

**REQUEST FOR PROPOSAL  
PROFESSIONAL SERVICES**



Issue Date: February 5, 2018

RFP# 2018004-FN-P

Title: Auditing Services

Issuing Agency: Albemarle ACSA Service Authority  
168 Spotnap Road  
Charlottesville, VA 22911

Period of Contract: Five years (beginning with services for fiscal year ending June 30,2018)

Sealed Proposals Will Be Received Until 3:00 p.m. E.S.T. on March 21, 2018 For Furnishing the Services Described Herein. Proposals received after the announced time and date for receipt remain unopened. **No telephoned, faxed, or emailed proposals will be considered.**

The face of the envelope or shipping container shall be clearly marked in the lower left-hand corner as follows:

RFP#:	2018004-FN-P
TITLE:	Auditing Services
PROPOSAL DUE:	March 21, 2018

All Inquiries for Information Should be Submitted in Writing and Be Directed To: Quin G Lunsford, Finance Director, at [QLunsford@serviceauthority.org](mailto:QLunsford@serviceauthority.org) or by Fax: 434-979-0698.

PROPOSALS MUST BE SHIPPED/MAILED OR HAND DELIVERED TO THE ADDRESS SHOWN ABOVE.

PREPROPOSAL CONFERENCE: N/A

By my signature on this solicitation, I certify that this firm/individual and subcontractor is properly licensed for providing the goods/services specified.

Name and Address of Firm:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Zip Code: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Signature In Ink)

Telephone Number: (\_\_\_\_) \_\_\_\_\_

Name: \_\_\_\_\_

Fax Number: (\_\_\_\_) \_\_\_\_\_

(Please Print)

E-mail Address: \_\_\_\_\_

Title: \_\_\_\_\_

**I have the authority to bind the corporation.**

SMALL, WOMAN, MINORITY AND SERVICE DISABLED VETERAN-OWNED BUSINESS:  YES;  NO  
*IF YES* ⇒⇒  SMALL;  WOMAN;  MINORITY;  SERVICE DISABLED VETERAN-OWNED

*This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.*

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I. **PURPOSE:** The Albemarle County Service Authority (ACSA) invites qualified, independent Certified Public Accountants to submit proposals for the performance of annual audits of its financial accounts and records for the five fiscal years ending June 30, 2018 through 2022. These audits will be for the purpose of rendering opinions regarding the fairness of presentation of applicable financial statements and the Authority's compliance with applicable legal and contractual provisions, in accordance with generally accepted auditing standards and the applicable pronouncements of the Governmental Accounting Standards Board. All proposals are due in the business offices of the Authority by 3:00 p.m. prevailing time, **Wednesday, March 21, 2018**. We hope to recommend an Auditor to the Authority's Board of Directors at their regular meeting on **Thursday, April 19, 2018**.

II. **BACKGROUND:** Located in central Virginia, 100 miles southwest of Washington, DC and less than 65 miles west of Richmond, the ACSA was established in 1964, pursuant to the *Virginia Water and Waste Authorities Act*, to provide water and sewer service to those jurisdictional areas in the County of Albemarle designated by the County's Board of Supervisors. The current service areas include the urbanized ring around the City of Charlottesville (City), the communities of Crozet and Scottsville, and the Village of Rivanna. A six-member Board of Directors, appointed by the County Supervisors for renewable four-year terms, appoints the Executive Director and governs ACSA operations and policies.

In June 1973, the ACSA and the City entered into a Service Agreement with the Rivanna Water and Sewer Authority (RWSA), which wholesales finished water and sewer treatment services to the ACSA and to the City. In addition to retailing finished water distribution and sewer collection services, the ACSA constructs pump stations and line extensions; purchases, connects to the system, and upgrades private water systems; installs water supply and sewage collector systems; inspects water delivery and sanitary sewage systems installed and contributed to it by developers; and maintains these constructed and contributed facilities.

Detailed information on the Authority's operations and structure can be found in its 2017 Comprehensive Annual Finance Report (CAFR). The CAFR is available on the Service Authority website at [www.serviceauthority.org](http://www.serviceauthority.org). The Authority has received the award for Excellence in Financial Reporting from the GFOA for the past 35 years.

III. **SCOPE OF SERVICES:** Indicate explicitly in your proposal if you agree to meet or exceed the specifications of this Section III. Explain any exceptions you have regarding them, referencing the subsection number (e.g., III. 3)

1. The Auditor will adhere to auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the *Specifications for Audits of Authorities, Boards, and Commissions* issued by the Auditor of Public Accounts of the Commonwealth of Virginia.
2. The Auditor will make such inquiries as will satisfy him that the Authority is complying with applicable Federal and State legal provisions.
3. The financial statements on which the Auditor will express an opinion are (a) the statement of net position (b) the statement of revenues, expenses, and changes in fund net position and (c) the statement of cash flows. The Authority will prepare statements (a), (b), and (c) in accordance with the proprietary fund type accounting standards of the Governmental Accounting Standards Board, with adaptations necessary to reflect the Authority's status as an independently chartered corporation.
4. The Auditor will assist in the preparation of, and submit to the same auditing procedures applied in the examination of the financial statements, supplementary schedules comparing estimated and actual revenues and budgeted and actual expenses for each fiscal year.
5. The Auditor will be provided with a final draft of financial statements (a), (b), and (c) and accompanying notes on or about August 31 following the end of each fiscal year, and will return the draft, with any suggestions and editorial corrections, within two weeks of receipt.
6. The Auditor will retain all working papers from each audit for three (3) years and will make them available to the Authority and to any other authorized agencies upon request during that time.
7. The principal in charge of the audit will be available to attend 2-3 meetings of the Authority's Board of Directors at which the audit and management letter will be discussed.
8. The Auditor will provide professional assistance in satisfying the requirements of the GFOA's Certificate of Achievement of Excellence in Financial Reporting program.
9. The Auditor will provide professional assistance with ten (10) copies each of signed opinions on (a) financial statements, (b) internal control and (c) compliance, and its management letter.

