

State of Rhode Island and Providence Plantations

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October 22, 2015

Ms. Nancy McIntyre
Chief Purchasing Agent
Division of Purchases
Department of Administration
One Capitol Hill, 2nd Floor
Providence, RI 02908


Dear Ms. McIntyre:

The Bureau of Audits has completed its audit of the Division of Purchases delegated purchasing authority controls. The audit was conducted in accordance with Rhode Island General Law (RIGL) §35-7-3. The recommendations included herein have been discussed with members of management, and we considered their comments in the preparation of this report.

Rhode Island General Law §35-7-3(b), entitled *Audits performed by bureau of audits*, states that, "Within twenty (20) days following the date of issuance of the final audit report, the head of the department, agency or private entity audited shall respond in writing to each recommendation made in the final audit report." Accordingly, management submitted its response to the audit findings and recommendations on October 19, 2015, and such response is included in this report. Pursuant to this statute, the Bureau may follow up regarding recommendations included in this report within one year following the date of issuance.

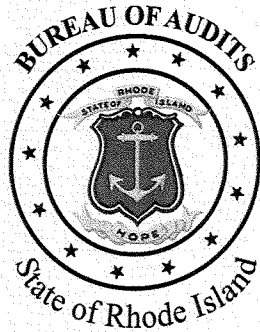
We would like to express our sincere appreciation to the staff of the Division of Purchases for the cooperation and courtesy extended to the members of our team during the course of this audit.

Respectfully yours,



Dorothy Z. Pascale, CPA
Chief

c- Michael DiBiase, Director, Department of Administration
Erik Godwin, Director, Office of Regulatory Reform
Honorable Daniel DaPonte, Chairperson, Senate Committee on Finance
Honorable Raymond Gallison, Chairperson, House Finance Committee



Executive Summary

Why the Bureau Did This Review

During the course of another agency audit, weak controls over delegated authority were noted resulting in a broader delegated authority audit. The purpose of this limited scope audit was to determine if the process deployed by the Division of Purchases to delegate purchasing authority is effective and efficient, in accordance with State statutes and regulations and has adequate controls in place.

Background Information

The Procurement Regulations allow a designated individual within an agency to act as a State purchasing agent when cost effectiveness and efficiency are best served. This individual is granted the authority by the Chief Purchasing Officer to enter into binding contractual agreements, which are subject to all of the rules and regulations promulgated by the Division of Purchases. This practice is known as Delegated Purchasing Authority.

To Improve Controls the Division of Purchases should:

- Update the Procurement Regulations.
- Develop a policy and procedure manual for Delegated Purchasing Authority.
- Develop a process to request Delegated Purchasing Authority to be used by all State agencies.
- Ensure that agencies have the appropriate controls in place to exercise Delegated Purchasing Authority.
- Develop a process for reviewing and updating Delegated Purchasing Authority on a regular basis.
- Maintain an active listing of all Delegated Purchasing Authority requests and authorizations granted to agencies and require agencies to maintain copies.
- Improve oversight by designating staff to be responsible for the management of Delegated Purchasing Authority on a statewide basis.

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Introduction

The State's centralized procurement system was established under RIGL §42-11-2 and is operated in accordance with the "State Purchases Act," RIGL §37-2. The mission of the Division of Purchases is:

To obtain goods and services for public purposes in the most cost-effective manner possible and ensure that all procurements are made with care, integrity and conform to rules, regulations and ethical standards relating to purchasing activities.

The State Purchasing Agent and the Chief Purchasing Officer¹ are responsible for executing the mission. However, the Procurement Regulations allow a designated individual within an agency to serve in the capacity as purchasing agent when cost effectiveness and efficiency are best served. This individual is granted limited authority by the Chief Purchasing Officer to enter binding contractual agreements, which are subject to all of the rules and regulations promulgated by the Division of Purchases. This practice is known as "delegated purchasing authority" ("DPA"). The Bureau audited the DPA process and controls; the resulting findings and recommendations were discussed with management, and the Bureau considered their corrective actions and comments in preparation of this report.

