



Director's Office

One Capitol Hill | Providence, RI 02908 | (401) 222-2280

Jonathan Womer, Director

June 10, 2024

The Honorable Representative Marvin L. Abney
Chairperson, House Finance Committee
Rhode Island House of Representatives
82 Smith Street, Providence, RI 02903

Re: House Bill No. 8348 – Public Property and Works – State Purchases

Dear Chairman Abney,

Thank you for providing the Department of Administration (Department) the opportunity to submit comments in support of House Bill No. 8348. This legislation proposes necessary clarifications to limitations on state contracting. After R.I. Gen. Laws Section 37-2-13.1 was enacted, the Department has fielded numerous concerns from state agencies and vendors about the inability for the state to conduct business effectively. This legislation would provide certainty for all parties and help reverse the chilling effect on state contracting this law has engendered.

Subsection 37-2-13.1(b) currently states that any vendor, including subcontractors of vendors, that had or has a contract with the State would be prohibited from bidding on a request for proposal (RFP) for another contract. No other state has such a restriction, and a plain text interpretation of this requirement would grind government procurement and contracting to a halt. Therefore, the Department has interpreted this language to mean that vendors with a conflict of interest related to the request for proposal would be prohibited from bidding on an RFP. Unfortunately, because the law puts the burden on vendors (even with the Department's interpretation) the state has seen reduced competition on procurements because of the current law. The proposed language on page 1, in lines 7 and 8, would align the language to the Department's implementation of the statute and clarify the original intent of this law and should correct the issue.

As enacted, subsection (b) also prevents vendors from bidding on an RFP if that entity "participated or [was] consulted with respect to the requirements, technical aspects or other part of the formation and promulgation of the request for proposals." The Department does not interpret this provision as applicable to Requests for Information, a tool employed to publicly solicit information from potential vendors that agencies can use to improve state contract solicitations. The proposed language in subsection (f) memorializes the Department's interpretation.

Similarly, an agency can competitively solicit a feasibility study for an impending project to help clarify project requirements, identify effective methodologies, or troubleshoot technical intricacies – information that often helps agencies make budget decisions and refine future solicitations. In



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practice, the Department includes published feasibility studies and related materials in the subsequent project solicitation for all interest vendors to consider. Under the current statute, vendors who conduct a feasibility study for an agency on a project are then precluded from bidding on the subsequent solicitation; given the purpose of the feasibility study, this statute has had a chilling effect on the number vendors willing to bid on studies. The proposed language memorializes an exception for feasibility studies.

State agencies and vendors have repeatedly expressed concern about the current law. The Division of Purchases has observed an increasing number of questions during RFP question-and-answer periods related to the law, demonstrating the uncertainty felt by the vendor community. Agencies have reached out to the Department seeking counsel on having any conversation with a vendor about any project out of fear that those conversations will run afoul of this statute. The Department endeavors to ensure the state of Rhode Island has access to a competitive and competent vendor community so that high-quality services and products are delivered to Rhode Island residents and businesses. This legislation is critical to achieving that goal.

The Department supports this legislation, as do the agencies co-signing this letter. If there are any questions, please feel free to contact my office at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Womer".

Jonathan Womer
Director, Department of Administration

A handwritten signature in black ink, appearing to read "Peter Alviti".

Peter Alviti
Director, Department of Transportation

A handwritten signature in black ink, appearing to read "Ronald T. Gerwatowski".

Ronald T. Gerwatowski
Chairman, RI Public Utilities Commission

A handwritten signature in black ink, appearing to read "Terry Gray".

Terry Gray
Director, Department
of Environmental Management

A handwritten signature in black ink, appearing to read "Richard Leclerc".

Richard Leclerc
Director, Department of Behavioral Healthcare,
Developmental Disabilities, and Hospitals

A handwritten signature in black ink, appearing to read "Rosemary A. Costigan".

Rosemary Costigan
Interim President, Community College
of Rhode Island



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Jonathan Womer, Director

Richard Charest

Richard Charest
Secretary, Executive Office of
Health and Human Services

cc: The Honorable Representative Patricia A. Serpa
The Honorable Members of the House Finance Committee
Christopher O'Brien, Clerk
Nicole McCarty, Chief Legal Counsel to the Speaker of the House