## **Expected Documents**

Besides responding to the specifications in Section III., you should include, at a minimum, the following:

- 1) **Qualifications of the Firm**
  - a. A brief description of your firm and relevant prior experience.
  - b. Three reference contacts from local governments for which you have performed audits. If these cannot be provided, please explain.
  - c. Resumes of the principal(s) and staff to be assigned to the engagement.
- 2) **Technical Approach**
  - a. A general description of the audit procedures to be followed, presented in the form you believe will best aid the Authority in evaluating your firm's ability to identify and comment on necessary improvements in the Authority's fiscal management and reporting system.
  - b. A tentative schedule for performing the key phases of the fiscal year 2018 audit.
- 3) **Contact Data** – Name, phone, fax and email address of the individual(s) to all subsequent correspondence and information should be addressed.

## **IV. PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS:**

### **A. GENERAL INSTRUCTIONS:**

1. **RFP Response:** In order to be considered for selection, offerors must submit a complete response to this RFP. Five (5) copies of each proposal along with an electronic copy of the proposal on CD or USB drive, either in Microsoft Word or PDF format must be submitted to the ACSA as a complete sealed proposal. The outside of the Proposal must be clearly marked "Audit Proposal – RFP#2018004-FN-P. No other distribution of the proposal shall be made by the offeror.
2. **Proposal Preparation:**
  - a. Proposals shall be signed by an authorized representative of the offeror. All information requested should be submitted. Failure to submit all information requested may result in the ACSA requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by the ACSA. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
  - b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
  - c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. The proposal should contain a table of contents which cross-references the RFP requirements. Information which the offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.
  - d. As used in this RFP, the terms "must", "shall", "should" and "may" identify the criticality of requirements. "Must" and "shall" identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as "should" or "may" are highly

desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual "must" and "shall" items may not be fully satisfied, but it is the intent to satisfy most, if not all, "must" and "shall" requirements. The inability of an Offeror to satisfy a "must" or "shall" requirement does not automatically remove that Offeror from consideration; however, it may seriously affect the overall rating of the Offerors' proposal.

- e. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
  - f. Ownership of all data, materials, and documentation originated and prepared for the ACSA pursuant to the RFP shall belong exclusively to the ACSA and be subject to public inspection in accordance with the *Virginia Freedom of Information Act*. Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the *Virginia Freedom of Information Act*; however, the offeror must invoke the protections of *Virginia Code § 2.2-4342(F)*, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. **Please complete Attachment D.**
  - g. Fees for professional services are NOT to be included in the original proposal submittal; however, firms selected for discussion may be required to furnish non-binding estimates of professional fees, including projected man-hours, hourly rates, reimbursable expenses and other miscellaneous charges. The ACSA reserves the right to require fee proposals be submitted by a specified deadline. The ACSA may reject any fee proposals that are submitted after the designated date and time.
  - h. All costs of proposal preparation and presentation shall be borne by each offeror. The ACSA is not liable for any cost incurred by the offeror prior to issuance of a contract.
3. **Oral Presentation:** Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the ACSA. This provides an opportunity for the offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. The ACSA will schedule the time and location of these presentations. Oral presentations are an option of the ACSA and may or may not be conducted.

V. **EVALUATION AND AWARD CRITERIA:** This section is in two parts. The first part, "Evaluation Criteria," explains how the proposals will be evaluated. The second part is the "Award of Contract" clause that states how the award will be made.

- A. **EVALUATION CRITERIA:** Proposals will be evaluated in compliance with the competitive negotiation procedures for professional services specified in the Virginia Public Procurement Act, Chapter 43 of the Code of Virginia, as amended. The Executive Director and Finance Director of the Authority will select two or more proposals based on the qualifications, relevant experience and responsiveness of the proposers, and enter into individual discussions with the chosen proposers. During these discussions, non-binding estimates of total costs may be requested. At the conclusions of these discussions, the ACSA selection committee will evaluate the proposals using the criteria listed below.

#### Criteria and Rate Percentage

1. Firm's approach to the examination and work plan for accomplishing the scope of services required in the RFP. (35)
2. Prior experience in auditing financial statements of similar sized or larger utilities in Virginia which includes references. (25)
3. Proposed schedule for performing services indicating the ability to meet required deadlines; availability of personnel. (20)
4. Professional qualifications and experience of assigned personnel. (20)

B. **AWARD OF CONTRACT: Special Contract Terms** – The contract will be awarded for a period of five years, covering the work necessary to provide the requested services for audits of the Authority's financial statements for fiscal years ending June 30, 2018 through 2022. The contract may be renewed at the end of the original period by mutual agreement between the parties. Such renewal may be for an equal or shorter period. Notice of intent to renew will be given by the Authority in writing at least 120 days before the expiration date of the original contract. The notice will not be deemed to commit the Authority to such renewal.