Recommendations for Improved Controls and Management Corrective Actions

Update the Procurement Regulations and Develop Policies and Procedures for the Delegated Purchasing Authority process

Well-constructed policies and procedures define guidelines for all employees to follow and help employees understand their jobs and responsibilities. Implementation and use of policies and procedures provides for consistent behavior and actions by employees and the means for disciplinary action if non-compliance is noted.

The current Procurement Regulations are outdated, unclear and do not contain sufficient detail related to the DPA process. Additionally, there are no formal policies and procedures in place to execute the DPA process. There has been a lack of adequate and timely review of the Procurement Regulations and lack of time and effort dedicated to the creation of a comprehensive DPA policy and procedure manual.

Agencies do not understand the guidelines they are expected to follow and, therefore, may be acting outside the scope of the DPA. Current regulations may not align with management expectations regarding the execution of the DPA process.

¹ In accordance with Rhode Island General Law 37-2-7(3), for State agencies the Chief Purchasing Officer is the Director of the Department of Administration.

Recommendations:

- 1) Update the Procurement Regulations.
- 2) Develop a policy and procedure manual for DPA; include disciplinary actions for any breach of the policy and procedures.
- 3) Review and update the manual on a periodic basis as determined by management.

Management Corrective Actions:

The Division of Purchases acknowledges the deficiencies in the Procurement Regulations as they relate to delegated authority. A representative from the Division of Purchases has been appointed to a working group established by Director DiBiase which has been charged with comprehensive review and updating of both the State Purchases Act and Procurement Regulations.

Responsible Parties:

Michael D. Mitchell, Esq., Deputy Purchasing Agent

Anticipated completion dates:

The working group's review and updating of the State Purchases Act and Procurement Regulations began in September 2015. Because the working group is in the early phase of a long term project no completion date has been set. However, the Division of Purchases shall recommend that the working group designate a subcommittee to undertake a comprehensive revision of Section 2.2.3 (Delegated Authority) of the Procurement Regulations so as to address the deficiencies outlined in this report. Revisions to Section 2.2.3 can then be referred to the Division of Legal Services for adoption under the Administrative Procedures Act.

After the revised Section 2.2.3 is adopted the Division of Purchases shall create an appropriate set of delegated authority application forms and a policy/procedures manual (a/k/a User's Guide) for the use by State agency personnel.

The Division of Purchases anticipates full implementation of these corrective actions no later than June 30, 2017.

Develop a process for agencies to request Delegated Purchasing Authority

Clear and concise documentation of DPA for each agency should be communicated and reviewed on a regular basis. Sufficient information should be obtained to execute the DPA. Minimal authority should be delegated to meet agency needs and requirements.

There is no formal process or standard mechanism for agencies to employ when requesting DPA. Requests for DPA by agencies are inconsistent and contain insufficient detail.

DPA is granted to agencies without adequate documentation detailing the specific individuals receiving the DPA and/or specific accounts to utilize for DPA procurements. Without this information the Division of Purchases may be unable to determine whether an agency is misrepresenting or exceeding their level of authority.

Recommendations:

- 4) Develop a process to request DPA, including the use of an application, to be used by all agencies requesting such authority.
- 5) Determine necessary criteria for the Division of Purchases to make informed decisions regarding the delegation of purchasing authority. Communicate this criteria to all DPA applicants.
- 6) Consider only those agencies that have significant purchasing workload and activity to justify DPA.

Management Corrective Actions:

The Division of Purchases shall recommend that the procurement statute/regulation working group designate a subcommittee to undertake a comprehensive revision of Section 2.2.3 (Delegated Authority) of the Procurement Regulations so as to address the deficiencies outlined in this report. Revisions to Section 2.2.3 can then be referred to the Division of Legal Services for adoption under the Administrative Procedures Act.

After the revised Section 2.2.3 is adopted the Division of Purchases shall create an appropriate set of delegated authority application forms and a policy/procedures manual (a/k/a “User’s Guide”) for the use by State agency personnel. The revised Section 2.2.3 shall establish the criteria for granting and use of delegated authority. The application forms shall provide standardized documentation for delegated authority requests, while the User’s Guide shall explain the regulatory requirement and appropriate use and oversight of delegated authority by agency personnel. The Division of Purchases shall mandate and conduct training of agency staff who are designated users of delegated authority.

