220-RICR-30-00-2

TITLE 220 - DEPARTMENT OF ADMINISTRATION

CHAPTER 30 - PURCHASES

SUBCHAPTER 00 - N/A

PART 2 - PROCUREMENT STRUCTURE AND ACCOUNTABILITY

2.1 DEFINITIONS

A. R.I. Gen. Laws § 37-2-7(3), “Chief Purchasing Officer” for state agencies the shall be the Director of the Department of Administration.

B. In accordance with R.I. Gen. Laws § 37-2-7(19) "Purchasing Agent" shall mean:

1. any person authorized by a governmental body in accordance with procedures prescribed by regulations, to enter into and administer contracts and make written determinations and findings with respect thereto; or

2. any authorized representative acting within the limits of authority; or

3. the person appointed in accordance with R.I. Gen. Laws 37-2-1 as the administrator of the state's central purchasing and contracting authority.

C. For the purposes of the regulations contained herein, the definition set forth in Section 2.1.2.3 shall apply to the terms "State Purchasing Agent" or "Purchasing Agent".

2.2 CENTRALIZED PROCUREMENT AUTHORITY FOR STATE AGENCIES SET FORTH IN CHAPTER 37-2

A. R.I. Gen. Laws § 37-2-12(1) All rights, powers, duties, and authority relating to the procurement of supplies, services, and construction, and the management, control, warehousing, sale, and disposal of supplies, services, and construction exercised by any state agency as established by the General Assembly, shall be under the jurisdiction of the state's Chief Purchasing Officer.

1. R.I. Gen. Laws § 37-2-54(3) No purchase or contract shall be binding on the state or any agency thereof unless approved by the department [of Administration] or made under general regulations which the Chief Purchasing Officer may prescribe.

a. Purchasing Authority shall be defined as the authority to act on behalf of the state to commit funds, enter into binding agreements

or contracts, dispose of state property, or in any other manner control procurement or obligate the State.

b. No state agency official shall have the right to exercise purchasing authority through written or oral agreements or contracts or in any other way financially or otherwise obligate the State without the express written consent of the Chief Purchasing Officer.

c. No state agency may place orders or negotiate with suppliers or potential suppliers without the participation or express approval of the Chief Purchasing Officer.

2. The Office of Purchases within the Department of Administration shall be the state's centralized purchasing and contracting authority.

B. R.I. Gen. Laws § 37-2-1 Within the Department of Administration there shall be a purchasing agent who shall be appointed by the Chief Purchasing Officer with the approval of the Governor, and who shall now and hereafter be in the classified service of the state. R.I. Gen. Laws § 37- 2-11 The Purchasing Agent shall be the administrator of the Office of Purchases and shall:

1. R.I. Gen. Laws § 37-2-11(1) Serve as the central procurement and contracting agent of the state;

2. R.I. Gen. Laws § 37-2-11(2) Recommend regulations, rules, and procedures to the Chief Purchasing Officer;

3. R.I. Gen. Laws § 37-2-11(3) Purchase or otherwise acquire, or, with the approval of the Chief Purchasing Officer to delegate the purchase and acquisition of, all supplies, services and construction for the state.

C. R.I. Gen. Laws § 37-2-54(1) The Chief Purchasing Officer, except as otherwise provided by law, shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except where competitive bids may not be required, and except as otherwise authorized by R.I. Gen. Laws § 37-2-18 (a)-(h) “Competitive Sealed Bidding” and these regulations.

1. Delegated Purchase Authority shall mean the transfer of Purchasing Authority from the Chief Purchasing Officer or the Purchasing Agent to another state official in accordance with the provisions and limitations of R.I. Gen. Laws § 37-2 and the regulations set forth herein.

a. The Purchasing Agent may recommend to the Chief Purchasing Officer that purchasing authority be delegated in circumstances where cost-effectiveness and efficiency are best served.

b. The Purchasing Agent may delegate purchase authority with the written approval of the Chief Purchasing Officer.

c. Requested Delegated Purchase Authority shall be specifically justified by an agency director/chief executive and authorized by the Purchasing Agent in advance of any purchase action.

d. All delegated purchasing authority shall be specific as to:

(1) The names and titles of individuals authorized by an agency director to commit funds on behalf of his agency

(2) The accounts, commodities and levels of expenditures for which the agency director authorizes individuals to commit funds

e. The Chief Purchasing Officer shall transmit on an annual basis a list of officials approved to authorize delegated purchase transactions to the Office of Accounts and Control and the Budget Office.

f. The implementation of Delegated Purchasing Authority shall be monitored by the Purchasing Agent and the State Controller. If at any time a user agency is deemed to be in violation of purchasing rules, regulations, policies and procedures, the Chief Purchasing Officer or the Purchasing Agent, with the approval of the Chief Purchasing Officer, may revoke any Delegated Purchasing Authority privilege which has been previously granted.

