Transportation Industry Report

Prepared for the Joint Standing Committee on Transportation
132nd Legislature

January 30, 2025

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Senator Timothy Nangle, Chair
Representative Lydia Crafts, Chair
Members of the Joint Standing Committee on Transportation

Honorable Committee Members:

Members of the 131st Joint Standing Committee on Transportation issued a letter to the Maine Turnpike Authority and the Maine Department of Transportation requesting both agencies meet with the construction and transportation industry and report back on several key issues:

- Identify areas where overlaps between agencies may exist in procurement, maintenance, and engineering services.

- Provide examples or cumulative data – including, but not limited to, projects rejected in some geographic regions – when bids exceeded estimates.

- Identify regulations, policies, or specifications that contractors allege result in unwarranted project costs or delays.

- Include newly enacted or existing laws or regulations that increase transportation construction costs, especially those that appear to add little value to the regulation's intent.

- Share potential legal, financial, or operational barriers for the Maine Turnpike Authority regarding the possible consolidation of services.

- Identify ways to improve cost efficiencies at both agencies and current or potential barriers to making those improvements.

Associated General Contractors of Maine (AGC Maine) and Maine Better Transportation Association (MBTA) coordinated multiple meetings with both agencies. Since they each have leadership teams, it was decided collectively that meetings with each agency would be held separately. Still, representatives of MaineDOT and MTA would be present at each meeting. That process yielded consistency across four meetings and ensured that any crossover topics could be addressed.

We, collectively, decided to share the legislative request but allow AGC Maine and MBTA members to start with an open forum of issues rather than be prescriptive. We managed to cover each topic and organized the issues accordingly in this report. The open discussion with both agencies led to productive meetings and additional follow-up work.

In the second round of meetings, we provided an agenda with items from the first meeting, and agencies had the opportunity to update the group with responses, including some solutions to discuss.

We appreciate the opportunity to share the results of the meetings with the Committee members and would be pleased to present any details in person or answer questions.

Sincerely,

Peter Merfeld, Interim Executive Director
Maine Turnpike Authority

Bruce Van Note, Commissioner
MaineDOT

Kelly Flagg, Executive Director
AGC Maine

Maria Fuentes, Executive Director
MBTA

Meeting Attendees

The following people attended one or more of the joint industry meetings:

Joint Standing Committee on Transportation

Representative Lydia Crafts, Transportation Committee Chair

Senator Brad Farrin, Transportation Committee

Maine Turnpike Authority

Peter Mills, Executive Director
Peter Merfeld, Chief Operations Officer
Steve Tartre, Chief Engineer
Erin Courtney, Director of Communications and Government Relations
Jacqueline Hansen, Operations Coordinator
Kristi Van Ooyen, Engineering Program Manager
Ryan Barnes, Project Manager
Jamie Mason, Construction Project Manager
Greg J. Stone, Director of Public Safety and Special Services (May meeting only)
Tim Cote, Vice President, Project Director, HNTB
John Sirois, Chief Financial Officer (July meeting only)
Eric Barnes, Director of ITS (July meeting only)

John Cannell, Director of Highway/Equipment Maintenance (attended the meeting at DOT on October 15, 2024)

Maine State Police

Lt. Jodell Wilkinson (May meeting only)

MaineDOT

Bruce Van Note, Commissioner
Bill Pulver, COO
Joyce Taylor, Chief Engineer
Jeff Folsom, Assistant Director, Bureau of Project Development
Todd Pelletier, Director, Bureau of Project Development

Industry

Kelly Flagg, AGC Maine
Maria Fuentes, MBTA
T. Lindholm, AGC Maine
Mark Curtis, Gorham Sand and Gravel
Jordan Henshaw, Cianbro
Michelle Ibarguen, Cross Insurance
Meredith McLaughlin, AGC Maine (Cornerstone Government Affairs)