Responsible Parties:

Nancy A. McIntyre, State Purchasing Agent

Michael D. Mitchell, Deputy Purchasing Agent

Interdepartmental Department Manager or other Division staff (to be determined)

Anticipated completion dates:

The Division of Purchases anticipates full implementation of these corrective actions no later than June 30, 2017.

Ensure agencies have adequate controls in place prior to granting Delegated Purchasing Authority

Compliance with regulations helps ensure that taxpayer dollars are used to procure the most cost-effective goods and services. The Division of Purchases does not ensure that agencies have the proper controls in place to effectively use DPA in compliance with regulations. Additionally, the Division does not require agency personnel to complete procurement training. Training employees safeguards that they are aware of rules and regulations and able to effectively carry out their responsibilities.

There has been insufficient time and effort dedicated to the DPA request review process. Therefore, agencies may not be utilizing DPA in a manner that is consistent with Division of Purchases regulations. The most cost-effective good/service may not be procured.

Recommendations:

- 7) Ensure that agencies have the appropriate controls in place to exercise DPA.
- 8) Require an agency requesting DPA to submit to the Chief Purchasing Officer and the Division of Purchases proof of competency in the proposed delegated area and the resources available to the agency to document proper controls over the DPA.
- 9) Create a training procurement program which personnel must complete prior to receiving DPA.

Management Corrective Actions:

The Division of Purchases shall recommend that the procurement statute/regulation working group designate a subcommittee to undertake a comprehensive revision of Section 2.2.3 (Delegated Authority) of the Procurement Regulations so as to address the deficiencies outlined in this report. Revisions to Section 2.2.3 can then be referred to the Division of Legal Services for adoption under the Administrative Procedures Act.

After the revised Section 2.2.3 is adopted the Division of Purchases shall create an appropriate set of delegated authority application forms and a policy/procedures manual (a/k/a "User's Guide") for the use by State agency personnel. The revised Section 2.2.3 shall establish the criteria for granting and use of delegated authority. The application forms shall provide standardized documentation for delegated authority requests, while the User's Guide shall explain the regulatory requirement and appropriate use and oversight of delegated authority by agency personnel. The Division of Purchases shall mandate and conduct training of agency staff who are designated users of delegated authority.

Responsible Parties:

Nancy A. McIntyre, State Purchasing Agent

Michael D. Mitchell, Esq., Deputy Purchasing Agent

Interdepartmental Department Manager or other Division staff (to be determined)

Anticipated completion dates:

The Division of Purchases anticipates full implementation of these corrective actions no later than June 30, 2017.

Update Delegated Purchasing Authority currently in place

An effective DPA process will grant minimum authority to appropriate individuals for the length of time necessary to meet the agency need. The Bureau noted 24 instances from 57 authorization letters provided by agencies in which DPA was granted during the 1990s that has not been amended or rescinded. There are also many letters of authorization that did not limit the timeframe in which the DPA is effective. However, there were some instances in which a timeframe was established but the authorizations have expired. For example, some letters stated an effective time period which had ended, and other letters stated the DPA would be revisited in the future; the Bureau found no evidence of a future review of authority. During our review, the Bureau discovered various issues related to non-updated DPAs. Some of these issues are presented below:

- In one instance, DPA was granted to a specific individual who is no longer employed by the State.
- A statutory change eliminated a position that had DPA, and the agency did not request a transfer of authorization, nor did the Division of Purchases rescind that agency's DPA.
- One agency requested a re-authorization of DPA in 2002 and 2008; however, a new letter of authorization was never issued (the letter has not been updated since 1992).
- One agency is actively utilizing DPA which was effective for calendar year 2014 (per agency personnel, the DPA is in the process of being updated).

There has been a lack of adequate maintenance and monitoring by either the Division of Purchases or by State agencies with DPA.

Recommendations:

- 10) Incorporate into the policy and procedure manual (referred to in Recommendation No. 1) a process for reviewing and updating DPA on a regular basis, such as with each change in administration.
- 11) Require all agencies to review the DPA granted to them. Have the agencies determine if DPA is still valid and whether any updates to the DPA need to be requested.
- 12) Restrict the amount of time in which each instance of DPA is effective.