**General Contract Terms** - Procurement of professional services. The ACSA shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. At the discussion stage, the public body may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the ACSA shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the ACSA can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the ACSA Executive Director or Finance Director determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

VI. **PREPROPOSAL CONFERENCE:** N/A

VII. **REPORTING AND DELIVERY INSTRUCTIONS:** The Auditor will submit, no later than October 1 of each year, a draft management letter which identifies management weaknesses observed, assesses their effects on financial management, proposes initial steps toward eliminating them, and includes, where relevant, responses by appropriate management personnel. The Auditor is required to present its report to the Board each November.

VIII. **GENERAL TERMS AND CONDITIONS:**

A. **ADVERTISING:** In the event a contract is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to the ACSA will be used in product literature or advertising. The contractor shall not state in any of its advertising or product literature that the ACSA has purchased or uses any of its products or services, and the contractor shall not include the ACSA in any client list in advertising and promotional materials, unless the contractor has been given written permission by a ACSA representative who is authorized to sign on behalf of the ACSA.

B. **ANNOUNCEMENT OF AWARD:** Public notice of the award of this contract, or the announcement of the decision to award this contract, shall be given in the following manner: posting of a written notice on the ACSA webpage at [www.serviceauthority.org](http://www.serviceauthority.org).

- C. **NON-DISCRIMINATION:** By submitting their proposals, offers certify to the ACSA that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginias with Disabilities Act, the Americans with Disabilities Act and *Virginia Code* § 2.2-4311. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipients religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Virginia Code* § 2.2.4343.1(E)).

Every contract over \$10,000 shall include the provisions:

1. During the performance of this contract, the contractor agrees as follows:
    1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
    2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, shall state that it is an equal opportunity employer.
    3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
  2. The contractor will include the provisions of No. 1 above in every subcontract or purchase order over \$10,000, so that the provision will be binding upon each subcontractor or vendor.
- D. **NON-DISCRIMINATION OF CONTRACTORS:** A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the ACSA has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.
- E. **NON-DISCRIMINATION OF FAITH-BASED ORGANIZATIONS:** The ACSA does not discriminate against faith-based organizations.
- F. **ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the ACSA all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the ACSA under said contract.
- G. **APPLICABLE LAWS & COURTS:** This procurement transaction, and any resulting contract, shall in all aspects be governed by the laws of the Commonwealth of Virginia, notwithstanding conflicts of laws, provisions and any litigation with respect thereto shall be brought in the Circuit Courts of Albemarle County, Virginia. The ACSA and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using the dispute resolution process contained within the Albemarle County Service Authority Purchasing Manual, Chapter 26-3. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

- H. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the ACSA.
- I. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the ACSA shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
- J. **PROPOSAL ACCEPTANCE:** Proposals must be submitted by the date and time stated in this solicitation. Proposals will be date and time stamped upon receipt and retained unopened in a secure location until proposal opening. No consideration will be given to date of postmark or error in delivery to incorrect address. It is the responsibility of the offeror to ensure timely and correct delivery of proposal.
- K. **PROPOSAL ACCEPTANCE PERIOD:** Each proposal submitted must be and remain valid for a period of at least sixty (60) days from opening date.
- L. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:
1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract. No fixed price contract may be increased by more than twenty percent (25%) or \$50,000, whichever is greater, of the amount of the contract without the advance approval of the ACSA Finance Director or designee, and under no circumstances may the amount of this contract be increased, without adequate consideration, for any purpose (including, but not limited to, relief of the Contractor from the consequences of an error in its bid or offer).
  2. The ACSA may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the ACSA a credit for any savings. Said compensation shall be determined by one of the following methods:
    - a. By mutual agreement between the parties in writing; or
    - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the ACSA's right to audit the contractor's records and/or to determine the correct number of units independently; or
    - c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the ACSA with all vouchers and records of expenses incurred and savings realized. The ACSA shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the ACSA within thirty (30) days from the date of receipt of the written order from the ACSA. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the ACSA or with the performance of the contract generally.
- M. **CLARIFICATION OF TERMS:** The ACSA will assume no responsibility for oral instructions, suggestion or interpretation. Any question regarding the proposal documents and/or scope of work/specifications shall be directed to the Finance Department and any material change will be submitted to all offerors through issuance of an addendum. **Any questions related to this RFP MUST be submitted to the Finance Department no**

**fewer than seven (7) work days prior to the proposal opening date specified.** Questions should be in writing and electronic transmission is preferred. Questions submitted beyond the time specified above may be left unanswered if sufficient time does not allow a response to all prospective offerors without causing an unacceptable delay in the process. Any contact with any ACSA representative, other than that outlined within this solicitation, concerning this RFP is prohibited. Such unauthorized contact may disqualify your firm from this procurement.

