



DEPARTMENT OF
GENERAL SERVICES

COMMONWEALTH OF VIRGINIA

DIVISION OF PURCHASES & SUPPLY (DPS)
1111 East Broad Street, Richmond, Virginia 23218-1199

REQUEST FOR QUALIFICATIONS (RFQ) OPEN ENROLLMENT # 60193

ENERGY PERFORMANCE CONTRACTORS

NIGP Commodity Codes: 96131

Issue Date: February 29, 2024 • **Due Date/Time:** April 1, 2024 – 10:00 A.M. EST

Contract Officer: Anna S. Croak, VCA, VCO E-mail Address: Anna.Croak@dgs.virginia.gov

This solicitation is for new vendors who are not included in the current pool, (formerly E194-82899) that desire to be considered as a qualified ESCO Contractor. An abbreviated response will be accepted from previously qualified ESCO Contractors (please see instructions below in section “Subsequent Period(s) of Qualification”).

USING AGENCY AND/OR LOCATION WHERE WORK WILL BE PERFORMED: All Commonwealth of Virginia agencies, institutions of higher education, or other public bodies (collectively “Authorized Users”) as defined in *Code of Virginia* §2.2-4301, and any other public bodies which may be added through amendment to any Contract.

QUALIFICATION SUBMISSION: All qualifications must be received electronically by the date and time shown on the cover page of this solicitation via <https://eva.virginia.gov/> . Any qualifications received after the stated time and date will not be considered. Please see Attachment B, RFQ Submission Instructions for additional instructions.

OPTIONAL PRE-PROPOSAL CONFERENCE: A Pre-Proposal Conference will not be held.

CLARIFICATIONS: Submit questions about the specifications or other solicitation documents to the Contract Officer whose name appears on the face of this solicitation, **in writing**, no later than twenty (20) calendar days before the due date. **Oral requests for information will not be accepted.** No further written inquiries will be accepted after **4:00 P.M. EST** on the 12th day of March. Any revisions to the solicitation will be made only by an addendum issued by the Contract Officer named above and posted on the state procurement website at www.eva.virginia.gov . Any addenda, notifications, extensions, cancellations, or changes will be posted to the state procurement website. No other notification is required. It is the responsibility of the prospective Offeror to obtain all current information from the eVA website.

PERIOD OF QUALIFICATION: Five (5) years from date of qualification. Applications from new Offerors will be accepted during an open enrollment period from July 1 – August 31 every two (2) years within the remaining five (5) year period of E194-82899. Qualifications resulting from open enrollment period will have the same expiration date as the qualifications resulting from RFQ E194-82899.

NOTE: Due to rescheduling, this Open Enrollment serves to satisfy the July 1, 2023 – August 31, 2023 enrollment period. The next Open Enrollment is scheduled for July 1, 2025 – August 31, 2025.

SUBSEQUENT PERIOD(S) OF QUALIFICATION: The Commonwealth reserves the right to allow contractors with approved qualifications as a result of this solicitation to submit a condensed/abbreviated response to the future statewide energy performance contractors RFQ(s). **Previously approved qualified contractors only have to submit the cover page, section I. General Information and a statement that no changes in sections II. - VII. have occurred since their company was originally qualified. Any changes must be submitted in the format contained in this RFQ.**

Company Name: _____	Email: _____
Address: _____	Telephone: _____
City/State/ZIP: _____	Fax: _____
Signature: _____	Cell: _____
Printed Name: _____	DUNS Number: _____
Title: _____	eVA Vendor ID: _____
Date: _____	Vendor SCC ID: _____

	SWaM Certification Number: _____
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NOTE: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, §2.2-4343.1 or against an Offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

