**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

**RHODE ISLAND DEPARTMENT OF ADMINISTRATION**
**DIVISION OF PURCHASES**

# NOTICE OF RULE MAKING

The Rhode Island Department of Administration has drafted proposed amendments to the Rhode Island State Procurement Regulations ("Procurement Regulations"). **These proposed amendments revise SECTION ONE of the Procurement Regulations, last filed with the Office of the Secretary of State as ERLID #6649**. The proposed amended Procurement Regulations are promulgated in accordance with Section 37-2-9 and Chapters 42-35 and 42-11 of the General Laws of Rhode Island, as amended. Amendments to Section One, entitled "General Provisions", have been proposed in order that all regulations within Section One are up to date, clear, and properly formatted. In addition, new procedures regarding Bid Protests have been added to Regulation 1.6.

Notice is hereby given, in accordance with the provisions of Chapter 42-35 of the Rhode Island General Laws as amended, that a public hearing on the above proposed amended regulations shall be held on **Wednesday December 7, 2011 beginning at 9:30 AM in Conference Room C** in the William E. Powers Building, One Capitol Hill, Providence, Rhode Island, at which time and place all persons interested will be heard.

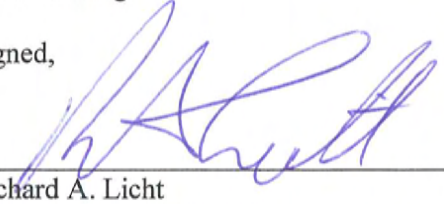
In the development of the proposed amended rules and regulations, consideration was given to the following: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business, as defined in Chapter 42-35 of the Rhode Island General Laws, as amended, which may result from these regulations. No alternative approach or duplication or overlap was identified based upon available information.

Copies of the proposed amended regulations are available for public inspection at the offices of Department of Administration, Division of Purchases, One Capitol Hill, Providence, RI 02908, or by calling Lorraine Hynes at (401)574-8100 or by sending an email to: Rules.questions@purchasing.ri.gov If you send an email request, please refer to "Proposed Amended Rule--Section One". In conformance with Section 42-35-3(a)(1) of the General Laws of Rhode Island, copies of a concise summary of all non-technical amendments being proposed are available upon request.

For the sake of accuracy, it is requested that comments made relative to any aspect of the regulations, including alternative approaches, overlap, or significant economic impact, are received prior to or at the hearing. These comments should refer to "Proposed Amendments to Procurement Regulations--Section One" and the specific rules that are commented upon, and should be mailed to Lorraine Hynes, Division of Purchases, Department of Administration, One Capitol Hill, Providence, RI 02908. Written comments may also be submitted at the public hearing. Oral statements made at the hearing will be considered, but should be limited to five minutes each.

Any individual requiring a reasonable accommodation in order to participate in this hearing should contact James A. Pitassi, Jr. at 222-6395 (voice) or #711 (R.I. Relay) at least three (3) business days prior to the hearing.

Signed,



Richard A. Licht
Director, Rhode Island Department of Administration

11/2/11
Date

# STATE OF RHODE ISLAND
# PROCUREMENT REGULATIONS

## SECTION 1 – GENERAL PROVISIONS

**Prepared November 2011**

Division of Purchases
Rhode Island Department of Administration
One Capitol Hill, Second Floor
Providence, Rhode Island 02908
www.purchasing.ri.gov
Tel: (401) 574-8100

In accordance with the provisions of Chapter 37-2 and Chapter 42-35 of the General Laws of Rhode Island of 1956, as amended, I hereby adopt on this date the following amendments to Section One of the Procurement Rules and Regulations.

Richard A. Licht, Director
State of Rhode Island
Department of Administration
One Capitol Hill
Providence, Rhode Island 02908

DATE

Date of Public Notice: _____
Date of Public Hearing: _____
End of Comment Period: _____

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# SECTION 1 - GENERAL PROVISIONS

## 1.1 PURPOSES AND POLICIES

~~1.1.1 The underlying purposes and policies of these regulations are:~~

~~1.1.1.1 To simplify, clarify, and modernize purchasing activities undertaken by the State of Rhode Island and its local public agencies;~~

~~1.1.1.2 To permit the continuous development of purchasing policies and practices;~~

~~1.1.1.3 To provide for increased public confidence in the procedures followed in public procurement;~~

~~1.1.1.4 To insure fair and equitable treatment of all persons who deal with the procurement system of the state.~~

~~1.1.1.5 To provide increased economy in state and public agency procurement activities by fostering effective competition;~~

~~1.1.1.6 To provide safeguards for the maintenance of a procurement system of quality, integrity and the highest ethical standards; and~~

~~1.1.1.7 To provide for clearly defined accountability and responsibility for procurement actions.~~

1.1.1 The intent, purpose, and policy of these Procurement Regulations shall be to simply, clarify, and continuously modernize the procurement system for State and local government in accordance with the "State Purchases Act," R.I. Gen Laws § 37-2-1, *et seq*, so as to provide efficiency and economy in the purchase of goods services, and construction, while maintaining and safeguarding quality, integrity, fairness, responsibility, accountability, and equity in accordance with the highest ethical standards.

1.1.2 Administrative Practices and Policies

1.1.2.1 Competition: The State of Rhode Island will operate an effective procurement system by obtaining goods and services within a competitive environment whenever possible.

The primary method of assuring that procurements are to the advantage of the State of Rhode Island, ~~will~~ shall be through the use of competitive bidding procedures as set forth herein.

Contract awards shall be made to the lowest responsive and responsible bidder, taking into consideration the reliability of the bidder, the qualities of the materials, equipment or

supplies to be furnished, their conformity with the specifications, the purposes for which required, terms of delivery and the best interests of the state.

1.1.2.2 Centralization: The State of Rhode Island will operate an effective procurement system by establishing a centralized purchasing authority within the Department of Administration responsible for the promulgation and oversight of rules, regulations, policies and procedures for the implementation of all laws relating to purchasing activities. The ~~State of Rhode Island~~ Department of Administration ~~will~~ shall provide centralized purchasing support services to assure that equity and professional expertise are employed in the purchase of goods and services by state agencies.

