

800-RICR-00-00-6

TITLE 800 – AIRPORT CORPORATION

CHAPTER 00 – GENERAL ADMINISTRATION

SUBCHAPTER 00 – N/A

PART 6 – Procurement Regulations

6.1 General Provisions

6.1.1 Purposes and Policies

The intent, purpose, and policy of these Procurement Regulations shall be to simplify, clarify, and continuously modernize the procurement system for the Rhode Island Airport Corporation ("RIAC") 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. RIAC adheres to the general principles, policies, and practices of the State Purchases Act, R.I. Gen. Laws § 37-2-1, *et seq.*

6.2 Application

6.2.1 Application of State Purchases Act

- A. R.I. Gen. Laws § 37-2-4 (the "State Purchases Act") shall apply to every expenditure of public funds, except as otherwise provided by law, by RIAC under any contract or like business agreement, except only those contracts or like business agreements between RIAC and the State or its political subdivisions or other governments. It shall also apply to the disposal of RIAC supplies and equipment. Nothing in the State Purchases Act or these regulations shall prevent RIAC from complying with the terms and conditions of any grant or funding, including without limitation, any grant or funding from or through the Federal Highway Administration, the Federal Aviation Administration, any state agency, or any gift, bequest or co-operative agreement.
- B. Nothing contained in these Procurement Regulations shall prevent RIAC from accepting assignment of any contract from the State of Rhode Island, any of its departments, including without limitation the Rhode Island Department of Transportation or any other entity; provided, however, that any such contract shall have been awarded in accordance with the requirements of the State Purchases Act.

- C. RIAC may make use of Master Price Agreements entered into between the State of Rhode Island and vendors of goods and services.
- D. RIAC may make use of cooperative agreements with any agency of the federal government, the State of Rhode Island and its subdivisions, or with any agency of another state.

6.2.2 Procurement Authority for RIAC

- A. The President and CEO, except as otherwise provided by law, shall serve as the procurement and contracting agent of RIAC.
- B. Within RIAC there shall be a Purchasing Agent appointed by the President and CEO.
- C. The President and CEO shall have the authority to delegate in writing the Purchasing Agent to act on behalf of the President and CEO in carrying out the responsibilities and authority set forth herein for selection, evaluation, approval, debarment, suspension, rejection, and restriction of bidders and offerors.

6.2.3 Rhode Island Code of Ethics

- A. RIAC officials and employees shall be subject to the provisions of R.I. Gen. Laws Chapter 36-14, as amended from time to time (the "Code of Ethics"), all regulations promulgated by the Rhode Island Ethics Commission, as amended from time to time, and any special provisions of this section.
- B. It is the policy of RIAC that RIAC officials and employees must adhere to the highest standards of ethical conduct, respect the public trust and the rights of all persons, be open, accountable and responsive, avoid the appearance of impropriety, and not use their positions for private gain or advantage

6.3 Bidder Responsibility, Solicitation, Prequalification, and Debarment/Suspension

6.3.1 Responsibilities of Bidders and Offerors

- A. In accordance with R.I. Gen. Laws § 37-2-24, RIAC shall make a written determination of responsibility of a bidder or offeror. Determinations of responsibility may be made by evaluating the following:
 - 1. Financial capability;
 - 2. Reputation;
 - 3. Management;

4. Ability to meet bidder's security requirements in accordance with R.I. Gen. Laws § 37-2-40;
 5. Any other factors deemed necessary by RIAC.
- B. The failure of a bidder or offeror to supply information promptly (within two (2) working days unless otherwise specified by the President and CEO) in connection with an inquiry related to responsibility may be grounds for a determination of non-responsibility.

6.3.2 Solicitation

RIAC will take steps to ensure that minority, women, small business enterprises, and disadvantaged business enterprises certified by the Office of Diversity, Equity & Opportunity of the Rhode Island Department of Administration ("MBEs") have an opportunity to participate in contracts for services, construction, equipment, and supplies wherever possible. RIAC maintains a Disadvantaged Business Enterprise Plan (including a small business element) on file with the Federal Aviation Administration.

6.3.3 Prequalification of Contractors

The President and CEO may provide for prequalification of suppliers as responsible prospective contractors for particular types of supplies, services, and construction in accordance with R.I. Gen. Laws § 37-2-25.

