

**RHODE ISLAND INFRASTRUCTURE BANK**

**PROCUREMENT REGULATIONS**

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# RHODE ISLAND INFRASTRUCTURE BANK

## PROCUREMENT REGULATIONS

### ARTICLE I. GENERAL PROVISIONS:

Section 1.1. Introduction. The purpose of these Regulations is to ensure that the Rhode Island Infrastructure Bank (the “Bank”) follows the principles and policies of state purchasing as set forth in Chapter 2 of Title 37 of the Rhode Island General Laws in connection with the procurement of goods and services.

Section 1.2. Application. The Bank shall follow these Regulations as accepted and filed with the Secretary of State pursuant to Chapter 35 of Title 42, of the Rhode Island General Laws. Nothing in these regulations shall prevent the Bank from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement except where such terms and conditions may conflict with requirements of law, including, but not limited to, the provisions of these regulations regarding competitive procurement.

Section 1.3. Chief Purchasing Officer. The Executive Director is designated as the Chief Purchasing Officer (the “Chief Purchasing Officer”) for the purpose of these Regulations. He/She may appoint a Chief Purchasing Agent (the “Chief Purchasing Agent”) if needed to make recommendations to the Chief Purchasing Officer and to implement purchasing decisions. All purchases shall be approved by the Chief Purchasing Officer.

Section 1.4. Recycled/Environmentally Preferred Products. The Bank will, to the extent practicable, purchase recycled and/or environmentally preferred products for its use and will specify such in all Requests for Proposals.

Section 1.5. Purchases from Minority, Women, or Disabled Business Enterprises. Office supplies shall, to the extent possible, be purchased at the lowest cost possible while making use of Minority, Women, or Disabled Business Enterprises (MBE/WBE/DBE). The Bank will attempt to conform to Federal and State MBE/WBE/DBE utilization goals whenever possible and to the extent practicable.

Section 1.6. Repairs and Maintenance Agreements. Repairs and maintenance of equipment owned or leased by the Bank shall be in the form of a service contract by the purveyor of the equipment whenever possible and to the extent practicable.

Section 1.7. Dividing Procurements. The Chief Purchasing Officer shall not artificially divide orders for similar purchases which would result in exceeding the five thousand dollar (\$5,000) limit for goods or twenty thousand dollars (\$20,000) for services.

Section 1.8. Definitions. For purposes of these regulations, unless otherwise specified, all terms shall have the meanings ascribed in the laws governing State Purchases, R.I.G.L. § 37-2-1, et seq.

## ARTICLE II. MASTER PRICE AGREEMENTS

Section 2.1. Use of MPA. The Bank may make use of Master Price Agreements entered into between the State of Rhode Island and vendors of goods and services.

## ARTICLE III. SMALL PURCHASES:

Section 3.1. Small Purchases. Purchases not exceeding Five Thousand Dollars (\$5,000) are considered "Small Purchases" and may be awarded by the Chief Purchasing Officer in accordance with the procedures set forth below. Procurements which do not exceed two hundred and fifty dollars (\$250) may be accomplished without securing competitive quotations if the prices are considered by the Chief Purchasing Officer to be fair and reasonable. Small purchases in excess of two hundred and fifty dollars (\$250) require obtaining written, oral, or faxed quotations from a minimum of three (3) qualified vendors who are willing and able to compete effectively. Oral quotations may be utilized if they are documented in memo form and state the name of the supplier, the date contacted and the quoted price. This memo must be submitted with the purchase order requisition.

- (a) For purchases above two hundred and fifty dollars (\$250), at least three quotes must be obtained.
- (b) Telephone Quotes. For procurements between two hundred and fifty-one dollars (\$251) and one thousand dollars (\$1,000) at least three telephone quotes, documented in writing by a Bank official must be obtained. Even where a telephone quote is permitted, each potential vendor must be provided a written confirmation of quote either by regular mail, email, or fax.
- (c) Written Quotes. May be obtained through mail, personal delivery or fax. For procurements above one thousand dollars (\$1,000) written confirmation of all offers must be obtained from vendors.
- (d) It is important that the person obtaining the quotes set a deadline by which all written quotes must be received or the process may not have closure. This also ensures that the vendors have an equal opportunity to participate.
- (e) An official record of all quotes received must be retained with a copy of the appropriate documents, with the quote attached to purchase order requisitions.
- (f) Contract. A solicitation combined with an offer which results in an order being placed is deemed to be a contract between the Bank and the supplier.
- (g) Notification. A Bank official will notify the responsible vendor offering the lowest responsive price. Although a telephone order may suffice in many instances, a written

order is often preferable so that there is a record in case of a dispute if the vendor does not deliver what was requested or does not deliver within a reasonable time.