1.1.2.3 Responsibility and Accountability: All state agency officials shall be responsible for ~~verbatim~~ compliance with purchasing legislation enacted by the General Assembly and with all related policies, rules, regulations, procedures and codes promulgated by the Chief Purchasing Officer and shall be held accountable for violations thereof. ~~of the spirit, intent and letter of these governing requirements.~~

All state employees shall be responsible for carrying out their designated functions with care, integrity and ~~a sense of~~ responsibility ~~to the taxpayers of Rhode Island~~ for providing public ~~services~~ procurement in the most cost-effective manner. ~~possible.~~

## 1.2 APPLICATION

1.2.1 ~~In accordance with Section [37-2-4], Chapter 37-2, RIGL~~ The provisions of R.I. Gen. Laws §37-2-1, *et seq.* (the "State Purchases Act") shall apply to every expenditure of public funds except as otherwise provided by law, by the State of Rhode Island or a public agency under any contract or like business agreement, excepting only those contracts or like business agreements between the state and its political subdivisions or other governments. ~~It~~ The State Purchases Act shall also apply to the disposal of state supplies. Provided, however, that nothing in the State Purchases Act ~~Chapter 37-2~~ or ~~in the~~ these State Procurement ~~r~~Regulations ~~promulgated hereunder~~ shall prevent any state governmental body or department or division from complying with the terms and conditions of any award, grant, gift, bequest, or co-operative funding agreement with the federal government.

1.2.2 The State Procurement Regulations, as promulgated and amended by the Chief Purchasing Officer in accordance with the authority and requirements of the State Purchases Act, ~~set forth in Chapter 37-2, RIGL,~~ shall apply to all the procurements of every state governmental body with the following exceptions:

1.2.2.1 Secretary of State printing, advertising, and election expenses ~~[37-2-74].—~~ All printing, binding and advertising and election expenses in connection with all primaries and elections, advertising Rhode Island, and all legislative printing, including the printing of the public laws and acts and resolves, shall be purchased by the Secretary of State and in respect to said purchases the Department of State shall be exempt from the

requirements of ~~Chapter 37-2~~ the State Purchases Act. ~~which relate to the function of purchasing.~~ *Cf.* R.I. Gen. Laws § 37-2-74.

1.2.2.2 General Assembly: ~~[22-11-3(5/6)]~~ The Joint Committee on Legislative Management shall have the exclusive responsibility for procurement for the General Assembly~~:~~ in regards to ~~O~~office space, supplies, equipment, professional and technical assistants, rental, installation and maintenance of equipment. *Cf.* R.I. Gen. Laws § 22-11-3

1.2.2.3 Public Agency: ~~[37-2-12(1)] A public agency does not have~~ While public agencies may, but are not required to utilize the centralized purchasing system of the state, ~~but the~~ public agency~~ies~~, through ~~its existing~~ internal purchasing functions, shall adhere to the general principles, policies and practices set forth in ~~this chapter [37-2]~~ the State Purchases Act. *Cf.* R.I. Gen. Laws §37-2-12 (1)

1.2.2.4 Public agencies may utilize the state ~~Central Purchasing Authority~~ centralized purchasing system as ~~a procurement agency~~ provided that such ~~activity~~ usage is conducted in accordance with all purchasing policies, procedures and regulations promulgated by the Chief Purchasing Officer.

## 1.3 GENERAL DEFINITIONS

In accordance with the State Purchases Act the following definitions shall be applicable to state procurements and to the Procurement Regulations:

1.3.1 "APRA" shall mean the "Access to Public Records Act," R.I. Gen. Laws § 38-2-1, *et seq.*

1.3.2 ~~1.3.1~~ ~~[37-2-7(1)]~~ "Business" shall mean any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other legal entity through which business is conducted. *Cf.* R.I. Gen. Laws § 37-2-7 (1)

1.3.3 "Change Order" shall mean a written authorization signed by the purchasing agent directing or allowing the contractor to proceed with changes, alterations, or modifications to the terms, conditions, or scope of work on a previously awarded contract.

1.3.4 "Chief Purchasing Officer" shall mean (i) for a state agency, the director of the department of administration, and (ii) for a public agency, the executive director or the chief operational officer of the agency.

1.3.5 ~~1.3.2~~ ~~[37-2-7(4)]~~ "Construction" shall mean the process of building, altering, repairing, improving or demolishing any public structures or building, or other public improvements of any kind to any public real property. ~~It does~~ Provided, however, that "construction" shall not include the routine maintenance or repair of existing structures, buildings, or real property routinely performed by salaried employees of the state in the usual course of their job. *Cf.* R.I. Gen. Laws § 37-2-7 (4)

1.3.6 ~~1.3.3 [37-2-7(8)]~~ "Data" shall mean recorded information, regardless of storage method, form or characteristic. *Cf.* R.I. Gen. Laws § 37-2-7 (8)

1.3.7 ~~1.3.4 [37-2-7(9)]~~ "Designee" shall mean a duly authorized representative of a person holding a superior position. *Cf.* R.I. Gen. Laws § 37-2-7 (9)

1.3.8 ~~1.3.5~~ ~~[37-2-7(11)]~~ "Governmental body" shall mean any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, including, without limitation, the Board of Governors for Higher Education and Board of Regents - Elementary and Secondary Education or other establishment of the executive, legislative, or judicial branch of the state. *Cf.* R.I. Gen. Laws § 37-2-7 (11)

1.3.9 "Imprest Fund" shall mean a petty cash fund used by a state agency or department for making disbursements requiring prompt cash outlays. *Cf.* R.I. Gen. Laws § 37-2-55.

1.3.10 "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

1.3.11 ~~1.3.6 [37-2-7(12)]~~ "May" shall mean permissive. *Cf.* R.I. Gen. Laws § 37-2-7 (12)

1.3.12 ~~1.3.7~~ ~~[37-2-7(14)]~~ "Person" shall mean any business, individual, organization or group of individuals. *Cf.* R.I. Gen. Laws § 37-2-7 (14)

1.3.13 ~~1.3.8 [37-2-7(15)]~~ "Procurement" shall mean the purchasing, buying, renting, leasing or otherwise obtaining of any supplies, services, or construction. It shall also include all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration. *Cf.* R.I. Gen. Laws § 37-2-7 (15)

1.3.14 ~~1.3.9~~ "Proprietary Information" shall mean information or data describing technical processes, mechanisms, or operational factors that a business wishes to keep from general public view in order to maintain competitive capabilities in the market. *See* "trade secret."