Matt Marks, AGC Maine (Cornerstone Government Affairs)
Tim Walton, Maine Aggregate Association (Walton External Affairs)
Mike O'Brien, Rowley Agency
Glenn Adams, Sargent Corporation
Andy Sturgeon, Hoyle Tanner
Greg Scott, Scott Construction
Eric Ritchie, Sargent Corporation
Josh Marceau, Wyman & Simpson
Jake Adams, CPM Constructors
Todd Sawyer, Pike Industries
Darryl Coombs, Reed & Reed
Greg Schaub, Northeast Paving
Andy Kittredge, CPM Constructors
Tim Ouellette, CPM Constructors
Mark Adams, Sebago Technics
Jake Hall, Reed & Reed
Travis Noyes, Haley WardKim Suhr, Wyman and Simpson
Jack Parker, Reed & Reed
Brett Plossay, Crooker
Todd Sawyer, Pike Industries
Aaron Lachance, Hoyle Tanner & Associates
Wayne Berry, Northeast Paving
Zach Jones, Acorn Engineering
Doug Morrison, Sargent Corporation
Jordan Henshaw, Cianbro
William Savage, Acorn Engineering
Dan Shaw, Shaw Brothers

Tony Grande, VHB
Sean O'Leary, RJ Grondin
Jason Mallett, Cianbro

Objective 1. Identify areas where overlaps between agencies may exist in procurement, maintenance, and engineering services.

Discussions included a review of the agencies and possible limitations. There is some overlap between Objectives 1, 5, and 6, so see those sections for further discussion of and review of the legislative history.

The question opens the discussion of how each entity is organized. Below is a summary to clarify both MaineDOT and MTA roles, responsibilities, and relevant facts for consideration by the Committee:

Maine Turnpike Authority

The Maine Turnpike (MTA) is Maine's most economically important highway. The Turnpike is 109 miles of I-95 from Kittery to Augusta with over 641 lane miles (including MTA-owned mainline, ramps, toll plazas, and service plaza parking areas), serving nearly 11% of all vehicle miles traveled in the state per year. To put it in the context of centerline miles- MTA is 109 miles or less than 0.5 % of the 22,843 miles of roadway in the state. MTA receives no state or federal tax dollars and is self-funded through revenue from tolls and service plaza operations. In 2023, MTA collected $185 million in revenue. Slightly less than two-thirds of toll revenue is generated from out-of-staters. MTA has independent borrowing capacity, with a current debt of nearly $500 million and a debt service of approximately $45 million annually. MTA benefits from strong long-term capital planning and the ability to set toll rates independently. These factors contribute to its strong and stable financial position. As a result, MTA retains one of the highest bond ratings of any toll agency in the country. This provides the authority with favorable borrowing costs and broad access to the bond market.

Additionally, MTA is responsible for fully funding State Police Troop G, which has a budget of over $7 million a year and is dedicated to patrolling the Maine Turnpike. Troop G's focus on the turnpike, combined with MTA's strong emphasis on proactive capital planning and system modernization, has resulted in the Turnpike system being one of the safest and most efficient roads in Maine, with crash rates much less than other Maine Interstates. MTA owns five Service Plazas operated by private vendors under lease agreements, provding millions of our customers with a place to rest and get food and fuel. MTA owns and operates the Wells Train Station and nine park & ride lots. MTA also owns and operates 17 signal systems at intersections with MaineDOT highways.

It's important to note that Objective Six provides an additional explanation of the MTA's current five percent contribution to MaineDOT. From 1982 to 2023, MTA contributed $238 million to the state.

MaineDOT

MaineDOT is a cabinet-level agency within the Executive branch of Maine State government. MaineDOT is responsible for the planning, maintenance, and operations of Maine's multimodal infrastructure as described in Title 23, Part 5, Chapter 410.1.4206 Duties of the Commissioner. MaineDOT employs approximately 1,600 individuals, including crew members, engineers, technical professionals, planners, project managers, and financial and human resources professionals. MaineDOT's 3-year work plan outlines all work participated in by MaineDOT and averages $1.6B per year from many different fund sources in the latest edition.

