Government of the Virgin Islands
Department of
PROPERTY AND
PROCUREMENT
"Keeping The People's House In Order"
GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS
DEPARTMENT OF PROPERTY AND PROCUREMENT
PROCUREMENT
MANUAL

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Department of Property and Procurement

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Government of the Virgin Islands
Department of
PROPERTY AND PROCUREMENT
"Keeping The People's House In Order"

PROCUREMENT MANUAL

Effective: November 21, 2022

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Part 1: *Introduction and Overview*

Section 1: Procurement in the U.S. Virgin Islands Government/Department of Property and Procurement

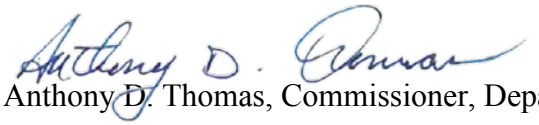
This Procurement Manual is developed to establish and improve policies and procedures for the planning, solicitation, award, and management of procurement and contracting services for the executive branch of the Government of the United States Virgin Islands (GVI).

Pursuant to Title 31, Chapter 23 of the Virgin Islands Code, the Department of Property and Procurement (DPP) is the Executive Agency of the GVI with the statutory authority and responsibility for the acquisition of all goods and services for the executive branch of the GVI. As GVI's Contracting Officer, solely the Commissioner of DPP has the authority to purchase or contract for supplies, materials, equipment, and services for all GVI's executive branch departments, offices, boards, institutions, and other agencies except for the judicial and legislative branches of the GVI. Only the Commissioner of DPP has the authority to approve purchases and award contracts. Thus, no department has independent procurement authority unless it is authorized pursuant to statute or delegation or waiver from the Commissioner of DPP.

DPP's Vision of "envisioning sustainable solutions through innovation, continuous improvement, and stakeholder relations" is at the forefront of its endeavors as it improves government operations in the revision of this Procurement Manual. As such, DPP expects that the use of this Procurement Manual will promote heightened competencies in all personnel and stakeholders involved, thereby ensuring the best practices are accomplished as the people of the U.S. Virgin Islands are served.

This Procurement Manual supersedes and replaces all previously issued versions and any other memoranda or correspondence on the same subject matter, and the DPP reserves the right, at its sole discretion, to update, delete, change, suspend, discontinue, or otherwise alter the content, in whole or in part, at any time, with or without notice. It is incumbent upon the users of the Procurement Manual to keep abreast of the policies and procedures and all the platforms (namely: GVIBUY (buyspeed.com) and DPP's Official Website https://dpp.vi.gov) that are applicable to doing business with the Government of the United States Virgin Islands.

APPROVED and ADOPTED:



Anthony D. Thomas, Commissioner, Department of Property and Procurement

EFFECTIVE DATE: November 21, 2022

Section 2: Division of Procurement / Office of Procurement, Contract Management and Reporting

The Commissioner of DPP is statutorily required to provide for an economic and efficient system for the procurement of all property and non-personal services for the executive branch of the GVI. The Commissioner is also required to provide a system for related functions, such as the development and implementation of related procedures and forms, and the retention and disposal of documents and records. The Division of Procurement at DPP is responsible for fulfilling the Department's procurement and contracting mandates.

Under the guidance of the Assistant Commissioner of Procurement, the Division has a firm commitment to a procurement system that provides quality, integrity, and timeliness of service to all user agencies, the business community, and the people of the U.S. Virgin Islands. Some of the responsibilities of the Division of Procurement include the issuance of Invitations for Bids (IFBs), Requests for Proposals (RFPs), and Requests for Qualifications (RFQs); drafting, reviewing, processing, and awarding of supply and construction contracts; drafting, reviewing, processing, and awarding professional services contracts; reviewing, and approving construction contract payments; and processing of requisitions.

The Office of Procurement, Contract Management and Reporting (OPCMR), situated under the Division of Procurement, was established to develop a centralized procurement and contracting management organizational structure within the executive branch. The goal of its establishment is to attain the highest possible efficiency in operations, greater accountability, and cost effectiveness in the delivery of services to the people of the U.S. Virgin Islands. The OPCMR is comprised of procurement staff from each executive branch agency charged with procurement functions on behalf of each agency.

The OPCMR is responsible for directing, coordinating, and managing the executive branch's procurement activities. The OPCMR shall direct and coordinate the executive branch's procurement activities related to procurement plans, contract management, procurement reporting, procurement analyses, and compliance with the budget and financial plan of the Government of the Virgin Islands. Additionally, the DPP OPCMR staff provides direction and ongoing trainings to subordinate units across departments within the executive branch and is also charged with oversight and enforcement over procurement activities.

Section 3: Standards of Conduct

The exercise of procurement for the executive branch of the Government of the United States Virgin Islands (GVI) requires strict adherence to the procurement laws codified in Title 31, Chapter 23 (Procurement and Sale), of the Virgin Islands Code; Title 33, Chapter 113 (Appropriations), Sections 3101 and 3103 of the Virgin Islands Code; the corresponding Rules and Regulations of Title 31, Chapter 23 and Title 33, Chapter 113; Executive Order No. 477-2016; Executive Order No. 493-2019; Executive Order No. 507-2020; and this Procurement Manual (collectively referred to herein as "Procurement Rules").

Title 31, Virgin Islands Code, Chapter 23 (Procurement and Sale), Sections 234, 248, and 249, and Title 33, Virgin Islands Code, Chapter 113 (Appropriations), Sections 3101, 3103 and 3109, prohibit the unauthorized obligation of government funds and permit the imposition of fines and may be grounds imprisonment for violators. For example, 31 V.I.C. 249 renders null and ineffective any purchase order or contract executed in violation of Chapter 23 (Procurement and Sale) and the rules and regulations promulgated for its enforcement. It also indicates that any person who violates the provisions of Chapter 23 shall be fined not more than $1,000 or imprisoned not more than one year or both.

Additionally, 33 V.I.C § 3109 indicates that in addition to any penalty or liability under other laws, any officer or employee who violates Section 3101 may be subjected to administrative discipline and may criminally face a fine not exceeding $10,000.00 or imprisonment of not more than five (5) years, or both. Title 31, Virgin Islands Code, Chapter 23, section 234(b) goes further to make persons *personally liable* for the purchase price of articles purchased in contravention of the Chapter 23 and allows them to be summarily dismissed from employment without regard to the provisions of Chapter 25 of Title 3 of the Virgin Islands Code for such violations of law.

Most importantly, Title 3, Chapter 37 (Conflicts of Interest), Section 1102 of the Virgin Islands Code prohibits officers or employees of GVI from having any interest financial or otherwise, direct or indirect, which conflicts with the discharge of his or her duties. This conflict-of-interest prohibition is fundamental to persons who are in positions of trust such as those employees who work in the procurement environment. Employees are also required to follow GVI's Code of Ethical Conduct found in GVI's Employee Handbook. Observance and maintenance of the highest standards of ethical conduct by GVI's officers and employees are essential to preserve the integrity of the Government. Officers and employees have a responsibility, as public servants, to carry out and execute in good faith the established programs and policies of the GVI.

Accordingly, compliance with the laws governing procurement is of utmost importance. Strict adherence to these Procurement Rules is critical to an efficient, effective, and timely process that benefits the department end users, the business community, and the people of the U.S. Virgin Islands. Department end users and GVI's procurement staff have a fiduciary responsibility to understand the Procurement Rules that govern the procurement process and procure goods and services exercising good judgment in accordance with the Procurement Rules. Likewise, the business community has a fundamental responsibility to understand the obligations and responsibilities associated with doing business with the GVI. As noted, any deviation from the Procurement Rules, and any other applicable rules, regulation, or the like, is a possible violation of Virgin Islands laws and may be grounds for the imposition of fines and imprisonment for violators and discipline, including termination from employment, for employees.

Part 2: *Guiding Principles and General Acquisition Planning*

Section 4: Acquisitions

4.1 Identifying the Need

The term "procurement" means the acquisition of supplies, materials, equipment, and services (including construction) by means such as purchasing, leasing, or contracting. It includes all stages of the process of acquiring the goods or services, beginning with the process for determining a need for the goods or services, planning, sourcing, negotiating, contract administration, contract management, payment certification, and ending with contract closeout and retention. The terms procurement and acquisition are sometimes used interchangeably. All Executive Branch Agencies shall first identify the goods and services the agency needs. Once the need is determined, planning is paramount to determining the appropriate method of acquisition and budgetary requirements for fulfilling the need in a timely manner and at a responsible cost. The agency's contracting personnel generally will spearhead and determine what type of acquisition procedures must be used utilizing guidance under this Procurement Manual for aspects including the type of solicitation and contract. Following the Procurement Rules and the processes described in this Procurement Manual will result in an efficient procurement process.

4.2 Acquisition Planning

Acquisition planning incorporates all activities, events, and efforts of all the personnel necessary to satisfy the government's needs. Executive Branch Agencies must plan to determine how the need will be fulfilled by, optimizing resources, conducting market research and cost analysis, determining the most effective acquisition method, and developing clear and concise scopes of services. Planning enables agencies to stay within budget, plan for future allotments, expend funds timely, and acquire best value services. Overall, acquisition planning answers the "who-what-when-where-why-how" to ensure the government acquires its needs, within budget, when they are needed.

4.3 Methods of Acquisition

The GVI utilizes two methods for procuring goods and services: 1) Open Market Purchases; 2) Formal Solicitations/Competition.

4.3.1 Open Market Purchases

Open Market Purchases are items procured without going through the formal bidding process required by Title 31, Chapter 23, Section 236 of the Virgin Islands Code. These purchases are negotiated in accordance with the Procurement Rules.

4.3.1.1 Procedures for Acquisitions Under $10,000.00 (Micro Purchase Threshold)

For all purchases under $10,000.00, the Executive Branch Agency must:

a. Attach one (1) quotation from the vendor of choice.
b. Enter a requisition in the Tyler Munis Enterprise Resource Planning ("ERP") system (include vendor number and account codes).

Upon approval of the requisition, a Purchase Order will be generated, and the User Agency is authorized to proceed with the purchase. *See Section 7 (Requisitions and Purchase Orders)*

Note the following:

(a) It is illegal to intentionally divide highly valued purchases (exceeding $10,000.00) into smaller purchases (i.e., split purchases) to avoid solicitation thresholds;
(b) An agency cannot use this authority to make purchases on a recurring/repeat basis from one person, partnership, or corporation in a fiscal year (31 V.I.C. §239(a)(4)(A)) (i.e., all micro – purchases for a particular item or service should not be made all year round from the same vendor);
(c) Only the agency head or authorized designee is authorized to certify expenditures (31 V.I.C. § 239(a)(4)(B)); and
(d) The one (1) quotation must be reasonable based on a survey of the market (31 V.I.C. § 239(a)(4)(C).

Examples of when this exemption **<u>may apply</u>** include (this list is not exhaustive):

- Contracted vendor is unable to fulfil the quantity of a product subject to a supply contract during the period in which the agency needs the product;
- Low-cost items are not purchased frequently enough during a fiscal year to necessitate a supply contract;
- Agency has a limited need for a particular product or service;
    i. Example - agency is not subject to the janitorial service contract because agency has janitorial staff, janitorial staff is on leave, but agency needs janitorial services for a two (2) week period.

This exemption **<u>does not</u>** apply in the following circumstances:

(a) Services/acquisition of goods subject to a valid Government of the Virgin Islands Supply or Task Order Contract; *See Section 5 (Types of Contracts)*
- Examples include but are not limited to janitorial services, landscaping, exterminating, purchase of groceries, routine generator and HVAC maintenance, delivery of office supplies, trash removal services, etc.
(b) Foreseeable and routine services for an agency which can be addressed through a Supply or Task Order Contract;
- Examples include but are not limited to routine plumbing and electrical services for agencies with multiple locations and facilities.
(c) Items in stock at Central Stores; and
(d) Use of the same vendor every time the need arises.

4.3.1.2 Procedures for Acquisitions Between $10,000.00 and $50,000.00 (Simplified Acquisition Threshold)

For purchases/professional services and construction contracts where the aggregate amount involved is between $10,000.00 and $50,000.00, the Executive Branch Agency must:

(a) Obtain at least three (3) independent and equivalent quotations and make a selection based on the best value to the Government, price, and other factors considered (31 V.I.C. § 239(a)(3)(D));
(b) Enter requisition in ERP (include vendor number and account codes).
(c) Submit a justification letter IF the lowest quotation is not selected, or if the user agency is unable to obtain the required three (3) quotations (in which instance user agency must still furnish proof of its efforts to obtain the required number of quotations). *If lowest quotation is selected, no justification letter is required.*

Upon approval of the requisition, a Purchase Order will be generated, and the User Agency is authorized to proceed with the purchase. Note the following:

(a) It is illegal to split purchases to avoid solicitation thresholds;
(b) An agency cannot make the same purchase or contract for the same services on a recurring/repeat basis from one person, firm, company in a fiscal year (31 V.I.C. § 239(a)(3)(A));
(c) Only the agency head can certify expenditures (31 V.I.C. § 239(a)(3)(B)); and
(d) Justification letters are only accepted from agency heads.

4.3.1.3 Procedures for Acquisitions by the Department of Education (Small-purchase Authority)

Pursuant to Title 17, Chapter 5, Section 60d, notwithstanding the provisions of Title 31 governing acquisitions handled by DPP, the Department of Education has the authority to purchase or contract for all supplies, materials, equipment and contractual services, if the cost of purchase or contract does not exceed $250,000.00 Additionally, 17 VIC 60d provides that notwithstanding Title 31, the Department of Education has the authority to purchase or enter into maintenance and construction contracts not exceeding $50,000.00 The Department of Education shall follow the Procurement Rules regardless of the statutory authority of Title 17.

4.3.1.4 Emergency and Public Exigency Acquisitions

Under limited circumstances, open market purchases can be made, without competition (per Section 236), under the emergency provisions in Title 31, Virgin Islands Code, Chapter 23, Section 239(a)(1), where a public emergency has been declared by the Governor of the Virgin Islands or in Section 239(a)(2), where a public exigency exists. The Department of Property and Procurement will determine the applicability of the exceptions. All acquisitions under these sections must be approved by the Governor and any applicable resultant contracts reviewed by the Department of Justice for legal sufficiency.

The following outlines the procedure and documentation required to expedite the processing of a purchase requisition/contract pursuant to Section 239(a)(1) or Section 239(a)(2). The Executive

Branch Agency must submit a justification letter using Appendix A: DPP's form Justification Letter that:

1) Demonstrates the need for the supplies or services or the way in which the statement of work meets a legitimate government need;
2) Cites to authority pursuant to Title 31, Virgin Islands Code, Chapter 23, Section 239(a)(1) or Section 239(a)(2);
3) Describes the purpose and reason for the request, the methodology for the selection process, and the rationale for selecting the prospective contractor;
4) Identifies the funding source;
5) Includes an "approve/disapprove" block for the Commissioner of Property and Procurement; and
6) Is signed by the Agency Head.

4.3.1.4.1 Emergency Acquisitions

Pursuant to Title 31, Virgin Islands Code, Chapter 23, Section 239(a)(1), supplies, materials, and equipment may be purchased, and contractual services negotiated for, in the open market without competition (per Section 236), when the Governor declares by proclamation that a State of Emergency exists. In addition to the requirements noted above, the Executive Branch Agency must:

STEP 1: Submit to the Commissioner of DPP via email a request to proceed pursuant to 31 V.I.C. § 239(a)(1). The request must be accompanied by the following documents:

1) A justification letter compliant with *Section 8.1.2 (Requests for Acquisitions Pursuant to 31 V.I.C. § 239)*
2) A copy of the Governor's Proclamation (declaring the emergency)
3) In cases where another agency must concur in the procurement, the User Agency must furnish documentation that the project has been approved. (E.g., Department of Public Works must approve construction projects, DPNR must approve permits, etc.)
4) A minimum of three (3) signed independent quotations from different prospective contractors to perform the statement of work or supply the goods. This shows that competition was obtained. If the User Agency is unable to obtain three independent quotations, the User Agency should sufficiently explain in the justification letter the reasons it was not able to obtain a minimum of three quotations.
5) A copy of a valid business license, certificate of government insurance, and all other corporate documents from the prospective contractor. *See Section 9.8 (Contractor's Supporting Documents)*

STEP 2: After reviewing the submission, the Commissioner will make a determination regarding the request. If the User Agency is granted approval to proceed, the User Agency shall proceed to Step 3. If it is not granted approval, it may re-submit the request correcting all deficiencies or otherwise following the guidance of the Commissioner.

STEP 3: The Executive Branch Agency shall submit its requisition to DPP for approval. The submission must be accompanied by a copy of the documents indicated under Step 1. *See Section 7 (Requisitions and Purchase Orders)*

STEP 4: Once the Executive Branch Agency's requisition is approved and it receives the PO, the Executive Branch Agency must draft the professional services contract and submit it for review or otherwise follow the recommendations in the justification letter form.

- If the procurement is for construction, the Division of Procurement will prepare a construction contract upon approval and receipt of the information outlined above and the PO.
- If the procurement requires a supply contract or emergency task order contract, the Division of Procurement will prepare the contract upon approval and receipt of the information outlined above and the PO.

4.3.1.4.2 Public Exigency Acquisitions

Pursuant to Title 31, Virgin Islands Code, Chapter 23, Section 239(a)(2), a public exigency exists when such immediate action is required due to sudden, unexpected, and unforeseen occurrence, happening or condition. For public exigency to apply, the need must be urgent and was not allowed to develop because of negligence or oversight. For example, this authority shall be used when property or services are immediately needed because of a fire, flood, explosion, or other disaster.

Section 239(a)(2) may be used when it has been established that the department or the Government would be seriously injured, financially or otherwise, if the purchase or contract were not effectuated in order to have the services or materials, supplies, or equipment on a day certain and when they could not possibly be procured by that time by means of formal advertising.

Additionally, this authority may also be used when:

a) Parts or services are immediately required to effect urgent repairs to machinery or equipment in order to minimize delay in service and downtime of such machinery or equipment.

b) Developments in connection with any essential government activity require the immediate purchase of supplies or services to permit program accomplishment within the time required when such time will not permit use of formal advertising procedures and it can be clearly shown that such development was without the fault or negligence of the department or agency.

c) Materials and services are required to meet an exigency created by the default of a contractor to whom a contract for like items had previously been awarded.

4.3.2 Formal Solicitations / Competition

Pursuant to Title 31, Chapter 23, Section 235, all purchases of and contracts for supplies, materials, equipment, and contractual services must be conducted in a manner providing for full and open competition. Section 235 requires that all procurement transactions must be conducted through competitive bids or competitive proposals. Likewise, Section 236 (a) requires competition in all purchases of and contracts for supplies, materials, equipment, and contractual services (except as provided for in Section 239(a) (regarding public exigency and emergency procurements)) and includes all sales of obsolete and unusable personal property.

The Formal Solicitation or Advertising process utilizes either an Invitation for Bids (IFB) or Request for Proposals (RFP) depending on the type of procurement. Requests for Qualifications (RFQs) are used to pre-screen proposers to determine qualifications before requesting proposals under Section 239(a) or when the Government is seeking to make multiple awards at a pre-determined price, and the Government is seeking qualified respondents to participate in the solicitation.

The solicitation document that is issued is significant because it conveys all the information potential respondents need to respond to the solicitation. It will identify the GVI's needs and provide the who, what, where, when, why, and how of a solicitation. Some of the information that this solicitation document will include are (this is not an exhaustive list):

- ✓ Department/Agency that will be receiving goods/services
- ✓ Department/Agency's location and location where goods/services are to be provided
- ✓ Specifications, requirements, terms and conditions, and other delivery information
- ✓ Solicitation identification number
- ✓ Due date, time, and location
- ✓ Whether there is a mandatory pre-bid meeting (and the date, time, and location)
- ✓ Contact person and contact information
- ✓ Additional pertinent information required by the solicitation

Regardless of what solicitation is issued, all expenditures made must be in writing and shall be formally advertised in various advertising mediums including but not limited to traditional newspapers, online publications, the Department of Property and Procurement's website, and databases of the Federal Government used by the General Services Administration. In advertisements for RFPs, pursuant to Section 236 (j), all advertisements will identify all evaluation factors and the relative importance (including qualifications, responsiveness, experience, past performance, responsibility, and cost). The evaluation, selection, and contracting process is conducted and managed by DPP.

4.3.2.1 IFBs

An Invitation for Bid (IFB) is an advertisement for vendors to submit a bid on a project for a specific product or service. While an IFB is similar to an RFP (Request for Proposal), it is concerned with the pricing more so than the conceptual ideas of the project. Similar to all other types of bids, an IFB is generally awarded to the bidder who submits the lowest bid and proves to be responsive and responsible. There are other factors that are considered, such as the quality of products and/or expertise needed to carry out a certain project. An IFB does not require a response to how the project scope will be accomplished by the vendor but rather the cost the vendor will charge to carry out the scope.

IFBs will be the method of procurement for construction contracts in excess of $50,000.00 and for all supply contracts for good and services. The selection criteria pursuant to Section 236 (c) is the lowest, responsive, responsible bidder, "where responsiveness is determined by whether the bidder complies with the invitation for bids in all material respects, and responsible is determined by whether the bidder possess the financial, technical and human resources to perform the proposed contract."

All acquisitions in these categories **must** be formally solicited through the Department of Property and Procurement and shall be formally advertised as described in *Section 9.1 (Advertisement and Notice).* The Executive Branch Agency must submit:

For construction contracts:

(a) A justification letter signed by the Executive Branch Agency and the Department of Public Works to the DPP Commissioner requesting the solicitation (meeting the criteria in *Section 8.1.1 (Requests for Formal Solicitations)*,
(b) Specifications, drawings, plans, permits, and licenses approved by the applicable agency(ies) and submitted through DPW to DPP for solicitation.
(c) DPW Engineer's Estimate (and blank bid sheet),
(d) Project completion timeline, and
(e) Proof of funding (meeting the criteria in *Section 8.2 (Proof of Funding/Funding Source)*).

For supply contracts:

(a) A justification letter to the DPP Commissioner requesting the solicitation (meeting the criteria in *Section 8.1.1 (Requests for Formal Solicitations)*),
(b) Scope of Services or blank bid sheet for supply contracts, and
(c) Proof of funding (meeting the criteria in *Section 8.2 (Proof of Funding/Funding Source*).

4.3.2.2 RFPs

A Request for Proposal (RFP) is a solicitation by a government entity or agency for products or services from public contractors. By law, government agencies are required to issue solicitations publicly whenever they need a specific product or service. This is standard policy to prevent "insider bidding," where companies are being awarded contracts secretively. It is also beneficial for the government agency itself because it creates competition, resulting in lower prices for the project.

