



STATE OF RHODE ISLAND
Department of Administration
DIVISION OF LEGAL SERVICES
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January 21, 2026

**SENT VIA FIRST CLASS MAIL
AND ELECTRONIC MAIL [sPhillips@veic.org]**

Stephanie Phillips
General Counsel
VEIC
20 Winooski Falls Way, Fifth Floor
Winooski, Vermont 05404

RE: VEIC Bid Challenge Determination – Request for Quotes (“RFQ”) Phase 2 # 25005145 –
OER Efficiency Administrator

Dear Attorney Phillips:

The Chief Purchasing Officer for the Rhode Island Division of Purchases has issued a Determination in response to the Bid Challenge received originally on November 18, 2025 and subsequently supplemented on December 5, 2025.

For your information, the determination is attached.

Sincerely,

Daniel W. Majcher, Esq.

DWM/njr

Attachment

- c. Jay Hauser, State Purchasing Agent
- Amanda Rivers, Deputy Chief Purchasing Agent
- Christopher Kearns, Acting Energy Commissioner
- Max Righter, Administrator of Purchasing Systems




Director's Office

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

INTER-OFFICE MEMORANDUM

TO: Jay Hauser
State Purchasing Agent

FROM: Jonathan Womer
Director/Chief Purchasing Officer 

DATE: January 21, 2026

RE: VEIC Bid Challenge Determination – Request for Quotes (“RFQ”) Phase 2 # 25005145 – OER Efficiency Administrator

I. Introduction

In accordance with R.I. Gen. Laws § 37-2-52 and 220-RICR-30-00-1.6, this memorandum serves as the Chief Purchasing Officer's written determination in response to a challenge submitted by Vermont Energy Investment Corporation (“VEIC”), received originally on November 18, 2025, attached hereto as **Appendix A**, subsequently supplemented on December 5, 2025, attached hereto as **Appendix B** (collectively “VEIC Challenge”).

VEIC challenges the cancellation of RFQ # 25005145 -- OER Phase 2 Efficiency Administrator (“RFQ”), which resulted in the electric and gas distribution company, Narragansett Electric Company d/b/a/ Rhode Island Energy (“RIE”), remaining as the administrator for the existing program. For the reasons set forth herein, VEIC's challenge is denied.

II. Background and Relevant Fact:

R.I. Gen. Laws § 39-2-1.2(o) provides for a procurement process for the administration and implementation of the State of Rhode's statewide energy efficiency program:

(o) The Rhode Island office of energy resources, in coordination with the energy efficiency and resource management council, and following consultation with the public utilities commission and division of public utilities and carriers, shall issue a request for proposals for the cost-effective administration and implementation of statewide energy efficiency programs funded by this section no later than September 30, 2023. The draft request for proposals shall

be reviewed through at least one technical session at the public utilities commission prior to issuance. Public utilities commission approval shall not be required. The Rhode Island office of energy resources, in coordination with the energy efficiency and resource management council, shall evaluate proposals and determine whether energy efficiency administration and implementation by the electric and gas distribution company or a third party is likely to achieve the most net benefits for electric and gas customers in Rhode Island. After January 1, 2025, the office of energy resources may, periodically, and at its discretion, issue additional requests for proposals for the administration and implementation of statewide energy efficiency programs funded through this chapter of an electric distribution company as defined in § 39-1-2(a)(12) or gas distribution company included as a public utility in § 39-1-2(a)(20) that has greater than one hundred thousand (100,000) customers.

(1) Nothing in this chapter shall prohibit the electric and/or gas distribution company from submitting a proposal to administer and implement the state energy efficiency programs.

(2) If the office of energy resources, in coordination with the energy efficiency and resource management council, determines that the use of a third-party administrator is likely to achieve the most net benefits for electric and gas customers in Rhode Island, it shall file its recommendation with the public utilities commission, which shall docket and rule on the matter pursuant to its general statutory authorization.

(3) If the commission determines that the recommended third-party administrator is in the interest of Rhode Island utility customers, it shall provide for the full cost recovery for the third-party administrator consistent with the terms of the approved contract, and which shall reflect the overall annual budget approved by the commission. The third-party administrator shall be subject to all the requirements set forth for the electric and gas distribution company per § 39-1-27.7.

(4) If the commission determines that a third-party administrator will administer the state energy efficiency programs on or after June 1, 2024, the commission shall direct the gas and electric distribution company to collect and transfer the gas and electric energy efficiency funds to the third-party administrator for the annual state energy efficiency program beginning with the program year and thereafter for the remaining program years. The gas and electric distribution company shall transfer the annual administrative funds to the office of energy resources and energy efficiency and resource management council.

(5) If a third-party administrator implements the annual energy efficiency programs then they shall be required to develop and design the annual state energy efficiency program with the office of energy resources and energy efficiency and resource management council, including a vote by the energy efficiency and resource management council prior to the third-party administrator filing the annual program plan to the public utilities commission for review and a decision.

(6) The third-party administrator shall file the annual state energy efficiency program plan to the public utilities commission for review and approval no later than September 30, 2024, and annually thereafter on such date.

(7) The third-party administrator shall provide all information requested by the office of energy resources, energy efficiency and resource management council, division of public utilities and carriers, and the public utilities commission, including responses to data requests, which are necessary for the agencies to carry out their respective oversight roles, and shall be accountable to the same standards as the utility with administering and implementing energy efficiency, system reliability, and least-cost procurement standards and goals in accordance with § 39-1-27.7 and this section.

(8) If the office [of energy resources] does not recommend advancement of a third-party administrator, the electric and gas distribution company shall continue to administer statewide energy efficiency programs.

Emphasis added.