1.3.15 ~~1.3.10~~ "Protest" or bid protest shall mean a written complaint about a governmental action or decision filed ~~brought~~ by a prospective bidder, a bidder, a contractor, or other interested party ~~to the appropriate administrative section~~ with the chief purchasing officer in accordance with the State Purchases Act and Procurement Regulations with the intention of achieving a remedial result.

1.3.16 ~~1.3.11~~ "Public Agency"~~. In accordance with Chapter 37-2-7(16) of the RIGL, a "public agency"~~ shall mean ~~be defined as~~ any of the following agencies and any other body corporate and politic which has been herebefore or which is hereinafter created or established ~~within this state~~ by Act of the General Assembly excepting cities and towns:

~~Rhode Island Industrial and Recreational Facilities Authority~~
~~Rhode Island Port Authority and Economic Development Corporation~~
~~Rhode Island Industrial Facilities Corporation~~
~~Rhode Island Public Buildings Authority~~
~~Rhode Island Housing and Mortgage Finance Corporation~~
~~Rhode Island Solid Waste Management Corporation~~
~~Rhode Island Public Transit Authority~~
~~Rhode Island Student Loan Authority~~
~~Howard Development Corporation~~
~~Water Resources Board Corporate~~
~~Rhode Island Health and Education Building Corporation~~
~~Rhode Island Higher Education Assistance Authority~~
~~Rhode Island Turnpike and Bridge Authority~~
~~Blackstone Valley (Sewer) District Commission~~
~~Narragansett Bay Water Quality District Commission~~
~~Rhode Island Public Telecommunications Authority~~
~~Convention Center Authority~~
~~Channel 36 Foundation~~

- Rhode Island Industrial Recreational Facilities Authority
- Rhode Island Economic Development Corporation
- Rhode Island Industrial Facilities Corporation
- Rhode Island Refunding Bond Authority
- Rhode Island Housing and Mortgage Finance Corporation
- Rhode Island Resource Recovery Corporation
- Rhode Island Public Transit Authority
- Rhode Island Student Loan Authority
- Howard Development Corporation
- Water Resources Board Corporate
- Rhode Island Health and Education Building Corporation
- Rhode Island Higher Education Assistance Authority
- Rhode Island Turnpike and Bridge Authority
- Blackstone Valley District Commission
- Narragansett Bay Water Quality Management District Commission
- Rhode Island Telecommunications Authority
- Convention Center Authority
- Channel 36 Foundation
- Rhode Island Lottery Commission

*Cf.* R.I. Gen. Laws § 37-2-7 (16)

1.3.17 "Public Copy" shall mean a copy of a bidder's redacted proposal available for public inspection as required by R.I. Gen. Laws § 37-2-18 and Procurement Regulations § 5.11.

1.3.18 "Public Works" shall mean any work which consists of grading, clearing, demolition, improvement, completion, repair, remodeling, alteration, or construction of any public road, highway, bridge, or any portion thereof, or of any public building, structure, or facility, or any portion thereof, including but not limited to heavy construction. Public works shall not include the supply of goods, materials, products, professional services, or maintenance services except as a required element of a solicitation for the aforementioned work.

1.3.19 "Public Works Arbitration Act" shall mean R.I. Gen. Laws § 37-16-1, *et seq.*

1.3.20 ~~1.3.12 [37-2-7(18)]~~ "Purchasing agency" shall mean any state governmental body which enters into a contract to procure supplies, services or construction or the ~~Central Purchasing Authority~~ Department of Administration/Division of Purchases acting on behalf of another governmental body. *Cf.* R.I. Gen. Laws § 37-2-7 (18)

1.3.21 "Purchasing Agent" shall mean the person appointed in accordance with R.I Gen. Laws § 37-2-1. It also means any person with delegated authority in accordance with procedures prescribed by regulations, to enter into and administer contracts and make written determinations and findings with respect to contracts.

1.3.22 "Request for Proposals" also known as "RFP" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

1.3.23 "Responsible Bidder" or "Offeror" means a person who has the capability in all material respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

1.3.24 "Responsive Bidder" means a person who has submitted a bid, proposal or quotation which conforms in all material respects to a solicitation.

1.3.25 ~~1.3.13 [37-2-7(20)]~~ "Services" shall mean the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services. "Services" does not include labor contracts with employees of state agencies. *Cf.* R.I. Gen. Laws § 37-2-7 (20)

1.3.26 ~~1.3.14 [37-2-7(21)]~~ "Shall" shall mean imperative. *Cf.* R.I. Gen. Laws § 37-2-7 (21)

1.3.27 "Solicitation" means an Invitation for Bids, a Request for Proposals, a request for quotations, or any other document issued for the purpose of soliciting bids or proposals to perform a contract.

1.3.28 ~~1.3.15 [37-2-7(25)]~~ "State" shall mean the State of Rhode Island and any of its departments, ~~or~~ agencies, or ~~and~~ public agencies. *Cf.* R.I. Gen. Laws § 37-2-7 (22)

1.3.29 ~~1.3.16~~ "State agency" shall mean any state governmental body other than the General Assembly or public ~~body~~ agency as defined herein.

1.3.30 ~~1.3.17~~ "Trade Secret" shall mean ~~any aspect of a business or its operation not made available to competitors.~~ a formula, pattern, device, or compilation of information which is used in a vendors business and which gives a vendor the opportunity to obtain advantage over competitors who neither know or use it. *See* "proprietary information."

