



# OFFICE OF MANAGEMENT & BUDGET

State Budget Office


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## MEMORANDUM

**To:** The Honorable Marvin L. Abney, Chairman, House Finance Committee  
The Honorable Louis P. DiPalma, Chairman, Senate Finance Committee

**From:** Joseph Codega Jr., Budget Officer 

**Date:** March 28, 2024

**Subject:** Amendments to the FY 2025 Appropriations Act (24-H-7225)

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### Governor's Budget Amendment #5

The Governor requests amendments to the FY 2025 Appropriations Act within Article 3, Relating to Government Reform and Reorganization, and Article 9, Relating to Health and Human Services. The provisions and policy goals underlying these amendments are set forth below, with associated legislative changes and/or additions detailed in the subsequent technical section.

**Article 3:** This amendment consists of a new Section 20 which fully replaces the current Section 20. The updated section contains changes clarifying the intent of the bill to reflect the use of technology in the procurement process and to increase transparency. The changes address concerns raised by the ACLU. Additionally, this amendment clarifies the procurement process for using institutions of higher education for research-related activities.

**Article 9:** This amendment seeks authorization for HealthSource RI and the Executive Office of Health and Human Services to establish a program for automatically enrolling qualified individuals recently terminated from Medicaid with the State financing the first month's premium. The program will extend the automatic enrollment period through the end of 2025, to align with temporary enhanced federal Advance Premium Tax Credits, which would finance up to 95.0 percent of the premium costs. Premium costs would be financed by restricted receipts generated by the carrier assessment on all individual and small group policies sold by HSRI. There is no accompanying budget amendment associated with this budget article amendment as costs are already accounted for in the FY 2025 Governor Recommended Budget.

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

cc: Sharon Reynolds Ferland, House Fiscal Advisor  
Stephen Whitney, Senate Fiscal Advisor  
Brian Daniels, Director, Office of Management and Budget  
Jonathan Womer, Director of Administration

**H 7225, RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2025**  
**Article 3 – Relating to Government Reform and Reorganization**

Strike all language from Page 90, Line 24 through Page 100, Line 15 and replace with the following:

SECTION 20. Sections 37-2-2, 37-2-13.1, 37-2-17, 37-2-17.1, 37-2-17.2, 37-2-18, 37-2-18.2, 37-2-19, 37-2-20, 37-2-25.1, 37-2-54 and 37-2-56 of the General Laws in Chapter 37-2 entitled "State Purchases" are hereby amended to read as follows:

**37-2-2. General provisions.**

(a) This chapter shall be liberally construed and applied to promote its underlying purposes and policies.

(b) The purpose of the public procurement system for the State of Rhode Island and its local public agencies is to deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives in the best interest of the State. The additional underlying purposes and policies of this chapter are to:

(1) Simplify, clarify, and modernize the law governing purchasing by the state of Rhode Island and its local public agencies;

(2) Permit the continued development of purchasing policies and practices;

(3) Make as consistent as possible the purchasing laws among the various states;

(4) Provide for increased public confidence in the procedures followed in public procurement;

(5) Insure the fair and equitable treatment of all persons who deal with the procurement system of the state;

(6) Provide increased economy in state and public agency procurement activities by fostering effective competition;

(7) Provide safeguards for the maintenance of a procurement system of quality, integrity and highest ethical standards; and

(8) Ensure that a public agency, acting through its existing internal purchasing function, adheres to the general principles, policies and practices enumerated herein.

**37-2-13.1. Procurement regulations – Request for proposal.**

(a) No request for proposal shall change to a ~~master-price~~ master price agreement unless the request for proposal is cancelled and reissued as a master price agreement.

(b) No vendor, parent corporation, subsidiary, affiliate, or subcontractor of any state vendor may bid on a request for proposal if that person or entity has ~~or had any contractual, financial, business, or beneficial interest with the state or~~ a conflict of interest as defined in chapter 36-14 with any official, officer, or agency in charge of the request or if they materially participated or were consulted with respect to the direct requirements, and/or technical aspects, ~~or any other part of the formation and promulgation~~ of the request for proposals. except for in the situations outlined in subsection (f) of this section.

~~(c)~~ Further, no person or entity ~~who or that acts~~ acting as an operator or vendor for the state may participate in any request for proposal relating to any audit, examination, independent verification, review, or evaluation of any of the person's or entity's work, financials or operations performed for or on behalf of the state, or any official, officer, or agency.

~~(e)~~ (d) Persons or entities certified as "sole source" providers under § 37-2-21 shall be exempt from the requirements of subsection (b) of this section.

