220-RICR-30-00-1

TITLE 220 - DEPARTMENT OF ADMINISTRATION

CHAPTER 30 - PURCHASES

SUBCHAPTER 00 - N/A

PART 1 - General Provisions

1.1 PURPOSES AND POLICIES

A. The intent, purpose, and policy of these Procurement Regulations shall be to simply, clarify, and continuously modernize the procurement system for State and local government in accordance with the "State Purchases Act," R.I. Gen. Laws § 37-2-1, *et seq*, so as to provide efficiency and economy in the purchase of goods services, and construction, while maintaining and safeguarding quality, integrity, fairness, responsibility, accountability, and equity in accordance with the highest ethical standards.

B. Administrative Practices and Policies.

1. Competition: The State of Rhode Island will operate an effective procurement system by obtaining goods and services within a competitive environment whenever possible. The primary method of assuring that procurements are to the advantage of the State of Rhode Island, shall be through the use of competitive bidding procedures as set forth herein. Contract awards shall be made to the lowest responsive and responsible bidder, taking into consideration the reliability of the bidder, the qualities of the materials, equipment or supplies to be furnished, their conformity with the specifications, the purposes for which required, terms of delivery and the best interests of the state.

2. Centralization: The State of Rhode Island will operate an effective procurement system by establishing a centralized purchasing authority within the Department of Administration responsible for the promulgation and oversight of rules, regulations, policies and procedures for the implementation of all laws relating to purchasing activities. The Department of Administration shall provide centralized purchasing support services to assure that equity and professional expertise are employed in the purchase of goods and services by state agencies.

3. Responsibility and Accountability: All state agency officials shall be responsible for compliance with purchasing legislation enacted by the General Assembly and with all related policies, rules, regulations, procedures and codes promulgated by the Chief Purchasing Officer and

shall be held accountable for violations thereof. All state employees shall be responsible for carrying out their designated functions with care, integrity and responsibility for providing public procurement in the most cost- effective manner.

1.2 APPLICATION

A. The provisions of R.I. Gen. Laws § 37-2-1, *et seq*. (the "State Purchases Act") shall apply to every expenditure of public funds except as otherwise provided by law, by the State of Rhode Island or a public agency under any contract or like business agreement, excepting only those contracts or like business agreements between the state and its political subdivisions or other governments. The State Purchases Act shall also apply to the disposal of state supplies. Provided, however, that nothing in the State Purchases Act or these State Procurement Regulations shall prevent any state governmental body or department or division from complying with the terms and conditions of any award, grant, gift, bequest, or co-operative funding agreement with the federal government.

B. The State Procurement Regulations, as promulgated and amended by the Chief Purchasing Officer in accordance with the authority and requirements of the State Purchases Act, shall apply to all the procurements of every state governmental body with the following exceptions:

1. Secretary of State printing, advertising, and election expenses. All printing, binding and advertising and election expenses in connection with all primaries and elections, advertising Rhode Island, and all legislative printing, including the printing of the public laws and acts and resolves, shall be purchased by the Secretary of State and in respect to said purchases the Department of State shall be exempt from the requirements of the State Purchases Act. Cf. R.I. Gen. Laws § 37-2-74.

2. General Assembly: The Joint Committee on Legislative Management shall have the exclusive responsibility for procurement for the General Assembly in regards to office space, supplies, equipment, professional and technical assistants, rental, installation and maintenance of equipment. Cf. R.I. Gen. Laws § 22-11-3.

3. Public Agency: While public agencies may, but are not required to utilize the centralized purchasing system of the state, public agencies, through internal purchasing functions, shall adhere to the general principles, policies and practices set forth in the State Purchases Act. Cf. R.I. Gen. Laws § 37-2-12(1).

4. Public agencies may utilize the state centralized purchasing system as provided that such usage is conducted in accordance with all purchasing policies, procedures and regulations promulgated by the Chief Purchasing Officer.

1.3 GENERAL DEFINITIONS

A. In accordance with the State Purchases Act the following definitions shall be applicable to state procurements and to the Procurement Regulations:

1. "APRA" means the "Access to Public Records Act," R.I. Gen. Laws § 38-2-1, *et seq*.

2. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other legal entity through which business is conducted. Cf. R.I. Gen. Laws § 37-2-7(1).

3. "Chief Purchasing Officer" means:

   a. for a state agency, the director of the department of administration, and

   b. for a public agency, the executive director or the chief operational officer of the agency.