COMMONWEALTH OF VIRGINIA

STANDARD FORM

FOR

CONTRACTOR'S STATEMENT

OF QUALIFICATIONS

*TO BE COMPLETED IN RESPONSE TO THE RFQ AND THE QUALIFICATION CRITERIA
PROVIDED THEREIN*

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CONTRACTOR'S STATEMENT OF QUALIFICATIONS

I. General Information

1. Identification of Electronic Proposal

Submitted to (agency): *Department of General Services*

Address: <https://eva.virginia.gov/>

2. Name of Project: *Open Enrollment: Qualifications for Statewide Vendors List for Energy Performance Contractors*

3. Type of work you are being qualified for:

Energy Performance Contracting

4. Contractor's Name:

Mailing Address:

Street Address: (If not the same as mailing address)

Web site:

Telephone Number: ()

Facsimile Number: ()

Contact Person:

Contact Person's Phone Number: ()

Contact Person's Email Address:

State Contractor's License Number:

SCC Registration Number:

Designated Employee Registered with the Virginia Board for Contractors:

Provide the name and title, direct telephone number (including extension), pager number, cellular telephone number and direct e-mail address of the highest ranking individual within the organization that will have oversight responsibility for the organization's involvement with the Projects (if not the designated contact person above):

If different from the location provided above, provide the organization's local or regional office information (including physical address, mailing address, telephone number, facsimile number and main e-mail address or web site address) to be used in delivering the requested services to be provided on the Project:

Provide the number of years that the organization has been providing services similar to those requested by this RFQ, including a delineation of this information for both the headquarters location and the local or regional office (as appropriate) that will be used in delivering the requested services on the Project.

5. Check type of organization:

Corporation ____ Partnership ____
Individual ____ Joint Venture ____
Other (describe) _____

If the Proposal is being made by a legal joint venture, the response must include the information required within this section of the CO16 for both organizations that constitute the joint venture and a copy of the joint venture agreement must be attached.

6. If a corporation -

State of Incorporation:

Date of Incorporation:

Federal I.D. #:

<u>Officers</u>	<u>Name / Contact Info</u>	<u>Years in Position</u>
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Chief Executive Officer:

Chief Financial Officer:

President:

Vice President:

Secretary:

Treasurer:

Manager of local office that will have primary responsibility for delivering these projects: (If multiple office locations around the state will be providing the services, then provide the following for each office location the manager's name, phone number, address of office and title.)

Are you a Subchapter S Corporation? Yes ____ No ____

7. If a partnership -

Date organized:

Type of partnership:

List of General Partners:

	<u>Name</u>	<u>Phone #</u>	<u>Years as G.P.</u>
8.	If individually owned - Years in Business:		
9.	Have you ever operated under another name? Yes ___ No ___ If yes - Other name: Number of years in business under this name: State license number under this name:		
10.	Department of Small Business and Supplier Diversity (DSBSD) Certifications: Check all that apply: Micro Business _____ DSBSD Certification No.: _____ Small Business _____ DSBSD Certification No.: _____ Small Woman Owned Business _____ DSBSD Certification No.: _____ Small Minority Owned Business _____ DSBSD Certification No.: _____ Service Disabled Veteran Owned Business _____ DSBSD Certification No.: _____		

II. Bonding – There will be two letters

Part A - Commonwealth of Virginia Performance Bonds and Commonwealth of Virginia Standard Labor and Material Bond

Provide a letter from your surety company listing your organization’s current single Project and total Projects bonding capacity, including such information for the local or regional office that will be used in delivering the services to be provided on the Project (if the local or regional office is separately bonded); attach this letter to this form.

1. Bonding Company's name:

Address:

Representative (Attorney-in-fact):

2. Is the Bonding Company listed on the United States Department of the Treasury list of acceptable surety corporations?

Yes ___ No ___

3. Is the Bonding Company licensed to transact surety business in the Commonwealth of Virginia?

Yes ___ No ___

4. Describe the capacity the organization has to meet the project schedule and demands. Include an analysis of current workload.

Part B – Bonding for the Energy Bond which is for each year of the financing/payback period

Provide a letter from your surety company listing your organization’s current capacity for providing this bonding, including such information for the local or regional office that will be used in delivering the services to be provided on the Project (if the local or regional office is separately bonded); attach this letter to this form.

