

2024 -- H 8011

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO STATE PURCHASES -- CHANGE ORDERS

Introduced By: Representative P. Morgan

Date Introduced: March 05, 2024

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 37-2-9 of the General Laws in Chapter 37-2 entitled "State
2 Purchases" is hereby amended to read as follows:

3 **37-2-9. Authority and duties of the chief purchasing officer.**

4 (a) The chief purchasing officer shall have power and authority over, and may, except as
5 otherwise expressly provided in this chapter, adopt regulations pursuant to § 42-35-2 and consistent
6 with this chapter governing the purchasing, management, and control of any and all supplies,
7 services, construction, and other items required to be purchased by the state. The chief purchasing
8 officer shall consider and decide matters of policy with regard to state procurement. The chief
9 purchasing officer shall have the power of review with respect to the implementation of regulations
10 and policy determinations.

11 (b) Regulations shall be adopted governing the following:

12 (1) Conditions and procedures for delegations of purchasing authority;

13 (2) Prequalification, suspension, debarment, and reinstatement of prospective bidders;

14 (3) Small purchase procedures;

15 (4) Conditions and procedures for the purchase of perishables and items for resale;

16 (5) Conditions and procedures for the use of source selection methods authorized by this
17 chapter including emergency purchases;

18 (6) Opening and rejection of bids or offers, consideration of alternate bids, and waiver of
19 informalities in offers;

1 (7) Confidentiality of technical data and trade secrets information submitted by actual or
2 prospective bidders or offerors;

3 (8) Partial, progressive, and multiple awards;

4 (9) Supervision of storerooms and inventories, including determination of appropriate
5 stock levels and the management, transfer, sale, or other disposal of state owned property;

6 (10) Definitions and classes of contractual services and procedures for acquiring them;

7 (11) To sell, trade, or otherwise dispose of surplus supplies and services for the state;

8 (12) To exercise general supervision and control over all warehouses, storerooms, stores,
9 and all inventories of supplies, services, and construction belonging to the state;

10 (13) To establish and maintain programs for the development and use of purchasing
11 specifications, and for the inspection, testing, and acceptance of supplies, services, and
12 construction;

13 (14) To develop a program which involves and/or utilizes small business and small
14 disadvantaged business as contractors;

15 (15) To develop standards of conduct which supplement the provisions of chapter 14 of
16 title 36, as amended, for personnel involved in the state of Rhode Island purchasing process;

17 (16) For all contracts for supplies and services exceeding ten thousand dollars (\$10,000),
18 contractors must comply with the requirements of federal executive order no. 11246, as amended,
19 § 28-5.1-10, and other regulations as issued by the purchasing agent, and administered by the state
20 equal opportunity office of the department of administration. Failure to comply will be considered
21 a substantial breach of the contract subject to penalties prescribed in the regulations.

22 (c) No contracts for supplies or services may be extended by any state department or state
23 agency, both in the scope of the work or in the costs incurred, by the utilization of change orders,
24 as defined in § 37-2-7, if the additional work or services exceeds ten percent (10%) of the original
25 value of the contract.

26 ~~(e)~~(d) The chief purchasing officer may adopt such other regulations as deemed advisable
27 to carry out the purposes of this chapter.

28 SECTION 2. Section 45-55-6 of the General Laws in Chapter 45-55 entitled "Award of
29 Municipal Contracts" is hereby amended to read as follows:

30 **45-55-6. Competitive negotiation.**

31 (a) When, under regulations adopted by the city or town council, the purchasing agent
32 determines, in writing, that the use of competitive sealed bidding is not practicable, and except as
33 provided in §§ 45-55-8, 45-55-9, and 45-55-10 a contract may be awarded by competitive
34 negotiation.

1 (b) Adequate public notice of the request for proposals shall be given in the same manner
2 as provided in § 45-55-5(c).

3 (c) Contracts may be competitively negotiated when it is determined, in writing, by the
4 purchasing agent that the bid prices received by competitive sealed bidding either are unreasonable
5 as to all or part of the requirements, or were not independently reached in open competition, and
6 for which:

7 (1) Each competitive bidder has been notified of the intention to negotiate and is given
8 reasonable opportunity to negotiate; and

9 (2) The negotiated price is lower than the lowest rejected bid by any competitive bidder;
10 and

11 (3) The negotiated price is the lowest negotiated price offered by a competitive offeror.

12 (d) The request for proposals shall indicate the relative importance of price and other
13 evaluation factors.

14 (e) Award shall be made to the responsible offeror whose proposal is determined, in
15 writing, to be the most advantageous to the municipality taking into consideration price and the
16 evaluation factors stated in the request for proposals.

17 (f) Written or oral discussions shall be conducted with all responsible offerors who submit
18 proposals determined, in writing, to be reasonably susceptible of being selected for award.
19 Discussions shall not disclose any information derived from proposals submitted by competing
20 offerors. Discussions need not be conducted:

21 (1) With respect to prices, where prices are fixed by law or regulation, except that
22 consideration shall be given to competitive terms and conditions; or

23 (2) Where time of delivery or performance will not permit discussions; or

24 (3) Where it can be clearly demonstrated and documented from the existence of adequate
25 competition or accurate prior cost experience with the particular supply, service, or construction
26 item, that acceptance of an initial offer without discussion would result in fair and reasonable prices,
27 and the request for proposals notifies all offerors of the possibility that award may be made on the
28 basis of the initial offers.

29 (g) No contracts for supplies or services may be extended, both in the scope of the work or
30 in the costs incurred, by the utilization of change orders, as defined in § 37-2-7, if the additional
31 work or services exceeds ten percent (10%) of the original value of the contract.

32 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE PURCHASES -- CHANGE ORDERS

1 This act would prohibit the extension of contracts by any state or municipal department or
2 agency by the utilization of change orders if the additional work or services exceeds ten percent
3 (10%) of the original value of the contract.

4 This act would take effect upon passage.

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