Campaign Readiness Assessment

RFP# MW111816
November 18, 2016

Issued by
The University of Virginia
Procurement and Supplier Diversity Services
Charlottesville, Virginia

A VASCUPP Member Institution
I. GENERAL INFORMATION

A. Purpose of this Request for Proposal (RFP)

The Rector and Visitors of the University of Virginia (the “University”) and its University Advancement Office seek an experienced firm to provide a campaign readiness assessment study.

This RFP is part of a competitive procurement process which helps to serve the University's best interests. It also provides firms with a fair opportunity for their services to be considered. The process of competitive negotiation being used in this case should not be confused with the different process of competitive sealed bidding. The latter process is usually used where the goods or services being procured can be described precisely and price is generally the determinative factor. With competitive negotiation, however, price is not required to be the determinative factor, although it may be, and the University has the flexibility it needs to negotiate with firms to arrive at a mutually agreeable relationship.

For ease of reference, each firm or individual receiving this RFP is referred to as a “firm” and the firm or individual selected to provide services for the University is referred to as the “Selected Firm.” This RFP states the instructions for submitting proposals and the procedure and criteria by which a firm may be selected.

B. RFP Schedule and Information:

● Preproposal Questions
If the firm has any questions about this RFP prior to the proposal due date (see below) the questions must be received by December 1, 2016 to ensure the University has adequate time to respond. Email your questions to warlick@virginia.edu

● Proposal Due Date: Wednesday, December 7, 2016 by 5:00 p.m. EDT. Please submit your proposal via email to UVA Request for Proposals at pur-rfp@eservices.virginia.edu.

Note: Any trade secrets or proprietary information submitted with a proposal (original or copy) for which the firm seeks protection from public disclosure must follow the requirements as set forth in Section I.H, Virginia Freedom of Information Act, below.

● Expected Award Date: December 20, 2016.

C. Communication with the University

1. During this procurement, all communication with the University regarding this RFP must be directed to the Procurement & Supplier Diversity Services office and the buyer listed below. FAILURE TO ADHERE TO THIS REQUIREMENT MAY RESULT IN THE REJECTION OF THE FIRM’S PROPOSAL. The only
exception is for issues directly related to Small, Women-owned and Minority-owned (“SWAM”) business and SWAM subcontracting opportunities. Such SWAM issues may be directed to Les Haughton, the University’s Director of Supplier Diversity, at (434) 924-7174 or SWAM@virginia.edu.

2. Refer all questions / correspondence to the issuing office:
   University of Virginia
   Procurement & Supplier Diversity Services
   1001 North Emmet St, Carruthers Hall
   P.O. Box 400202
   Charlottesville, VA 22904-4202
   Buyer:  Michael Warlick
   Phone: 434-924-8918
   Fax: 434-982-2690
   Email: warlick@virginia.edu
   Note: If your proposal is submitted via the U.S. Postal Service, use the P. O. Box. The University does not take responsibility for lost or misdirected mail.

3. The RFP has been posted on Procurement and Supplier Diversity Services web site and can be downloaded at: http://www.procurement.virginia.edu/pagerfp. It is the firm’s responsibility to ensure that the latest version of the entire RFP and related links are reviewed prior to submission of a proposal. Addenda and attachments are posted if issued. We encourage you to check the web site frequently for any changes prior to the due date. Call (434) 924-1346 if you have trouble accessing the RFP from the web. For questions about the content of the RFP, contact the buyer listed above. Additional information can be found on Procurement and Supplier Diversity Services web site at http://www.procurement.virginia.edu

D. Expected Term
The term of any resulting agreement will be negotiated but it is expected the term will be for a minimum of five years.

E. Proposal Offer Period
By submitting a proposal, the firm agrees that its proposal constitutes an offer which will remain open and irrevocable for a period of 180 days from the deadline for submitting proposals.

F. Rejection of Proposals
The University reserves the right to reject any or all proposals received. Non-acceptance of a firm’s proposal will mean that one or more proposals were deemed more advantageous to the University or that all proposals were rejected. Firms whose proposals are not accepted will be notified after a binding contractual agreement between the University and Selected Firm exists, or when the University rejects all proposals.
G. The University will identify a Contract Administrator for any Agreement which results from this RFP. The individual will be the point of contact at the University for day-to-day operations but cannot approve amendments to this Agreement or price changes.

