and services, as follows:

- A. **Small purchases**, for the procurement of goods and services less than \$100,000;
  1. Small purchases up to \$5,000 are purchased by PPS Schools and Departments using a school division assigned Purchasing Card, while rotating the use of various vendors, including MWBEs, for repetitive purchases or categories of purchases.
  2. Small purchases between \$5,000 and \$15,000 are purchased by PPS Schools and Departments by obtaining three (3) written quotes, one of which must be from an MWBE.
  3. Small purchases between \$15,000 and \$100,000 are solicited in writing and advertised on eVA. Purchase awards over \$50,000 must be approved by the Portsmouth City School Board.
- B. **Competitive sealed bidding**, a formal process, used for the procurement of goods or services with a dollar value of \$100,000 or more [VPPA § 2.2-4301]. Formal sealed bids are solicited using a written Invitation to Bid (ITB) and posted on eVA for at least ten (10) days prior to the date set for bids to be submitted. The award of these procurements is made to the lowest, responsive, and responsible bid.
- C. **Competitive negotiations**, also a formal process, used for the procurement of goods/services or insurance [VPPA § 2.2-4301]. Competitive negotiations requests proposals and are solicited using a written Request for Proposal (RFP). RFPs are posted on eVA and published in a newspaper of general circulation at least ten (10) calendar days prior to the closing date of the solicitation. Services procured through competitive negotiations fall into two categories [VPPA § 2.2-4303]:
  1. Professional Services - All professional services expected to exceed \$60,000 will be procured through competitive negotiations. Professional services include work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering. The Request for Proposal shall not, however, request that offerors furnish estimates of man-hours or cost for services. At the discussion stage, the public body may discuss nonbinding estimates of total project costs including, but not limited to, life-cycle costing and, where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the public body shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the public body can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Notwithstanding the foregoing, if the terms and conditions for multiple



awards are included in the Request for Proposal, a public body may award contracts to more than one offeror.

2. **Other than Professional Services** - Competitive negotiations for other than professional services expected to exceed \$100,000 are solicited by a Request for Proposal (RFP) upon written determination by Purchasing that competitive sealed bidding is neither practicable nor fiscally advantageous. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the public body shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so provided in the Request for Proposal, awards may be made to more than one offeror.
- D. **Sole Source**, used when “upon determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding”.
- E. **Emergency purchases**, used in an emergency situation in which the immediate public health, safety, or welfare is involved, or the purchase is required to protect or preserve public properties without delay.

## VIII. SOLICITATION INFORMATION

Vendors should ensure the specific solicitation instructions are strictly followed. Any questions or need for clarification should be forwarded to the PPS Purchasing Office promptly. Although the specific solicitation instructions take precedence for compliance, the following items may be helpful to vendors for clarifying the solicitation directions.

### A. Pre-Bid or Pre-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 the 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 PPS is authorized to establish a cut-off time for late arrival, after which no one will be permitted access to the conference.

### B. Brand Name or PPS Approved Equals

Unless otherwise provided in the solicitation, the name of a certain brand, make, or manufacturer does not restrict bidders to the specific brand, make, or manufacturer named. It conveys the general style, type, character, and quality of the article desired, and any article which PPS in its sole discretion determines to be the equal of that specified - considering quality, workmanship, economy of operation, and suitability for the purpose intended, will be accepted.

When a solicitation contains a specification stating no substitutes, no deviation from the specification will be permitted and the bidder will be required to furnish articles in conformity with that specification.

**C. 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 same time on the next regular business day. It is imperative that the bid or offer be returned with the information listed in the solicitation. Bids or proposals may be hand delivered to the PPS Purchasing Office. Each response (bid/proposal) to a solicitation number shall be returned in its own individual sealed envelope. No other correspondence, other bids, or other proposals should be placed in the envelope except as related to that specific solicitation.

Bidders and/or 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 number, if so stated, by the specified date and time as shown in the solicitation. 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 the time on the clock/time machine located in the PPS Purchasing Office.

**D. Withdrawal of a Bid Due to Error (Construction Contracts, IAW the VPPA)**

1. A bidder for a public construction contract may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn.
2. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor, or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents, and materials used in the preparation of the bid sought to be withdrawn.
3. The following procedure for withdrawal of bids for non-construction purchases shall apply to PPS procurements:
  - a. Bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.
  - b. No bid shall be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.
  - c. If a bid is withdrawn in accordance with this section, the lowest remaining bid shall be deemed to be the low bid.
  - d. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the

person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

**E. Mistakes in Bids (Other than Construction Contracts)**

1. 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.
2. Mistakes Discovered After Opening but Before Award:
  - a. 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. PPS may, in its sole discretion, waive such informalities or permit the vendor to correct them, whichever procedure is in the best interest of the school division. Examples include the failure of a vendor to:
    - I. Return the number of signed bids or proposals required by the solicitation.
    - II. Sign the face of the bid or proposal in the space provided.
    - III. Acknowledge receipt of an addendum to the solicitation
3. Judgment Errors: PPS 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, PPS shall make no award to the vendor which withdrew its bid for a period of sixty calendar days for any solicitation to which it may wish to respond. The vendor also may not submit a replacement bid for the current solicitation. This procedure for "judgment errors" does not apply to construction bids.
4. Non-Judgmental Errors: If the mistake and the intended correct bid are clearly evident on the face of the bid document, in accordance with the VPPA, 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.