1. Bonding Company's name:

Address:

Representative (Attorney-in-fact):

2. Is the Bonding Company listed on the United States Department of the Treasury list of acceptable surety corporations?

Yes ___ No ___

3. Is the Bonding Company licensed to transact surety business in the Commonwealth of Virginia?

Yes ___ No ___

4. Describe the capacity the organization has to meet the project schedule and demands. Include an analysis of current workload.

III. Judgments

In the last ten (10) years, has your organization, or any officer, director, partner or owner, had judgments entered against it or them for the breach of contracts for construction?

Yes ___ No ___

If yes, on a separate attachment, state the person or entity against whom the judgment was entered, give the location and date of the judgment, describe the project involved, and explain the circumstances relating to the judgment, including the names, addresses and phone numbers of persons who might be contacted for additional information.

IV. Convictions and Debarment

If you answer yes to any of the following, on a separate attachment, state the person or entity against whom the conviction or debarment was entered, give the location and date of the conviction or debarment, describe the project involved, and explain the circumstances relating to the conviction or debarment, including the names, addresses and phone numbers of persons who might be contacted for additional information.

1. In the last ten (10) years, has your organization or any officer, director, partner, owner, project manager, procurement manager or chief financial officer of your organization:
- a. ever been fined or adjudicated of having failed to abate a citation for building code violations by a court or local building code appeals board?
Yes ___ No ___
 - b. ever been found guilty on charges relating to conflicts of interest?
Yes ___ No ___
 - c. ever been convicted on criminal charges relating to contracting, construction, bidding, bid rigging or bribery?
Yes ___ No ___
 - d. ever been convicted: (i) under Va. Code Section 2.2-4367 et seq. (Ethics in Public Contracting); (ii) under Va. Code Section 18.2-498.1 et seq. (Va. Governmental Frauds Act); (iii) under Va. Code Section 59.1-68.6 et seq. (Conspiracy to Rig Bids); (iv) of a criminal violation of Va. Code Section 40.1-49.4 (enforcement of occupational safety and health standards); or (v) of violating any substantially similar federal law or law of another state?
Yes ___ No ___

- e. ever been convicted on charges relating to employment of illegal aliens on construction projects?
Yes ___ No ___
- 2. a. Is your organization or any officer, director, partner or owner currently debarred or enjoined from doing federal, state or local government work for any reason?
Yes ___ No ___
- b. Has your organization or any officer, director, partner or owner ever been debarred or enjoined from doing federal, state or local government work for any reason?
Yes ___ No ___

V. Compliance

If you answer yes to any of the following, on a separate attachment give the date of the termination order, or payment, describe the project involved, and explain the circumstances relating to same, including the names, addresses and phone numbers of persons who might be contacted for additional information.

- 1. Has your organization:
 - a. ever been terminated on a contract for cause?
Yes ___ No ___
 - b. within the last five years, made payment of actual and/or liquidated damages for failure to complete a project by the contracted date?
Yes ___ No ___
- 2. Has your organization, in the last three years, received a final order for willful and/or repeated violation(s) for failure to abate issued by the United States Occupational Safety and Health Administration or by the Virginia Department of Labor and Industry or any other government agency?
Yes ___ No ___
- 3. Have any Performance or Payment Bond claims ever been paid by any surety on behalf of your organization?
Yes ___ No ___
- 4. Has your organization been **more than thirty (30) days late, without good cause**, in achieving the contracted substantial completion date where there was no liquidated damages provision on more than two (2) projects in the last three (3) years?
Yes ___ No ___
- 5. Has your organization **finally completed a project** more than ninety (90) days after achieving substantial completion on two (2) or more projects in the last three (3) years, for reasons within the contractor's control? Documented delay of delivery of material necessary to perform remaining work or seasonal conditions that bear on performing the work or operating specific equipment or building systems shall be considered in litigation.
Yes ___ No ___

6. Has your organization **received more than two (2) cure notices** on a single project in the past two (2) years and/or more than one (1) cure notice on five (5) separate projects in the past five (5) years?
Yes ___ No ___
7. Has your organization **had repeated instances** on a project of **installation and workmanship deviations which exceed the tolerances of the standards referenced** in the contract documents? Documentation of such instances shall be the written reports and records of the Owner's representatives on the project.
Yes ___ No ___

VI. Experience

If your organization has multiple offices, provide the following information for the office that would handle projects under this prequalification. If that office has limited history, list its experience first.

