

805-RICR-00-00-2

TITLE 805 - Capital Center Commission

CHAPTER 00 - N/A

SUBCHAPTER 00 - N/A

PART 2 - Rules of the Capital Center Commission for the Selection of Architects, Engineers, and Consultants

2.1 Introduction

- A. The Capital Center Commission (“the Commission”) is authorized and empowered to adopt, implement and administer a plan of development for the Capital Center Special Development District in the City of Providence, State of Rhode Island, and for these purposes to enter into contracts necessary or convenient to the exercise of its powers.
- B. The purpose of these rules (the “Rules”) is to comply with the requirements of R.I. Gen. Laws Chapter 37-2 (State Purchases) in connection with the procurement of architectural, engineering and consulting services by the Commission.

2.2 Definitions

- A. For purposes of these Rules the following terms shall have the meanings set forth below wherever they appear in these Rules, unless the context in which they are used clearly requires a different meaning.
 - 1. “Architectural services” and “engineering services” means those professional services within the scope of practice of architecture, professional engineering, or registered land surveying, pertaining to construction.
 - 2. “Chief Purchasing Officer” means the individual appointed by the Commission from time to time as the executive director of the Commission.

3. "Commissioners" means the members of the Board of Commissioners of the Commission.
4. "Consultant" means any person engaged to give direction or information as regards a particular area of knowledge in which the person is a specialist and/or has expertise. It shall not include legal counsel.
5. "Contract" means all types of agreements for the purchase of any of the services which are subject of these Rules, and any supplemental agreements with respect to any of the foregoing.
6. "Contractor" means any person having a contract with the Commission for any of the services which are the subject of these Rules.
7. "Department of Administration" means the Department of Administration of the State.
8. "Equal Opportunity Office" means the equal opportunity office of the Department of Administration.
9. "Office of the Commission" means 30 Exchange Terrace, Providence, Rhode Island or such other principal office of the Commission located in the City of Providence, State of Rhode Island, as the Commission may from time to time determine.
10. "Purchasing Agent" means the purchasing agent appointed by the Director of the Department of Administration pursuant to R.I. Gen. Laws § 37-2-1.
11. "State" means the State of Rhode Island and Providence Plantations.

2.3 Application of Rules.

- A. These Rules apply to all expenditures of public funds by the Commission under a contract except contracts between the Commission and the State and Contracts between the Commission and political subdivisions of the State or between the Commission and other governments.
- B. Nothing in these Rules shall prevent the Commission from complying with the terms and conditions of any grant, gift, bequest or agreement.

- C. The provisions of these Rules shall be considered to be incorporated in all contracts of the Commission to which they apply.
- D. Contracts entered into in violation of these Rules shall be void ab initio.

2.4 Procurement Decisions of The Commission

Every determination required by these Rules shall be in writing and based upon written findings of fact by the Commission. These determinations and written findings shall be retained in an official contract file in the Office of the Commission.

2.5 Selection of Architects, Engineers and Consultants

2.5.1 General Policy.

It shall be the policy of the Commission to publicly announce its requirements for architectural, engineering and consulting services, which are reasonably estimated to exceed twenty thousand dollars (\$20,000), and to negotiate contracts for such professional services on the basis of demonstrated competence and qualifications and at fair and reasonable prices.

2.5.2 Public Announcement of Requirements for Architectural, Engineering, and Consulting Services.

The Chief Purchasing Officer shall give public notice of the need for architectural, engineering or consulting services which are reasonably estimated to exceed twenty thousand dollars (\$20,000). Such public 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. The notice shall contain a brief statement of the services required, describe the project and specify how a solicitation containing specific information on the project may be obtained. The notice shall be published in a newspaper of general circulation in the State and in such other publications, if any, as in the judgment of the Chief Purchasing Officer shall be desirable.