On or about August 26, 2025, the Rhode Island Office of Energy Resources (“OER”) submitted an evaluation memorandum, attached hereto as **Appendix C**, to the Rhode Island Division of Purchases (“Division”), with a recommendation to not proceed with the advancement of a new third-party administrator and to continue with RIE as the current program administrator. This discretion is expressly given by statute to OER as stated in R.I. Gen. Laws § 39-2-1.2(o)(8). The Division accepted OER’s recommendation, and the procurement was cancelled by the State Purchasing Agent on or about November 5, 2025 through a Procurement Determination Form, attached hereto as **Appendix D**.

The OER recommendation, and the Division’s cancellation, followed an extensive procurement process and review of proposals as outlined below:

Phase 1 – Qualified List of Vendors Technical Review: On or about December 20, 2023, the Division, on behalf of OER, issued QLV-Qualified List of Vendors Technical Review #24003654 (“QLV”) for “Phase 1 State of Rhode Island Energy Efficiency Administration.” The QLV contained the following disclaimer: “If at any stage in the evaluation process OER does not recommend the advancement of a third-party administrator, the electric and gas distribution

company shall continue to administer statewide energy efficiency programs.” The solicitation summary document for the QLV on page 7 contained the following disclaimer: “**Award** The State, at its sole discretion, reserves the right to make one or multiple awards for this solicitation and/or to reject any or all bids.” [Emphasis provided.]

Proposals in Phase 1 were reviewed on the following criteria:

Criteria	Possible Points
Staff Qualifications	10 Points
Capability, Capacity, and Qualifications of the Vendor	40 Points
Work Plan	40 Points
Total Possible Technical Points	90 Points
Interview	10 Points
Total Possible Evaluation Points	100 Points

This phase also contained an interview phase and required a threshold minimum of 85 technical points out of 100 maximum points for both the technical evaluation and the interview in order for a bidder to proceed to the next phase.

During this phase, four bids were received. Two out of the four bidders were identified as “technically qualified” by an evaluation team: Narragansett Electric Company d/b/a/ Rhode Island Energy (“RIE”) received a technical score of 85.2 and VEIC received a technical score of 92.6. These two qualified bidders met the required threshold and were invited to submit cost proposals during Phase 2.

Phase 2 -- Request for Quotes: During Phase 2, the RFQ was issued requesting cost proposals from RIE and VEIC. The RFQ, on page 20 of 20, also contained the following disclaimer: “If at any stage in the evaluation process OER does not recommend the advancement of a third-party administrator, the electric and gas distribution company shall continue to administer statewide energy efficiency programs.” The solicitation summary document for the RFQ, on page 7, also contained the following disclaimer: “**Award** The State, at its sole discretion, reserves the right to make one or multiple awards for this solicitation and/or to reject any or all bids.” [Emphasis provided].

In response to the RFQ, RIE submitted an implementation budget of \$125,328,200, while VEIC submitted an implementation budget of \$130,468,000. The RIE implementation budget, as submitted, was \$5,139,800 or 4 percent less than the VEIC proposal.

Phase 3 – Benefit Cost Analysis: The RFQ outlined Phase 3 as follows: “OER will conduct a benefit-cost analysis on up to three of the lowest-cost proposals from Phase 2 to

determine which bidder would be likely to achieve the most net benefits for electric and gas customers in Rhode Island.”

On November 5, 2025, after receipt of the evaluation memorandum and OER’s recommendation, the Division cancelled the procurement (**Appendix D**) in accordance with R.I. Gen. Laws § 37-2-23. Notice of the cancellation was publicly posted on the Division’s website.

On November 18, 2025, the Chief Purchasing Officer received a letter from VEIC (**Appendix A**) generally challenging the cancellation and stating: “On November 5, 2025, the solicitation was updated as canceled "per agency evaluation committee recommendation," but without any documentation of the recommendation or explanation of the basis for OER's decision.” VEIC further raises questions about the transparency of the process and the decision to cancel.

On November 19, 2025, via email, VEIC was provided both the evaluation memorandum (**Appendix C**) and the Division’s cancellation determination (**Appendix D**) and was asked whether VEIC wished to withdraw or supplement its challenge. On or about December 5, 2025, VEIC submitted a supplement to its challenge (**Appendix B**) further challenging the cancellation and the matter was reviewed by the Chief Purchasing Officer.

III. Determination

As Chief Purchasing Officer, I hereby determine as follows:

A. Timeliness:

Bid protests “must be received by the chief purchasing officer not later than fourteen (14) calendar days after the protester knew or should have known, whichever is earlier, the facts giving rise to a protest.” 220-RICR-30-00-1.6(D) and R.I. Gen. Laws § 37-2-52(b). Under the State’s General Conditions of Purchase, “[a]ny Contract issued by the Division is subject to the resolution of any timely bid protest.” 220-RICR-30-00-13.3(C)(11). In the event of timely protest, the award is placed on hold.

In this case, notice of the cancellation was publicly posted on the Division’s OSP website on November 5, 2025. The original challenge by VEIC was timely received on November 18, 2025, within 2 calendar weeks of the cancellation. The next day, on November 19, 2025, VEIC was provided the evaluation memorandum and procurement determination form which stated the reasoning for the cancellation. However, VEIC did not submit its supplemental filing until December 5, 2025, more than 2 weeks after it was provided the reasoning on November 19, 2025. Thus, the supplemental filing was not timely. Notwithstanding the issue of timeliness of the supplemental filing, without waiving legal defenses, I hereby review the merits of the challenge and determine as follows:

B. Merits of the Challenge:

In accordance with R.I. Gen. Laws § 37-2-23, a procurement may be cancelled “in the best interest of the state.” In this case, pursuant to R.I. Gen. Laws § 39-2-1.2(o)(8), OER was given statutory discretion to determine whether to recommend advancement of a third-party administrator: “If the office [of energy resources] does not recommend advancement of a third-

party administrator, the electric and gas distribution company shall continue to administer statewide energy efficiency programs.”