4. "Construction" means the process of building, altering, repairing, improving or demolishing any public structures or building, or other public improvements of any kind to any public real property. Provided, however that "construction" shall not include the routine maintenance or repair of existing structures, buildings, or real property routinely performed by salaried employees of the state in the usual course of their job. Cf. R.I. Gen. Laws § 37-2-7(4).

5. "Data" means recorded information, regardless of storage method, form or characteristic. Cf. R.I. Gen. Laws § 37-2-7(8).

6. "Designee" means a duly authorized representative of a person holding a superior position. Cf. R.I. Gen. Laws § 37-2-7(9).

7. "Governmental body" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, including, without limitation, the Board of Governors for Higher Education and Board of Regents - Elementary and Secondary Education or other establishment of the executive, legislative, or judicial branch of the state. Cf. R.I. Gen. Laws § 37-2-7(11).

8. "Imprest fund" means a petty cash fund used by a state agency or department for making disbursements requiring prompt cash outlays. Cf. R.I. Gen. Laws § 37-2-55.

9. "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

10. "May" means permissive. Cf. R.I. Gen. Laws § 37-2-7(12).

11. "Person" means any business, individual, organization or group of individuals. Cf. R.I. Gen. Laws § 37-2-7(14).

12. "Procurement" means the purchasing, buying, renting, leasing or otherwise obtaining of any supplies, services, or construction. It shall also include all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. Cf. R.I. Gen. Laws § 37-2-7(15).

13. "Proprietary information" means information or data describing technical processes, mechanisms, or operational factors that a business wishes to keep from general public view in order to maintain competitive capabilities in the market. See "trade secret."

14. "Public agency" means any of the following agencies and any other body corporate and politic which has been here before or which is hereinafter created or established by Act of the General Assembly excepting cities and towns:

    a. Rhode Island Industrial Recreational Facilities Authority

    b. Rhode Island Economic Development Corporation

    c. Rhode Island Industrial Facilities Corporation

    d. Rhode Island Refunding Bond Authority

    e. Rhode Island Housing and Mortgage Finance Corporation

    f. Rhode Island Resource Recovery Corporation

    g. Rhode Island Public Transit Authority

    h. Rhode Island Student Loan Authority

    i. Howard Development Corporation

    j. Water Resources Board Corporate

    k. Rhode Island Health and Education Building Corporation

    l. Rhode Island Higher Education Assistance Authority

    m. Rhode Island Turnpike and Bridge Authority

    n. Blackstone Valley District Commission

o. Narragansett Bay Water Quality Management District Commission

p. Rhode Island Telecommunications Authority

q. Convention Center Authority

r. Channel 36 Foundation

s. Rhode Island Lottery Commission Cf. R.I. Gen. Laws § 37-2-7(16).

15. "Public copy" means a copy of a bidder's redacted proposal available for public inspection as required by R.I. Gen. Laws § 37-2-18 and Procurement Regulations § 5.11 of this Subchapter.

16. "Public works" means any work which consists of grading, clearing, demolition, improvement, completion, repair, remodeling, alteration, or construction of any public road, highway, bridge, or any portion thereof, or of any public building, structure, or facility, or any portion thereof, including but not limited to heavy construction. Public works shall not include the supply of goods, materials, products, professional services, or maintenance services except as a required element of a solicitation for the aforementioned work.

17. "Public Works Arbitration Act" means R.I. Gen. Laws § 37-16-1, *et seq*.

18. "Purchasing agency" means any state governmental body which enters into a contract to procure supplies, services or construction or the Department of Administration/Division of Purchases acting on behalf of another governmental body. Cf. R.I. Gen. Laws § 37-2-7(18).

19. "Purchasing agent" means the person appointed in accordance with R.I Gen. Laws § 37-2-1. It also means any person with delegated authority in accordance with procedures prescribed by regulations, to enter into and administer contracts and make written determinations and findings with respect to contracts.

20. "Request for Proposals" also known as "RFP" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

21. "Responsible bidder" or "Offeror" means a person who has the capability in all material respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

22. "Responsive bidder" means a person who has submitted a bid, proposal or quotation which conforms in all material respects to a solicitation.

23. "Services" means the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services. "Services" does not include labor contracts with employees of state agencies. Cf. R.I. Gen. Laws § 37-2-7(20).