H. Virginia Freedom of Information Act

Except as provided, once an award is announced, all proposals submitted in response to this RFP will be open to inspection by any citizen, or interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by a firm prior to or as part of its proposal will not be subject to public disclosure under the Virginia Freedom of Information Act only under the following circumstances: (1) the appropriate information is clearly identified by some distinct method such as highlighting or underlining; (2) only the specific words, figures, or paragraphs that constitute trade secrets or proprietary information are identified; and (3) a summary page is supplied immediately following the proposal title page that includes (a) the information to be protected, (b) the section(s)/page number(s) where this information is found in the proposal, and (c) a statement why protection is necessary for each section listed. The firm must also provide a separate electronic copy of the proposal (CD, etc.) with the trade secrets and/or proprietary information redacted. If all of these requirements are not met, then the firm’s entire proposal will be available for public inspection.

IMPORTANT: A firm may not request that its entire proposal be treated as a trade secret or proprietary information, nor may a firm request that its pricing/fees be treated as a trade secret or proprietary information, or otherwise be deemed confidential.

II. SCOPE OF SERVICES

The University will be launching a multibillion-dollar philanthropic campaign on July 1, 2017. In anticipation of this major fundraising effort, the University seeks a firm to conduct a campaign readiness assessment study. The purpose of the study is to review the University’s strengths and identify its limitations for managing a successful and sustainable fundraising enterprise. This study will inform and advise the University on how best to leverage our existing fundraising program and operations as we look to the future.

The scope of such an assessment could include but would not be limited to the following components, depending on pricing and firm expertise:

- a benchmarking project with peer/aspirational institutions (public and private);
- a review and analysis of previous campaign efforts;
- stakeholder interviews and surveys, and;
- a donor wealth screening.
The University’s Advancement operation consists of a central advancement office and numerous school/unit-based fundraising teams, fifteen of which have their own separate 501(c)(3) foundation. This campaign readiness study will need to consider this decentralized structure, and could involve certain school/unit-based partners, depending on pricing and services offered by the selected firm.

III. CONTENTS OF THE PROPOSAL

Proposals should include information requested in this section. Emphasis will be on completeness and clarity of content and needs to be organized in the order in which the requirements are presented in the RFP. Proposals will be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Firms should provide the following information:

A. A brief history of the firm. Include the name of the firm’s primary contact during the RFP process, to include phone numbers and email address.

B. Relevant Experience

Describe similar projects on which your firm has worked or highlight qualifications that uniquely qualify you to do this work. Provide samples and/or references where similar services have been provided. Include the name of the firm / organization, the year the project was implemented, the complete mailing address, and the name of the contact person and its telephone number and email address.

To be competitive, a firm must have previously done a campaign readiness assessment study for other institutions of higher learning.

C. Services

Based on the information provided in the RFP, provide:

1. An overview of the various components and services the firm will utilize in order to assess the University’s readiness for the upcoming campaign and to help the institution determine where to focus planning and preparation efforts.

2. The proposed project timeline from the time of award.

3. Any and all fees and expenses (e.g., travel) the firm proposes to charge the University to complete the project. Describe how the University would be invoiced.

D. Contractual Arrangements

1. Provide the University with any form or contract the University may be requested to sign.

2. State the firm’s agreement to receive payments electronically via Bank of America’s (“BoA”) ePayables® method of electronic payment or BoA’s PayMode® method of electronic payment. For more information about these
payment methods, reference the contractual provision in Attachment 1 regarding this subject and also this link: http://www.procurement.virginia.edu/pagepaymentmethods

E. The firm’s Small, Woman-owned and Minority-owned (SWAM) businesses status and/or how the firm intends to utilize SWAM firms in regards to this particular procurement. For more information about SWAM and the University’s SWAM plan, please refer to this site: www.procurement.virginia.edu/main/publicpostings/rfp/SWAMplan.pdf. Any questions related to SWAM business and SWAM subcontracting opportunities can be directed to Les Haughton, Director, Supplier Diversity, at (434) 924-7174 or lh7sn@virginia.edu.

F. Specify any assumptions you are making in this proposal, and provide any other information which the University should consider in evaluating the firm's proposal.