An RFP requests that the proposer put forth a proposal that represents the best value to the solicitor, considering the price and other evaluation factors. Commonly, RFPs are issued when the selection of a supplier cannot be made solely based on the lowest price. It is used to procure the most responsive solution based upon a number of evaluation criteria identified in the RFP. Hence, when advertised, the RFP is required by Section 236 (j) to identify all evaluation factors, including price, "qualifications, responsiveness, experience, past performance, responsibility, cost, and their relative importance." All responses to the RFP are considered to the maximum extent possible. Additionally, "[c]ontracts must be awarded to the responsible firm whose proposal represents the best value to the Government, with price and other factors considered."

RFPs will be the method of procurement for all professional services contracts in excess of $50,000.00. Department User Agencies cannot procure professional services costing more than $50,000.00 through exemptions and in-house procedures unless the agency has received a delegation or waiver from the Commissioner of DPP. *See Section 4.5 (Delegated Procurement Activity)*

All acquisitions in this category **must** be formally solicited through the Department of Property and Procurement and shall be formally advertised as described in *Section 9 (The Formal Solicitation Process / Competitive Sealed Bidding)*. The Executive Branch Agency must submit:

(a) A justification letter to the DPP Commissioner requesting the solicitation (meeting the criteria in *Section 8.1.1 (Requests for Formal Solicitations)*),
(b) Scope of Services,
(c) Proposed Source Selection/Evaluation Criteria (subject to DPP approval)
(d) Project completion timeline for construction projects, and
(e) Proof of funding (meeting the criteria in *Section 8.2 (Proof of Funding/Funding Source)*).

As indicated in Section 236(k), the Commissioner of DPP shall use Requests for Proposals for the following types of services:

(1) professional services, including architectural/engineering services, accounting and auditing services, legal services, medical services, residential services, information technology services;

(2) design-build construction projects where the Government will use one contractor for both the design and construction; where the construction activities are highly specialized, and a design-build approach is critical in developing construction methodology; or a design-build approach provides opportunities for greater innovation and efficiencies between the designer and the builder; or significant savings in project delivery time would be realized;

(3) construction manager or general contractor construction projects where the Government will engage a construction manager during the design process to provide constructability input regarding scheduling, pricing, phasing, etc., and at the 60% to 90% design completion, where the Government can negotiate a guaranteed maximum price for the construction with the construction manager.

Additionally, RFPs will be utilized when conditions are not suitable for sealed competitive bids, where price is not sole determining factor, and the award is based on price and technical factors.

4.3.2.3 RFQs

A Request for Qualification (RFQ) allows vendors and contractors to provide a quotation on a specific product or service that is intended to be procured or obtained. Unlike some other requests, RFQs are not solely based on the price which the vendor or contractor provides to perform the service or provide the product. RFQs are based on various aspects of the type of job to be performed or product to be supplied. Before the winning contractor/vendor is awarded, some determining factors are considered, including but not limited to the length of time it will take the vendor to complete the project and the price for items.

Section 236 (l) requires the Commissioner of Property and Procurement to use an RFQ in the following instances:

(1) when the Government needs to pre-screen proposers to determine qualifications before requesting proposals under Section 239(a), or

(2) when the Government is seeking to make multiple awards at a pre-determined price and is seeking qualified respondents to participate in the solicitation.

4.4 Authority for Procurements of $1,000,000.00 or Less

In accordance with Executive Order No. 507-2020, all professional services contracts, construction contracts, and memoranda of agreement with a compensation value less than One Million Dollars ($1,000,000.00) shall be signed by the Commissioner of Department of Property and Procurement as the final signatory for the Government of the Virgin Islands and shall be binding upon receipt of this signature. The Department of Justice shall approve contracts in this category for legal sufficiency. Notwithstanding the foregoing, contracts and purchases procured under Title 31, Section 239(a)(1) and (2) (regarding public exigency and emergency procurements) require approval of the Governor pursuant to Title 31, Section 239(b) of the Virgin Islands Code regardless of the amount.

4.5 Delegated Procurement Activity

Section 232 (7) provides the Commissioner of DPP with the authority to delegate procurement authority up to $50,000.00 to agencies that have:

(a) established central procurement offices and
(b) been trained and certified by the Commissioner of DPP.

Agencies will be required to re-certify every two (2) years. Additionally, procurement activities will be limited to the activities granted by the Certificate of Delegated Authority issued by the Commissioner of DPP. DPP must promulgate Rules and Regulations before the Program is launched.

Section 232 (7) does not provide automatic delegated authority to agencies and departments. No Executive Branch Agency has been granted delegated authority under this section and no agency will be delegated authority until the Regulations are promulgated.

Section 5: Types of Contracts

There are several types of contracts utilized depending on the type of solicitation. The most commonly used are discussed below.

5.1 Supply Contracts

Pursuant to Title 31 of the Virgin Islands Code, Chapter 23, Section 236 (a), when procuring goods and services for executive branch departments, an IFB is used. Two (2) types of supply contracts can result from this procurement:

(1) a one-time procurement, which means that the Executive Branch Agency needs to buy the item(s) for immediate delivery, and

(2) a term procurement, which means that the Executive Branch Agency will require the goods or services over an extended period.

The duration of term procurements in most cases is one (1) year with an option for an additional term at the request of the Department User Agency. An IFB is required for all supply contracts for services, even if the total cost is under $10,000.00 because the complete service or purchase will be performed on a recurring basis. Examples of the commodities and services procured through a supply contract include:

- Household and Cleaning Supplies
- School and Office Supplies
- Groceries and Meats (for schools, day care centers, elderly homes, etc.)
- Janitorial Services
- Landscaping Services

The list above is not exhaustive but represents just a few of the commodities and services procured by the DPP using the bidding process and affording bidders an opportunity to participate in a free and open competitive market.

All acquisitions in this category **must** follow the processes described in applicable sections of *Section 4.3.2 (Formal Solicitations / Competition) and Section 9 (The Formal Solicitation Process / Competitive Sealed Bidding)*. All supply contracts and task order agreements for the purchase of goods and the supply of non-professional services shall be signed by the Commissioner of Property and Procurement as the final signatory for the Government of the Virgin Islands upon whose signature the supply contract and task order will become binding.

5.2 Professional Services Contracts

A professional services contract is used to contract for services from both for profit and non-profit businesses and individuals, which are engaged in rendering widely diversified services. Professional services contracts are used for services solicited through a Request for Proposals. These contracts are defined by a Scope of Services as responded to in the RFP and compensated at a fixed fee. Professional services contracts are also used when there is no formal solicitation or advertisement. All acquisitions in this category **must** follow the process in applicable sections of *Section 4.3.2 (Formal Solicitations/Competition) and Section 9 (The Formal Solicitation Process/Competitive Sealed Bidding). See also Appendix B: Professional Services Contract Under $1Mil and Appendix C: Professional Services Contract Over $1Mil*

5.3 Task Order Contracts

There may be instances when an Executive Branch Agency's request to procure services cannot be captured by a typical supply contract or professional services contract because the services will not occur at a predetermined or expected frequency. In those instances, the Commissioner of DPP will determine whether a Task Order Contract is necessary based on the information contained in the Executive Branch Agency's request. Task Order Contracts are generally required for the acquisition of services under Title 31, Virgin Islands Code, Chapter 23, Sections 239(a)(1) (during a declared State of Emergency) and (2) (Public Exigency).

Task Order Contracts may also be required at the discretion of the Commissioner of DPP, for services under Title 31, Virgin Islands Code, Chapter 23, Section 239(a)(3), when the cost of services is less than $50,000.00 and is more appropriate as a Task Order Contract than a Professional Services Contract or a Supply Contract. In such instances, the services to be performed will not occur at a pre-determined frequency, but rather can only occur when required, and upon written request by the User Agency. All standard supporting documentation required for a Professional Services Contract will be required for a Task Order Contract.

All supply contracts and task order agreements for the purchase of goods and the supply of non-professional services shall be signed by the Commissioner of Property and Procurement as the final signatory for the Government of the Virgin Islands upon whose signature the supply contract and task order will become binding.

5.4 Construction Contracts

When procuring construction services for the Government of the Virgin Islands, the Department of Public Works (DPW) is the executive branch agency usually at the helm of the project. The DPW is the architect of record and is charged with planning for, constructing, and maintaining the Territory's public roadways, highways, public transportation systems, storm drainage systems, public buildings, parking facilities, and other public infrastructure. The services procured to enable the DPW to meet its mandates can be procured through any of the acquisition processes and memorialized through construction contracts or professional services contracts. While DPW is not the only executive branch agency to have a need to procure said services, the majority of the services are under its management.

All acquisitions in this category **must** follow the process in the applicable sections of *Section 4.3.2 (Formal Solicitations / Competition) and Section 9 (The Formal Solicitation Process / Competitive Sealed Bidding)*.

Section 6: Federal Funds

For the procurement of goods and services utilizing federal funds whether in whole or in part, Executive Branch Agencies must comply with the requirements in their respective grant awards or the federal program under which the funds were awarded. This includes requirements such as those outlined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards found in Title 2, Code of Federal Regulations (CFR), Section 200, et. seq. Sometimes referred to as the "Super Circular," Section 200 et. seq., streamlined and superseded information contained in eight earlier US Office of Management and Budget Circular.

The Virgin Islands (deemed a "state" for applicability under federal processes) is required to follow its own procurement laws in accordance with 2 CFR 200.317. Therefore, Department User Agencies are required to follow the provisions of Title 31, Virgin Islands Code, Chapter 23, and all the associated rules and regulations when procuring goods and services using federal grant awards.

It is imperative for Executive Branch Agencies to review the terms and conditions of all federal awards and applicable sections of the CFR to ensure compliance with all requirements. Examples include in Section 200.322 regarding the preference for the use of goods, products, or materials produced in the United States in all procurements as well as ensuring all necessary clauses required by Section 200.327 are included in state contracts.

The requirements outlined in this Procurement Manual apply to all procurements, including those utilizing local and/or federal funds.

Part 3: *Procurement of Goods and Services*

Section 7: Requisitions and Purchase Orders

The purchase requisition provides for the orderly, complete, and timely flow of procurement needs from the Executive Branch Agency to the vendor. According to Appendix D: SOPP#105 (Requisitioning), all purchases, except the items approved for Straight Payment via the Accounts Payable Module by the Department of Finance, require a requisition. A requisition is initiated by the User Agency in the Tyler Munis Enterprise Resource Planning ("ERP") System© and starts the approval process for the acquisition of goods and services.

All requisitions must be created following the regulatory guidelines of the Department of Finance. When creating a requisition, all necessary supporting documentation must be attached in the ERP; this includes the required quotes (not invoices) and a justification letter signed by the Executive Branch Agency head and approved by the Commissioner of Property and Procurement, if required. Purchase requisitions must be approved by the certifying officer and department head of the User Agency, prior to approval from the DPP in the ERP system. Once entered, the requisitions are reviewed, and either approved or rejected, by DPP.

Once a requisition has been approved and converted to a Purchase Order, a copy of the approved Purchase Order is automatically sent to the preparer of the requisition via the ERP. If the User Agency needs any changes to the Purchase Order once it has been created, the User Agency must submit a written request (via e-mail) to DPP explaining the changes required. DPP can make changes to Purchase Orders including vendor remit address changes, monetary changes, vendor name, add line items, and descriptions. All Purchase Orders must be liquidated in accordance with the requirements of the Department of Finance, then in effect.

Purchases which obligate the Government of the United States Virgin Islands without a written approved Purchase Order by the Commissioner of the Department of Property and Procurement are illegal. *See Section 3 (Standards of Conduct).*

Section 8: Request for Solicitations / Acquisitions

All requests for acquisitions must be supported by several documents depending on the request. *See Section 4 (Acquisitions).*

8.1 Justification Letters

All justification letters, depending on the need, must meet certain requirements pertaining to the acquisition requested. Appendix A: DPP's form Justification Letter must be used and must be:

- ✓ Addressed to the Commissioner of Property and Procurement
- ✓ Signed by the Agency Head or designee[1]
- ✓ Signed by the User Agency's Chief Procurement Officer (if applicable)
- ✓ Signed by the Director of Bureau of Information Technology (BIT) if the request is technology based
- ✓ Fill-out all required fields
- ✓ Include a point of contact/requester contact information for the Department User Agency
- ✓ Request formal advertisement of a specific project or the procurement of professional services or supply service projects

8.1.1 Requests for Formal Solicitations

A justification letter is necessary to request a solicitation for services. The justification narrative must address the following questions:

1) **Who** is requesting the services?

2) **What** is being requested and by whom? (Describe request and provide requester's contact information)

3) **Why** are the goods/services needed? (This includes background/historical information about the need. When urgent, note the impact on the agency/division, etc. if goods/services are delayed. Pay close attention to these concerns and mark the task as URGENT so all reviewers/approvers can expedite the request.)

4) **Where** will the goods/services be performed/delivered?

a. The location where services will be provided and/or
b. Who will receive the goods/services?

5) **When** will the goods/services be performed/delivered? (How long will services be required, if applicable?)

6) **How** will the work be performed, or good(s) be delivered? (The "how" is well defined in SOW/SOS *See Section 8.3 (Scope of Work/Services).* SOW/SOS provide technical requirements that fully describe the purpose of the project, specific objectives, deliverables, (what success

[1] If the Agency's designee is in an acting capacity, a copy of the Governor's letter designating them into said role must be furnished.

and acceptance look like), etc. Technical requirements address the five (5) fundamental questions and include but are not limited to the following:

a) List of types of qualifications (if applicable)
b) List of equipment (if applicable)
c) Industry standards (if applicable)
d) Experience
e) The form/format in which reporting/deliverables are required and will be accepted, how often, to whom, and through which medium shall they be delivered.

8.1.2 Requests for Acquisitions Pursuant to 31 V.I.C. § 239

A justification letter is necessary and required when buying exemptions exist. Section 239 indicates thirteen (13) exemptions where supplies, material, and equipment may be purchased, and contractual services negotiated for without observing the open market provisions of Section 236. As a result, Department User Agencies must provide justification that supports the utilization of an exemption. Therefore, Appendix A: DPP's form Justification Letter must be used and must cover:

1) **Who** is requesting the services?

2) **What** is being requested and by whom? (Describe request and provide requester's contact information)

3) **Why** are the goods/services needed? (This includes background/historical information about the need. When urgent, note the impact on the agency/division, etc. if goods/services are delayed. Pay close attention to these concerns and mark the task as URGENT so all reviewers/approvers can expedite the request.)

4) **Where** will the goods/services be performed/delivered?

a. The location where services will be provided and/or
b. Who will receive the goods/services?

5) **When** will the goods/services be performed/delivered? (How long will services be required, if applicable?)

6) **How** will the work be performed, or good(s) be delivered? (The "how" is well defined in SOW/SOS *See Section 8.3 (Scope of Work/Services).* SOW/SOS provide technical requirements that fully describe the purpose of the project, specific objectives, deliverables, (what success and acceptance look like), etc. Technical requirements address the five (5) fundamental questions and include but are not limited to the following:

a) List of types of qualifications (if applicable)
b) List of equipment (if applicable)
c) Industry standards (if applicable)
d) Experience
e) The form/format in which reporting/deliverables are required and will be accepted, how often, to whom, and through which medium shall they be delivered.

Additionally, the justification letter must include:

1) The subsection of Section 239 that is applicable to the request (i.e., pursuant to Section 31 V.I.C. 239(a)(3)).
2) Amount of the purchase
3) Account Code or Name (e.g., General Account, Revolving Account)
4) Signature approval line for the DPP Commissioner and an additional line for the signature of the Governor if the request is made under 31 V.I.C. 239(a)(1) and 31 V.I.C. 239(a)(2).
5) A copy of all quotes

8.2 Proof of Funding/Funding Source

The Commissioner of DPP shall not approve a contract or open market purchase unless there exists a sufficient unencumbered balance to support the purchase. An Executive Branch Agency must submit proof of funding with each transmittal. The funding must at least equal or exceed the amount of the contract by no more than 10% and cannot be expired. Proof of funding can be provided by submittal of a purchase order, Public Finance Authority (PFA) letter, or copy of United States Department of Education (USDE) federal grant award. If funding documents are expiring within thirty (30) days of transmittal, the Executive Branch Agency must notify DPP by inserting in the justification letter narrative the expiration deadline in **BOLD** red text. In rare situations where a funding source does not immediately exist but is expected to be received, the Executive Branch Agency must include an explanation of the circumstances in its justification letter and submit a signed letter from the Office of Management and Budget (OMB) certifying the availability of the expected funding.

The Executive Branch Agency must also ensure:

For Purchase Orders:

(a) The PO does not exceed the contract price by 10% or more.
(b) If a multi-year contract, the user agency must submit a PO through the end of the existing fiscal year and must insert a BOLD statement (in red text) in the justification letter narrative to alert DPP that funding in subsequent years will be requested via the Office of Management and Budget.
(c) If the PO is more than 180 days old, there must be an attached authorization or verification letter from the Department of Finance verifying the PO balance and availability of funding.
(d) The DPP will verify that funds are available to fulfill the contract's obligation.

For PFA Letters:

(a) A signed letter dated within **<u>fourteen (14) days</u>** from the PFA indicating the particulars of the funding.

For USDE Grant Awards - A grant award notification to the user agency that indicates:

(a) A non-expired budget period and federal funding period.
(b) An amount sufficient to cover the compensation as shown on a Grant Summary Report.
(b) Attaches all pages of the term and conditions of the award.

8.3 Scope of Work/Services

The Scope of Work or Scope of Services ("Scope") defines the needs and specifications of a particular project. The Executive Branch Agency should describe the Specifications that are needed to reasonably satisfy the agency's needs. The Scope also provides technical requirements, which fully describe the purpose of the project, specific objectives, deliverables, (what success and acceptance looks like) etc. Technical requirements address the five (5) fundamental questions and include but are not limited to the following:

i. List of types of qualifications (if applicable)
ii. List of equipment (if applicable)
iii. Industry standards (if applicable)
iv. Experience
v. The form/format in which reporting/deliverables are required and will be accepted, how often, to whom, and through which medium shall they be delivered.
vi. The period of performance
vii. Specific deliverables

The Scope also becomes a part of the contract. While the contract itself defines the legal terms and conditions and requirements, the Scope provides the details of the services and products that will be provided to under the contract. It overall establishes the tasks, deliverables, period of performance, milestones, and any other project specific requirements.

Section 9: The Formal Solicitation Process/Competitive Sealed Bidding

9.1 Advertisement and Notice

Pursuant to Title 31, Chapter 23, Section 236(a) of the Virgin Islands Code, "notices inviting sealed competitive bids must be published in the newspapers of general circulation within the Virgin Islands, or on the Department of Property and Procurement's website and online or by electronic publications, and on Federal Government databases, used by the General Services Administration. Not fewer than five (5) calendar days must intervene between the date of the last publication and the final date for submitting bids. The notices must include:

(1) a general description of the articles to be purchased or sold,
(2) a statement of where blank bids and specifications may be obtained,
(3) the time and place for the bid opening, and
(4) the place where the property may be inspected, if it is an item that is being sold."

Generally, projects are advertised for a minimum of fifteen (15) calendar days when procuring products or services attainable and available within the Territory and a minimum of thirty (30) calendar days when procuring products or services available from outside the Territory as per the V.I. Rules and Regulations at Section 235-31. This process applies to all solicitations.

9.2 Preferred Bidders

Pursuant to Title 31, Chapter 23, Section 236(b) of the Virgin Islands Code, the Commissioner of DPP shall solicit sealed bids or proposals from all responsible, prospective suppliers or purchasers who have requested their names to be added to the bidders' list, by sending them the notices electronically or through regular mail, as will acquaint them with the proposed purchase or sale. All pending purchases or sales must also be posted on the DPP's website.

Preferred bidders must meet the requirement set forth in the Preferred Bidders Statute as indicated in Title 31, Chapter 23, Section 236a of the Virgin Islands Code. Bidders shall apply for certification as a Preferred Bidder with DPP and must submit confirmation that the definition of a preferred bidder is being met. Bidders shall apply for recertification every two years.

According to Section 236a, a "preferred bidder" means:

(1) a person who has been a bona fide continuous resident of the Virgin Islands for at least 8 years or was born in the Virgin Islands; or

(2) a firm, partnership, or corporation in which at least fifty-one (51%) percent of the legal or equitable ownership is held by a person or persons who have been bona fide continuous residents of the Virgin Islands for at least 8 years or who were born in the Virgin Islands; or is a firm, partnership, or corporation that is a certified small business enterprise as defined in 11 V.I.C. § 1270 et seq.; and

(3) said person, firm, partnership or corporation is licensed in and maintains his or its principal place of business in the Virgin Islands and who owns, operates, or maintains a store, warehouse, or other place of business in the Virgin Islands or is the duly authorized agent, dealer, distributor, or representative in the Virgin Islands for the materials, supplies, articles, or equipment, or contractual or

consulting services of the general character described by the specifications and required under this contract a certification requirement for Preferred Bidders.

Section 236a(b) requires the DPP Commissioner to purchase or contract for services from Preferred Bidders where:

1) the total cost to GVI does not exceed by more than fifteen (15%) percent the cost of such construction services, supplies, materials, equipment, or contractual or consulting services if obtained from other than a preferred bidder; and
2) the quality and availability of the construction services, supplies, materials, equipment, or contractual or consulting services are substantially equivalent.

9.3 Bid Submission and Requirements

For IFB solicitations requiring submission of bids, note the following important aspects of Title 31, Chapter 23, Sections 236(c)-(e)/(g) of the Virgin Islands Code:

- ✓ All bids shall contain a specific itemization of all units bid upon and the corresponding unit price.
- ✓ All bids shall be submitted in GVIBUY to the Commissioner of DPP and, when deemed necessary, shall be accompanied by surety for 5% of the bid amount for all construction contracts over $150,000, except where the Preferred Bidders Statute applies on locally funded projects only). *See Section 11.3 (Bonds).* Payment must be in the form of:
    1) check,
    2) irrevocable letter of credit, or
    3) bond.

  No cash is accepted.
- ✓ The bids shall be opened in public at the time and place stated in the advertisements. A tabulation of all bids received shall be filed for public inspection.
- ✓ The Commissioner of DPP may reject any or all bids, or the bid for any one or more commodities or contractual services included in the proposed contract, when the public interest will be served thereby. If all bids received are for the same total amount or unit price, and if the public interest will not permit the delay of readvertising for bids, the Commissioner of Property and Procurement may award the contract to one of the bidders by drawing lots. Otherwise, the contract shall be awarded to the lowest, responsive, responsible bidder, where responsiveness is determined by whether the bidder complies with the invitation for bids in all material respects, and responsibility is determined by whether the bidder possesses the financial, technical, and human resources to perform the proposed contract.
- ✓ Service reputation shall be determined by the Commissioner of Property and Procurement by actions, including but not limited to an analysis of the credit worthiness of the business and the principals in the business, utilizing such independent credit bureaus as may be appropriate.
- ✓ No bid shall be considered by the Commissioner of DPP unless the bid includes a financial disclosure statement and a work experience statement.