24. "Shall" means imperative. Cf. R.I. Gen. Laws § 37-2-7(21).

25. "Solicitation" means an Invitation for Bids, a Request for Proposals, a request for quotations, or any other document issued for the purpose of soliciting bids or proposals to perform a contract.

26. "State" means the State of Rhode Island and any of its departments, agencies, or public agencies. Cf. R.I. Gen. Laws § 37-2-7(22).

27. "State agency" means any state governmental body other than the General Assembly or public agency as defined herein.

28. "Trade secret" means a formula, pattern, device, or compilation of information which is used in a vendors business and which gives a vendor the opportunity to obtain advantage over competitors who neither know or use it. See "Proprietary information."

29. "Using agency" means any governmental body or public agency of the state which utilizes any supplies, services or construction procured for the benefit of the state. Cf. R.I. Gen. Laws § 37-2-7(25).

1.4 DOCUMENTATION AND REPORTS

A. Purchase Reports

1. The Department of Administration/Division of Purchases shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the Chief Purchasing Officer, the Governor, and the General Assembly. Cf. R.I. Gen. Laws § 37-2-54(i).

2. The Chief Purchasing Officer shall report trends in costs and prices, including savings realized through improved practices, to the Governor and General Assembly. Cf. R.I. Gen. Laws § 37-2-54(i).

3. The Purchasing Agent shall compile annually within ninety (90) days following the close of the fiscal year an annual summary report of procurement actions for sole source, emergency, and small purchase contracts made during the preceding fiscal year. The summary shall:

   a. name each contractor, and

b. state the amount and type of each contract.

4. All documentation of contracts made for such procurements shall be made available for public inspection in accordance with the APRA and retained in accordance with the approved records retention schedule.

B. Sufficient information, including but not limited to copies of written and signed determinations, shall be maintained in purchasing files to document procurement activities, reasons for selection of the supplier's product/service and justification of price. Every determination required by the State Purchases Act and these Regulations shall be written and based upon written findings of fact by the public official making the determination. These determinations and written findings shall be retained in an official contract file in the Department of Administration/Division of Purchases or in the office of the using agency or public agency administering the contract.

1. At a minimum, documentation shall include adequate justification of source selection and pricing.

2. The extent of documentation may vary with user agency needs and requirements and the value and complexity of the purchase.

3. Procurement officials shall be required to provide an "audit trail" for every purchase. Such documentation shall be recorded and maintained in accordance with procedures established by the Purchasing Agent. Purchasing personnel shall document and maintain records of all actions with respect to a purchase for the purpose of:

a. providing background information to assure that informed decisions are made at each step in a procurement;

b. rationale for action taken;

c. providing information for reviews and audits conducted by purchasing management and audit agencies; and

d. furnishing facts in the event of litigation.

C. Purchasing documentation shall be signed or initialed (as appropriate) by duly authorized officials. This shall constitute certification by the official that the action documented meets the administrative requirements for which he/she is responsible.

1. The Director/Chief Executive of each user agency shall submit to the Chief Purchasing Officer for approval, a list of agency officials who shall have the authority to act on behalf of the agency. The approved list shall be placed on file at the Department of Administration's Division of Purchases, Office of Accounts and Control and Budget Office.

a. All procurement authorizations shall be specific as to:

(1) maximum levels of expenditure commitment, program account; and

(2) persons authorized to call Division of Purchases personnel to obtain information or provide clarification regarding procurements; and

(3) agency officials who have the authority to decide whether a situation requires an emergency procurement action and who are responsible for following emergency procurement procedures.

b. The Chief Purchasing Officer shall have the right to reject for cause the authorization of any official to represent an agency in procurement transactions.

2. State Purchase Orders shall require the original signature of either the Chief Purchasing Officer, the Purchasing Agent or their respective designee.

3. Requisitions shall require the signature of an official designated by the user agency Director/Chief Executive as a agent authorized to act on his behalf for procurement transactions.

4. Requisitions submitted to the Division of Purchases shall require the signature of an official designated by the Budget Officer as responsible for certifying the availability of funds for purchasing actions.

D. Documentation records may be maintained as paper copies, microfilms, electronic or digital computer files or other means permitted in accordance with procedures established and published by the Chief Purchasing Officer, or shall be original documents as required by law or the State Controller.