The TEC representing the OER, in a detailed evaluation memorandum (**Appendix C**), explained its rationale for not advancing a third-party administrator at this time. The TEC was comprised of experienced employees of OER and were supported by several subject matter experts from outside OER personnel. The TEC outlines in its memo the following concerns and factors about proceeding at this time:

- **Increasing focus on Energy Affordability** – The TEC noted that VEIC’s proposed increase in spending (an additional \$5,139,800 over the period of performance) to achieve the additional ratepayer savings, comes at a challenging time for utility consumers. The TEC notes that the budgets submitted by both bidders, and especially VEIC, are inconsistent with current trends for PUC approved budgets and exceed the existing PUC-approved budget.
- **Enhanced Federal Policy Risk and Related Energy Efficiency Market Risk for Rhode Island** – The TEC also considered the passage of a federal reconciliation bill which will sharply reduce or eliminate consumer-facing federal incentives for eligible energy efficiency measures. Further, the TEC noted the ongoing risks to federal grant funding provided to Rhode Island and its regional partners and the potential impact of trade tariffs. Because of these concerns, the TEC states: “[L]ayering on a transition period to a TPA from RIE at this particularly disruptive and uncertain moment could potentially create further uncertainty for said contractors and the market [at] large.”
- **Other Procurement Risks and Future Consideration** – The TEC notes additional concerns about changing the structure of the entire program to model that involves a state-issued contract to provide the third-party administrator services, as opposed to a program that is automatically run by the gas distribution company. Notwithstanding this concern, the TEC reserved the right to conduct another procurement at a later time.

Based on these factors, the TEC recommended cancelling the procurement.

The discretion of the TEC is entitled to deference. “It is well settled that, in reviewing the bidding process, the [courts] will interfere with the award of a state or municipal contract only in the event that the awarding authority has ‘acted corruptly or in bad faith, or so unreasonably or so arbitrarily as to be guilty of a palpable abuse of discretion.’” Blue Cross & Blue Shield of Rhode Island v. Najarian, 865 A.2d 1074, 1081 (R.I. 2005) (citations omitted). Further, the Rhode Island Supreme Court has set an extremely high bar for a showing of a palpable abuse of discretion: “To rise to a showing of palpable abuse of discretion, however, one must establish that not only were there violations of the law but also that those violations were significant.” Id. At 1084.

In this case, there is no evidence of corruption, bad faith or anything that appears to rise to the level of a palpable abuse of discretion by TEC. To the contrary, it appears that the OER conducted a comprehensive, thoughtful review as described in its memorandum and has

expressed concerns about transitioning to new administrator at the present time. Expressly empowered by the Rhode Island General Assembly, the Chief Purchasing Officer refrains from stepping into the shoes of the agency in discretionary matters.

IV. Conclusion:

The determination to cancel the RFQ is hereby upheld and the VEIC challenge is denied. The Division shall proceed in accordance with this determination.

- c. Max Righter, Division of Purchases
Daniel W. Majcher Esq., Division of Legal Services

APPENDIX A



Received

NOV 18 2025

Department of Administration
Division of Legal Services

November 18, 2025

Jonathan Womer, Chief Purchasing Officer
State of Rhode Island, Division of Purchases
One Capitol Hill, 2nd Floor
Providence, RI 02908
via email to Jonathan.Womer@doa.ri.gov

Dear Director Womer,

This letter is regarding Rhode Island's recent solicitation, RFQ25005145, *OER Phase 2 Energy Efficiency Administrator*, which was listed as canceled/retracted on November 5, 2025. This procurement was the second phase of a legislatively-mandated procurement for the Rhode Island Office of Energy Resources (hereafter, "OER.") Pursuant to § 39-2-1.2(o), (hereafter, the "statute,") OER was required to "evaluate proposals and determine whether energy efficiency administration and implementation by the electric and gas distribution company or a third party is likely to achieve the most net benefits for electric and gas customers in Rhode Island." After Phase 1 of the procurement concluded in December of 2024 with a Technical Evaluation, OER issued a determination that two bidders, namely VEIC and The Narragansett Electric Company d/b/a Rhode Island Energy (hereafter, "RIE"), were invited to the next phase of the solicitation process, which was posted on February 7, 2025, with an end date of March 14, 2025.

While the proposals submitted by VEIC and RIE for Phase 2 were posted in Ocean State Procures on March 25, 2025, no procurement determination form was included, and the solicitation was listed as "under evaluation" through October 2025 without any further update available. On November 5, 2025, the solicitation was updated as canceled "per agency evaluation committee recommendation," but without any documentation of the recommendation or explanation of the basis for OER's decision. Pursuant to § 37-2-52 of the Rhode Island General Laws, VEIC hereby exercises its right to protest this purchasing decision. The basis for VEIC's protest is that OER failed to properly consider and weigh the benefits of a third-party administrator model, as required by the statute.

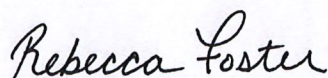
Specifically, VEIC asserts that on the basis of the two proposals received by OER for this procurement, VEIC's proposal would have delivered \$40M more in lifetime benefits to Rhode Island residents, and for every dollar spent, VEIC's proposal would have delivered three times more

energy saved than RIE's proposed program. Given that the only documentation available establishes that a third-party model, as proposed by VEIC, would result in significantly higher net benefits for Rhode Island residents, OER has not fulfilled its statutory obligation.

Additionally, the unique nature of this solicitation – namely that one of the two bidders invited to respond is the incumbent who does not require an award or contract to offer the program for which OER is evaluating proposals – effectively means that any cancellation or withdrawal of the solicitation at this phase is functionally equivalent to an award in favor of RIE. However, by virtue of its characterization as a cancellation, rather than an award, no documentation or basis for the determination is provided. This effectively contradicts the principles of transparency and good faith that are required of OER and the Division of Purchasing. VEIC respectfully requests review of this solicitation, including a request for the basis of the decision to cancel the procurement, which is effectively a determination that the third-party administrator model would not achieve the most net benefits for electric and gas customers in Rhode Island, as set forth in the statute.

