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TITLE 220 - DEPARTMENT OF ADMINISTRATION

CHAPTER 30 - PURCHASES

SUBCHAPTER 00 - N/A

PART 7 - SUPPLEMENTAL SERVICES

7.1 DEFINITIONS

A. In accordance with R.I. Gen. Laws § 37-2-7(26), "Architect" shall mean a person who, under the provisions of Chapter 5-1-2, by reason of his knowledge of the mathematical and physical sciences, and the principles of architecture and architectural design, acquired by professional education, practical experience, or both, is qualified to engage in the practice of architecture as attested by his licensing as an architect in this state.

1. "Practice of architecture" shall mean rendering or offering to render any of those services normally provided by practicing architects. The services normally provided may include any of the following practices or professional services: advice, consultation, evaluation, site planning, aesthetic design, structural design, and the administration of construction contracts which require expert knowledge and skill in connection with the erection, enlargement, or alteration of any building or buildings, or the provision of equipment or utilities therefore, or accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved also constitutes the practice of architecture.

2. "Licensure" as an architect shall mean the possession of an "architect's stamp" in accordance with Chapter 5-1-1, which indicates professional certification by the Rhode Island Board of Examination and Registration of Architects.

B. In accordance with R.I. Gen. Laws § 37-2-7(26), "consultant", shall mean any person with whom the state and/or a public agency has a contract which contract provides for the person to give direction or information as regards [a] particular area of knowledge in which the person is a specialist and/or has expertise.

C. In accordance with R.I. Gen. Laws § 37-2-7(26), "Engineer", shall mean a person who, under the provisions of Chapter 5-8-2, by reason of his special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering, as hereinafter defined, and as attested by his registration as an engineer.

1. "Practice of Engineering", in accordance with Chapter 5-8-2, shall mean any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation surveys, planning and design of engineering systems, and the supervision of construction for the purpose of assuring compliance with specifications; and embracing those services or work in connection with any public or private utilities, structures, buildings, machines, equipment, processes, work, or projects wherein the public welfare or the safeguarding of life, health, or property is involved or concerned, and including such architectural work as is incidental to the practice of engineering.

2. "Professional Engineer" shall mean a person who has been duly registered and licensed by the state Board of Registration for Professional Engineers and Land Surveyors.

D. "A Professional Service Provider" shall mean an independent contractor who is a specialist and/or has the expertise, as demonstrated by professional licensing or certification and experience, necessary to carry out tasks regarding that particular field of expertise.

1. "Professional service products" shall mean activities which directly implement programs established by state officials.1. Replace this text with Paragraph 2 (subsection of Paragraph 1)

2. Professional services shall be characterized by specific activities and/or the attainment of measurable outcomes.

3. Examples of professional services include: (1) client services (medical treatments, hospital staff coverage, counseling, therapy, individual rehabilitation plans), (2) legal representation in litigation and administrative advice (interpretation of law, contracts, etc.), (3) computer programming, (4) education (training, teaching), (5) construction management, and arbitration.

4. "Special services" shall mean services which the state deems necessary or desirable to purchase provided by individuals or firms possessing special knowledge or skills for which formal licensing or certification is not necessarily required. Examples of special services include: (1) expert witness testimony, (2) art, music, and dance, (3) interpretation (languages, deaf), (4) public information (drug and alcohol abuse), and (5) training (foster parenting).

5. "Personal services" shall mean services provided by persons who are paid directly by the state but are not on the state payroll. Personal services may consist of the following relationships:

a. According to R.I. Gen. Laws. § 37-2-7(10), "Employee" shall mean an individual drawing a salary from a governmental body or public agency, whether elected or not, and any non-salaried individual performing personal services for any governmental body or public agency.

b. A "leased employee" shall mean a person hired through a contract with an agency which is responsible for paying all salary and benefits compensation to which the individual is entitled. Leased employees would usually be temporary replacements for, or supplements to, the existing workforce provided on an as needed basis.

c. An "employee contractor" shall mean a person on a state or public agency payroll who has been employed by a state agency in an advisory capacity. (An example of such employment would be URI professors employed by MHRH to develop policy analyses.)

d. An "employee service contractor" shall mean a person on a state or public agency payroll who has been employed by a state agency in a service capacity. (Examples of such employment include: Court stenographers employed by DEM to provide transcripts for public hearings, MHRH staff physicians paid for hospital coverage in addition to their assigned responsibilities, RIC professors hired by DCF to provide social worker training.)