Management Corrective Actions:

The Division of Purchases shall recommend that the procurement statute/regulation working group designate a subcommittee to undertake a comprehensive revision of Section 2.2.3 (Delegated Authority) of the Procurement Regulations so as to address the deficiencies outlined in this report. Revisions to Section 2.2.3 can then be referred to the Division of Legal Services for adoption under the Administrative Procedures Act.

After the revised Section 2.2.3 is adopted the Division of Purchases shall create an appropriate set of delegated authority application forms and a policy/procedures manual (a/k/a “User’s Guide”) for the use by State agency personnel. The revised Section 2.2.3 shall establish the criteria for granting and use of delegated authority. The application forms shall provide standardized documentation for delegated authority requests, while the User’s Guide shall explain the regulatory requirement and appropriate use and oversight of delegated authority by agency personnel. The Division of Purchases shall mandate and conduct training of agency staff who are designated users of delegated authority.

Responsible Parties:

Nancy A. McIntyre, State Purchasing Agent

Michael D. Mitchell, Esq., Deputy Purchasing Agent

Interdepartmental Department Manager or other Division staff (to be determined)

Anticipated completion dates:

The Division of Purchases anticipates full implementation of these corrective actions no later than June 30, 2017.

Maintain a centralized database of Delegated Purchasing Authority requests and authorization letters

Record keeping allows management to obtain pertinent information for current and future decision-making purposes. The Division of Purchases does not maintain a centralized database of DPA requests or authorization letters but, rather, relies on the agency to maintain this information. However, testing showed that agencies do not often have a copy of the original request.

The Division of Purchases is unaware of the various types of DPA that are currently utilized by agencies. Agencies may be procuring goods and services under delegated authority even if DPA has not been granted or was granted for a different purpose.

Recommendation:

- 13) Maintain an active listing of all DPA requests and authorizations granted to agencies. Implement a tracking mechanism to record information including, but not limited to, dates, expiration of authority and description of authority granted.

Management Corrective Action:

The Division of Purchases shall create an electronic, searchable database of all known delegated authority requests and approvals. The database shall identify, *inter alia*, the agency, the date of the request, the date of the approval the scope/subject matter, the agency personnel designated to exercise delegated authority, and the date the delegated authority is set to expire.

Responsible Party:

Nancy A. McIntyre, State Purchasing Agent

Michael D. Mitchell, Esq., Deputy Purchasing Agent

Interdepartmental Department Manager or other Division staff (to be determined)

Anticipated completion date:

The Division of Purchases shall expedite creation of the database and shall report to the Bureau of Audits when it is operable. The database shall be updated as necessary.

The Division of Purchases anticipates full implementation of these corrective actions no later than June 30, 2017.

Require all Delegated Purchasing Authority requests and authorization letters to be maintained by agencies

Agencies must have evidence that they are allowed to procure certain goods/services using DPA. State agencies granted delegated authority to purchase do not maintain adequate documentation to provide sufficient evidence:

- Out of the 57 DPA letters received from State agencies, only 25 had the corresponding request for DPA on file.
- Through testing, Bureau found two instances of granted DPA which are applicable to all State agencies; however, only one agency had both letters on file.
- There was one DPA letter which applied to three State agencies; however, only two of the agencies had the letter on file.
- In response to the Bureau's audit request, one agency submitted three requests for delegated authority. However, during preliminary review of DPA purchase requisitions, the Bureau discovered two additional letters applicable to the agency not reported to us.

There are no requirements promulgated by the Division of Purchases regarding the maintenance of DPA documentation. Therefore, no audit trail exists to verify granted DPA to state agencies. Agencies may be utilizing DPA to procure goods or services for which they do not have the authority to do so. In contrast, agencies may also be relying on the Division of Purchases to procure goods or services for items for which they have delegated authority, creating inefficiencies in the procurement process.

Recommendation:

- 14) Require agencies to maintain copies of delegated purchasing authority granted and the corresponding request in accordance with applicable record retention rules.

Management Corrective Action:

This item shall be addressed through revision of Section 2.2.3 of the procurement Regulations, promulgation of the user's Manual, and agency training.