1.3.31 ~~1.3.18 [37-2-7(24)]~~ "Using Agency" shall mean any governmental body or public agency of the state which utilizes any supplies, services or construction procured ~~under this chapter [37-2].~~ for the benefit of the state. *Cf.* R.I. Gen. Laws § 37-2-7 (24)

## 1.4 DOCUMENTATION AND REPORTS

1.4.1 Purchase Reports

1.4.1.1 ~~[37-2-54(9)]~~ The Department of Administration/Division of Purchases shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the Chief Purchasing Officer, the Governor, and the General Assembly. *Cf.* R.I. Gen. Laws § 37-2-54 (i)

1.4.1.2 ~~[37-2-54(9)]~~ The Chief Purchasing Officer shall ~~also~~ report trends in costs and prices, including savings realized through improved practices, to ~~the above authorities~~. the Governor and General Assembly. *Cf.* R.I. Gen. Laws § 37-2-54 (9)

~~1.4.1.3 Sole Source, Emergency and Small Purchases~~

1.4.1.3 ~~1.4.1.3.1 In accordance with Section [37-2-37] t~~ The Purchasing Agent shall compile annually within ninety (90) days following the close of the fiscal year an annual summary report of procurement actions for sole source, emergency, and small purchase contracts made during the preceding fiscal year. The summary shall (1) name each contractor, and (2) state the amount and type of each contract.

1.4.1.4 ~~1.4.1.3.2~~ All documentation of contracts made for such procurements shall be made available for public inspection in accordance with the APRA and retained ~~for a period of five (5) years.~~ in accordance with the approved records retention schedule.

1.4.2 ~~Adequate written records~~ Sufficient information, including but not limited to copies of written and signed determinations, shall be maintained in purchasing files to document procurement activities, reasons for selection of the supplier's product/service and justification of price. Every determination required by the State Purchases Act and these Regulations shall be written and based upon written findings of fact by the public official

making the determination. These determinations and written findings shall be retained in an official contract file in the Department of Administration/Division of Purchases or in the office of the using agency or public agency administering the contract.

1.4.2.1 At a minimum, documentation shall include adequate justification of source selection and pricing.

1.4.2.2 The extent of documentation may vary with user agency needs and requirements and the value and complexity of the purchase.

1.4.2.3 Procurement officials shall be required to provide an "audit trail" for every purchase. Such documentation shall be recorded and maintained in accordance with procedures established by the Purchasing Agent. Purchasing personnel shall document and maintain records of all actions with respect to a purchase for the purpose of:

- ~~1.4.2.3.1~~ providing background information to assure that informed decisions are made at each step in a procurement;
- ~~1.4.2.3.2~~ rationale for action taken;
- ~~1.4.2.3.3~~ providing information for reviews and audits conducted by purchasing management and audit agencies; and
- ~~1.4.2.3.4~~ furnishing facts in the event of litigation.

1.4.3 Purchasing documentation shall be signed or initialed (as appropriate) by duly authorized officials. ~~Such signature or initialing~~ This shall constitute certification by the official that the action documented meets the administrative requirements for which he/she is responsible.

1.4.3.1 ~~Annually~~ tThe Director/Chief Executive of each user agency shall submit to the Chief Purchasing Officer for approval, a list of agency officials who shall have the authority to act on behalf of the agency. The approved list shall be placed on file at the Department of Administration's ~~Offices~~ Division of Purchases, Office of Accounts and Control and Budget Office.

1.4.3.1.1 All procurement authorizations shall be specific as to:

- ~~1.4.3.1.1.1~~ maximum levels of expenditure commitment, program account; and
- ~~1.4.3.1.1.2~~ persons authorized to call ~~Office~~ Division of Purchases personnel to obtain information or provide clarification ~~on requisitions~~ regarding procurements; and

- ~~1.4.3.1.1.3~~ agency officials who ~~will~~ have the authority to decide whether a situation requires an emergency ~~purchasing~~ procurement action and who ~~will be~~ are responsible for following emergency ~~purchasing~~ procurement procedures.

1.4.3.1.2 The Chief Purchasing Officer shall have the right to reject for cause the authorization of any official to represent an agency in procurement transactions.

1.4.3.2 State Purchase Orders shall require the original signature of either the Chief Purchasing Officer, the Purchasing Agent or ~~his~~ their respective designee.

1.4.3.3 Requisitions shall require the ~~original~~ signature of an official designated by the user agency Director/Chief Executive as a agent authorized to act on his behalf for procurement transactions.

1.4.3.4 Requisitions submitted to the ~~Office~~ Division of Purchases shall require the ~~original~~ signature of an official designated by the Budget Officer as responsible for certifying ~~as to~~ the availability of funds for purchasing actions.

1.4.4 Documentation records may be ~~in the form of~~ maintained as paper copies, microfilms, electronic or digital computer files or other means permitted in accordance with procedures established and published by the Chief Purchasing Officer, or shall be original documents as required by law or the State Controller.

1.4.5 Audit of contractors records.

1.4.5.1 ~~In accordance with [37-2-34(2)] the Department of Administration~~ The Chief Purchasing Officer may authorize an audit ~~the~~ of books and records of any ~~person~~ contractor or vendor who ~~has submitted~~ submited cost or pricing data for certain negotiated contracts or change orders at any time until the period of record retention as set forth in R.I. Gen. Laws § 37-2-34(3) shall have expired. ~~The right to audit hereunder~~ Audits conducted hereunder shall only ~~extend~~ be limited to those books and records reasonably ~~connected with~~ related to cost or pricing data submitted to the state in accordance with R.I. Gen. Laws § 37-2-28. Audits may be conducted by the Bureau of Audits, the Auditor General, or by an independent audit firm. *Cf.* R.I. Gen. Laws § 37-2-34

~~(Note: Actual reference is to 37-2-27, which addresses prequalification of construction management vendors; 37-2-28 addresses cost and pricing data, so an assumption was made that the latter was the correct reference.)~~

~~1.4.5.1.1 "Certain negotiated contracts or change orders" shall mean negotiated contracts exceeding fifty thousand dollars ($50,000) and negotiated change orders exceeding twenty five thousand dollars ($25,000).~~

~~1.4.5.2 [37-2-34(3)] The Department of Administration or the Auditor General may audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price type contract.provided, however, that this~~

~~subsection shall not limit the right to audit as set forth in subsection (2) of this section [37-2-34].~~