Projects are defined as accumulated energy performance measures combined together that have a direct impact on reducing the energy consumption of a facility over a period of time and that these energy reductions can be measured and verified. **Only list projects that you were the prime contractor on.**

1. Attach a list of all energy performance projects, giving project name, location, size (square footage), dollar value, and completion date for each that your organization has **completed (in performance period)** in the last ten (10) years at the state and local government level, inclusive of K-12 education. List projects in Virginia separately.
2. Attach a list of your organization's energy performance projects in **progress (in construction)**, if any, at the time of submission. At a minimum, provide project names, owner type (State, local or private) and address, contract amounts, percentages complete.
3. References are being requested for four projects. The project references shall at a minimum consist of two (2) projects that were completed in the past five (5) years and two (2) projects that are in progress. If a reference cannot be reached for verification of the work and performance, then the submitting contractor will not receive credit for that reference, which will impact the pre-qualification.

Firm Representative Project 1 as the Prime

Project Name:

Project Status (Complete or in Progress):

Project Address:

Owner's Name:

Owner Type (state, local, or private):

Address:

Phone Number:

Contact:

Total Dollar Value of the Contract:

What was the financing method and term:

List of energy conservation measures that were performed under the project:

Provide the payback schedule: (number of years and amount of payback per year inclusive of negative years)

Provide narrative on how the maintenance and operations savings were determined as part of the project:

Provide a narrative on how the measurement and verification was performed and was it done for the duration of the contract: Duration of contract

Provide a narrative on how the project needs were determined (technical audit) and if energy savings were used for longer payback items:

During the annual Measurement and Verification (M&V), please explain any failures in achieving guaranteed level of savings and how was it brought back in line.

Firm Representative Project 2 as the Prime

Project Name:

Project Status (Complete or in Progress):

Project Address:

Owner's Name:

Owner Type (state, local, or private):

Address:

Phone Number:

Contact:

Total Dollar Value of the Contract:

What was the financing method and term:

List of energy conservation measures that were performed under the project:

Provide the payback schedule: (number of years and amount of payback per year inclusive of negative years)

Provide narrative on how the maintenance and operations savings were determined as part of the project:

Provide a narrative on how the measurement and verification was performed and was it done for the duration of the contract: Duration of contract

Provide a narrative on how the project needs were determined (technical audit) and if energy savings were used for longer payback items:

During the annual M&V, please explain any failures in achieving guaranteed level of savings and how was it brought back in line.

Firm Representative Project 3 as the Prime

Project Name:

Project Status (Complete or in Progress):

Project Address:

Owner's Name:

Owner Type (state, local, or private):

Address:

Phone Number:

Contact:

Total Dollar Value of the Contract:

What was the financing method and term:

List of energy conservation measures that were performed under the project:

Provide the payback schedule: (number of years and amount of payback per year inclusive of negative years)

Provide narrative on how the maintenance and operations savings were determined as part of the project:

Provide a narrative on how the measurement and verification was performed and was it done for the duration of the contract: Duration of contract

Provide a narrative on how the project needs were determined (technical audit) and if energy savings were used for longer payback items:

During the annual M&V, please explain any failures in achieving guaranteed level of savings and how was it brought back in line.

