

eVA Exclusions List

1. Real estate leases.
2. Advertisements such as in newspapers, magazines, journals, radio, television, etc.
3. Professional organizational membership dues and training classes sponsored by the professional organization when payment is made directly to the professional organization sponsoring the training class.
4. Conference registrations.
5. Petty cash purchases.
6. Honoraria.
7. Entertainment (speakers, lecturers, musicians, performing artists).
8. Accreditation fees and academic testing services.
9. Exhibition rental fees for exhibitions of historical artifacts or original works of art. (The rental fee may include charges other than the rental of the exhibition, such as transportation costs.).
10. Goods or personal services for direct use by the recipients of programs specified in the *Code of Virginia*, § 2.2-4345 (see Attachment I), if the procurement is made for an individual recipient. Contracts and/or spot purchases for the bulk procurement of goods or services for the use of recipients shall not be exempted.
11. Award of grants by agencies and institutions to public bodies or tax exempt non-profit charitable organizations. This exception does not apply to the expenditure of grant funds by agencies and institutions for the purchase of goods and/or services (*APSPM* 13.8e, see Attachment II).
12. Medical (Health Care) Services when the service is provided by a hospital or an individual licensed and authorized by law to engage in the prevention, diagnosis, or treatment of human illness, injury, or physical disability, mental health, mental retardation, substance abuse, or emotional condition. Contracts and purchase orders between the agency or institution and temporary service providers or independent laboratory testing companies are not exempt from purchasing through eVA.
13. Public Utilities (electric, natural gas, water, sewer).
14. Purchases made via closed-loop systems or automated inventory control systems for items for resale, e.g., ABC, drugs (only POS drugs).
15. Purchases made using the DPS-authorized multi-state drug contract.
16. Purchases made using DPS Contract #91026, Express Delivery Services.
17. Over the counter charge card purchases that are made at the site of the sale and picked up by the individual card holder (i.e., SPCC, Voyager).
18. Revenue contracts, e.g., scrap, recycling or contracts with \$0 payment made by the Commonwealth, e.g., contracted out Bookstore, Food service operations.
19. Government-to-government purchases, other than purchases from mandatory sources.

20. Purchases from public auctions (non-electronic).
21. Surplus property.
22. Contracts with commercial fisherman for replenishment, research and stock assessment activities.
23. (a) Individual travel and lodging.
(b) Group (i.e., two or more individuals) travel up to \$50,000 per group travel event.
(c) Group travel-related lodging.
24. Financing when goods/services procured from one source are being financed by another (i.e., third party) source. The financing exclusion does not apply to lease purchases.
25. Business and/or financial transactions to which public procurement regulations do not apply. Examples include debt service payments, Medicare and Medicaid payments, and child support payments.
26. Contracts with public and private hospitals, as well as pharmacy chains and independent pharmacies, that are licensed and authorized by law to dispense controlled drugs and other medications based on prescriptions written by medical practitioners licensed to engage in the prevention, diagnosis, or treatment of human illness, injury, or physical disability, mental health, mental retardation, substance abuse, or emotional condition, when the purpose of the contract is to provide on-site mentoring and practical experience to pharmacy students enrolled in state institutions of higher education.
27. Contracts with public and private hospitals, medical practices, and medical clinics that are licensed and authorized by law to engage in the prevention, diagnosis, or treatment of human illness, injury, or physical disability, mental health, mental retardation, substance abuse, or emotional condition, when the purpose of the contract is to provide on-site mentoring and practical experience to medical students enrolled in state institutions of higher education.
28. Individuals providing instructional services in conjunction with a contract between an institution of higher education, including community colleges, and a local business or industry for non-credit workforce development classes to be provided by the institution of higher education.

Attachment I

§ [2.2-4345](#). Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations.

A. The following public bodies may enter into contracts without competitive sealed bidding or competitive negotiation:

1. The Director of the Department of Medical Assistance Services for special services provided for eligible recipients pursuant to subsection H of § [32.1-325](#), provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

2. The State Health Commissioner for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ [32.1-276.2](#) et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination. Such agreements and contracts shall be based on competitive principles.

3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ [30-146](#) and [30-148](#), to publish the Code of Virginia or the Virginia Administrative Code.

4. The Department of Alcoholic Beverage Control for the purchase of alcoholic beverages.

5. The Department for the Aging, for the administration of elder rights programs, with (i) nonprofit Virginia corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care ombudsman program or (ii) designated area agencies on aging.

6. The Department of Health for (a) child restraint devices, pursuant to § [46.2-1097](#); (b) health care services with Virginia corporations granted tax-exempt status under § 501 (c) (3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services in a community (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge; or (c) contracts with laboratories providing cytology and related services if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and support of its production facilities, provided the procurement is accomplished using procedures that ensure as efficient use of funds as practicable and, at a minimum, includes obtaining telephone quotations. Such procedures shall require documentation of the basis for awarding contracts under this section.

8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the provisions of Chapter 58 (§ [15.2-5800](#) et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages and souvenirs at such facilities.