2.5.3 Solicitation.

- A. A solicitation shall be prepared which describes the Commission's requirements and sets forth the evaluation criteria. It shall be distributed to interested persons.
- B. The solicitation shall describe the criteria to be used in evaluating the statement of qualification and performance data and in the selection of firms. Criteria shall include, but are not 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 the availability of adequate personnel, equipment, and facilities to perform the services expeditiously; and
 - 3. past performance as reflected by the evaluation of private persons and officials of other governmental entities that have retained the services of the firm with respect to such factors as control of costs, quality of work, and an ability to meet deadlines.
- C. For services reasonably estimated to exceed twenty thousand dollars (\$20,000), a bidder's conference shall be held at which the criteria to be used in evaluating the statement of qualification and performance data and in the selection of firms shall be described. The scope of work shall be discussed and further defined as such conference, including on-site visits, if appropriate.

2.5.4 Evaluation of Statements of Qualifications and Performance Data

- A. The Chief Purchasing Officer shall evaluate:
 - 1. statements that may be submitted in response to the solicitation of architectural, or engineering services or consultant services; and
 - 2. statements of qualifications and performance data, if their submission is required. All statements and statements of qualifications and performance data shall be evaluated in light of the criteria set forth in the solicitation for architectural, engineering services or consultant services. The Chief Purchasing Officer may waive informalities in any statements and statements of qualification and performance data.

2.5.5 Final Selection of Contractors.

- A. The Chief Purchasing Officer shall select no more than three (3) firms (or two (2) if only two (2) apply) evaluated as being professionally and technically qualified. The firms selected, if still interested in providing the services, shall make a representative available to the Commissioners at such time and place as it shall determine, to provide such further information as it may require.
- B. The Commissioners shall negotiate with the highest qualified firm for a contract for architectural, engineering or consulting services for the Commission at compensation which the Commissioners determine to be fair and reasonable to the Commission. In making such determination, the Commissioners shall take into account the professional competence of the offerors, the technical merits of the offerors, and the price for which the services are to be rendered. The Commissioners shall be responsible for the final selection of the providers of architectural, engineering or consulting services.
- C. In the event that the Chief Purchasing Officer determines that only a single professionally and technically qualified firm has applied, the Commissioners may negotiate with such firm for architectural, engineering services, or consulting services at compensation which the Commissioner determine to be fair and reasonable.

2.6 Contracts Not Exceeding \$20,000

- A. Application of Article. Every contract for architectural, engineering, and consulting services, the fees for which are not reasonably expected to exceed twenty thousand dollars (\$20,000) shall be awarded pursuant to the requirement of § 2.6 of this Part, and shall include the terms set forth in § 2.7 of this Part. Any decision of the Commission to solicit interest from architectural, engineering or consulting firms for any services to which § 2.6 of this Part applies shall be noted in the minutes of the Commission.
- B. Selection of Contractors. The Chief Purchasing Officer shall be responsible for selection of architectural, engineering and consultant firms for contracts to which this Article III applies. The Chief Purchasing Officer's selection shall not be final until it is approved by the Commissioners. The Chief Purchasing Officer shall notify the Department of Administration, the Division of Purchases and the Division of Budget of the State of the selection made under § 2.6(B) of this Part.

The Chief Purchasing Officer shall use the criteria set forth in § 2.5.3(B) of this Part in making such selections. Each determination shall be justified in writing.

- C. Notice of Requirements. The Chief Purchasing Officer shall post a notice at the Office of the Commission regarding the requirements of the Commission for any services to which § 2.6 of this Part applies, no less than seven (7) days in advance of the date on which the Chief Purchasing Officer will select a firm to receive the contract for such services, and shall send a copy of such notice to persons who have indicated, in advance, an interest in receiving such notices. The Chief Purchasing Officer may provide for such additional notice to any person or persons he or she deems appropriate under the circumstances.
- D. Renewal or Extension of Existing Contracts. The Commission may renew or extend any contract for architectural, engineering and consulting service, the fees for which are not reasonably expected to exceed \$20,000 and which has previously been awarded pursuant to the provisions of § 2.6 of this Part. Such an extension or renewal may be made by the Commission without notice required in § 2.6(C) of this Part and without any other action which might be required under § 2.6 of this Part when entering into an initial contract for architectural, engineering and consulting services the fees for which are not reasonably expected to exceed \$20,000.