IV. BASIS OF SELECTION

The University will evaluate proposals, and if a firm is to be selected, select the firm on the basis of:

A. The firm's plan to provide the University with the services as described in Section II, Scope of Services;

B. The firm’s experience in providing Services similar to those described in this RFP, to include the firm’s references from clients;

C. The firm’s financial proposal;

D. The firm’s Small, Woman-owned and Minority-owned (SWAM) businesses status and/or the firm’s plan for utilization of SWAM businesses. Note: A 10% minimum weight will be given to this criterion in evaluating proposals; and

Proposals will be evaluated based upon the overall merits/value of the proposal including, but not limited to, price. All proposals received will be carefully evaluated by the University. The University then intends to conduct negotiations with two or more firms. After negotiations have been conducted, if the University chooses to make award, the University will select the firm which, in its opinion, best meets the needs of the University. Alternately, if the University determines in writing and in its sole discretion that only one firm is fully qualified, or that one firm is clearly more highly qualified than the others under consideration, it may decide to negotiate and award an agreement to that single firm. In either event, the University intends to execute a mutually satisfactory written agreement which will reflect and largely incorporate this RFP as reconciled with any pertinent documents, such as the proposal submitted and relevant negotiation correspondence.

Because the University may choose to negotiate and award to a single firm as discussed above, each firm must include in its written proposal all requirements, terms or conditions it may have,
and should not assume that an opportunity will exist to add such matters after the proposal is submitted.

Any firm(s) invited to negotiations should note that the University reserves the right to begin negotiations by combining the best aspects of submitted proposals from all responding firms as the basis for subsequent formation of any Agreement resulting from this RFP.

Firms should also note that, as described within, certain matters will automatically be deemed part of the proposal.

V. TERMS & CONDITIONS

This solicitation and any subsequent award are subject to the University’s Contractual Provisions shown in Attachment 1. Although such provisions will govern the firm’s proposals as submitted, the University and one or more firms may later mutually agree to amend certain provisions, such as when additional time is needed to consider proposals, or when contractual negotiations or performance indicate that such amendments are appropriate. Mandatory Provisions (provisions A – H) are required by law or regulation and cannot be changed. For General Provisions, unless a firm expressly and specifically states its exception to any of those provisions in its written proposal and/or provides proposed modifications, then the proposal from the firm will automatically be deemed to include those provisions.
MANDATORY PROVISIONS

A. Nondiscrimination
During the performance of this Agreement, Selected Firm will comply with the contract provisions contained in Section 2.2-4311 (1) & (2) of the Code of Virginia or any successor provisions which may be applicable to this Agreement. Also, in accordance with Section 2.2-4343.1, the University does not discriminate against faith-based organizations.

B. Conflict of Interests
Selected Firm represents to the University that its entering into this Agreement with the University and its performance through its agents, officers and employees does not and will not involve, contribute to nor create a conflict of interest prohibited by the Virginia State and Local Government Conflict of Interests Act (Va. Code 2.2-3100 et seq), the Virginia Ethics In Public Contracting Act (Va. Code 2.2-4367 et seq), the Virginia Governmental Frauds Act (Va. Code 18.2-498.1 et seq) or any other applicable law or regulation.

C. Independent Contractor
Selected Firm is not an employee of the University, but is engaged as an independent contractor. Selected Firm will indemnify and hold harmless the Commonwealth of Virginia, the University, and its employees and agents, with respect to all withholding, Social Security, unemployment compensation and all other taxes or amounts of any kind relating to Selected Firm's performance of this Agreement. Nothing in this Agreement will be construed as authority for Selected Firm to make commitments which will bind the University, or to otherwise act on behalf of the University, except as the University may expressly authorize in writing.

D. Workers' Compensation and Employers' Liability
The Selected Firm will (i) maintain Employers Liability coverage of at least $100,000 and (ii) comply with all federal or state laws and regulations pertaining to Workers' Compensation Requirements for insured or self-insured programs.

E. Drug-Free Workplace
Selected Firm, its agents and employees are prohibited, under the terms of this Agreement, Code of Virginia Section 2.2-4312, and the Commonwealth of Virginia, Department of Human Relations Management Policy Number 1.05, from manufacturing, distributing, dispensing, possessing, or using any unlawful or unauthorized drugs or alcohol while on University property.

During the performance of this Agreement, Selected Firm agrees to 1) provide a drug-free workplace for Selected Firm's employees; 2) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Selected Firm's workplace and specifying the actions that will be taken against employees for violations of such prohibition; 3) state in all solicitations or advertisements for employees placed by or on behalf of Selected Firm that it maintains a drug-free workplace; and 4) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.
For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific agreement awarded to a Selected Firm, the employees of whom are prohibited from engaging in the unlawful manufacturing, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this Agreement.