- (h) Award to Other than Low Bidder. When awarding to other than the low bidder, the record shall include a statement explaining the basis for the decision. Any such rationale must contain objective criteria, e.g. item offered did not meet specifications or brand and model requirements, item offered was not equivalent of what was requested or vendor has been suspended.
- (i) Cancellation. Contracts must be cancelled in writing, explaining the reason for the cancellation. A copy of this document must be part of the official record of the purchase. An example of a basis for cancellation is a vendor's failure to provide what was agreed to, referred to as "non-responsive."

#### ARTICLE IV. PURCHASE ABOVE SPECIFIED AMOUNT; BIDDING PROCESS:

Section 4.1. Purchases Subject to Competitive Bidding. Purchases exceeding the amounts specified by Articles III and V of these regulations, respectively, shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is practicable shall include whether:

- (a) Specifications can be prepared that permit an award on the basis of either the lowest bid price or the lowest evaluated bid price; and
- (b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

#### Section 4.2. Requests for Proposals.

- (a) For purchases to be made pursuant to competitive bidding, the Bank shall prepare a request for proposals ("Request for Proposals") outlining, to the extent practicable, the exact terms or specifications of the product or service needed.
- (b) The Request for Proposals shall state whether the award will be based on lowest bid price, or, on the lowest evaluated or responsive bid price. If the latter is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids, to the extent practicable.
- (c) Bid solicitations shall be made available utilizing the Rhode Island Vendor Information Program. The notice of the invitation for bids shall also be published on the Bank's Website and may utilize a newspaper of general circulation in the state not less than seven (7) nor more than twenty-eight (28) days before the date for opening the bids.
- (d) A bidder may make technical corrections to its bid prior to bid opening, but not

thereafter.

Section 4.3. Review of Bids and Contract Award.

- (a) Proposals will be opened publicly at a time and place indicated in the Request for Proposals which provides for adequate public notice of the invitation for bids. After the awarding of the bid, bidder information and an abstract of their bid and all information in relation to the bidding process shall be made available for public review.
- (b) The contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is accepted.
- (c) If the Chief Purchasing Officer determines in writing that (i) all bids submitted exceed funds available or budgeted for the purchase, (ii) that there are no additional funds available to permit and award to the lowest responsive and responsible bidder and (iii) the best interest of the Bank will not permit the delay incurred with a resolicitation under revised specifications, competitive negotiations may be conducted with the three (3) bidders (two (2) if there are only two (2) bidders) determined in writing to be the lowest responsive and responsible bidders, to the competitive sealed bid invitation. Revisions to the specifications shall be discussed with all potential award recipients.

Section 4.4. Cancellation of Request for Proposals. A Request for Proposals or an invitation to bid may be canceled at any time if it is determined, in writing by the Bank, to be in the best interest of the Bank.

Section 4.5. Bidder Responsibilities.

- (a) Responsibilities of bidders include but are not limited to:
  - (1) The description of the bidder's business and qualifications;
  - (2) The identification of key members who will contribute to fulfilling the bidder's responsibilities pursuant to the award;
  - (3) Provision of a listing of past work related to the current service description;
  - (4) The description of affirmative action programs and number and percent of minorities and women who hold key managerial positions in the firm;
  - (5) The description of the firm's use of state Minority, Women, and Disabled Business Enterprises (MBE/WBE/DBE);
  - (6) Provision of a listing of any litigation and proceedings or investigations which are currently being conducted or are threatened, including an indication of the current status of any proceedings.

- (b) Where appropriate, bidders shall provide an itemized schedule of professional service fees and disbursements and shall specify how fees will be calculated.

## ARTICLE V. CONTRACTUAL PROCUREMENT OF PROFESSIONAL SERVICES:

Section 5.1. Professional Services Under Twenty Thousand Dollars. The Purchasing Officer of the Bank shall have the authority to approve any purchase of architectural, engineering or consultant services up to the amount of five thousand dollars (\$5,000). The Purchasing Officer of the Bank shall, with the approval of the Board Chair, have the authority to approve any purchase for architectural, engineering or consultant services up to the amount of twenty thousand dollars (\$20,000) per said purchase. Any purchase of services that exceeds twenty thousand dollars (\$20,000) shall be transmitted to the Bank's Board of Directors for approval.

