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I. Purpose.

This document covers procurement policies and procedures pertaining to sole source procurements of IT goods and services. Executive branch agencies, as defined by § [2.2-2006](#) of the *Code of Virginia* and used herein as “agency/ies and institutions”, are subject to these policies and procedures, except those agencies and institutions explicitly exempted by the *Code of Virginia*.

II. Definitions.

“*Sole source procurements*” are those in which the cost of the procurement exceeds \$10,000, there is only one solution to meet an agency’s needs, and only one supplier can provide the IT goods and/or services required for the solution. Competition is not available for sole source procurements. Procurements in an amount less than \$200,000 are considered small purchases and small purchase policies apply. For more information of small purchase delegation, please review our [Small Purchase Policy](#). For sole source IT procurements less than \$250,000 (VITA’s delegation limit), agencies are encouraged to utilize [VITA’s Sole Source Approval Form](#) to document their sole source justification in the agency procurement file.

"Proprietary procurements" are those in which there is only one solution to meet an agency's needs; however, multiple suppliers may provide the IT goods and/or services required for the solution.

Competition may be available for proprietary procurements; therefore, the sole source process does not apply for these procurements.

III. General Information.

If only one source is practicably available for procurement of IT goods or services, a contract may be negotiated and awarded without competitive negotiation or competitive sealed bidding.

IV. Authority for Sole Source Procurements.

Unless otherwise instructed, agencies, as defined by § [2.2-2006](#) of the *Code of Virginia*, have delegated authority for sole source IT procurements of non- infrastructure goods and services up to \$250,000. All other sole source procurements for agencies over \$250,000, are not delegated and should be approved by VITA's Supply Chain Management (SCM). Because sole source procurements are not competitive, approval is granted on an exception-only basis.

Pursuant to § [2.2-5514](#), no purchase by an agency or public body may include software, hardware or services procured from those sources prohibited by the U.S. Department of Homeland Security for use on federal systems.

V. Enterprise Cloud Oversight Services (ECOS) Process.

Regardless of the amount, if the Sole Source Procurement involves an off- premise (cloud hosted) solution, agencies must follow the [ECOS Process](#) and [Third Party Policy Workflow](#). A Security Assessment of the cloud service application will need to be completed by the supplier and approved by ECOS, via a work request 1-003 submitted through VITA's ServiceNow portal at: , <https://vccc.vita.virginia.gov/> and special Cloud Services Terms & Conditions must be included in the contract prior to award. These may be obtained by sending a request to: scminfo@vita.virginia.gov.

VI. Negotiating a Contract.

For any sole source procurement, agencies, as defined by § [2.2-2006](#) of the *Code of Virginia* (VITA or the delegated agency), shall negotiate the optimal price and contract terms with the supplier.

VII. Sole Source Procurements Resulting in High Risk Contracts

[Section 2.2-4303.01](#) of the *Code of Virginia* defines "high risk contracts" and provides review and evaluation criteria for all public procurements anticipated to result in a high risk contract.

Prior to awarding a high-risk contract, VITA and the Office of the Attorney General will review the contract within 30 business days to determine the contract's compliance with state law and policy, as well as the legality and appropriateness of the contract terms and conditions. The review will also ensure the inclusion of distinct and measurable performance metrics and clear enforcement provisions in all high risk contracts, as well as clearly outlined penalties and incentives to be used in the event that contract performance metrics are not met.

Agencies are required to contact VITA's Supply Chain Management Division (SCM) at scminfo@vita.virginia.gov during the contract preparation stage for assistance in preparing and evaluating the proposed contract's terms and conditions, and with identifying and preparing the required performance measures and enforcement provisions.

VIII. Notice of Award.

Agencies, as defined by § [2.2-2006](#) of the *Code of Virginia*, must post a written notice of award specifying what is being procured, the contractor selected, the date the contract was or will be awarded, and a statement that only one source was determined to be practicably available. This notice shall be posted on [eVA](#) and, if elected, may be published in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Posting on [eVA](#) is required by all state public bodies. Local public bodies are encouraged to utilize [eVA](#).

IX. Sole Source Procurement Requests.

Agencies, as defined by § [2.2-2006](#) of the *Code of Virginia*, must utilize the following approval process to request a sole source procurement if the amount of the procurement is over \$250,000:

1. Forward a completed Sole Source Procurement Approval Request form to VITA's Supply Chain Management (SCM) at scminfo@vita.virginia.gov. This form is located on the web at: <http://vita.virginia.gov/supply-chain/scm-policies-forms/scm-policies/> -
2. After approval is obtained (see *Annex* for Approval Guidelines), the agency, as defined by § [2.2-2006](#), shall negotiate the contract and proceed with the purchase utilizing [eVA](#).

X. Authority Reference(s)

[§ 2.2-2006](#) of the *Code of Virginia*; includes the definition of “executive branch agency”

[§ 2.2-4303\(E\)](#) of the *Code of Virginia*; Identifies the characteristics of a sole source procurement situation and the public notice requirements for sole source procurements.

[§ 2.2-4303.01](#) of the *Code of Virginia*; Defines high-risk contracts and provides review and evaluation criteria for high-risk solicitations and resulting contracts.

[§ 2.2-5514](#) of the *Code of Virginia*. Prohibits the use of software, hardware, and services by public bodies as determined by the U.S. Department of Homeland Security, and communicated by the CIO.

Annex
Approval Guidelines

The table below provides approval requirements and routing guidelines for the Sole Source Procurement Approval Request Form:

	Infrastructure Goods/Services	Non-Infrastructure Goods/Services
Delegated Procurements	All infrastructure goods/services are nondelegated	Amount: up to \$250,000 Approval: Agency head or designee; SCM approval is not required Attach to eVA requisition.
Non-Delegated Procurements	Amount: Any Approval: Local Area Coordinator/Regional Service Director Route to SCM	Amount: over \$250,000 Approval: Agency head or designee Route to SCM