E. Audit of contractors records.

1. The Chief Purchasing Officer may authorize an audit of books and records of any contractor or vendor who submitted cost or pricing data for certain negotiated contracts or change orders at any time until the period of record retention as set forth in R.I. Gen. Laws § 37-2-34(c) shall have expired. Audits conducted hereunder shall only be limited to those books and records reasonably related to cost or pricing data submitted to the state in accordance with RI. Gen. Laws § 37-2-28. Audits may be conducted by the Bureau of Audits, the Auditor General, or by an independent audit firm. Cf. RI. Gen. Laws § 37-2-34.

2. Books and records relating to state contracts shall be made available by the contractor or vendor for review and copying by the state auditor immediately upon receipt of notice from the Chief Purchasing Officer. Failure by a contractor or vendor to make its books and records available for audit shall result in immediate contract suspension and/or debarment of the contractor or vendor.

F. All documents relating to any procurement in which collusion or fraud is suspected shall be made available upon request to the Attorney General or his designee and shall be retained until the Attorney General gives notice that they may be released Cf. R.I. Gen. Laws § 37-2-36.

G. Reserved.

H. "Bid Abstract" means a summary tabulation which identifies each bidder and the dollar amount of each bid received and opened in response to a public solicitation; provided, however, that bid abstracts for requests for proposals requiring submission of separate technical and cost proposals shall be limited to bidder identification until such time as the Purchasing Agent renders a contract award determination.

1. Records exempted from public disclosure by APRA need not be publicly disclosed, except as otherwise authorized.

2. Public inspection of procurement records shall be permitted by appointment only and shall be conducted under the supervision of an Division of Purchases official, except as otherwise provided for pursuant to R.I. Gen. Laws §§ 37-2-18(a) through (h) "Competitive Sealed Bidding" and these regulations.

3. No original procurement records shall be removed for public inspection from the Division of Purchases.

1.5 BREACH OF CONTRACT DISPUTES

A. "Contract dispute" means a circumstance whereby a contractor and the state user agency are unable to arrive at a mutual interpretation of the requirements, limitations, or compensation for the performance of a contract.

B. The Purchasing Agent is authorized to resolve contract disputes between contractors and user agencies upon the submission of a request in writing from either party, which request shall provide:

1. a description of the problem, including all appropriate citations and references from the contract in question,

2. a clear statement by the party requesting the decision of his interpretation of the contract, and

3. a proposed course of action to resolve the dispute.

C. The other contracting party shall respond within five business days.

D. Within fourteen (14) calendar days after receipt of a contract dispute the Purchasing Agent shall determine in writing whether:

1. the interpretation provided is appropriate,

2. the proposed solution is feasible, or

3. another solution may be negotiable.

E. The Purchasing Agent may assess dollar damages against vendors or contractors determined to be non-performing or otherwise in default of their contractual obligations equal to the cost of remedy incurred by the State. Payment of such damages shall be a condition precedent for any subsequent change or contract award. Failure by the vendor or contractor to pay such damages shall constitute just cause for disqualification and rejection, suspension, or debarment.

F. Any appeal from the Purchasing Agent's determination of a contract dispute or assessment of damages must be filed with the Chief Purchasing Officer within fourteen (14) calendar days and in accordance with the "bid protest" procedures set forth in § 1.6 of this Part entitled "Resolution of Protest."

1.6 RESOLUTION OF PROTESTS

A. "Bid protest" means a protest, complaint or challenge by an aggrieved actual or prospective bidder or offeror (hereinafter "protestor") in connection with the solicitation or selection for award of a contract for the purchase of goods, services, and or public works projects by a state agency and or the division of purchases. For the purpose of these regulations the term "aggrieved" shall mean that the protestor has an economic interest which will be adversely impacted by the solicitation or award of a contract.

B. For the purpose of these regulations notice of a bid protest pursuant to R.I. Gen. Laws § 37-2-52 must be filed with the chief purchasing officer by the protestor, addressed as follows:

Chief Purchasing Officer (BID PROTEST)

c/o Office of the Director

Department of Administration One Capitol Hill

Providence, RI 02908

1. In addition, a true and accurate copy thereof must be filed with:

   Division of Legal Services (BID PROTEST)

   Department of Administration

   One Capitol Hill Providence, RI 02908.

2. A bid protest may be filed by U.S. Mail, hand-delivery, courier service or facsimile, but may not be filed by electronic mail ("e-mail"). For the purposes of these regulations the date of "filing" shall be the date that a protest is actually received by the chief purchasing officer.

