

RHODE ISLAND GOVERNMENT REGISTER
ADVANCE NOTICE OF PROPOSED RULEMAKING

220-RICR-30-00-8.1(O)

220-RICR-30-00-8.11(C)(6)

Public-Private Partnership Agreement (“P3”) Regulations

Draft Regulation Language*

220-RICR-30-00-8.1(O)

O. In accordance with R.I. Gen. Laws § 37-2-31, “Public-Private Partnership Agreement” or “P3” means a long-term contract between the State and a private partner that develops, finances, constructs, operates, or maintains a State-owned physical asset or property in which the private party bears significant risk (financial, operational, or legal uncertainty associated with the private partner’s participation) over the long term.

220-RICR-30-00-8.11(C)(6)

6. Public-Private Partnership Agreement (“P3”)

- a. **Authorization.** A state agency seeking to employ a Public-Private Partnership Agreement (“P3” or “P3 framework”) for a specific project as defined in R.I. Gen. Laws § 37-2-31 must:
 - (1) **Request for Initial Approval.** Submit a written request for initial approval for exploration of a P3 for a specific project to the Chief Purchasing Officer. The request must contain, at minimum, information on the anticipated size and scope of the project sufficient for the Chief Purchasing Officer to make an informed decision.
 - (2) **Subject Matter Expert Evaluation.** Upon receipt of written initial approval for exploration of a P3 for a specific project from the Chief Purchasing Officer, the state agency must engage a subject matter expert to conduct an evaluation of the proposed framework to ensure that a P3 framework provides fair value to the State.
 - (i) The subject matter expert evaluation must meet the requirements of R.I. Gen. Laws § 37-2-31(e)(6), including a value for money analysis as defined in R.I. Gen. Laws § 37-2-31(a)(6).

- (3) **Scoped Written Request:** Upon completion of the subject matter expert's written evaluation, the state agency must remit a copy of the evaluation to the Chief Purchasing Officer with an updated request to proceed with drafting a solicitation using the P3 framework. The updated written request from the State agency must:
- (i) Detail the proposed nature of the project, the defined duties of the State and the private partner, project funding/budget responsibility and breakdown between the State and the private partner, and how the State agency proposes to define and evaluate all related criteria in the corresponding solicitation.
 - (ii) Identify the proposed members of the technical evaluation review team.
- (4) **Written Approval.** The Chief Purchasing Officer may issue a written approval the request, a written denial of the request, or ask the state agency in writing for further information needed to make the determination.

b. Solicitation. Upon written approval of the P3 project design approach by the Chief Purchasing Officer, the state agency, with guidance by the Division of Purchases, may proceed with drafting the corresponding solicitation.

- (1) The corresponding solicitation must include all requirements set forth in R.I. Gen. Laws § 37-2-31(e) and applicable provisions of the State Purchases Act, include evaluation criteria that meet all requirements set forth in R.I. Gen. Laws § 37-2-31(f), and adhere to otherwise standard requirements as dictated by the State Purchases Act and Division of Purchases.
- (2) The subject matter expert evaluation conducted pursuant to section 8.11(C)(6)(a)(2) of this Part may be posted as an addendum to the corresponding solicitation in accordance with the requirements of R.I. Gen. Laws § 37-2-31(e)(6).
- (3) Subject to the discretion of the Purchasing Agent, the technical evaluation review team may also include representation from the Department of Administration. State agencies may also request additional non-scoring technical advisors to serve on the technical review team subject to the Division of Purchases.
- (4) In addition to otherwise standard contract language as determined by the State, resulting P3 contracts as detailed in this Part must also include all mandatory provisions set forth in R.I. Gen. Laws §

37-2-31(e). The resulting contract is subject to the approval of the Department of Administration.

*The P3 regulatory language will be integrated into existing regulation 220-RICR-30-00-8.

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