- N. **CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION:** The contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the ACSA's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the ACSA of any breach or suspected breach in the security of such information. Contractors shall allow the ACSA to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.
- O. **CONTRACTOR'S FORMS/BOILERPLATE CONTRACTS:** All written agreements, contracts, service agreements, account applications, forms and other documents, of any nature, that the Contractor would require the ACSA to sign in connection with any contract resulting from this procurement transaction, or the performance thereof by the Contractor, must be submitted along with the Contractor's proposal. Under no circumstances shall the ACSA be required to agree to any contractual provision (i) that would materially conflict with any provision of this request for proposals, (ii) that would affect the price, quality, quantity or delivery schedule for any goods or services, or (iii) that would, in the ACSA's sole discretion, materially alter the overall combination of quality, price and various elements of required services that in total are optimal relative to the ACSA's needs, and the Contractor shall not condition its performance or delivery upon any such agreement by the ACSA.
- P. **CONTRACTUAL CLAIMS:** Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. The ACSA has established an administrative procedure for consideration of contractual claims, and a copy of such procedure is available upon request from the ACSA's Finance Department. Contractual disputes shall also be subject to the provisions of *Virginia Code* §2.2-4363(D) and (E) (exhaustion of administrative remedies) and §2.2-4364 (legal actions).
- Q. **DEBARMENT STATUS:** By submitting their proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- R. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the ACSA, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the ACSA may have.
- S. **DESIGNATED PERSONNEL:** The personnel designated in the management summary for key positions shall not be changed except with the permission of the ACSA. Contractor may not substitute other staff or individual(s) without the prior, express written consent of the ACSA. The ACSA shall not be required to consent or accept any substitution(s) if to do so would require an increase in the compensation due the Contractor under this Agreement, or a reduction in the quantity or quality of the Service by this Agreement, as determined in the ACSA's sole discretion.
- T. **DRUG-FREE WORKPLACE:** Pursuant to *Virginia Code* § 2.2-4312, during the performance of this contract the contractor agrees as follows: (i) to provide a drug-free workplace for the contractor's employees; (ii) to 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 the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and (iii) state in all solicitations or advertisements for employees

placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) 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 paragraph, "drug-free workplace" means a site for the performance of work done in connection with the contract awarded to a contractor in accordance with this procurement transaction, where the contractor's employees are prohibited from engaging in the unlawful manufacture, sale distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

- U. **ETHICS IN PUBLIC CONTRACTING:** Pursuant to *Virginia Code* § 2.2-4367: By submitting a proposal, the offeror certifies that their proposal is made without collusion of fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- V. **HEADINGS:** Section, article and paragraph headings contained within this Request for Proposals have been inserted only as a matter of convenience and for reference, and they in no way define, limit, or describe the scope or intent of any term, condition or provision of this Request for Proposals.
- W. **IDLING REDUCTION REQUIREMENT:** For any work performed within the City of Charlottesville, contractors are required to comply with the City of Charlottesville's Idling Reduction Policy for Motor Vehicles and Equipment, policy number 100-12. This policy is available at [www.charlottesville.org/purchasing](http://www.charlottesville.org/purchasing) under the Vendor Registration link.
- X. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By entering into a written contract with the ACSA, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- Y. **INCLEMENT WEATHER/CLOSURE OF ACSA OFFICES:** If the ACSA is closed for business at the time scheduled for proposal opening, for whatever reason, sealed proposals will be accepted and opened on the next scheduled business day, at the originally scheduled time.
- Z. **INDEMNIFICATION:** Pursuant to Virginia law, the ACSA may not indemnify any party for any purpose. Any provisions in this agreement providing to the contrary are hereby deleted.
- AA. **OSHA STANDARDS:** All contractors and subcontractors performing services for the ACSA are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and ACSA Safety and Occupational Health Standards and any other applicable rules and regulations. Also, all contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract.
- BB. **OWNERSHIP OF DOCUMENTS:** All information, documents, and electronic media furnished by the ACSA to the Contractor belong to the ACSA, are furnished solely for use in connection with the Contractor's performance of Services required by this Agreement, and shall not be used by the Contractor on any other project or in connection with any other person or entity, unless disclosure or use thereof in connection with any matter other than Services rendered to the ACSA hereunder is specifically authorized in writing by the ACSA in advance. All documents or electronic media prepared by or on behalf of the Contractor for the ACSA are the sole property of the ACSA, free of any retention rights of the Contractor. The Contractor hereby grants to the ACSA an unconditional right of use, for any purpose whatsoever, documents or electronic media prepared by or on behalf of the Contractor pursuant to this Agreement, free of any copyright claims, trade secrets, or any other proprietary rights with respect to such documents.

CC. **PAYMENT:**

- 1. **To Prime Contractor:**

- a. The ACSA shall promptly pay for completed delivered goods or services by the required payment date. The required payment date shall be either: (i) the date on which payment is due under the terms of a contract for the provision of goods or services, or (ii) if a date is not established by contract, not more than 45 days after goods or services are received or not more than 45 days after an invoice is rendered, whichever is later. Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial executions or deliveries to the extent that the contract provides for separate payment for partial execution or delivery. Within 20 days after the receipt of an invoice for goods or services, the ACSA shall notify the supplier of any defect or impropriety that would prevent payment by the required payment date. In the event that the ACSA fails to make payment by the required payment date, the ACSA shall pay any finance charges assessed by the supplier that shall not exceed one percent per month. In cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is made.
- b. Individual contractors shall provide their social security numbers, and proprietorships, partnerships, and corporations shall provide the ACSA with a federal employer identification number, prior to receiving any payment from the ACSA.
- c. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the ACSA contract number and/or purchase order number.
- d. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which ACSA department is being billed.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the ACSA shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve a ACSA department of its prompt payment obligations with respect to those charges which are not in dispute (*Virginia Code § 2.2-4363*).