Firm Representative Project 4 as the Prime

Project Name:

Project Status (Complete or in Progress):

Project Address:

Owner's Name:

Owner Type (state, local, or private):

Address:

Phone Number:

Contact:

Total Dollar Value of the Contract:

What was the financing method and term:

List of energy conservation measures that were performed under the project:

Provide the payback schedule: (number of years and amount of payback per year inclusive of negative years)

Provide narrative on how the maintenance and operations savings were determined as part of the project:

Provide a narrative on how the measurement and verification was performed and was it done for the duration of the contract: Duration of contract

Provide a narrative on how the project needs were determined (technical audit) and if energy savings were used for longer payback items:

During the annual M&V, please explain any failures in achieving guaranteed level of savings and how was it brought back in line.

4. Staffing: Describe how your firm would staff energy projects. The Proposal must include a description of the duties and responsibilities of all key Project team members and an organizational chart indicating the title or function of each individual and the reporting structure and functional relationships between the team members. All services to support the design build process shall be part of this response.
5. Personnel experience: For all designated key personnel (i.e.: project managers, engineers, estimators, commissioning, superintendent, etc.) describe the background and experience that would qualify him or her to serve successfully on an energy project. For all key personnel provide the following:
- a. Title.
 - b. Number of years of experience in the energy and construction industry.
 - c. Summary of education, including the name(s) of the institution(s) from which the individual graduated and the year(s) of graduation.
 - d. Listing of professional registrations, including registration numbers and dates that the respective registrations were first obtained, per state, along with any certifications relevant to the individual's proposed function on this project.
 - e. List of any professional / trade organization affiliations and associations in which the individual actively participates.
 - f. Number of years with this energy performance contractor
 - g. Project participation under this energy performance contractor – provide a brief description of the nature of the energy project, the person's role in the energy project, total value of the energy project
 - h. Knowledge in the use of Department of Energy (DOE's) eProject Builder M&V module for M&V and update as needed. The Owner shall not do this task. To access the project data template, go to <https://eprojectbuilder.lbl.gov> and select the "Help/Documentation" tab. Click the "New Project Override Template".*
 - i. Knowledge in the use of Federal Energy Management Program (FEMP) measures guidelines related to M&V options for Energy Service Company (ESCO) projects.*

* At least one key personnel member shall have the knowledge required in items (h) and (i).

6. Provide additional attachments, as required, in response to any additional agency-specified prequalification criteria provided in the RFQ.
7. Check the corresponding category for which your firm specializes in. Check all that apply:

_____ Local Government	_____ K-12 schools
_____ Colleges & Universities	_____ Waste water treatment plant
_____ Water works	_____ Hospital/medical facilities
_____ Prisons	_____ Local/regional jails
_____ Other state agencies	_____ Recreational/Agricultural facilities (Indoor & Outdoor i.e. Parks, Stadiums, Farmers Markets, etc.)
_____ Office Buildings	

8. IDENTIFICATION OF PROPOSAL ENVELOPE: The signed proposal should be returned electronically.

VII. Small Business Participation

The Commonwealth of Virginia has a small business goal of 42% participation. This would be sub-contracting opportunities. Provide information on how your firm reaches out into the small business community to solicit opportunities for their participation in the energy projects.

VIII. Signatures

The undersigned certifies under oath that the information contained in this Statement of Qualifications and attachments hereto is complete, true and correct as of the date of this Statement.

(Name of entity signing this Statement of Qualifications)

By: Name of Signer (print) _____

(Signature in ink)

Title: _____

Date: _____

Notary

State of: _____

County/City of: _____

Subscribed and sworn to before me this _____ day of _____, 20__.

Notary Public Signature

My commission expires: _____

Notary Seal:

Attachments (to be provided with this qualification statement):

1. Attachment A: Standard Performance Bond
2. Attachment B: IFB Submission Instructions
3. Attachment C: eVA Registration Requirements
4. Attachment D: SCC Form
5. Additional information, if any, provided under CO-16 Sections III, IV, V
6. Information required under CO-16 Section VI (i.e.: project listings, organizational chart, key personnel resumes, completed etc.)

The current edition of the following documents shall be utilized in executing any resulting contracts for energy projects.