~~(d)~~ (e) Any person or entity submitting a proposal in response to a request for proposal shall make a written certification attesting under the penalty of perjury that the terms of subsection (b) of this section have been complied with or that the person or entity is exempt

under subsection ~~(e)~~ (d) of this section.

(f) Requests for information formally issued by the division of purchases, feasibility studies and preliminary evaluations, and emergency procurements as defined in § 37-2-21 shall be exempt from subsection (b) of this section. However, the division of purchases shall publicly disclose any final prior feasibility studies and/or evaluation reports completed in a subsequent procurement regarding a project.

**37-2-17. Method of source selection.**

Except for purchases solicited pursuant to the provisions for small purchases set forth in § 37-2-22, all state contracts and purchases shall be solicited through utilization of ~~the Rhode Island Vendor Information Program (RIVIP)~~ the State's eProcurement system as set forth in § 37-2-17.1. Except as otherwise authorized by law, all state contracts shall be awarded by:

- (1) Competitive sealed offers, pursuant to § 37-2-18;
- (2) Competitive negotiation, pursuant to §§ 37-2-19 and 37-2-20;
- (3) Emergency procurements, sole source procurements, and Noncompetitive negotiation, pursuant to § 37-2-21;
- (4) Small purchase procedures, pursuant to § 37-2-22; or
- (5) Reverse auctions, pursuant to § 37-2-18.1.

**37-2-17.1. Rhode Island vendor information program (RIVIP) Rhode Island eProcurement System.**

(a) The chief purchasing officer is directed to institute an electronic vendor information program which shall enable all ~~solicitations~~ invitations for bid and requests for a proposal to be accessed electronically by all potential vendors. This program is to be readily accessible through public access stations located at the following locations:

(1) One Capitol Hill, Providence, Rhode Island;

(2) City hall, town hall or public library of each of the thirty-nine (39) cities and towns in the state.

(b) Further, the vendor information program shall be accessible to potential vendors through means of computer modem.

(c) The chief purchasing officer may contract with auctioneers as defined in § 37-2-15(10) to conduct electronic reverse auctions, provided that notification of the opportunity to participate in the auction is posted ~~on the RIVIP~~ in accordance with the requirements of § 37-2-25.1.

(d) Any reference to Rhode Island vendor information program (RIVIP) in this chapter shall be amended to the Rhode Island eProcurement System.

~~**37-2-17.2. Utilization of department of administration Rhode Island vendor information program (RIVIP)**~~ **Utilization of department of administration eProcurement system.**

All public agencies as defined by § 37-2-7(16) shall utilize the ~~RIVIP~~ eProcurement system established by the chief purchasing officer for state agencies (~~director of the department of administration~~) to implement the requirements of §§ 37-2-17 and 37-2-17.1. The director of administration shall be authorized to assess prorated charges to public agencies to offset costs for acquisition of equipment, computer and other development, consultant services, installation of equipment, software, communications lines, initial and ongoing training and outreach, maintenance and any other costs of implementing and operating the ~~department of administration RIVIP~~ eProcurement system.

**37-2-18. Competitive sealed bidding.**

(a) Contracts exceeding the amount provided by § 37-2-22 or authorized under the procurement methods in § 37-2-17 shall be awarded by competitive sealed bidding unless it

is determined in writing that this method is not practicable or that the best value for the state may be obtained by using an electronic reverse auction as set forth in § 37-2-18.1. Factors to be considered in determining whether competitive sealed bidding is practicable shall include whether:

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

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

(b) ~~The invitation for bids~~ solicitation 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 selection is not made on the basis of lowest price,~~ the objective measurable criteria to be utilized shall be set forth in the ~~invitation for bids~~ solicitation, if available. Pursuant to chapter 38-2, the Access to Public Records Act, All documents submitted in response to the bid proposal are public pursuant to chapter 38-2 upon opening of the bids shall be made public upon the opening of the bids and contemporaneously posted on the State's eProcurement system for public inspection. The solicitation shall specifically apprise bidders that their proposal will be available for public inspection upon opening of bids. The invitation for bids shall state that each bidder must submit a copy of their bid proposal to be available for public inspection upon the opening of the bids. The burden to identify and withhold from the public copy that is released at the bid opening any trade secrets, or commercial or financial information that is of a privileged or confidential nature, or other information the bidder deems not subject to public disclosure pursuant to chapter 38-2, the Access to Public Records Act, shall rest with the bidder submitting the bid proposal; provided, however, the total amount for each bid shall be made public. Any information withheld by a

bidder shall be subject to subsequent review, and may be disclosed, by the Division of Purchases under the Access to Public Records Act.