- ✓ The Commissioner of DPP shall discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.
- ✓ Each bid, with the name of the bidder, shall be entered on a record, and each record with the successful bid indicated shall, after the award of letting of the contract, be opened to public inspection.
- ✓ Except as otherwise provided in the Preferred Bidders Statute, a payment and performance bond or an irrevocable letter of credit for 100 percent of the contract price for construction contracts over $150,000 for the proper performance of each contract may be required by the Commissioner of Property and Procurement.
- ✓ All contracts shall be in the form previously approved. If the successful bidder shall not within ten days after the award complete his contract, he shall forfeit any surety which accompanied his bid.
- ✓ For services to be performed in the Virgin Islands, all bidders or respondents when submitting a bid or proposal must include:

  (A) a current certificate of good standing or its equivalent,
  (B) articles of incorporation or organization or its equivalent,
  (C) a corporate resolution or its equivalent, and
  (D) current business license in the Virgin Islands,

  Notwithstanding the information above, out-of-territory respondents to Requests for Proposals shall submit a Virgin Islands business license not more than 15 days after the award, unless the services will not be performed in the Territory, or the business transaction is otherwise not considered to be doing business in the Territory.

9.4 Solicitation Issuance and Response

Once the Executive Branch Agency has submitted its justification letter and supporting documents to DPP meeting the requirements in *Section 8 (Requests for Solicitations/Acquisitions* and the project is approved to proceed, the DPP's Office of Procurement and Contract Management and Reporting (OPCMR) will manage the procurement and will be responsible for maintaining the integrity of the project file.

The OPCMR assigns an Evaluation Supervisor, who will communicate with the Executive Branch Agency to review project specifications and establish a timetable checklist to ensure timely process. The Evaluation Supervisor is responsible for the project until the bid opening and is also responsible for developing the project file.

The solicitation process is initiated by the issuance of the IFB, RFP, or RFQ, which will indicate the deadline for a response. The time and place for response are advertised in the notice of the solicitation. Only timely bids or late bids meeting the requirements of Title 31, Virgin Islands Rules and Regulations, Chapter 23, Section 235-42, will be evaluated.

Responses to solicitations may contain information considered confidential or proprietary by the respondent. In such cases, the respondent should identify the pages or components of the response that are confidential or proprietary. In the event of a request or challenge, the government's attorneys will make the determination as to whether the indicated pages are indeed confidential or proprietary.

9.5 Bid Submission In GVIBUY

All interested parties shall submit ***one*** **(1)** electronic copy of proposals, which are to be delivered to the Department of Property and Procurement via the vendor's GVIBUY account no later than the date and time specified in the solicitation document accessed through the following link: https://gvibuy.buyspeed.com/bso/.

Bidders/Proposers should review and validate their bids/proposals/quotes ("quotes") for accuracy before pressing the "**Submit Quote**" tab. The Summary tab at the top of the screen is where bidders/proposers will review the information entered on their quote and submit to the Government, Department of Property and Procurement. Once the Bid/Proposal Open Date has been reached, the Government, Department of Property and Procurement will open and review all quotes received. Quotes must be submitted in advance of the Opening Bid/Proposal/Quote Date. Any quote not submitted by the Open Bid/Proposal/Quote Date is considered unsubmitted and **will not** be considered for evaluation. To submit an offer, follow steps 1 through 4 below.

1. Review the information and ensure all of the submitted data is correct. If there are errors, Quotes can be withdrawn and resubmitted, but it is good practice to ensure Quotes are comprehensive before submitting.
2. Once all information has been validated, scroll to the bottom of the screen, and click **Submit.**
3. A popup appears asking if you want to submit the Quote. Click **OK** to confirm.
4. The screen refreshes. Your quote is now submitted.

Note: Quotes may be withdrawn by clicking the **Withdraw Quote** button on the same screen.

9.6 Evaluation Committee

An Evaluation Committee is selected, and an Evaluation Supervisor, (Chairperson) is designated for each solicitation for IFBs and RFPs. The Chairperson is responsible for maintaining the integrity of the project file.

The Evaluation Committee shall consist of no less than five (5) voting members, all of whom must be free of any conflicts of interest. This Committee shall include representatives from the Executive Branch Agency and representatives from DPP, one of whom shall be the head of the Evaluation Committee or his/her designee. The Executive Branch Agency may request additional voting members, observers, or technical advisors, who shall serve as non-voting members. All additional members must be approved by the Commissioner of DPP.

Each member of the Evaluation Committee shall be appointed by his/her respective Commissioner. A committee member shall only be removed by the person authorized to appoint the member. Each committee member, regardless of status as a voting or non-voting member, shall sign the Appendix E: Bid/RFP Evaluation Rules and Procedures regarding conflicts of interest and integrity, prior to the commencement of the evaluation process.

9.7 Evaluation, Approvals, Contract Awards, and Amendments

Once the timeframe for advertisement has passed, all bids and proposals shall be publicly opened, read aloud, and recorded prior to being submitted to the Assistant Commissioner of Procurement and/or his/her designee (the Deputy Commissioner of Procurement and/or the Chief of Procurement and Contracts). All proposals received by the specified time and date shall be recorded and submitted to the Assistant Commissioner of Procurement and/or his/her designee and then forwarded to the Evaluation Committee where they shall be opened in the presence of the Evaluation Committee members.

At minimum three (3) days prior to the evaluation of any solicitation, each Evaluation Committee member shall be given a complete copy of each offeror's proposal. The Evaluation Committee then conducts the evaluation. In addition to the requirements of the solicitation, the Evaluation Committee shall perform a cost analysis and consider each offeror for past performance, mobilization (if applicable), staffing, preferred bidder status (if applicable), and local staffing. The Evaluation Committee may include additional criterion deemed necessary for the proper evaluation of said offer. Each offeror shall be reviewed on sam.gov to determine whether they are eligible to receive contract awards using federally appropriated funds and that they have not been suspended or debarred from entering into contracts with any federal agency.

There shall be no final Evaluation Committee vote until each offeror selected for oral presentation has had an opportunity to orally present his/her offer. If the Evaluation Committee decides that no oral presentation is necessary and there are no outstanding issues to be considered, it may take a final vote when it deems it appropriate.

Each member of the Evaluation Committee with the exception of the Chairperson, shall independently complete the selection committee rating form. There shall be an evaluation report that shall provide a signatory line for those Evaluation Committee members approving the solicitation and one for those submitting a disapproving vote.

All bids and proposals shall be evaluated within a reasonable time frame.

9.7.1 IFBs

1) All bidders must be registered in GVIBUY to submit bids. Bids must be submitted in GVIBUY's bidding module via the bidder's GVIBUY account before the bid closing date.

2) Notices of the bid opening date and time are outlined within the solicitation. During the bid opening, bids are opened and are publicly announced via Microsoft Teams by the Evaluation Supervisor.

3) The Evaluation Committee meets to review all bid documents and offers, and it recommends an award to the lowest, responsive, responsible bidder. Within three (3) business days after the completion of the evaluation, an award recommendation is forwarded to the Assistant Commissioner and/or Chief of Procurement and Contracts for review.

4) Upon approval of the award recommendation, an evaluation report is prepared by the Evaluation Supervisor (Chairperson) and is forwarded to the Assistant Commissioner and/or

Deputy Commissioner for review and approval. Once approved, the evaluation report is disseminated for the signatures of all Committee Members and then forwarded to the Commissioner of Property and Procurement for approval.

5) After approval, the file is assigned to a Contract Administrator to produce and maintain the Contract.

6) IFB notifications of award are delivered to the successful bidder electronically through GVIBUY. A Letter of Award is sent electronically to the successful bidder advising them to return the required contract and all required supporting documentation within ten (10) days of receipt. Notification of award is sent to the User Agency advising them of the successful bidder. A "letter of non-award" is electronically delivered to unsuccessful bidders through GVIBUY.

7) The successful bidder must submit all required documents/items to the assigned Contract Administrator/Contract Specialist. These documents include but are not limited to performance and payment bonds, updated licenses and insurances (as applicable), and the executed contract. *(See Section 9.8 (Contractor's Supporting Documents) and Section 11.3 (Bonds))*

8) The Contract Administrator/Contract Specialist reviews all items submitted for responsiveness and compliance.

9) Once sufficient, the Contract Administrator/Contract Specialist submits contracts to User Agency for signature (if applicable).

10) The User Agency returns signed contract to Contract Administrator/Contract Specialist, and the Commissioner of DPP signs the contract. For supply contracts, the Commissioner of DPP is the last signatory.

11) For Construction Contracts, the contract documents are then forwarded to the Department of Justice for legal sufficiency review. Once approved for legal sufficiency, contracts valued up to $1,000,000.00 are returned to DPP for final execution, and contracts valued over $1,000,000.00 are forwarded to the Office of the Governor for final approval and signature.

12) Once the final signatory has approved the contract, depending on its compensation threshold, a DPP Contract Administrator/Contract Specialist then electronically distributes a copy of the contract to the User Agency.

9.7.1.1 Additional Steps for Construction Contracts Only

13) A "Notice to Proceed" letter is forwarded to the contractor, and a copy is sent to the Executive Branch Agency along with the approved contract documents during the Pre-Construction Meeting.

14) The Pre-Construction meeting is scheduled to discuss project requirements and deliverables and to officially turn over the project to the User Agency and/or Department of Public Works as Project Managers.

15) Post-award management of the project is now between the Executive Branch Agency and the contractor. The User Agency is responsible for submitting all change orders, supplemental, or project modifications to the Commissioner of Property and Procurement.

16) Payment documents, to include the Appendix F: Payment and Change Order Review Checklist, are to be submitted to Contract Administrator/Contract Specialist for document review and compliance.

17) The payment document procedure is repeated until final payment is requested, and the project is closed out.

9.7.2 RFPs

1) All respondents must be registered in GVIBUY to submit proposals. Proposals must be submitted in GVIBUY's bidding module via the respondent's GVIBUY account before the proposal closing date. The Evaluation Committee conducts the evaluation.

2) Upon approval of the award recommendation, an evaluation report is prepared by the Evaluation Supervisor (Chairperson) and is forwarded to the Assistant Commissioner and/or Deputy Commissioner for review and approval. Once approved, the evaluation report is disseminated for the signatures of all Committee Members and then forwarded to the Commissioner of Property and Procurement for approval.

3) RFP notification of awards are delivered to the successful respondent electronically through GVIBUY. An e-mail is sent to the Executive Branch Agency from DPP's Contract Administrator advising them of the successful awardee. A "letter of non-award" is electronically delivered to unsuccessful bidders through GVIBUY.

4) Notice is sent via e-mail to the Executive Branch Agency notifying the User Agency to begin the contracting process utilizing the professional services contract template with the awarded contractor. The Executive Branch Agency develops the contract after the contractor is selected and must develop the contract within ten (10) business days of notification from DPP. User Agencies **must** submit an electronic draft copy of the contract along with all required supporting documents to DPP for preview via SharePoint prior to securing any signatures on the contract.

5) Within five (5) business days of receipt, not including the day the documents were received, DPP will review the documents and notify the Executive Branch Agency of any required changes or to secure the signature of the contractor and authorized User Agency head.

6) If changes are required, the Executive Branch Agency must complete the changes and return the contract to DPP within three (3) business days.

7) Once DPP has approved the contract for signatures, the Executive Branch Agency **must** obtain an electronically signed contract from the contractor within ten (10) business days of receiving approval from DPP.

8) The Executive Branch Agency must forward the executed contract, with the contractor's and User Agency head's signature, to DPP within three (3) business days of receiving the contract from the contractor. All contracts which are formally submitted to DPP for processing must be submitted with: 1) A transmittal letter; 2) All required supporting contractor documentation *(See Section 9.8)*; and 3) a completed Appendix H: DPP's Contract Checklist for User Agency.

9) All Professional Services Contracts must be forwarded to the DPP with a transmittal letter that contains the following mandatory information:

   a) The name of the user department, agency, board, or commission
   b) The name of the contractor
   c) A description of the solicitation, i.e., RFP number and dates of advertising and closing
   d) A description of the scope of work to be performed under the contract
   e) The term of the contract, and whether it contains any renewal options
   f) The compensation for the term of the contract identifying the funding source. Note the following:
      - All POs must comply with Department of Finance's Appendix I: SOPP#305 (Purchase Order Maintenance) and show compliance with Title 33, Virgin Islands Code, Chapter 113, Section 3101.
      - Provide valid PO(s) to cover the expenses of the current fiscal year. Per SOPP#305, a PO tied to an unexecuted contract is valid for only 180 days.
      - If the contract is a multi-year contract, explain how the department will obtain subsequent years funding.
      - The PO submitted cannot be expired.
   g) A list of all supporting documents included in the contract package *(See Section 9.8 (Contractor's Supporting Documents)*
   h) Any special circumstances requiring explanation in the contract.

10) Contract Administrator reviews submitted items for responsiveness and compliance. If the contract is complete and contains all required supporting documents, DPP will, within five (5) business days of receipt, forward the contract to the Department of Justice for legal sufficiency review. If the contract is deficient, DPP will return it to the User Agency so the noted deficiencies can be corrected.

11) User Agencies must return the corrected contract within a reasonable timeframe, but not to exceed five (5) working days, after receipt.

12) The Contractor must submit all required documents/items to the assigned Contract Administrator/Contract Specialist. These documents include but are not limited to performance and payment bonds, updated licenses and insurances (as applicable), and the executed contract. *(See Section 9.8 (Contractor's Supporting Documents) and Section 11.3 (Bonds))*

13) The Contract Administrator reviews all submitted items for responsiveness and compliance.

14) Once sufficient, the Contract Administrator submits contracts to User Agency for signature (if applicable).

15) The User Agency returns signed contract to Contract Administrator, and the Commissioner of DPP signs the contract.

16) The contract and contract documents are then forwarded to the Department of Justice for legal sufficiency review. Once approved for legal sufficiency, contracts valued up to $1,000,000.00 are returned to DPP for final execution and contracts valued over $1,000,000.00 are forwarded to the Office of the Governor for final approval and signature.

17) Once the final signatory has approved the contract, depending on its compensation threshold, a DPP Contract Administrator then electronically distributes a copy of the contract to the User Agency.

18) If the Professional Services Contract is being drafted and processed by DPP's Senior Contractor Administrator, DPP will notify the User Agency via e-mail regarding DPP's assignment to develop the contract and will include all of the above steps for reviewing and executing the contract.

9.8 Contractor's Supporting Documents

To support a contract, the Executive Branch Agency must forward the executed contract, with 1) A transmittal letter; 2) All required supporting contractor documentation; and 3) a completed Appendix H: DPP's Contract Checklist for User Agency. The Contractor's supporting documents vary based on the type of entity. Review carefully, Appendix G: Mandatory List of Required Supporting Documents. Regardless of the type of entity, all contractors are required to submit one or more of the following at the time of execution of the contract:

1) Current Virgin Islands Business License, or current License from a state if a VI license is not required, or IRS 501(c)(3) certification for non-profits
2) Proof of Insurance: as applicable, general liability insurance, or professional liability/errors and omissions insurance
3) Articles of Incorporation, Articles of Organization, or equivalent
4) Certificate of Resolution or equivalent, as applicable
5) Certificate of Good Standing or Certificate of Existence, or equivalent as applicable
6) Certificate of Government Insurance
7) Current Registration with SAM.Gov.

Appendix G: Mandatory List of Required Supporting Documents and Appendix H: DPP's Contract Checklist for User Agency indicate the general requirements for submission as well as specific requirements based on the type of entity being contracted. It is critical that all documents be submitted in the legal name of the contractor.

Part 4: *Post Award*

Section 10: Protests and Debriefing

10.1 Bid Protests

The Contracting Officer shall consider all protests or objections to the award of a contract, within ten (10) calendar days after receipt of a notice of award/non-award. Protest(s) of award shall be submitted in writing to the Contracting Officer and shall be handled in a manner to be determined by the circumstances. The Contracting Officer will provide a written response to each protest received within the time allotted for receipt of protests. Protests must be addressed to the Commissioner of Property and Procurement in writing and submitted to: debrief_protest@dpp.vi.gov.

10.2 Debriefing

The Government shall provide written notice to all offerors advising them of the selection or non-selection of their bid. Debriefings may be performed orally, or in writing upon written request received by an offeror within three (3) days of the Government's notification about the outcome of the solicitation. An offeror that was notified of exclusion from the competition, that fails to submit a timely request, is not entitled to a debriefing.

The Government shall establish the time when the debriefing shall occur and will be carried out in the manner, requested by the offeror, and allowed by the Government. At a minimum, the debriefing information shall include:

1) The Government's evaluation of the offeror's bid/proposal;
2) Offeror's cost or price (including unit prices) and technical rating, if applicable of the successful offeror and debriefed offeror, and past performance information on the debriefed offeror;
3) Summary of the rationale for award; and
4) Reasonable responses to debriefers responsiveness and responsibleness.

The debriefings shall not include point-by-point comparison of the debriefed offeror's bid/proposal with those of other offerors and shall not reveal any information prohibited by disclosure such as:

- ☒ Trade secrets
- ☒ Competing offerors proposals and bid packages
- ☒ Privileged or confidential manufacturing processes and techniques
- ☒ Commercial and financial information that is privileged or confidential, including cost breakdowns, profit, indirect cost rates, and similar information and
- ☒ Names of individuals providing reference information about an offeror's past performance. Requests for debriefing must be addressed to the Commissioner of Property and Procurement in writing and submitted to: debrief_protest@dpp.vi.gov.

Section 11: Contract Administration and Management

11.1 Performance, Compliance, and Termination

Effective contract administration and management is a team effort that includes the oversight of an Agency's contract administrator, procurement office, program personnel, and fiscal team. There are three (3) phases to the Contract Administration and Management process which includes.

1) Pre-Award Activities
    a. Planning and research (Need Identification *See 4.1 Identifying the Need*)
    b. Identify funding (Cost Analysis)
    c. Develop the scope of work (Drafting the scope)
    d. Establish rating criterion for rating proposals/bids
    e. Solicit bids/proposals
    f. Assign evaluation committee
    g. Rate proposals/bids
    h. Negotiations
    i. Recommend award

2) Award Activities
    a. Notify awardee and non-awardees
    b. Debriefing (if requested)
    c. Contract preparation
        i. Contract document gathering
        ii. Establish communication with awardee and program
        iii. PO processing
    d. Contract reviews
        i. Program
        ii. Legal Counsel (if applicable)
        iii. Contractor
    e. Contract execution
        i. Contractor
        ii. User Agency
        iii. Department of Property and Procurement/Department of Justice
        iv. Governor (contracts exceeding $1M)

3) Post Award Activities
    a. Stakeholder meeting
        i. Reporting forms, protocols, and personnel
        ii. Payment protocols and requirements
        iii. Dispute/Conflict protocols
        iv. Change order protocols
        v. Parties' roles and expectations
    b. Contract Monitoring and Management
        i. Terms, conditions, and scope of work
        ii. Vendor performance
        iii. Deliverables
        iv. Payment review and certification

v. Filing, retention, and contract closeout (*See Section 14 Record Management and Retention*).

Performing the activities listed under each phase of the process, reduces risk, and ensures the Government receives what it pays for, and the Contractor is compensated for their goods/services.

Once a contract has been fully executed, Department User Agencies are required to monitor contracts for performance and compliance in accordance with the terms and conditions of the contract. This is generally done through program personnel or more specifically, program managers at some agencies, as they are recipients of the services. These personnel must pay close attention to the contract scope of work, objectives, timelines, and overall goal of the project. Their duties include but are not limited to:

- ✓ Coordination of start-up of delivery of services by contractor
- ✓ Development and management of overall project goals, plans, and schedules
- ✓ Monitoring day-to-day activities and continued delivery of services
- ✓ Monitoring progress of deliverables to ensure on budget and on time in accordance with contract terms
- ✓ Identifying changes needed to scope of work, project deliverables, timelines, and analyzing any risks
- ✓ Preparing or processing necessary, reports, payments documents, etc. accurately and timely throughout the life cycle of the project

The Contract Administrator also manages related aspects of the contract that includes but is not limited to:

- ➢ Communications between all stakeholders (internal and external)
- ➢ Performance and compliance management in accordance with the contract terms, conditions, and scope of work
- ➢ Organizing and monitoring time and performance
- ➢ Payment reviews and certification
- ➢ Vendor performance rating and reviews
- ➢ Funding verification
- ➢ Collection of vendor documents
- ➢ Monitoring vendor documents to ensure they are current and in good standing
- ➢ Filing and retention of contract files and all related documents
- ➢ Resolution to conflicts between all stakeholders

Other important contract administration tasks include but are not limited to:

- ➢ Assisting programs/divisions with acquisition planning
- ➢ Preparation and development of clear and defined contract scopes, compensation schedules, amendments, change orders, renewals, supplemental contracts, memorandums of understanding and agreements, and justification and transmittal letters

Finally, Department User Agencies must take immediate steps to protect the Government from any instances of non-performance or sub-standard performance. When a performance issue arises in a contract, the goal is to resolve it quickly and fully so not to disrupt services to the GVI. If the issue is not resolved on the level of the Department User Agency, the DPP may collaborate to

determine whether the contractor is in default under the contract requirements and terms and conditions. The GVI has several options for termination in the event default occurs. GVI may take action to include but is not limited to requests to cure, issuing notices of partial termination, and notices of termination.

11.2 Options to Renew

If the contract contains renewal options and the Executive Branch Agency intends to exercise an option, the User Agency must initiate the renewal process in accordance with the terms of the contract or no later than sixty (60) days prior to the expiration of the contract.

Additional Steps for Renewal Options:

1. All requests to renew contracts must be submitted to the DPP with a transmittal letter that contains the following mandatory information with the Department User Agency's intent to exercise its option:
   a. The name of the user department, agency, board, or commission;
   b. The name of the contractor and contract number;
   c. A description of the scope of work to be performed under the contract; and
   d. The compensation for the term of the contract, identifying the funding source (all POs must comply with Department of Finance's Appendix D: SOPP#305 and show compliance with Title 33, Virgin Islands Code, Chapter 113, Section 3101).

2. The Executive Branch Agency must also submit to DPP:
   a. Proof of Funding for one (1) fiscal year or term of renewal; and
   b. A copy of the original executed contract.

3. A DPP Contract Administrator will review all items submitted for compliance, and within five (5) business days of receipt, forward to the Commissioner of DPP through the Assistant Commissioner of Procurement and/or Deputy Commissioner for final approval and acceptance.

For RFPs, if the User Agency determines a contract requires an amendment, the User Agency should initiate the amendment process no later than forty-five (45) days before the expiration of the contract, as amendments cannot be processed after the expiration of the underlying contract. **Contracts issued pursuant to a formal RFP can only be amended to add extra time, no changes to the scope of work or compensation are permitted.** *See Appendix J: Amendment to PS Contract Template Under $1Mil and Appendix K: Amendment to PS Contract Template Over $1Mil* for applicable PS amendment templates.