1. Instructions to Users for State Agencies and Institutions of Higher Education (Attachment A)
2. Instructions to Users for Other Public Bodies (Attachment B)
3. Request for Proposal for the Back of the Envelope (Attachment C)
4. Technical Audit Memorandum of Understanding (Attachment D)
5. Commonwealth of Virginia CO-9ESCO Contract (located in the DGS Form center)
6. Commonwealth of Virginia CO-7DB Design Build Terms and Conditions (located in the DGS Form center)
7. SUPPLEMENTAL GENERAL CONDITIONS FOR ENERGY SERVICE COMPANY (ESCO) CONTRACTS (located in the DGS Form center)
8. Investment Grade Audit (firm generated)
9. Payment and Performance Bonds (located in the DGS Form center)
10. Energy Bonds (Surety Company)
11. Other contract forms as may be required by the other public bodies.

DGS Form Center: <https://dgs.virginia.gov/search/documents-and-forms/?filter=DEB>

**COMMONWEALTH OF VIRGINIA
STANDARD PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: That _____, the Contractor (“Contractor” or “Principal”) whose principal place of business is located at _____ and _____ (“Surety”) whose address for delivery of ‘Notices’ is located at _____ are held and firmly bound unto the Commonwealth of Virginia, _____, the Owner (“Obligee”) in the amount of _____ Dollars (\$ _____) for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Principal has by written agreement dated _____ entered into a contract with Obligee for _____ which contract (the "Contract") is by reference expressly made a part hereof;

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Principal shall promptly and faithfully perform said Contract in strict conformity with the plans, specifications and conditions of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Provided, that any alterations which may be made in the terms of the Contract, or in the Work to be done under it, or the giving by the Obligee of any extension of time for the performance of the Contract, or any other alterations, extensions or forbearance on the part of either or both of the Obligee or the Principal to the other shall not in any way release the Principal and the Surety, or either of them, their heirs, executors, administrators, successors or assigns from their liability hereunder, notice to the Surety of any such alterations, extension, or forbearance being hereby waived.

No action shall be brought on this bond unless brought within five years after completion of the Contract. Completion of the Contract is established when the final payment is made to the Contractor pursuant to the terms of the Contract. However, if a final certificate of occupancy or written final acceptance of the Project is issued prior to final payment, the five-year period to bring an action shall commence no later than 12 months from the date of the certificate of occupancy or written final acceptance of the Project. The Surety represents to the Principal and to the Obligee that it is legally authorized to do business in the Commonwealth of Virginia.

Signed and sealed this ____ day of ____

Contractor / Principal (SEAL)

Witness

By: _____
Typed Name: _____
Title: _____

Surety (SEAL)

By: _____
Attorney-in-Fact
Typed Name: _____

AFFIDAVIT AND ACKNOWLEDGEMENT OF ATTORNEY-IN-FACT

COMMONWEALTH / STATE OF _____
CITY/COUNTY/TOWN of _____

I, the undersigned notary public, do certify that _____, whose name is signed to the foregoing performance bond in the sum of _____ and dated _____ and which names the Commonwealth of Virginia, _____, as Obligee, personally appeared before me today in the above jurisdiction and made oath that he/she is the attorney-in-fact of _____, a _____ corporation which is the Surety in the foregoing bond, that he/she is duly authorized to execute on the above Surety's behalf the foregoing bond pursuant to the Power of Attorney noted above and attached hereto, and on behalf of the surety, he/she acknowledged the foregoing bond before me as the above Surety's act and deed.

She/he has further certified that her/his Power of Attorney has not been revoked.

[Complete if Power is recorded: Clerk's Office: _____;
Deed Book/Page No. or Instrument No.: _____.]

Given under my hand this ____ day of ____.