Responsible Party:

Nancy A. McIntyre, State Purchasing Agent

Michael D. Mitchell, Esq., Deputy Purchasing Agent

Interdepartmental Department Manager or other Division staff (to be determined)

Anticipated completion date:

The Division of Purchases anticipates full implementation of these corrective action no later than June 30, 2017.

Require Delegated Purchasing Authority Decisions to be recorded

All procurement documentation must be maintained in a manner which provides a clear audit path linking the solicitation process, evaluation, award and payment. The Division of Purchases uses the documentation attached to a purchase requisition in the accounting system to determine if the agency has DPA and if it is properly employed. However, there are no requirements promulgated by the Division of Purchases regarding supporting documentation for procurements made utilizing DPA.

State agencies do not provide sufficient supporting documentation when creating a purchase requisition utilizing DPA. Although some agencies provided additional documentation to support the procurement made utilizing DPA, the documentation was not consistent and in most instances did not provide:

- Complete and sufficient evidence of the solicitation process
- Evaluation of the bids received
- Documentation of award
- Compliance with purchasing regulations such as utilizing competitive bidding procedures

Recommendations:

- 15) Identify and inform agencies what information must be maintained to document all DPA decisions.
- 16) Identify and inform agencies what documentation must be attached to the purchase requisition in the accounting system and reject those that do not meet the requirements.

Management Corrective Actions:

These items shall be addressed through revision of Section 2.2.3 of the procurement Regulations, promulgation of the user's Manual, and agency training.

Responsible Parties:

Nancy A. McIntyre, State Purchasing Agent

Michael D. Mitchell, Esq., Deputy Purchasing Agent

Interdepartmental Department Manager or other Division staff (to be determined)

Anticipated completion dates:

The Division of Purchases anticipates full implementation of these corrective actions no later than June 30, 2017.

Improve oversight of Delegated Purchasing Authority

Monitoring is a key component of an effective internal control system. A well-designed DPA system will include a review mechanism for monitoring the use of the agency delegated authority.

Division of Purchases or agency financial management staff should be responsible for:

- Insuring that DPA purchase requisitions are within the scope of the DPA authorization letter.
- Proper procedures are followed.
- Supporting documentation is available.

Division of Purchases does not have staff designated to the oversight and maintenance of delegated purchasing authority. DPA may be outdated and no longer applicable to an agency, or the agency may be acting outside of the scope of the delegated authority or in violation of the Procurement Regulations. Therefore, a broader review and monitoring of agency DPA should be performed by the Division of Purchases, and not agency staff.

Recommendations:

- 17) Improve oversight by designating Division of Purchases staff to be responsible for the management of granted DPA on a statewide basis, including periodic review to check the agency usage of the delegated authority over time.

18) Require all agencies granted DPA to annually certify that they are cognizant of and in compliance with the State Purchases Act and Procurement Regulations.

Management Corrective Actions:

These items shall be addressed through revision of Section 2.2.3 of the procurement Regulations, promulgation of the user’s Manual, and agency training.

Responsible Parties:

Nancy A. McIntyre, State Purchasing Agent

Michael D. Mitchell, Esq., Deputy Purchasing Agent

Interdepartmental Department Manager or other Division staff (to be determined)

Anticipated completion dates:

The Division of Purchases anticipates full implementation of these corrective actions no later than June 30, 2017.

Objective and Scope

The Bureau of Audits (Bureau) conducted a limited scope audit of the Division of Purchases’ delegated purchasing authority controls. The purpose of this engagement was to determine if the process used by the Division of Purchases to delegate purchasing authority is effective and efficient, in accordance with the State Purchases Act and Procurement Regulations, and has adequate controls in place.

Methodology

As part of the audit process, the Bureau gained an understanding of the existing controls in place for delegated purchasing authority (DPA) practices. To address the audit objectives, the Bureau performed the following:

- Interviewed Division of Purchases staff.
- Reviewed Rhode Island General Laws (RIGL) applicable to the Division of Purchases.
- Researched delegated purchasing authority best practices.
- Obtained an understanding of rules and regulations promulgated by the Division of Purchases.
- Requested DPA letters of authorization and requests from State agencies.
- Tested a sample of purchase requisitions created using delegated purchasing authority for adequate supporting documentation.