***Contracts are not effective until executed by the Government's authorized signatory; therefore, contractors should not perform work on any contract or seek to be paid for services prior to the full execution and approval of the contract.**

11.3 Bonds

Except as otherwise provided in the Preferred Bidders Statute, a payment and performance bond, or an irrevocable letter of credit for 100 percent of the contract price for construction contracts **over $150,000** for the proper performance of each contract, may be required by the Commissioner of Property and Procurement.

Pursuant to the V.I. Rules and Regulations at Section 242-1, a "Payment bond" is defined as the "security furnished by the contractor to guarantee the prompt payment of all persons supplying labor and materials in the performance of the work or services provided in the contract." A "Performance bond" is defined as the "security furnished by the contractor to guarantee the completion of all the requirements of the contract within the original term of the contract and any extension that may be granted, in accordance with the terms of the contract." The penal sum of both bonds are 50 percent of the total contract amount.

The Preferred Bidders Statute, codified at 31 VIC 236a, sets the bid limits for Preferred Bidders.

Pursuant to Subsection (c):

- Bids submitted by preferred bidders shall not be required to be accompanied by surety or bid bond if the bid is $50,000 or less.
- Bid bonds or surety may be required of preferred bidders in bids exceeding $50,000. Bid bonds or surety are not to exceed the following amounts:
  - Two (2%) percent of the bid on bids between $50,000.01 and $300,000,
  - Four (4%) percent of the bid on bids between $300,000.01 and $500,000, and
  - Five (5%) percent of the bid on bids exceeding $500,000.

Pursuant to Subsection (d):

A bond or surety for the proper performance of a contract awarded a preferred bidder shall not exceed 25% of the contract price.

Pursuant to Subsection (e):

Notwithstanding the foregoing provision of this section, the Commissioner of Property and Procurement and procurement officer of all Virgin Islands government entities, including but not limited to, authorities, agencies, or semi-autonomous instrumentalities, may accept forms of surety from preferred bidders other than bid bonds or performance bonds, including one of the following means of guarantee:

1) a performance and payment bond in the amount of 100% of the amount mandated by subsections (c) and (d);
2) a separate performance and payment bond, each in the amount of 50% of the amount mandated by subsections (c) and (d);
3) a 20% cash escrow of the amount mandated by subsections (c) and (d); and
4) an irrevocable letter of credit for 10% of the total contract price provided it is subject to a monitoring and disbursement agreement with the government.
5) As outlined in the Government regulations, retainage of 35% of the total contract price for contracts not to exceed $500,000, until satisfactory completion of the project.

Section 12: Construction Contract Payments and Change Orders

The Commissioner of the Department of Public Works (DPW) or his representative (Inspector and/or Engineer) is responsible for supervision and/or inspection of construction projects. No work shall be done, or materials used without suitable supervision or inspection by the engineer or his representative. Payment documents and Change Orders, to include *Appendix F: Payment and Change Order Review Checklist* are submitted to DPP's Contract Administrator/Contract Specialist for document review and compliance. Contract payments and change orders are processed successively, to ensure the project activities align with the Schedule of Amounts, Project Schedules, and Periodical Estimates. If payment documents and change orders are deficient, the Contract Administrator/Contract Specialist shall return the request to DPW, identifying the deficiency(ies) and the necessary steps to be taken to cure the deficiency(ies) before returning the payment request to DPP. All projects funded by the Public Finance Authority (PFA) must be accompanied by a letter from the Executive Director of the PFA certifying the appropriation of the funds for each project and scheduled payment. The payment document procedure is repeated until final payment is requested, and the project is closed out.

Section 13: Invoicing for Services and Payment Certification

When billing the Government for services, the contractor(s) shall submit an invoice, providing evidence that the goods were received, or the services were performed in accordance the terms and conditions of the contract. Unless otherwise specified in the contract or approved by the Commissioner of the Department of Property and Procurement, the Government shall not render payment in advance of the delivery of goods or services. An Invoice should be named, "invoice" and shall include the following information:

1) Company's name and address
2) Invoice date
3) Invoice number
4) Date/period goods were delivered and/or services were performed
5) Description of the goods or services
6) Total amount
7) Purchase Order number

Section 14: Record Management and Retention

The DPP is statutorily the custodian of the procurement records of the GVI with the exception of agencies that have been granted the authority to negotiate and manage their small purchase contracts. A procurement file is created for each procurement and contains all documents related to the procurement. A contract file is created for the selected contractor. Some of the documents that are held in the file include but are not limited to:

- ✓ Justification and transmittal letters
- ✓ All bids and proposals or written documentation of verbal offers received
- ✓ Evaluation/negotiation reports and committee recommendations
- ✓ A written, dated, and signed justification for award or cancellation
- ✓ Worksheets and evaluations
- ✓ A written, dated, and signed justification for waiver or emergency purchase
- ✓ Tabulation of offers received
- ✓ Funding source documents
- ✓ Related correspondence including electronic mail (e-mail) or other electronic communications
- ✓ Reasons for receiving only one offer in response to a solicitation
- ✓ Reasons for not accepting technical proposals
- ✓ Copies of any inspection reports (if applicable)
- ✓ Copies of requisitions, purchase orders, terms and conditions, and freight bills
- ✓ Copies of all contractor's supporting/corporate documents
- ✓ Original executed contract
- ✓ Notice to Proceed
- ✓ Any change orders, amendments, or supplemental contracts
- ✓ Periodical estimates, schedule of amounts, and release of claims

Procurement files shall be maintained for **six (6) years** from the date of the final payment except if the contract establishes a longer date or circumstances such as litigation or warranties require longer periods of retention.

Part 5: *General Guidance*

Section 15: The Virgin Islands Department of Justice

The Virgin Islands Department of Justice is the executive branch agency, led by the Attorney General, charged with the legal representation and counsel to the executive branch of the Government of the United States Virgin Islands, and all departments, boards, commissions, agencies, instrumentalities. The DOJ's assistant attorney generals perform legal sufficiency reviews of all applicable contracts, all emergency and public exigency procurements, all memoranda of understanding (MOU) and memoranda of agreement (MOA), and any other contractual documents necessary to the acquisition of goods and services for the executive branch of the GVI. *See Appendix L: Memorandum of Understanding Template, Appendix M: Memorandum of Agreement Template Under $1Mil, and Appendix N: Memorandum of Agreement Template Over $1Mil* for applicable templates.

15.1 Memorandums of Agreement and Understanding

All MOUs and MOAs must go through the approval process of DPP review, DOJ legal sufficiency, and approval by the Governor if valued in excess of $1,000,000.00.

Note the following, as this approval process applies to all MOUs/MOAs:

- ✓ Whether or not there is an exchange of funds and/or services
- ✓ Whether or not the document's final signatory is the Commissioner of DPP
- ✓ Whether or not the MOUs/MOAs are between executive branch agencies only or with non-executive branch or third-party entities.

In all instances where there will be no exchange of funds and/or services, MOU may be utilized to memorialize each party's responsibilities and commitments to participate in a particular program or joint partnership towards the fulfilment of a common goal. Executive branch agencies may enter into an MOU with other executive branch agencies, federal agencies, and with profit/non-profit groups. Where there will be the exchange of funds or services or other valuable consideration, between executive branch agencies, semi-autonomous and independent instrumentalities, Federal agencies, and universities, including the University of the Virgin Islands, an MOA will be required. The Commissioner of DPP shall be the final signatory for the GVI, whose signature will be binding, in all MOUs where there is no compensation.

Section 16: Glossary of Terms

The following is a list of definitions of commonly used terms to assist in understanding the procurement and contractual process. Definitions are derived from several sources including but not limited to the Virgin Islands Code, the Virgin Islands Rules and Regulations, the Code of Federal Regulations (CFR), the Federal Acquisition Regulation (FAR), and NIGP The Institute for Public Procurement.

Aggregate: The total amount of purchases for a single item or related group of items for a period of time, i.e., one (1) year, one (1) quarter, other period of time as determined by the Department.

Allowable cost: An amount meeting the requirements of the applicable program, state regulations, guidance and instructions and the OMB Cost Circulars.

Acquisition: The acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract. *See also Section 4 (Acquisitions)*

Award: The acceptance of a bid or proposal from a potential contractor that leads to the execution of a binding contract between the parties.

Bid: An offer to perform for a fixed price in accordance with the specifications and conditions set forth in an invitation for bids.

Bidder/Proposer: Any individual, firm or corporation submitting a bid on the standard proposal form for the work contemplated, acting directly or through a duly authorized representative in a competitive sealed bidding procurement (generally the term bidder is used in the IFB process, and the term proposer is used in the RFP process).

Bid Bond: A promise from a surety or a check that shall be forfeited by the provider if the successful bidder refuses to accept the award of a contract.

Bid Protest: A formal written objection made by an unsuccessful offeror regarding the decision making of a solicitation or award of a contract. *See also Section 10.1 (Bid Protests)*

Change order: A written agreement on an approved form signed by the contractor and the Commissioner of Property and Procurement, involving changes or additional work within the provisions of the contract and not considered of sufficient importance to require a "supplemental agreement".

Competitive Negotiation: An alternative method to competitive bidding and formal advertisement where the request for proposals is sent to a select pool of qualified contractors only and negotiations are done with contractors within that group who meet the evaluation criteria.

Contracting Officer: The Commissioner of the Department of Property and Procurement and/or his duly authorized designee.

Contract: The establishment of a binding legal relation basically obligating the seller to furnish personal property or non-personal services (including construction) and the buyer to pay therefor. It includes all types of commitments which obligate the Government to an expenditure of funds and which, except as otherwise authorized, are in writing. In addition to a two-signature document, it includes all transactions resulting from acceptance of offers by awards or notices of awards; agreements and job orders or task letters issued thereunder, letter contracts; letters of intent; and orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance. It also includes modifications.

Contract modification: Any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provision of an existing contract, whether accomplished by unilateral action in accordance with a contract provision or by mutual action of the parties to the contract. It includes (a) bilateral actions, such as supplemental agreements and amendments, and (b) unilateral actions, such as change orders, notices of termination, and notices of the exercise of an option.

Construction Contract: The agreement, executed and approved by the Department of Property and Procurement in the name of the Government of the Virgin Islands, and the successful bidder to whom the award is made, covering the performance of the work or services and the furnishing of labor and materials, by which the contractor is bound to perform the work or services and by which the Government of the Virgin Islands is obligated to compensate him therefore at the mutually established and accepted contract considerations. The contract shall include the plans, specifications, proposal, special provisions, performance bond, payment bond, and any other written mutual supplemental agreements and understandings that are required to complete the construction of the work or performance of the services in an acceptable manner including authorized extensions thereof.

Contractor: The individual, partnership, firm or corporation executing a contract as party of the second part, acting directly or through his lawful agents or employees, who is primarily liable for the acceptable performance of the work or services for which he has contracted, and for the payment of all legal debts pertaining to the work.

Confirming Order: A purchase that obligates the Government of the Virgin Islands without a written approved purchase order by the Commissioner of the Department of Property and Procurement. Title 31, Chapter 23, Sections 234, 248, and 249 forbids the unauthorized obligation of government funds. The Virgin Islands Code permits the imposing of fines and imprisonment for violators. Confirming orders have to be ratified by the Legislature and approved before payment to the vendor can be effectuated.

Debriefing: A practice of informing an unsuccessful respondent to a solicitation about why they were not selected, while discussing the strengths and weaknesses of their proposal. *See also Section 10.2 (Debriefing)*

Execute Branch Agency: One of the executive branch departments, offices, boards, institutions, and other agencies of the Government of the United States Virgin Islands with the exception of the judicial and legislative branches of the GVI. Also referred to as a User Agency.

Evaluation Committee: The team approved by the Commissioner of the Department of Property and Procurement to review and evaluate the solicitation responses. *See also Section 9.6 (Evaluation Committee)*

Funding Source: Written documentation that funding is available for the acquisition of goods or services, examples include purchase orders, grant awards, and funding letters from the Virgin Islands Public Finance Authority. *See also Section 8.2 (Proof of Funding/Funding Source)*

Government: The Government of the United States Virgin Islands.

Invitation for Bid: A type of competitive sealed bidding solicitation where the Government provides detailed project specifications or detailed services and invites contractors to submit proposals indicating how much it will cost to complete the project or provide the required services. An award is made on an objective basis generally to the lowest, responsive, responsible bidder. This method is discussed in *Section 4.3.2.1 (IFBs)*

Justification Letter: A letter signed by the User Agency head or authorized designee explaining the need for a particular purchase, the procurement process followed, and the accepted delivery terms, and requesting the approval of the Commissioner of Property and Procurement to proceed with the procurement as outlined in the letter. Justification letters are used when an exception to competitive bidding or procurement policies are being utilized. All justification letters must clearly reference the specific section of the Code authorizing the purchase, and the circumstances must support the exception cited from Title 31, Virgin Islands Code, Chapter 23, Section 239. *See also Section 8.1 (Justification Letters)*

Negotiation: The procedure for making contracts without formal advertising.

Open Market: Purchasing goods and supplies or contracting for services under an exception in title 31, Virgin Islands Code, Chapter 23, Section 239, rather than using the formal competitive bidding requirements in title 31, Virgin Islands Code, Chapter 23, Section 236.

OPCMR: The Office of Procurement, Contract Management, and Reporting is a specially trained unit responsible for managing procurement functions across the Government of the U.S. Virgin Islands under the supervision of the Commissioner of Property and Procurement. OPCMR was authorized under Executive Order No. 493-2019.

Payment Bond: The security furnished by the contractor to guarantee the prompt payment of all persons supplying labor and materials in the performance of the work or services provided in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the total contract amount.

Performance Bond: The security furnished by the contractor to guarantee the completion of all the requirements of the contract within the original term of the contract and any extension that may be granted, in accordance with the terms of the contract. The bond shall be in an amount equal to one hundred percent (100%) of the total contract amount.

Preferred Bidder: A preferred bidder is a bidder afforded preferential treatment over other non-preferred bidders after attaining preferential bidder status. A preferential bidder must meet the requirement indicated in the Virgin Islands Code. *See also Section 9.2. (Preferred Bidders)*

Procurement: All stages of the acquisition of supplies, materials, equipment, and services (including construction) by means such as purchasing, leasing, or contracting. The terms procurement and acquisition are sometimes used interchangeably. *See also Acquisition and Section 4 (Acquisitions)*

Proposal: The written offer of the bidder to perform the contemplated work or services and furnish the necessary materials, when made out and submitted on the approved proposal form, properly signed and guaranteed.

Purchase Order: A written authorization, approved by the Commissioner of the Department of Property and Procurement, for the procurement of goods and services. A purchase order encumbers and specifically sets aside funds for the acquisition of a particular set of goods or services, in the amount required to satisfy said acquisition. *See also Section 7 (Requisitions and Purchase Orders)*

Purchasing: The primary process of obtaining necessary goods and services on behalf of an enterprise, while procurement describes the activities involved in obtaining said goods and services. The public procurement process is unique to the GVI's operations.

Renewal: Contracting with the same contractor for continuation of services during an additional contract period, after the initial contract period, pursuant to the contract terms that are specifically provided in the original contract for the renewal.

Responsive: A bid or offer that meets all material requirements of the solicitation.

Responsible: The bidder possesses the ability to perform successfully under the terms and conditions of the proposed award.

Requisition: A document created by an Executive Branch Agency initiating the commencement of a purchasing transaction for goods and services. It generally includes a description of the need and other information relative to the transaction. When approved, it is converted to a purchase order. *See also Section 7 (Requisitions and Purchase Orders)*

Request for Proposal (RFP): A type of competitive sealed solicitation where the Government solicit proposals from potential providers (proposers) for a project, service or technology, and seeks proposals for the completion thereof. The Government does not provide project specifications with this type of solicitation. The award is made to the responsive and responsible proposer offering the best value. *Section also 4.3.2.2 (RFPs)*

Request for Qualifications (RFQ): Allows the Government to obtain statements of the qualifications of potential responders prior to issuing the solicitation. It is used under certain specific circumstances proscribed by the Virgin Islands Code, Chapter 31, Section 236 (l) and Section 239(a). *See also Section 4.3.2.3 (RFQs)*

Sole source: An acquisition for the purchase of supplies or services that is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source.

Solicitation: Any request to submit offers or quotations to the Government. Solicitations under sealed bid procedures are referred to as IFBs; and solicitations under negotiated procedures are called "RFPs." Solicitations under simplified acquisition procedures may require submission of

either a quotation or an offer. *See also Section 4 (Acquisitions) and Section 9 (The Formal Solicitation Process / Competitive Sealed Bidding).*

Specifications: The directions, provisions and requirements setting forth or relating to the method and manner of performing or paying for the work or services, or to the kinds and qualities of materials and labor to be furnished under the contract.

Subcontractor: The individual, firm or corporation undertaking the execution of a part of the work or services under the terms of the contract by virtue of an agreement with the contractor, subject to the approval of the Department of Property and Procurement.

Supplemental Agreement: A written agreement executed by the contractor and the Commissioner of Property and Procurement, with the consent of the contractor's surety, supplementing the contract to cover changes or changed conditions incidental to and necessary for the acceptable completion of the contract.

Section 17: Frequently Asked Questions

Why was my requisition rejected when I submitted the invoice, and the cost was below $10,000.00?
The requisition was disapproved because a requisition must be accompanied by a quotation not an invoice.

Why was my requisition rejected when I submitted a quote under $15,000.00 from an off-island vendor?
All purchases $10,000.00 up to $49,999.99 from an off-island or on-island vendor must include at least three (3) quotations.

What documents should a user agency submit to DPP to request the solicitation of services?
User Agencies must submit a justification letter requesting advertisement along with the funding source and a copy of the Scope of Work/Services.

What is the procedure for adding a new vendor?
The new vendor request should be submitted to DPP and shall include a request to add vendor letter and current W-9 form for individuals. For business entities, a request to add vendor letter, a current W-9 form and all vendor supporting business documentation must be submitted. (A list of required vendor business documents can be found on DPP's website under the Resources > Forms & Documents > Procurement tab).

How can I get a Purchase Order modified?
User Agencies must submit a request to the Office of the Commissioner of DPP, stating the cause for the modification and the revision(s) needed.

How long is a Purchase Order valid?
POs tied to unexecuted contracts going through the procurement process are valid for 180 days (DOF SOPP #305). If unexpended but required, User Agencies must contact the Department of Finance and request an extension.

What is the process for approving a contract?
Contracts must be submitted to DPP, inclusive of a transmittal letter, all vendor supporting business documentation, and proof of the funding source.

Where can I find a copy of the Government's standard contracts and forms?
You can obtain copies of the Government's contracts and forms on DPP's website, under the Resources > Forms & Documents> Procurement tab and the Templates Folder in SharePoint©.

What documents are required to support a vendor's contract?
DPP's website provides a list of vendor types and the vendor documents necessary for contracting. This checklist can be found under the Resources > Forms & Documents> Procurement tab.

Who is required to be registered with SAM.gov?
All entities doing business with the Government of the U.S. Virgin Islands must have a current SAM.gov registration.

When should I use an MOU versus an MOA?
A Memorandum of Understanding (MOU) is used when there is no exchange of funds between the parties for the performance of tasks. A Memorandum of Agreement (MOA) is used when funds or in-kind services are being exchanged.

How long must a solicitation be posted?
The Government's solicitations are posted for a minimum of 30 days (with some exceptions to the rule).

Section 18: Contact Information

Questions and comments can be addressed to:

Department of Property and Procurement
Division of Procurement
8201 Subbase, 3rd Floor, Suite 4
St. Thomas, VI 00802
Telephone: (340) 774-0828
procurement@dpp.vi.gov

Section 19: Sources / Appendices

This Procurement Manual draws its content in part from multiple sources. The following is a non-inclusive list of sources including statutes, rules and regulations, and executive orders.

Acquisition

Title 31, Chapter 23 (Procurement and Sale), Sections 231-251 of the Virgin Islands Code
Title 33, Chapter 113 (Appropriations), Section 3101; 3103 of the Virgin Islands Code
Title 31, Chapter 23 (Procurement and Sale), Section 231-1 et. seq. of the Virgin Islands Rules and Regulations
Executive Order No. 477-2016
Executive Order No. 493-2019
Executive Order No. 507-2020
41 US Code Chapter 1 (Definitions)
Title 48, Chapter 1, Subpart 2.101 (Definitions)
Federal Acquisition Regulation (2.101 Definitions)
Federal Acquisition Regulation (4.805 Storage, handling, and contract files)

Standards of Conduct

Title 33, Chapter 113 (Appropriations), Section 3109 of the Virgin Islands Code
Title 3, Chapter 37 (Conflict of Interest), Section 1100 et. seq. of the Virgin Islands Code
Title 31, Chapter 23 (Procurement and Sale), Sections 233; 234; 248; 249 of the Virgin Islands Code
GVI's Code of Ethical Conduct (GVI Handbook (Section 200.17 and Appendix B))

Definitions

Title 31, Chapter 23 (Procurement and Sale), Sections 231-251 of the Virgin Islands Code
Title 31, Chapter 23 (Procurement and Sale), Section 231-1 et. seq. of the Virgin Islands Rules and Regulations
Title 48, Chapter 1, Subpart 2.101 (Definitions) of the Code of Federal Regulations
Title 41, Chapter 1, (Definitions) of the United States Code
Federal Acquisition Regulation 2.101 Definitions. | Acquisition.GOV
NIGP The Institute for Public Procurement - https://www.nigp.org/dictionary-of-terms

Appendices

Appendix A: DPP's form Justification Letter (Form OPCMR Last Revised: 01/04/2021)
Appendix B: Professional Services Contract Under $1Mil Template
Appendix C: Professional Services Contract Over $1Mil Template
Appendix D: SOPP#105 (Requisitioning)
Appendix E: Bid/RFP Evaluation Rules and Procedures
Appendix F: Payment and Change Order Review Checklist
Appendix G: Mandatory List of Required Supporting Documents
Appendix H: DPP's Contract Checklist for User Agency
Appendix I: SOPP#305 (Purchase Order Maintenance)
Appendix J: Amendment to PS Contract Template Under $1Mil
Appendix K: Amendment to PS Contract Template Over $1Mil
Appendix L: Memorandum of Understanding Template
Appendix M: Memorandum of Agreement Template Under $1Mil
Appendix N: Memorandum of Agreement Over $Mil

NOTES

Government of the Virgin Islands
Department of
PROPERTY AND
PROCUREMENT

APPENDIX A

JUSTIFICATION LETTER

SECTION A: SALUTATION

To:

From:

Instructions for Completion:

SECTION A: Address **to** Commissioner of Property & Procurement **from** Agency Head or Designee.
SECTION B: Include account type & name, the contact person familiar with the request, all associated account codes (if federal, include the application attributes), The total amount of the request, and the most applicable need(s) for the JL.
SECTION C: Choose side applicable to your request; Include Bid expiration date for goods, include proposed service period for services.
SECTION D: Choose side applicable to your request; indicate supporting documents submitted with request.
SECTION E: Strongly justify the selection of the awarded vendor; answer the questions "Who, What, Where, When, & Why".
SECTION F: Select from the drop-down options provided the applicable statutory authority.
SECTION G: Select from the drop-down options the most applicable description for this request. Agency CPO must review and approve prior to Agency Head's signature and DPP Commissioner's review and approval.

