

**RHODE ISLAND STUDENT LOAN AUTHORITY
PROCUREMENT AND PURCHASING
GUIDANCE DOCUMENT**

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SECTION I - GENERAL PROVISIONS

This Guidance Document is promulgated pursuant to Chapter 62 of Title 16 of the General Laws of Rhode Island and GLRI §42-35-2.12 of the Administrative Procedures Act and is intended:

To simplify, clarify, and modernize purchasing activities undertaken by the Rhode Island Student Loan Authority (RISLA);

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

To ensure fair and equitable treatment of all vendors who deal with RISLA;

To provide increased economy by fostering effective competition;

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

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

SECTION II - CHIEF PURCHASING OFFICER

RISLA's Chief Purchasing Officer shall be the Deputy Director and Chief Financial Officer. The Chief Purchasing Officer shall have overall responsibility with respect to the procurement of all goods and services. The Chief Purchasing Officer may delegate to department heads the responsibility to carry out the agency's procurement activities and functions.

SECTION III - Definitions

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

SECTION IV - Source Selection

1. Items purchased through the state's Master Pricing Agreements as defined in section 5.3.3.1.1 of the State of Rhode Island Procurement Regulations may be purchased by RISLA in accordance with procedures established by the Chief Purchasing Officer.

2. All RISLA contracts shall be awarded by:

- (a) Competitive sealed bidding
- (b) Competitive negotiation:
- (c) Request for Proposals; or

(d) Small purchase procedures.

3(a) Contracts exceeding \$20,000 for professional or consultant services, \$10,000 for construction, and \$5000 for all other purchases shall be awarded by competitive sealed bidding or by a comparable public request for proposals unless the Chief Purchasing Officer, or his designee, determines in writing that competitive sealed bidding is not practicable.

(b) Factors to be considered in determining whether competitive sealed bidding is practicable shall include whether:

(i) Specifications can be prepared that permit award on the basis of either the lowest bid price or the lowest evaluated or responsive bid price; and

(ii) The available sources, the time and place of performance and such other relevant circumstances as are deemed appropriate for the use of competitive sealed bidding.

4. If competitive sealed bidding is utilized:

(a) The invitation for bids or request for proposals shall state whether the award shall be made on the basis of the lowest bid price or the lowest evaluated or responsive bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids, if available.

(b) Bid solicitations shall be made available utilizing the Rhode Island vendor information program (RIVIP). Public notice of the invitation for bids may also be published in a newspaper of general circulation in the state not less than seven (7) nor more than twenty-eight (28) days before the date set for the opening of the bids.

(c) Bids shall be opened publicly at the time and place designated in the invitation for bids and each bid, together with the name of the bidder, shall be recorded and an abstract made for public inspection.

(d) Subsequent to the awarding of the bid, copies of all bid documents and all documents pertinent to awarding the bid shall be made available and open to public inspection pursuant to the State Access to Public Records Act and retained in the bid file.

(e) A bidder may make technical corrections to its bid prior to bid opening, but not thereafter.

(f) The contract shall be awarded with reasonable promptness to the responsive bidder whose bid was either the lowest bid price or the lowest evaluated or responsive bid price as specified in the bid invitation.

(g) If the Chief Purchasing Officer determines in writing that (i) all bids submitted exceed funds available for the purchase, (ii) there are no additional funds available to permit and award to the lowest responsive and responsible bidder and (iii) the best interest of RISLA will not permit the delay attendant to 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 bidder to the competitive sealed bid invitation. Revisions to the specifications shall be discussed with all potential award recipients.

5. If the Chief Purchasing Officer determines that the purposes of competitive sealed bidding may be equally achieved through the use of requests for proposals, a contract may be awarded by requests for proposals (RFP's).

6. If RFP's are utilized:

(a) An RFP shall be issued with sufficient notice to interested parties either through the RIVIP or otherwise as determined by the Chief Purchasing Officer or his designee.

(b) The RFP shall state the relevant importance of price and other evaluation factors.

(c) An award shall be made to the responsive and responsible offeror whose proposal is determined to be the most advantageous to RISLA taking into consideration price and other evaluation factors set forth in the RFP.

(d) Discussions may be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award, provided that any such discussions shall not disclose information derived from competing offerors.

(e) If discussions pertaining to the possible revision of the specifications are held with any potential offerors, all other potential offerors whose proposals are reasonably susceptible of being selected for award shall be afforded an equal opportunity to participate in such discussions.

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

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

9. Sole source procurement. A contract may be awarded for supply or service without competition when the Chief Purchasing Officer or his designee determines in writing that there is only one source for the required supply or service.