Our state is almost the size of all five other New England states combined. Yet, our small population (approximately 1.38 million people) is nearly the same as New Hampshire's, making us the least densely populated state east of the Mississippi River. Maine has an extensive, statewide, multimodal transportation system to connect us all. That system includes 8,800 miles of state highways, 2,800 bridges and minor spans, six commercial airports, more than 1,300 miles of active railroad, 15 bus transit providers, passenger rail service, a state ferry service, three major seaports, and miles of active transportation corridors. Simply put, Maine has more transportation infrastructure per capita than most other states do.

There is overlap between agencies; both are transportation providers, and each has its leadership, employees, service providers, and contractors who respond to procurement opportunities. The following examples demonstrate some areas where both agencies currently work together. Other examples are included in Objection 6:

- ***Purchasing:*** The MTA leverages the state's purchasing of materials and products, such as office supplies, road paint beads, computers, road sign materials, trucks, and truck parts. In 2024, the total amount of materials purchased from the state contracts was over $1.6 million. See the attached list for 2024 in **Appendix A-1**, along with the Financial Oversight and Accountability policy for the MTA. However, it's important to point out that if MTA can get a lower bid price through their bidding process, the MTA will choose the lower-priced items.

- ***Pre-Qualification:*** MaineDOT manages the state prequalification process for contractors, used by the Bureau of General Services/Department of Education and the MTA. Contractors submit the Contractor Prequalification Application, Safety and Civil Rights Supplemental (MaineDOT only). Contractors requesting to add prequalification categories must submit a new application. In the Fall, letters are sent each year requesting required submittals for updates and renewal information. It's important to note the application includes essential information and also a detailed submission of Organizational Structure & History, Officers and Owners, Experience and History, Key Personnel, and Bonding. MTA sits on the committee and provides MaineDOT with annual contractor performance evaluations for work on the Turnpike. The one exception for the MTA is any work related to tolling. Because MaineDOT does not procure tolling services, the MTA seeks specific project-related pre-qualifications from contractors. See **Appendix A-2** for copies of the prequalification form.

- ***Planning:*** Both agencies work together on many transportation-related planning projects. Most recently, a Memorandum of Understanding to fund the phase 2 study for the Bus Rapid Transit from Portland to Gorham. MaineDOT includes the MTA roadway in its pavement management data collection and provides it each year, which has been invaluable to the MTA.

- ***Services:*** MaineDOT and MTA share services for the benefit of the traveling public. Recently, the MTA suffered a major bridge hit from an over-height load. The bridge

needed to be reduced to one traffic lane at a time. MaineDOT provided temporary traffic control signals until MTA could procure a contractor and set up a detour. They also share highway treatments maintenance duties on certain sections of highway treatments maintenance duties. Generally, they meet regularly and share resources to ensure maintenance standards. MTA maintains sections of the highway outside of what they own, as discussed with MaineDOT, where it is sensible. Additionally, the MTA manages several municipal traffic signals, for example, five intersections along Route 111 in Biddeford. Additionally, the MTA sends prospective CDL candidates to MaineDOT for training.

- ***Insurance:*** MTA is required to use State of Maine Health insurance and sits on the bargaining team.

- ***Cooperation:*** Both agencies meet with the industry regularly and typically send a representative to participate in discussions. The MTA participates in the MaineDOT Traffic Analysis and Management Evaluation Committee meetings when topics of mutual interest arise. Additionally, both meet annually to discuss planned projects to coordinate detours or discuss the newest technology used in work zones.

