



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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Department of Administration
BUDGET OFFICE
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Memorandum

To: The Honorable Raymond Gallison
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: May 22, 2014

Subject: Amendments to the FY 2015 Appropriations Act (13-H-7133)

The Governor requests that Article 17 – Relating to Government Reform be amended as reflected in the attached version. The requested changes are shaded in grey and explained below.

Within Section 3, the amendment restores language relating to subcontractors based on discussions with union officials about the original intent of this language and why it is necessary to capture information about all privatization contracts. The remaining changes are intended to clarify the information that is required when agencies are reporting on contacts.

If you have any questions regarding this amendment, please feel free to call me or my staff at 222-6300.

TAM:14-Amend-14
Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Steve Hartford, Director of Policy
Richard Licht, Director of Administration
Peter Marino, Director, Office of Management and Budget
Gregory Stack, Supervising Budget Analyst

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ARTICLE 17

RELATING TO GOVERNMENT REFORM

SECTION 1. Section 35-6-1 of the General Laws in Chapter 35-6 entitled "Accounts and Control" is hereby amended to read as follows:

§ 35-6-1 Controller – Duties in general. – (a) Within the department of administration there shall be a controller who shall be appointed by the director of administration pursuant to chapter 4 of title 36. The controller shall be responsible for accounting and expenditure control and shall be required to:

(1) Administer a comprehensive accounting and recording system which will classify the transactions of the state departments and agencies in accordance with the budget plan;

(2) Maintain control accounts for all supplies, materials, and equipment for all departments and agencies except as otherwise provided by law;

(3) Prescribe a financial, accounting, and cost accounting system for state departments and agencies;

(4) Preaudit all state receipts and expenditures;

(5) Prepare financial statements required by the several departments and agencies, by the governor, or by the general assembly;

(6) Approve the orders drawn on the general treasurer; provided, that the preaudit of all expenditures under authority of the legislative department and the judicial department by the state controller shall be purely ministerial, concerned only with the legality of the expenditure and availability of the funds, and in no event shall the state controller interpose his or her judgment regarding the wisdom or expediency of any item or items of expenditure;

(7) Prepare and timely file, on behalf of the state, any and all reports required by the United States, including, but not limited to, the internal revenue service, or required by any department or agency of the state, with respect to the state payroll; and

(8) Prepare a preliminary closing statement for each fiscal year. The controller shall forward the statement to the chairpersons of the house finance committee and the senate finance committee, with

1 copies to the house fiscal advisor and the senate fiscal and policy advisor, by September 1 following the
2 fiscal year ending the prior June 30 or thirty (30) days after enactment of the appropriations act,
3 whichever is later. The report shall include but is not limited to:

4 (i) A report of all revenues received by the state in the completed fiscal year, together with the
5 estimates adopted for that year as contained in the final enacted budget, and together with all deviations
6 between estimated revenues and actual collections. The report shall also include cash collections and
7 accrual adjustments;

8 (ii) A comparison of actual expenditures with each of the actual appropriations, including
9 supplemental appropriations and other adjustments provided for in the Rhode Island General Laws;

10 (iii) A statement of the opening and closing surplus in the general revenue account; and

11 (iv) A statement of the opening surplus, activity, and closing surplus in the state budget reserve
12 and cash stabilization account and the state bond capital fund.

13 (b) The controller shall provide supporting information on revenues, expenditures, capital
14 projects, and debt service upon request of the house finance committee chairperson, senate finance
15 committee chairperson, house fiscal advisor, or senate fiscal and policy advisor.

16 (c) Upon issuance of the audited annual financial statement, the controller shall provide a report
17 of the differences between the preliminary financial report and the final report as contained in the audited
18 annual financial statement.

19 ~~(d) Upon issuance of the audited financial statement, the controller shall transfer all general~~
20 ~~revenues received in the completed fiscal year net of transfer to the state budget reserve and cash~~
21 ~~stabilization account as required by § 35-3-20 in excess of those estimates adopted for that year as~~
22 ~~contained in the final enacted budget to the employees' retirement system of the state of Rhode Island as~~
23 ~~defined in § 36-8-2.~~

24 ~~(e)~~(d) The controller shall create a special fund not part of the general fund and shall deposit
25 amounts equivalent to all deferred contributions under this act into that fund. Any amounts remaining in

1 the fund on June 15, 2010, shall be transferred to the general treasurer who shall transfer such amounts
2 into the retirement system as appropriate.

3 (e) The controller shall implement a direct deposit payroll system for state employees.

4 (i) There shall be no service charge of any type paid by the state employee at any time which
5 shall decrease the net amount of the employee's salary deposited to the financial institution of the
6 personal choice of the employee as a result of the use of direct deposit.

