

**Executive Order 35**

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## **General**

### **Summary**

As a result of EO 35, departments are advised to source items through contracted or certified micro-small vendors first. If neither are available then other SWaM vendors should be sourced (small, women-owned, minority-owned, or service disabled veteran owned business). If no certified SWaM business is available, move forward with sourcing from other non-certified or majority firms. We recommend you document your files with your previous efforts.

### **Why are we doing this?**

Executive Order 35 was released on July 3, 2019. JMU needed to develop policies and procedures that support the requirements of the Executive Order.

Further, the Governor feels it is imperative to maximize the participation of small (including women-, minority-, and service disabled veteran) businesses in state work. Doing more business with small businesses is a catalyst for economic growth. It also serves to maximize participation of a diverse group of vendors, including women and minority owned businesses that have in the past be underrepresented in contractual work.

### **Do I really have to pay attention to this?**

Yes, those that make decisions about purchases, approve purchases, and make the actual purchase must all follow university and Commonwealth of Virginia Procurement policies and procedures. Not doing so can jeopardize your own department's delegated authority as well as the university's overall delegation.

### **Wasn't there an Executive Order related to set asides for certified businesses before? We didn't do it then, why is this one different?**

Yes, each of the last four Governors have had some type of Executive Order related to doing business with Small, Woman and Minority Owned businesses. James Madison University worked to implement many of the items in those Executive Orders as well, in good faith to support the effort. However, with our statutory delegation related to Level II (at the time) we, along with other delegated institutions, chose not to implement set asides in any fashion, and instead encouraged campus departments to seek out SWaM businesses when the opportunity was right.

In this new Executive Order, Higher Education Institutions with statutory authority are included and the Secretary of Education's office as well as our own Administration was involved prior to it being released. We have worked on our policies and procedures to support EO 35.

## **We have Level III, doesn't that allow us to set our own policies?**

Level III does provide us with a great amount of autonomy, and unlike other state agencies, without autonomy, JMU is able to set our own policies to support the Executive Order rather than follow very prescriptive state rules; however, we can't ignore it entirely.

Level III is allowing us to raise the delegated limit to departments so your purchases will process faster through eVA, it provides Procurement Services additional flexibility for certain types and thresholds of purchases, and in the near future you'll be learning about additional things we're implementing to make your purchasing a little easier.

## **What are the university's goals related to these types of businesses?**

The university's SWaM goals for FY2020 discretionary expenditures are: 3% Micro, 3% Minority (including Historically Black Community Colleges), 6% Women, 25% Small, 1% Service Disabled Veteran, 1% Employment Service Organizations, 1% 8A, 1% EDWOSB, & 1% FSDV.

Our total aspirational goal is 42% as it aligns with the Executive Order goal for the entire Commonwealth.

Aspirational goals in each category are based on our current knowledge of contracts in place, procurements that have opportunity for SWaM businesses, and the actual availability of certified vendors in each certification category related.

Our discretionary expenditures for FY19 totaled \$253,129,766 for SWaM reporting purposes. It took \$2,531,297.66 of expenditures with SWaM businesses to achieve just 1%. We need everyone to help in supporting the university and Commonwealth goals.

In FY19 we exceeded our goals for the Small and Women-Owned categories which helped us to meet our total goal, but we fell short in the minority and other categories.

## **What companies are considered Micro Small, Small, Women, Minority or Service Disabled Veteran Owned?**

Firms must be certified with the [Virginia Department of Small Business and Supplier Diversity](#) (SBSD) in order to be considered as a SWaM firm in the Commonwealth for procurement practices and to be counted towards our goals in reporting.

For more information on the different certification types please go to the following link: <https://www.sbsd.virginia.gov/certification-division/swam/>

## **Specific to Departments**

### **Does this apply to every department on campus?**

Yes, all E&G, Auxiliary, Capital, Local Funds and Sponsored Program orgs are impacted.

