220-RICR-30-00-10

TITLE 220 - DEPARTMENT OF ADMINISTRATION

CHAPTER 30 - PURCHASES

SUBCHAPTER 00 - N/A

PART 10 - EXPENDITURES WHICH ARE NOT PROCUREMENTS

10.1 DEFINITIONS

A. "Benefits" shall mean monies or gifts provided by the state to or on behalf of individuals or entities (clients, patients, inmates, employees, nonprofit service providers) the distribution of which may not be prescribed by statute, regulation, or program provisions.

B. "Concession" shall be defined as the granting of a license to a commercial entity for the conduct of a commercial enterprise on state premises, in consideration of which the state receives a regular rent and/or a percentage or other share in net proceeds.

C. "Grants" shall mean monies provided by the state to or on behalf of individuals or entities to underwrite specific costs of services or programs. Although grants may be distributed for specific purposes, payment is not based upon supply of specific units of service or products.

D. "Entitlements" shall mean monies or gifts provided by the state as part of subsidy programs for which the distribution of funds is determined in accordance with specific eligibility criteria or by formula. Examples included but shall not be limited to: food stamps, general public assistance, medical assistance payments, and school aid formula funds.

E. "Purchase of Services" shall mean monies expended for the provision of specific units of time and effort rather than an end product.

F. "Reimbursement" shall mean monies paid to a beneficiary, client, or claimant to make restoration for expenses such person has undertaken.

G. "Subsidies" shall mean monies provided by the state to or on behalf of individuals or entities to assist in defraying general expenses.

10.2 RESPONSIBILITY TO PROMOTE COMPETITION IN AWARDING CONTRACTS

A. Concessions. In general, awards on concession agreements shall be made to the offeror whose proposal represents the greatest cash benefit to the state. The

Purchasing Agent shall be responsible for the issuance of publicly advertised solicitations for such opportunities, and shall refer the responses to the requesting agency chief executive and the State Properties Committee for review, selection, endorsement, and execution of a concession agreement.

B. Grants. State agencies may obtain services or provide programs on behalf of clients through grants to nonprofit or other entities; however, when the payment of "grant" funds is subject to the provision of services or programs, determination of contract award shall be obtained by a request for proposal procedure to obtain the advantages of competition.

1. Nonprofit status shall not automatically exempt organizations from being subject to competitive purchasing principles.

2. Agencies may utilize the Office of Purchases to undertake Request for Proposal procedures; however, agency representatives shall be responsible for assisting in the establishment of evaluation criteria and shall participate in the review and evaluation of responses to the RFP.

3. All grant contracts entered into by agencies shall be subject to an audit of competitive practices.

4. Grants in the form of subsidies or general assistance shall be administered by state agencies in accordance with legal mandates restricting or defining the use of such funds.

10.3 EXCEPTIONS TO COMPETITION.

A. For the purpose of administering R.I. Gen Laws Chapter 37-2, grants, benefits, entitlements, subsidies and reimbursements shall not be considered procurements. The following types of expenditures shall not be subject to the provisions of R.I. Gen. Laws Chapter 37-2 for competitive procurement:

1. Reimbursement to local governments (e.g., for educational expenses or public works projects).

2. Reimbursements of third parties for client-demand services, e.g., payments for medical services when the client selects the physician shall be considered benefits for which competitive solicitation is not required.

3. Entitlements for specific recipients or categories of recipients as prescribed by legislative mandate (including federal programs).

4. Grants, subsidies, entitlements or benefits purchased.

5. Grants in the form of subsidies or general assistance shall be administered by state agencies in accordance with legal mandates restricting or defining the use of such funds.

6. Grants, subsidies, entitlements or benefits purchased on behalf of, or paid directly to, individuals. Examples include but shall not be limited to:

   a. transportation services - public bus, taxicab, ferry);

   b. education and recreation benefits;

   c. fees - tuition costs, registration; and

   d. medical, dental, food stamps, etc.

7. Employee expenses, subsidies and benefits. Examples include but shall not be limited to:

   a. meals, parking, mileage and travel not covered by state contract;

   b. allowances (e.g., tools, clothing) per union contract;

   c. fees - dues/membership, tuition costs, conference registration.

   d. tuition; and

   e. tests/examinations/certifications.

8. Claims - reimbursement for damages. Vouchers for tort claims authorized by the General Assembly, accompanied by a copy of the appropriate legal decision and authorized by the Budget Office may be submitted directly to the Controller for payment.

10.4 SPECIAL PROVISIONS AND REQUIREMENTS FOR GRANTS.

A. Contracting Authority.

1. Grantor agency directors may request delegation of contracting authority to enter into agreements for the purpose of distributing grants.

   a. Such authority shall be subject to written documentation/explanation as to why the nature of the relationship between the agency and the payee does not constitute a procurement.

   b. Delegated contracting authority does not require the issuance of a purchase order.

2. Grants for the provision of programs, services, and facility improvements shall not be authorized without agreements or contracts which:

   a. specify the purpose for the grant;

b. specify method and terms of payment;

c. define service or product, if required;

d. outline any legal limitations on the funding;

e. set a time limit for distribution of funds;

f. require maintenance of records for a specified period of time;

g. provide for auditing; and

h. provide for termination of the agreement/contract.

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