7 (ii) Employees hired after September 30, 2014, shall participate in the direct deposit system. At
8 the time the employee is hired, the employee shall identify a financial institution that will serve as a
9 personal depository agent for the employee.

10 (iii) No later than June 30, 2016, each employee hired before September 30, 2014, who is not a
11 participant in the direct deposit system, shall identify a financial institution that will serve as a personal
12 depository agent for the employee.

13 (iv) The controller shall promulgate rules and regulations as necessary for implementation and
14 administration of the direct deposit system, which shall include limited exceptions to required
15 participation.

16 SECTION 2. Section 36-4-16.4 of the General Laws in Chapter 36-4 entitled "Merit System" is
17 hereby repealed:

18 ~~§ 36-4-16.4 Salaries of directors.~~ — (a) In the month of March of each year, the department of
19 administration shall conduct a public hearing to determine salaries to be paid to directors of all state
20 executive departments for the following year, at which hearing all persons shall have the opportunity to
21 provide testimony, orally and in writing. In determining these salaries, the department of administration
22 will take into consideration the duties and responsibilities of the aforementioned officers, as well as such
23 related factors as salaries paid executive positions in other states and levels of government, and in
24 comparable positions anywhere which require similar skills, experience, or training. Consideration shall
25 also be given to the amounts of salary adjustments made for other state employees during the period that
26 pay for directors was set last.

1 ~~(b) Each salary determined by the department of administration will be in a flat amount, exclusive~~
2 ~~of such other monetary provisions as longevity, educational incentive awards, or other fringe additives~~
3 ~~accorded other state employees under provisions of law, and for which directors are eligible and entitled.~~

4 ~~(c) In no event will the department of administration lower the salaries of existing directors~~
5 ~~during their term of office.~~

6 ~~(d) Upon determination by the department of administration, the proposed salaries of directors~~
7 ~~will be referred to the general assembly by the last day in April of that year to go into effect thirty (30)~~
8 ~~days hence, unless rejected by formal action of the house and the senate acting concurrently within that~~
9 ~~time.~~

10 SECTION 3. Section 36-4-16.5 of the General Laws in Chapter 36-4 entitled "Merit System" is
11 hereby amended to read as follows:

12 **§ 36-4-16.5 Certain unclassified positions excluded.** – Sections 36-4-16.2 and ~~36-4~~
13 ~~16.4~~ of this chapter shall have no application to those positions enumerated in subdivisions 36-4-2(1), 36-
14 4-2(2), 36-4-2(3), and the department of administration shall have no jurisdiction over the status, tenure or
15 salaries of those said enumerated positions.

16 SECTION 4. Sections 37-2.3-3 and 37-2.3-4 of the General Laws in Chapter 37-2.3 entitled
17 "Government Oversight and Fiscal Accountability Review Act" are hereby amended to read as follows:

18 **§ 37-2.3-3 Definitions.** – As used in this chapter, the following terms shall have the following
19 meanings:

20 (1) "Agency" includes any executive office, department, division, board, commission, or other
21 office or officer in the executive branch of the government.

22 (2) "Person" includes an individual, institution, federal, state, or local governmental entity, or
23 any other public or private entity.

24 (3) "Private contractor employee" includes a worker directly employed by a private contractor,
25 as defined in this section, as well as an employee of a subcontractor or an independent contractor that
26 provides supplies or services to a private contractor.

1 (4) "Privatization or privatization contract" means an agreement or combination or series of
2 agreements by which a non-governmental person or entity agrees with an agency to provide services
3 expected to result in a fiscal year expenditure of at least one hundred fifty thousand dollars (\$150,000) ~~(as~~
4 ~~of July 1 each year, the amount shall increase to reflect increases in the consumer price index calculated~~
5 ~~by the United States Bureau of Labor Statistics for all urban consumers nationally during the most recent~~
6 ~~twelve (12) month period for which data are available or more)~~, which would contract services which are
7 substantially similar to and in replacement of work normally performed by an employee of an agency as
8 of June 30, 2007.

9 "Privatization" or "privatization contract" excludes:

10 (i) Contracts resulting from an emergency procurement;

11 (ii) Contracts with a term of one hundred eighty (180) days or less on a non-recurring basis;

12 (iii) Contracts to provide highly specialized or technical services not normally provided by state
13 employees;

14 (iv) Any subsequent contract which: ~~(a) renews or rebids a prior privatization contract which~~
15 ~~existed before June 30, 2007; or (b) renews or rebids a privatization contract that was subject to the~~
16 provisions of this statute after its enactment; and

17 (v) An agreement to provide legal services or management consulting services.