SECTION B: FUNDING DETAILS

Requester/Contact: Phone/Ext:

Date Submitted: Email:

Account Type/Name:

Account Attributes

☐ Org/Obj/Proj Codes:
☐ Org/Obj/Proj Codes:
☐ Org/Obj/Proj Codes:

Requested Amount: $

The requested amount ☐ exceeds or ☐ does not exceed the limit for open market purchase of goods and services.

Describe the need for a Justification Letter:

☐ Purchase is between $10,000-$50,000, but lowest vendor was not selected
☐ Purchase requires an agreement/contract between $10K-$50K
☐ Purchase is through a sole source/single-source under $50,000
☐ Other

SECTION C: VENDOR DETAILS

☐ **This request is for Goods.**

Complete and select one winning bid:

☐ Vendor 1: Bid amount: $
☐ Vendor 2: Bid amount: $
☐ Vendor 3: Bid amount: $

Winning bid's valid until date:

☐ **This request is for Services.**

Complete and select one winning bid:

☐ Vendor 1: Bid amount: $
☐ Vendor 2: Bid amount: $
☐ Vendor 3: Bid amount: $

Winning bid's inclusive service period:

SECTION D: ATTACHMENTS

This requisition for Good(s) is submitted with:

☐ Scope of Work (SOW)
☐ Solicitation (bid) request
☐ Sole source documentation, *if applicable*
☐ Vendor quote(s)
☐ Debarment/Exclusion form
☐ Other:

This requisition for Service(s) is submitted with:

☐ Scope of Work (SOW)
☐ Executed contract
☐ Solicitation (bid) request
☐ Sole source documentation, *if applicable*
☐ Vendor quote(s)
☐ Debarment/Exclusion form
☐ Other:

SECTION E: JUSTIFICATION NARRATIVE

Justify the activity and the use of fund(s) for the selected vendor. Goods and Services must be described with pertinent details and must match the quote and/or Scope of Work (SOW) submitted by the vendor. ***Summarize to 500 words or less.***

SECTION F: STATUTORY AUTHORITY DECLARATION

☐ *Open Market Purchases: Justification for this purchase is sanctioned by Title 31, Section 239*

SECTION G: SIGNATORIES

User Agency CPO, If Applicable _____ **Date** _____

☐ **Reviewed**

Comments:

Agency Head _____ **Date** _____

☐ **Approved** ☐ **Disapproved**

BIT Approval required for Technology Purchases

BIT Director _____ **Date** _____

☐ **Approved** ☐ **Disapproved**

Asst. Commissioner or Designee _____ **Date** _____

Recommended: ☐ **Approval** ☐ **Disapproval**

DPP Commissioner or Designee _____ **Date** _____

☐ **Approved** ☐ **Disapproved**

DPP ONLY: **Purchase Requires a:** ☐ PS Contract ☐ Supply Contract ☐ Construction Contract ☐ MOU ☐ MOA

Comments:

APPENDIX B

OPCMR

[VERSION: 9/30/2022(2)]

INSTRUCTIONS FOR PROFESSIONAL SERVICES CONTRACT VALUED UP TO $1,000,000.00:

1. These instructions are not a part of the template, do NOT submit these Instructions to DPP.

2. All information in red font must be updated by the User Agency in completing the contract. The red font is meant to draw the user agency's attention to the areas which require changes. Upon updating the required sections, please change the font color to black. DO NOT SUBMIT CONTRACTS TO DPP WITH RED FONT.

3. In instances where a word is in square brackets in red font, like this [User Agency] agencies must update the required information, delete the brackets and change the font to black.

4. In instances where two clauses are separated by the word "or" agencies are required to use the language that is applicable to the particular contract and to delete the irrelevant clause. As shown in the example below, do not use both clauses in the contract that is submitted to DPP.

   WHEREAS, the Government solicited the services under RFP No. [Insert Number];
   or
   WHEREAS, the Contractor was selected in accordance with 31 V.I.C. § 239(a) ([insert appropriate exception being utilized]);

   Please only select the clause that is applicable to the particular contract.

5. In instances where text in red appear in parenthesis as shown below, this constitutes instructions in the template and these instructions or the entire clause should be deleted by the user agency based on the applicable circumstances.

   (Only insert renewal language in second sentence if the contract has an option to renew)

6. Insert RFP No. in the footer. If not applicable, delete RFP No. from footer.

7. Update all signatories' names and titles, if applicable.

8. **If contract includes renewal options and the contract value will exceed $1,000,000 if the renewals are exercised, Do Not Use this Template, use Version 9/30/2022(1) instead.**

9. Addendum I may be called Scope of Services or Scope of Work, select one and use that selection consistently throughout the Contract.

RFP No. _____ Contractor's Initials: _____
Contract No. _____

CONTRACT FOR PROFESSIONAL SERVICES

THIS **CONTRACT** is made this _____ day of _____, 20___, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement, on behalf of the [User Agency] (hereinafter referred to as "Government") and [Insert Contractor/Company name as it appears on the formation documents (i.e. articles of incorporation)] (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to [Insert summary of scope of services], which duties and responsibilities are more particularly described in Addendum I (Scope of Services) attached hereto; and

WHEREAS, the Government solicited the services under RFP No. [insert number]; and

or

WHEREAS, the Contractor was selected in accordance with 31 V.I.C. § 239(a) ([insert appropriate exception being utilized]); and

WHEREAS, the Contractor represents that it is willing and capable of providing such services; and

NOW, **THEREFORE**, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. SERVICES

The Contractor will provide the services described in Addendum I (Scope of Services) attached hereto and made a part of this Contract.

2. TERM AND EFFECTIVE DATE

This Contract shall be effective upon the date of execution of this Contract by the Commissioner of the Department of Property and Procurement and shall terminate [insert number of years (or days for contracts less than one year) in words and numerals] thereafter. The Government in its sole discretion, shall have the option to renew this Contract for one (1) additional period of one (1) year subject to the same terms noted herein, by providing the Contractor with [sixty (60)] days written notice of the Government's election to renew. (Only insert renewal language in second sentence if the contract has an option to renew)

Or

The term of this Contract shall be from October 1, 2022 to September 30, 2023. Upon the date of execution of this Contract by the Commissioner of the Department of Property and Procurement, this Contract shall become effective for the Term set out herein. The Government in its sole discretion, shall have the option to renew this Contract for one (1) additional period of one (1) year subject to the same terms noted herein, by providing the Contractor with [sixty (60)] days written notice of the Government's election to renew. (Only insert renewal language in second sentence if the contract has an option to renew)

3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay Contractor a sum not to exceed [insert value of contract in words] [($insert value of contract in numerals)] in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this Contract.

4. TRAVEL EXPENSES

Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed [insert cost of travel allowance in words and numerals or N/A, if applicable].

5. RECORDS

The Contractor when applicable, will present documented precise records of time and/or money expended under this Contract.

6. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this Contract shall become the property of the Government and shall be turned over to it at the termination of this Contract. The above-described materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Government.

8. LIABILITY OF OTHERS

Nothing in this Contract shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms, associations, or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor of whatsoever nature, including but not limited to unemployment insurance, gross receipt, excise, and social security taxes for Contractor, its servants, agents or independent contractors.

9. ASSIGNMENT

The Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Government.

10. INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges and expenses (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by Contractor under this Contract and arising from any cause, except the sole negligence of Government.

11. INDEPENDENT CONTRACTOR

The Contractor shall perform this Contract as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

12. GOVERNING LAW

This Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

13. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term, condition, or provision of this Contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any

of the terms, conditions or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

14. ENTIRE AGREEMENT

This agreement constitutes the entire agreement of the parties relating to the subject matter addressed in this Agreement. This agreement supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this agreement, whether written or oral.

15. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

16. CONDITION PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Commissioner of the Department of Property and Procurement.

17. TERMINATION

Either party will have the right to terminate this Contract with or without cause on [insert number of days in words] [(insert number of days in numerals)] days written notice to the other party specifying the date of termination.

18. PARTIAL TERMINATION

The performance of work under this Contract may be terminated by the Government, in part, whenever the Government shall deem such termination advisable by providing [insert number of days in words] [(insert number of days in numerals)] days written notice to the Contractor. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive

payment for services provided to the date of termination, including payment for the period of the [insert number of days in words] [(insert number of days in numerals)] day notice.

19. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this Contract on account of race, creed, color, sex, religion, disability or national origin.

20. CONFLICT OF INTEREST

(a) Contractor covenants that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.

(b) Contractor further covenants that it is:

(1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature, or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or

(2) a territorial officer or employee and, as such, has:

(i) familiarized itself with the provisions of Title 3, Chapter 37 of the Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof;

(ii) not made, negotiated or influenced this Contract, in its official capacity; and

(iii) no financial interest in the Contract as that term is defined in section 1101(1) of said Code chapter.

21. NOTICE

Any notice required to be given by the Terms of this Contract shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

GOVERNMENT
Anthony D. Thomas
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas Virgin Islands 00802

[Name & Title]
[User Agency]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]

CONTRACTOR
[Name & Title]
[Name of Company]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]

22. LICENSURE

The Contractor covenants that it has:

(a) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code; and

(b) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

23. OTHER PROVISIONS

Addendum I [Scope of ____], Addendum II (Compensation) attached hereto are a part of this Contract and are incorporated herein by reference. (Please make sure all additional addenda are listed in this section that are made a part of this Contract – if Contract is Federally funded add any all clauses required by 2 CFR 200 and the applicable grant via an additional addendum).

24. DEBARMENT CERTIFICATION

By execution of this contract, the contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The Contractor shall include this provision in each of its subcontracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON PROCUREMENT". In the event the Contractor or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

25. FALSE CLAIMS

Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer department, board, commission, or other agency thereof, knowing such claims to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

26. NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence. (Only insert if Contract involves federal funds)

27. INSURANCE [if contract is being entered into pursuant to an RFP, utilize the insurance provisions from the RFP, if the contract is being entered into pursuant to an exception to the formal advertising process, use the language below]

Contractor shall maintain the following insurance coverages during the term of this Contract

(a) **COMMERCIAL GENERAL LIABILITY**: Commercial general liability insurance, in a form acceptable to the Government, on a "per occurrence" basis with a minimum limit of not less than one million dollars ($1,000,000.00) for any one person per occurrence for death or personal injury and one million dollars ($1,000,000.00) for any one occurrence for property damage. Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement. (Insurance limits may be reduced subject to DPP's approval, however, insurance limits cannot be less than the total compensation value of the contract. Contracts valued in excess of $1,000,000.00 will require additional coverage subject to DPP's approval).

(b) **PROFESSIONAL LIABILITY**: Professional liability insurance, in a form acceptable to the Government, which covers the services being performed under this Contract, with policy limits of not less than one million dollars ($1,000,000.00) per claim. The Government shall be listed thereon as a certificate holder. (Insurance limits may be reduced subject to the approval of DPP, however, insurance limits cannot be less than the total compensation value of the contract. Contracts valued in excess of $1,000,000.00 will require additional coverage subject to DPP's approval).

(c) **WORKERS' COMPENSATION**: Contractor shall supply current coverage under the Government Insurance Fund or other form of coverage.

28. FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

The Parties have hereunto set their hands on the day and year as set forth below.

GOVERNMENT OF THE VIRGIN ISLANDS

_____ Date: _____
[NAME] [TITLE]
[USER AGENCY]

_____ Date: _____
Anthony D. Thomas, Commissioner
Department of Property and Procurement

CONTRACTOR

_____ Date: _____
[NAME] [TITLE]
[NAME OF COMPANY]

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: _____ Date: _____
Assistant Attorney General

PURCHASE ORDER NO._____

APPENDIX C

OPCMR

[VERSION: 9/30/2022(1)]

INSTRUCTIONS FOR PROFESSIONAL SERVICES CONTRACTS VALUED OVER $1,000,000.00

1. These instructions are not a part of the template, do NOT submit these Instructions to DPP.

2. All information in red font must be updated by the User Agency in completing the contract. The red font is meant to draw the user agency's attention to the areas which require changes. Upon updating the required sections, please change the font color to black. DO NOT SUBMIT CONTRACTS TO DPP WITH RED FONT.

3. In instances where a word is in square brackets in red font, like this [User Agency] agencies must update the required information, delete the brackets and change the font to black.

4. In instances where two clauses are separated by the word "or" agencies are required to use the language that is applicable to the particular contract and to delete the irrelevant clause. As shown in the example below, do not use both clauses in the contract that is submitted to DPP.

   WHEREAS, the Government solicited the services under RFP No. [Insert Number];
   or
   WHEREAS, the Contractor was selected in accordance with 31 V.I.C. § 239(a) ([insert appropriate exception being utilized]);

   Please only select the clause that is applicable to the particular contract.

5. In instances where text in red appear in parenthesis as shown below, this constitutes instructions in the template and these instructions or the entire clause should be deleted by the user agency based on the applicable circumstances.

   (Only insert renewal language in second sentence if the contract has an option to renew)

6. Insert RFP No. in the footer. If not applicable, delete RFP No. from footer.

7. Update all signatories' names and titles, if applicable.

8. Addendum I may be called Scope of Work or Scope of Services, select one and use that selection consistently throughout the Contract.

OPCMR

CONTRACT FOR PROFESSIONAL SERVICES

THIS **CONTRACT** is made this _____ day of _____, 20___, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement, on behalf of the [User Agency] (hereinafter referred to as "Government") and [Insert Contractor/Company name as it appears on the Contractor's formation documents (i.e. articles of incorporation)] (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to [Insert summary of scope of services], which duties and responsibilities are more particularly described in Addendum I (Scope of Services) attached hereto; and

WHEREAS, the Government solicited the services under RFP No. [Insert Number]; and

or

WHEREAS, the Contractor was selected in accordance with 31 V.I.C. § 239(a) ([insert appropriate exception being utilized]); and

WHEREAS, the Contractor represents that it is willing and capable of providing such services; and

NOW, **THEREFORE**, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. SERVICES

The Contractor will provide the services described in Addendum I (Scope of Services) attached hereto and made a part of this Contract.

2. TERM AND EFFECTIVE DATE

This Contract shall be effective upon the date of execution of this Contract by the Governor of the U.S. Virgin Islands and shall terminate [insert number of years (or number of days for contracts less than one year) in words and numerals] thereafter. The Government in its sole discretion, shall have the option to renew this Contract for one additional period of one (1) year subject to the same terms noted herein, by providing the Contractor with sixty (60) days written notice of the Government's election to renew. (Only insert renewal language in second sentence if the contract has an option to renew)

Or

The term of this Contract shall be from October 1, 2022, to September 30, 2023. Upon the date of execution of this Contract by the Governor of the U. S. Virgin Islands, this Contract shall become effective for the Term set out herein. The Government in its sole discretion, shall have the option to renew this Contract for one additional period of one (1) year subject to the same terms noted herein, by providing the Contractor with [sixty (60)] days written notice of the Government's election to renew. (Only insert renewal language in second sentence if the contract has an option to renew)

3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay Contractor a sum not to exceed [insert value of contract in words] [($insert value of contract in numerals)] in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this Contract.

4. TRAVEL EXPENSES

Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed [insert cost of travel allowance in words and numerals or N/A, if applicable].

5. RECORDS

The Contractor when applicable, will present documented precise records of time and/or money expended under this Contract.

6. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this Contract shall become the property of

the Government and shall be turned over to it at the termination of this Contract. The above described materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Government.

8. LIABILITY OF OTHERS

Nothing in this Contract shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms, associations, or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor of whatsoever nature, including but not limited to unemployment insurance, gross receipt, excise, and social security taxes for Contractor, its servants, agents or independent contractors.

9. ASSIGNMENT

The Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Government.

10. INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges and expenses (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by Contractor under this Contract and arising from any cause, except the sole negligence of Government.

11. INDEPENDENT CONTRACTOR

The Contractor shall perform this Contract as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

12. GOVERNING LAW

This Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

13. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term, condition, or provision of this Contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly

authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

14. ENTIRE AGREEMENT

This agreement constitutes the entire agreement of the parties relating to the subject matter addressed in this Agreement. This agreement supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this agreement, whether written or oral.

15. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

16. CONDITION PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor of the US Virgin Islands.

17. TERMINATION

Either party will have the right to terminate this Contract with or without cause on [insert number of days in words] [(insert number of days in numerals)] days written notice to the other party specifying the date of termination.

18. PARTIAL TERMINATION

The performance of work under this Contract may be terminated by the Government, in part, whenever the Government shall deem such termination advisable by providing [insert number of days in words] [(insert number of days in numerals)] days written notice to the Contractor. This

partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the [insert number of days in words] [(insert number of days in numerals)] day notice.

19. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this Contract on account of race, creed, color, sex, religion, disability or national origin.

20. CONFLICT OF INTEREST

(a) Contractor covenants that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.

(b) Contractor further covenants that it is:

(1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature, or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or

(2) a territorial officer or employee and, as such, has:

(i) familiarized itself with the provisions of Title 3, Chapter 37 of the Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof;

(ii) not made, negotiated or influenced this Contract, in its official capacity; and

(iii) no financial interest in the Contract as that term is defined in section 1101(1) of said Code chapter.

21. NOTICE

Any notice required to be given by the Terms of this Contract shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

GOVERNMENT
Anthony D. Thomas
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4

St. Thomas Virgin Islands 00802

[Name & Title]
[User Agency]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]

CONTRACTOR
[Name & Title]
[Name of Company]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]

22. LICENSURE

The Contractor covenants that it has:

(a) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code; and

(b) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

23. OTHER PROVISIONS

Addendum I [Scope of ____], Addendum II (Compensation) attached hereto are a part of this Contract and are incorporated herein by reference. (Please make sure all additional addenda are listed in this section that are made a part of this Contract – if Contract is Federally funded add any all clauses required by 2 CFR 200 and the applicable grant via an additional addendum).

24. DEBARMENT CERTIFICATION

By execution of this contract, the contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The Contractor shall include this provision in each of its subcontracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON PROCUREMENT". In the event the Contractor or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

25. FALSE CLAIMS

Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer department, board, commission, or other agency thereof, knowing such claims to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

26. NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence. (Only insert if Contract involves federal funds)

27. INSURANCE [if contract is being entered into pursuant to an RFP, utilize the insurance provisions from the RFP, if the contract is being entered into pursuant to an exception to the formal advertising process, use the language below]

Contractor shall maintain the following insurance coverages during the term of this Contract

(a) COMMERCIAL GENERAL LIABILITY: Commercial general liability insurance, in a form acceptable to the Government, on a "per occurrence" basis with a minimum limit of not less than one million dollars ($1,000,000.00) for any one person per occurrence for death or personal injury and one million dollars ($1,000,000.00) for any one occurrence for property damage. Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement. (Insurance limits may be reduced subject to DPP's approval, however, insurance limits cannot be less than the total compensation value of the contract. Contracts valued in excess of $1,000,000.00 will require additional coverage subject to DPP's approval).

(b) PROFESSIONAL LIABILITY: Professional liability insurance, in a form acceptable to the Government, which covers the services being performed under this Contract, with policy limits of not less than one million dollars ($1,000,000.00) per claim. The Government shall be listed thereon as a certificate holder. (Insurance limits may be reduced subject to the approval of DPP, however, insurance limits cannot be less than the total compensation value of the contract. Contracts valued in excess of $1,000,000.00 will require additional coverage subject to DPP's approval).

(c) WORKERS' COMPENSATION: Contractor shall supply current coverage under the Government Insurance Fund or other form of coverage.

28. FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

The Parties have hereunto set their hands on the day and year as set forth below.