Notary Public (SEAL)

My name (printed) is: _____
My registration number is: _____
My commission expires: _____

APPROVED:

[Deputy] [Senior] Assistant Attorney General
Designee of the Attorney General
pursuant to delegation dated _____

Date

Terms and Conditions of the Performance Bond

- 1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the prompt and faithful performance of the Contract, which is incorporated herein by reference.
- 2 If the Contractor promptly and faithfully performs the Contract in strict conformity with the plans, specifications and conditions of the Contract, the Surety and the Contractor shall have no obligations under this Bond.
- 3 In the event of the Contractor's Default, and subsequent notification to the Surety pursuant to Section 41 of the General Conditions of the Contract, the Surety shall, within fourteen (14) days of receipt of such notice, contact the Owner in writing, and arrange a meeting with the Owner to discuss methods of completing the Contract. See paragraph 4, below, for the options to be discussed. If the Surety fails to arrange a meeting or fails to attend such meeting, the Surety shall be deemed to be in default on this Bond and the Owner may, at its sole discretion, take what measures it deems necessary to protect the Owner's interests, without further notice to the Surety, and the Owner shall be entitled to enforce any remedy available to the Owner under the Contract or under Virginia law.
- 4 Within thirty (30) days after such meeting, during which time the Surety may investigate and otherwise analyze the project, and which period shall not toll any Contract time periods nor operate as a waiver of any of the Owner's rights, the Surety shall, at its own expense, notify the Owner in writing that it is taking one of the following actions, which shall be acceptable to the Owner, at the Owner's sole discretion:
 - 4.1 By written takeover agreement with the Owner, the Surety itself shall undertake to perform and complete the Contract, which it may do through its licensed agents or through licensed independent contractors. If the Owner, at its sole discretion, consents, the Contractor may serve as the Surety's independent contractor (however, due to conflicts with the Virginia Public Procurement Act, the Owner may not directly contract with an otherwise qualified independent contractor produced by the Surety); or
 - 4.2 The Surety may, if acceptable to the Owner and at the Owner's sole discretion, waive its right to perform and complete the Contract, and with reasonable promptness under the circumstances:
 - 4.2.1 Pay to the Owner all amounts for which it may be liable to the Owner as surety on this Performance Bond, including the damages described in paragraph 6 below; or
 - 4.2.2 Deny liability, in whole or in part, and provide written notice thereof to the Owner, citing reasons therefor.
- 5 If, after the meeting described in paragraph 4, above, the Surety does not proceed with reasonable promptness with one of the options provided in subparagraphs 4.1 or 4.2 (including its subparts), above, the Owner may send additional written notice to the Surety

demanding that the Surety perform its obligations under the Bond. If the Surety does not proceed to perform its obligations under the Bond within fifteen (15) days after receipt of said notice, the Surety shall be deemed to be in default on this Bond. Thereafter, the Owner shall be entitled to enforce any remedy available to the Owner under the Bond, the Contract or Virginia law. If the Surety proceeds as provided in Subparagraph 4.2, and the Surety and the Owner are unable to agree as to the amount for which the Surety may be liable to the Owner, or if the Surety has denied liability, in whole or in part, the Owner, without further notice, shall be entitled to enforce any remedy available to the Owner under the Bond, the Contract or Virginia law. In such event, the Owner may immediately proceed to complete the work in any manner authorized by law.

6 After the Owner has terminated the Contractor's right to complete the Contract, and if the Surety elects to act under Subparagraph 4.1 or 4.2.1, above, then the responsibilities of the Surety to the Owner shall not be greater or less than those of the Contractor under the Contract, and the responsibilities of the Owner to the Surety shall not be greater than or less than those of the Owner under the Contract. To the limit of the amount of this Bond, plus the increased cost of any change orders under the Contract, provided the Owner commits the balance of the Contract Price to the prompt and faithful completion of the Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of the Contractor.

The Owner, at its sole discretion, may waive its claim to delay costs and/or liquidated damages.

7 The Surety shall not be liable to the Owner for obligations of the Contractor that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner, its officers, agencies, administrators, successors or assigns.

8 The Surety hereby waives notice of any changes, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations. The Surety understands and agrees that the penal amount of the bond shall be increased or decreased by any changes to time and amount incorporated into any Change Orders.