1.4.5.2 ~~1.4.5.3 [37-2-34(2/3)] Such~~ Books and records relating to state contracts shall be made available ~~maintained~~ by the contractor or vendor for review and copying by the state auditor immediately upon receipt of notice from the Chief Purchasing Officer. Failure by a contractor or vendor to make its books and records available for audit shall result in immediate contract suspension and/or debarment of the contractor or vendor. ~~for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years from the date of the final payment under the subcontract~~

1.4.6 ~~[37-2-36(2)]~~ All documents ~~involved in~~ relating to any procurement in which collusion or fraud is suspected shall be ~~retained until~~ made available upon request to the Attorney General ~~gives notice that they may~~ or his designee and shall be ~~released, and all such documents shall be made available to~~ retained until the Attorney General ~~or his designee upon request.~~ gives notice that they may be released *Cf.* R.I. Gen. Laws § 37-2-36

1.4.7 RESERVED ~~In accordance with [37-2-6] Every determination required by Chapter 37-2 and the policies contained herein shall be in writing and based upon written findings of fact by the public official making the determination. These determinations and written findings shall be retained in an official contract file in the Office of the Chief Purchasing Officer or in the office of the using agency or public agency administering the contract. For the purposes of this section, the Office of Purchases shall be considered synonymous with the "Office of the Chief Purchasing Officer."~~

~~1.4.8 [37-2-18(a-h)] Each bid, together with the name of the bidder, shall be recorded and an abstract made available for public inspection, except as otherwise provided for pursuant to RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations. Subsequent to the awarding of a bid, all documents pertinent to the awarding of the bid shall be made available and open to public inspection, except as otherwise provided for pursuant to RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations. and retained in the bid file.~~

1.4.8 ~~1.4.8.1~~ "Bid Abstract" shall mean a summary ~~of responsive bids to a solicitation.~~ tabulation which identifies each bidder and the dollar amount of each bid received and opened in response to a public solicitation; provided, however, that bid abstracts for requests for proposals requiring submission of separate technical and cost proposals shall be limited to bidder identification until such time as the Purchasing Agent renders a contract award determination.

1.4.8.1 Records exempted from public disclosure by APRA need not be publicly disclosed, except as otherwise authorized.

~~1.4.8.2 All documentation records shall be subject to public disclosure with the following exceptions:~~

~~1.4.8.3.1 Information of a proprietary nature submitted by vendors, except as otherwise provided for pursuant to RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations; and~~

~~1.4.8.4.2 Information furnished by a bidder in connection with an inquiry related to responsibility.~~

~~1.4.8.5 The Purchasing Agent shall assure that information not in the public domain is not divulged, except as otherwise provided for pursuant to RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations.~~

~~1.4.8.6 Bids shall not be available for public inspection at the bid opening, except as otherwise provided for pursuant to RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations. Abstracts of bid information shall be available for public inspection at the Office of Purchases no later than ten (10) working days after an award has been made, except as otherwise provided for pursuant to RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations.~~

~~1.4.8.7 Requests for access to records other than bid abstracts shall be made in writing and signed by the applicant, except as otherwise provided for pursuant to RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations.~~

~~1.4.8.8. The Purchasing Agent shall have a reasonable time to respond to requests for access to information, except as otherwise provided for pursuant to RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations.~~

1.4.8.2 ~~1.4.8.9. Reviews of document~~ Public inspection of procurement records shall be permitted by appointment only and shall be conducted under the supervision of an ~~Office~~ Division of Purchases official, except as otherwise provided for pursuant to R.I.Gen.Laws § 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations.

1.4.8.3. ~~1.4.8.10~~ No ~~documentation~~ original procurement records shall be removed for public inspection from the Division of Purchases. ~~from the premises of the Office of Purchases without the written consent of the Chief Purchasing Officer.~~

## 1.5 BREACH OF CONTRACT DISPUTES

~~1.5.1 [37-2-46] Authority to resolve contract and breach of contract controversies. Prior to the institution of arbitration or litigation concerning any contract, claim, or controversy, the Chief Purchasing Officer is authorized, subject to any limitations or conditions imposed by regulations, to settle, compromise, pay, or otherwise adjust the~~

~~claim by or against or controversy with, a contractor relating to a contract entered into by the Department of Administration on behalf of the state or any state agency, including a claim or controversy based on of contract, mistake, misrepresentation, or other cause for contract modification or rescission, but excluding any claim or controversy involving penalties or forfeitures prescribed by statute or regulation where an official other than the Chief Purchasing Officer is specifically authorized to settle or determine such controversy.~~

1.5.1~~1.5.1.1~~ "Contract dispute" shall mean a circumstance whereby a contractor and the state user agency are unable to arrive at a mutual interpretation of the requirements, limitations, or compensation for the performance of a contract.

1.5.2 ~~1.5.1.2~~ The Purchasing Agent ~~shall be~~ is authorized to resolve contract disputes between contractors and user agencies upon the submission of a request in writing from either party, which request shall provide:

- ~~1.5.1.2.1~~ a description of the problem, including all appropriate citations and references from the contract in question,

- ~~1.5.1.2.2~~ a clear statement by the party requesting the decision of his interpretation of the contract, and

- ~~1.5.1.2.3~~ a proposed course of action to resolve the dispute.

1.5.3 The other contracting party shall respond within five business days.

1.5.4 ~~1.5.1.3~~ Within fourteen (14) calendar days after receipt of a contract dispute ~~T~~the Purchasing Agent shall determine in writing whether:

- ~~1.5.1.3.1~~ the interpretation provided is appropriate,

- ~~1.5.1.3.2~~ the proposed solution is feasible, or

- ~~1.5.1.3.3~~ another solution may be negotiable.

1.5.5 ~~1.5.1.4~~ The Purchasing Agent may assess dollar damages against vendors or contractors determined to be non-performing or otherwise in default of their contractual obligations equal to the cost of remedy incurred by the State. ~~and make p~~Payment of such damages shall be a condition precedent for ~~consideration of~~ any subsequent change or contract award. Failure by the vendor or contractor to pay such damages shall constitute just cause for disqualification and rejection, suspension, or debarment.