F. Information Technology Access Act
In accordance with § 2.2-3504 of the Code of Virginia, the following will apply to all information technology agreements:

NON-VISUAL ACCESS TO TECHNOLOGY: All information technology (the "Technology") which is purchased or upgraded by the University will comply with the following non-visual access standards from the date of purchase or upgrade until the expiration of this Agreement:

- Effective, interactive control and use of the Technology will be readily achievable by non-visual means;
- Technology equipped for non-visual access will be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;
- Non-visual access technology will be integrated into any networks used to share communications among employees, program participants or the public; and
- Technology for non-visual access will have the capability of providing equivalent access by non-visual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing non-visual access standards will not be required if the Director of Procurement and Supplier Diversity Services, University of Virginia determines that 1) the Technology is not available with non-visual access because the essential elements of the Technology are visual and 2) non-visual equivalence is not available.

Installation of hardware, software, or peripheral devices used for non-visual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information will permit the installation and effective use of non-visual access software and peripheral devices.

If requested, the agreement must provide a detailed explanation of how compliance with the foregoing non-visual access standards is achieved and a validation of concept demonstration.

G. Contractor License Requirements
State statutes and regulatory agencies require that some firms be properly registered and licensed, or hold a permit, prior to performing specific types of services. If the Selected Firm provide removal, repair, improvement, renovation or construction-type services they, or a qualified individual employed by the firm, must possess and maintain an appropriate State of Virginia Class A, B, or C Contractor License (as required by applicable regulations and value of services to be performed) for the duration of this Agreement. It is the Selected Firm’s responsibility to comply with the rules and regulations issued by the appropriate State regulatory agencies. A copy of the license must be furnished upon request to the University.
H. Unauthorized Alien Use
Selected Firm warrants that it does not knowingly employ an “unauthorized alien,” as such term is defined in the federal Immigration Reform and Control Act of 1986. Selected Firm furthermore agrees that, during the term of this Agreement, it will not knowingly employ an unauthorized alien.

GENERAL PROVISIONS

I. Assignment
Neither party to this Agreement will have the right to assign this Agreement in whole or in part without the prior written consent of the other.

J. Amendments
No amendment of this Agreement will be effective unless it is reduced to writing and executed by the University's Director of Procurement and Supplier Diversity Services and by the individual signing Selected Firm's proposal or by other individuals named by either party as specified in Section E, Notices below. If Selected Firm deviates from the terms of this Agreement without a written amendment, it does so at its own risk.

K. Notices
Any notice required or permitted to be given under this Agreement will be in writing and will be deemed duly given: (1) if delivered personally, when received; (2) if sent by recognized overnight courier service, on the date of the receipt provided by such courier service; (3) if sent by registered mail, postage prepaid, return receipt requested, on the date shown on the signed receipt; or (4) if sent by facsimile, when received (as verified by sender’s machine) if delivered no later than 4:00 p.m. (receiver’s time) on a business day or on the next business day if delivered (as verified by sender’s machine) after 4:00 p.m. (receiver’s time) on a business day or on a non-business day. All such notices will be addressed to a party at such party’s address or facsimile number as shown below.

If to the University:

    Eric N. Denby
    Director of Procurement and Supplier Diversity Services
    University of Virginia
    P.O. Box 400202
    Charlottesville, Virginia  22904-4202
    Phone: 434-924-4019
    Fax:     434-982-2690

If to Selected Firm:

    The person signing Selected Firm's proposal in response to the University's RFP, at Selected Firm's address indicated in such proposal; or to such other person or address as either may designate for itself in writing and provide to the other.

L. eVA Business To Government Registration
The eVA Internet electronic procurement solution, web site portal www.eva.virginia.gov, is the Commonwealth of Virginia's comprehensive electronic procurement system. The portal is the gateway for firms to conduct business with state agencies and public bodies. All agencies and
public bodies are expected to utilize eVA. All firms desiring to provide goods and/or services in the Commonwealth are encouraged to participate in the eVA Internet e-procurement solution. Selected Firm is required to register in the eVA Internet e-procurement solution prior to an award being made.

M. eVA Registration / Transaction Fee
The eVA Internet electronic procurement solution is the Commonwealth of Virginia's comprehensive electronic procurement system. The portal is a gateway for firms to conduct business with state agencies and public bodies. All agencies and public bodies are expected to utilize eVA and all firms desiring to provide goods and/or services in the Commonwealth are encouraged to participate in the eVA Internet e-procurement solution.