D. R.I. Gen. Laws § 37-2-9(1) The Chief Purchasing Officer shall have power and authority over, and may, except as otherwise expressly provided in R.I. Gen. Laws § 37-2, adopt regulations pursuant to R.I. Gen. Laws § 42-35-2 governing the purchasing management and control of any and all supplies, services, and construction, and other items required to be purchased by the state. The Chief Purchasing Officer shall consider and decide matters of policy with regard to state procurement. The Chief Purchasing Officer shall have the power of review with respect to the implementation of regulations and policy determinations.

E. R.I. Gen. Laws § 37-2-10 The Chief Purchasing Officer may provide for the distribution of the Department's procurement activities and functions among the various divisions within the Department. However, in accordance with R.I. Gen. Laws § 37-2-13(3) the Chief Purchasing Officer shall not delegate his power to issue state purchasing regulations to any other person or agency, and no state purchasing regulations shall be issued except as approved by the Chief Purchasing Officer.

F. R.I. Gen. Laws § 37-2-54(3) The Department of Administration shall have supervision over all purchases by the various spending agencies, except as

otherwise provided by law, and shall prescribe rules and regulations to govern purchasing by or for all such agencies, subject to the approval of the Chief Purchasing Officer and shall publish a manual of procedures to be distributed to agencies and to be revised upon issuance of amendments to such procedures.

G. R.I. Gen. Laws § 37-2-54(4) The Chief Purchasing Officer shall require agencies to take and maintain inventories of plant and equipment and the Department of Administration shall conduct periodic physical audits of inventories.

H. R.I. Gen. Laws § 37-2-54(5) The Department of Administration shall require all agencies to furnish an estimate of specific needs for supplies, materials and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the Department of Administration prior to the beginning of each fiscal year an estimate of all needs for supplies, materials and equipment during that year which will have to be acquired through competitive bidding.

1. The Chief Purchasing Officer may require any agency to submit annual or multi- year plans for proposed procurements of supplies, material, equipment, and supplemental services.

2. The Chief Purchasing Officer may require the sub-mission of procurement plans with the submission of budget requests.

I. R.I. Gen. Laws § 37-2-54(6) The Department of Administration shall have power, with the approval of the State Properties Committee, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

1. R.I. Gen. Laws § 37-2-45 Supply Disposition Process. - The Chief Purchasing Officer shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the Chief Purchasing Officer subject to the approval of the State Proper-ties Committee and pursuant to the provisions of R.I. Gen. Laws 37-7. The determination of the Chief Purchasing Officer shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the acquiring authority pursuant the provisions of R.I. Gen. Laws § 37-7

a. Disposal of equipment which has attained the end of its useful life, as determined by the Purchasing Agent, and is intended for use as a "one-for-one" trade in applied to the procurement of new, similar equipment shall be exempted from review by the State Properties Committee.

2.3 STRUCTURE AND RESPONSIBILITIES FOR CENTRALIZED STATE AGENCY PROCUREMENT

A. The Director of Administration/Chief Purchasing Officer shall be responsible for:

1. Policy formulation and dissemination;

2. Establishing standards;

3. Defining and promulgating procedures;

4. Monitoring and evaluating central purchasing activity to ensure that the state is attaining the most advantageous procurements possible; and

5. Determining courses of action when the policies and procedures outlined herein require interpretation and/or when situations arise where conflicts exist or occur.

B. The State Purchasing Agent shall be responsible for:

1. Assuring adherence to state procurement laws, regulations, rules, codes and procedures;

2. Supervising procurement activity within the Office of Purchases;

3. Assuring that delegated purchasing authority is exercised properly;

4. Establishing and maintaining good relations with suppliers and potential suppliers without conflicts of interest;

5. Assuring that procurements are made in a context which supports to the greatest extent possible:

   a. competitive purchases,

   b. opportunities for minority and women owned/operated businesses, and

   c. opportunities for local Rhode Island enterprises;

6. Assuring that a pool of responsible, qualified suppliers is developed, maintained and utilized;

7. Assuring compliance with appropriate competitive bidding procedures throughout the state's procurement system;

8. Promoting standardization of requirements to increase opportunities for the economic advantages of combined purchasing;

9. Establishing and monitoring standards of quality;

10. Assuring that goods and services are delivered according to specified requirements; and

11. Supervising the state's warehousing and inventory activities.

C. The State Budget Officer shall be responsible for reviewing all purchase documentation submitted by user agencies to the Office of Budget for certification as to the availability of the funds necessary to support a purchasing commitment and authorizing expenditures as requested.