9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of tourism through marketing with private entities provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles.

10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271, as amended, of the Acts of Assembly of 1966; provided that it does not discriminate against any person on the basis of race, color,

religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

11. Richmond Eye and Ear Hospital Authority, any authorities created under Chapter 53 (§ [15.2-5300](#) et seq.) of Title 15.2 and any hospital or health center commission created under Chapter 52 (§ [15.2-5200](#) et seq.) of Title 15.2 in the exercise of any power conferred under their respective authorizing legislation; provided that these entities shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts of Assembly of 2000; provided that it does not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

13. Public bodies for insurance or electric utility services if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

14. Public bodies administering public assistance and social services programs as defined in § [63.2-100](#), community services boards as defined in § [37.2-100](#), or any public body purchasing services under the Comprehensive Services Act for At-Risk Youth and Families (§ [2.2-5200](#) et seq.) or the Virginia Juvenile Community Crime Control Act (§ [16.1-309.2](#) et seq.) for goods or personal services for direct use by the recipients of such programs if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § [2.2-4303](#).

15. The Eastern Virginia Medical School in the exercise of any power conferred pursuant to Chapter 471, as amended, of the Acts of Assembly of 1964.

B. No contract for the construction of any building or for an addition to or improvement of an existing building by any local government or subdivision of local government for which state funds of not more than \$30,000 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under of subsection D of § [2.2-4303](#). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

(1982, c. 647, § 11-45; 1984, c. 764; 1987, cc. 194, 248; 1989, c. 235; 1990, c. 395; 1991, c. 175; 1993, cc. 110, 505, 638, 971; 1996, cc. 145, 897, 902, 950, 1038; 1998, cc. 222, 619, 666, 697, 791; 1999, cc. 160, 194, 1021, 1024; 2000, cc. 242, 696, 927; 2001, c. 844; 2002, cc. 87, 478, 747; 2006, c. 658.).

Attachment II

Important: Purchasing offices are encouraged to establish an internal procedure for distribution of state contract documents to authorized users. The agency's point of contact should be publicized and be the first point of contact for agency personnel.

13.8 **Submission of DGS/DPS Purchase Requisition.** The DGS/DPS requisition is the document that initiates the procurement action for goods and printing, whose value exceeds an agency's or institution's delegated authority. It is also used to initiate procurement action for services contracted by DGS/DPS on behalf of an agency. It should contain all the essential information a DGS/DPS buyer needs to blend the appropriate contract terms and conditions with a full, clear and concise description of the requirement into a solicitation which can be issued to qualified bidders or offerors. Any approvals required or exceptions granted regarding the procurement should also be furnished. Should an agency require special exemption from purchasing through DGS/DPS, the Procurement Exemption Request Form in Annex 13-D must be submitted (facsimile or by mail) to DGS/DPS for prior approval. The following paragraphs highlight essential elements which should be included in every requisition. Requisitions without complete information may be returned causing delay.

- a. **Requirement Description.** An adequate description of what and how much is to be procured is one of the most important elements in the procurement process as it establishes the method of procurement, the degree of competition, sources, price and degree of difficulty in administering the contract. Without a full description, considerable time can be lost in the buying cycle when it becomes necessary to return requisitions for clarification and more information. Improper or incomplete descriptions can lead to the wrong vendors being solicited or the wrong items being purchased. Conditions may arise when goods are only available from one manufacturer or supplier and are needed by an agency to meet its specific requirements. In such cases, requisitions shall clearly state the sole source or proprietary nature of the requirement with supporting justification (see 4.4c). Without such information, buyers must obtain maximum competition through use of a "generic" or "Brand Name or Equal" level of quality. If the agency is aware of an equal product manufactured in Virginia, it should name such product first in the specification.
- b. **Review Requested by Agency Prior to Award.** Upon the written request from the agency, solicitation responses will be forwarded to an agency for review prior to an award. If alternate bids or offers are received, which in the opinion of the purchase officer merit consideration, agencies will be afforded an opportunity to review them. If the agency would prefer the alternate, the requirement will be rebid citing the features of the alternate product (see 3.1j). Responses normally are valid for only thirty (30) days after the time set for receipt; therefore, agencies must review and return the bids within ten (10) calendar days, and if the agency review period exceeds ten (10) calendar days, then a proportionate time will be added to the requested delivery date. The agency's recommendation for award must be supported by fact and relate to the evaluation criteria stated in the solicitation. Contents of bids or proposals shall not be discussed with or divulged to other bidders or offerors until evaluation has been completed and an award decision made.
- c. **Suggested Vendors.** If the vendor is not suspended or debarred, the buying office will normally honor an agency's request that a vendor receive a solicitation.
- d. **Requisition Year End Cutoff Date.** Requisitions for purchases to be charged to each fiscal year must be received by DGS/DPS early enough to allow for processing and delivery prior to June 30. Exceptions may be made for emergencies, in which case the requisition must be accompanied by a letter of justification. Time must be allowed to complete the delivery, submit the invoice, and process payment by June 30. Vendor delivery on requisitions received late may not be made until the new fiscal year, which would then require payment from the new fiscal year funds. A longer lead time is required for procurements made by competitive sealed bidding or competitive negotiation.
- e. **Federal Grants.** Restrictions on the use of funds are frequently imposed by the granting federal agency. Agencies shall notify DGS/DPS of any conditions or restrictions applicable to a purchase which will be funded with federal grant or contract funds (see 3.9). (See Attachment III).
- f. **Estimated Funds.** Requisitions must indicate an estimated dollar amount for a proposed purchase. This assists the purchasing office in determining the method of procurement and protects the agency against over-expenditure. If bid responses exceed the estimated amount, the agency will be contacted for approval to proceed. Estimates should be provided for each item, not just a total.
- g. **Commodity Codes.** Five-digit codes shall be indicated on all requisitions submitted to DGS/DPS (see 4.9).
- h. **Delivery Date.** The desired delivery date shall be indicated on the requisition. The abbreviation "ASAP" will not be accepted. Delivery can be stated as a specific number of days from award such as "30 days from award date" or a definite calendar date. Expedited delivery/solicitation period must be accompanied by instructions and a justification.