## **What steps should I take to source appropriate vendors?**

1. Your first step should always be to source through a JMU approved Term Contract. Our [JMU Term Contracts](#) and other JMU Procurement Services approved Term Contracts ([State Contracts](#), [VASCUPP Contracts](#), etc.) have already been solicited using the appropriate procurement processes. When one uses an existing approved Term Contract there is nothing else to do. Examples of existing Term Contracts: TSRC, Daniels, Bright Ideas, Real Access, Grainger, Fisher Scientific, Dove Medical, B&H Photo, CDWG, Dell, Apple, etc.
2. If no Term Contract is available for your purchase you should work to source a *Micro Small* business, see Appendix A & B for finding Micro Small Certified businesses on both the SBSD website and eVA.
3. If no Micro Small certified business is available, work to source with a certified Small, Women-, or Minority-, Service Disabled Veteran Owned business.
4. If no certified SWaM business is available, move forward with sourcing from other non-certified or majority firms. We recommend you document your files with your previous efforts.

## **What are the easiest methods to deal with this new initiative?**

Use existing JMU approved Term Contracts for your purchases.

## **What documentation should I include in my files if I don't use a Certified Micro Small Business?**

You should work to document your file with any efforts you made to utilize a certified Micro Small business and with any pricing, responses or non-responses you received from those firms.

## **Why should I keep documentation about my efforts to use Certified Micro Small Businesses?**

It is possible that firms could [FOIA](#) us for information to determine whether or not we attempted to utilize a certified Micro Small firm. In addition, auditors can always request to see documentation to determine if we are following policies and procedures. It's best to be able to show you made a good faith effort to utilize a Micro Small firm.

## **What kind of information do I need in my file documentation if I don't use a certified Micro Small business for my purchase?**

If you utilize an approved Term Contract, no additional documentation is necessary; these have already been publicly solicited with appropriate processes. If you are not using an approved Term Contract you should document your file with the efforts you took to locate a certified Micro Small vendor.

As an example, you may include a memo to your file listing the steps you took to find a Micro Small business:

“On August 1<sup>st</sup> I searched the eVA Vendor Listing and the SBSD search form for vendors with the Micro status that appeared to offer similar services to what I needed. After contacting XYZ vendor, I found they did not offer that service. I was unable to locate another certified Micro Small business. I therefore moved forward with ABC company.”

Or

“I reached out to XYZ company a certified micro small business and ABC company a non-certified business for a quote. XYZ company’s price was \$125 whereas ABC company’s price was \$100. The non-certified business also offered free shipping and had the item in stock. I ordered from the non-certified firm.

### **What are the requirements I need to know about for orders over 10k that will flow to Procurement Services?**

Procurement Services also has some procedures to follow to ensure we are working to award spot purchases and Term Contracts to eligible/capable SWaM firms. Depending on the commodity and availability of SWaM firms and the dollar value we may have to solicit specifically with certified Small businesses. We will encourage and consider SWaM sub-contracting plans provided by firms. Procurement Services Buyers will advise you of the Procurement Method and the specific requirements we have as we work with you on the purchase.

### **This seems like it will take more time, what is Procurement Services offering to try to help speed up other Procurements so I may have more time for these items?**

Procurement Services and Finance have raised the departmental delegation to \$10,000.00 so that many of your contract orders will flow more efficiently. In addition, the increase allows you to process more payments on your small purchase charge card and reduces the amount of receiving reports that will be required. This should compensate for some of the additional work on non-contract orders where you have to work to source with a certified Micro Small business.

In addition, while your departmental delegation is \$10,000.00 if you chose to utilize an eVA self-registered vendor that is also SWaM certified (in any category), up to and including \$30,000.00, Procurement Services will verify those two requirements and allow the purchase to move forward without additional processes. The order must be submitted and approved prior to the commencement of any work. Orders cannot be submitted after the fact nor can orders be split to stay under this dollar amount. The ability to do this is also related to our Level III Delegation.