9 Any proceeding by the Owner, legal or equitable, under this Bond may be instituted in any Virginia state court of competent jurisdiction, as permitted under Section 8 of the General Conditions of the Contract and Virginia Code § 2.2-4337 and 2.2-4340, or by the Contractor or Surety, as permitted under the Contract or under Virginia law.

- 10 Notice to the Surety shall be mailed or delivered to the address shown on the Standard Performance Bond in the space for Surety address for delivery of Notices
- 11 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond when furnished to comply with statutory requirements.

12 DEFINITIONS

- 12.1 **Balance of the Contract Price:** The total amount payable by the Owner to the Contractor under the Contract after all proper adjustments have been made, reduced by all valid and proper payments made to or on behalf of the Contractor under the Contract.
- 12.2 **Contract:** The agreement between the Owner and the Contractor identified on first page of the Standard Performance Bond, DGS-30-084, CO-10, including all Contract Documents and duly executed modifications and change orders thereto.
- 12.3 **Contractor Default:** Failure of the Contractor, as defined under Section 41 of the General Conditions to the Contract, which has neither been remedied, as permitted under Section 41 at the Owner's sole discretion, nor expressly waived by the Owner, to perform or otherwise to comply with the terms of the Contract.
- 13 Nothing in these General Conditions shall prevent a surety from becoming involved in the Contract prior to termination, upon notice from the Owner of the Contractor's failure to promptly and faithfully perform the Contract in strict conformity with the plans, specifications and conditions of the Contract.

RFQ SUBMISSION INSTRUCTIONS

A. BID SUBMISSION REQUIREMENTS:

RFQ 60193 is Request for Qualifications; therefore, submissions outside of the eVA system, such as via e-mail, mail, or fax WILL NOT be accepted. Electronic sealed submissions will be received until the closing date and time provided in the solicitation. Any submission received after the closing date and time specified in the solicitation will not be considered and will be date and time stamped, marked "late" and retained unopened in the procurement file.

Prior to the due date, Submitters should:

- Check the status of the solicitation on eVA at www.eva.virginia.gov by clicking on Business Opportunities and then click on Virginia Business Opportunities (VBO) for any updates, changes, amendments, cancellations, etc.;
- Complete all attachments, amendments, exhibits, product information, etc. and attach electronically to the Submitter's electronic submission.

Submitters are solely responsible for reviewing, complying, and returning a complete and responsive submissions. Failure to submit any of the required information may result in the submission being declared non-responsive. Changes to the solicitation's forms or formats are prohibited except where clearly instructed and permitted.

Submissions:

Electronic submission with required documents attached is required. Submitter must be registered in eVA in order to submit qualifications. Submitters must provide one (1) complete copy of the submission and attachments.

The following are instructions for submitting an electronic submission:

- a. Go to www.eva.virginia.gov;
- b. Click on "I Sell To Virginia";
- c. Click on "eVA Supplier Training"; and
- d. Click on "Viewing and Responding to Solicitations Video".

If a Submitter need assistance with an electronic response, the Submitter must contact eVA Customer Care at 866-289-7367 or email eVACustomerCare@dgs.virginia.gov.

Opening:

A Public Opening will not be held.

Vendor eVA Registration Requirements

eVA Business-to-Government Vendor Registration, Contracts, and Order: *The eVA Internet electronic procurement solution, web site portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide construction and/or professional services to the Commonwealth shall participate in the eVA Internet e-procurement solution by completing the free eVA Vendor Registration. All bidders or offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in their bid/proposal being rejected.*

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees can be found on the eVA website at <https://eva.virginia.gov/eva-billing.html>.

eVA Orders and Contracts: *The solicitation/contract will result in multiple purchase orders with the eVA applicable transaction fee assessed for each order.*

State Corporation Commission Form**Virginia State Corporation Commission (SCC) registration information. The bidder:**

- is a corporation or other business entity with the following SCC identification number: _____ **-OR-**
- is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**
- is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the bidder in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location) **-OR-**
- is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned bidder's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

****NOTE**** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver):