



Department of Property & Procurement

Government of the United States Virgin Islands

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POLICY MEMORANDUM: NO. 012018

TO: All Executive Branch Departments, Agencies and Offices

FROM: Lloyd T. Bough, Jr, Commissioner 

DATE: May 17, 2018

RE: **Mandatory Requirements for Justification Letters and Transmittal Letters to the Department of Property and Procurement**

The purpose of this memorandum is to provide guidance to all Executive Branch departments on the mandatory requirements for all justification letters and transmittal letters which are being submitted to the Department of Property and Procurement ("DPP").

The information contained in this memorandum will supplement DPP's Policy No. 012016, which became effective on October 1, 2015. The requirements outlined below and further illustrated in the enclosed samples will be required in **all** letters submitted to the DPP beginning **May 29, 2018**. The sample letters are for illustrative purposes only and to provide guidance. Commissioners, departments, emails and citations to provisions in the VI Code, specific to the functions of agencies are fictional. However, all references to Title 31, Chapter 23, are correct. **Any letter submitted May 29, 2018, or later, which does not contain the requirements outlined in this memorandum will not be approved.**

Effective May 29, 2018, all justification letters and supporting documents for the basic procurement of goods and services must be submitted to the Department via email at justificationletters@dpp.vi.gov. Once justification letters are submitted by email a hardcopy is not required. In the event an agency is unable to submit a justification letter via justificationletters@dpp.vi.gov, a hardcopy may be submitted at DPP's Main Office at 3274 Estate Richmond, Christiansted VI 00820. This does not include letters for requests for proposals and invitations for bids, those letters must be submitted as normal via hardcopy with all supporting documents in either the St. Thomas or St. Croix Office.

A. Justification Letters seeking approval under 31 V.I.C. § 239(a)(3)

Based on the provisions of 31 V.I.C. § 239(a)(3), supplies materials and equipment may be purchased and contractual services negotiated for in the open market, provided that the following conditions are all met:

1. The aggregate amount involved is **\$5,000.00 up to and including \$50,000.00 (splitting purchases to avoid this threshold is not permitted)**;
2. At least three (3) comparable quotations are sought from various vendors;
3. The vendor offering the best value is selected;
4. The purchase is certified by the agency head or certifying officer; and
5. The agency has not made the same purchase of the same supplies, materials or equipment or contracted for the same professional services from any firm or company in any thirty (30) period.

Therefore, if the conditions above are satisfied and an agency wishes to proceed under this exception, and the agency chooses the lowest of the three quotations, a justification letter is not required to be submitted to DPP. Attach all quotes in the ERP during requisition entry and proceed through the approval process. However, if the user agency does not choose the lowest of the three quotes or is unable to provide three (3) quotes, a justification letter is required. The justification letter in support of this request must:

1. Include a reference that approval is being sought under 31 V.I.C. § 239(a)(3);
2. Explain or describe the supplies or materials being purchased or the services being procured;
3. State the vendor selected and the price accepted;
4. List all quotations received, the amounts in which they were received, and the dates on the quotations;
5. Enclose copies of all quotations received;
6. Identify the source of funding and/ or requisition number; and
7. Be signed by the agency head or certifying officer.

Please note, if the agency is unable to obtain three (3) quotations, the agency is still required to demonstrate the efforts it took to solicit the three (3) quotes. As such, the agency should list the companies from which it sought quotations in the letter, and identify those companies who did not or who were unable to provide quotations in the timeframe requested. In addition, the agencies must submit the email thread and all correspondence requesting quotations from different companies and any responses from the companies declining the service. All justification letters must contain an "Approved/Disapproved" block for the Commissioner of Property and Procurement to execute. Additionally, all justification letters must include a point of contact for the requesting agency, with sufficient knowledge of the information contained in the justification letter to answer any questions and/or provide additional documentation to DPP upon request.

In addition, all justification letters seeking approval for the purchase of information technology equipment (i.e. computers and laptops), telecommunications equipment (phone systems), software and related services, must be include an "Approved/Disapproved" block for the Director of the

Bureau of Information Technology (“BIT”) in accordance with Title 3, Section 10b(d)(3) of the Virgin Islands Code, prior to submitting to the Department of Procurement and Procurement. Therefore, all such justification letters must first be submitted to BIT for approval.

See enclosed sample justification letters (2).

B. Justification Letters seeking Approval under 31 V.I.C. §239(a)(8)

Based on the provisions of 31 V.I.C. § 239(a)(8), supplies materials and equipment may be purchased and contractual services negotiated for in the open market, provided that the purchase or contract is for property or materials for which it is impracticable to obtain competition. Impracticable means impossible, it does not mean difficult or infeasible.

The Rules and Regulations further illustrate the circumstances under which this exception can be used in 31 V.I. R. & REGS. § 239-12. This includes the following:

1. The property or services can only be obtained from one person or firm (sole source of supply) – this does not mean the only vendor contacted by an agency, it literally means the only vendor who can provide the property or services.
2. Competition is precluded because of the existence of patent rights, copyrights etc. However, the mere existence of such rights does not automatically preclude competition.
3. Bids were invited pursuant to law and no responsive bid has been received from a responsible bidder.
4. The contemplated procurement for training film, textbooks, including legal reports and similar items.
5. The contemplated procurement for parts or components being procured as replacement parts in support of equipment specially designed by the manufacturer, where data is not adequate to assure that another part or component will perform the same function in the equipment as that part or component it will replace.

The list above is not exhaustive, for additional information, please refer to Title 31, Section 239-12 of the Rules and Regulations for additional examples.

If the conditions above are satisfied and an agency wishes to proceed under this exception, the justification letter in support of this request must:

1. Include a reference that approval is being sought under 31 V.I.C. § 239(a)(8);
2. Explain or describe the supplies or materials being purchased or the services being procured;
3. Name the vendor selected, the price for the goods or services and the date on the quote;

4. Sufficiently explain why it is impracticable to obtain competition based on the requirements in 31 V.I.C. § 239(a)(8) and the examples in Title 31, Section 239-12 of the Rules and Regulations;
5. Identify the funding source and/or requisition number; and
6. Be signed by the agency head or certifying officer.

It is the responsibility of the requesting agency to demonstrate to the satisfaction of the Department of Property and Procurement, within the package submitted, that the procurement squarely falls within the provisions in 31 V.I.C. § 239(a)(8) and the examples in Title 31, Section 239-12 of the Rules and Regulations. Otherwise the request will be disapproved. All justification letters must contain an "Approved/Disapproved" signature block for the Commissioner of Property and Procurement. In addition, all justification letters must include a point of contact for the requesting agency, who has sufficient knowledge of the information contained in the justification letter to answer any questions and/or provide additional documentation to DPP, upon request.

See enclosed sample letters (2).

C. Transmittal Letters for Contracts Procured under 31 V.I.C. §239(a)(4)

Based on the provisions of 31 V.I.C. § 239(a)(4), items may be purchased or services contracted for in the open market, provided that the purchase or contract is for professional services and are procured through competitive negotiation, wherever practicable. Examples of professional services include architectural and engineering services, consultancy, accounting or auditing services, legal services and medical services. When using this exception agencies are required to solicit proposals from at least three (3) qualified firms.

In accordance with Title 31, Section 239-8 of the Rules and Regulations, the Government must:

1. Review the qualifications and proposals of at least three (3) firms;
2. Conduct discussions severally with the firms; and
3. Select the firm which best meets the selection criteria and is most capable of performing the services in the best interest of the Government.

If the requirements above are met, and the agency wishes to procure contractual services under Title 31, Section 239(a)(4) of the Virgin Islands Code, the justification letter accompanying the contract, must contain the following information:

1. The name of the user department, agency, board or commission;
2. The name of the contractor;
3. A reference to 31 V.I.C. § 239(a)(4) and a description of the facts surrounding the procurement and how it falls under the noted exception (i.e. how the agency solicited proposals, how many firms were contacted, how many responded, and why the contractor was selected);
4. A description of the scope of work to be performed under the contract;
5. The term of the contract, and whether it contains any renewal options, if the contract is for continuous services, the commencement date of the contract must

be the day after the last contract expired, thus if the last contract was from January 1, 2016-December 31, 2016, the new contract starts on January 1, 2017 and terminates on December 31, 2017;

6. The compensation for the term of the contract and identify the funding source. All POs must comply with SOPP#305 and show compliance with 33 V.I.C. §3101. If this is a multi-year contract, agencies are required to provide a purchase order for the expenses for the current fiscal year and explain how the Department will obtain subsequent years funding;
7. A list of all supporting documents included in the contract package (this includes all required corporate documents, a copy of the Department's proposal and copies of the responses from the firms contacted); and
8. Any special circumstances requiring explanation in the contract.

All contracts must be accompanied by a completed copy of the user agency checklist. There are no exceptions. See enclosed sample letter (1).

D. Transmittal Letters for Contracts Procured Through the Formal Advertising Process in 31 V.I.C. § 236.

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

1. The name of the user department, agency, board or commission;
2. The name of the contractor;
3. A description of the solicitation, i.e. RFP number and dates of advertising and closing;
4. A description of the scope of work to be performed under the contract;
5. The term of the contract, and whether it contains any renewal options;
6. The compensation for term of the contract and identification of the funding source. All POs must comply with SOPP#305 and show compliance with 33 V.I.C. §3101. If this is a multi-year contract, agencies are required to provide a purchase order to cover the expenses for the current fiscal year and explain how the Department will obtain subsequent years funding;
7. A list of all supporting documents included in the contract package; and
8. Any special circumstances requiring explanation in the contract.

All contracts must be accompanied by a completed copy of the user agency checklist. There are no exceptions. See enclosed sample letter (1).

If there are any questions on the information contained in this memorandum, please contact Dynell R. Williams, Deputy Commissioner of Procurement at (340) 773-1561 or via email at dynell.williams@dpp.vi.gov.

SAMPLE JUSTIFICATION LETTER NO. 1
Authority: 31 V.I.C. § 239(a)(3)

The Honorable Lloyd T. Bough, Jr.
Commissioner
Department of Property and Procurement
3274 Estate Richmond
St. Croix, US Virgin Islands 00820

Re: Justification Letter – ABC Co., Ltd – Purchase of Field Assessment Tool

Dear Commissioner Bough:

The Department of Social Services (“DSS” or “Department”) needs a new field assessment tool. The Department uses field assessment tools to document findings during routine investigations. The Department wishes to purchase the necessary field assessment tool from ABC Co., Ltd. for Eight Thousand Six Hundred Twenty-Three and 00/100 Dollars (\$8,623.00). We respectfully request your approval of this purchase in accordance with 31 V.I.C. § 239(a)(3).

DSS solicited quotations for the field assessment tool from three different vendors. All three vendors responded and provided a quotation, copies of which are enclosed. The quoted prices are as follows:

1. ABC Co. Ltd. - \$8,623.00, dated March 1, 2018
2. Beach Distributing, Inc. - \$7,999.00, dated February 26, 2018
3. Assessment Tools, LLC - \$10,950.00, dated February 25, 2018

Although not the lowest of the three quotations, DSS believes ABC Co., Ltd provides the best value for the Government and should be selected. The field assessment tool from ABC Co. Ltd easily interfaces with the software used for storing information at DSS. ABC Co. Ltd, is the only company with certified technicians for repair and maintenance of the field assessment tools in the Virgin Islands. The other two companies would require shipping the equipment out of the Territory for routine maintenance and repairs.

Funding is available for this purchase through the Field Investigations Special Fund, Account No.000001 ORG No. 0000002.

Therefore, based on the foregoing, DSS requests your approval to purchase the needed field assessment tool from ABC Co. Ltd. Should you have any questions, please contact Jane Bronte, Director of Field Investigations at (340) 774-0000 or via email at jane.bronte@dss.vi.gov.

Sincerely,

Charlotte Austen
Commissioner

APPROVED/ DISAPPROVED

Lloyd T. Bough, Jr.
Commissioner, Property and Procurement

Date

SAMPLE JUSTIFICATION LETTER NO. 2
Authority: 31 V.I.C. § 239(a)(3)

The Honorable Lloyd T. Bough, Jr.
Commissioner
Department of Property and Procurement
3274 Estate Richmond
St. Croix, US Virgin Islands 00820

Re: Justification Letter – The Ice Specialist, LLC – Ice Machine Purchase

Dear Commissioner Bough:

The Department of Parks (“DP” or “Department”) needs a new ice machine for the recreation center at Public Park 1. The ice machine will be used during summer camp and other activities the Department hosts at the Park. The Department wishes to purchase the necessary 15lb ice machine from The Ice Specialist, LLC, for Twelve Thousand Six Hundred and 00/100 Dollars (\$12,600.00). We respectfully request your approval of this purchase in accordance with 31 V.I.C. § 239(a)(3).

DP solicited quotations via email for the ice machine from three different vendors and asked for a response within five (5) days. Quotes are requested from The Ice Specialist, LLC, Ice R Us, and Cool Ice, Inc. Only two quotations were received and are enclosed. The two quotations are as follows:

1. The Ice Specialist, LLC – Quote No. 002 (dated 12/01/2017) - \$12,600.00; and
2. Cool Ice, Inc. – Quote No. CII 474 (dated 12/03/2017) - \$15,000.00

Ice R Us, does not carry ice machines and a copy of the email response from Ice R Us is enclosed. DP selected The Ice Specialist, the lowest of the two quotes. Funding is available through the Park Revolving Fund Org No. 0001123.

Therefore, based on the foregoing, DP requests your approval to purchase the ice machine from The Ice Specialist, LLC. Should you have any questions, please contact John Willoughby, Director of Parks at (340) 774-5687 or via email at john.willoughby@dp.vi.gov.

Sincerely,

David Charles, Jr.
Commissioner

APPROVED/ DISAPPROVED

Lloyd T. Bough, Jr.
Commissioner, Property and Procurement

Date

SAMPLE JUSTIFICATION LETTER NO. 3

Authority: 31 V.I.C. § 239(a)(8)

The Honorable Lloyd T. Bough, Jr.
Commissioner
Department of Property and Procurement
3274 Estate Richmond
St. Croix, US Virgin Islands 00820

Re: Justification Letter – General Water Assessments LLC

Dear Commissioner Bough:

The Department of Public Water Systems (“DPWS” or “Department”) is seeking your approval to purchase an instant read water quality testing tool, known as H2O – 5000©, from General Water Assessments, LLC in the amount of Thirty-Two Thousand Three Hundred Forty and 30/100 Dollars (\$32,340.30). Your approval is requested in accordance with the provisions of 31 V.I.C. § 239(a)(8).

DPWS is required by 50 V.I.C. § 1000(s) to provide instant water quality testing at public campgrounds whenever requested by the Park Superintendent. General Water Assessments, LLC is the manufacturer of the only instant read water quality testing tool that has been approved by the required federal and local regulatory agencies. The H2O – 5000© provides water quality testing results in as little as five minutes with a 99.99% accuracy rate. Therefore, DPWS is unable to obtain competition for this vital piece of equipment as no other alternative exists. A copy of the quotation, dated March 17, 2018, is enclosed for your perusal.

Funding is available from the Public Water Systems Revolving Fund, Account No. RPWS0001, ORG. No. 000003.

Based on the foregoing, your approval is requested in accordance with 31 V.I.C. § 239(a)(8). If you have any questions, please not hesitate to contact Ms. Emily Austen, Director of Water Testing at (340) 773-0000 or via email at emily.austen@dpws.vi.gov.

Sincerely,

Marianne Willoughby
Commissioner

APPROVED/ DISAPPROVED

Lloyd T. Bough, Jr.
Commissioner, Property and Procurement

Date: _____

SAMPLE JUSTIFICATION LETTER NO. 4

Authority: 31 V.I.C. § 239(a)(8)

The Honorable Lloyd T. Bough, Jr.
Commissioner
Department of Property and Procurement
3274 Estate Richmond
St. Croix, US Virgin Islands 00820

Re: Justification Letter – General Water Assessments LLC – Purchase of Thermometer

Dear Commissioner Bough:

The Department of Public Water Systems (“DPWS” or “Department”) is seeking your approval to purchase a thermometer for our instant read water quality testing tool, known as H2O – 5000©, from General Water Assessments, LLC. The thermometer costs Five Thousand Three Hundred Forty and 30/100 Dollars (\$5,340.30) as shown on the enclosed quote dated, March 17, 2018. Your approval is requested in accordance with the provisions of 31 V.I.C. § 239(a)(8).

DPWS is required by 50 V.I.C. § 1000(s) to provide instant water quality testing at public campgrounds whenever requested by the Park Superintendent. General Water Assessments, LLC (“GWA”) is the manufacturer of the only instant read water quality testing tool that has been approved by the required federal and local regulatory agencies. The thermometer is a component part of the H2O-5000©, which tests various parameters to include dissolved solids and temperature. Since the thermometer is a critical component part manufactured by GWA, especially for the H2O-5000©, DPWS is unable to obtain competition for this vital piece of equipment as no other alternative exists. Funding is available from the Public Water Systems Revolving Fund, Account No. RPWS0001, ORG. No. 000003.

Based on the foregoing, your approval is requested in accordance with 31 V.I.C. § 239(a)(8). If you have any questions, please not hesitate to contact Ms. Emily Austen, Director of Water Testing at (340) 773-0000 or via email at emily.austen@dpws.vi.gov.

Sincerely,

Marianne Willoughby
Commissioner

APPROVED/ DISAPPROVED

Lloyd T. Bough, Jr.
Commissioner, Property and Procurement

Date: _____

SAMPLE TRANSMITTAL LETTER FOR CONTRACTS NO. 1
Contract Pursuant to Formal RFP

The Honorable Lloyd T. Bough, Jr.
Commissioner
Department of Property and Procurement
3274 Estate Richmond
St. Croix, US Virgin Islands 00820

**Re: Proposed Professional Services Contract between Government of the Virgin Islands –
Department of Social Services and Child PsychCare, Inc.**

Dear Commissioner Bough:

The Department of Social Services (“DSS”) hereby submits the proposed contract for professional services between the Government of the Virgin Islands and Child PsychCare Inc., for review and approval and further processing to the Department of Justice.

DSS is in need of a contractor to provide counseling services to children ages 10 through 13. A request for proposals for the services was issued on May 9, 2017 and received on June 8, 2017. Two companies responded to the solicitation – Child PsychCare, Inc. and Insightful Children LLC. Both companies were deemed responsive to the RFP. After the completion of the evaluation and negotiation process, Child PsychCare, Inc. was recommended for the award.

Under the proposed terms, the contract will commence upon the Governor’s execution and will terminate two years thereafter. The contract contains a renewal option for an additional two year term. The maximum compensation payable under the proposed contract for the entire term is Five Hundred Thousand and 00/100 (\$500,000.00). Proof of funding through the end of this fiscal year is provided via Purchase Order No. 102 in the amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) dated October 1, 2017. PO No. 102 is valid under the terms of DOF SOPP#305. DSS has satisfied the full funding requirement of 33 V.I.C. § 3101. Subsequent years funding will be requested through the Office of Management and Budget under Project Code M404.