Selected Firm is required to register in the eVA Internet e-procurement solution as a condition of award and remain eVA registered during the term of this Agreement. Selected Firm will be subject to an eVA transaction fee, for which Selected Firm will be invoiced by Commonwealth of Virginia, Department of General Services. Additional information is available at www.eva.virginia.gov

N. Payment Terms
The University’s standard payment terms are Net 45. The Selected Firm may indicate payment terms of less than 45 days so long as those terms also contain a cash discount for early payment. For example: “1.25% 20/Net 45” would correspond to a 1.25% discount if paid in 20 days, otherwise Net 45. The University will compute discounts from the date of delivery of goods at destination, after final inspection, and acceptance, from the date of completion of services, or from the date the correct invoice is received in the Accounts Payable Division, whichever is later. The University will take the cash discount if payment is made within the specified time frame.

Unless alternate payment terms, with cash discounts, are proposed by the Selected Firm, invoices submitted to the University by the Selected Firm for the Goods and Services described in this RFP will be paid on a Net 45 days after receipt of the Goods and Services and University receipt and approval of the corresponding invoice.

The Selected Firm agrees to receive payments electronically and provide any additional discounts that may result from paying electronically. The firm will contact the University’s Payment Processor Specialist group in Procurement and Supplier Diversity Services to set up its preferred method of receiving electronic payments [Phone: (434) 924-4212 or email: uva-prs-boa@virginia.edu]. Accordingly, the Selected Firm agrees to accept Bank of America’s (“BoA”) ePayables® method of electronic payment or BoA’s PayMode® method of electronic payment. For more information go to this link: http://www.procurement.virginia.edu/pagepaymentmethods

O. Waiver
No waiver of any right will be deemed a continuing waiver, and no failure on the part of either party to exercise wholly or in part any right will prevent a later exercise of such or any other right.

P. Indemnification
Selected Firm will indemnify and hold harmless The Commonwealth of Virginia, The Rector and Visitors of the University of Virginia, and its agents, employees and officials from any and all
costs, damage or loss, claims, liability, damages, expenses (including, without limitation, attorneys' fees and expenses) caused by or arising out of the performance or non performance of this Agreement by Selected Firm or its agents or subcontractors, including the provision of any services or products. Selected Firm warrants that the products, services provided the University may be used by the University without being in violation of any copyright, patent or similar property right or claim by others and will defend, indemnify and save the University (its employees and agents) from and against any such claim.

Q. Termination
If Selected Firm fails to provide quality goods or services in a professional manner, solely as determined by the University, and, upon receipt of notice from the University, does not correct the deficiency to the University's satisfaction within a reasonable period of time, not to exceed five calendar days unless otherwise agreed to by both parties in writing, the University reserves the right to terminate this Agreement upon written notice to Selected Firm.

R. Non-Appropriation
Funding for any Agreement between the University and a Selected Firm is dependent at all times upon the appropriation of funds by the Virginia General Assembly and/or any other organization of the Commonwealth authorized to appropriate such funds. In the event that funding to support this Agreement is not appropriated, whether in whole or in part, then this Agreement may be terminated by the University effective the last day for which appropriated funding is available.

S. Right of Audit
The University reserves the right to audit or cause to be audited Selected Firm's books and accounts regarding the University's account at any time during the term of this Agreement and for three years thereafter. Selected Firm will make available to the University all books and records relating to performance of this Agreement as may be requested during said period. This specifically includes, but is not limited to, the right of the University to require that Selected Firm perform self-audits within reasonable parameters established by the University.

T. Contractual Claims
The Virginia Acts of Assembly of 2007, Chapter 943, Chapter 3, Exhibit P and its attachments requires contractors with the University to submit any claims, whether for money or other relief, in writing no later than 60 days after final payment; however, written notice of the contractors intention to file such a claim must be given at the time of the occurrence or beginning of the work upon which the claim is based. The University's procedure for deciding such contractual claims can be found at: http://www.procurement.virginia.edu/main/publicpostings/rfp/resolution.pdf

U. Insurance
Listed below is the insurance Selected Firm must maintain under any Agreement resulting from this RFP. In no event should Selected Firm construe these minimum required limits to be its limit of liability to the University. Selected Firm will maintain insurance which meets or exceeds the requirements of the University with insurance companies that hold at least an A- financial rating with A.M. Best Company. No Agreement will be executed by the University until Selected Firm satisfies the insurance requirements of the University. Selected Firm may be required to provide the University with a valid Certificate of Insurance before providing any goods or services to the University. The University reserves the right to approve any insurance proposed by Selected Firm.
The scope of goods or services does not include product installation or setup, maintenance service and the delivery is limited to a central delivery point, the minimum level of coverage will be:

Commercial General Liability:
Selected Firm and any Subcontractor will maintain a minimum combined single Limit of Liability for bodily injury and property damage of $500,000 per occurrence, with coverage for premises and operations.

Automobile Insurance:
Selected Firm and any Subcontractor will provide a minimum combined single Limit of Liability for bodily injury and property damage of $500,000 per accident on all owned, hired, and non-owned vehicles operated by its employees.

Additional Insured:
The University will be named as an Additional Insured, and the proper name is: "The Commonwealth of Virginia, and the Rector and Visitors of the University of Virginia, its officers, employees, and agents."

V. Use of Agreement by Third Parties
It is the intent of this Agreement to allow for cooperative procurement. Accordingly, any public body, public or private health or educational institution, or any University related foundation may access this Agreement if authorized by Selected Firm.

Participation in this cooperative procurement is strictly voluntary. If authorized by Selected Firm, this Agreement may be extended to the entities indicated above to purchase at fees in accordance with this Agreement. Selected Firm will notify the University in writing of any such entities accessing this Agreement. No modification of this Agreement or execution of a separate agreement is required to participate. Selected Firm will provide semi-annual usage reports for all entities accessing this Agreement. Participating entities will place its own orders directly with Selected Firm and will fully and independently administer its use of this Agreement to include contractual disputes, invoicing and payments without direct administration from the University. The University will not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by Selected Firm to extend this Agreement. It is understood and agreed that the University is not responsible for the acts or omissions of any entity, and will not be considered in default of this Agreement no matter the circumstances.

Use of this Agreement does not preclude any participating entity from using other agreements or competitive processes as the need may be.

W. The University's Authorized Representatives
The only persons who are or will be authorized to speak or act for the University in any way with respect to this Agreement are those whose positions or names have been specifically designated in writing to Selected Firm by the University's Director of Procurement and Supplier Diversity Services.

X. Purchasing Manual
This Agreement is subject to the provisions of the Commonwealth of Virginia "Purchasing Manual for Institutions of Higher Education and Their Vendors" and any subsequent revisions, which is available at this web site: https://vascupp.org/hem.pdf
Y. Small, Women-owned and Minority-owned (SWAM) Business Reporting
Selected Firm will identify and fairly consider SWAM firms for subcontracting opportunities when qualified SWAM firms are available to perform a given task in performing for the University under the resulting Agreement. Selected Firm will submit a quarterly SWAM business report to the University by the 8th of the month following each calendar quarter, specifically the months of April, July, October, and January. Selected Firm will submit the quarterly SWAM business reports to:

Lorie Strother
SWAM Contract Administrator
Procurement and Supplier Diversity Services
E-mail: mailto:lj8n@virginia.edu

The quarterly SWAM business reports will contain this information:

- SWAM firm’s name, address and phone number with which Selected Firm has contracted over the specified quarterly period.
- Contact person at the SWAM firm who has knowledge of the specified information.
- Type of goods and/or services provided over the specified period of time.
- Total amount paid to the SWAM firm as it relates to the University’s account.

Selected Firm’s failure to provide SWAM reports on a quarterly basis which contain the information required by this section and/or Selected Firm’s failure to comply with the plan for utilizing SWAM businesses submitted by Selected Firm as part of its proposal and/or negotiation response may be grounds for debarment pursuant to Section 9. G. 4 of the “Purchasing Manual for Institutions of Higher Education and their Vendors.”

Z. Ordering Procedures
The University does not place verbal orders for the Goods and Services. The University may only place orders for the Goods and Services by issuing a formal written Purchase Order in advance of Selected Firm’s provision of the Goods and Services. Accordingly, at the University’s request, Selected Firm will issue a proposal/quotation listing the Goods and Services desired by the University and the corresponding fees and/or fee estimates. After any necessary discussions and/or revisions, the University will issue a corresponding Purchase Order for a specified fee amount. This specified fee amount cannot be exceeded by Selected Firm unless a new formal written Purchase Order or Purchase Order revision is issued by the University authorizing a specific additional fee amount. Under no circumstances does the University authorize Selected Firm to provide the Goods and Services before receipt of a formal written Purchase Order corresponding to its proposal/quotation. If Selected Firm provides Goods and Services prior to receipt of a formal written Purchase Order, or incurs costs in excess of authorized purchase order fee amounts, it does so at its own risk.