1.5.6 Any appeal from the Purchasing Agent's determination of a contract dispute or assessment of damages must be filed with the Chief Purchasing Officer within fourteen (14) calendar days and in accordance with the "bid protest" procedures set forth in Section 1.6 of these regulations entitled "Resolution of Protest."

~~1.5.2 [37-2-47] Failure to render timely decisions. This section shall apply to a claim or controversy arising under contracts between the state and its contractors. If such a claim or controversy is not resolved by mutual agreement, the Chief Purchasing Officer or his designee, shall promptly issue a decision in writing. A copy of the 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.~~

~~1.5.3 Legal Remedy for Disputes~~

~~1.5.3.1 Public Works Contracts - In accordance with R.I. Gen. Laws § 37-2-48 disputes involving public works construction contracts shall be resolved in accordance with the provisions for arbitration set forth in Chapter 37-16 of the General Laws of Rhode Island. the Public Works Arbitration Act.~~

~~1.5.3.2 Other Contracts - [37-2-49(2)] Any person, firm or corporation, having a lawfully authorized written contract with the state at the time of or after January 1, 1990 may bring an action against the state on the contract, including but not limited to actions either for breach of contracts or for enforcement of contracts or for both. Any such claim shall be commenced in Superior Court within three (3) years from the date of completion specified in the contract and shall be tried by the court sitting without a jury. Such case shall receive a priority position on the calendar. All defenses in law or equity, except the defense of governmental immunity, shall be preserved to the state.~~

~~1.5.3.3 [37-2-49(3)] The Superior Court shall enter its findings as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil cases, subject to the provisions of this Chapter.~~

~~1.5.3.4 [37-2-49(4)] Appeals may be taken to the Supreme Court under the same conditions and under the same practice as appeals are taken from judgments in civil cases rendered by the Superior Court.~~

~~1.5.3.5 [37-2-49(5)] If damages awarded on any contract claim under this section exceed the original amount of the contract, such excess shall be limited to an amount which is equal to the amount of the original contract.~~

~~1.5.3.6 [37-2-49(6)] No person, firm or corporation shall be permitted more than one (1) money recovery upon a claim for the enforcement of or for breach of contract with the state.~~

~~1.5.4 Settlement of dispute~~

1.5.4.1 [37-2-50(1)] The first five hundred thousand dollars ($500,000) of any arbitration award or Superior court judgment against the state awarding damages on a contract claim under the provision of state purchasing law shall be a necessary governmental expense and payment shall be approved by the Chief Purchasing Officer and paid by the State Treasurer out of the General Fund upon warrants drawn by the Chief Purchasing Officer. Appropriations for these judgments shall be continued appropriations.

1.5.4.2 [37-2-50(2)] The Governor shall request an appropriation from the next regular session of the General Assembly for the purpose of satisfying all such awards and judgments granted during the preceding two (2) fiscal years which are not satisfied under [provisions set forth in Chapter 37-2-50(1) of the RIGL].

## 1.6 RESOLUTION OF PROTESTS

1.6.1 [37-2-51] The decision of any official, board, agent, or other person appointed by the state concerning any controversy arising under, or in connection with, the solicitation or award of a contract, shall be entitled to a presumption of correctness and shall not be disturbed unless the decision was procured by fraud; in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error or law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by the abuse of discretion or clearly unwarranted exercise of discretion.

1.6.2 Authority to resolve protests

1.6.2.1 [37-2-52(1)] The Chief Purchasing Officer or his designee shall have authority to determine protests and other controversies of actual or prospective bidders or offerors in connection with the solicitation or selection for award of a contract.

1.6.2.2 [37-2-52(2)] Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or selection for award of a contract 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, except as otherwise provided for pursuant to RIGL 37-2-18 (a) (h) "Competitive Sealed Bidding" and these regulations. All protests or notices of other controversies must be in writing.

1.6.2.3 [37-2-52(3)] The Chief Purchasing Officer shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

1.6.3 [37-2-53] In the event of a protest timely filed under Section 37-2-52(2) of this chapter, and except as otherwise provided for pursuant to RIGL 37-2-18 (a) (h) "Competitive Sealed Bidding" and these regulations, , the state shall not proceed further

~~with the solicitation or award involved, until the Chief Purchasing Officer makes a written and adequately supported determination that continuation of the procurement is necessary to protect substantial interest of the state.~~

~~1.6.3.1 The protestor may request access to documentation to support his protest.~~

~~1.6.3.2 The Purchasing Agent shall assure that information not in the public domain is not divulged, except as otherwise provided for pursuant to RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations.~~

~~1.6.3.3 Requests for access to records shall be made in writing and signed by the protestor, and, where applicable, shall be in compliance with the requirements of RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations.~~

~~1.6.3.3.1 The Purchasing Agent shall have a reasonable time to respond to requests for access to information, and, where applicable, the Purchasing Agent's response shall be in compliance with the requirements of RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations.~~

~~1.6.3.3.2 Reviews of document records shall be permitted by appointment only and shall be conducted under the supervision of an Office of Purchases official, except as otherwise provided for pursuant to RIGL 37-2-18 (a)-(h) "Competitive Sealed Bidding" and these regulations.~~

~~1.6.3.3.3 No documentation shall be removed from the premises of the Office of Purchases without the written consent of the Chief Purchasing Officer.~~

1.6.1 "Bid protest" shall mean a protest, complaint or challenge by an aggrieved actual or prospective bidder or offeror (hereinafter "protestor") in connection with the solicitation or selection for award of a contract for the purchase of goods, services, and or public works projects by a state agency and or the division of purchases. For the purpose of these regulations the term "aggrieved" shall mean that the protestor has an economic interest which will be adversely impacted by the solicitation or award of a contract.

1.6.2.1 For the purpose of these regulations notice of a bid protest pursuant to R.I. Gen. Laws § 37-2-52 must be filed with the chief purchasing officer by the protestor, addressed as follows:

Chief Purchasing Officer (BID PROTEST)
c/o Office of the Director
Department of Administration
One Capitol Hill
Providence, RI 02908

1.6.2.2 In addition, a true and accurate copy thereof must be filed with:

Division of Legal Services (BID PROTEST)
Department of Administration
One Capitol Hill
Providence, RI 02908.