~~(c) Unless the invitations for bid are accessible under the provisions as provided in § 37-2-17.1~~ Through the eProcurement system, public notice of the invitation for bids solicitation shall be given a sufficient time prior to the date set forth therein for the opening of bids. Public notice may include publication in a newspaper of general circulation in the state as determined by the purchasing agent not less than seven (7) days nor more than twenty-eight (28) days before the date set for the opening of the bids. The purchasing agent may make a written determination that the twenty-eight (28) day limitation needs to be waived. The written determination shall state the reason why the twenty-eight (28) day limitation is being waived and shall state the number of days, giving a minimum and maximum, before the date set for the opening of bids when public notice is to be given.

(d) Bids shall be opened and ~~read aloud publicly~~ posted on the eProcurement system at the time and place designated in the invitation for bids solicitation. Each bid, together with the name of the bidder and the amount of the bid, shall be recorded and an abstract made available for public inspection posted on the eProcurement system in accordance with subsection (b).

~~(e) The chief purchasing officer shall adopt and file regulations governing the bidding of highway and bridge construction projects in the state not later than December 31, 2011.~~

~~(f) (e) Immediately subsequent to the opening of the bids, the copies of bid documents submitted pursuant to subsection 37-2-18(b) shall be made available for inspection by the public.~~ Any objection to any bid on the grounds that it is nonresponsive to the invitation for bids solicitation must be filed with the purchasing agent within five (5) business days of the opening of the bids. The purchasing agent shall issue a written determination as to whether



the subject bid is nonresponsive addressing each assertion in the objection and shall provide a copy of the determination to the objector and all those who submitted bids at least seven (7) business days prior to the award of the contract. If a bid is nonresponsive to the requirements in the invitation to bid, the bid is invalid and the purchasing agent shall reject the bid. The purchasing agent shall have no discretion to waive any requirements in the invitation to bid which are identified as mandatory. Nothing in this section shall be construed to interfere with or invalidate the results of the due diligence conducted by the division of purchasing to determine whether bids are responsive and responsible.

(g) Subsequent to the awarding of the bid, all documents pertinent to the awarding of the bid that were not made public pursuant to subsection ~~37-2-18(e)~~ 37-2-18 (b) shall be made available and open to public inspection, pursuant to ~~chapter 38-2~~, the Access to Public Records Act, and retained in the bid file. ~~The copy of the bid proposal provided pursuant to subsection 37-2-18(b) shall be retained until the bid is awarded. The original bid proposal provided pursuant to subsection 37-2-18(b) shall also be maintained and made available for public inspection.~~

(h) The contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price, lowest evaluated, or responsive bid price.

(i) Correction or withdrawal of bids may be allowed only to the extent permitted by regulations issued by the chief purchasing officer.

(j) ~~As of January 1, 2011, this section shall apply to contracts greater than one million dollars (\$1,000,000); on January 1, 2012 for all contracts greater than seven hundred fifty thousand dollars (\$750,000); on January 1, 2013 for all contracts greater than five hundred thousand dollars (\$500,000); and on January 1, 2014 for all contracts awarded pursuant to~~

~~this section.~~ All available contracts awarded under this section shall be posted on the eProcurement system.

**37-2-18.2. Exemption from competitive bidding.**

(a) The three (3) public institutions of higher education (the University of Rhode Island, Rhode Island College and the Community College of Rhode Island) shall be exempt from the competitive bidding process provisions of this chapter for research or research related activity funded with federal funds or other third-party funds subject to rules and regulations promulgated by the ~~board of governors for higher education~~ office of the postsecondary commissioner.

(b) In the event that none of the three Rhode Island public institutions of higher education can provide the services for research or research-related activity, any other public or private institutions of higher education shall also be exempted from the competitive bidding process provisions of this chapter for research or research related activity funded with federal funds or other third-party funds.

(c) The State of Rhode Island has a large number of well-qualified institutions of higher education. In accordance with § 37-2-80, in instances where a Rhode Island institution and an out-of-state institution can provide the services covered by this section, preference shall be given to the Rhode Island institution of higher education, all other factors being equal.

**37-2-19. Competitive negotiation.**

(a) When, under regulations issued by the chief purchasing officer, the purchasing agent determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in §§ 37-2-21 and 37-2-22, a contract may be awarded by competitive negotiation.

(b) Adequate public notice of the request for proposals to be negotiated shall be given

in the same manner as provided in § 37-2-18(c).