C. The protester's notice to the chief purchasing officer shall clearly state that it is a bid protest, and at a minimum shall include the following information:

1. the name, street address, e-mail address, telephone and facsimile numbers of the protester (or its representative, if any);

2. original signature of the protestor or its representative;

3. identity of the contract, solicitation or award at issue;

4. a detailed statement of facts and circumstances that gave rise to the protest, together with copies of any available relevant documents;

5. all information establishing that the protestor is an aggrieved party for the purpose of filing a protest;

6. citations to any relevant statutes or regulations; and,

7. a brief statement as to the form of relief requested; and,

8. a statement of whether the protestor has submitted a request for the disclosure of public records that are pertinent to the bid protest, and if such a request has been submitted, a copy thereof. A protest that fails to contain the required information may be denied.

D. Timeliness of Bid Protest.

1. A bid protest must be filed in accordance with § 1.6.2 of this Part and within the following time limits:

a. Bid protests regarding the form or content of solicitation documents must be received by the chief purchasing officer not later than fourteen (14) calendar days before the date set in the solicitation for receipt of bids. If grounds for a bid protest did not exist at the initial solicitation, but arose as the result of an amendment to the solicitation, then the bid protest must be received by the chief purchasing officer no later than fourteen (14) calendar days before the next closing time established for receipt of bids. If the date set in the solicitation for receipt of bids is less than fourteen (14) calendar days from issuance, a bid protest concerning the form or content of the solicitation documents must be received by the chief purchasing officer not less than forty-eight (48) hours before the date set for receipt of bids.

b. In all other cases, protests must be received by the chief purchasing officer not later than fourteen (14) calendar days after the protester knew or should have known, whichever is earlier, the facts giving rise to a protest.

c. For bid protests regarding the form or content of the solicitation documents, the facts giving rise to the protest shall be presumed to be known to the protester on the date the solicitation, or an amendment thereto, was posted to the division of purchases' procurement web site. For bid protests arising from bid opening procedures and or award of the contract, the facts giving rise to the protest shall be presumed to be known to the protester on either the date of bid opening or the date the contract award was posted to the division of purchases' procurement web site.

d. New factual allegations made after the initial protest without a new and separate showing of timeliness shall be deemed to be untimely.

e. The fourteen (14) day period in which to file a protest does not include the day on which the alleged basis for protest arises. If the last calendar day within which a protest is to be filed falls on a Saturday, Sunday, state holiday or a day when the state or division of purchases is closed, the period in which to file a protest is extended to the next day not a Saturday, Sunday, state holiday or when the state or division of purchases is not closed.

E. Protests of different contract solicitations or awards must be filed separately.

F. Upon receipt of a bid protest timely filed neither the contracting agency, nor the division of purchases shall proceed further with the solicitation or award of a contract, until the chief purchasing officer issues a written determination that authorizes the contracting agency or the division of purchases to proceed with

the solicitation or award as being necessary to protect a substantial interest of the state.

G. The chief purchasing officer shall issue a written determination in response to a bid protest within thirty (30) calendar days of the receipt thereof. The chief purchasing officer reserves the right to waive or extend the time requirements for such written determination when, in his/her sole judgment, circumstances so warrant.

H. The chief purchasing officer's written determination shall state whether the protest is granted or denied, the reasons therefore and any action(s) to be taken in response thereto. A copy of the chief purchasing officer's written determination shall be mailed to the protestor.

I. In the event that the protestor requests access to documents relating to the solicitation or award pursuant to the "Access to Public Records Act," R.I. Gen. Laws § 38-2-1, *et seq*. in conjunction with the bid protest, then the chief purchasing officer may defer issuing his written determination until thirty (30) days after the response(s) to the APRA request has been issued.

1.7 IMPREST FUNDS

A. "Budget unit" means state agency or department.

B. "Head" means the Chief Executive Officer, Director or Executive Director of a state agency or department.

C. Prior to the establishment of any imprest fund the agency shall submit to the State Controller a document demonstrating the need for such a fund. If the Controller determines that a such need exists and that adequate accounting controls are provided, then approval shall be obtained from both the state Budget Office and the Chief Purchasing Officer to establish the fund.

D. The Chief Purchasing Officer may delegate authority and responsibility for oversight of imprest fund cash flow to the State Controller.

