

855-RICR-00-00-1

TITLE 855 – RHODE ISLAND TURNPIKE AND BRIDGE AUTHORITY

CHAPTER 00 – GENERAL ADMINISTRATION

SUBCHAPTER 00 – N/A

PART 1 – RULES AND REGULATIONS GOVERNING PROCUREMENT

1.1 Authorization and Purpose

1.1.1 Authorization for Regulations

- A. The following Rules and Regulations concerning procurement by the Rhode Island Turnpike and Bridge Authority ("Authority") are promulgated in accordance with R.I. Gen. Laws §§ 37-2-9 and 37-2-13 ("Rules and Regulations").

1.1.2 Purpose

- A. The purpose of this Regulation is to set forth the general principles that will govern the conduct of procurement activities by the Authority, a body corporate and politic, and by Authority personnel engaged in those activities, including to:
1. Provide for public confidence in the procurement procedures of the Authority;
 2. Ensure fair and equitable treatment of all persons who participate in the procurement process;
 3. Provide economy in procurement transactions by fostering effective competition;
 4. Provide safeguards for a procurement process of quality, integrity, and the highest ethical standards;
 5. Provide for clearly defined accountability and responsibility for procurement transactions; and
 6. Ensure that the Authority, as a body corporate and politic of the State of Rhode Island, adheres to the general principles, policies, and practices of the State Purchases Act, R.I. Gen. Laws § 37-2-1 *et seq.*, and the Rules and Regulations pursuant to the State Purchases Act (collectively, all as in effect from time to time, the "Act").

1.1.3 Applicability

- A. This Part shall apply to all Rhode Island Turnpike and Bridge Authority contracts for services, construction, equipment, and supplies, including without limitation, awards, purchase orders, and leases.

1.2 Source Selection

1.2.1 Contracting Methods

- A. The Authority recognizes and may use any of the following four (4) basic contracting methods permitted by Rhode Island law to procure services, construction, equipment, and supplies:

1. Competitive sealed bids;
2. Competitive negotiation;
3. Small purchases; and
4. Noncompetitive procurements.

1.2.2 Competitive Negotiation

- A. The Authority may use competitive negotiation under the following circumstances:

1. When the Chief Purchasing Officer determines, in writing, that the use of competitive sealed bidding is not practicable.
2. When the Chief Purchasing Officer determines, in writing, that the bid proposal prices received by the competitive sealed bidding method either are greater than the funds available or were not independently reached in open competition, and the best interests of the Authority would not be served by delay.

1.2.3 Small Purchases

- A. Small purchases that do not exceed the limits set forth in R.I. Gen. Laws § 37-2-22 may be accomplished without competitive solicitation if the prices are considered by the Purchasing Agent to be fair and reasonable.
- B. If practicable under the circumstances, the Purchasing Agent will obtain informal quotes and distribute purchase orders equitably among vendors if the Purchasing Agent determines that it is in the Authority's best interest to do so.

1.2.4 Noncompetitive Procurements

- A. In addition to the provisions set forth in R.I. Gen. Laws § 37-2-21, when it is determined that there is only one (1) source for the services, construction, equipment, or supplies required (sole source procurement), or when there exists a threat to public health, welfare, or safety under emergency conditions (emergency conditions), contracts may be awarded by noncompetitive procurements.

1. Sole Source Procurement

- a. Contracts may be awarded for a supply, service, equipment, or construction by noncompetitive procurements when there is only one (1) source.
- b. Sole source procurement will be allowed only on an exception basis and must be documented and approved in writing by the Purchasing Agent (for contracts up to ten thousand dollars (\$10,000.00)) and the Chief Purchasing Officer, based on a written recommendation by the Purchasing Agent (for contracts in excess of ten thousand dollars (\$10,000.00)).
- c. Sole source procurements that will result in multiyear contracts require the prior approval of the members of the Authority.
- d. Examples of sole source exceptions include, without limitation, circumstances in which:
 - (1) There is only one (1) responsible source and no other supplier, such as a utility company;
 - (2) The source demonstrates a unique and innovative concept not otherwise available to the Authority;
 - (3) Specialized replacement or repairs parts are necessary to maintain the integrity or function of a system.
- e. Each noncompetitive procurement over ten thousand dollars (\$10,000.00) must be supported by documentation that justifies the selection of the vendor.
 - (1) Such documentation should include, without limitation:
 - (AA) A statement of the relevant circumstances and detailed information to support that statement;
 - (BB) Cost and price analysis;
 - (CC) Summary of the negotiations with the vendor; and

(DD) Basis for determining that the price is fair and reasonable.