GOVERNMENT OF THE VIRGIN ISLANDS

_____ Date: _____
[NAME] [TITLE]
[USER AGENCY]

_____ Date: _____
Anthony D. Thomas, Commissioner
Department of Property and Procurement

CONTRACTOR

_____ Date: _____
[NAME] [TITLE]
[NAME OF COMPANY]

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: _____ Date: _____
Assistant Attorney General

APPROVED:

_____ Date: _____
Honorable Albert Bryan Jr.
GOVERNOR OF THE U.S. VIRGIN ISLANDS

PURCHASE ORDER NO._____

APPENDIX D

SOPP # 105 (Requisitioning)	**Prepared By: Accounting Division**
Effective Date: July 22, 2019	**Approved By: Commissioner of Finance**
Title	**REQUISITIONING**
Purpose	To ensure uniformity and compliance with procurement regulations made throughout the central Government of the Virgin Islands utilizing the Enterprise Resource Planning (ERP) System.
Policies	✓ Requisitions are initiated by the end-user department/agency; ✓ The following items **DO NOT** require a requisition and are valid for straight payment processing via the Accounts Payable Module: a. Sub-Grants, Scholarships, Subsidies, and Sponsorship b. Petty Cash/Imprest Funds c. Postage (i.e. USPS, Fed Ex, UPS, DHL, Pitney Bowes, etc.) d. Subscriptions and membership dues e. Inter-Fund Transfers and Inter-Governmental Transfers f. Judgments & Claims g. Executed leases for property and/or equipment rentals (i.e. office, parking spaces, Xerox, etc.) h. Refunds i. Travel Reimbursements j. Travel Advances (Inter- and Off-Island) k. Stipends l. Uniform Allowances m. Utilities (e.g., light, water, telephone, mobile and data provider services) n. Security Services (i.e., Recurring security monitoring services with approved contract only) o. Workmen's Compensation p. Bulk Transportation Tickets (for travel related to medical and/or medical emergency care only) q. Emergency Task Orders executed by Property and Procurement r. Private donations ▪ **NOTE:** Purchases utilizing private donations shall be conducted in accordance with the written intent of the donor. The written intent of the donor must be attached to the straight payment transaction in the ERP System. If a department/agency wishes to utilize any private donations outside of its intended purpose, written permission must be given from the donor. Additionally, if a private donation is given without any intended purpose, the funds should be utilized in the best interest of the Department/agency. When practicable, purchases utilizing private donations should procure goods and

	services in a timely manner based upon the most favorable terms (i.e., after careful consideration of competing offers and without unduly sacrificing quality and performance). s. Mailbox rentals ✓ Except as noted above, normal bulk ticket purchases and payments to travel agencies are to be routed through Property and Procurement. ✓ All fix Asset Forms must be itemized and completed in its entirety. ✓ The practice of transmitting justification letters external to the ERP System for purposes of obtaining an "advance written paper-driven approval" from the Department of Property & Procurement and/or Department of Finance is unwarranted and redundant; requisitions must have proper supporting documentation attached (e.g., quotations, bids, proposals and letters of justification) executed by the department/agency head and attached to a requisition at the point-of-entry; ✓ Except for certain exemptions, as provided for under Title 31 V.I.C. § 239; procurements of goods and/or services with a total cost not exceeding fifty thousand dollars ($50,000) require at least three (3) vendor quotations/bids and must be attached to the requisition at point-of entry; ✓ The selection of a vendor by the user agency shall be made to the lowest responsive responsible vendor quote/bid; however, in those instances where the lowest responsive responsible vendor quote/bid is not selected, the department head must attach a written justification letter to the requisition within the ERP System at the point-of-entry, outlining the specific circumstance(s) that gave rise to selecting an alternate vendor quote/bid;

	✓ Once a requisition is converted to a purchase order, the purchase order will generally remain active for ninety (90) days from the date of conversion (i.e., purchase order date); ✓ Purchase Orders encumbered with the Government of the Virgin Islands to support contracts, MOA, MOU or to accompany a solicitation document, such as bid or proposal, in support of a forthcoming contract, are exempt in accordance with SOPP# 305. ✓ Contract and Lease Renewals must be addressed directly with the Commissioner of Property & Procurement; ✓ With the exception of goods and/or services that require a binding contract with the Government of the Virgin Islands (e.g., RFP), requisitions processed at year-end for the sole purpose of encumbering funds to charge future years' expenditures against current year budgets shall be subject to rejection by the Department of Property & Procurement; ✓ With the exception of encumbrance balances that are exempt as delineated in SOPP# 305; all other encumbrance balances (i.e., goods and services) reflected on the VISION ERP System in excess of ninety (90) days shall be subject to cancellation/deletion. Department of Finance may grant special permission to maintain encumbrances beyond ninety (90) days, with proper written justification from the respective department's agency head; ✓ Departments/agencies must assign an appropriate vendor code for each requisition; ✓ Departments/agencies must include the appropriate commodity code that best describes the desired goods or services. Commodity codes are used to facilitate inventory and fixed assets management; ✓ Departments/agencies shall not edit the default description of any commodity code; ✓ Use *General Notes* to enter specific details of the commodities or services; ✓ Requisitions shall only be initiated using a vendor with an *Active* status;

	✓ Use *Vendor/Sourcing Notes* to enter vendor-specific details for the requested goods or services;

- ✓ Departments/agencies must confirm/verify that the vendor's preferred and accurate purchase order remit address is applied to the requisition. Assigning the preferred remit address will expedite delivery of the purchase order to the vendor;

- ✓ Departments/agencies must confirm/verify the receiving (*Ship to*) address for all goods and services. The shipping address enables vendors to deliver items purchased to the appropriate location. This should include the physical address of the office location, telephone number, and e-mail contact;

- ✓ Items being purchased must be clearly identified at the unit level (i.e., there must be a separate line item that includes, quantity and cost per unit, and description for each piece of merchandise). Accompanying items may be combined (e.g., monitor, keyboard and cables/cords for a personal computer), however, supplementary items (e.g., printer, scanner, external drive for a personal computer) must be itemized separately;

- ✓ For services, related services may be clustered singularly; non-related services must be itemized separately; all services must be sufficiently described on the requisition;

- ✓ Department and agencies must ensure that the correct Org/Object/Project is being applied to requisitions for proper transaction recording in the Government's General Ledger;

- ✓ Requisitions shall not be assigned to payroll object codes;

- ✓ Purchases that are assigned to capital accounts objects, are considered fixed assets. Items that satisfy the capitalization threshold cost of $5,000 or greater, must be flagged as *fixed assets* transactions. Valid fixed assets object codes are as follows:

Object Code	Object Code Description
570000	Capital Outlay
571000	Building and Improvements
571110	Land & Land Improvements
571300	Infrastructure
575000	Machine, Equipment & Misc.

	✓ Requisitions will follow the department/agency's duly authorized embedded business rules/workflow of the approval process. All requisitions must be assigned both department/agency workflow, as well as Department of Property and Procurement (DPP) business rules. Any requisition that has been released into the workflow, but yet not assigned to any approver at the department/agency/DPP level, must be immediately communicated to the user agency head and subsequently, to the Department of Finance MIS Division; ✓ Requisitions are subject to capture and cancellation if not released and thoroughly approved at the department level, on or before the DPP's deadline for end-of-fiscal-year requisitioning. Any requisition that is not approved at the end of the fiscal year, shall be cancelled from the ERP System; ✓ Purchases that obligate the Government of the Virgin Islands by any department or agency without a written approved purchase order by Property and Procurement Commissioner or his designee is deemed a confirming order. Confirming orders are illegal. There is no provision in the Virgin Islands code or in the Virgin Islands rules and regulations authorizing the issuance and approval of confirming orders. ✓ Specifically, 33 V.I.C. § 3111 states, "Except as otherwise provided by law, all balances of appropriations contained in the annual appropriation bills and made specifically for the service of any fiscal year shall only be applied to the payment of expenses properly incurred during that year, or to the fulfillment of contracts properly made within that year. (As used in this section, the phrase "expenses properly incurred" shall not include general encumbrance documents executed without obligation to specific vendors or for services by a specific person."); ✓ The requisitioning process ends when the requisition is converted to a purchase order. At the outset, a requisition is in a 'Created' state; after it is released into workflow, the requisition moved to the 'Released' state. Subsequent to approval(s) at the department/agency level, the requisition is automatically forwarded to DPP, for further review, and final approval, providing its acceptability. The approved requisition is then converted to a purchase order, bearing authorizing signature(s);

- ✓ Requisition processing status are as follows:

Status code	Definition
2	Created
4	Allocated
6	Released
7	Approved
0	Converted

- ✓ The Department of Property & Procurement is the primary agency responsible for addressing issues relating to the vendor's record (e.g., new vendors, revisions to vendor address, vendor status and standings);
- ✓ The DPP is the authorizing agency to address all matters involving commodity codes;
- ✓ The Department of Property and Procurement is responsible for adjusting department/agency shipping addresses;
- ✓ Department of Finance will monitor all payment transactions and report to DPP those instances where the requisitioning process should be followed.

Responsibilities	Departments/agencies are responsible for the following: ✓ Enter requisitions within regulatory guidelines; ✓ Attach appropriate supporting documentation to requisitions; ✓ Verify that requisitions have been released and sent to ✓ approvers; ✓ Follow-up on the status of requisitions; ✓ Ensure requisitions that have been converted to purchase orders are forwarded to vendors in a timely manner; ✓ Ensure purchase orders are liquidated within the ninety (90) day limit. Department of Property and Procurement is responsible for the following: Reviewing requisitions to ensure compliance with regulations; ✓ Approving requisitions that comply with procurement rules and regulations; ✓ Converting fully approved requisitions into purchase orders; ✓ Forwarding purchase orders to the departments/agencies and/or to vendors in a timely manner.
Procedures	For detailed procedures see MUNIS GVI Manual – Requisitioning at http://www.usvifinance.info/html/ERP-Manuals.html.

Revision History

Revision Number	Date	Description of Changes	Requested By
1	3/25/2009	Revise to show new legislation	LM
2	7/30/2009	Added Act Number and Bill Number	JL
3	8/11/2009	Additional Revisions	JL
4	12/09/2009	Final Review	JL, CB, DJ, MF, CME, RT, VC
5	3/13/2015	Revised and Updated	AEW
6	4/7/2015	Revised and Updated	VC
7	4/09/2015	Final Review	AEW
8	4/10/2015	Final Review	VC
9	6/11/2015	Revised and Updated	VC
9	7/31/2015	Revised and Updated	VC
9	11/18/2015	Revised and Updated	VC, AEW, CME, MF
9	3/29/2016	Revised and Updated	CF
10	7/1/2016	Revised and Updated	CB
11	7/12/2016	Reviewed and Updated	ES, CME, VC
12	7/22/2019	Revised and Updated	ES, CME, KC

APPENDIX E

OPCMR

BID/RFP EVALUATION RULES AND PROCEDURES

Bid/RFP Evaluation Rules and Procedures

The Evaluation Committee members, including any observers, or advisors shall:

1. Have no personal interest or relationship with bidders, including business or financial ties. Any member, observer, or advisor having such an interest must declare it to the Committee Chairperson prior to participation in the evaluation process.

2. Not contact any vendor except through the Commissioner of Property and Procurement or his designees. There shall be no individual meetings, lunches, entertainment or direct contact with vendors who have submitted offers once you have been appointed to the Evaluation Committee.

3. Decline all personal gifts and gratuities from perspective bidders. Even appearances of such conflict must be avoided.

4. Keep all committee deliberations in confidence.

5. Perform a fair and impartial evaluation of all proposals and bids.

6. Grant all competitive bidder's equal consideration, to regard each transaction on its own merits, foster and promote fair, ethical and legal trade practices.

7. Achieve a recommendation that will be in the best interest of the Government of the Virgin Islands of the United States, one that is fair and impartial to all bidders.

As a member of the evaluation committee, I have read and shall comply with the above stated conditions and all applicable law, and I understand that any violation thereof may result in my termination of employment with the Government of the Virgin Islands of the United States and/or civil and criminal prosecution to the extent applicable.

Signature: _____ Date: _____

Print Name: _____

Department: _____

APPENDIX F

Department of Property&Procurement
Government of the United States Virgin Islands
3274 Estate Richmond, Christiansted, U. S. Virgin Islands 00820
8201 Sub Base, 3rd floor, St. Thomas, U. S. Virgin Islands 00802
ST. CROIX MAIN OFFICE: 340.773.1561 | ST. THOMAS MAIN OFFICE: 340.774.0828
ST. CROIX FAX: 340.773.0986 | ST. THOMAS FAX: 340.774.9587
HTTP://DPP.VI.GOV

OPCMR

PAYMENT AND CHANGE ORDER REVIEW CHECKLIST

Contract No._____ PE#_____ CO#_____ Review Date_____

Contract Review

☐ Contractor's Name
☐ Contract Term and Conditions
☐ Amount of the Contract (Original Contract Price)
☐ Contract Number and Project No. (if applicable)
☐ User Department

Transmittal Documents

☐ Review DPW's letter verifying the following:
☐ Correct project is referenced
☐ Correct name of Contractor
☐ Review and validate the request to certify whether the request includes a Change Order
☐ Review to ensure correct payment and/or change order requests (in sequence, 1,2,3, etc.) are referenced
☐ If for time, (payment as well) make sure it is accurate throughout all documents (all letter of requests, schedule of change orders and referenced in the analysis of adjusted contract amounts to date).

Periodical Estimate Payment (PE) Schedule and Change Orders (CO)

☐ Review PE for Partial Payment Form for percentages and values
☐ Review Schedule CO
☐ Review CO amount to ensure it does not exceed 25% of the original contract value
☐ Verify Final Payments and CO are accompanied by the Release of Claims
☐ Review Analysis of Adjusted Contract Amounts to Date
☐ Verify additions and deductions (against Change Orders etc.)
☐ Verify adjusted contract Amounts
☐ Review and verify the value of work performed to date (PE for Partial Payment form)
☐ Review that the retainage equals 10% of the requested payment amount
☐ Verify that the payment amount is less the 10%
☐ Verify Contractor's name and signature are affixed
☐ Verify all signatures are affixed (Engineer, DPW, and User Agency if applicable)
☐ Review the Estimated Schedule of Payments to avoid duplicate billing etc.
☐ Review the Estimated Schedule of Payments for all signatures.

Contract Payment and Change Order Checklist

(Continuation Page)

Fact and Cheat Notes for Processing Payments and Change Orders

CVIR 31-023 §242-101. Measurement of quantities

(a) The determination of quantities of work acceptably completed under the terms of the contract will be made by the engineer and based on measurements taken by him or his assistant according to Government measures, unless otherwise agreed upon in writing…….

CVIR 31-023 §242-102. Scope of Payment

(a) Payments to the contractor shall be made only for the actual quantities of contract items, authorized additions performed and accepted in accordance with the plans and specifications, and if upon completion of the construction these actual quantities shall show either a decrease or increase from the quantities in the proposal schedule, the contract unit prices will still prevail except as provided in sections 242-103 or 242-104 of this title. The quantities listed in the proposal schedule shall not govern final payment……

- Partial/Progress payments are based on the quantity of work completed under the terms of the contract and are outlined in the Schedule of Amounts and Periodical Estimates.
- Request for payment on retainage can be made when proof is provided that substantial completion of the work was completed.

CVIR 31-023 §242-103. Payment for increased or decreased quantities (Change Orders)

Whenever the quantity of any item of work as given in the proposal shall be increased or decreased, payment for such item of work shall be made on the basis of the actual quantity completed at the unit price for such item named in the proposal, except as otherwise provided in this title and in the detailed specifications for the item involved.

- All change orders submitted for approval must be inspected, validated, and initialed by the engineer.

CVIR 31-023 §242-104. Extra Work

Work not covered by the items in the proposal and ordered by the engineer and covered by a supplemental agreement as provided in this title shall be paid for in accordance with the terms of the supplemental agreement. No claim for extra work will be allowed unless ordered in writing by the engineer prior to the initiation of any construction on the work involved and covered by the required supplemental agreement approved by the Commissioner.

- Change order increases shall not exceed 25% of the original contract cost.
- A supplemental contract is required if the change order request exceeds 25%.
- The supplemental contract must be in writing
- Payments shall not be made for quantities proposed in a supplemental contract until contract execution.
- Requests for payment, change orders, supplemental contracts must be submitted in writing and supported with the requisite documentation for review and approval.

CVIR 31-023 §242-108 Acceptance and final payment

When the final inspection has been made by the engineer appointed for that purpose and the final liquidation has been recommended to the Commissioner, as provided in this title, and the final liquidation has been examined and approved by the Commissioner as required by the laws of the Virgin Islands, the contract shall be deemed completed and the work accepted and final payment shall be made to the contractor. Final payment will not be made until the contractor shall file with the Commissioner the consent of the surety to payment of the final estimate and satisfactory evidence by affidavit or as otherwise required by the Department that all his indebtedness by reason of the contract has been fully paid or satisfactorily secured. Payment of wages to laborers and employees of the contractor for their work shall have preference over the payment of other debts of the contractor, except those established by law. The acceptance of this final payment by the contractor shall operate as and shall be a **release to the Government from all claims or liabilities** under this contract for anything done or furnished or relating to the work under this contract or for any act or neglect of said Government or its agents relating to or connected with the contract.

- Final Payments must be accompanied by the Contractor's Release of Claims

APPENDIX G

OPCMR

REQUIRED CONTRACT SUPPORTING DOCUMENTS

Contract Supporting Documents to be provided by _____

1. **Current *Virgin Islands Business License*** issued to the legal name of record of the entity by the Government of the Virgin Islands, Department of Licensing and Consumer Affairs; **and** copy of current business license issued by state, city or county in which the foreign corporation is operating.

2. **Certificate of General Liability Insurance** in the minimum amount of $1,000,000.00 **and Professional Liability Insurance** in the minimum amount of $1,000,000.00**:**
   a. ***With Declarations/Endorsement Pages stating*** that the "Government of the Virgin Islands' is an ***additional insured (on General Liability)***; and
   b. listing the "Government of the Virgin Islands" as a ***certificate holder (on both policies)***, and indicating the address as follows:
      Virgin Islands Department of ……
      Address
      St. Thomas, U.S. Virgin Islands 008..-….
   c. In the *Description of Operations* box, indication that "The Government of the Virgin Islands, Department of (Name Department) is an additional insured per the terms of the parties written contract."
   d. a copy of the relative insurance policy may be requested for the coverage(s) indicated above and including the name and address of the insured, the policy number, and the term of the policy.

3. *If applicable,* ***Certificate of Issuance or Renewal of Trade Name*** issued by the Office of the Lieutenant Governor of the V.I., Division of Corporations and Trademarks, OR issued by the state, territory or commonwealth of recording, on behalf of the legal name of the Contractor.

4. ***Articles of Incorporation*** or ***Organization*** or ***Formation*** or ***Existence***.

5. ***Certificate of Corporate*** *[or Association, or Organization]* ***Resolution*** ON BUSINESS LETTERHEAD, and bearing the seal of the corporation, association, or organization (if seal is applicable).

6. **One (1) current *Certificate of Good Standing***, in legal name of the Contractor by the Virgin Islands Office of the Lt. Governor, Division of Corporations and Trademarks. Expires June 30th of every calendar year.

7. **Current *Certificate of Government Insurance*** issued by the Office of Custodian, Department of Finance, Government Insurance Fund; OR Copy of Certificate providing firm/agents are covered by Workers' Compensation Employee's Liability.

8. ***Current Registration with SAM.Gov.*** *vendors must provide their Company's current Sam.Gov Registration.*

APPENDIX H

OPCMR

CONTRACT CHECKLIST for USER AGENCY
Revised (September 30, 2022)

Department: _____
Contractor Name: _____

Yes	**No**	**N/A**	1.) Is there a copy of the Contractor's **current** Virgin Islands Business License or **current** License from a state if a VI license is not required, or IRS 501(c)(3) certification for non-profits? VI license required for all work performed in the Territory.
Yes	**No**	**N/A**	2.) Is there current Proof of Insurance with General Liability Insurance? (GVI as certificate holder and additional insured via an endorsement that explicitly names the Government of the Virgin Islands as an additional insured – blanket insurance endorsements that do not name the Government of the Virgin Islands are not accepted)
Yes	**No**	**N/A**	3.) Is there proof of workers' compensation coverage via Government Insurance Fund Certificate (for all contracts where work will be performed in the Territory) or other insurance policy.
Yes	**No**	**N/A**	4.) For professional services contracts (e.g. accounting firms, lawyers, doctors, architects, engineers, consultants, etc.) is professional liability/ errors and omissions coverage attached? GVI should be certificate holder only.
Yes	**No**	**N/A**	5.) Is the Contractor's current Sam.Gov status attached?
Yes	**No**	**N/A**	**IF THE CONTRACTOR IS A CORPORATION (Inc., Co., Corp., Corporation, etc., NON-PROFITS INCLUDED)**
Yes	**No**	**N/A**	6.) Is there a copy of the Articles of Incorporation and Amendments (if applicable) attached?
Yes	**No**	**N/A**	7.) Is there a copy of the current Certificate of Good Standing attached? If the contractor is doing work in the Virgin Islands, they need a Virgin Islands Certificate of Good Standing. The Certificate of Good Standing is valid from July 1st to June 30th. They expire June 30th of every year regardless of the date of issue.
Yes	**No**	**N/A**	8.) If a local Certificate of Good Standing is not applicable, because the contractor is located out of the Territory and does not perform any work in the Territory, is a copy of the Certificate of Good Standing from the applicable state attached? User agency is obligated to verify expiration date from the applicable state.
Yes	**No**	**N/A**	9.) Is there a copy of the Resolution of the Board of Directors authorizing signatory rights on behalf of the Corporation attached on company's letterhead, signed or attested and dated by Secretary of the company?
Yes	**No**	**N/A**	**IF DOING BUSINESS AS (D/B/A)**
Yes	**No**	**N/A**	10.)If Doing Business As (d/b/a) Is there a copy of the current Certificate of Trade Name from the VI Lieutenant Governor's Office attached? If contractor is out-of-state, check that state's requirements for expiration.
Yes	**No**	**N/A**	**LIMITED LIABILITY COMPANY (LLC)**
Yes	**No**	**N/A**	11.)Is there a copy of the current Certificate of Good Standing? If the contractor is doing work in the Virgin Islands, they need a Virgin Islands Certificate of Good Standing. The Certificate of Good Standing is valid from July 1st to June 30th. They expire June 30th of every year regardless of the date of issue.

Yes	**No**	**N/A**	12.)Is there a copy of a memorandum authorizing the signatory to bind the company, printed on company letterhead and signed or attested and dated by the Secretary of company?
Yes	**No**	**N/A**	13.)Is there a copy of the Articles of Organization and amendments (if applicable)?
Yes	**No**	**N/A**	**GENERAL PARTNERSHIP**
Yes	**No**	**N/A**	14.)Is there a copy of the Partnership agreement (if one exists)?
Yes	**No**	**N/A**	15.)Is there a copy of a memorandum authorizing the signatory to bind the company, printed on company letterhead and signed or attested and dated by the Secretary of the company or all partners?
Yes	**No**	**N/A**	**LIMITED PARTNERSHIPS (LP)/ LIMITED LIABILITY PARTNERSHIP (LLP)/ LIMITED LIABILITY PARTNERSHIPS (LLLP)**
Yes	**No**	**N/A**	16.)Is there a copy of the Certificate of Limited Partnership (for LPs) or a Statement of Qualification (LLP and LLPs)?
Yes	**No**	**N/A**	17.)Is there a copy of a memorandum authorizing the signatory to bind the company, printed on company letterhead and signed or attested and dated by the Secretary of the company?
Yes	**No**	**N/A**	18.)Is there a copy of the current Certificate of Good Standing? If the contractor is doing work in the Virgin Islands, they need a Virgin Islands Certificate of Good Standing. The Certificate of Good Standing is valid from July 1st to June 30th. They expire June 30th of every year regardless of the date of issue.
			GENERAL REQUIREMENTS
Yes	**No**	**N/A**	19.)If funding or any corporate documents are expiring within 30 days of transmittal, please notify DPP by inserting a BOLD statement in red font in the transmittal letter to DPP.
Yes	**No**	**N/A**	20.)Is there a transmittal letter with the contract which identifies (1) the contractor, (2) a brief description of the services and the method of selection (i.e. RFP No. or exemption in 31 V.I.C. § 239(a), (3) the contract's term, renewal options if applicable, and compensation, (4) funding source, and (5) a list of all enclosed corporate documents and their associated expiration dates?
Yes	**No**	**N/A**	21.)Is there a **Purchase Order/PFA Letter** in the amount at least equal to the contract in accordance with 31 V.I.C. §233 that has not expired?
Yes	**No**	**N/A**	22.)Does the PO exceed contract price by 10% or more? POs cannot exceed contract price by 10% or more.
Yes	**No**	**N/A**	23.)If a multi-year contract, did the user agency submit a PO through the end of the existing fiscal year and insert a BOLD statement in red font the justification letter to alert DPP that funding in subsequent years will be requested via the Office of Management & Budget?
Yes	**No**	**N/A**	24.)If Purchase Order is more than 180 days old; is there an authorization or verification letter from the Department of Finance attached verifying PO balance and continued availability of funding?
Yes	**No**	**N/A**	25.)Does the compensation provision reflect the total compensation under the contract, inclusive of travel expenses? Is there a line item for travel expenses?