- (a) For every Bank project requiring architectural, engineering or consultant services, the fees for which are not reasonably expected to exceed five thousand dollars (\$5,000), the Bank's Purchasing Officer shall be responsible for the final selection of a qualified architectural, engineering or consultant firm for the project. For every Bank project requiring architectural, engineering or consultant services, the fees for which are not reasonably expected to exceed twenty thousand dollars (\$20,000), the Bank's Purchasing Officer shall, with the approval of the Board Chair be responsible for the final selection of a qualified architectural, engineering or consultant firm for the project. The Bank's Purchasing Officer shall notify the Board of Directors of that selection. The Purchasing Officer shall use the criteria set forth in R.I.G.L. §37-2-66 in making the determination. The determination shall be justified in writing.

Section 5.2. Professional Services Over Twenty Thousand Dollars. The Bank shall publicly announce requirements for architectural, engineering or consultant services, which are reasonably estimated to exceed twenty thousand dollars (\$20,000), and to negotiate contracts for those professional services on the basis of demonstrated competence and qualifications and at fair and reasonable prices. Any purchase of services that exceeds twenty thousand dollars (\$20,000) shall be transmitted to the Bank's Board of Directors for approval.

Section 5.3. Public Announcement of Needed Architectural, Engineering or Consultant Services. The Purchasing Officer of the Bank shall give public notice of the need for architectural, engineering, or consultant services which are reasonably estimated to exceed twenty thousand dollars (\$20,000). The public notice shall be published sufficiently in advance of the date when responses must be received in order that interested parties have an adequate opportunity to submit a statement of qualifications and performance data. The notice shall contain a brief statement of the services required, describe the project, and specify how much a solicitation containing specific information on the project may be obtained. The notice shall be published in a newspaper of general circulation in the state, on the Bank's website and in such other publications as in the judgment of the Chief Purchasing Officer or his/her designee.

Section 5.4. Subject to Bid. Contractual procurements of professional/consultant services, in excess of Twenty Thousand Dollars (\$20,000) shall be subject to the formal competitive bidding process set forth in Article IV hereof.

Section 5.5. Definition of Professional/Consultant Services. Contractual procurements of the following services shall be subject to this Article V:

- (a) Accounting Services;
- (b) Financial Advisor;
- (c) Bond Counsel;
- (d) Underwriters;
- (e) Computer Services;
- (f) Consultants;
- (g) Investment Advisory Services; and;
- (h) Other services not otherwise covered in these Regulations as determined by the Board.

Section 5.6. Solicitation. A solicitation shall be prepared which describes the Bank's requirements and sets forth the evaluation criteria. It shall be distributed to interested persons.

- (a) For services reasonably estimated to exceed twenty thousand dollars (\$20,000) the Board may require an informational conference to be held which describes the criteria to be used in evaluating the statement of qualification, performance data and selection of firms. Criteria shall include, but is not limited to:
  - (1) Competence to perform the service as reflected by technical training and education, general experience; experience in providing the required services; and the qualifications and competence of persons who would be assigned to perform the services;
  - (2) Ability to perform the services as reflected by workload and the availability of adequate personnel, equipment, and facilities to perform the services expeditiously;
  - (3) Past performance as reflected by the evaluation of private persons and officials of other governmental entities that have retained the services of the firm with respect to such factors as control of costs, quality of work, and an ability to meet deadlines; and
  - (4) The proposed approach to the project where applicable.
- (b) The scope of work shall be discussed and further defined at the bidder's conference, including on-site visits, if appropriate.

Section 5.7. Evaluation of Qualifications and Performance Data.

- (a) The Chief Purchasing Officer shall evaluate:
  - (1) Statements that may be submitted in response to the solicitation of architectural or engineering services; and
  - (2) Statements of qualifications and performance data, if their submission was required.
- (b) All statements and statements of qualification and performance data shall be evaluated in light of the criteria set forth in the solicitation for architectural, engineering, or consultant services.

Section 5.8. Final Selection.