6.3.4 Debarment and Suspension

- A. The President and CEO may debar or suspend a supplier from the bidding process.
1. Causes for debarment or suspension may include but shall not be limited to:
 - a. Conviction of fraud or perjury;
 - b. Falsification of information;
 - c. Substantial nonperformance on more than two (2) contracts with RIAC or with any Rhode Island state agency; and
 - d. Debarment by the state or federal government.
 2. The President and CEO shall notify in writing any vendor whom he/she intends to debar or suspend.
 - a. Such notice shall:

- (1) state the nature of and, in the case of suspension, the duration of the sanction;
 - (2) provide the vendor with a rationale for the decision; and
 - (3) establish a specific time for reconsideration not less than two (2) weeks nor more than three (3) weeks within which the vendor may provide justification for why such action should not be implemented.
 - b. The provision for a reconsideration period shall not apply to those circumstances where the President and CEO has determined that issuance of a purchase order to a particular vendor may present a serious compromise of the interests of RIAC.
 - c. Upon the expiration of the reconsideration period, the President and CEO shall notify the affected vendor of his/her final decision. If no request for reconsideration has been submitted, the President and CEO shall implement the appropriate action.
3. The President and CEO may suspend a vendor for not less than a three (3) month and not more than a two (2) year period, depending on the severity of a particular violation.
 4. A vendor who has been suspended or rejected shall not be reinstated until he/she has submitted a request for reinstatement to the President and CEO. Such request shall be submitted with evidence that the reason for the suspension or rejection has been corrected.
 5. Protests of decisions rendered by the President and CEO shall be administered in accordance with the requirements of R.I. Gen. Laws § 37-2-52.

6.4 Source Selection

6.4.1 Methods of Source Selection

- A. Except as otherwise authorized by law, or as specifically exempted herein, all RIAC contracts shall be awarded as the result of:
 1. Competitive Sealed Bidding;
 2. Competitive Negotiation;
 3. Non-competitive Procurements;
 4. Small Purchase Procedures;

5. Grants (where permitted by law);
6. Exemptions

6.4.2 Competitive Sealed Bidding

RIAC conducts Competitive Sealed Bidding in accordance with R.I. Gen. Laws § 37-2-18.

6.4.3 Competitive Negotiation

- A. A contract may be awarded in accordance with R.I. Gen. Laws § 37-2-19 by competitive negotiation when the President and CEO determines in writing that the use of competitive sealed bidding is not practicable due to certain factors including but not limited to:
 1. Lowest price is not the sole or primary consideration to be used in determining an award;
 2. Performance is neither specific nor objective, and open to the offeror's interpretation;
 3. It is otherwise anticipated that offers may be substantially different and that there is insufficient common ground for objective comparison; or
 4. It is anticipated that changes may be made after proposals are opened and that the nature of the proposals and/or prices offered may be negotiated prior to award.

6.4.4 Non-Competitive Procurements

- A. Noncompetitive procurement may be used when the item(s) or service(s) necessary may only be procured from a single or sole source or in the event of an emergency, in accordance with R.I. Gen. Laws § 37-2-21.
- B. Sole Source
 1. A contract may be awarded for a supply, service, or construction item without competition when the President and CEO determines, in writing, that there is only one source for the required supply, service, or construction item.
 2. Sole source categories may include:
 - a. items of a unique nature that are unavailable from other sources due to patents or proprietary processes;
 - b. books, maps, periodicals, and technical pamphlets, films, video and audio cassettes obtained from publishers;

- c. certain computer software;
 - d. licenses—computer software, electronic transmittal;
 - e. specialized replacement/repair parts or expansion parts necessary to maintain the integrity of system or function, e.g. scientific research;
 - f. works of art for museum or public display;
 - g. specialized services for which there is only one documented accepted source, such as transactions involving unique professional services and/or educational institutions, e.g., visiting speakers or professors, and performing artists; repair/maintenance agreements with manufacturers;
 - h. advertisements, public notices in magazines, trade journals, newspapers, television.
- (1) NOTE: Purchase of advertising and public relations consulting services must be established through a competitive selection process.

C. Emergency Procurements

1. The President and CEO may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety.
2. An emergency means a situation to which an urgent response is required because of immediate dangers to health and safety, threat to property and necessary functions, or failures of critical equipment. Inadequate anticipation may not be considered justification for “emergency” procurement. Commitments should not extend beyond the immediate response to the emergency conditions.
3. Emergency procurements shall be made with such competition as is practicable under the circumstances.
4. A written determination of the basis for the emergency and for the selection of the contractor shall be included in the contract file.