(2) A general conclusion that a certain source is uniquely qualified, has personal know-how or experience, or is the only source that can meet certain non-emergency delivery requirements, does not qualify as sufficient justification to use a single source.

- f. The availability of this sole source procurement exception from competitive bidding does not diminish the responsibility of the Purchasing Agent to evaluate the market continuously to research product alternatives and develop additional sources to the extent feasible or practicable under the circumstances.
- g. In attempting to achieve the goal of maximizing competition to the greatest extent possible and reducing the Authority's reliance on sole sources of supply, service, or construction, the Authority will pursue alternative vendors for equivalents as long as such alternatives are in the Authority's best interests, taking into account safety, security, price, available warranties, and operational cost effectiveness.

2. Emergency Conditions Procurement

- a. The Chief Purchasing Officer or the Purchasing Agent (in his or her absence) may make, or authorize others to make, emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions; provided that emergency procurements shall be made with such competition as is practicable under the circumstances.
- b. The determination of the basis for emergency and for the selection of the vendor must be in writing.
- c. "Emergency conditions" means a situation to which an urgent response is required because of immediate dangers to health and safety, threats to property or necessary functions, or failures of critical equipment. Inadequate anticipation of need is not considered justification for "emergency" procurement. Commitments that extend beyond the immediate response to the emergency conditions are prohibited.

1.3 Requests for Proposals

- A. Requests for Proposals are utilized to solicit competitive offers in all cases where the Purchasing Agent or Chief Purchasing Officer determines that such a

process would be in the best interests of the Authority, including in situations where:

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 vendor's interpretation;
 3. It is otherwise anticipated that bid proposals may be substantially different and there is insufficient common ground for objective comparison; or
 4. It is anticipated that changes will be made after bid proposals are opened and the nature of the bid proposals and/or prices offered will be negotiated prior to award.
- B. Wherever possible, Request for Proposals shall define the performance or benefit required and shall set forth specific criteria to be used in evaluation of offers.
- C. Proposals will be evaluated by a committee comprised of representatives of the Authority on the basis of:
1. The qualifications of the vendors, established by professional accomplishment and previous experience;
 2. Aspects of proposals that provide benefit, in addition to those based on cost; and
 3. Other provisions of proposals that are determined to serve the best interests of the Authority.
- D. The evaluation of offers, including the weight assigned to various aspects of the proposals, and all award determinations, including the reasons for a selection recommendation, must be fully documented.
- E. Nothing herein shall be construed to preclude the possibility of determining an award solely on the basis of cost if the Authority determines that it is in its best interest to do so.

1.4 Security

- A. In addition to the provisions set forth in R.I. Gen. Laws § 37-2-40, bidders must furnish, with their bid proposals, either a bid bond from a surety licensed to conduct business in the State of Rhode Island or a certified check in the amount of five percent (5%) of the bid proposal for construction contracts valued at greater than fifty thousand dollars (\$50,000.00).

- B. The Purchasing Agent may require surety, if appropriate, for any other contracts regardless of value, in an amount and manner in the Purchasing Agent's discretion.

1.5 Minority, Women, and Disadvantaged Business Enterprises

- A. The Authority will comply with all provisions set forth in R.I. Gen. Laws § 37-14.1-1 *et seq.*

1.6 Code of Ethics

- A. It is the policy of the State of Rhode Island that public officials (both elected and appointed) and employees must adhere to the highest standard 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.
- B. All officials and employees of the Authority are subject to the provisions of R.I. Gen. Laws §§ 36-14-4 through 36-14-7, as amended from time to time, and the Regulations promulgated thereunder (collectively, all as in effect from time to time, the "Rhode Island Code of Ethics").
- C. All members of the Authority and its employees will adhere to the Rhode Island Code of Ethics in their procurement conduct on behalf of the Authority at all times and will also adhere to the special provisions of the supplemental State Code of Procurement Ethics promulgated pursuant to the Act.

1.7 Implementation

- A. This Part shall be implemented by the Chief Purchasing Officer.
- B. Violations of the provisions of this Part, or any of the Authority's procurement policies and procedures, or any applicable State or Federal laws or Regulations shall be immediately reported to the Authority's Executive Director ("Violations").
- C. The Executive Director shall have the authority to apply appropriate sanctions for Violations, up to and including termination.

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