### **How do I find certified vendors to use?**

Certified businesses can be found on SBSB’s website under the [Small Business & Supplier Diversity SWaM and DBE Directory](#) (firms on this site are all certified as SWaM firms, but may not always be eVA self-registered firms) or by searching on [eVA’s Vendor Directory](#). See Appendix A and B for further detailed information.

In addition, Procurement Services has a [Sourcing Guide](#) to assist you on common purchases and you may always contact the Procurement Services Buyer for the commodity you are purchasing to seek assistance.

### **What if the Certified Micro Small Business is more expensive than a non-certified firm?**

The Executive Order allows for a Micro Small firm to be more expensive than a non-certified firm as long as the certified firm does not exceed 5% of the lowest noncertified firms cost. If cost is your only factor you should still consider award to the certified firm.

## **How can I help this initiative when I talk to businesses we want to work with?**

Yes, please help! We know that there are many, many more small, women and minority businesses doing business in the Commonwealth of Virginia and most, but not all, other state's business also have eligibility to certify in the Commonwealth. However, many chose not to attempt certification. You are the person that is typically talking directly to these businesses. We need you to always encourage the businesses you're working with to attempt certification with the Commonwealth of Virginia. You should let them know it may impact your ability to continue to do business with them. Expanding the pool of available *certified* businesses helps everyone across the state with our purchasing efforts. Specifically, many businesses can meet the current definition/criteria of a Small business.

Certification is free to them and lasts for five (5) years! There are benefits as well. Obviously those certified as a Micro Small business get the benefit of being preferred for your business up to \$10k. Our policies allow any SWaM certified and eVA self-registered businesses awards up to \$30k with little more effort. In addition, Procurement Services has other policies benefit certified businesses on larger purchases. All RFP's issued include points for SWaM certification or certified SWaM business sub-contracting plans.

## **Is there a chance that this could change again?**

Yes, as with anything there is potential for change. As part of Executive Order 35 the Governor made a requirement for a Disparity Study to be completed to determine if there was disparity in awards to minority and women owned businesses in the Commonwealth. If the study reflects disparity, the Governor could chose to issue a new Executive Order establishing guidance specific to those types of businesses. A future new Governor could always issue a completely different Executive Order on this topic. The legislature has for the last few years had bills related to Supplier Diversity and specifically the certification criteria, and we expect more bills to be presented this year. New legislation can also impact our processes.

## **Is the only impact on purchase under 10k?**

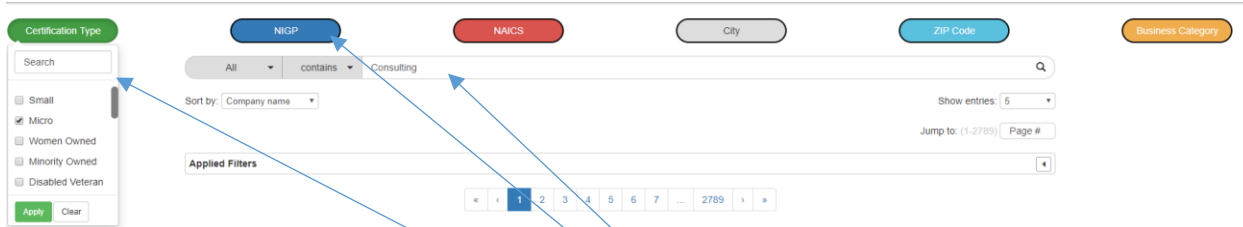
No, there are additional things within the Executive Order that Procurement Services needs to consider for purchases from 10k – 100k and specifically for A/E Professional Services and Capital Construction. Procurement Services will work through those items on each procurement and advise the department's we're working with when there are things related to Small businesses that need to be considered.