In addition to the concerns raised above regarding transparency, VEIC requests review of this procurement given the lack of clarity on how the decision to continue with the incumbent was made. In an email sent to me on November 5, 2025, Chris Kearns, Acting Commissioner at OER, wrote, "The Office of Energy Resources made the determination that we will not be advancing with a new third-party administrator at this time and Purchasing canceled the RFP based on that decision." The Acting Commissioner's statement makes no mention of the deliberations of the Technical Review Committee, which was described in the Bid Evaluation Team Detailed Report released on December 18, 2024 that provided the scoring results for bidders in Phase 1 of this solicitation. This discrepancy raises questions about whether the Technical Review Committee was engaged in Phase 2, and whether or how their recommendation was part of the decision-making process.

Sincerely,



Rebecca Foster
CEO, VEIC

cc: Max Righter, Max.Righter@purchasing.ri.gov

APPENDIX B



December 5, 2025

Daniel W. Majcher, Esq.
R.I. Department of Administration
Legal Services
One Capitol Hill, 4th Fl.
Providence, RI 02908
via email to daniel.majcher@doa.ri.gov

Re: RFQ25005145 Bid Protest

Hello Dan,

My name is Stephanie Phillips, General Counsel for VEIC. I will be representing VEIC in this matter; you can send all future correspondence to me.

Thank you for providing, in response to our notice of challenge, the memorandum from the Office of Energy Resources (hereafter, "OER") and the procurement determination form related to this procurement. VEIC has reviewed the memorandum and wishes to supplement its challenge given the new information this memorandum has provided.

While the documentation provided is arguably responsive to VEIC's request for an explanation of the basis for OER's decision, the explanation provided confirms that the procurement followed neither the legislation that originally prompted the procurement, nor the solicitation itself, nor Rhode Island's procurement requirements.

In establishing this procurement, R.I. Gen. Laws § 39-2-1.2(o) required OER to determine whether "a third party is likely to achieve the most net benefits for electric and gas customers in Rhode Island." Accordingly, the solicitation for Phase 2 of this RFP stated that "if a bidder would be likely to achieve the most net benefits for electric and gas customers in Rhode Island, this recommendation will be filed to the PUC for a docket to rule on the decision." From the memorandum provided, OER itself admits that "the VEIC bid had higher projected net benefits than the one provided by RIE." However, despite clearly meeting the only requirement identified in the statute or the procurement, rather than advance this recommendation to the Public Utilities Commission, OER deviated from the identified evaluation criteria and instead made the decision on the basis of "the added costs and risks (both quantified and unquantified)" that

selecting VEIC's bid would purportedly entail. These additional, unspecified criteria appear nowhere in the solicitation, nor in the legislation that required it. As these criteria were not stated in the solicitation, VEIC was never provided an opportunity to demonstrate its ability to meet them.

Additionally, both the legislation and the solicitation identified that in the event a bidder demonstrated a likelihood of achieving the most net benefits for utility customers in Rhode Island (which OER's own memo confirms that VEIC did), the appropriate body to determine whether this was in the best interest of Rhode Islanders was the Rhode Island Public Utilities Commission. Rhode Island has a robust regulatory process to rule on dockets precisely like this one; the RIPUC was in the best position to properly evaluate transition costs and risks and require both parties to better substantiate these in order to make a determination. In its proposal, VEIC offered to cover \$500,000 of transition costs to help with the transition with recovery through a performance award. This would have reduced the amount of such transition costs, as well as mitigated performance risk by a third party like VEIC. This, however, does not appear to have been considered in OER's evaluation, and they did not allow the RIPUC to follow its own evidentiary process to make this determination in a transparent way for ratepayers.

Unfortunately, in addition to failing to meet the statutory burden, OER's procurement process also contradicted its own stated process, as well as those of Rhode Island's procurement guidelines. The RFP was first issued in December 2023, and stated in its proposed timeline that the very first step after making a determination on the basis of most net benefits, would be that the parties would, in spring of 2024, "participate in a PUC docket to determine if a third-party administrator would be in the best interest of Rhode Island utility customers." Accordingly, Phase 1 of the RFP was due in March of 2024, which was extended into early April. Phase 1 was only a qualification phase; no final selection needed to be made, as OER stated it would merely be determining which bidders had sufficient qualifications to advance to the next phase. However, OER did not advance to Phase 2 of the RFP until January 2025, nearly 10 months after the original Phase 1 submission deadline and well into the period that the selected bidder was originally expected to have already begun implementing the first year of the program. During this delay, OER provided no updates on the status of the procurement, the potential shifting of timelines, or any rationale for the delay, despite VEIC's requests for information. While VEIC understands that procurement timelines are estimates, and that changes frequently happen, this delay was both exceptional in duration and also fundamentally affected the basis upon which the proposals were apparently reviewed.

When Phase 2 was finally issued, OER did not provide any guidance on the budget to be used for the program modeling. VEIC, keenly aware that budget fluctuations can happen, particularly given that nearly a year had passed since its initial modeling and Phase 1 response, asked OER

for a budget to use as a basis for Phase 2 modeling. VEIC submitted this question in the Q&A portion of the Phase 2 procurement, namely: "Can OER provide guidance on which budget value should be used for the budget calculations in the Phase 2 Cost Proposal?" The answer provided by OER was as follows (emphasis added): "As specified in the RFQ Phase 2 documents, bidders are being asked for a budget proposal and expected costs and benefits for the 2027 calendar year. Bidders should use their best judgement, within the constraints set out in the Phase 2 RFQ, in developing their proposals. *In considering expected costs and benefits, net benefits will be a primary consideration, regardless of overall budgets.*" As such, VEIC's response to this phase of the procurement focused on net benefits. VEIC reasonably relied on the information provided by OER, which made no mention that any budget assumptions would be viewed as a firm bid, nor that a lower budget would be seen more favorably or form the basis of a decision. Such an analysis would have been central to the PUC docket that should have resulted from this procurement, which VEIC would have welcomed the opportunity to participate in.