(c) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(d) Written or oral discussions may be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. All oral discussions conducted with responsible offerors who submit proposals shall be memorialized in writing and all such writings shall be deemed public record at the time the contract is awarded and shall be made available for public inspection. Discussions shall not disclose any information derived from proposals submitted by competing offerors.

(e) An award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the state, taking into consideration price and the evaluation factors set forth in the request for proposals. Discussions need not be conducted if the purchasing agent makes a written determination concerning one or more of the following:

(1) With respect to prices, where the prices are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions;

(2) Where time of delivery or performance will not permit discussions; or

(3) Where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with the particular supply, service, or construction item that acceptance of an initial offer without discussion would result in fair and reasonable prices, and the request for proposals notifies all offerors of the possibility that an award may be made on the basis of the initial offers.

(f) Where time permits, the State Purchasing Agent may authorize a best and final offer process to clarify requirements when there is a substantial price discrepancy among bidders

or when the cost exceeds the budget or in any circumstance determined to be in the best interest of the state.

**37-2-20. Negotiations after unsuccessful competitive sealed bidding Negotiations after unsuccessful solicitation.**

(a) ~~In the event that all~~ The State Purchasing Agent may authorize negotiation when bids submitted pursuant to competitive sealed bidding under § 37-2-18 result in bid prices in excess of the funds available, to clarify requirements or where there is a substantial price discrepancy or in any circumstance determined to be in the best interest of the state. for the purchase and the chief purchasing officer determines in writing The State Purchasing Agent shall consider the following:

(1) That there are no additional funds available from any source so as to permit an award to the lowest responsive and responsible bidder, and

(2) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in § 37-2-18, then a negotiated award may be made as set forth in subsection (b) or (d) of this section.

(b) Where there is more than one ~~bidder~~ offeror, competitive negotiations, ~~pursuant to § 37-2-19, shall~~ may be conducted with the ~~three (3) (or two (2) if there are only two (2)) bidders~~ offerors determined in writing to be the lowest responsive and responsible bidders, or the highest scoring offerors, to the ~~competitive sealed bid~~ solicitation invitation. Competitive negotiations shall be conducted under the following restrictions:

(1) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(2) A ~~request for proposals, based upon revised specifications or quantities,~~ best and final offer shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of the lowest bid price, or ~~lowest evaluated bid price~~ the highest score submitted by any responsive and responsible offeror.

(c) Contracts may be competitively negotiated when it is determined in writing by the purchasing agent that the bid prices received by competitive sealed bidding were not independently reached in open competition, and for which:

(1) Each competitive bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate; and

(2) The negotiated price is lower than the lowest rejected bid by any competitive bidder; and

(3) The negotiated price is the lowest negotiated price offered by a competitive offeror.

(d) When, after ~~competitive sealed bidding~~ solicitation, it is determined in writing that there is only one responsive and responsible bidder, a negotiated award may be made with the bidder subject to the provisions of § 37-2-28.

**37-2-25.1. Prequalification of vendors for electronic reverse auctions.**

(a) Potential bidders shall be prequalified for participation in each electronic auction.

(b) A request for qualifications shall be issued stating the intent to conduct a reverse auction in accordance with the provisions of § 37-2-18.1. The request for qualifications shall identify the goods and services to be purchased and the criteria to be used to determine how many and/or which bidders will be selected to participate in the reverse auction. All requests for qualifications shall be solicited through utilization of the Rhode Island ~~Vendor Information Program (RIVIP)~~ eProcurement system as set forth in § 37-2-17.1.

(c) Participants shall be selected based on the criteria set forth in the request for qualifications, including agreement to any terms, conditions or other requirements of the solicitation. Written or oral discussions may be conducted with all responsible vendors determined in writing to be reasonably susceptible of being selected for award.

(d) Prior to the execution of the auction potential bidders shall be required to receive instruction on the use of the selected electronic bidding procedure. Only bidders who successfully complete the training phase of prequalification shall be permitted to participate in the electronic reverse auction specified in the request for qualifications.

**37-2-54. Chief purchasing officer – Purchases.**

(a) The chief purchasing officer, except as otherwise provided by law, shall purchase, or delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(1) For contractual services where no competition exists such as sewage treatment, water, and other public utility services;

(2) When, in the judgment of the department of administration, food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state;

(3) When instructional materials are available from only one source;

(4) Where rates are fixed by law or ordinance;

(5) For library books;

(6) For commercial items that are purchased for resale;

(7) For professional, technical, or artistic services;

(8) For all other commodities, equipment, and services which, in the reasonable discretion of the chief purchasing officer, are available from only one source;

(9) For interests in real property.