- ***Engineering:*** Currently, MTA and MaineDOT use many of the same engineering consultants. MTA uses MaineDOT's pre-qualification lists of consultants as the basis of soliciting MTA needs. Besides bridge, highway, and traffic engineering needs for projects, MTA pre-qualifies for two distinct areas, which are required by the MTA's bond resolution that MaineDOT does not require- Toll/Traffic consultant and General Engineering Consultant services. The bond resolution is the contract between MTA and the holders of MTA bonds sold over the years to support MTA's major capital construction program. Because MTA receives no state or federal funding, the only security for the bonds is the future revenue of the MTA. Currently, MTA has about $500 million in outstanding bonds. MTA is required to hire a nationally recognized consultant to perform as the General Engineering Consultant (GEC). The GEC has particular duties under the bond resolution, including determining the funds needed for the reserve maintenance deposit to keep the turnpike in good condition and approving final payment or reductions in retainage for construction contracts. In the 2012 Enabling Act, the law required that MTA mitigate any advantage the GEC might have regarding engineering design services. Before 2011, the GEC did the majority of MTA's engineering work. Since 2011, MTA has hired over 30 consultants through multiple competitive qualification-based selection processes. They are five-year contracts reviewed and approved by the MTA Board at a monthly Board meeting.

  Given that the industry group conducting this review was primarily composed of contractors, it was recommended that the topic of engineering consultant procurement, as listed in the Transportation Committee letter, be discussed with the engineering association, American Council of Engineering Companies (ACEC). At the

time of this report, ACEC has been notified, and discussions between their association and agencies will likely occur in the future.

Where MaineDOT uses federal funding for a vast majority of its capital improvement projects, it is constrained/guided by the Federal Brooks Act. The Brooks Act is a federal law that requires the U.S. government to select engineering and architecture firms based on their qualifications and experience rather than price alone. The law was passed in 1972 and is also known as the Selection of Architects and Engineers statute. The Brooks Act has resulted in some restrictions that may not always be beneficial; a copy of the Act is included in **Appendix A-3**.

Potential areas for ongoing improvements in the existing relationship:

Specifications: Contractors felt one specification book with notations for conditions that vary between agencies, perhaps using a special section for additional MTA subject matter, should be explored if that streamlines communication.

The MTA uses the MaineDOT standard specification book as its basis for construction specifications, though it currently refers to the 2014 standard specification book, not the more recent 2020 standard specification book. However, many of the special provisions used in the MTA contracts are updates from 2020. Where modifications are made, it's often used to specify the increased durability of the finished product. Given how expensive it is to mobilize and maintain traffic on an interstate project, the MTA has an increased interest in maximizing the service life of materials and construction products.

Regarding traffic control specifications, MTA has 652 supplemental specifications and special provisions tailored for their projects - nearly all occurring on the interstate. This is a significant difference between the two agencies - MTA tailors their project specifications, recognizing the specific hazards and durability needs associated with interstate projects. MaineDOT's specifications cover the entire state's system - the vast majority of which is not the interstate.

MTA will consider contractor feedback to improve efficiency with the specifications and explore whether updating the MTA supplemental specifications is a viable option. However, some differences are required given the specific nature of the Turnpike as an Interstate toll facility. Some differences in Division 100, for example, retainage, are requirements of the Bond resolution. Below is a comparison list of specific differences in the Division 100 section.

Section 102 – Bidding

- MTA does not currently accept electronic bids but will consider in the future.

Section 103 – Award and Contracting

- 103.4 – Notice of Intent to Award: MaineDOT issues a Notice of Intent to Award within 30 days of bid opening. MTA issues within 5 days of Board or Executive Director approval.

Section 104 – General Rights and Responsibilities

- 104.3.8 – Wage Rates and Labor Laws provisions differ between the two agencies. Generally, MaineDOT uses Federal wage rates, and MTA uses State Prevailing Wage provisions.
- 104.4.2—Preconstruction Meetings: The agendas for the two agencies are different. MTA includes a Project Decision Matrix for dispute resolution.