Additionally, as VEIC asserted in its initial notice of challenge to this procurement, the unique nature of the procurement was between an incumbent who is a regulated utility with existing access to OER and an outside bidder. While this is not an uncommon position for an incumbent service provider to the state, the fact that the procurement was conducted without transparency or in compliance with its stated criteria unfairly disadvantaged VEIC, as this same lack of transparency did not apply to Rhode Island Energy, the only other bidder. When VEIC asked for information about RIE's 2024 program so that all bidders had the same information available in completing the Phase 2 cost proposal, OER responded that they were "unable to provide information that is not already publicly available." RIE, however, was fully able to base their proposal off this information, as it was about their own program. OER could have accounted for this inherent difference in position by evaluating the proposals on the criteria set forth in the solicitation and the statute. However, the memo drafted in August 2025 clearly indicates that VEIC was effectively penalized for not having been able to base its proposal off of the same information that Rhode Island Energy already had access to, and without the opportunity to provide any information or responses to such criteria. OER's memo makes it clear that they took into account the transition costs in making the determination to cancel the procurement. It is worth noting that these estimated transition costs were provided by RIE – the only other bidder. These costs were apparently taken at face value by OER, as VEIC was never asked, nor given an opportunity, to respond to these estimates. Again, VEIC would have welcomed the opportunity to respond to these estimates, provide documentation to support its position that these were exorbitant, and that the actual transition costs would be significantly lower, and more than outweighed by the ratepayer savings that would have been delivered under a third party model with VEIC.

Lastly, it is worth noting that while the memo from OER stated that it had "accepted the proposal from... Rhode Island Energy (RIE) to continue serving as the energy efficiency program administrator," this memo is dated August 26, 2025. For months after this memo's effective date, the procurement remained "under evaluation," and was only canceled on November 5, 2025, over two months later. Each time VEIC had inquired as to the status of the procurement during the overall procurement period, it was frequently informed that there was "no update to provide," and no update or additional information was provided after the date that VEIC is now aware that this memorandum had already been drafted. Nor, it should be mentioned, did VEIC receive any notification that the procurement had been terminated, and only upon VEIC's inquiry after seeing the status publicly posted on Ocean State Procures did OER confirm that the procurement had been canceled, without any further information on the basis for this decision. Only upon VEIC's notice of protest was the memorandum provided at all. In addition to stating reasons for the determination that do not appear consistent with the solicitation or the legislation that required it, the delay of time after this memo's effective date suggests additional, undisclosed factors influenced this procurement's eventual cancelation. VEIC respectfully requests confirmation, as part of its bid protest, whether this memorandum and the reasoning contained within it formed the sole basis for the determination to cancel the procurement, and if so, how that basis can be reconciled with the procurement's original and statutorily-required purposes.

We look forward to the Department of Administration's thorough and thoughtful review of this matter.

Sincerely,

Stephanie Phillips

Stephanie Phillips
General Counsel

APPENDIX C



STATE OF RHODE ISLAND
INTER-DEPARTMENTAL MEMORANDUM

Date: August 26, 2025

To: Max Righter
Administrator of Purchasing Systems
Department of Administration
Division of Purchases

From: Steven Chybowski
Administrator, Energy Efficiency Programs
Office of Energy Resources

Subject: Evaluation of Proposals Submitted in Response to RFQ # 25005145 – OER Phase 3 Energy Efficiency Administrator

Review Process and Recommendations

The Technical Review Committee for RFQ # 25005145 – OER Phase 3 Energy Efficiency Administrator is comprised of the following individuals:

Name	Department	Title
Steven Chybowski	Office of Energy Resources	Administrator, Energy Efficiency Programs
William Owen	Office of Energy Resources	Energy Policy Regulatory Manager
Sarah Doherty	Office of Energy Resources	Thermal Decarbonization Manager

* Note: Karen Bradbury, the former Administrator of Energy Legislation and Programs for the Office of Energy Resources, participated in the first two phases of this procurement process until May 28, 2025 when she left that role with OER and became a PUC Commissioner in June 2025.

Additionally, the following individuals participated in the process serving as advisory members to the Technical Review Committee:

Name	Organization	Role
Jim Kennerly	Sustainable Energy Advantage, LLC	OER Technical Consultant
Peter Gill Case	Energy Efficiency and Resource Management Council	Energy Design and Code Representative

Priscilla De La Cruz	Energy Efficiency and Resource Management Council	Residential Representative
Craig Johnson	Optimal Energy, an NV5 Company	EERMC Technical Consultant

* Stephan Wollenburg, a former technical consultant to OER from Sustainable Energy Advantage, LLC, participated in the first two phases of this procurement process until April 2025, and was replaced by Jim Kennerly.

This procurement has consisted of three phases. The Phase 1 scoring occurred in QLV # 24003654 – OER Phase 1 State of Rhode Island Energy Efficiency Program Administration. This phase identified two vendors out of four submissions that were deemed to be technically qualified to serve as the energy efficiency program administrator, who were subsequently invited to submit cost proposals through an RFQ. The two vendors that met the minimum scores to qualify (85 out of a maximum of 100 points) were the Narragansett Electric Company d/b/a/ Rhode Island Energy, who received a phase 1 technical score of 85.2, and VEIC, who received a technical score of 92.6.

The Phase 2 evaluation occurred as RFQ # 25005145 – OER Phase 2 Energy Efficiency Administrator. The Phase 2 review consisted of assessing the lowest-cost bid of the technically qualified vendors for these services. Both vendors submitted cost proposals responsive to the request. In this phase and evaluation, the Narragansett Electric Company, d/b/a Rhode Island Energy provided an implementation budget¹ of \$125,328,200 and VEIC provided an implementation budget of \$130,468,000. Rhode Island Energy had the lower cost proposal by a difference of \$5,139,800 or 4 percent.

