

RHODE ISLAND TURNPIKE AND BRIDGE AUTHORITY

PROCUREMENT POLICY

Introduction

The purpose of this Procurement Policy is to set forth the general procurement principles that will govern the conduct of procurement activities by the **Rhode Island Turnpike and Bridge Authority**, a body corporate and politic ("RITBA"), and by RITBA personnel engaged in those activities. This Procurement Policy applies to all contracts for services, construction, equipment, and supplies, including without limitation, awards, purchase orders, and leases.

General Policy

The objectives of this Procurement Policy are to: (i) provide for public confidence in the procurement procedures of RITBA; (ii) ensure fair and equitable treatment of all persons who participate in the procurement process; (iii) provide economy in procurement transactions by fostering effective competition; (iv) provide safeguards for a procurement process of quality, integrity, and the highest ethical standards; (v) provide for clearly defined accountability and responsibility for procurement transactions; and (vi) ensure that RITBA, 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").

Authority

The Executive Director is appointed as the Chief Purchasing Officer for all purposes under the Act and this Procurement Policy. The Chief Purchasing Officer may appoint a Purchasing Agent. Contracts for services, construction, equipment, and supplies with a value in excess of \$5,000.00 must be approved by the members of RITBA, upon recommendation of the Chief Purchasing Officer or Purchasing Agent.

Competition

All procurement transactions, regardless of whether by sealed bid or by negotiation, and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition, wherever possible, consistent with applicable state and federal law and the policies and procedures of the members of RITBA's.. It is RITBA's procurement policy to maximize competitive opportunities and to encourage a competitive environment for vendors competing for RITBA contracts.

RITBA will utilize the State's Master Pricing Agreement list to the fullest practicable extent. In addition, RITBA will utilize the electronic Rhode Island Vendor Information Program maintained through the Department of Administration Division of Purchases for the purpose of providing vendors with notice of potential contracting opportunities.

Responsive and Responsible

State law requires that contracts be awarded based on the lowest price offered by a responsive and responsible vendor. A responsive vendor is one that offers a price for exactly what was requested or an acceptable alternative. The term "responsible vendor" refers to a vendor that is financially stable, dependable, professional, and honest.

Contracting Methods

RITBA recognizes the following four basic contracting methods in procuring services, construction, equipment, and supplies, both locally funded and federally assisted projects and programs:

- (i) competitive sealed bid;
- (ii) competitive negotiation;
- (iii) small purchases; and
- (iv) noncompetitive purchases.

A. Competitive Sealed Bids

Contracts that exceed \$5,000 (\$10,000 for construction contracts) must be awarded by competitive sealed bidding whenever this method is practicable under the circumstances. Public notice of the solicitation will be given, and the solicitation will state whether the award will be made on the basis of the lowest bid price or the lowest evaluated or responsive bid price.

B. Competitive Negotiation

Competitive negotiation is utilized when the Chief Purchasing Officer determines, in writing, that the use of competitive sealed bidding is not practicable. Competitive sealed bidding may not be practicable, by way of example, when it is not possible to detail fully the scope or quantity of the services or goods sought by RITBA. Contracts may also be competitively negotiated 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 RITBA would not be served by delay. Requests for proposals or requests for qualifications leading to a negotiated procurement shall be publicly advertised and solicited in order to obtain the greatest possible competition.

Any contract for professional services under \$20,000 requires the bidder to acknowledge that the entire value of any contract will not exceed \$20,000 in total, including without limitation, change orders.

C. Small Purchases

Purchases not exceeding \$5,000 (\$10,000 for construction) are considered "Small Purchases." Procurements that do not exceed \$250.00 may be accomplished without competitive solicitation if the prices are considered by the Purchasing Agent to be fair and reasonable. If practicable under the circumstances, the Purchasing Agent will obtain informal quotes and distribute purchase orders equitably among vendors. Small purchases in excess of \$250 require obtaining written bid proposals from a minimum of three (3) qualified vendors who are willing and able to compete effectively. Procurement requirements may not be divided in an artificial manner in order to qualify as a small purchase.

D. Noncompetitive Negotiation

When it is determined that there is only one 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 negotiation.

- **Sole Source Procurement**

Contracts may be awarded for a supply, service, equipment, or construction by noncompetitive negotiation when there is only one source. Sole source procurement will be allowed only on an extreme exception basis and must be documented and approved in writing by the Purchasing Agent (for contracts up to \$5,000) and the Chief Purchasing Officer, based on a written recommendation by the Purchasing Agent (for contracts in excess of \$5,000). Multiyear contracts require the prior approval of the members of RITBA. The Purchasing Agent will prepare a monthly report that identifies all such actions and include such report on the agenda of the members of RITBA.

Examples of sole source exceptions include, without limitation, circumstances in which:

- (i) there is only one responsible source and no other supplier, such as a utility company;
- (ii) the source demonstrates a unique and innovative concept not otherwise available to RITBA;
- (iii) specialized replacement or repairs parts are necessary to maintain the integrity or function of a system.