Appendix A

Listing of Awarded Delegated Authority

Agency Name	Description of Authority Granted	Date of Award
All Agencies	Conferences and Events	4/13/1998
All Agencies	Media Placement Services	4/19/2000
Attorney General	Expert Witness Testimony	9/9/1991
Board of Governors for Higher Education	Various services and products	9/30/1996
DCYF, DOC, BHDDH	Chaplaincy Services	5/7/1997
Department of Children, Youth, and Families	Grants for Various Services	7/12/1990
Department of Children, Youth, and Families	Emergency Intervention, Residential Treatment	12/12/1993
Department of Corrections	Food Purchases	12/31/1995
Department of Corrections	Supplemental Dental Assistant Services	5/7/1997
Department of Corrections	Supplemental Education Personnel	6/15/1990
Department of Corrections	Supplemental Medical Personnel	6/28/1991
Department of Corrections	Inmate Stores Purchases for resale	10/1/1993
Department of Elderly Affairs	Grants for Various Services	8/1/2001
Department of Elderly Affairs	Nutrition Grants and Assisted Living Payments	3/29/2004
Department of Elementary and Secondary Education	Board of Regents Fellows Services	4/16/1999
Department of Elementary and Secondary Education	Grants and expert consultants	7/1/2005
Department of Elementary and Secondary Education	Batch processing for reimbursing municipalities	9/6/2013
Department of Health	Health and Medical Services Organizations	1/22/1992
Department of Health	Physicians and Expert Witness Consultants	4/13/1992
Department of Health	Grants for Various Services	10/8/1992
Department of Human Services	Community Block Grant	11/19/1999
Department of Human Services	Various Program Grants	8/1/2001
Department of Human Services	Disability Determination services	3/13/2015
Department of Human Services	Title I Vocational Rehab Grants	3/13/2015
Department of Human Services	Services for the Blind	3/12/2015

Agency Name	Description of Authority Granted	Date of Award
Department of Transportation	Utility Work construction and Maintenance	2/15/1999
Department of Transportation	Grants to URI transportation	3/21/2000
Department of Transportation	Transportation Enhancement Grants	5/17/2000
Department of Transportation	MBTA Contracting	5/26/2004
Department of Transportation	Federal Highway Administration projects	4/4/2012
Department of Environmental Management	Grants for Various Services	5/10/1991
Department of Environmental Management	Litter Control and Recycling	3/31/1992
Department of Environmental Management	Forest Environment Programs	5/6/1992
Department of Environmental Management	Prudence Island Education Program	10/16/1997
Department of Environmental Management	Oceanography, Estuarine, Meteorological Services	5/19/1998
Department of Environmental Management	Pollution Management Grants	1/2/2003
Department of Environmental Management	Atlantic States Marine Fisheries	9/14/2005
Department of Environmental Management	Clean Vessel Grants	9/14/2005
Department of Labor and Training	Workforce Investment Act contracts	5/6/2014
Department of Labor and Training	Trade Adjustment Assistance contracts	5/6/2014
Department of Labor and Training	National Emergency Grant funds	5/6/2014
Department of Labor and Training	Senior Community Service Employment Contracts	5/6/2014
Department of Labor and Training	Human Resource Investment Council and GWBRI	5/6/2014
Department of Labor and Training	Job Development Fund	5/6/2014
Department of Labor and Training	TDI, Impartial Examiners and Medical Consultants	5/6/2014
Department of Labor and Training	RI Works	5/6/2014
Executive Offices of Health and Human Services	Community Based Organization Grants	11/14/2013
Governor's Commission on Disabilities	Handicapped Accessibility State agencies and colleges	11/17/2005

Agency Name	Description of Authority Granted	Date of Award
Historical Preservation Commission	Grants for Various Services	12/5/1990
Historical Preservation Commission	Historic renovation grants	5/16/2003
Public Defender	Expert Witness Testimony	3/4/1992
Public Utilities Commission	Expert Witness Testimony	5/2/1996
Rhode Island Council on the Arts	Services of artists	7/5/1994