6.4.5 Small Purchases

~~A — Procurements in excess of one thousand dollars (\$1,000) but not to exceed an aggregate amount of ten thousand dollars (\$10,000) for construction and five thousand dollars (\$5,000) for other purchases must be made in accordance with the following:~~

- ~~1. Competitive quotes shall be obtained in the form of at least three (3) quotations for procurements for construction exceeding one thousand dollars (\$1,000) but less than ten thousand dollars (\$10,000).~~
 - ~~2. Small construction purchases shall include building, altering, repairing, improving or demolishing buildings or other improvements to real property.~~
 - ~~3. Competitive quotes shall be obtained in the form of at least three (3) quotations for procurements for purchases other than construction exceeding one thousand dollars (\$1,000) but less than five thousand dollars (\$5,000).~~
 - ~~4. Competitive quotes shall be obtained from a sufficient number of suppliers to be considered representative of the industry cited. Although three (3) quotes shall be considered the minimum, the President and CEO may in some instances declare the existence of less than three (3) quotes to be considered to provide adequate price competition. The determination shall be made in writing and placed in the bid file.~~
- B. Competitive quotes shall not be required for purchase orders up to \$25,000 for small construction and up to \$10,000 for other purchases, or any other amount not to exceed the statutory limit, in value if the prices are considered to be reasonable. Small construction purchases shall include building, altering, repairing, improving or demolishing buildings or other improvements to real property.

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6.4.6 Exemptions

RIAC may waive requirements for competitive sealed bidding in accordance with R.I. Gen. Laws § 37-2-54.

6.5 Bid Documents

6.5.1 Confidentiality of Technical Data, Trade Secrets and Financial Information

- A. All information received from bidders/offerors as a result of a Competitive Sealed Bidding or Competitive Negotiation is deemed public unless a separate redacted public copy is submitted as outlined below, regardless of whether the information is marked confidential/proprietary.
1. Each Bidder engaging in Competitive Sealed Bidding or Proposers engaging in Competitive Negotiations must include a public copy to be available for public inspection.
 2. Bidders/Proposers may redact in the public copy any trade secrets or commercial or financial information which is of a privileged or confidential nature pursuant to the Access to Public Records Act (R.I. Gen. Laws § 38-2-1 *et seq.*).

3. RIAC shall make the final determination on if the redacted information meets the statutory requirements of the Access to Public Records Act (R.I. Gen. Laws § 38-2-1 *et seq.*).

6.5.2 Correction or Withdrawal of Bids

- A. Correction or withdrawal of bids may be permitted by the President and CEO without penalty only to the extent described below:
 1. Correction of a Bid Prior to Opening
 - a. The bidder must request in writing that his/her bid be returned and he/she resubmits a corrected bid prior to the bid opening.
 - b. A vendor who fails to resubmit a corrected bid before the bid opening shall be considered nonresponsive.
 2. Correction of a Bid after Bid Opening
 - a. Requests by the apparent low bidder for correction of bids identifying all error(s) and specifying corrective action shall be submitted within two (2) working days after the bid opening in writing to the President and CEO and shall be re-evaluated with all other offers.
 3. Withdrawal of Bids
 - a. Requests for withdrawal of bids shall be submitted in writing to the President and CEO, providing an explanation for the action and advising the President and CEO as to why the bidder should not be suspended.
- B. The President and CEO shall respond to requests for correction or withdrawal within ten (10) working days, notifying the bidder of the status of his/her bid, and bid surety.

6.5.3 Issuance of Specifications

RIAC may develop standards committees (product advisory committees) to review, develop and update specifications and standard item designations for frequently and/or extensively used products.

6.6 Contracts

6.6.1 Types of Contracts

RIAC may enter into any type of contract which will promote the best interests of RIAC as may be determined by the President and CEO or his/her designee which may include partial, progressive, and/or multiple awards.

6.6.2 Contract Terms and Conditions

RIAC will include in its solicitation documents and/or contracts appropriate clauses relating to termination of contracts in accordance with R.I. Gen. Laws §§ 37-2-43(b) and (c).

6.7 Cost and Pricing Principles

- A. Except as otherwise provided by contract, the President and CEO shall determine appropriate cost principles to be used in determining the:
1. Estimated costs of fixed prices when the absence of open market competition precludes the use of competitive sealed bidding;
 2. Adjustments for state-directed changes or modifications in contract performances;
 3. Settlements of contracts which have been terminated; and
 4. Validity of incurred costs for the purpose of reimbursing costs under contract provisions.

6.8 Disposition Process

The President and CEO shall sell or otherwise dispose of property of RIAC 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 pursuant to the provisions R.I. Gen. Laws § 37-2-45.