Each noncompetitive procurement over \$5,000 must be supported by documentation that justifies the selection of the vendor, including without limitation, a statement of the relevant circumstances and detailed information to support that statement. 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 delivery requirements, does not qualify as sufficient justification.

Additionally, the supporting documentation must provide:

- (i) cost and price analysis;
- (ii) summary of the negotiations with the vendor; and
- (iii) basis for determining that the price is fair and reasonable.

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.

In attempting to achieve the goal of maximizing competition to the greatest extent possible, alternative vendors will be pursued for sole source items by using compatible replacement parts as long as warranties and operational cost effectiveness are not affected by substitution.

- **Emergency Conditions Procurement**

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 such emergency procurements shall be made with such competition as is practicable under the circumstances. The determination of the basis for emergency and for the selection of the vendor must be in writing.

The Chief Purchasing Officer or the Purchasing Agent (in his or her absence) may react quickly to critical situations when the cost for the remedy or repair is in excess of \$250, and there is not sufficient time to undertake a public, formal or informal, bidding process.

An emergency means a situation to which an urgent response is required because of **immediate dangers to health and safety, threats to property and 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.

The Purchasing Agent will establish and maintain, through competitive bidding, a list of emergency response vendors. When practicable, the required services, construction,

equipment, or supplies will be obtained from a list of vendors selected by competitive process to provide specialized trade in emergencies. If an emergency cannot be addressed by a designated vendor, the Purchasing Agent shall obtain names and telephone numbers of responsible vendors.

E. Requests for Proposals

Requests for Proposals are utilized to solicit competitive offers in all cases where:

- (i) lowest price is not the sole or primary consideration to be used in determining an award;
- (ii) performance is neither specific nor objective, and open to the vendor's interpretation;
- (iii) it is otherwise anticipated that bid proposals may be substantially different and there is insufficient common ground for objective comparison; or
- (iv) 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.

Wherever possible, Request for Proposals shall define the performance or benefit required and shall set forth specific criteria to be utilized in evaluation of offers. Bid proposals will be evaluated by a committee comprised of representatives of RITBA on the basis of:

- (i) the qualifications of the vendors, established by professional accomplishment and previous experience;
- (ii) aspects of bid proposals that provide benefit, other than those based on cost; and
- (iii) other provisions of bid proposals that are determined to serve the best interests of RITBA.

Nothing herein shall be construed to preclude the possibility of determining an award solely on the basis of cost.

The evaluation of offers, including the weight assigned to various aspects of the bid proposals, and all award determinations, including the reasons for a selection recommendation, must be fully documented.

Public Records

Bid proposals will be opened publicly at the time and place specified in the solicitation. Bid proposals from vendors are public records pursuant to the Rhode Island "Access to Public Records Act," R. I. Gen. Laws §§ 38-2-1 et seq. Each bid proposal must include a "public copy" to be available for public inspection. Bidders may redact in the public copy any trade secrets or commercial or financial information which is of a privileged or confidential nature pursuant to the Access to Public Records Act.

Bid Security

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 (5%) percent of the bid proposal for construction contracts valued at greater than \$50,000. The Purchasing Agent may require surety, if appropriate, for any other contracts regardless of value.

Minority, Women, and Disadvantaged Business Enterprises

RITBA will take all steps to ensure that minority, women, and disadvantaged business enterprises certified by the Minority Business Enterprise Compliance Office of the Rhode Island Department of Administration ("MBEs") have an opportunity to participate in contracts for services, construction, equipment, and supplies wherever possible.

Affirmative steps shall include:

- (i) placing MBEs on solicitations lists;
- (ii) ensuring that MBEs are solicited whenever they are potential sources;
- (iii) when economically feasible, dividing requirements into smaller tasks or quantities to permit maximum participation by MBEs.

Reservation of Rights

RITBA reserves the right, at any time, for any reason, in its sole discretion, to: (i) revoke, suspend, or terminate any solicitation; (ii) accept or reject any and all bid proposals, in whole or in part; (iii) waive any technical defects, irregularities, or omissions in any bid proposals; and/or (iv) terminate any contract, with or without cause. The continuation of any contract is contingent at all times upon the availability of funds.

Compliance with Terms of Contract

Failure of a vendor to comply with the terms and conditions of any contract may result in nonpayment, suspension or termination of the contract, suspension or debarment of the vendor, or any other necessary or appropriate remedy.

RITBA Code of Ethics

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. All RITBA officials and employees are subject to the provisions of R.I. Gen. Laws §§ 36-14-4 through 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"). All members of RITBA and its employees will continue to adhere to the Rhode Island Code of Ethics in their procurement conduct on behalf of RITBA at all times and will also adhere to the special provisions of the supplemental State Code of Procurement Ethics promulgated pursuant to the Act.

Implementation

The policies herein set forth shall be implemented by the Chief Purchasing Officer. Violations of the provisions of this Procurement Policy, or any of RITBA's procurement policies and procedures, or any applicable state or federal laws or regulations shall be immediately reported to the Executive Director. The Executive Director shall have the authority to apply appropriate sanctions.