**F. Late Bids/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 delivery of the bid or proposal and, if using U.S. Mail or a delivery service, they should ensure that the bid or proposal is addressed properly. Vendors, at all times, are responsible for ensuring their bid or proposal reaches the specified destination by the specified 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 on the clock or automatic time stamp machine in the procuring office.

**G. Insurance**

Whenever work is to be performed at PPS 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. PPS

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

## **IX. FORMAL SPECIFICATIONS**

### **A. CONTRACT AWARD**

Contracts will be awarded as follows:

- **Invitation To Bid (Competitive Sealed Bid):**

ITBs will be awarded to the lowest responsive and responsible bidder. A responsive bidder is defined as one who has submitted a bid which conforms in all material respects to the Invitation To Bid. A responsible bidder is defined as one who has the capability, in all respects, to perform fully the contract requirements, and the moral and business integrity and reliability which will ensure good-faith performance. (The Purchasing Agent reserves the right to recommend the award of bids, based on the overall low total or the split low total, whichever is deemed to be in the best interest of PPS). The City of Portsmouth School Board must approve all ITB recommendations for awards over \$50,000.

- **Request For Proposal (Competitive Negotiation)**

Professional Services and Non-Professional Services contracts will be awarded to the Offeror that is fully qualified and has made the best proposal. Offerors will be selected for negotiations based on the evaluation criteria specified in the Request for Proposal. A "Notice of Intent to Award" will be issued to the successful offeror no less than 10 days prior to contract award. The City of Portsmouth School Board must approve all RFP recommendations for awards over \$50,000.

### **B. NOTIFICATION OF SUCCESSFUL VENDOR**

Successful vendors are notified by receipt of a signed purchase order or by any other properly authorized contractual agreement indicating award.

### **C. PROTEST OF AWARD OR NOTICE OF INTENT TO AWARD**

Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the Purchasing Agent no later than ten (10) days after the award or the posting of the "Notice of Intent to Award", whichever occurs first. 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 ten (10) days after posting or publication of the notice of such contract. 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.

### **D. POINT OF DESTINATION**

All materials shipped to PPS must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order.

### **E. PPS DELIVERY/INVOICE ADDRESS**

All materials, goods, services ordered by PPS must be delivered to the "Ship to" address indicated on the purchase order. Invoices for PPS orders must be submitted to the "Invoice" address indicated on the purchase order.

**F. PACKING SLIPS/DELIVERY TICKETS**

Vendor shall include a packing slip/delivery ticket with each delivery. The packing slip/delivery ticket shall contain, at a minimum, the following information for each item delivered:

1. Purchase Order number;
2. Name of the item and stock number (Supplier's);
3. Quantity ordered;
4. Quantity shipped;
5. Quantity back ordered; and
6. Name of the vendor.

Vendors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

**G. PAYMENT**

Payment will be made by PPS after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. PPS reserves the right to withhold any or all payments or portions thereof for Vendor's failure to perform in accordance with the provision of the contract or any modifications thereto.

**H. BONDING REQUIREMENTS**

In some instances, to reduce PPS' financial risk in the event a contractor fails to perform or defaults on a contract, PPS may require bonding in addition to State Code requirements. The five (5) types of bonds that are frequently used in contracts to procure goods and services, and their definitions, are as follows:

- A bid bond guarantees that the bidder will enter into a contract if selected as the lowest responsive and responsible bidder. If a bidder does not accept the award, the bid bond is forfeited.
- VPPA § 2.2-4336 requires that, except in cases of an emergency, all bids or proposals for construction contracts in excess of \$100,000 be accompanied by a bid bond. The amount of the bid bond will be established by PPS and published in the IFB. Bidders shall submit the bid bond with their bid. If the bid bond is not submitted with the bid, the Bidder shall be considered non-responsive.
- A performance bond guarantees that a contractor will perform the contract in accordance with the contract terms. The surety who issued the bond may either fulfill the contractual requirements or pay damages up to the bond limit. This bond is used most frequently in construction contracts. VPPA § 2.2-4337 (1) requires a performance bond in the sum of the contract amount for all public construction contracts exceeding \$100,000.
- A contract bond, similar to a performance bond, guarantees the contractor will perform pursuant to the terms and conditions of the contract. While performance bonds are used primarily for construction projects, contract bonds are used for service contracts such as microcomputer purchases, grass cutting services, janitorial services, and computer programming services.
- A payment bond guarantees the contractor will pay all suppliers and subcontractors who assist in the performance of their work. VPPA § 2.2-4337 (2) requires a payment bond in the sum of the contract for any construction contract exceeding \$100,000.
- A fidelity bond is similar to an insurance policy and guarantees against losses that may result from proven acts of dishonesty on the part of the contractor's employees. Fidelity

bonds are often required in service contracts when the contractor's employees will handle cash or are exposed to opportunities for theft.

- In accordance with VPPA §2.2-4338A; In lieu of a bid, payment, or performance bond, a bidder may furnish a certified check, cashier's check, or cash escrow in the face amount required for the bond.

#### **I. CONTRACTUAL DISPUTES**

Any dispute concerning a question of fact as a result of a contract with PPS which is not disposed of by agreement shall be decided by the Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the contractor within thirty (30) days. The decision of the Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified.

Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty 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 herein 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.

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