2. To Subcontractors:

- a. A contractor awarded a contract under this solicitation is hereby obligated:
  - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the ACSA for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
  - (2) To notify the ACSA and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
- b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the ACSA, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the ACSA.

DD. PAYMENT TERMS: Proposal must clearly state payment terms desired. Such terms as proposed shall be negotiable.

EE. PERMITS AND FEES: All proposals submitted shall have included in price the cost of any business or professional licenses, permits or fees required by the ACSA, the County of Albemarle, or the Commonwealth of

Virginia. The offeror must have all necessary licenses to perform the services in Virginia and, if practicing as a corporation, be authorized to do business in the Commonwealth of Virginia.

FF. PRECEDENCE OF TERMS: The following General Terms and Conditions: APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF ACSA FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

GG. PUBLIC INSPECTION OF CERTAIN RECORDS: Except as otherwise provided, and in accordance with *Virginia Code* §2.2-4342, all proceedings, records, contracts and other public records relating to the ACSA's procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the *Virginia Code* §2.2-3700 et seq. Any offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after interviews and negotiations are completed, but prior to award, except in the event the ACSA decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract. Trade secrets or proprietary information submitted by an offeror in connection with this procurement transaction shall not be subject to the Virginia Freedom of Information Act, but only if the offeror (i) invokes the protections of *Virginia Code* §2.2-4342 prior to or upon submission of the data or other materials; (ii) identifies the specific data or other materials to be protected, and (iii) states the reasons why protection is necessary. A general designation of a contractor's entire proposal submission as being "confidential" shall not be sufficient to invoke the protections referenced above.

HH. QUALIFICATIONS OF OFFERORS: The ACSA may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the ACSA all such information and data for this purpose as may be requested. The ACSA reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The ACSA further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the ACSA that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

II. RIGHT TO ACCEPT OR REJECT OFFERORS: The ACSA reserves the right to accept or reject any or all proposals in whole or in part, to waive formalities and to be the sole determiner of the responsiveness of proposals.

JJ. SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE: It is the policy of the ACSA to facilitate the establishment, preservation and strengthening of small businesses and businesses owned by women and minorities and service disabled veterans and to encourage their participation in the ACSA's procurement activities. Toward that end the ACSA encourages these firms to compete and encourages other firms to provide for the participation of these firms through partnerships, joint ventures, subcontracts or other contractual opportunities. **Offerors are asked, as part of their submission, to describe any planned use of such business in fulfilling this contract.**

KK. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER: Pursuant to the *Virginia Code* §2.2-4311.2 (B), a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Link to the Virginia State Corporation Commission site: <http://www.scc.virginia.gov/>.

LL. TAXES: Include only taxes applicable to the project in this proposal. The ACSA is exempt from State Sales Tax and Federal Excise Tax. Tax Exemption Certificate indicating the ACSA's tax exempt status will be furnished by the ACSA upon request.

MM. **TESTING AND INSPECTION:** The ACSA reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

NN. **TRANSPORTATION AND PACKAGING:** All prices submitted must be FOB Destination - Freight Prepaid and Allowed. By submitting their proposals, all offerors certify and warrant that the price offered for FOB destination includes only the actual freight rate costs at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.

OO. **USE OF BRAND NAMES:** Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict offerors to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the ACSA, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The offerer is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the ACSA to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Adequate data for evaluation purposes must be provided. Unless the offeror clearly indicates in its proposal that the product offered is an equal product, such proposal will be considered to offer the brand name product referenced in the solicitation.

PP. The terms and conditions set forth above within this Request for Proposals shall be deemed incorporated into any contract resulting from this procurement transaction, as if set forth therein verbatim.

IX. **SPECIAL TERMS AND CONDITIONS:**

- A. **AUDIT:** The Contractor hereby agrees to retain all books, records, systems, and other documents relative to this contract for five (5) years after final payment, or until audited by the ACSA, whichever is sooner. The ACSA and its authorized agents shall have full access to and the right to examine any of said materials during said period.
- B. **CANCELLATION OF CONTRACT:** The ACSA may terminate any agreement resulting from this solicitation at any time, for any reason or for no reason, upon thirty days' advance written notice to the Contractor. In the event of such termination the Contractor shall be compensated for services and work performed prior to termination.
- C. **FORM W-9 REQUIRED:** Each offeror shall submit a completed W-9 form with their offer. In the event of contract award, this information is required in order to issue purchase orders and payments to your firm. A copy of this form can be downloaded from <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

X. **METHOD OF PAYMENT:** Payment will be made at completion of project, upon receipt of a valid invoice, and for additional services as ordered and agreed at time of order within 45 days of invoice date, unless specified differently in the contract.

XI. **ATTACHMENTS:**

ATTACHMENT A	Offeror Data Sheet
ATTACHMENT B	State Corporation Commission & Registered Agent Form
ATTACHMENT C	Certification of No Collusion
ATTACHMENT D	Proprietary/Confidential Information Identification
ATTACHMENT E	Insurance Requirements

ATTACHMENT A

**OFFEROR DATA SHEET**

Note: The following information is required as part of your response to this solicitation.