- (a) The Chief Purchasing Officer shall select no more than three (3) firms (or two (2) if only two (2) apply) evaluated as being professionally and technically qualified. The firms selected, if still interested in providing these services, shall make a representative available to the directors of the Bank at such time and place as they shall determine to provide such further information as they may require.
- (b) The Chief Purchasing Officer shall negotiate with the highest qualified firm for a contract for architectural, engineering, or consultant services for the Bank at compensation which the Chief Purchasing Officer determines to be fair and reasonable to the Bank. In making the determination, the Chief Purchasing Officer shall take into account the professional competence of the offerors, the technical merits of the offerors, and the price for which the services are to be rendered.

Section 5.9. Cancellation. An invitation for bids or a request for proposal may be cancelled or all bids or proposals may be rejected, if it is determined, in writing, that the cancellation or rejection is taken in the best interest of the Bank and approved by the Chief Purchasing Officer.

Section 5.10. Disqualification. A written determination of the responsibility of each bidder may be made based on a reasonable inquiry of the financial strength and responsibility of a firm. If a bidder fails or refuses to supply information in connection with such inquiry, including but not limited to, financial statements and business references, such failure or refusal may be grounds for disqualification of such bidder.

ARTICLE VI. LEGAL COUNSEL AND SERVICES:

Section 6.1. Criteria for Legal Counsel. The Board, upon recommendation by the Chief Purchasing Officer shall determine:

- (a) The need for legal counsel including the scope of services to be performed;
- (b) That no full-time legal personnel of the State is available to provide these services;

- (c) That funding is available from the operating revenues of the Bank; and,
- (d) That the legal counsel to be engaged meets the following minimum requirements in accordance with State law:
  - (1) Appropriate professional licensing;
  - (2) Competence to perform such services as reflected by formal training and education, general experience, and experience in providing the required services and the qualifications and competence of persons who would be assigned to perform the services; and,
  - (3) Ability to perform these services as reflected by workload and availability of adequate personnel, equipment, and facilities to perform the services expeditiously.

Section 6.2. Letter of Engagement. The attorney shall enter into a letter of engagement with the Bank outlining the rate of compensation, and provisions for the payment of expenses incurred in connection with legal services. Said letter of engagement shall certify that the rate of compensation does not exceed the rate of compensation charged by counsel for provided legal services to preferred public or private clients. The letter of engagement shall not be for more than one year.

#### ARTICLE VII. SELECTION OF AN INDEPENDENT AUDITING FIRM:

Section 7.1. Approval of Auditor General. The selection of an independent auditing firm shall be subject to the approval of the Rhode Island Auditor General and the Rhode Island Department of Administration.

Section 7.2. Guidelines. The Bank will follow the Auditor General's Guidelines for Audit Bids and Specifications for Quasi Public Agencies, 1/15.

#### ARTICLE VIII. UNSUCCESSFUL COMPETITIVE BIDDING:

Section 8.1. Insufficient Funds. If the quoted price of all bids submitted exceed the funds available to pay for the needed service, the Chief Purchasing Officer shall determine in writing that there are no additional funds available to pay for the procurement.

Section 8.2. Negotiated Awards.

(a) If the Bank determines not to renew the bid solicitation process with revised specifications, then a negotiated award may be made. If the Bank discusses revisions of specifications with one bidder, then all other bidders must be accorded a similar opportunity to discuss the revised specifications.

(b) If it is determined in writing by the Board that there is only one responsive and responsible bidder, then a non-competitive negotiated award may be given to that bidder.

#### ARTICLE IX. SOLE SOURCE PROCUREMENT AND EMERGENCY PROCUREMENTS:

Section 9.1. Sole Source Procurement. A contract may be awarded for a supply, service or construction item without competition when the Chief Purchasing Officer or the Board determines, in writing, that there is only one practicable source for the required supply, service or good.

Section 9.2. Emergency Procurements. Notwithstanding any other provision of these regulations or applicable law, the Chief Purchasing Officer may make or authorize others to make emergency procurements when there exists a threat to public health, safety, or welfare under emergency conditions as determined by the Chief Purchasing Officer, provided, that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and the basis for the selection of the particular contractor shall be included in the contract file.

#### ARTICLE X.SUBCOMMITTEE OF BOARD MEMBERS FOR SELECTION OF PROFESSIONAL SERVICES EXCEEDING \$20,000:

Section 10.1. Appointment by Board. The Board may, at its discretion, appoint a subcommittee of two or more Board members, to:

- (a) Select the firms or persons to be solicited to provide the professional service; or,
- (b) Evaluate the qualifications, competence, and price of proposals submitted through the Request for Proposals process; and,
- (c) Work in conjunction with the Chief Purchasing Officer to choose the best firm at the lowest responsible price to perform the tasks outlined in the Request for Proposals.