In order to facilitate this request, please note the following documents are enclosed:

1. Original contract (1);
2. Copy of VI Business License (expires June 30, 2018);
3. Purchase Order No. 102 dated October 1, 2017;
4. VI Certificate of Good Standing (dated August 17, 2017 and valid thru June 30, 2018);
5. Certificate of Commercial General Liability Insurance and Endorsement (expires November 16, 2018);
6. Certificate of Professional Liability Insurance (expires November 15, 2018);
7. Professional licenses for John Doe, PhD (expires January 6, 2022) and Janet Doe, PhD (expires June 11, 2019);
8. Professional Certificates of Good Standing for John Doe and Janet Doe (cannot be more than 90 days old)
9. Copy of articles of incorporation; and
10. Copy of corporate resolution.

If you have any questions, please not hesitate to contact Ms. Margaret Thomas, Executive Assistant Commissioner at (340) 774-0000 or via email at margaret.thomas@dss.vi.gov.

Sincerely,

Charlotte Austen
Commissioner

Enclosures

SAMPLE TRANSMITTAL LETTER FOR CONTRACTS NO. 2
Contract Pursuant to 31 V.I.C. § 239(a)(4) without Formal Advertisement

The Honorable Lloyd T. Bough, Jr.
Commissioner
Department of Property and Procurement
3274 Estate Richmond
St. Croix, US Virgin Islands 00820

**Re: Proposed Professional Services Contract between Government of the Virgin Islands –
Department of Public Water Systems and Public Health Quality Assessments, Inc.**

Dear Commissioner Bough:

The Department of Public Water Systems (“DPWS”) hereby submits the proposed contract for professional services between the Government of the Virgin Islands and Public Health Quality Assessments Inc., for review and approval and further processing to the Department of Justice.

DPWS is in need of a contractor to develop educational outreach materials on water quality at campgrounds and selected Public Health Quality Assessments, Inc. in accordance with 31 V.I.C. §239(a)(4), which requires competitive negotiation wherever, practicable. DPWS developed a proposed scope of work, a copy of which is enclosed and provided it to a select group of four environmental consultants and requested they submit proposals. Three of four consultants, submitted proposals to DPWS. DPWS convened an evaluation committee and after the completion of the evaluation and negotiation process, Public Health Quality Assessments, Inc. was recommended for the award.

Although Public Health Quality Assessments’ negotiated contract price is more expensive than the other two proposals, Public Health Quality Assessments’ 30 years of experience and UNICEF and WHO awards for relevant and timely educational outreach materials and its expert use of various social media platforms, Public Health presented the best value for the Government.

Under the proposed terms, the contract will commence upon the Governor’s execution and will terminate 365 days thereafter. The contract does not contain any renewal options. The maximum compensation payable under the proposed contract for the entire term is Seventy-Five Thousand and 00/100 Dollars (\$75,000.00). Purchase Order No. 100 in the amount of Seventy-Five Thousand and 00/100 Dollars (\$75,000.00) dated October 1, 2017 is enclosed. PO No. 100 is valid under the terms of DOF SOPP#305 and satisfies the full funding requirement of 33 V.I.C. § 3101.

In order to facilitate this request, please note the following documents are enclosed:

1. Original contract (1);
2. Copy of VI Business License (expires June 30, 2018);
3. Purchase Order No. 100 dated October 1, 2017;
4. VI Certificate of Good Standing (dated August 17, 2017 and valid thru June 30, 2018);
5. Certificate of Commercial General Liability Insurance and Endorsement (expires November 16, 2018);
6. Certificate of Professional Liability Insurance (expires November 15, 2018);
7. Certificate of Worker’s Compensation Insurance (expired November 15, 2018);
8. Copy of articles of incorporation; and
9. Copy of corporate resolution;

Should you have any questions or require additional information to process this request, please do not hesitate to contact Agnes R. Smith, Executive Assistant Commissioner at (340) 773-0000 or via email at agnes.smith@dpws.vi.gov.

Sincerely,

Marianne Willoughby
Commissioner

Enclosures