1. Qualification: The vendor must have the capability and capacity in all respects to satisfy fully all of the contractual requirements.
2. Vendor's Primary Contact:  
Name: \_\_\_\_\_ Phone: \_\_\_\_\_
3. Years in Business: Indicate the length of time you have been in business providing this type of good or service:  
\_\_\_\_\_ Years \_\_\_\_\_ Months
4. Vendor Information:  
FIN or FEI Number: \_\_\_\_\_ If Company, Corporation, or Partnership
5. Indicate below a listing of at least four (4) current or recent accounts, either commercial or governmental, that your company is servicing, has serviced, or has provided similar goods. Include the length of service and the name, address, and telephone number of the point of contact.

A.	Company: _____	Contact: _____
	Phone: _____	Email: _____
	Dates of Service: _____	\$ Value: _____

B.	Company: _____	Contact: _____
	Phone: _____	Email: _____
	Dates of Service: _____	\$ Value: _____

C.	Company: _____	Contact: _____
	Phone: _____	Email: _____
	Dates of Service: _____	\$ Value: _____

D.	Company: _____	Contact: _____
	Phone: _____	Email: _____
	Dates of Service: _____	\$ Value: _____

I certify the accuracy of this information.

Signed: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

ATTACHMENT B

**STATE CORPORATION COMMISSION & REGISTERED AGENT FORM**

**Virginia State Corporation Commission (SCC) registration information.**

**Code of Virginia § 13.1-757. A foreign corporation may not transact business in the Commonwealth until it obtains a certificate of authority from the Commission.**

**The bidder:**

<input type="checkbox"/>	is a corporation or other business entity with the following Virginia SCC identification number: _____ <b>-OR-</b>
<input type="checkbox"/>	is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust <b>-OR-</b>
<input type="checkbox"/>	is not required to obtain a certificate of authority from the Virginia SCC, pursuant to <i>Virginia Code</i> § 13.1-757(B) because its sole contact(s) with the Commonwealth consist(s) of: 1. <input type="checkbox"/> Maintaining, defending, or settling any proceeding; 2. <input type="checkbox"/> Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs; 3. <input type="checkbox"/> Maintaining bank accounts; 4. <input type="checkbox"/> Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositories with respect to those securities; 5. <input type="checkbox"/> Selling through independent contractors; 6. <input type="checkbox"/> Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts; 7. <input type="checkbox"/> Creating or acquiring indebtedness, deeds of trust, and security interests in real or personal property; 8. <input type="checkbox"/> Securing or collecting debts or enforcing deeds of trust and security interests in property securing the debts; 9. <input type="checkbox"/> Owning, without more, real or personal property; 10. <input type="checkbox"/> Conducting an isolated transaction that is completed within 30 days and that is not one in the course of repeated transactions of a like nature; 11. <input type="checkbox"/> For a period of less than 90 consecutive days, producing, directing, filming, crewing or acting in motion picture feature films, television series or commercials, or promotional films which are sent outside of the Commonwealth for processing, editing, marketing and distribution. The term "transacting business" as used in this subsection shall have no effect on personal jurisdiction under § 8.01-328.1; or 12. <input type="checkbox"/> Serving, without more, as a general partner of, or as a partner in a partnership which is a general partner of, a domestic or foreign limited partnership that does not otherwise transact business in the Commonwealth.  <b>-OR-</b>
<input type="checkbox"/>	is an out-of-state business entity that is including with this bid <b>an opinion of legal counsel</b> 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. <b>Attach opinion of legal counsel to this form.</b>

**Registered Agent Information**

Please specify the Registered Agent who will accept service of process on your behalf.