D. The State Controller shall be responsible for:

1. Reviewing all purchase documentation submitted by user agencies to the Division of Accounts and Controls to assure compliance with promulgated rules, regulations, policies and procedures;

2. Forwarding all documents manifesting clear or suspected compliance violations to the Purchasing Agent for appropriate action;

3. Encumbering purchase obligations and processing payments for goods and services certified as delivered in accordance with the terms of purchase orders; and

4. Monitoring administration of imprest cash accounts.

E. All state agency chief executives shall be accountable to the Chief Purchasing Officer for the purpose of carrying out the state's procurement activities. User agency chief executives shall be responsible for:

1. Assuring the availability of funds to sustain purchase commitments;

2. Enforcing adherence to applicable policies and procedures;

3. Thoughtful planning which will:

a. promote opportunities for effective procurement, e.g., economies of scale, and

b. reduce the occurrence of crisis situations which detract from the state's ability to make the most advantageous purchases possible; and

4. Careful development of specifications to:

   a. Promote speed of bid implementation,

   b. Reduce misunderstanding and conflicts, and

   c. Enhance quality, competition, and control.

5. Implementation of administrative control systems with respect to all procurement actions, including, but not limited to, verification of contract deliverables and contractor responsibilities, maintenance of records, and all other activities relating to contract administration.

6. Providing written documentation to the Purchasing Agent when a contractor fails to perform as a contract requires.

F. The Director of Economic Development shall be responsible for:

1. Certifying vendors as meeting state R.I. Gen. Laws § 37-14.1-3 and/or federal legal and regulatory requirements to be considered Small Disadvantaged Businesses, e.g., minority- or women-owned and controlled businesses; and

2. Conducting programs to enhance the capability of small disadvantaged businesses to obtain state contracts by providing assistance in obtaining the skills and information necessary to compete successfully in response to state solicitations for bids.

G. The Attorney General shall be responsible for:

1. Investigation of cases involving breach of contract or suspected instances of criminal activity, e.g., collusion, fraud; and

2. Prosecution of cases involving criminal activity.

H. The Ethics Commission shall be responsible for:

1. Investigating cases of suspected violation of state Conflict of Interest laws and regulations and

2. Referring to the Attorney General cases where determinations of violations have been made.

2.4 RELATIONSHIP OF OFFICE OF PURCHASES AND USER AGENCIES.

A. R.I. Gen. Laws § 37-2-14 The Purchasing Agent shall maintain a close and cooperative relationship with the using agencies of the state. Any using agency

may at any time make recommendations concerning procurement to the Purchasing Agent.

B. Office of Purchases personnel shall be cognizant of the fact that they work for a service agency which other state agencies rely upon as a source for obtaining materials and services.

C. The Office of Purchases shall foster good relations with other departments and provide all reasonable assistance in accomplishing the objectives of these departments.

D. Personnel in the Office of Purchases shall maintain a close working relationship with other departments involved with the specification, ordering, inspection, storage, handling or use of material.

E. The Office of Purchases shall solicit advice from user agencies, as appropriate, on major or complex procurements, with regard to selection of bidders, evaluation of proposals, negotiation plans, and final source determination.

2.5 VIOLATIONS OF PURCHASING LAWS AND REGULATIONS

A. Deliberate disregard for regulations, policies and procedures shall be subject to disciplinary action, including dismissal of state employees and debarment of vendors conducting business with the state.

B. Violations of the purchasing code of ethics set forth herein, shall be subject to appropriate sanctions including: censure, dismissal, suspension, and debarment.

1. The Chief Purchasing Officer shall have authority to impose sanctions, in accordance with personnel administration requirements, on any state agency employee who has been found to have violated the state purchasing code of ethics.

2. The Purchasing Agent shall have the authority to impose sanctions, in accordance with personnel administration requirements, on any employee of the Office of Purchases.

3. The Purchasing Agent shall have the authority to suspend or debar suppliers in accordance with the requirements set forth herein.

C. Suspected violations of state conflict of interest laws and regulations regarding procurement or the state procurement code of ethics set forth herein shall be reported in confidence to the Chief Purchasing Officer and in accordance with the rules and regulations established by the State Ethics Commission.

D. Violations of purchasing laws, regulations, policies, and procedures shall be reported to the Chief Purchasing Officer or the Purchasing Agent who shall have authority to apply sanctions.

E. R.I. Gen. Laws § 37-2-36(1) When for any reason collusion is suspected among any bidders or offerors, a written notice of the facts giving rise to such suspicion shall be transmitted to the Attorney General.

F. Suspected falsification of certifications shall be referred to the Attorney General for investigation and prosecution.

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