E. "A Professional Consultant" shall mean an individual or a firm which is a specialist and/or has the expertise, as demonstrated by the possession of appropriate professional licensing, certification, and/or experience, necessary to give advice, direction or information regarding that particular area of knowledge.

1. "Professional consultant products" shall mean advisory opinions expressed as reports, written or oral, used by state officials to render policy decisions.

2. Consultant services shall be characterized by research and analysis, recommended courses of action, identification of priorities, and unspecified outcomes.

3. Examples of professional consultations include: (1) systems analysis (computer, personnel, management review), (2) program analysis (medical program planning), and (3) policy recommendations (abandonment or adoption of programs, establishment of decision criteria).

F. "Supplemental Services" shall mean all services performed in a capacity which supplements the basic staffing of state agencies.

7.2 GENERAL PROVISIONS

A. User agencies shall recommend the final selection of providers of legal, medical, and dental services. Agencies shall not commit funds for proposed services prior to receiving approval of the recommended provider from the Chief Purchasing Officer or his designee.

B. The Chief Purchasing Officer may delegate to the Office of Personnel all or a portion of responsibility for evaluation of the need for supplemental services and for verification/validation of qualifications of proposed service providers.

C. The Purchasing Agent shall review proposed change orders to professional consultant contracts (other than medical, dental and legal) which are (reasonably) estimated to exceed twenty thousand dollars ($20,000) and shall determine whether such changes constitute a scope of service requiring open competition.

D. To the extent practicable, selection of supplemental service providers shall be based upon competition. The Purchasing Agent shall require that, whenever possible, a scope of services be defined in terms for which a bid or a response to a request for proposals may be solicited.

E. In accordance with the provision of R.I. Gen. Laws Chapters 5-1 and 5-8, no contract shall be awarded to a person practicing architecture or engineering who has not been professional certified by the appropriate registration boards.

F. Requirements for the selection of construction management contractors shall be the same as those for the selection of architects and engineers.

7.3 PROCUREMENT PLANNING FOR SUPPLEMENTAL SERVICES

A. Annually, at a date which coincides with the development of the State Budget, user agencies shall submit to the Chief Purchasing Officer a Supplemental Service Utilization Plan.

1. Plans shall provide the following information about proposed services:

    a. number of services;

    b. estimated cost of each contract/relationship;

    c. anticipated effective period of each relationship;

    d. whether activities are ongoing or new endeavors;

    e. whether the agency is proposing to continue each relationship into the next fiscal year; and

f. if an ongoing relationship, the initial date of the relationship.

2. Amendments to plans shall be submitted and approved by the Chief Purchasing Officer prior to the commitment of funds

3. Except for legal, medical, dental and special services (as defined herein), when a determination is made in writing by the Purchasing Agent that the scope of work for a professional services contract does not permit selection based upon competitive bidding or request for proposal procedures, the service shall be deemed to be of a consulting nature and subject to all requirements set forth for the selection of consultants.

7.4 ARCHITECTURAL, ENGINEERING AND CONSULTANT SERVICES SELECTION COMMITTEE.

A. In accordance with R.I. Gen. Laws § 37-2-59(2) a committee shall select persons or firms to render professional consultant services other than medical, dental and legal services which are reasonably estimated to exceed twenty thousand dollars ($20,000).

1. The State Architectural, Engineering and Consultant Services Selection Committee (Committee) shall consist of the following individuals: (1) the Chief Purchasing Officer or his designee, who shall be chairman of the Committee, (2) a representative of the user agency, and (3) a public member, who shall be appointed by the Governor to represent the interests of the general public and whose term shall be concurrent with that of the Governor. The Public member shall be paid twenty-five dollars ($25.00) for each meeting attended, not to exceed one thousand two hundred dollars ($1,200) annually.

2. A quorum shall require the presence of the entire membership of the Committee and must be present to conduct business.

3. The Committee may utilize the services of such other persons it deems necessary to provide technical advice in evaluating consultant proposals.

   a. Such technical advisors shall not be considered members of the Committee and shall not be entitled to vote on the selection of candidates to be recommended for consideration by the Chief Purchasing Officer.

   b. Technical advisors shall not be entitled to payment for their services.

7.5 SUPPLEMENTAL SERVICES NOT EXCEEDING $5000.

A. The Chief Purchasing Officer may delegate authority for selection of supplemental service providers to agency chief executives when the total annual (fiscal year) value of any such relationship does not exceed five thousand dollars ($5,000).