10. Small purchases. Procurements not to exceed \$5000 may be made without any formal competitive process so long as the Chief Purchasing Officer is reasonably satisfied that the procurement was obtained fairly and in the best interest of RISLA.

11. Emergency. Notwithstanding any other provision of these regulations, the Chief Purchasing Officer 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 the emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

SECTION V - Contracts

(a) Written contracts or invoices for goods and services shall be executed in all instances. The term, price, and complexity of the subject matter shall determine the extent to which contracts shall be reviewed by RISLA's legal counsel. Such determination shall be made by the Chief Purchasing Officer.

(b) Multi-year contracts for supplies or services may be entered into for periods extending beyond the fiscal year in which the contract is made if funds for the first fiscal year of the contract are available at the time of contracting and the contract states that payment and performance obligations for succeeding fiscal years shall be subject to availability of funds therefor.

(c) Notwithstanding the previous provision (Subsection (b)), contracts shall not be awarded for periods of more than two years unless the Chief Purchasing Officer determines in writing that RISLA's best interest will be served by a longer term.

SECTION VI - Consultant Services

(a) Requirements for consultant services reasonably estimated to exceed \$20,000 shall be publicly announced.

(b) The announcement shall be published utilizing the RIVIP system and may also be published in a newspaper of statewide circulation and in any other publications deemed desirable sufficient in advance of the need for such consultant services in order that interested parties have an adequate opportunity to submit proposals, although RISLA is not required to publish in a newspaper if the announcement is available on the RIVIP system.

(c) The notice shall contain a brief statement of the services required, a description of the project, and shall either include the request for proposals or specify how a solicitation containing specific information may be obtained.

(d) A solicitation shall be prepared which describes RISLA's evaluation criteria and distributed to interested persons.

(e) Criteria to be used for selection shall include:

- (i) Competence to perform the services as reflected by technical training and education;
- (ii) General experience;
- (iii) Experience in providing the required services;
- (iv) The qualifications and competence of the person who would be assigned to perform the services;
- (v) Ability to perform the services as reflected by workload and the availability of adequate personnel to perform the services expediently; and
- (vi) Past performance as reflected by evaluation of entities that have retained the services of the firm.

(f) The Chief Purchasing Officer or his designee, or, if a selection committee has been chosen, the committee may select the top three (two if only two apply) firms evaluated as being professionally and technically qualified to make a presentation.

(g) The Board of Directors of RISLA shall be responsible for the final selection of the firm deemed highest qualified to perform the consultant services involved. In making such determination, the directors 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.

(h) For consultant services which are not reasonably expected to exceed \$20,000, the Chief Purchasing Officer shall make the final selection using the same process and criteria for selection of firms for services which are reasonably expected to exceed \$20,000. The Chief Purchasing Officer shall notify the board of directors of his or her selection.

(i) For purposes of these regulations the term "consultant services" shall include accounting, audit, and bond underwriting services.

SECTION VII - Legal Services

(a) Before RISLA procures the services of an attorney, the Chief Purchasing Officer shall demonstrate to the satisfaction of the Board of Directors:

(1) The need for the services involved and the scope of services to be performed;

(2) That funding is available;

(3) That the attorney is appropriately licensed and competent to perform the services involved as reflected by having education and experience.

(b) The attorney shall enter into a letter of engagement with RISLA which shall state the rate of compensation, the scope of services to be performed, and, shall certify that the rate of compensation does not exceed the rate of compensation charged to his/her public or preferred clients. A letter of engagement shall not be for more than one year.

SECTION VIII - Code of Ethics and Professional Behavior

All RISLA 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.

It is the policy of RISLA 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.

In accordance with the provisions of Chapter 37-2-9 (2)(0), RIGL, all RISLA employees involved in procurement are required:

To consider, first, the interests of RISLA in all transactions;

To support and carry out RISLA policies;

To buy without prejudice;

To avoid any conflict of interest with respect to procurement, or the appearance thereof;

To obtain the maximum ultimate value for each dollar of expenditure;

To subscribe to and work for honesty and truth in buying and selling, and to denounce all forms and manifestations of commercial bribery;

To respect obligations and to require that obligations to RISLA be respected, consistent with good business practice.

Under no circumstances shall confidential information be made available to other vendors.

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 RISLA will be affected by his purchasing or failing to purchase goods or services from any representative of the state.

It shall be the obligation of all RISLA 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.

SECTION IX—Appeals

Any person who is aggrieved by any application of the provisions hereof or by any determination with respect to procurement may appeal such application or determination in writing to the Executive Director of the Rhode Island Student Loan Authority, 935 Jefferson Boulevard, Warwick, RI 02886 within twenty (20) days of said application or determination. The decision of the Executive Director on all appeals shall be final.