AA. Favored Customer
Selected Firm represents that the prices, terms, warranties, and benefits specified in its proposal are comparable to or better than the equivalent terms being offered by the firm to any present customer.

BB. Future Goods and Services
The University reserves the right to have Selected Firm provide additional goods and/or services that may be required by the University during the Term of this Agreement. Any such goods and/or services will be provided under the same terms and conditions of this Agreement. Such additional goods and services may include other products, components, accessories, subsystems
or related services provided by Selected Firm. These additional goods and services will be
provided to the University at Favored Customer pricing conditions.

CC. **Marketing**
The University encourages Selected Firm to appropriately and specifically market itself to
applicable end-using University departments that may be interested in Selected Firm’s Goods and
Services. However, Selected Firm will not use non-specific mass marketing formats; such as, but
not limited to, spam, emails and junk mail. In the event that Selected Firm engages in non-
specific mass marketing formats, the University, in its sole discretion, may choose to terminate
this Agreement.

DD. **Compliance**
Selected Firm will comply with all applicable laws and industry standards in performing services
under this Agreement. Any Selected Firm personnel visiting the University’s facilities will
comply with all applicable University policies regarding access to, use of, and conduct within
such facilities. The University will provide copies of such policies to Selected Firm upon request.

EE. **Intellectual Property Rights/Disclosure**
Unless expressly agreed to the contrary in writing, all goods, products, materials, documents
reports, writings, video images, photographs or papers of any nature including software or
computer images prepared or provided by Selected Firm (or its subcontractors) for the University
will not be disclosed to any other person or entity without the written permission of the
University. Selected Firm warrants to the University that the University will own all rights, title
and interest in any and all intellectual property rights created in the performance or otherwise
arising from any Agreement resulting from this RFP and will have full ownership and beneficial
use thereof free and clear of claims of any nature by any third party including without limitation
copyright or patent infringement claims. Selected Firm will execute any assignments or other
documents needed for the University to perfect such rights. Notwithstanding the foregoing, for
research collaboration pursuant to subcontracts under sponsored research agreements
administered by the University's Office of Sponsored Programs, intellectual property rights will
be governed by the terms of the grant or contract to the University to the extent such grant or
contract requires intellectual property terms to apply to subcontractors.

FF. **Force Majeure**
Neither the University or Selected Firm (individually, a “Party”) will be deemed in default or
otherwise liable hereunder due to its inability to perform by reason of any fire, earthquake, flood,
epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance,
act of public enemy, embargo, war, act of God, or any municipal, county, state, national or
international ordinance or law or any executive, administrative, judicial or similar order,
including orders from any governing body (which order is not the result of any act or omission to
act which would constitute a default under this Agreement), or any failure or delay of any
transportation, power, or other essential thing required, or similar causes beyond the Party’s
control. Any delay in performance will be no greater than the event of force majeure causing the
delay. If an event of force majeure continues uninterrupted for a period exceeding six calendar
months, either Party may elect to terminate this Agreement upon notice to the other, but such
right of termination, if not exercised, will expire immediately upon the discontinuance of the
event of force majeure.

GG. **Goods and Services**
During the term of this Agreement, Selected Firm will provide for the University the goods and
services offered to the University by the firm in its proposal and/or any addenda to its proposal
that has been approved in writing by the University and as may be further specified by the University in writing when it selected the firm.

HH. Governing Law
This Agreement and all aspects of the Service will be governed by and construed in accordance with the internal laws of the Commonwealth of Virginia.

II. Entire Agreement
This is the entire agreement between the University (including University employees and other End Users) and Selected Firm. In the event that Selected Firm enters into terms of use agreements or other agreements or understanding, whether electronic, click-through, verbal or in writing, with University employees or other End Users, such agreements shall be null, void and without effect, and the terms of this Agreement shall apply.

JJ. Agreement Signature
This Agreement may be executed in counterparts, each of which will be deemed an original, and both of which taken together will constitute one and the same document. Electronically transmitted signatures will be deemed originals for all purposes relating to the agreement.