Yes	**No**	**N/A**	26.)Is the signature of the head or acting head of the User Department/Agency included? If the contract is not signed by the agency head, is a letter signed by the Governor appointing another to sign on behalf of the agency head in an acting capacity attached?
Yes	**No**	**N/A**	27.)Is there a signature for the Contractor? The signature block must reflect the title of the person signing and representative capacity on behalf of a corporate entity, i.e. President, Vice President, etc. This must be consistent with the name and title in the resolution.
Yes	**No**	**N/A**	28.)If the Contractor is a corporate entity, is the name of the corporate entity and the signatory's official position included in the signature block?
Yes	**No**	**N/A**	29.)Is the **Addendum I** (Scope of Work) attached with **initials** by contractor? Scope of Work must be detailed.
Yes	**No**	**N/A**	30.)Does the Contract require deliverables and does it state when the deliverables are due?
Yes	**No**	**N/A**	31.)Are deliverables quantifiable, measurable and verifiable? Deliverables need to state estimated period (e.g. number of days from contract execution) that a particular contract line item needs to be delivered or completed.
Yes	**No**	**N/A**	32.)Is **Addendum II** attached with **initials** by contractor?
Yes	**No**	**N/A**	33.) Does Addendum II have clear terms regarding how payments will be made, when they are required and how travel and business costs will be approved and paid?
Yes	**No**	**N/A**	34.)Is the written dollar amount exactly the same as the numerals provided?
Yes	**No**	**N/A**	35.)Are all other attachments and/or exhibits referenced in the Contract attached?
Yes	**No**	**N/A**	36.)Are all pages of the contract, including the Addenda, initialed by the Contractor?
Yes	**No**	**N/A**	**FOR AMENDMENTS ONLY**
Yes	**No**	**N/A**	37.)Was the Amendment submitted at least 45 days prior to **expiration** of the underlying Contract?
Yes	**No**	**N/A**	38.)If the Contract is being amended for time, has the paragraph with the term been revised? If the change in the term affects the deliverable schedule in Addendum I, has Addendum I been amended to reflect those changes?
Yes	**No**	**N/A**	39.)If the Contract is being amended for a cost increase, has the paragraph on compensation been adjusted and is a new compensation addendum attached?
Yes	**No**	**N/A**	40.)If the Contract is being amended for new work outside the original scope, has a revised scope of work been attached?
Yes	**No**	**N/A**	41.)Are all required supporting documents, including the original contract attached?
Yes	**No**	**N/A**	**FOR EXERCISES OF RENEWAL OPTIONS ONLY**
Yes	**No**	**N/A**	42.)Does the Contract contain renewal options? If so, is this the 1st or 2nd renewal option?
Yes	**No**	**N/A**	43.)Was the Renewal Option submitted in accordance with the terms of the contract or at least 60 days prior to expiration of the contract and are all supporting documents attached?

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****NOTE**** Please submit checklist with contract to DPP. If you answered NO to any of the questions, do not transmit the contract to DPP. Please call or email a contract specialist for clarification and assistance.

****NOTE**** A template for Professional Services and Constructions Contracts can be found online at http://dpp.vi.gov/forms-documents under Procurement & Central Stores.

_____ _____ _____

Name of Contract Reviewer Date Signature of Contract Reviewer

Title of Contract Reviewer: _____

Email: _____ Telephone No: _____ Ext.: _____

APPENDIX I

SOPP # 305 (Purchase Order/Encumbrance Maintenance & Management)	**Prepared By: Accounting Division**
Effective Date: July 12, 2016	**Approved By: Commissioner of Finance**
Title	**Timely Liquidation and Validation of Purchase Orders/Encumbrances**
Purpose	To ensure the effective management, maintenance, and reporting of purchase orders/encumbrances in the Enterprise Resource Planning (ERP) system.
Policies	• Purchase orders must be fully liquidated within ninety (90) days after the date of issue or conversion by the Department of Property and Procurement, except that: ➢ Purchase orders that are directly associated with a valid unexpired contract, memorandum of agreement (MOA) or memorandum of understanding (MOU) are exempt from the above-mentioned ninety (90) day limit; and, ➢ Purchase orders supporting certain procurement documents (e.g., Request for Proposal solicitations), unexecuted contracts, unexecuted memoranda of understanding, unexecuted memoranda of agreement and unexecuted real property leases are exempt from the above-mentioned ninety (90) day limit and are valid for one hundred and eighty (180) calendar days from the date of issuance. • Purchase orders must be fully liquidated when the following conditions exist: ➢ All goods and services have been received/completed and there are remaining balances on the purchase order; and, ➢ Actual expense amount is lower than the purchase order amount. • Departments/agencies must generate an outstanding purchase order listing from the ERP system (Purchase Order Module) on a monthly basis to review and validate outstanding purchase orders, including, where applicable, coordination with the Department of Finance to cancel purchase orders that are no longer valid (e.g., exceeds 90 liquidation period, difficulty with vendor delivery of goods or services, etc.).

	• Purchases made with a cancelled purchase order, whether in hard or soft copy, are improper and illegal. • Any employee who uses or attempts to use a cancelled purchase order to obtain goods and/or services directly from a contractor (or other vendor) shall be held personally liable and responsible for the amount of the goods and services. • The Department of Finance shall not make payment to a vendor who delivered goods and/or services as a result of receipt and acceptance of a cancelled purchase order.
Procedures	**Departmental Operational Procedures** • Liquidate purchase orders in accordance with SOPP #130 governing Accounts Payable. • Ensure that the liquidation of purchase orders is consistent with a specific contract, MOA, MOU, real property lease, solicitation document, etc. • Upon receipt of a final invoice for goods and or services, fully liquidate purchase orders when processing invoice for payment. • If final payment has been made and purchase order is not fully liquidated, submit written request to the Commissioner, Department of Finance to cancel the purchase order. • Generate, review, and validate purchase orders listed within the "Purchase Order by GL Account" or "Purchase Order Inquiry" report on a monthly basis.
Procedures	**System Procedures** • For procedures on running Purchase Order Report, see Munis Topic – "Purchase Order by GL Account", or "Purchase Order Inquiry" Report at **http://www.usvifinance.info/html/VisionERPmanuals.html.** • For procedures on liquidating purchase orders, see MUNIS Topic – Invoice Entry – Purchase Order line Qty located at **http://www.usvifinance.info/html/VisionERPmanuals.html.** • For procedures on entering Accounts Payable Invoice (API) see MUNIS Topic – Invoice Entry per located at **http://www.usvifinance.info/html/VisionERPmanuals.html.**

Revision History

Revision #	Date	Description of changes	Requested By
0	1/7/15	Initial Release	MF
1	1/27/15	1st Review & Revisions	VC
2	2/09/15	2nd Review & Revisions	MF
3	2/4/15	3rd Review & Revisions	VC
4	2/9/15	4th Review & Revisions	MF
5	2/9/15	5th Review & Revisions	VC
6	7/8/16	6th Review & Revisions	CME, ES
7	7/12/16	Final Review & Revisions	VC

APPENDIX J

OPCMR

[VERSION: 9/30/2022(2)]

INSTRUCTIONS FOR AMENDMENT OF PROFESSIONAL SERVICES CONTRACT VALUED UP TO $1,000.000.00

1. These instructions are not a part of the template, do NOT submit these Instructions to DPP.

2. All information in red font must be updated by the User Agency in completing the amendment. The red font is meant to draw the user agency's attention to the areas which require changes. Upon updating the required sections, please change the font color to black. DO NOT SUBMIT CONTRACTUAL DOCUMENTS TO DPP WITH RED FONT.

3. In instances where a word is in square brackets in red font, i.e. [User Agency], agencies must update the required information, delete the brackets and change the font to black.

4. In instances where text in red appear in parenthesis as shown below, this constitutes instructions in the template and these instructions or the entire clause should be deleted by the user agency based on the applicable circumstances.

   (Insert this clause only if the contract is being amended to extend the Term).

5. Number every Amendment and keep track of the numbering sequence. Number the amended Addenda consistent with the numbering of the Amendment in sequence

6. Ensure the paragraph numbers referenced in the Terms and Conditions of the Amendment correspond with the associated numbers in the Contract being amended.

7. This template can be utilized for Amendments for time only, changes in time, plus changes in compensation and scope, or any combination thereof.

8. If the Contract is valued under $1,000,000.00 but the compensation will exceed $1,000,000.00 through the proposed Amendment utilize Amendment Template V. 9.30.2022(1).

OPCMR

AMENDMENT No. [Insert 1, 2 or 3 as applicable) OF
PROFESSIONAL SERVICES CONTRACT [Up to $1,000,000.00]

THIS AMENDMENT made as of the _____ day of _____, 20___ in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands **DEPARTMENT OF PROPERTY AND PROCUREMENT**, on behalf of the **DEPARTMENT of [Insert Department Name]** (hereinafter referred to as "**Government**") and **[Insert Contractor/Company Name as it appears on formation documents]** whose address is [Insert Contractor's/ Company's mailing address] (hereinafter referred to as "**Contractor**").

Both parties witness to being duly authorized to execute this agreement and will attest accordingly when and where necessary.

WITNESSETH

WHEREAS, pursuant to Contract No. **[Insert Contract Number]** approved by the Commissioner of Property and Procurement on [insert date of Commissioner of DPP's approval] and its Amendment No. 1, [only include reference to Amendments if any amendments were done], approved by Commissioner of the Department of Property and Procurement on [insert date of Governor's or Commissioner of DPP's approval on amendments, if applicable], (which constitute and are hereinafter referred to as the "Contract"), the Government contracted with Contractor to provide [insert summary of services]; and

WHEREAS, the Contract expires pursuant to its terms on [insert date for expiration]; and

WHEREAS, the parties desire to amend the Contract, to extend its term by one (1) year, to change the [Scope of Work] or [Scope of Services] in Addendum I to include [insert description of changes], and [to increase the compensation by _____ ($_____)]; and (this clause can be revised depending on whether an agency is amending for time only, or for change in scope and compensation, or any combination thereof).

WHEREAS, the amendment of the Contract pursuant to this Amendment of Professional Services Contract shall not result in any change to the scope of work provided for under the Contract and shall not require an increase to the compensation originally provided for under the Contract. (Insert this clause only if the contract is being amended to extend the Term only and there is no effect on the Scope).

NOW THEREFORE, for mutual and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

OPCMR

TERMS AND CONDITIONS

1. The Contract, is hereby amended and its term extended by one (1) year by deleting all existing language contained in Paragraph 2 and replacing it with language as follows:

   "The Term of this Contract shall be from October 1, 2022 to September 30, 2023. Upon the execution of this Contract by the Commissioner of the Department of Property and Procurement, this Contract shall be effective for the Term set out herein. The Government in its sole discretion will have the option to renew this Contract for one (1) additional period of one (1) year upon the same terms by providing the Contractor with sixty (60) days written notice of the Government's election to renew the Contract." (only insert if the term of the Contract is being amended.)

2. Paragraph No. 3 – Compensation is hereby amended to increase the compensation by Fifty Thousand Dollars and Zero Cents ($50,000.00) for a total amount not to exceed Two Hundred Fifty Thousand and 00/100 Dollars ($250,000.00) by deleting all of the existing language contained therein and replacing it with new language as follows:

   "The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services) [or 1st Amended Addendum I (1st Amended Scope of Services) – if Addendum I is being amended] agrees to pay Contractor the sum not to exceed Two Hundred Fifty Thousand and 00/100 Dollars ($250,000.00) in accordance with the provisions set forth in 1st Amended Addendum II (1st Amended Compensation) attached hereto and made a part of this Contract." (only insert if the compensation is being amended)

3. Addenda I and/ or II of the Contract are revised by deleting all terms contained therein and inserting in lieu thereof all of the terms contained in 1st Amened Addendum I (1st Amended Scope of Services) and 1st Amended Addendum II (1st Amended Compensation) attached hereto and incorporated into the Contract by this reference. (only insert if the contract is being amended to change the scope of services and/or compensation. Note addenda is the plural of addendum, therefore if only I or II is being amended refer to Addendum I or Addendum II)

4. This Amendment is subject to the approval of the Commissioner of the Department of Property and Procurement and to the appropriation and availability of funds.

5. Except as expressly amended in this Amendment, all terms of the Contract and Amendment No. 1 (only insert reference to Amendment No. 1 if applicable) remain in full force and effect.

6. FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

The Parties have hereunto set their hands on the day and year as set forth below.

GOVERNMENT OF THE VIRGIN ISLANDS

_____ Date: _____
[Name], Commissioner
Department of [User Agency]

_____ Date:_____
Anthony D. Thomas, Commissioner
Department of Property & Procurement

CONTRACTOR

_____ Date: _____
[Name, Title]
[Name of Company]

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: _____ Date: _____
Assistant Attorney General

PURCHASE ORDER NO._____

APPENDIX K

OPCMR

[VERSION: 9/30/2022(1)]

INSTRUCTIONS FOR AMENDMENT OF PROFESSIONAL SERVICES CONTRACT
[Over $1,000,000.00]

1. These instructions are not a part of the template, do NOT submit these Instructions to DPP.

2. All information in red font must be updated by the User Agency in completing the amendment. The red font is meant to draw the user agency's attention to the areas which require changes. Upon updating the required sections, please change the font color to black. DO NOT SUBMIT CONTRACTUAL DOCUMENTS TO DPP WITH RED FONT.

3. In instances where a word is in square brackets in red font, i.e. [User Agency], agencies must update the required information, delete the brackets and change the font to black.

4. In instances where text in red appear in parenthesis as shown below, this constitutes instructions in the template and these instructions, or the entire clause should be deleted by the user agency based on the applicable circumstances**.**

` (Insert this clause only if the contract is being amended to extend the Term)

5. Number every Amendment and keep track of the numbering sequence. Number the amended Addenda consistent with the numbering of the Amendment in sequence

6. Ensure the paragraph numbers referenced in the Terms and Conditions of the Amendment correspond with the associated numbers in the Contract being amended.

7. This template can be utilized for Amendments for time only, changes in time, plus changes in compensation and scope, or any combination thereof.

8. If the contract value is $1,000,000.00 or less utilize Amendment to Professional Services Template V.9/30/2020(2).

OPCMR

AMENDMENT No. [Insert 1, 2 or 3 as applicable) OF
PROFESSIONAL SERVICES CONTRACT [Over $1,000,000.00]

THIS AMENDMENT made as of the _____ day of _____, 20__ in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands **DEPARTMENT OF PROPERTY AND PROCUREMENT**, on behalf of the **DEPARTMENT of [Insert Department Name]** (hereinafter referred to as "**Government**") and **[Insert Contractor/Company Name as it appears on formation documents]** whose address is [Insert Contractor's/ Company's mailing address] (hereinafter referred to as "**Contractor**").

Both parties witness to being duly authorized to execute this agreement and will attest accordingly when and where necessary.

WITNESSETH

WHEREAS, pursuant to Contract No. **[Insert Contract Number]** approved by the Governor on [insert date of Governor's approval] and its Amendment No. 1, [only include reference to Amendments if any amendments were done], approved by the Governor on [insert date of Governor's approval on amendments, if applicable], (which constitute and are hereinafter referred to as the "Contract"), the Government contracted with Contractor to provide [insert summary of services]; and

WHEREAS, the Contract expires pursuant to its terms on [insert date for expiration]; and

WHEREAS, the parties desire to amend the Contract, to extend its term by one (1) year, to change the [Scope of Work] or [Scope of Services] in Addendum I to include [insert description of changes], and [to increase the compensation by _____ ($_____)]; and (this clause can be revised depending on whether an agency is amending for time only, or for change in scope and compensation, or any combination thereof)

WHEREAS, the amendment of the Contract pursuant to this Amendment of Professional Services Contract shall not result in any change to the scope of work provided for under the Contract and shall not require an increase to the compensation originally provided for under the Contract. (Insert this clause only if the contract is being amended to extend the Term only and there is no effect on the Scope).

NOW THEREFORE, for mutual and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. The Contract, is hereby amended and its term extended by one (1) year by deleting all existing language contained in Paragraph 2 and replacing it with language as follows:

"The Term of this Contract shall be from October 1, 2022 to September 30, 2023. Upon the execution of this Contract by the Governor of the U.S. Virgin Islands, this Contract shall be effective for the Term set out herein. The Government in its sole discretion will have the option to renew this Contract for one (1) additional period of one (1) year upon the same terms by providing the Contractor with sixty (60) days written notice of the Government's election to renew the Contract." (only insert if the term of the Contract is being amended.)

2. Paragraph No. 3 – Compensation is hereby amended to increase the compensation by Five Hundred Thousand and 00/100 Dollars ($500,000.00) for a total amount not to exceed Seven Hundred Fifty Thousand and 00/100 Dollars ($750,000.00) by deleting all of the existing language contained therein and replacing it with new language as follows:

   "The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services) [or 1st Amended Addendum I (1st Amended Scope of Services) – if Addendum I is being amended] agrees to pay Contractor the sum not to exceed Seven Hundred Fifty Thousand and 00/100 Dollars ($750,000.00) in accordance with the provisions set forth in 1st Amended Addendum II (1st Amended Compensation) attached hereto and made a part of this Contract." (only insert if the compensation is being amended)

3. Addenda I and/ or II of the Contract are revised by deleting all terms contained therein and inserting in lieu thereof all of the terms contained in 1st Amened Addendum I (1st Amended Scope of Services) and 1st Amended Addendum II (1st Amended Compensation) attached hereto and incorporated into the Contract by this reference. (only insert if the contract is being amended to change the scope of services and/or compensation. Note addenda is the plural of addendum, therefore if only I or II is being amended refer to Addendum I or Addendum II)

4. This Amendment is subject to the approval of the Governor of the Virgin Islands and to the appropriation and availability of funds.

5. Except as expressly amended in this Amendment, all terms of the Contract and Amendment No. 1 (only insert reference to Amendment No. 1 if applicable) remain in full force and effect.

6. **FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES**

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

The Parties have hereunto set their hands on the day and year as set forth below.

GOVERNMENT OF THE VIRGIN ISLANDS

_____ Date: _____
[Name], Commissioner
Department of [User Agency]

_____ Date: _____
Anthony D. Thomas, Commissioner
Department of Property & Procurement

CONTRACTOR

_____ Date: _____
[Name, Title]
[Name of Company]

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: _____ Date: _____
Assistant Attorney General

APPROVED:

_____ Date: _____
Honorable Albert Bryan Jr.
GOVERNOR OF THE VIRGIN ISLANDS

PURCHASE ORDER NO._____

APPENDIX L

OPCMR

[VERSION:9/30/2022]

INSTRUCTIONS FOR MOU:

1. These instructions are not a part of the template, do NOT submit these Instructions to DPP.

2. All information in red font must be updated by the User Agency in completing the contract. The red font is meant to draw the user agency's attention to the areas which require changes. Upon updating the required sections, please change the font color to black. DO NOT SUBMIT MOUs TO DPP WITH RED FONT.

3. In instances where a word is in square brackets in red font, like this [User Agency] agencies must update the required information, delete the brackets and change the font to black.

4. In instances where two clauses are separated by the word "or" agencies are required to use the language that is applicable to the particular contract and to delete the irrelevant clause.

5. In instances where text in red appear in parenthesis as shown below, this constitutes instructions in the template and these instructions or the entire clause should be deleted by the user agency based on the applicable circumstances.

   (Only insert renewal language in second sentence if the contract has an option to renew)

6. Update all signatories' names and titles, if applicable.

OPCMR

MEMORANDUM OF UNDERSTANDING BETWEEN THE VIRGIN ISLANDS DEPARTMENT OF [INSERT DEPARTMENT NAME]

&

THE VIRGIN ISLANDS OF [INSERT DEPARTMENT NAME]/ ENTITY NAME THROUGH THE VIRGIN ISLANDS DEPARTMENT OF PROPERTY AND PROCUREMENT

THIS **MEMORANDUM OF UNDERSTANDING ("MOU")** is made this_day of _____20____, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of [Insert Department Name] and Virgin Islands Department of [Insert Department Name]/ Entity Name, each a "Party" or collectively "Parties," through the Department of Property and Procurement.

WITNESSETH:

WHEREAS, the Virgin Islands Department of [Insert Department Name] is responsible for [insert responsibilities] pursuant to [insert all relevant statutory provisions]; and

WHEREAS, the Virgin Islands Department of [Insert Department Name] is responsible for [insert responsibilities] pursuant to [insert relevant statutory provisions]; and

WHEREAS, the Parties have a common interest in ensuring [insert description of the joint project/common interest]; and

WHEREAS, the Parties desire to combine efforts in ensuring [insert description of the joint project/common interest] entering into this MOU.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. TERM AND EFFECTIVE DATE

This MOU shall be effective upon the date of execution of this MOU by the Commissioner of the Department of Property and Procurement and shall terminate [insert NUMBER OF DAYS or years in words and numerals] thereafter. The Government in its sole discretion, shall have the option to renew this MOU for a period of one additional year subject to the same terms noted herein, by providing [insert entity's name] with [sixty (60)] days written notice of the

Government's election to renew. (Only insert renewal language in second sentence if the MOU has an option to renew)

2. COSTS

There shall be no exchange of funds between the Parties for the performance of tasks under this MOU. Each Party shall bear all costs associated with the fulfillment of its responsibilities under this MOU.

3. RESPONSIBILITIES/ TASKS

3.1 Department of [Insert Department Name] shall be responsible for:

(a) Insert a list of responsibilities as appropriate

3.2 Department of [Insert Department Name] shall be responsible for:

(a) Insert a list of responsibilities as appropriate

4. DESIGNATED REPRESENTATIVE

Each Party shall designate a representative to oversee its responsibilities under this MOU.

Department of [Insert Department Name] designates:

Insert name, title and address

Department of [Insert Department Name] designates:

Insert name, title and address

5. LIABILITY OF OTHERS

Nothing in this MOU shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by [insert entity's name] as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms associations, or corporations for the acts, omissions, liabilities, obligations and taxes of [insert entity's name] of whatsoever nature, including but not limited to unemployment insurance and social security taxes for [insert entity's name], its servants, agents or independent contractors. (Insert only if the other entity is not a Government agency)

6. ASSIGNMENT

Neither Party shall subcontract or assign any part of the services or responsibilities under this MOU.

7. INDEMNIFICATION

[Insert Entity Name] agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by [insert entity's name] under this MOU and arising from any cause, except the sole negligence of Government. (Insert only if the other entity is not a Government agency)

8. GOVERNING LAW

This MOU shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

9. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term condition or provision of this MOU shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this MOU, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

10. ENTIRE AGREEMENT

This MOU constitutes the entire agreement of the parties relating to the subject matter addressed in this agreement. This MOU supersedes all prior communications, MOUs, or agreements between the parties with respect to the subject matter addressed in this Agreement, whether written or oral.

11. CONDITION PRECEDENT

This MOU shall be subject to the availability and appropriation of funds and to the approval of the Commissioner of the Department of Property and Procurement.

12. TERMINATION

Either party will have the right to terminate this MOU with or without cause on [insert number of days in words] [(insert number of days in numerals)] days written notice to the other party specifying the date of termination.

13. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this MOU on account of race, creed, color, sex, religion, disability or national origin.

14. CONFLICT OF INTEREST

Both Parties covenant that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this MOU.