Section 105 – General Scope of Work

- 105.2.7 – Use of Explosives: MTA provisions are very detailed.
- 105.4.3 – Maintenance During Winter Construction: MTA defines responsibilities between MTA and the Contractor for winter maintenance of the Turnpike.
- 105.5 – Hauling of Materials and Equipment: MTA includes Toll Free Passage, Access and Change of Direction language for the Turnpike.
- 105.10.2 – Requirements Applicable to All Contracts: MaineDOT includes language for "Certification for Continuing EEO Efforts" and "Other Federal Requirements" that include Buy America.

Section 106 – Quality

- 106.4.6 – QCP Non-Compliance: Agencies address non-compliance differently. MaineDOT employs escalation pay deductions for each subsequent offense. MTA uses written warnings, work suspension and percentage losses of the bid price of pay items that are in non-compliance.

Section 108 – Payment

- 108.2.2 – Generation of Progress Payments: MTA recently changed their language to allow for payments twice a month.
- 108.2.3—Mobilization: The MTA recently changed its language to allow the remaining Mobilization to be paid upon completion of physical work.
- 108.3 – Retainage: Agencies handle retainage differently. The Turnpike Revenue Bond Resolution requires MTA's language.

Section 111 – Resolution of Disputes

111.1.2 – Escalation Process: the process is similar for the two agencies. With MaineDOT, parties pursue resolution through Management and the Commissioner. At MTA, issues are resolved following the Project Decision Matrix created at the Preconstruction meeting and ultimately may enter mediation or arbitration. **Appendix A-4** of this report includes a list of the ~800-page MaineDOT specification's manual sections.

502 concrete specifications

- Some contractors indicated that concrete specifications differ between agencies and suggested that this could have led to more expensive projects. MTA concrete specs were developed to maximize the durability and longevity of projects, given the high cost of working on an interstate facility. A small working group was established to review those conditions and determine if improvements are warranted. Three meetings were held from September 2024 to January 2025. In conclusion, MTA determined that it would move closer

to MaineDOT's specs regarding mix design and would continue to evaluate the cost of moving closer to MaineDOT's concrete acceptance methods.

Key Takeaways:

- The MTA's engineering procurement process last occurred during 2024, overlapping these meetings; the conversation on engineering procurement policies will be continued in a follow-up meeting with engineering trade associations in 2025.
- The industry and agencies will continue discussing the specification book(s) to streamline or consolidate policies. In 2025, the industry will work with the MTA and MaineDOT to explore changes to the specifications book.
- Continue the concrete specifications meetings to evaluate changes and incorporate new projects as special provisions.

Objective 2. Provide examples of cumulative data - including but not limited to projects rejected in some geographic regions - where bids exceed estimates.

MaineDOT and MTA provided contractors with data on the number of bidders for projects in 2023 and 2024 and rejected projects in that same time frame.

The attendees reviewed bids from MaineDOT and concluded with a consensus that, with a few exceptions, most of the work either rejected or outside the estimated project costs is generally in areas where lack of competition and rural location impact results. During the 2009 recession, many transportation-related contractors closed, sold, or merged. There are some different factors, while anecdotal, that should be shared. Rejected bids are costly; all parties recognized the expense of assembling a bid, including time by each subcontractor. Generally, the industry estimates the cost of a transportation-related bid to be ~3% of the total project cost. There are some basic considerations for the Committee:

- While prequalified bidders were reduced during the 2009 recession, some firms expressed growing pressures from increased regulations, including environmental and labor laws, and some specific to their division (area of work). This became more challenging for smaller to mid-size firms that operated without staff dedicated to meeting those regulatory requirements. While some were nearing retirement, they seized the opportunity as larger firms offered a financial exit.

- Bidding in some areas presents additional burdens, including the distance from material sources such as gravel, increased fuel costs, temporary housing availability, and travel costs for workers.