7.6 ARCHITECTURAL, ENGINEERING AND CONSULTANT SERVICES SELECTION PROCESS FOR SERVICES NOT EXCEEDING $20,000.

A. When a professional consultant contract is estimated (reasonably) to be between five thousand dollars ($5000) and twenty thousand dollars ($20,000) the Purchasing Agent may establish a technical review committee in conjunction with the user agency to evaluate the qualifications of potential suppliers. Membership shall be determined on a case by case basis. The technical committee shall recommend no more than three candidates to the Purchasing Agent, who shall forward his recommendations to the Chief Purchasing Officer.

7.7 ARCHITECTURAL, ENGINEERING AND CONSULTANT SERVICES SELECTION PROCESS FOR SERVICES EXCEEDING $20,000

A. Solicitation

1. Public Announcement pursuant to R.I. Gen. Laws § 37-2-60. The Chief Purchasing Officer shall give public notice of the need for professional architectural, engineering or consultant services.

2. Such notice shall be published sufficiently in advance of the date when responses must be received in order that interested parties have an adequate opportunity to submit a statement of qualifications and performance data.

3. The notice shall: (1) contain a brief statement of the services required, (2) describe the project, (3) specify how specific information on the project may be obtained and, (4) be published in a newspaper of general circulation in the state and in such other publications as in the judgment of the Committee shall be desirable.

4. Under R.I. Gen. Laws § 37-2-61, The solicitation shall describe the state's requirements and set forth evaluation criteria for the selection of the successful candidate and shall be distributed to interested persons.

B. A bidder's conference shall be held at which the following shall be provided: (1) a description of the criteria to be used in evaluating a bidder's statement of qualification and performance data for the purpose of selecting a firm, (2) a

discussion and further definition of the scope of work and (3) an on-site review, if appropriate.

C. R.I. Gen. Laws § 37-2-63, requires that the Committee shall select no more than three (3) firms evaluated as being professionally and technically qualified.

D. Under R.I. Gen. Laws § 37-2-63,The firms selected, if still interested in providing the services, shall make a representative available to the Chief Purchasing Officer at such time and place as he shall determine, to provide such further information as he may require.

E. Under R.I. Gen. Laws § 37-2-62, The Chief Purchasing Officer, or his designee shall negotiate with the highest qualified firm for a contract for architectural[,] engineering, or consultant services for state departments and agencies at [a level of] compensation which he determines to be fair and reasonable. In making such determination, the Chief Purchasing Officer shall take into account the following: professional competence, technical merits, and price.

F. Final Selection - In accordance with R.I. Gen. Laws § 37-2-63,the Chief Purchasing Officer shall be responsible for the final selection and shall so inform the user agency, the Division of Purchasing, and the Division of Budget.

7.8 EVALUATION FOR SELECTION

A. Criteria for evaluation of candidates for supplemental services shall include, but shall not be limited to:

1. Competence to perform the services as reflected by technical training and education, general experience, experience in providing the required services, and the qualifications and competence of persons who would be assigned to perform the services;

2. Ability to perform the services as reflected by workload and availability of adequate personnel, equipment, and facilities to perform the services expeditiously;

3. Past performance as reflected by the evaluation of private persons and officials of other governmental entities which have retained the services of the firm with respect to such factors as control of costs, quality of work, and ability to meet deadlines; and

4. In the case of consultant services, the vendor's proposed approach to the project/assignment shall be an additional criterion.

B. The Committee shall evaluate the following in light of the criteria set forth in the solicitation: statements submitted in response to the solicitation of consultant services and other required statements of qualifications and performance data.

7.9 REQUIREMENTS FOR OTHER SUPPLEMENTAL SERVICES

A. Independent Auditing

1. In accordance with R.I. Gen. Laws § 37-2-59(3) independent auditing shall be subject to the provision of R.I. Gen. Laws §22-13-6,which requires that the Auditor General shall review and approve the proposed scope of services for an independent audit and the firm selected to conduct the audit.

2. Requisitions for independent audit services shall be submitted to the Office of Purchases with written verification of the Auditor General's approval of the proposed purchase of services. Copies of correspondence from the Auditor General to the Agency shall be considered sufficient authorization to proceed.

3. Contract amendments which increase the original approved scope of work shall also require the Auditor General's authorization.