## **Useful Links**

- [Campus Sourcing Guide](#)
- [JMU Contracts](#)
- [VASCUPP Contracts](#)
- [Commonwealth of Virginia Contracts](#)
- [eVA Vendor Listing](#)
- [SBSD Directory of SWaM Vendors](#)

## Appendix A

Searching for a certified Micro, Small, Women-, Minority-, Service Disabled Veteran Owned business on the Virginia Department of Small Business and Supplier Diversity (SBSD) [directory](#):



Search by Certification Type and other factors as needed to narrow your search. Use keywords or NIGP codes to find firms that offer the particular good or service.

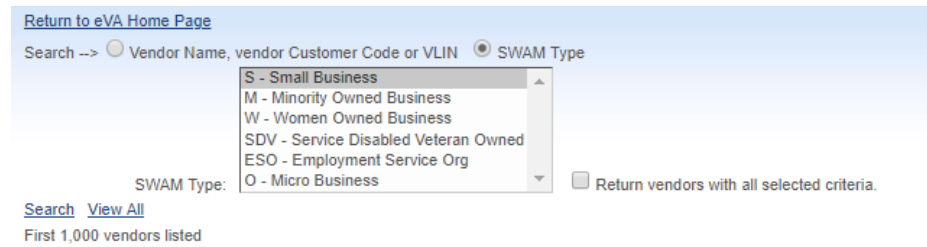
<p><b>1550 Consulting</b>            Susanna Guzman            1403 Lehigh Circle            Charlottesville, VA 22901            Phone: (434) 260-4786  <a href="mailto:susanna@1550consulting.com">susanna@1550consulting.com</a></p>	<p>Certification Number: 808356  <b>SWaM Certification Type:</b>            Small Start Date: 01-22-2019            Micro Start Date: 01-22-2019            Women-Owned Start Date: 01-22-2019            SWaM Expiration Date: 01-22-2024            NIGP Code and Description:            91500 COMMUNICATIONS AND MEDIA RELATED SERVICES            Pcard: Y            Business Category: Communication and Media Related Services</p>
<p><b>1804 Dragon Blaze Technologies LLC</b>  <b>DBA: 1804 Dragon Blaze Technologies LLC</b>            Reginald Blaise            7715 Mary Beth Way            Alexandria, VA 22315            Phone: (917) 209-1411            Fax: (917) 209-1411  <a href="mailto:blazetechnologiesllc@gmail.com">blazetechnologiesllc@gmail.com</a></p>	<p>Certification Number: 722524  <b>SWaM Certification Type:</b>            Small Start Date: 12-13-2016            Micro Start Date: 12-13-2016            Minority-Owned Start Date: 12-13-2016            SWaM Expiration Date: 12-13-2019            NIGP Code and Description:            03100 AIR CONDITIONING, HEATING, AND VENTILATING EQUIPMENT, PARTS AND ACCESSORIES (SEE CLASS 740 ALSO)            20843 Educational: Foreign Languages, Math, Science, Social Studies, etc.            91830 Computer Network Consulting            91838 Education and Training Consulting            Pcard: N            Business Category: Consulting Services</p>
<p><b>1MBConsulting LLC</b>            Marc Baumann            9238 Rockefeller Ln            Springfield, VA 22153            Phone: (937) 430-9730  <a href="mailto:marc.baumann@verizon.net">marc.baumann@verizon.net</a></p>	<p>Certification Number: 811091  <b>SWaM Certification Type:</b>            Small Start Date: 08-13-2019            Micro Start Date: 08-13-2019            Service Disabled Veteran Start Date: 08-13-2019  <b>Federal Certification Type:</b>            Federal Service-Disabled Veteran-Owned Small Business Start Date: 08-13-2019            SWaM Expiration Date: 08-13-2024            NIGP Code and Description:            91875 Management Consulting</p>

Search results will appear with firms that match the criteria requested.