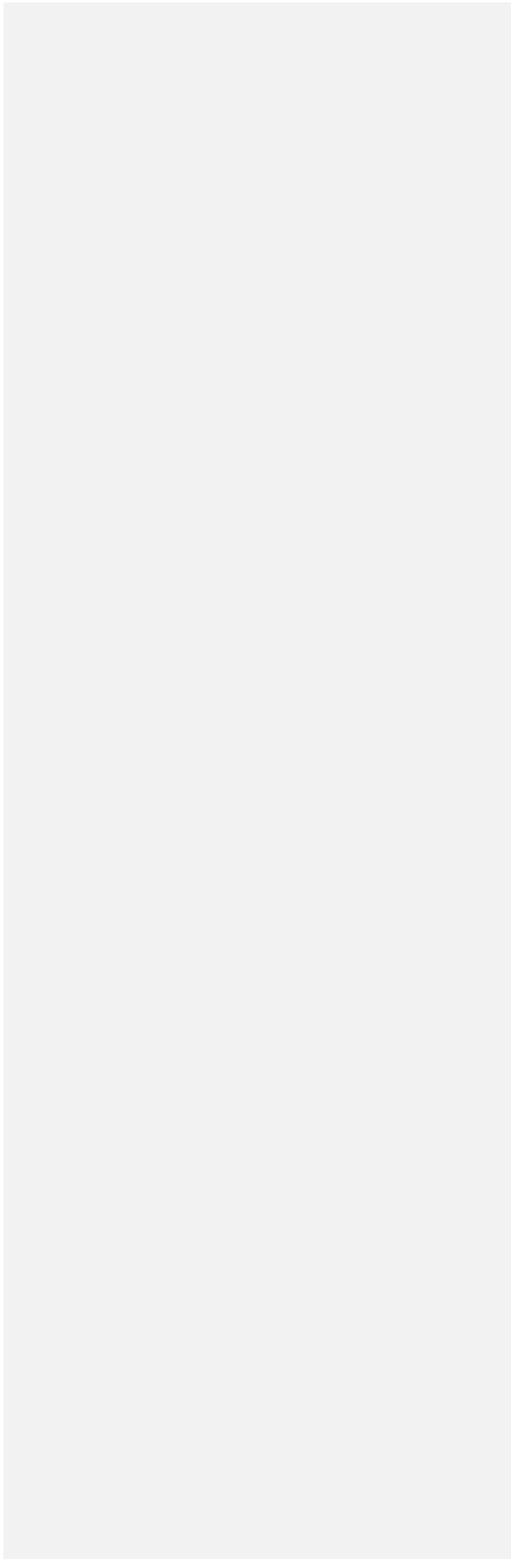
Agent Name: \_\_\_\_\_

Physical Address (no Post Office Boxes):

\_\_\_\_\_  
\_\_\_\_\_

I certify the accuracy of this information.

Signed: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_



ATTACHMENT C

**CERTIFICATION OF NO COLLUSION**

The undersigned, acting on behalf of \_\_\_\_\_, does hereby certify in connection with the procurement and proposal to which this Certification of No Collusion is attached that:

This proposal is not the result of, or affected by, any act of collusion with another person engaged in the same line of business or commerce; nor is this proposal the result of, or affected by, any act of fraud punishable under Article 1.1 of Chapter 12 of Title 18.2 Code of Virginia, 1950 as amended (&&18.2-498.1 atseq.)

\_\_\_\_\_  
Signature of Company Representative

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Date

ACKNOWLEDGEMENT

STATE OF VIRGINIA

Albemarle County Service Authority, to wit:

The foregoing Certification of No Collusion bearing the signature of \_\_\_\_\_ and dated \_\_\_\_\_ was subscribed and sworn to before the undersigned notary public by \_\_\_\_\_ on \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:\_\_\_\_\_

CODE OF VIRGINIA

&18.2-498.4. Duty to provide certified statement. A. The Commonwealth, or any department or agency thereof, and any local government or any department or agency thereof, may require that any person seeking, offering or agreeing to transact business or commerce with it, or seeking, offering or agreeing to receive any portion of the public funds or moneys, submit a certification that the offer or agreement or any claim resulting thereon is not the result of, or affected by, any act of collusion with another person engaged in the same line of business or commerce, or any act of fraud punishable under this article.

B. Any person required to submit a certified statement as provided in paragraph A above who knowingly makes a false statement shall be guilty of a Class 6 felony. (1980, c.472)



## INSURANCE REQUIREMENTS

- A. **INSURANCE:** By signing and submitting a proposal under this solicitation, the offeror certifies that if awarded the contract, it will purchase and maintain, at its sole expense, and from a company or companies authorized to do business within the Commonwealth of Virginia, insurance policies containing the following types of coverages and minimum limits, protecting from claims which may arise out of or result from the Offerors's performance or non-performance of services under this Contract, or the performance or non-performance of services under this Contract by anyone directly or indirectly employed by the Offeror or for whose acts it may be liable:
- a. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the ACSA of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract. This policy shall specifically list Virginia as a covered state.
  - b. Employer's Liability - \$100,000. This policy shall specifically list Virginia as a covered state.
  - c. Commercial General Liability - \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury, advertising injury, contractual liability, and products and completed operations coverage. The ACSA of Albemarle and its officers, employees agents and volunteers must be named as additional insureds and be so endorsed on the policy.
  - d. Automobile Liability - \$1,000,000 per occurrence. Coverage is to include hired, owned, non-owned, temporary and leased vehicles.
  - e. Umbrella or Excess Liability Coverage may be used to achieve higher liability limits. See below.
  - f. Professional (E&O) Liability Insurance: \$1,000,000 per claim/\$2,000,000 aggregate.

All insurance coverage:

- 1. shall be issued by an insurance carrier authorized to do business within the Commonwealth of Virginia and rated A – VIII or better, by A. M. Best Company or equivalent rating from an alternate recognized ratings agency, and otherwise acceptable to the ACSA;
- 2. shall be kept in force throughout performance of services;
- 3. shall be an occurrence based policy;
- 4. shall include completed operations coverage;
- 5. shall contain a cross liability or severability of interest clause or endorsement. Insurance covering the specified additional insured shall be primary and non-contributory, and all other insurance carried by the additional insureds shall be excess insurance;
- 6. where additional insured required, such policy shall not have a restriction on the limits of coverage provided to the ACSA as an additional insured. The ACSA shall be entitled to protection up to the full limits of the offerors's policy regardless of the minimum requirements specified in the Contract.