In the third phase of the evaluation, RFQ # 25005145 – OER Phase 3 Energy Efficiency Administrator, additional proposal benefits and costs have been evaluated. While the VEIC bid had higher projected net benefits than the one provided by RIE, the Technical Review Committee did not assess this increase in net benefits as sufficient to outweigh the added costs and risks (both quantified and unquantified) associated with the transition. OER staff details herein the process that led to this conclusion. **After careful consideration, the Technical Review Committee, comprised of Office of Energy Resources (OER) staff, has accepted the proposal from the Narragansett Electric Company, d/b/a Rhode Island Energy (RIE) to continue serving as the energy efficiency program administrator.**

Evaluation of Vendor-Sourced Quantifiable Benefits and Costs

To compare the net benefits of different energy efficiency program administrators in this procurement, OER asked each bidder to submit budget proposals for one full year of energy efficiency programming for both electric and gas portfolios. We also asked each vendor to submit their expected program benefits based on their budgets, a process that is common for energy efficiency programs. VEIC submitted a program proposal which would yield total benefits amounting to \$371,700,829 with a benefit-cost ratio of 2.45. RIE submitted a program proposal which would yield total benefits amounting to \$321,119,747 with a benefit-cost ratio of 2.13. This results in an overall benefit-cost differential of 0.32 in favor of VEIC’s proposal, or \$50,581,082 (16%) of additional benefits with an increase in budget of \$5,139,800 (4%). However, the benefits in VEIC’s

¹ Note that this includes costs for administering the programs and regulatory costs (i.e., statutory allocations for the Rhode Island Infrastructure Bank, the Office of Energy Resources, and the Energy Efficiency and Resource Management Council).

proposal also included an anomalous value for commercial refrigeration from VEIC. Upon further review by the Technical Review Committee, it appears that VEIC's total measure estimates in that category are higher than the most recent market potential study suggests is technically feasible in Rhode Island. Upon removing this category from each vendor's benefit-cost submissions to make a one-to-one comparison, this would bring VEIC's total benefits and benefit-cost ratio down to \$357,116,219 and 2.38 respectively, and RIE's total benefits and benefit cost-ratio down to \$318,236,181 and 2.11, respectively. In the absence of commercial refrigeration benefits and costs, VEIC's proposal would yield \$38,880,038 more benefits than RIE's with an adjusted benefit-cost differential of 0.27. This assessment as a starting place does suggest that VEIC is proposing a more cost-effective program, but this BCA comparison does not take into account any of the additional transitional costs associated with this change, which are described in more detail below.

Evaluation of Transitional Costs and Other Considerations

While the Technical Review Committee considered overall net benefits of the proposals, it also considered the distribution of spending across budget categories, quantifiable and unquantifiable transition costs and risks, and the feasibility of expected cost and benefit estimates, as was described during the question-and-answer period.

One consideration in the process of determining whether to switch to a third-party administrator (TPA), and away from the incumbent electric and gas energy efficiency program administrator, RIE, is the nature of the change in administrative structure and process for the programs. A major value of RIE's energy efficiency programming is that said programs are consistently available to RIE's customers throughout Rhode Island without undue disruption. Indeed, and relative to other state energy efforts with a higher profile, these programs largely operate in the background of overall energy programming and planning, while still permitting investments that:

- Confer participant bill savings and comfort regardless of season;
- Right-size RIE's total capital, operating, and financing costs necessary to meet energy demand (and recovered from ratepayers); and
- Have direct regulatory oversight provided by the Public Utilities Commission.

A comparison of the two processes (the current process and a potential new process in which a third-party administrator is empowered to manage the programs) is shown in Figure 1 and Figure 2 below.

Figure 1: Current Administrative Process Associated with Utility Administrator



Figure 2: Potential/Revised Administrative Process Associated with Third-Party Administrator



Given the gravity of this potential shift and the risks inherent in it, the Technical Review Committee believes that the net benefits of shifting to a new vendor need to be clearly in excess of those offered by RIE, and also must be clear even after accounting for total transitional costs. Though the VEIC proposal offered greater net benefits and a higher benefit cost ratio under the Rhode Island Test, these did not account for the total transitional costs borne by both the vendors and OER, the Public Utilities Commission (PUC), the Division of Public Utilities and Carriers (DPUC), or any other State entities that may seek to be parties to any transition dockets or processes. To switch vendors and attempt to achieve the additional net benefits that VEIC's proposal would yield when compared to RIE, the vendors (RIE and VEIC) estimate that they would need to collectively spend \$1,839,451 to transition the program, between both one-time transitional costs² and recurring costs³ to support a new efficiency administrator. In addition to the transition costs for the vendors involved, OER assumes that it would also be incurring additional administrative costs and obligations with the State purchasing process including oversight of the administrator and their subcontractors as the contract holder with the potential third-party administrator, and we conservatively estimate these costs to be \$175,250 annually⁴, for a total of \$876,250 over the 5-year period of performance.⁵

Assessing Other Transitional Risks for Energy Efficiency Programs and Investments

Overall, the Technical Review Committee believes that consideration of the obligatory procurement, as well as continuing to preserve its option to pursue the procurement of the services of a TPA in the future, is critical to incentivizing RIE to offer the best, most innovative and cost-effective energy efficiency programs

² One time transition costs include VEIC's proposal of \$843,600 and RIE's proposal of \$173,350.

³ RIE's plan proposed \$822,501 of recurring costs through 2032.

⁴ This cost would cover staffing requirements necessary to manage a potential programmatic transition between program administrators, ensuring that programming is meeting its contractual requirements, resolving any issues between parties, and ongoing management of the programming and was noted in the budget template provided to respondents.

⁵ Though the evaluation team did not quantify costs associated with non-OER state entities, these values can reasonably be assumed to be non-zero.

possible, and thereby make a major contribution to meeting the State's 2021 Act on Climate requirements. Fundamentally, however, the Technical Review Committee believes there are other critical factors beyond higher direct costs to ratepayers and other quantified and unquantified transitional costs that must be considered in the risk calculus associated with a transition to a different vendor than RIE.