## Appendix B

Searching for a Micro, Small, Women-, Minority-, Service Disabled Veteran business on [eVA's Vendor Listing](#):

On the top left corner of the eVA Vendor List one can click in the button to either search by Vendor Name or by SWaM Type. If by SWaM Type one can scroll through the list and then click on the appropriate type (for example, O – Micro). NOTE: in the SBSD Directory Micro is referred to as Micro, on the eVA Vendor List you will see it reflected as “O”.



These are some of the returned certified Micro Small vendors that are listed in eVA; there are thousands of them so all cannot be returned in the search:

Status	HQ	VendorID	eMail Supplier Name	eMail Contact	Address 1	City	St	Zip	Micro Bus.	Small	Minority	Woman	Disabled Veteran	ESD	Accept Charge Card	Accepts Visa	Accepts Elect Orders
Active	Y	V50000093049	1 in ALL General Contractor LLC	Virginia Beach VA	2964 Virginia Beach Blvd	Virginia Beach	VA	23452	O	S	M				Y	Y	Y
Active	Y	V50000280533	1 Prime Source LLC	Oxon Hill Maryland Office	155 Potomac Passage Unit #510	Oxon Hill	MD	20745	O	S	M	W			N	N	Y
Active	Y	V50000122468	1 Shop Driver Improvement Clinic LLC	1 Shop Driver Improvement Clinic LLC	26 Towne Center Way #231	Hampton	VA	23666	O	S	M		Y		N	N	Y
Active	Y	V50000277114	1 Shop Supply LLC	1 Shop Supply LLC	2091 L P Bailey Memorial Hwy	Halifax	VA	24550-3141	O	S	W				Y	Y	Y
Active	Y	V50000149733	10 10 LLC	Maulsman Press Norfolk	259 W York St	Norfolk	VA	23510	O	S	M	W			Y	Y	Y
Active	Y	V50000228531	1010 Post Construction LLC	1010 Post Construction LLC	2920 W Broad Street Ste 224	Richmond	VA	23230	O	S	M				Y	Y	Y
Active	Y	V50000299919	12 Tables LLC	12 Tables LLC	2011 Crystal Dr Ste 409	Arlington	VA	22202-3709	O	S	M				Y	Y	Y
Active	Y	V50000182061	1804 Dragon Blaze Technologies LLC	7715 Mary Beth Way	7715 Mary Beth Way	Alexandria	VA	22315-5904	O	S	M				Y	Y	Y
Active	Y	V50000043718	1st Choice Electrical Inc	1st Choice Electrical Inc.	1214 Robertson Town rd	Bumpass	VA	23024	O	S					Y	Y	Y
Active	Y	V50000251366	1st Choice Medical Supplies LLC	1st Choice Medical Supplies LLC	760 Sandbridge Rd	Virginia Beach	VA	23466-4521	O	S	M				Y	Y	Y
Active	Y	V50000229864	1st Choice Pest Control	1st Choice Pest Control	1421 Glendale Ave	Chesapeake	VA	23323-5727	O	S					Y	Y	Y
Active	Y	V50000230432	1st Choice Shredding	1st Choice Shredding	P.O. Box 10395	Lynchburg	VA	24506	O	S					Y	Y	Y
Active	Y	V50000144562	1st Class Exterminating LLC	1st Class Exterminating LLC	27297 Cooke Ln	Culpeper	VA	22701	O	S					Y	Y	Y
Active	Y	V50000184246	1st Due Solutions LLC	1st Due Solutions LLC	301 Cedarwood Rd	Highland Springs	VA	23075-2427	O	S	M				Y	Y	Y
Active	Y	E67339	1ST Lady Janitorial Services	1ST Lady Janitorial Services, LLC-Fairfax, VA	11012 Dawkins Ridge Ln	Bristow	VA	20136-6187	O	S	M	W			Y	Y	Y
Active	Y	V50000052955	2 Points International	Fairfax Office	4551 Whitmore Place	Fairfax	VA	22030	O	S	M	W			Y	Y	Y
Active	Y	V50000080031	2 Procurement LLC	HD	700 N Fairfax St	Alexandria	VA	22314	O	S	W				Y	Y	Y
Active	Y	V50000155469	24 7 GREASE TRAP & PLUMBING INC	24 7 GREASE TRAP & PLUMBING INC	7514 Diplomat Dr St #101	Manassas	VA	20109-2692	O	S	M	W			N	N	Y
Active	Y	V50000249321	2601 Group LLC	2601 Group LLC	P.O. Box 1645	Midlothian	VA	23113	O	S					Y	Y	Y