2.7 Contract Terms

- A. Changes and Modifications of Contracts. The Chief Purchasing Officer may require that any contract which is the subject of these Rules contain clauses permitting changes or modifications by the Chief Purchasing Officer.
- B. Termination of Contracts for Cause. The Chief Purchasing Officer shall require that all contracts which are the subject of these Rules may be terminated for default of the contractor and may provide for liquidated damages.
- C. Termination of Contracts for Convenience. The Chief Purchasing Officer shall require that all contracts which are the subject of these Rules may be terminated for convenience of the Commission and in such cases shall provide for appropriate adjustments in price.

2.8 Remedies

- A. Protest of Solicitation and Award.

1. Any actual or prospective provider of architectural and engineering services or consulting services who is aggrieved in connection with the solicitation or award of any contract under these Rules may file a protest with the Chief Purchasing Officer. A protest or notice of other controversy must be filed promptly and in any event within two (2) calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversies must be in writing.
2. The Chief Purchasing Officer, with the consent of the Commissioners, shall promptly issue a decision in writing on the protest. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.
3. In the event a protest is filed in a timely manner under this Section, the Chief Purchasing Officer shall not proceed further with the solicitation or award which is the subject of the protest until he or she has issued a decision on the protest, or the Chief Purchasing Officer, with the consent of the Commissioners, has determined that continuation of the procurement is necessary to protect a substantial interest of the Commission.

B. Resolution of Contract Disputes

1. Prior to the institution of arbitration or litigation concerning any contract claim or controversy, the Chief Purchasing Officer, with the consent of the Commissioners, will endeavor to settle or compromise such claim.
2. If any claim or controversy arising under contracts to which these Rules apply is not resolved by mutual agreement, the Chief Purchasing Officer, with the consent of the Commissioners shall promptly issue a decision in writing regarding the subject matter of such claim or controversy. A copy of that decision shall be mailed or otherwise furnished to the contractor. If the Chief Purchasing Officer does not issue a written decision within thirty (30) days, after written request for a final decision, or within such longer period as might be established by the parties to the contract in writing, then the contractor may proceed as if an adverse decision had been received from the Chief Purchasing Officer.

2.9 Additional Matters

- A. Small and Disadvantaged Businesses. The Chief Purchasing Officer shall, to the extent practicable, encourage small and small disadvantaged businesses to bid for contracts to be awarded by the Commission.
- B. Republic of South Africa. In conformity with the policy of divestment established in R.I. Gen. Laws § 35-10-12, the Commission shall give preference in purchasing any of the services to which these Rules apply to companies, which to the Commission's knowledge, do not do business in, or with, the Republic of South Africa.
- C. Equal Employment Opportunity. For all contracts for architectural, engineering and consulting services exceeding Ten Thousand Dollars (\$10,000), contractors must comply with the requirements of federal Executive Order 11246, as amended, and R.I. Gen. Laws § 28-5.1-10, and other regulations as issued by the Purchasing Agent, and administered by the Equal Opportunity Office. Failure to comply will be considered a substantial breach of the contract subject to penalties prescribed in such regulations.
- D. Conflict of Interest. No member or employee of the Commission shall have any interest, financial or otherwise, direct or indirect, or engage in any activity which is in substantial conflict with the proper discharge of his or her duties as a member or employee of the Commission.

2.10 Effective Date

- A. Effective Date. These Rules shall become effective twenty (20) days after the date these Rules are filed with the Secretary of State of the State.
- B. Contracts in Effect on Effective Date. These Rules shall not change in any way a contract commitment by the Commission or of a contractor to the Commission which was in existence on the effective date of these rules.

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Type of Filing: Technical Revision

Effective Date: 01/02/2002

Editorial Note: This Part was filed with the Department of State prior to the launch of the Rhode Island Code of Regulations. As a result, this digital copy is presented solely as a reference tool. To obtain a certified copy of this Part, contact the Administrative Records Office at (401) 222-2473.