**Proof Of Insurance:** Prior to performance of any services or delivery of goods, the Offeror shall (i) have all required insurance coverage in effect; (ii) the Offeror shall deliver to the ACSA certificates of insurance for all lines of coverage. The Offeror shall be responsible that such coverage evidenced thereby shall not be substantially modified or canceled without 30 days prior written notice to the ACSA; and (iii) the Offeror shall deliver to the ACSA endorsements to the policies which require the ACSA and its officials, officers, employees, agents and volunteers be named as "additional insured". Policies which require this endorsement include: Commercial General Liability, Automobile Liability and Umbrella or Excess Liability Coverage as detailed below. Such endorsements must be approved by the ACSA, and (iv) upon the request of the ACSA, provide any other documentation satisfactory to the ACSA in its sole discretion, evidencing the required insurance coverage, including but not limited to a copy of the insurance policy and evidence of payment of policy premiums. The Offeror shall require each of its subcontractors and suppliers to have coverage per the requirements herein in effect, prior to the performance of any services by such subcontractors and suppliers. Further, the Offeror shall ensure that all Required Insurance coverages of its subcontractors and suppliers is and remains in effect during performance of their services on the Project and certifies by commencement of the

**Commented [MS1]:** See "Special Instructions to Drafter"

**Commented [MS2]:** See "Special Instructions to Drafter, and include verbiage for one or both of these insurances if needed. If not, delete 5. and 6.

**Commented [MS3]:** Note to Buyer: If the contract form is a P.O. and not a formal agreement, term contract or SAP Outline Agreement, and if the contract is for a good purchased FOB Destination Prepaid & Allowed, you are not required to obtain a COI and the endorsements, although you may if you'd like. The risk for this type of contract is very low.

**Commented [MS4]:** If Umbrella or Excess Liability Coverage is not required, delete its reference in this sentence.

Work that this insurance and that of subcontractors is in effect and meets the requirements set forth herein. The ACSA shall have no responsibility to verify compliance by the Offeror or its subcontractors and suppliers.

**Effect Of Insurance:** Compliance with insurance requirements shall not relieve the Offeror of any responsibility to indemnify the ACSA for any liability to the ACSA, as specified in any other provision of this contract, and the ACSA shall be entitled to pursue any remedy in law or equity if the Offeror fails to comply with the contractual provisions of this contract. Indemnity obligations specified elsewhere in this Contract shall not be negated or reduced by virtue of any insurance carrier's denial of insurance coverage for the occurrence or event which is the subject matter of the claim, or by any insurance carrier's refusal to defend any named insured.

**Waiver Of Subrogation:** The Offeror agrees to release and discharge the ACSA of and from all liability to the Offeror, and to anyone claiming by, through or under the Offeror, by subrogation or otherwise, on account of any loss or damage to tools, machinery, equipment or other property, however caused.

**Sovereign Immunity:** Nothing contained herein shall effect, or shall be deemed to affect, a waiver of the ACSA's sovereign immunity under law.

**Right to Revise or Reject:** The ACSA reserves the right, but not the obligation, to revise any insurance requirement not limited to limits, coverages and endorsements, or reject any insurance policies which fail to meet the criteria stated herein. Additionally, the ACSA reserves the right, but not the obligation, to review and reject any insurer providing coverage due to its poor financial condition or failure to operate legally.

**Umbrella or Excess Liability Coverage** which (i) includes premises/operations, product/completed operations, contractual liability, independent contractors, broad-form property and contents damage for (100%) of the replacement cost, underground, explosion and collapse hazard, and personal/advertising injury, (ii) includes contractual liability coverage and coverage for all owned, hired and non-owned vehicles, (iii) fire (with extended coverage), theft, vandalism, malicious mischief, collapse, earthquake, flood, water, windstorm, falsework, testing and startup, temporary buildings, contents, debris removal, and which provides coverage for one hundred percent (100%) of the replacement cost of the loss experienced and the Offeror's scope of the Work, and (iv) has per-occurrence limits of not less than One Million Dollars (\$1,000,000). This insurance shall name the ACSA and its officials, officers, and employees and agents as "additional insureds" by **endorsement** to the Umbrella or Excess Liability policy. Such policy shall not have a restriction on the limits of coverage provided to the ACSA as an additional insured. The ACSA shall be entitled to protection up to the full limits of the Offeror's policy regardless of the minimum requirements specified in this contract.

**Professional Liability Insurance:** At its sole expense, and prior to commencing any activities under this Agreement, Offeror shall secure professional liability insurance, covering any damages caused by the negligent or wrongful acts or omissions of the Offeror, its employees and agents in the performance of this Agreement, with coverage in an amount not less than \$1,000,000/\$2,000,000 aggregate ("Required Insurance"). Offeror shall maintain the Required Insurance in effect throughout the Term of this Agreement and for a period of three (3) years following final acceptance of the Project by the ACSA. Upon execution of this Agreement, Offeror shall provide the ACSA with a certificate of insurance, or other written documentation satisfactory to the ACSA in its sole discretion, issued by Offeror's insurance company(ies), confirming the Required Insurance and the beginning and ending date(s) of Contractor's policy(ies). Upon receipt of any notice, verbal or written, that the Required Insurance is subject to cancellation, Offeror shall immediately (within one business day) notify the ACSA. Offeror's failure to comply with any of the requirements of this Section shall constitute a material breach of this Agreement entitling the ACSA to terminate this Agreement without notice to Offeror and without penalty to the ACSA.

**Commented [LJ5]:** This is the standard amount. If purchasing a service listed below, insert the limits for that particular profession/service, e.g. for Accounting insert "with coverage limits of \$1,000,000 per occurrence, \$3,000,000 aggregate".