These factors include:

- **Increasing Focus on Energy Affordability:** The Technical Review Committee is highly cognizant of the fact that VEIC's proposed increase in spending (an additional \$5,139,800 over the period of performance) to achieve these additional savings comes at a challenging time for utility consumers writ large. This is particularly true following an unusually cold winter when customer utility bill costs are a major concern for constituents. Both RIE and VEIC proposed budgets that were higher than the previous year's energy efficiency program budget and are inconsistent with the current trend of approved energy efficiency budgets by the PUC, which has seen a steady decrease in spending by approximately 20% over the past five years, with VEIC proposing the higher of the two budgets. Given these concerns, the State is focused on right-sizing the efficiency program budget to balance short-term affordability concerns and long-term energy efficiency savings to ensure that customers are not burdened with higher-than-necessary utility bills, particularly in the coldest months of the year, and following several years of consumer cost inflation driven by the COVID-19 pandemic, related supply chain disruption, and various monetary and fiscal policy responses to the pandemic.
- **Enhanced Federal Policy Risk and Related Energy Efficiency Market Risk for Rhode Island:** The Technical Review Committee also considered the passage of a federal reconciliation bill that will sharply reduce or eliminate consumer-facing federal incentives for eligible energy efficiency measures, as well as ongoing risks to federal grant funding provided to Rhode Island and its regional partners. Furthermore, federal trade tariffs, especially for measures heavily influenced by the cost of raw or finished materials, parts, or other goods sourced from or assembled in foreign countries, remain a major risk for the cost of eligible energy efficiency incentives – especially for air- and ground-source heat pumps and other eligible HVAC equipment. The Technical Review Committee is concerned that such underlying increases in capital costs for new measures could potentially disrupt market activity within critical contractor networks, and further concerned that layering on a transition period to a TPA from RIE at this particularly disruptive and uncertain moment could potentially create further uncertainty for said contractors and the market writ large.
- **Other Procurement Risks for Future Consideration:** The Technical Review Committee also notes that third-party energy efficiency program administration, when structured as a contract between the State and any selected vendor, would also add risks regarding future procurements. For example, under such an arrangement, the State would be obligated to re-procure these services at the end of each contractual agreement, and thus prior to the termination of any given agreement, program implementation risk would be re-introduced in multiple ways.
 - First, it is possible that no vendor chooses to bid on the service in a future procurement, including the incumbent service provider. This would leave the State with limited time to re-staff and re-establish the efficiency programs.
 - Second, since this is not a service that is procured with regularity within Rhode Island or in other jurisdictions, it is possible that a lack of competition could pose challenges to program implementation, such as a more limited incentive for efficiency on behalf of a TPA.

Despite these potential risks, OER does not see them as dispositive in preventing or ruling out such procurements in the future, but instead as considerations for a potential future procurement round for said services.

Conclusion

VEIC has submitted a strong proposal. The firm has demonstrated that they have the capabilities to run and manage statewide efficiency programs, and that they have innovative solutions for programming. Their technical proposal showed that they have experience delivering these programs in different jurisdictions. In isolation, their proposal did provide a higher benefit-cost ratio for efficiency programming than RIE's proposal, but this is not the only factor that needs to be considered when selecting the State's energy efficiency program administrator. RIE has extensive experience administering efficiency programming within Rhode Island and has demonstrated longstanding collaboration with vendors for program delivery.

The OER Technical Review Committee believes that RIE is the right choice to continue as the energy efficiency program administrator for the reasons described above. Per R.I.G.L. 39 -2-1.2 (o)(viii), OER does not recommend the advancement of a new third-party administrator at this time, and that the energy efficiency program shall continue to be administered by the electric and gas distribution company, the Narragansett Electric Company, d/b/a Rhode Island Energy (RIE).

We want to be clear that OER reserves the right to reissue an RFP for these services in the future at our discretion, which we will exercise if we determine that the efficiency services are not sufficiently meeting expectations and the needs of customers. These expectations include, but are not limited to, delivering on the activities described in the RIE proposal, including publishing a public-facing dashboard for all stakeholders to be able to monitor energy efficiency program performance, for the iEnergy system to improve the customer qualification and enrollment process and programmatic data sharing capabilities where applicable, and for programming to exceed 2024's achievements in percentage of lifetime savings goals for the electric and gas portfolios. This process has demonstrated that, while limited, there are other qualified firms out there able to carry out these programs and that we will expect RIE, as the chosen vendor, to achieve their set targets and continue to innovate and find new approaches to deliver solutions and savings.

APPENDIX D



Division of Purchases
One Capitol Hill | Providence, RI 02908 | (401) 574-8100
Jay Hauser, State Purchasing Agent

Procurement Determination Form

Req. #: 1841705 Bid #: RFQ25005145 MPA #: N/A PO #: N/A
1841716 QLV24003654

Procurement Title: Phase 1 / Phase 2 Energy Efficiency Administrator

Agency: OER

Name of Procurement Specialist/APS: Max Righter

Name of Vendor(s): N/A

Award Amount: N/A
(may be approximate)

R.I. Gen. Laws § 37-2-6 requires:

“Every determination required by this chapter shall be in writing and based upon written findings of fact by the public official making the determination. These determinations and written findings shall be retained in an official contract file in the office of the chief purchasing office, the using agency, or public agency administering the contract.”