E. The Chief Purchasing Officer may direct that post-audits of imprest funds be conducted by the Bureau of Audits, the Auditor General or by an independent audit.

F. Costs for post audits of imprest funds shall be the responsibility of the budget unit responsible for the imprest fund.

1.8 ADMINISTRATIVE RESPONSIBILITY FOR CONTRACTUAL AND OTHER EXPENDITURES WHICH ARE NOT PROCUREMENTS

A. Contracts for concessions (cafeteria services, vending machines, recreational programs, transportation services, etc.) shall be deemed not to be procurements.

Provided however, that contractors for concessions shall be subject to Part 10 of this Subchapter (Procurement Regulations).

B. Except for contracts for grants-in-aid, award of non-procurement contracts shall be subject to the same open, competitive procedures which apply to procurements and shall be subject to Part 10 of this Subchapter (Procurement Regulations).

C. The Chief Purchasing Officer may delegate authority to enter into non-procurement contracts; or

D. The Chief Purchasing Officer may direct the Purchasing Agent to oversee and/or administer competitive procedures prior to the award of non-procurement contracts, including, but not limited to, grants, interagency cooperative agreements, and concessions; provided, however, that such administrative authority shall not constitute responsibility for the selection of recipients of such contracts, or the substance of the accompanying agreements.

1.9 Internet Neutrality Principles

A. State contracts for fixed or mobile broadband internet access service shall be awarded only to service providers that adhere to the internet neutrality principles set forth herein.

B. Adherence to internet neutrality principles means that an internet service provider shall not, with respect to any consumer in the State of Rhode Island (including State agencies):

1. Block lawful content, applications, services, or nonharmful devices, subject to reasonable network management that is disclosed to the consumer; or,

2. Throttle, impair or degrade lawful internet traffic based on internet content, application, or service, or use of a nonharmful device, subject to reasonable network management that is disclosed to the consumer; or,

3. Engage in paid prioritization unless the State waives the ban as to particular purchased or funded internet access services if the State determines that the practice is in the public interest, promotes public safety, or is otherwise not inconsistent with the purpose of this Order; or,

4. Unreasonably interfere with or unreasonably disadvantage either:

    a. a customer's ability to select, access, and use broadband internet access service or the lawful internet content, applications, services, or devices of their choice; or

b. an edge providers' ability to make lawful content, applications, services, or devices available to a customer, subject to reasonable network management that is disclosed to its customers.

C. "State agency" means any department in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority.

D. "Broadband internet access service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including all capabilities that are incidental to and enable the operation of the communication service, but excluding dial-up internet service. The term "Broadband Internet Access Service" also includes any service that the Federal Communications Commission determines to be providing a functional equivalent of the service described in the preceding sentence or which is used to evade the protections set forth in this regulation.

E. "Edge provider" means any individual or business entity that provides any content, application or service over the internet, and any individual or business entity that provides a device used for accessing any content, application or service over the internet.

F. "Paid prioritization" means the management of a broadband internet service provider's network to directly or indirectly favor some traffic over other traffic, including, but not limited to the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either,

1. in exchange for consideration (monetary or otherwise) from a third party, or

2. to benefit an affiliated entity. Paid prioritization does not include the provision of tiered internet access service or offerings to a retail end user.

G. Waivers to the within internet neutrality principles may be granted by the Director of Administration/Chief Purchasing Officer only upon written request from a State agency director.

1. The Division of Public Utilities and Carriers, the Emergency Management Agency, and the Division of Information Technology shall evaluate all agency waiver requests and make recommendations thereon to the Director of Administration/Chief Purchasing Officer.

2. The Director of Administration/Chief Purchasing Officer shall issue a written determination and grant a waiver only upon a finding that the waiver serves a legitimate and significant public purpose.

H. The Division of Public Utilities and Carriers, the Emergency Management Agency, and the Division of Information Technology shall advise the Director of Administration/Chief Purchasing Officer on potential actions to promote internet neutrality to protect Rhode Islander citizens' access to a free and open internet.

I. Nothing contained in this internet neutrality regulation shall be construed to supersede any federal, state or local law.

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TITLE 220 - DEPARTMENT OF ADMINISTRATION

CHAPTER 30 - PURCHASES

SUBCHAPTER 00 - N/A

PART 1 - GENERAL PROVISIONS (220-RICR-30-00-1)

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