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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS -- STATE PURCHASES

Introduced By: Representatives Lally, Walsh, Tanzi, Valencia, and Dickinson

Date Introduced: May 04, 2011

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 37-2-7 of the General Laws in Chapter 37-2 entitled "State
2 Purchases" is hereby amended to read as follows:

3 **37-2-7. Definitions.** -- The words defined in this section have the meanings set forth
4 below whenever they appear in this chapter, unless the context in which they are used clearly
5 requires a different meaning or a different definition is prescribed for a particular section, group
6 of sections, or provision:

7 (1) "Business" means any corporation, partnership, individual, sole proprietorship, joint
8 stock company, joint venture, or any other legal entity through which business is conducted.

9 (2) "Change order" means a written order signed by the purchasing agent or contractor
10 directing or allowing the contractor to make changes which the changes clause of the contract
11 authorizes the purchasing agent or contractor to order without the consent of the contractor or
12 purchasing agent.

13 (3) "Chief purchasing officer" shall mean: (i) for a state agency, the director of the
14 department of administration, and (ii) for a public agency, the executive director or the chief
15 operational officer of the agency.

16 (4) "Construction" means the process of building, altering, repairing, improving, or
17 demolishing any public structures or building, or other public improvements of any kind to any
18 public real property. It does not include the routine maintenance or repair of existing structures,
19 buildings, or real property performed by salaried employees of the state of Rhode Island in the

1 usual course of their jobs.

2 (5) "Contract" means all types of agreements, including grants and orders, for the
3 purchase or disposal of supplies, services, construction, or any other item. It includes awards;
4 contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for
5 the issuance of job or task orders; leases; letter contracts; purchase orders; and construction
6 management contracts. It also includes supplemental agreements with respect to any of the
7 foregoing. "Contract" does not include labor contracts with employees of state agencies.

8 (6) "Contract amendment" means any written alteration in the specifications, delivery
9 point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing
10 contract, whether accomplished by unilateral action in accordance with a contract provision, or by
11 mutual action of the parties to the contract. It includes bilateral actions, such as supplemental
12 agreements, and unilateral actions, such as change orders, administrative changes, notices of
13 termination, and notices of the exercise of a contract option.

14 (7) "Contractor" means any person having a contract with a governmental body.

15 (8) "Data" means recorded information, regardless of form or characteristic.

16 (9) "Designee" means a duly authorized representative of a person holding a superior
17 position.

18 (10) "Employee" means an individual drawing a salary from a state governmental entity.

19 (11) "State governmental entity" means any entity created as a legislative body or a
20 public or state agency by the general assembly or constitution of this state, except for municipal,
21 regional, or county governmental entities.

22 (12) "May" means permissive.

23 (13) "Negotiation" means contracting by either the method set forth in section 37-2-19,
24 37-2-20, or 37-2-21.

25 (14) "Person" means any business, individual, organization, or group of individuals.

26 (15) "Procurement" means the purchasing, buying, renting, leasing, or otherwise
27 obtaining of any supplies, services, or construction. It also includes all functions that pertain to
28 the obtaining of any supply, service, or construction item, including a description of
29 requirements, selection and solicitation of sources, preparation, and award of contract, and all
30 phases of contract administration.

31 (16) "Public agency" shall mean the Rhode Island industrial recreational building
32 authority, the Rhode Island economic development corporation, the Rhode Island industrial
33 facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and
34 mortgage finance corporation, the Rhode Island resource recovery corporation, the Rhode Island

1 public transit authority, the Rhode Island student loan authority, the Howard development
2 corporation, the water resources board corporate, the Rhode Island health and education building
3 corporation, the Rhode Island higher education assistance authority, the Rhode Island turnpike
4 and bridge authority, the Blackstone Valley district commission, the Narragansett Bay water
5 quality management district commission, the Rhode Island telecommunications authority, the
6 convention center authority, the Channel 36 foundation, the Rhode Island lottery commission
7 their successors and assigns, any other body corporate and politic which has been or will be
8 created or established within this state excepting cities and towns, ~~and the board of governors for~~
9 ~~higher education~~ for all purchases which are funded by restricted, sponsored, or auxiliary monies.

10 (17) "Purchase request" or "purchase requisition" means that document whereby a using
11 agency requests that a contract be entered into to obtain goods and/or services for a specified
12 need, and may include, but is not limited to, the technical description of the requested item,
13 delivery requirements, transportation mode request, criteria for evaluation of proposals, and/or
14 preparation of suggested sources of supply, and information supplied for the making of any
15 written determination and finding required by section 37-2-6.

16 (18) "Purchasing agency" means any state governmental entity which is authorized by
17 this chapter, its implementing regulations, or by way of delegation from the chief purchasing
18 officer to contract on its own behalf rather than through the central contracting authority of the
19 chief purchasing officer.

20 (19) "Purchasing agent" means any person authorized by a governmental entity in
21 accordance with procedures prescribed by regulations, to enter into and administer contracts and
22 make written determinations and findings with respect to contracts. The term also includes an
23 authorized representative acting within the limits of authority. "Purchasing agent" also means the
24 person appointed in accordance with section 37-2-1.

25 (20) "Services" means the rendering, by a contractor, of its time and effort rather than the
26 furnishing of a specific end product, other than reports which are merely incidental to the required
27 performance of services. "Services" does not include labor contracts with employees of state
28 agencies.

29 (21) "Shall" means imperative.

30 (22) "State" means the state of Rhode Island and any of its departments or agencies and
31 public agencies.

32 (23) "Supplemental agreement" means any contract modification which is accomplished
33 by the mutual action of the parties.

34 (24) "Supplies" means all property, including, but not limited to, leases of real property,

1 printing, and insurance, except land or permanent interest in land.

2 (25) "Using agency" means any state governmental entity which utilizes any supplies,
3 services, or construction purchased under this chapter.

4 (26) As used in section 37-2-59, "architect" or "engineer" services means those
5 professional services within the scope of practice of architecture, professional engineering, or
6 registered land surveying pertaining to construction, as defined by the laws of this state.
7 "Consultant" means any person with whom the state and/or a public agency has a contract which
8 contract provides for the person to give direction or information as regards a particular area of
9 knowledge in which the person is a specialist and/or has expertise.

10 (27) For purposes of sections 37-2-62 -- 37-2-70, "directors" means those members of a
11 public agency appointed pursuant to a statute who comprise the governing authority of the board,
12 commission, authority, and/or corporation.

13 (28) "State agency" means any department, commission, council, board, bureau,
14 committee, institution, or other governmental entity of the executive or judicial branch of this
15 state not otherwise established as a body corporate and politic, and includes, without limitation,
16 the board of governors for higher education except for purchases which are funded by restricted,
17 sponsored, or auxiliary moneys and the board of regents for elementary and secondary education.

18 (29) "Governmental entity" means any department, commission, council, board, bureau,
19 committee, institution, legislative body, agency, or government corporation of the executive,
20 legislative, or judicial branches of state, federal, and/or local governments.

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would remove the board of governors for higher education from the definition of
2 "public agency."
3 This act would take effect upon passage.

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