18 (5) "Privatization contractor" is any contractor, consultant, **subcontractor**, independent
19 contractor or private business owner that contracts with a state agency to perform services in accordance
20 with the definition of a "privatization contract."

21 (6) "Services" includes, with respect to a private contractor, all aspects of the provision of
22 services provided by a private contractor pursuant to a privatization contract, **or any services provided by**
23 **a subcontractor of a private contractor.**

24 **§ 37-2.3-4 Fiscal monitoring of privatization contracts.** – **Each private contractor shall file a A**
25 **copy of each executed subcontract or amendment to the subcontract with the agency, which shall maintain**

1 ~~the subcontract or amendment be made available by the Division of Purchases~~ as a public record, as
2 defined in the access to public records act.

3 (1) *Audits.* Privatization contracts shall be subject to audit or review, as defined by the American
4 Institute of Certified Public Accountants, by the office of the auditor general at the discretion of the
5 auditor general. Any audit or review shall be conducted in compliance with generally accepted auditing
6 standards.

7 (2) *Access.* All privatization contracts shall include a contract provision specifying language that
8 provides public access to the complete contract.

9 (3) *Fiscal accountability.* As part of the budgetary process, each state agency shall ~~provide an~~
10 ~~addendum to include in their submitted budget request a listing of all privatization contracts for the prior,~~
11 ~~current and subsequent fiscal years;~~ the name of each contractor, subcontractor, duration of the contract
12 ~~provided and services provided; the total cost of each contract(s) for the prior year; and the projected~~
13 ~~number of privatization service contracts for the current and upcoming year, the total cost of each~~
14 ~~contract(s) for the prior year; the estimated costs of each contract(s) for the current and upcoming year.~~
15 ~~The addendum for each agency shall also contain a summary of contracted private contractor employees~~
16 ~~for each contract, reflected as full-time equivalent positions, their hourly wage rate, and the number of~~
17 ~~private contractor employees and consultants for the current and previous fiscal year. For the prior fiscal~~
18 ~~year, the listing shall include the name of each contractor; a description of the services provided; the~~
19 ~~amount expended for the fiscal year; the positions employed by title, if applicable; and the hourly wage~~
20 ~~paid by position, if applicable. For the current and upcoming fiscal years, the listing shall include the~~
21 ~~name of each contractor, if known at the time the listing is prepared; a description of the services to be~~
22 ~~provided; the amount budgeted for the contract in each fiscal year; the positions to be employed by title, if~~
23 ~~known and applicable; and the hourly wage to be paid by position, if known and applicable. Positions~~
24 ~~shall be reflected as full-time equivalent positions.~~ The addendums listings shall be open records
25 published annually online at the State's transparency portal or an equivalent website, available for public
26 inspection, no later than December 1 of each year.

1 SECTION 5. Section 37-6-2 of the General Laws in Chapter 37-6 entitled "Acquisition of Land"
2 is hereby amended to read as follows:

3 **§ 37-6-2 Rules, regulations, and procedures of committee.** – (a) The state properties committee
4 is hereby authorized and empowered to adopt and prescribe rules of procedure and regulations, and from
5 time to time amend, change, and eliminate rules and regulations, and make such orders and perform such
6 actions as it may deem necessary to the proper administration of this chapter and §§ 37-7-1 – 37-7-9. In
7 the performance of the commission's duties hereunder, the commission may in any particular case
8 prescribe a variation in procedure or regulation when it shall deem it necessary in view of the exigencies
9 of the case and the importance of speedy action in order to carry out the intent and purpose of this chapter
10 and §§ 37-7-1 – 37-7-9. The commission shall file written notice thereof in the office of the secretary of
11 state. All filings shall be available for public inspection.

12 (b) The following siting criteria shall be utilized whenever current existing leases expire or
13 additional office space is needed:

14 (1) A preference shall be given to sites designated as enterprise zone census tracts pursuant to
15 chapter 64.3 of title 42, or in blighted and/or substandard areas pursuant to § 45-31-8, or in downtown
16 commercial areas where it can be shown the facilities would make a significant impact on the economic
17 vitality of the community's central business district;

18 (2) Consideration should be given to adequate access via public transportation for both employees
19 as well as the public being served, and, where appropriate, adequate parking;

20 (3) A site must be consistent with the respective community's local comprehensive plan; and

21 (4) The division of planning within the department of administration shall be included in the
22 evaluation of all future lease proposals.

23 (c) The state properties committee shall explain, in writing, how each site selected by the
24 committee for a state facility meets the criteria described in subsection (b) of this section.

