

## **CONCISE EXPLANATORY STATEMENT**

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, the following is a concise explanatory statement:

**AGENCY:** Department of Administration

**DIVISION:** Division of Purchases

**RULE IDENTIFIER:** 220-RICR-30-00-6

**RULE TITLE:** Negotiation

### **REASON FOR RULEMAKING:**

The primary reason for this regulatory change is to increase government transparency by releasing proposals and rationale for the selection of a vendor sooner in the procurement process. These records would be available for release at time of tentative selection instead of at time of award of the contract. This amendment will increase transparency and will also allow any protests to be submitted prior to the issuance of a contract. Under the current process, if the records are not released until issuance of a contract, the State's Chief Purchasing Officer is placed in a difficult position where a contract may need to be cancelled in order to resolve a protest. Again, releasing the records sooner in the process will increase transparency, allow protests to be resolved prior to a final award and promote efficiency by allowing protests to be submitted while the contract is in the process of being finalized. This change is concurrent with the implementation of the Ocean State Procures system which will facilitate these records being posted on the Division's website further increasing government transparency. Finally, the regulations are being amended to clarify the language, so that the language accurately reflects the existing procedures. The specific changes are as follows:

220-RICR-30-00-6.1(A) is amended to clarify the definitions of negotiation and to include the Request for Proposals and a Best and Final Offer Process as negotiation tools.

220-RICR-30-00-6.3(A)(3) is amended to provide disclosure of records sooner in the procurement process. The language, as proposed, adds the following language: "In the best interests of the State and in accordance with the State's Access to Public Records Act, R.I. Gen. Laws § 38-2-1 *et seq.*, the Purchasing Agent may disclose the proposals and/or formal rationale for tentative selection at or after the time of tentative selection of a vendor(s)."

220-RICR-30-00-6.3(B)(1) is amended to clarify that written or oral negotiations with vendors will only occur in the event that an award is not issued passed on initial responses to the RFP.

### **ANY FINDING REQUIRED BY LAW AS A PREREQUISITE TO THE EFFECTIVENESS OF THE RULE:**

None.

**TESTIMONY AND COMMENTS:** None received.

**CHANGE TO TEXT OF THE RULE:** No changes between proposed and final.

**REGULATORY ANALYSIS:** The reason for this regulatory change is to increase government transparency by releasing proposals and rationale for the selection of a vendor sooner in the procurement process. These records may be made available for release at time of tentative selection instead of at time of award of the contract. This amendment will increase transparency and will also allow any protests to be submitted prior to the issuance of a contract. Under the current process, if the records are not released until issuance of a contract, the State's Chief Purchasing Officer is placed in a difficult position where a contract may need to be cancelled in order to resolve a protest. Releasing the records sooner in the process will allow protests to be resolved prior to a final award. This change will also increase efficiency by allowing the protest period to run concurrently while the contract is being finalized. Finally, this change is concurrent with the implementation of the Ocean State Procures system which will facilitate these records being posted on the Division's website further increasing government transparency. There is no fiscal impact as a result of this amendment and/or impact on small business.