If we search instead by Vendor Name using something we think might be in their name like “photos” we see there are two firms that do photography that are Micro Certified:

Status	HQ	VendorID	eMail Supplier Name	eMail Contact	Address 1	City	St	Zip	Micro Bus.	Small	Minority	Woman	Disabled Veteran	ESD	Accept Charge Card	Accepts Visa	Accepts Elect Orders
Active	Y	V50000059273	AP Wide World Photos Inc	AP Wide World Photos	452 West 23rd Street	New York	NY	10001							N	N	N
Active	Y	V50000058149	Blevins Photos	Blevins Photo	23 Western Vista Lane	Buena Vista	VA	24416							N	N	N
Active	Y	V50000147950	DC Aerial Photos Incorporated	DC Aerial Photos Incorporated	75 Flying H Farms Road	Fredericksburg	VA	22406	O	S		W			Y	Y	Y
Active	Y	V50000128252	Deposphotos Inc	Fort Lauderdale FL	110 E Broward Blvd	Fort Lauderdale	FL	33301-3503							N	N	N
Active	Y	V50000156492	Fried City Photos LLC	Fried City Photos LLC	4919 Queensbury Circle	Fredericksburg	VA	22408							N	N	N
Active	Y	V50000209537	Freelancephotosku LLC	Freelancephotosku LLC	19807 Clear Ridge Dr	Midlothian	VA	23112-3150							Y	Y	Y
Active	Y	V50000098532	Giant Photos LLC	Giant Photos LLC	103 Memorial Dr	Goodlettsville	TN	37072							N	N	N
Active	Y	V50000169878	MannyK1Photos	EMMANUEL TWIENEBOAH	16920 Chimera Pl	Woodbridge	VA	22191-5165							N	N	N
Active	Y	V50000051978	ME Photos Inc	Richmond Office	8401 Mayland Drive	Richmond	VA	23294							Y	Y	Y
Active	Y	V50000183067	Perfect Shot Photos LLC	Perfect Shot Photos LLC	11005 Blake Ln	Bealeton	VA	22712-8413							Y	Y	Y
Active	Y	V50000202777	Photos by SJR LLC	Photos by SJR LLC	5203 George Blvd	Fredericksburg	VA	22408-2405	O	S	M	W			Y	Y	Y
Active	Y	E64698	Photos By Stan	1618 Willow Pt Arch, Chesapeake, VA 23320	1618 Willow Pt Arch	Chesapeake	VA	23320							N	N	N
Active	Y	V50000241420	Photos By Whitney LLC	Whitney M Copenhaver dba Photos by Whitney LLC	34114 Lee Hwy	Glade Spring	VA	24348-4530							N	N	N
Active	Y	V50000191733	PhotoShelter Inc	Libra by PhotoShelter	33 West Union Square	New York	NY	10003							Y	Y	Y
Active	Y	V50000219551	Road Win Photos Inc	Road Win Photos Inc	11104 Botwell Street, Richmond, VA 23233	11104 Botwell St	Richmond	VA	23233-2290						N	N	Y
Active	Y	V50000172421	Rue Wildlife Photos	Leonard Lee Rue III	138 Millbrook Rd	Hardwick	NJ	07825-9534							N	N	Y
Active	Y	V50000185205	USRPhotos LLC	Virginia Office	2216 Stump Iron Ln	Reston	VA	20191-5010							N	N	N