B. Legal, Medical and Dental Services

1. In accordance with R.I. Gen. Laws § 37-2-69 and R.I. Gen. Laws § 37-2-71, prior to procuring the services of an attorney, physician or dentist user agencies must provide to the Chief Purchasing Officer the following:

   a. Justifications for need - which may include, but need not be limited to, consideration of: (1) legal mandates/court orders or consent decrees, (2) licensing/certification requirements, (3) health and safety concerns, (4) minimum standards of service and (5) union workload agreements.

   b. Presentations shall include copies of relevant laws, standards or other citations used for justification.

   c. The scope of services shall describe the time period for the proposed contract and services or outcomes (tasks, reports, or other products).

   d. Presentations shall indicate whether the proposed contracted work involves supplemental functions or is for temporary staff coverage.

   e. If such services are proposed to be provided on a supplemental basis by employees of the same or other state entities, the presentation shall indicate whether the services are in addition to, or an extension of, the employees' normal duties.

2. Demonstration to the satisfaction of the Chief Purchasing Officer that professionals meet minimum requirements may be accomplished using the following:

   a. User agencies may obtain annual verification of the status of an attorney(s) from the Supreme Court listing of members of the Rhode Island Bar.

   b. User agencies may obtain annual verification of the status of medical doctors and medical professionals from the Department of Health.

   c. The Chief Purchasing Officer may delegate authority to determine the appropriateness of qualifications to agency chief executives subject to the following: (1) such delegation shall be at the request of and justified by the chief executive of the agency, (2) a complete description of the evaluation procedure is provided, (3) and the names, qualifications and official capacity of the persons participating in the evaluation process or as members of professional review boards are provided.

3. Under R.I. Gen. Laws § 37-2-70, Professional services -- Legal -- State.-- Before a state department procures the services of an attorney, it shall demonstrate to the satisfaction of the chief purchasing officer the following:

   a. The need for the services required including the scope of the services to be performed;

   b. That no legal personnel employed by the state on a full-time basis is available to perform such services;

   c. That funding is available, indicating from which sources such funding is to be provided;

   d. That attorneys to be engaged meeting the following minimum requirements: (a) appropriate professional licensing and, (b) competence to perform such services as reflected by formal training and education, general experience and experience in providing the required services and the qualifications and competence of persons who would be assigned to perform the services, and (c) ability to perform the services as reflected by workload and availability of adequate personnel, equipment and facilities to perform the services expeditiously.

4. The attorney shall enter into a letter of engagement with the state. The letter of engagement shall state the rate of compensation, the scope of the services to be performed for the compensation and provision for the

payment of expenses incurred in connection with legal services. The letter of engagement shall certify that the rate of compensation does not exceed the rate of compensation charged by counsel to his/her preferred public or private clients. A letter of engagement shall not be for more than one (1) year.

5. Under R.I. Gen. Laws § 37-2-72, Professional services -- Medical and dental services. -- Before a state department, board or commission or a public agency procures the services of a physician or dentist, it shall demonstrate to the satisfaction of the chief purchasing officer the following:

   a. For Medical/Dental Consultant Services:

      (1) The need for the services required including the scope of the services to be performed:

      (2) That no medical/dental personnel employed by the state on a full-time basis is available to perform such services:

      (3) That funding is available, indicating from which sources such funding is to be provided;

      (4) That medical/dental consultants to be engaged meet the following minimum requirements: (a) appropriate professional license or certification and (b) competence to perform such services as reflected by formal training and education, general experience and experience in providing the required services.

   b. For medical/dental services where such services are readily defined and the required services are clearly defined:

      (1) The need for such services, including the detailed scope of work, to be performed;

      (2) That no full-time state employee(s) is/are available to perform such services;

      (3) That funding is available, indicating from which sources such] funding is to be provided;

      (4) That such medical/dental service providers meet the following minimum requirements: (a) possess appropriate professional Rhode Island licenses and certifications and (b) competence to perform such services as reflected by formal training and education, general experience and expertise in providing the required services

c. For medical/dental services, or for temporary services, generally definable over a definite period of time but on an as needed basis to provide coverage for full-time state employees (doctors, dentists, nurses, etc.) during their absence. Such procurements for those services shall be obtained through the use of a blanket-type contract arrangement. Requesting agencies shall provide to Purchasing Division fully authorized, funded and described requirement via a blanket-type purchase requisition. Requesting agencies shall provide to the satisfaction of the chief purchasing officer or his designee the following:

(1) Rationale that such services are required; and

(2) certification that medical/dental personnel to be employed possess the appropriate state license or certification, competence to perform such services as reflected by formal training, education and experience in providing the required service.

d. Nothing in this law shall prohibit nor shall anything in this law be interpreted to prohibit appropriate action by the director or his designee to provide needed medical services whether on a regular or emergency basis.

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CHAPTER 30 - PURCHASES

SUBCHAPTER 00 - N/A

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