Attachment III

the contract does not apply to any contract awarded by the U.S. General Services Administration (GSA) or any other agency of the U.S. government that has been authorized for use by the U.S. Congress.

3.8 **Documentation of Files.** A complete file should be maintained in one place for each purchase transaction, containing all the information necessary to understand the why, who, what, when, where and how of the transaction (see 10.3).

3.9 **Federal Grants.** If federal grant or contract funds contain conditions that are in conflict with the *VPPA*, the agency must request and obtain a written determination from the Governor that the acceptance of the grant or contract funds is in the public interest. Such determination shall state the specific provision(s) of the *VPPA* in conflict with the conditions of the grant or contract (*Code of Virginia*, § 2.2-4343B).

3.10 **Small, Women-Owned & Minority Businesses**

- a. **Agency Plans.** Each executive branch agency and institution of the Commonwealth shall prepare and adopt an annual SWAM (Small, Women and Minority-owned businesses) plan that will specify that agency's or institution's SWAM plans and small business goals for procurement in accordance with Executive Order 33, dated August 10, 2006. Executive branch agencies and institutions shall submit an annual SWAM plan to the Department of Minority Business Enterprise (DMBE) and the appropriate cabinet secretary, in a form specified by the DMBE, on September 1 of each fiscal year. The plan shall include the annual designation of a SWAM champion to ensure nondiscrimination in the solicitation and awarding of contracts.

Agencies shall establish internal procedures consistent with the provisions of the *VPPA* and this manual to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions. The procedures established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to § 2.2-4310C of the *VPPA*, and shall include specific plans to achieve any goals established therein (*Code of Virginia*, § 2.2-4310B).

Agencies and institutions should not accept a bad business deal or a lower quality vendor, product or service in order to meet SWAM business goals. Quality, price and contractual terms should not be sacrificed in any meaningful way in order to achieve SWAM procurement goals.

- b. **Certified Vendors.** No vendor shall be considered a Small Business, a Women-Owned Business or a Minority-Owned Business unless certified as such by the Department of Minority Business Enterprise (DMBE) by the due date for receipt of bids or proposals. DMBE-certified women- and minority-owned businesses shall also be considered small businesses when they have received DMBE small business certification. Definitions for Women-Owned Business, Small Business, and Minority-Owned Business, are found in Appendix A.
- c. **Contract Sizing/Assessing Bundled Contracts.** The size of a proposed procurement can limit the potential participation by small business vendors. The following rule is designed to address that issue, while preserving the cost-savings and other benefits that the Commonwealth has achieved through bundling contracts and other procurement initiatives.

For goods provided under statewide or regionally bundled contracts for which there are qualified DMBE-certified small businesses, but with respect to which the size of such contract appears to limit DMBE-certified small businesses from bidding or being awarded such contracts, the contracting agency or institution shall seek to reduce the size of the contracts to increase the pool of potential bidders/offerors to include DMBE-certified small businesses. If the effect of reducing the size of such contracts is to cause a meaningful increase in price, a significant degradation in terms and conditions, a significant decrease in administrative efficiency or non-compliance with applicable federal contracting requirements or funding conditions, then the contracting agency or institution shall not be obligated to reduce the contract size.

- d. **Consultation with the Department of Minority Business Enterprise (DMBE) and the Department of Business Assistance (DBA).** Each contracting agency or institution, in consultation with DMBE and DGS where practical, shall seek to identify those purchases in which contract sizing may influence the availability of purchasing opportunities to small business vendors (a "Size-Related Contract"). Where these purchases are identified, the agency shall determine whether there are small businesses capable of meeting the purchasing requirements. If the agency identifies no DMBE-certified small businesses capable of performing the contract requirements, then the agency shall consult with DMBE to seek to identify available vendors unless contract timing issues require the agency or institution to complete the contract