Section 10.2. Board Responsibility. It is the ultimate responsibility of the Board for the award of professional/consultant services in excess of twenty thousand dollars (\$20,000) to choose firms to provide professional services based on the recommendations of the Subcommittee, the Chief Purchasing Officer, or a collective decision of both.

#### ARTICLE XI. MULTI-YEAR CONTRACTS:

Section 11.1. Two-Year Limit. With the exception of contracts for independent auditing firms pursuant to the Guidelines of the Auditor General's office, multi-year contracts for supplies and services may be entered into for periods not extending beyond two years from the initial date of procurement.

ARTICLE XII. AWARD OF CONTRACTS/LETTERS OF ENGAGEMENT:

Section 12.1. Contract Negotiations. Upon the approval of a purchase decision or the award of a bid, the Chief Purchasing Officer shall negotiate with the most qualified firm or selected bidder, as the case may be, for a contract to provide the professional service at compensation which the Subcommittee and Chief Purchasing Officer determine to be fair and reasonable to the Bank.

Section 12.2. Letters of Engagement. Pursuant to the contract negotiations specified in Section 12.1 hereof, the selected firm or bidder shall provide to the Bank within 30 days, a letter of engagement. Said letter of engagement shall include:

- (a) A detailed description of the services to be performed pursuant to the Request for Proposal;
- (b) A description of the process of calculating compensation to be received upon completion of the described services and payment terms; and,
- (c) A description of the term of the Engagement.

ARTICLE XIII. AUTHORITY OF CHIEF PURCHASING OFFICER IN CASES OF BREACH OF CONTRACT/ENGAGEMENT:

Section 13.1. Breach of Engagement Letter. The Chief Purchasing Officer is authorized to issue criteria to be included in the Request for Proposals which stipulate that the firm receiving the award of the contract must provide a letter of engagement to the Bank in accordance with these Regulations. If the selected firm fails to fulfill the terms of the letter of engagement, the Chief Purchasing Officer is authorized to terminate said engagement unless a mutual reconciliation can be reached.

Section 13.2. Termination Notice. If the Chief Purchasing Officer decides to terminate the engagement pursuant to Section 13.1 hereof, the Chief Purchasing Officer shall issue his or her decision in writing and notice of said decision shall be mailed or otherwise furnished to the awarded firm. Upon the receipt of said termination notice, all obligations of the Bank with respect to the terminated firm shall cease.

ARTICLE XIV. PURCHASES NOT OTHERWISE COVERED:

Section 14.1. Follow State Purchasing. In the event a matter regarding a purchase is not addressed by the Regulations, the Bank shall follow the principles and policies of state purchasing.

ARTICLE XV. CODE OF ETHICS AND PROFESSIONAL BEHAVIOR.

Section 15.1. Employees Subject to Provisions. All Bank employees shall be subject to the provisions of Chapter 36-14 of the General Laws of Rhode Island and all regulations promulgated by the Rhode Island Ethics Commission, and any special provision of this section.

Section 15.2. Standard. It is the policy of the Bank that public officials 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.

Section 15.3. Requirements. In accordance with the provisions of RIGL §37-2-9(2)(o), all Bank employees involved in procurement are required:

- (a) To consider, first, the interest of the Bank in all transactions;
- (b) To support an carry out the Bank policies;
- (c) To buy without prejudice;
- (d) To avoid any conflict of interest with respect to procurement, or the appearance thereof;
- (e) To obtain the maximum ultimate value of each dollar of expenditure;
- (f) To subscribe to and work for honesty and truth in buying and selling, and to denounce all forms and manifestations of commercial bribery;
- (g) To respect obligations and to require that obligations to the Bank be respected, consistent and good business practice.

Section 15.4. Confidential Information. Under no circumstances shall confidential information be made available to other vendors.

Section 15.5. Prohibition. Personnel are prohibited from engaging in any conduct which may tend to cause any existing or prospective supplier of goods or services to believe that its relationship with the Bank will be affected by his purchasing or failing to purchase goods or services from any representative of the Bank.

Section 15.6. Conflicts of Interest. It shall be the obligation of all Bank employees to avoid conflicts of interest with respect to procurement, and to report promptly to the Chief Purchasing officer all instances where a conflict exists or is suspected to exist.

Filed w/Secretary of State: \_\_\_\_\_

Effective Date: \_\_\_\_\_