15. NOTICE

Any notice required to be given by the Terms of this MOU shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

Anthony D. Thomas
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas Virgin Islands 00802

[Name & Title]
[User Agency]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]

[Name & Title]
[Name of Entity]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]

16. INSURANCE

[Insert Entity Name] shall maintain the following insurance coverages during the term of this MOU (ONLY INSERT WHERE THE ENTITY IS PROVIDING DIRECT SERVICES TO OR ON BEHALF OF THE GOVERNMENT)

(a) **COMMERCIAL GENERAL LIABILITY**: Commercial general liability insurance, in a form acceptable to the Government, on a "per occurrence" basis with a minimum limit of not less than one million dollars ($1,000,000.00) for any one person per occurrence

for death or personal injury and one million dollars ($1,000,000.00) for any one occurrence for property damage. Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement. (Insurance limits may be reduced subject to DPP's approval).

(b) **PROFESSIONAL LIABILITY**: Professional liability insurance, in a form acceptable to the Government, which covers the services being performed under this Contract, with policy limits of not less than one million dollars ($1,000,000.00) per claim. The Government shall be listed thereon as a certificate holder. (Insurance limits may be reduced subject to the approval of DPP).

(c) **WORKERS' COMPENSATION**: Contractor shall supply current coverage under the Government Insurance Fund or other form of coverage.

17. FASCIMILE, ELECTRONIC & DIGITAL SIGNATURES

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

The parties have hereunto set their hands as set forth below.

GOVERNMENT OF THE VIRGIN ISLANDS (If the Parties include a non-Government entity create a separate heading for the other entity similar to the PSC format)

_____ Date: _____
[NAME] [TITLE]
[AGENCY]

_____ Date: _____
[NAME] [TITLE]
[AGENCY/ENTITY]

_____ Date: _____
Anthony D. Thomas, Commissioner
Department of Property and Procurement

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: _____ Date _____

APPENDIX M

OPCMR

[VERSION: 9/30/2022(2)]

INSTRUCTIONS FOR MEMORANDA OF AGREEMENT VALUED UP TO $1,000,000.00:

1. These instructions are not a part of the template, do NOT submit these Instructions to DPP.

2. All information in red font must be updated by the User Agency in completing the contract. The red font is meant to draw the user agency's attention to the areas which require changes. Upon updating the required sections, please change the font color to black. DO NOT SUBMIT MOAs TO DPP WITH RED FONT.

3. In instances where a word is in square brackets in red font, like this [User Agency] agencies must update the required information, delete the brackets and change the font to black.

4. In instances where two clauses are separated by the word "or" agencies are required to use the language that is applicable to the particular contract and to delete the irrelevant clause. As shown in the example below, do not use both clauses in the contract that is submitted to DPP.

   WHEREAS, the Government solicited the services under RFP No._____;
   or
   WHEREAS, the Contractor was selected in accordance with 31 V.I.C. § 239(a) (##) [insert appropriate exception being utilized];

   Please only select the clause that is applicable to the particular contract.

5. In instances where text in red appear in parenthesis as shown below, this constitutes instructions in the template and these instructions or the entire clause should be deleted by the user agency based on the applicable circumstances.

   (Only insert renewal language in second sentence if the MOA has an option to renew)

6. Insert RFP No. in the footer. If not applicable, delete RFP No. from footer.

7. Update all signatories' names and titles, if applicable.

8. If the agreement is between two executive branch departments, use the departments names in place of references to Government.

9. Addendum I may be called Scope of Work or Scope of Services, select one and use that selection consistently throughout the MOA.

10. If MOA includes renewal options and the MOA value will exceed $1,000,000 if the renewals are exercised, Do Not Use this Template, use MOA Version 9/30/2022(1) instead.

OPCMR

MEMORANDUM OF AGREEMENT
[For Agreements up to $1,000,000.00]

THIS **MEMORANDUM OF AGREEMENT ("MOA")** is made this_____day of_____, 20__, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement, on behalf of the [User Agency] (hereinafter referred to as "Government") and [Insert Authority or University Name (i.e. UVI or any **State/Public** Universities outside of the Territory)] (hereinafter referred to as ["Insert Defined Term/Naming Convention"]).

Or

THIS MEMORANDUM OF AGREEMENT ("MOA") is made this_____day of _____, 20____ in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of [Insert Department Name] and Virgin Islands Department of [Insert Department Name]/ Entity Name, each a "Party" or collectively "Parties," through the Department of Property and Procurement. (use this option if the agreement is between GVI entities)

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to [Insert summary of services], which duties and responsibilities are more particularly described in Addendum I (Scope of Services) attached hereto; and

WHEREAS, [insert entity name] was selected in accordance with 31 V.I.C. § 239(a)[(insert applicable exemption)]; and

WHEREAS, [insert entity name] represents that it is willing and capable of providing such services.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. SERVICES

[Insert entity's name] will provide the services described in Addendum I (Scope of Services) attached hereto and made a part of this contract.

2. TERM AND EFFECTIVE DATE

This MOA shall be effective upon the date of execution of this MOA by the Commissioner of the Department of Property and Procurement and shall terminate [insert number of years (or days if MOA is less than one year) in words and numerals] thereafter. The Government in its sole discretion, shall have the option to renew this MOA for one (1) additional period of one (1) year subject to the same terms noted herein, by providing [insert entity name] with [sixty (60)] days written notice of the Government's election to renew. (Only insert renewal language in second sentence if the MOA has an option to renew)

Or

The term of this MOA shall be from October 1, 2022 to September 30, 2023. Upon the date of execution of this MOA by the Commissioner of the Department of Property and Procurement, this MOA shall become effective for the Term set out herein. The Government in its sole discretion, shall have the option to renew this MOA for one (1) additional period of one (1) year subject to the same terms noted herein, by providing the [insert entity name] with sixty (60) days written notice of the Government's election to renew. (Only insert renewal language in second sentence if the MOA has an option to renew)

3. COMPENSATION

[Insert Entity's name], in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay [insert entity name] a sum not to exceed [insert value of contract in words] [($insert value of contract in numerals)] in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this MOA.

4. TRAVEL EXPENSES

Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed [insert cost of travel allowance in words and numerals or N/A, if applicable].

5. RECORDS

[Insert Entity Name] when applicable, will present documented precise records of time and/or money expended under this Contract.

6. PROFESSIONAL STANDARDS

[Insert Entity's Name] agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this MOA shall become the property of the Government and shall be turned over to it at the termination of this MOA. The above-described materials shall not be used by [Insert Entity's Name] or by any other person or entity except upon the written permission of the Government.

8. LIABILITY OF OTHERS

Nothing in this MOA shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by [insert Entity's Name] as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms associations, or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor of whatsoever nature, including but not limited to unemployment insurance and social security taxes for [insert entity name], its servants, agents or independent contractors. (do not insert this if the MOA is between two Executive branch departments)

9. ASSIGNMENT

[Insert Entity's Name] shall not subcontract or assign any part of the services under this MOA without the prior written consent of the Government.

10. INDEMNIFICATION

[Insert Entity's Name] agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by [insert Entity's Name] under this MOA and arising from any cause, except the sole negligence of Government. (Do not insert if the MOA is between two Executive branch departments, if the other party is a Federal agency, or independent instrumentality of the GVI, begin sentence with "To the extent permitted by law")

11. INDEPENDENT CONTRACTOR

[Insert Entity Name] shall perform this MOA as an independent contractor and nothing herein

contained shall be construed to be inconsistent with this relationship or status.

12. GOVERNING LAW

This MOA shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

13. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term condition or provision of this MOA shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this MOA, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

14. ENTIRE AGREEMENT

This MOA constitutes the entire agreement of the parties relating to the subject matter addressed in this agreement. This agreement supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this Agreement, whether written or oral.

15. RIGHT TO WITHHOLD

If work under this MOA is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to [insert Entity's Name], such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the [insert Entity's Name] in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while [insert Entity's Name] gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

16. CONDITION PRECEDENT

This MOA shall be subject to the availability and appropriation of funds and to the approval of the Commissioner of the Department of Property and Procurement.

17. TERMINATION

Either party will have the right to terminate this Contract with or without cause on [insert number of days in words] [(insert number of days in numerals)] days written notice to the other party specifying the date of termination.

18. PARTIAL TERMINATION

The performance of work under this MOA may be terminated by the Government, in part, whenever the Government shall deem such termination advisable by providing [insert number of days in words] [(insert number of days in numerals)] days written notice to the [insert entity's name]. This partial termination shall be effected by delivering to the [insert entity's name] a Notice of Partial Termination specifying the extent to which the term and/or duties under this MOA are terminated and the date upon which such termination becomes effective. The [insert entity's name] shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the [insert number of days in words] [(insert number of days in numerals)] day notice.

19. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this MOA on account of race, creed, color, sex, religion, disability or national origin.

20. CONFLICT OF INTEREST

[Insert Entity's Name] covenants that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this MOA.

21. NOTICE

Any notice required to be given by the Terms of this MOA shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

GOVERNMENT
Anthony D. Thomas
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4

St. Thomas U.S. Virgin Islands 00802

[Name & Title]
[User Agency]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]

[INSERT ENTITY NAME]

[Name & Title]
[Name of Company]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]

22. LICENSURE

[Insert Entity's Name] covenants that it has:

(a) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code; and

(b) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

23. OTHER PROVISIONS

Addendum I [Scope of ____], Addendum II (Compensation) attached hereto are a part of this MOA and are incorporated herein by reference. (Please make sure all additional addenda are listed in this section that are made a part of this MOA – if MOA is Federally funded add any all clauses required by 2 CFR 200 and the applicable grant via an additional addendum)

24. DEBARMENT CERTIFICATION

By execution of this MOA, the [insert Entity's Name] certifies that it is eligible to receive awards using federally appropriated funds and that it has not been suspended or debarred from entering into agreements with any federal agency. [Insert Entity's Name] shall include this provision in each of its subcontracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT". In the event [insert Entity's Name] or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the [insert Entity's Name] or subcontractor agrees that it shall not be entitled to payment for any work performed under this MOA or any subcontract and that the [insert Entity's Name] or subcontractor shall promptly reimburse the Government of the

Virgin Islands for any progress payments heretofore made. (Only insert if MOA involves federal funds)

25. FALSE CLAIMS

[Insert Entity's Name] warrants that it shall not, with respect to this MOA, make or present any claim upon or against the Government of the Virgin Islands, or any officer department, board, commission, or other agency thereof, knowing such claims to be false, fictitious or fraudulent. [Insert Entity's Name] acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

26. NOTICE OF FEDERAL FUNDING

[Insert Entity's Name] acknowledges that this MOA is funded, in whole or in part, by federal funds. [Insert Entity's Name] warrants that it shall not, with respect to this MOA, make or present any claim knowing such claim to be false, fictitious, or fraudulent. [Insert Entity's Name] acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence. (Only insert if MOA involves federal funds)

27. INSURANCE

[if MOA is being entered into pursuant to an RFP, utilize the insurance provisions from the RFP – do not insert is the MOA is between two Executive branch departments or with a Federal Agency.

[Insert Entity Name] shall maintain the following insurance coverages during the term of this MOA

(a) **COMMERCIAL GENERAL LIABILITY**: Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement. The public liability/ commercial general liability insurance shall have a minimum limit of not less than one million dollars ($1,000,000.00) for anyone per occurrence for death or personal injury and one million dollars ($1,000,000.00) for any one occurrence for property damage. (Insurance limits may be reduced subject to DPP's approval, however, insurance limits cannot be less than the total compensation value of the contract. Contracts valued in excess of $1,000,000.00 will require additional coverage subject to DPP's approval).

(b) **PROFESSIONAL LIABILITY**: Professional liability insurance, which covers the services being performed under this MOA, with policy limits of no less than one million dollars ($1,000,000.00) per any one occurrence. The Government shall be listed thereon as a certificate holder. (Insurance limits may be reduced subject to DPP's approval, however, insurance limits cannot be less than the total compensation value of the contract. Contracts valued in excess of $1,000,000.00 will require additional coverage subject to DPP's approval).

(c) **WORKERS' COMPENSATION**: [Insert Entity Name] shall supply current coverage under the Government Insurance Fund or other form of coverage.

28. FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

The parties have hereunto set their hands on the day and year first above written.

GOVERNMENT OF THE VIRGIN ISLANDS

_____ Date: _____
[NAME] [TITLE]
[USER AGENCY]

_____ Date: _____
Anthony D. Thomas, Commissioner
Department of Property and Procurement

[INSERT ENTITY'S NAME]

_____ Date: _____
[NAME] [TITLE]
[NAME OF COMPANY]

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: _____ Date: _____
Assistant Attorney General

PURCHASE ORDER NO._____

APPENDIX N

OPCMR

[VERSION:9/30/2022(1)]

INSTRUCTIONS FOR MEMORANDA OF AGREEMENT VALUED OVER $1,000,000.00:

1. These instructions are not a part of the template, do NOT submit these Instructions to DPP.

2. All information in red font must be updated by the User Agency in completing the contract. The red font is meant to draw the user agency's attention to the areas which require changes. Upon updating the required sections, please change the font color to black. DO NOT SUBMIT DOCUMENTS TO DPP WITH RED FONT.

3. In instances where a word is in square brackets in red font, like this [User Agency] agencies must update the required information, delete the brackets and change the font to black.

4. In instances where two clauses are separated by the word "or" agencies are required to use the language that is applicable to the particular contract and to delete the irrelevant clause.

5. In instances where text in red appear in parenthesis as shown below, this constitutes instructions in the template and these instructions or the entire clause should be deleted by the user agency based on the applicable circumstances.

   (Only insert renewal language in second sentence if the contract has an option to renew)

6. Insert RFP No. in the footer. If not applicable, delete RFP No. from footer.

7. Update all signatories' names and titles, if applicable.

8. If the agreement is between two executive branch departments, use the departments names in place of references to Government.

9. Addendum I may be called Scope of Work or Scope of Services, select one and use that selection consistently throughout MOA.

OPCMR

MEMORANDUM OF AGREEMENT
[For Agreements over $1,000,000.00]

THIS **MEMORANDUM OF AGREEMENT ("MOA")** is made this ___ day of _____, 20____ in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement, on behalf of the [User Agency] (hereinafter referred to as "Government") and [Insert Authority or University Name (i.e. UVI or any State Universities outside of the Territory)] (hereinafter referred to as "_").

Or

THIS MEMORANDUM OF AGREEMENT ("MOA") is made this_____day of _____, 20__ in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of [Insert Department Name] and Virgin Islands Department of [Insert Department Name]/ Entity Name, each a "Party" or collectively "Parties," through the Department of Property and Procurement. (use this option if the agreement is between GVI entities)

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to [Insert summary of scope of services], which duties and responsibilities are more particularly described in Addendum I (Scope of Services) attached hereto; and

WHEREAS, [insert entity name] was selected in accordance with 31 V.I.C. § 239(a)[(insert applicable exemption)]; and

WHEREAS, [insert entity name] represents that it is willing and capable of providing such services.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intendingto be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. SERVICES

[Insert entity's name] will provide the services described in Addendum I (Scope of Services) attached hereto and made a part of this MOA.

2. TERM

This MOA shall be effective upon the date of execution of this MOA by the Governor of the U.S. Virgin Islands and shall terminate [insert number of years (or days for MOAs less than one year) in words and numerals] thereafter. The Government in its sole discretion, shall have the option to renew this MOA for one (1) additional period of one (1) year subject to the same terms noted herein,

by providing [insert entity name] with sixty (60) days written notice of the Government's election to renew. (Only insert renewal language in second sentence if the MOA has an option to renew)

Or

The term of this MOA shall be from October 1, 2022 to September 30, 2023. Upon the date of execution of this MOA by the Governor of the U.S. Virgin Islands, this MOA shall become effective for the Term set out herein. The Government in its sole discretion, shall have the option to renew this MOA for a period of one additional year subject to the same terms noted herein, by providing [insert entity name] with [sixty (60)] days written notice of the Government's election to renew. (Only insert renewal language in second sentence if the MOA has an option to renew)

3. COMPENSATION

[Insert Entity's name], in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay [insert entity name] a sum not to exceed [insert value of MOA in words] [($insert value of MOA in numerals)] in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this MOA.

4. TRAVEL EXPENSES

Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this MOA, however, said costs and expenses shall not exceed [insert cost of travel allowance in words and numerals or N/A, if applicable].

5. RECORDS

[Insert Entity Name] when applicable, will present documented precise records of time and/or money expended under this MOA.

6. PROFESSIONAL STANDARDS

[Insert Entity's Name] agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of

every description derived therefrom and pertaining to this MOA shall become the property of the Government and shall be turned over to it at the termination of this MOA. The above described materials shall not be used by [Insert Entity's Name] or by any other person or entity except upon the written permission of the Government.

8. LIABILITY OF OTHERS

Nothing in this MOA shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by [insert Entity's Name] as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms associations, or corporations for the acts, omissions, liabilities, obligations and taxes of [insert entity's name] of whatsoever nature, including but not limited to unemployment insurance and social security taxes for [insert entity name], its servants, agents or independent contractors. (do not insert this if the MOA is between two Executive branch departments)

9. ASSIGNMENT

[Insert Entity's Name] shall not subcontract or assign any part of the services under this MOA without the prior written consent of the Government.

10. INDEMNIFICATION

[Insert Entity's Name] agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by [insert Entity's Name] under this MOA and arising from any cause, except the sole negligence of Government. (Do not insert if the MOA is between two Executive branch departments, if the other party is a Federal agency, or independent instrumentality of the GVI, begin sentence with "To the extent permitted by law")

11. INDEPENDENT CONTRACTOR

[Insert Entity Name] shall perform this MOA as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

12. GOVERNING LAW

This MOA shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

13. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term condition or provision of this MOA shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this MOA, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

14. ENTIRE AGREEMENT

This MOA constitutes the entire agreement of the parties relating to the subject matter addressed in this agreement. This agreement supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this Agreement, whether written or oral.

15. RIGHT TO WITHHOLD

If work under this MOA is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to [insert Entity's Name], such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the [insert Entity's Name] in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while [insert Entity's Name] gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

16. CONDITION PRECEDENT

This MOA shall be subject to the availability and appropriation of funds and to the approval of the Governor of the U.S. Virgin Islands.

17. TERMINATION

Either party will have the right to terminate this MOA with or without cause on [insert number of days in words] [(insert number of days in numerals)] days written notice to the other party specifying the date of termination.

18. PARTIAL TERMINATION

The performance of work under this MOA may be terminated by the Government, in part,

whenever the Government shall deem such termination advisable by providing [insert number of days in words] [(insert number of days in numerals)] days written notice to the [insert entity's name]. This partial termination shall be effected by delivering to the [insert entity's name] a Notice of Partial Termination specifying the extent to which the term and/or duties under this MOA are terminated and the date upon which such termination becomes effective. The [insert entity's name] shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the [insert number of days in words] [(insert number of days in numerals)] day notice.

19. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this MOA on account of race, creed, color, sex, religion, disability or national origin.

20. CONFLICT OF INTEREST

[insert Entity's Name] covenants that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this MOA.

21. NOTICE

Any notice required to be given by the Terms of this MOA shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

GOVERNMENT
Anthony D. Thomas
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas U.S. Virgin Islands 00802

[Name & Title] [User Agency]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]

[ENTITY NAME]

[Name & Title]
[Name of Company/Entity]
[Physical Address]

[Mailing Address]
[City, State, Zip Code]

22. LICENSURE

[Insert Entity's Name] covenants that it has:

(c) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code; and

(d) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

23. OTHER PROVISIONS

Addendum I [Scope of ____], Addendum II (Compensation) attached hereto are a part of this MOA and are incorporated herein by reference. (Please make sure all additional addenda are listed in this section that are made a part of this MOA – if MOA is Federally funded add any all clauses required by 2 CFR 200 and the applicable grant via an additional addendum)

24. DEBARMENT CERTIFICATION

By execution of this MOA, the [insert Entity's Name] certifies that it is eligible to receive awards using federally appropriated funds and that it has not been suspended or debarred from entering into agreements with any federal agency. [Insert Entity's Name] shall include this provision in each of its subcontracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT". In the event [insert Entity's Name] or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the [insert Entity's Name] or subcontractor agrees that it shall not be entitled to payment for any work performed under this MOA or any subcontract and that the [insert Entity's Name] or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made. (Only insert if MOA involves federal funds)

25. FALSE CLAIMS

[Insert Entity's Name] warrants that it shall not, with respect to this MOA, make or present any claim upon or against the Government of the Virgin Islands, or any officer department, board, commission, or other agency thereof, knowing such claims to be false, fictitious or fraudulent. [Insert Entity's Name] acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

26. NOTICE OF FEDERAL FUNDING

[Insert Entity's Name] acknowledges that this MOA is funded, in whole or in part, by federal funds.

[Insert Entity's Name] warrants that it shall not, with respect to this MOA, make or present any claim knowing such claim to be false, fictitious, or fraudulent. [Insert Entity's Name] acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence. (Only insert if MOA involves federal funds)

27. INSURANCE

[if MOA is being entered into pursuant to an RFP, utilize the insurance provisions from the RFP – do not insert is the MOA is between two Executive branch departments or with a Federal Agency.

[Insert Entity Name] shall maintain the following insurance coverages during the term of this MOA

(a) **COMMERCIAL GENERAL LIABILITY**: Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement. The commercial general liability insurance shall have a minimum limit of not less than one million dollars ($1,000,000.00) for anyone per occurrence for death or personal injury and one million dollars ($1,000,000.00) for any one occurrence for property damage. (Insurance limits may be reduced subject to DPP's approval, however, insurance limits cannot be less than the total compensation value of the contract. Contracts valued in excess of $1,000,000.00 will require additional coverage subject to DPP's approval).

(b) **PROFESSIONAL LIABILITY**: Professional liability insurance, which covers the services being performed under this MOA, with policy limits of no less than one million dollars ($1,000,000.00) per any one occurrence. The Government shall be listed thereon as a certificate holder. (Insurance limits may be reduced subject to DPP's approval, however, insurance limits cannot be less than the total compensation value of the contract. Contracts valued in excess of $1,000,000.00 will require additional coverage subject to DPP's approval).

(c) **WORKERS' COMPENSATION**: [Insert Entity Name] shall supply current coverage under the Government Insurance Fund or other form of coverage.

28. FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES

A facsimile, electronic or digital signature on this MOA shall be deemed an original and binding upon the Parties hereto.

The Parties have hereunto set their hands on the day and year as set forth below.

GOVERNMENT OF THE VIRGIN ISLANDS

_____ Date: _____

[NAME] [TITLE]
[USER AGENCY]

_____ Date: _____

Anthony D. Thomas
Commissioner, Department of Property and Procurement

[INSERT ENTITY'S NAME]

_____ Date: _____

[NAME] [TITLE]
[NAME OF COMPANY]

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: _____ Date: _____
Assistant Attorney General

APPROVED:

_____ Date: _____

Honorable Albert Bryan Jr.
GOVERNOR OF THE U.S. VIRGIN ISLANDS

PURCHASE ORDER NO._____