1.6.2.3 A bid protest may be filed by U.S. Mail, hand-delivery, courier service or facsimile, but may not be filed by electronic mail ("e-mail"). For the purposes of these regulations the date of "filing" shall be the date that a protest is actually received by the chief purchasing officer.

1.6.3 The protester's notice to the chief purchasing officer shall clearly state that it is a bid protest, and at a minimum shall include the following information: (1) the name, street address, e-mail address, telephone and facsimile numbers of the protester (or its representative, if any); (2) original signature of the protestor or its representative; (3) identity of the contract, solicitation or award at issue; (4) a detailed statement of facts and circumstances that gave rise to the protest, together with copies of any available relevant documents; (5) all information establishing that the protestor is an aggrieved party for the purpose of filing a protest; (6) citations to any relevant statutes or regulations; and, (7) a brief statement as to the form of relief requested; and, (8) a statement of whether the protestor has submitted a request for the disclosure of public records that are pertinent to the bid protest, and if such a request has been submitted, a copy thereof. A protest that fails to contain the required information may be denied.

1.6.4 Timeliness of Bid Protest.

1.6.4.1 A bid protest must be filed in accordance with Rule 1.6.2 and within the following time limits:

1.6.4.1.1 bid protests regarding the form or content of solicitation documents must be received by the chief purchasing officer not later than fourteen (14) calendar days before the date set in the solicitation for receipt of bids. If grounds for a bid protest did not exist at the initial solicitation, but arose as the result of an amendment to the solicitation, then the bid protest must be received by the chief purchasing officer no later than fourteen (14) calendar days before the next closing time established for receipt of bids. If the date set in the solicitation for receipt of bids is less than fourteen (14) calendar days from issuance, a bid protest concerning the form or content of the solicitation documents must be received by the chief purchasing officer not less than forty-eight (48) hours before the date set for receipt of bids.

1.6.4.1.2 In all other cases, protests must be received by the chief purchasing officer not later than fourteen (14) calendar days after the protester knew or should have known, whichever is earlier, the facts giving rise to a protest.

1.6.4.1.3 For bid protests regarding the form or content of the solicitation documents, the facts giving rise to the protest shall be presumed to be known to the protester on the date

the solicitation, or an amendment thereto, was posted to the division of purchases' procurement web site. For bid protests arising from bid opening procedures and or award of the contract, the facts giving rise to the protest shall be presumed to be known to the protester on either the date of bid opening or the date the contract award was posted to the division of purchases' procurement web site.

1.6.4.1.4 New factual allegations made after the initial protest without a new and separate showing of timeliness shall be deemed to be untimely.

1.6.4.1.5 The fourteen (14) day period in which to file a protest does not include the day on which the alleged basis for protest arises. If the last calendar day within which a protest is to be filed falls on a Saturday, Sunday, state holiday or a day when the state or division of purchases is closed, the period in which to file a protest is extended to the next day not a Saturday, Sunday, state holiday or when the state or division of purchases is not closed.

1.6.5 Protests of different contract solicitations or awards must be filed separately.

1.6.6 Upon receipt of a bid protest timely filed neither the contracting agency, nor the division of purchases shall proceed further with the solicitation or award of a contract, until the chief purchasing officer issues a written determination that authorizes the contracting agency or the division of purchases to proceed with the solicitation or award as being necessary to protect a substantial interest of the state.

1.6.7 The chief purchasing officer shall issue a written determination in response to a bid protest within thirty (30) calendar days of the receipt thereof. The chief purchasing officer reserves the right to waive or extend the time requirements for such written determination when, in his/her sole judgment, circumstances so warrant.

1.6.8 The chief purchasing officer's written determination shall state whether the protest is granted or denied, the reasons therefore and any action(s) to be taken in response thereto. A copy of the chief purchasing officer's written determination shall be mailed to the protestor.

1.6.9 In the event that the protestor requests access to documents relating to the solicitation or award pursuant to the "Access to Public Records Act," R.I. Gen. Laws § 38-2-1, *et seq.* in conjunction with the bid protest, then the chief purchasing officer may defer issuing his written determination until thirty (30) days after the response(s) to the APRA request has been issued.

## 1.7 IMPREST FUNDS

~~1.7.1 [37-2-55(1)] Subject to the provisions of this chapter any budget unit, when provided for by appropriation or when authorized by the Department of Administration may establish one (1) or more imprest cash funds for the purpose of making~~

~~disbursements requiring prompt cash outlay, and to carry out the provisions of this chapter. The State Treasurer upon warrants to the Chief Purchasing Officer based upon a requisition for the head of the budget unit, shall pay to the head of such budget unit the amount necessary to establish such a fund.~~

1.7.1~~1.7.1.1~~ "Budget Unit" shall mean state agency or department.

1.7.2 ~~1.7.1.2~~ "Head" shall mean the Chief Executive Officer, Director or ~~E~~Executive Director of a state agency or department .

1.7.3 ~~1.7.1.3~~ Prior to the establishment of any imprest fund the agency shall submit to the State Controller a document demonstrating the need for such a fund. If the Controller determines that a such need exists and that adequate accounting controls are provided, ~~he~~ then ~~shall obtain the~~ approval shall be obtained from both ~~of~~ the state Budget Office and the Chief Purchasing Officer to establish the fund.

~~1.7.2 [37-2-55(2)] A custodian shall be designated by the head of the budget unit and certified by the Department of Administration after appropriate instruction and testing as qualified to administer the fund. The custodian shall, as often as may be necessary to replenish the fund and at least once each month file with the Chief Purchasing Officer a schedule of the disbursements from the fund, accompanied by appropriate vouchers and statements of indebtedness therefore approved by the head of the budget unit, and by a certificate as to the condition of the fund. The amount of the total of the approved voucher shall be paid to the custodian of the fund on the warrant of the Chief Purchasing Officer, and the amount shall be devoted to reimbursement of the fund. Any question relative to the amount to be allowed in any imprest cash fund, the expenditure thereof, the accounting therefore, and the repayment thereof to the state treasurer, shall be determined by the Chief Purchasing Officer.~~

1.7.4 ~~1.7.2.1~~ The Chief Purchasing Officer may delegate authority and responsibility for oversight of imprest fund cash flow to the State Controller.