This form provides a format for written determinations under the State Purchases Act (R.I. Gen. Laws § 37-2-1, *et seq.*):

Determination Type
(Multiple Determinations May Apply)

- Award after Competitive Procurement (§ 37-2-18) Choose an item.
- Award for Construction-Manager-at-Risk after Competitive Procurement (§ 37-2-27.3)
- Waiver of Twenty-Eight Day Posting Requirement (§ 37-2-18(c)) (must specify 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 (less than 7 days or greater than 28 days))
- Multi-Year Contract Approval (§ 37-2-33(b))
- Cancellation of Invitation of Bids or Request for Proposal (§ 37-2-23)
- Non-Competitive Procurement - Single/Sole Source (§ 37-2-21(a)) (justification attached)
- Non-Competitive Procurement - Emergency (§ 37-2-21(b)) (justification attached)

- Non-Competitive Procurement - Noncompetitive Negotiation After Competitive Solicitation** (§ 37-2-21(c))
- Competitive Negotiation** (§ 37-2-19) (Requests for Proposals and 37-2-18 not practicable)
- Negotiations after Unsuccessful Sealed Bidding** (§ 37-2-20)
 - Excess of funds available (§ 37-2-20(a))
 - Best & Final: Two (if only two) or three lowest responsive and responsible bidders (§ 37-2-20(b))
 - Prices not reached in open competition (§ 37-2-20(c))
 - Only one responsive bidder (§ 37-2-20(d)) (see § 37-2-28 for requirements)
- Reverse Auction** (§ 37-2-18.1)
- Cost Reimbursement Contract** (§ 37-2-30) (**Chief Purchasing Officer**)
- A & E Committee Process Final Selection** (§ 37-2-69) (**Chief Purchasing Officer**)
(Less than \$20,000.00)
- A & E Committee Process** (§ 37-2-59)
(Greater than \$20,000.00)
- Request for Legal Services** (§ 37-2-70)
- Request for Professional Services - Medical and Dental Consultant Services** (§ 37-2-70)
- Bid Protest - Continuation of Procurement (Chief Purchasing Officer)** (§ 37-2-53)
(The Bid would not be awarded until protest is resolved.)
- Bid Protest Decision** (§ 37-2-52) (**Chief Purchasing Officer/Designee**)
- Contract or Breach of Contract Resolution (Chief Purchasing Officer)**
- Vendor Sanctions** (220-RICR-30-00-14) (suspended / debarred)
- Master Price Agreement Award** - No other determination needed
- Other/Miscellaneous:** Choose an item.

Reason for Determination (attach separate memo if necessary):

QLV24003654 opened on 4/3/2024 with responses received from four vendors. Proposals were forwarded to and reviewed by the evaluation committee, who found on 10/30/2024 that two vendors, i.e. The Narragansett Electric Company d/b/a Rhode Island Energy (RIE) and Vermont Energy Investment Corporation (VEIC) met the minimum technical threshold required to advance to the interview component. Interviews were conducted by the evaluation committee, who found on 12/18/2024 that both vendors met the minimum combined technical and interview scores required to advance to the Phase 2 cost component of the procurement.

RFQ25005145 (Phase 2) was posted on 2/7/2025, with proposals received from the two qualified vendors on 3/14/2025. At the time of bid opening, it was noted that VEIC did not utilize the cost proposal template as provided in the solicitation, which included a “thousands multiplier” intended to abbreviate figures provided. In order to equitably compare the two cost proposals received, VEIC was contacted to provide their cost proposal on the template, with no other substantive changes to be allowed. Upon receipt of the VEIC cost proposal on the solicitation template, cost proposals were forwarded to the evaluation committee for review.

On 4/7/2025, the evaluation committee presented clarifying questions to be asked of the submitting vendors to assist with their review of the information provided. The clarifying questions were reviewed, modified, and sent to the vendors on 4/28/2025 with responses due no later than 5/5/2025. Once responses were received, they were forwarded to the evaluation committee to continue their cost proposal evaluation.

On 7/18/2025, the evaluation committee returned their review memo, identifying both vendors submitted cost proposals that were responsive to the solicitation. In accordance with the solicitation, up to three of the lowest cost proposals identified in Phase 2 would proceed to Phase 3 (Cost-Benefit Analysis), and OER recommended that both RIE and VEIC advance to Phase 3. OER was authorized to proceed with their Phase 3 Cost-Benefit analysis on 7/22/2025.

On 8/26/2025, OER returned their final evaluation memo, recommending that in accordance with RIGL §39-2-1.2(o)(vii), a third-party administrator was not recommended by OER/the evaluation committee. The Energy Efficiency and Resource Management Council (EERMC), along with their adviser (both groups served as advisory members on the evaluation committee) submitted their perspectives through a memo on 9/17/2025. As a result, OER was asked to provide a response to the EERMC’s memo, which was submitted on 9/24/2025 and affirmed their findings.

As per the solicitation, if OER/the evaluation committee did not recommend the advancement/award of a third-party administrator, the electric and gas distribution company shall continue to administer statewide energy efficiency programs. Therefore, RFQ25005145 and QLV24003654 shall be cancelled.

- Procurement File Incorporation: (Procurement file contains sufficient and valid justification for Determination[s] noted above and is thus adopted by incorporation by checking this box and signing this form.)**

Other Statutory or Regulatory Requirements or Factors:

[Click here to enter text.](#)

- Statutory/Regulatory Review—The determination[s] above has/have been made after a complete review of the associated statutory and regulatory requirements and a reasonable interpretation of those requirements by the Division of Purchases.**

Signatures (Not all signatures may be applicable depending on requirements):

Req. #: 1841705 Bid #: RFQ25005145 MPA #: N/A PO #: N/A
1841716 QLV24003654

Procurement Specialist:

Print Name Signature Date

Chief Procurement Specialist:

Print Name Signature Date

Administrator of Purchasing Systems:
Max Righter Digitally signed by Max Righter
Date: 2025.11.04 15:31:01 -05'00'

Print Name Signature Date

Deputy Purchasing Agent:
Amanda Rivers/Meredith Skelly

Print Name Signature Date

Purchasing Agent:
Jay Hauser

Jay Hauser Digitally signed by Jay Hauser
Date: 2025.11.05 09:18:19 -05'00'

11/05/2025

Print Name Signature Date

Chief Purchasing Officer:
DOA Director Jonathan Womer

Print Name Signature Date

~END OF DOCUMENT~