25 (d) ~~For any lease, rental agreement or extension of an existing rental agreement for leased office~~
26 ~~and operating space which carries a term of five (5) years or longer, including any options or extensions~~

1 that bring the total term to five (5) years or longer, where the state is the tenant and the aggregate rent of
2 the terms exceeds five hundred thousand dollars (\$500,000) the state properties committee shall request
3 approval of the general assembly prior to entering into any new agreements or signing any extensions
4 with existing landlords. The state properties committee, in the form of a resolution, shall provide
5 information relating to the purpose of the lease or rental agreement, the agency's current lease or rental
6 costs, the expiration date of any present lease or rental agreement, the range of costs of a new lease or
7 rental agreement, the proposed term of a new agreement, and the location and owner of the desired
8 property.

9 SECTION 6. Section 42-90-1 of the General Laws in Chapter 42-90 entitled "Disclosure of
10 Names of State Government Consultants" is hereby amended to read as follows:

11 **§ 42-90-1 Public disclosure required.** – (a) All departments, commissions, boards, councils,
12 other agencies in the government of the state and public corporations shall annually prepare and submit to
13 the ~~secretary of state~~ quarterly a budget office by October 1 a list containing:

14 (1) The name of any person or vendor who performed legal, medical, accounting, engineering, or
15 any other professional, technical or consultant service to the department, commission, board, council,
16 agency or public corporation on a contractual basis during the previous ~~quarter~~ fiscal year; and

17 (2) The amount of compensation received by each consultant during the previous ~~quarter~~ fiscal
18 year.

19 (b) All departments, commissions, boards, councils, other agencies in the government of the state
20 and public corporations shall prepare and submit to the ~~secretary of state~~ budget office on an annual basis
21 by October 1 a contracting report containing:

22 (1) Digital/Electronic copies ~~A list~~ of all contracts or agreements by which a nongovernmental
23 person or entity agrees with the department, commission, board, council, agency or public corporation to
24 provide services, valued at one hundred fifty thousand dollars (~~\$100,000~~ \$150,000) or more, which are
25 substantially similar to and in lieu of services heretofore provided, in whole or in part, by regular

1 employees replacement of work normally performed by an employee of the department, commission,
2 board, council, agency or public corporation; and.

3 ~~(2) A budget analysis of each contract reported pursuant to this subsection containing the cost of~~
4 ~~each contract for the prior, current and next year; and the number of private contractor employees~~
5 ~~reflected as full-time equivalent positions with their hourly wage rate, and costs of benefits for each job~~
6 ~~classification for the current and previous year.~~

7 (c) ~~The secretary of state budget office shall compile, publish, and make available for public inspection all~~
8 ~~lists and contracting reports prepared in accordance with this chapter post electronic/digital copies of all~~
9 ~~contracts the lists and reports online using the state's transparency portal or an equivalent website,~~
10 available for public inspection, annually no later than December 1 of each year.

11 SECTION 7. Chapter 42-149 of the General Laws entitled "State Expenditures for Non-State
12 Employee Services" is hereby repealed in its entirety.

13 ~~§ 42-149-1 Short title.~~ This chapter may be cited as the "State Expenditure for Non-State
14 Employee Services."

15 ~~§ 42-149-2 Legislative intent.~~ The legislature is committed to increasing fiscal efficiency and
16 accountability for all state expenditures.

17 ~~§ 42-149-3 State expenditures for non-state employee services.~~ All state departments shall
18 submit quarterly reports of all non-state employee expenditures for legal services, financial services,
19 temporary workers, and other non-state employee personnel costs. The reports shall be submitted to the
20 state budget office and the chairpersons of the house and senate finance committees with the first report
21 due on January 1, 2008. The reports shall contain the following information:

22 (1) Efforts made to identify qualified individuals or services within state government;

23 (2) Factors used in choosing a non-state employee or firm;

24 (3) Results of requests for proposals for services or bids for services; and

25 (4) The actual cost and the budgeted cost for the expenditure.

1 § 42-149-3.1 Assessment on state expenditures for non-state employee services.—Whenever
2 a department, commission, board, council, agency or public corporation incurs expenditures through
3 contracts or agreements by which a nongovernmental person or entity agrees to provide services which
4 are substantially similar to and in lieu of services hereto fore provided, in whole or in part, by regular
5 employees of the department, commission, board, council, agency or public corporation covered by
6 chapter 36-8, those expenditures shall be subject to an assessment equal to five and one-half percent
7 (5.5%) of the cost of the service. That assessment shall be paid to the retirement system on a quarterly
8 basis in accordance with subsection 36-10-2(e).

9 SECTION 8. Section 2 shall be effective January 1, 2015. All other sections shall be effective
10 upon passage.