~~1.7.3 [37-2-55(3)] The agency head shall be responsible for expenditures authorized from such funds, and the custodian shall be responsible for administration of the fund. Each agency head and custodian shall be separately bonded in the amount by which the total authorization for the fund exceeds the state blanket bond for such officials.~~

~~1.7.4 [37-2-55(4)] A post audit of each imprest fund shall be conducted.~~

1.7.5 ~~1.7.4.6~~ The ~~audit may~~ Chief Purchasing Officer may direct that post-audits of imprest funds be conducted by the Bureau of Audits, the Auditor General or by an independent audit. ~~firm approved by the Auditor General.~~

1.7.1.6 ~~1.7.4.2~~ Costs for ~~the~~ post audits of imprest funds shall be the responsibility of the budget unit responsible for the imprest fund.

~~1.7.5 [37-2-55(5)] Each imprest fund shall lapse with the appropriation for the next ensuing year or when authorized by the Chief Purchasing Officer, [whichever occurs first].~~

~~1.7.6 [37-2-55(6)] Where work is done on public projects by the state through the use of its own personnel or facilities in whole or in part, which work is not subject to the provisions of law for competitive bidding, the budget unit having such work performed may, when authorized by the Chief Purchasing Officer, establish an imprest cash fund for the purpose of defraying the expenses of the proposed project, which fund shall not exceed at any time an amount equal to twenty-five percent (25%) of the anticipated total cost of the project.~~

## ~~1.8 PURCHASING FOR MUNICIPALITIES AND REGIONAL SCHOOL DISTRICTS. [37-2-56]~~

~~The Chief Purchasing Officer shall permit, subject to such terms and conditions as he may prescribe, any municipality or municipalities or regional school district of the state, to participate in contract for the purchase of materials, supplies and equipment entered into by the Purchasing Agent. Any municipality or regional school district desiring to participate in purchase contracts shall file with the Chief Purchasing Officer a certified copy of a resolution of its council or regional school committee requesting that it be authorized to participate in purchase contracts of the Purchasing Agent and agreeing that it will be bound by such terms and conditions as the Purchasing Agent may prescribe, and that it will be responsible for payment directly to the vendor under each purchase contract.~~

~~1.8.1 Nothing herein shall prevent a municipality or regional school district, other political subdivision, or public agency from negotiating with vendors who have been awarded contracts for goods or services by the State, or from accepting a State contract as the basis for the award of a requirement by the municipality, regional school district, other political subdivision, or public agency, where rules, regulations, charter or ordinance permit.~~

## 1.8 ADMINISTRATIVE RESPONSIBILITY FOR CONTRACTUAL AND OTHER EXPENDITURES WHICH ARE NOT PROCUREMENTS

1.8.1 Contracts for concessions (cafeteria services, vending machines, recreational programs, transportation services, etc.) shall be deemed not to be procurements. Provided however, that contractors for concessions shall be subject to Section 10 of the Procurement Regulations.

1.8.2 Except for contracts for grants-in-aid, award of non-procurement contracts shall be subject to the same open, competitive procedures which apply to procurements and shall be subject to Section 10 of the Procurement Regulations.

1.8.3 The Chief Purchasing Officer may delegate authority to enter into non-procurement contracts; or

1.8.4 The Chief Purchasing Officer may direct the Purchasing Agent to oversee and/or administer competitive procedures prior to the award of non-procurement contracts, including, but not limited to, grants, interagency cooperative agreements, and concessions; provided, however, that such administrative authority shall not constitute responsibility for the selection of recipients of such contracts, or the substance of the accompanying agreements.

## ~~1.9 GOODS PRODUCED IN THE REPUBLIC OF SOUTH AFRICA [37-2-57]~~

~~In conformity with the policy of divestment established in Section 35-10-12, the state of Rhode Island, including all of its departments, agencies, authorities, and instrumentalities, shall refrain from the purchase of any goods which are known to be wholly produced in the Republic of South Africa. Such goods are those which are in their final form for use or consumption without additional processing, assembly, or manufacturing. Further, the state will give preference in its purchasing to companies not doing business in, or with, the Republic of South Africa. The Chief Purchasing Officer shall promulgate such rules and regulations as are necessary and proper to carry out the purpose of this section.~~

~~1.9.1 Firms expressing an interest in being placed on the state Bidders List shall be required to report whether the goods (in their final form) which the firm intends to supply are made in the Republic of South Africa.~~

## ~~1.10 ADMINISTRATIVE RESPONSIBILITY FOR CONTRACTUAL AND OTHER EXPENDITURES WHICH ARE NOT PROCUREMENTS~~

~~1.10.1 [37-2-7(5)] "Contract" shall mean all types of agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other items. It shall include awards, contracts of a fixed price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders, leases, letter contracts, purchase orders and construction management contracts. It also includes supplemental agreements with respect to any of the foregoing. With respect to the procurement regulations set forth herein, "contract" shall not apply to labor contracts with employees of state agencies.~~

~~1.10.1.1 Contracts for concessions (cafeteria services, vending machines, recreational programs, transportation services, etc.) shall be deemed not to be procurements.~~

~~1.10.2 Except for contracts for grants-in-aid, award of non-procurement contracts shall be subject to the same open, competitive procedures which apply to procurements.~~

~~1.11 [37-2-54(3)] No purchase or contract shall be binding on the state or any agency thereof unless approved by the Department [of Administration] or made under general regulations which the Chief Purchasing Officer may prescribe.~~

~~1.11.1 The Chief Purchasing Officer may delegate authority to enter into non-procurement contracts; or~~

~~1.11.2 The Chief Purchasing Officer may direct the Purchasing Agent to oversee and/or administer competitive procedures prior to the award of non-procurement contracts, including, but not limited to, grants, interagency cooperative agreements, and concessions. However, such administrative authority shall not constitute responsibility for the selection of recipients of such contracts, or the substance of the accompanying agreements.~~