(10) For works of art for museum and public display;

(11) For published books, maps, periodicals, newspaper or journal subscriptions, and technical pamphlets;

(12) For licenses for use of proprietary or patented systems;~~and~~

(13) For services of visiting speakers, professors, performing artists, and expert witnesses;and

(14) For research-related activities and services provided by colleges and universities.

(b) Nothing in this section shall deprive the chief purchasing officer from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof or other governmental entities, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(c) The department of administration shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall prescribe rules and regulations to govern purchasing by or for all spending agencies, subject to the approval of the chief purchasing officer; and shall publish a manual of procedures to be distributed to agencies and to be revised upon issuance of amendments to the procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the department or made under general regulations which the chief purchasing officer may prescribe.

(d) The chief purchasing officer shall adopt regulations to require agencies to take and

maintain inventories of plant and equipment. The department of administration shall conduct periodic physical audits of inventories.

(e) The department of administration shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the department of administration, prior to the beginning of each fiscal year, an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(f) The director of the department of administration shall have the power: to transfer between departments; to salvage; to exchange; and to condemn supplies and equipment.

(g) Unless the chief purchasing officer deems it is in the best interest of the state to proceed otherwise, all property (including any interest in real property) shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the department of administration or the department of transportation for the requirements of that department.

(h) Subject to the provisions of this chapter, the chief purchasing officer shall purchase, or otherwise acquire, all real property determined to be needed for state use, upon the approval of the state properties committee as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department of transportation (for such requirements of that department) or value set by eminent domain procedure.

(i) The department of administration shall maintain records of all purchases and sales



made under its authority and shall make periodic summary reports of all transactions to the chief purchasing officer, the governor, and the general assembly. The chief purchasing officer shall also report trends in costs and prices, including savings realized through improved practices, to the governor and general assembly.

(j) The chief purchasing officer shall attempt in every practicable way to insure that the state is supplying its real needs at the lowest possible cost. Further, to assure that the lowest possible cost is achieved, the chief purchasing officer may enter into cooperative purchasing agreements with other ~~governmental~~ public entities and institutions of higher education.

**37-2-56. Purchasing for municipalities and regional school districts. Purchasing for municipalities, and regional school districts, and institutions of higher education.**

Any municipality, ~~or regional school district,~~ or institution of higher education of the state may participate in state master price agreement contracts for the purchase of materials, supplies, services and equipment entered into by the purchasing agent, provided, however, that the contractor is willing, when requested by the municipality, ~~or school district,~~ or institution of higher education, to extend the terms and conditions of the contract and that the municipality, ~~or school district,~~ or institution of higher education will be responsible for payment directly to the vendor under each purchase contract. Unless a state contract is the result of an intergovernmental cooperative purchase contract to which a municipality, ~~or school district,~~ or institution of higher education is a party, the purchasing agent shall not compel a successful bidder to extend the same terms and conditions to a municipality, ~~or school district,~~ or institution of higher education. However, the purchasing agent may, in the interest of obtaining better pricing on behalf of the state and local entities, solicit offers based upon anticipated master price agreement utilization by municipalities, ~~and school districts,~~ and institutions of higher education.

**H 7225, RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2025**  
**Article 9 – Relating to Health and Human Services**

Page 223, After Line 3: Insert the following and reassign subsequent subdivision entitled

“*Federal Financing Opportunities*” as “(e)”:

(d) *HealthSource RI Automatic Enrollment.* The executive office of health and human services and HealthSource RI may establish and operate a program for automatically enrolling qualified individuals who lose Medicaid coverage into Qualified Health Plans ("QHP"). HealthSource RI may use funds available through the American Rescue Plan Act, funds collected pursuant to R.I. Gen. Laws § 42-157-4(a), or funds otherwise appropriated by the Rhode Island General Assembly to HealthSource RI to pay the first month’s premium for individuals who qualify for this program. HealthSource RI may use the information available in the state’s integrated eligibility system, known as “RI Bridges,” to authorize advance payments of the premium tax credit, as defined by 45 C.F.R. § 155.20, on behalf of applicable tax filers. The executive office of health and human services and HealthSource RI may terminate this program if the federal requirements provide that an individual whose household income is expected to be no greater than one hundred fifty percent (150%) of the federal poverty level is required to contribute an amount greater than zero (0) for purposes of calculating the premium assistance amount, as defined in 26 U.S.C. § 36B(b)(3)(A). HealthSource RI, in consultation with the executive office of health and human services, may promulgate regulations establishing the scope and parameters of this program.