- Some project considerations, such as night or weekend work, remain ongoing concerns for industry and agencies. Again, it increases pressure on workers and their families if they are away or working hours outside a typical workday. The industry expressed challenges in putting together crews for night work. The current workforce is less willing to work these alternative hours. In response to this, MaineDOT has made a focus recently in trying to limit nightwork as much as possible. However, due to extreme daytime traffic volumes, a small number of projects will still necessitate the limitation to night work. MTA prescribes night work projects where safety, traffic volumes, and productivity dictate lower traffic volume construction.

- This section lists continued increases in prevailing wage and additional material cost factors below.

- Work restrictions, such as culverts subject to the in-stream work window, exacerbate some capacity issues, reducing firms' capacity.

MaineDOT provided the complete list of rejected bids for capital improvement projects and a map for the previous two years. Prior to and during the COVID-19 pandemic, the industry continued

discussions with the Department on project estimates, including a review of increasing costs and decreasing supply with AGC America's Chief Economist, Ken Simonson.

In 2023, MaineDOT awarded 170 contracts, a 94% success rate, and in 2024, 167 (at the time of the report) contracts were awarded, a 96% success rate. Each rejected project receives additional staff review. Ultimately, the commissioner makes the decision, weighing staff recommendations and engineering estimates.

2023-2024 Maine DOT Rejected Projects

2023	Bid Opening Date	Project Location	Scope	WIN(s)	Number of Bidders	Notes
	2/22/2023	Rockland	1 1/4" Overlay	22458.00	2	Planned for 2026 as part of another effort.
	3/15/2023	Mattawamkeag	Large Culvert Replacement	22922.00	3	Re- Advertised 11/22/23 and awarded on 1/19/24.
	4/5/2023	Houlton	I95 SB Ultrathin & Route 1 Mill & Fill	25525.00 / 26998.00	1	25525.00 Re-ADV 5/3/23 and awarded on 6/23/23. 26988.00 RE-Adv 4/28/23 and awarded on 6/26/23.
	4/12/2023	Westbrook	Highway Cyclical Pavement Resurfacing	25833.00	1	Work eventually done under Area LCP Contract
	5/10/2023	Westfield	Living Snow Fence	21840.00	1	Work eventually done under statewide on-call landscape contract.
	5/10/2023	Gray	Drainage Improvement Project	25385.00	1	Work to be done as part of future larger project
	5/31/2023	North Yarmouth	Large Culvert Replacement	23693.00	1	Re- Advertised 11/22/23 and awarded on 1/22/24.
	8/11/2023	Harrison	Guardrail and Curb Replacement	26408.00	1	Work ventually done under statewide on-call guardrail contract.
	12/13/2023	Lee	Highway Cyclical Pavement Resurfacing	25827.00	1	Work eventually done under Area LCP Contract
	12/13/2023	Lagrange	Highway Rehabilitation	18786.00	3	Rejected and Broken into three contracts for 2024. See Below

2024	Bid Opening Date	Project Location	Scope	WIN(s)	Number of Bidders	Notes
	1/17/2024	Norway	Bridge Replacement	23116.00	1	Re- Advertised 6/26/24 and awarded on 8/12/24.
	2/21/2024	Bangor - Brewer	I-395 EB & WB Ultrathin	25481.00 / 25483.00	1	Planned for Re-ADV January 2025
	3/20/2024	Kittery	I-95 NB Visitor Information Center Milling and Paving	26624.00	2	Potential Re-Adv in 2025
	5/1/2024	Lagrange	Highway Rehabilitation (Earthwork)	18786.20	2	Work to be done as a state pugmill project in 2026 or 2027
	5/1/2024	Lagrange	Highway Rehabilitation (Full Depth Reclaimation)	18786.30	3	Work to be done as a state pugmill project in 2026 or 2027
	5/1/2024	Lagrange	Highway Rehabilitation (Hot Mix Asphalt)	18786.00	2	Work to be done as a state pugmill project in 2026 or 2027

In the same period, MTA has experienced only one rejected project out of a total of 27 awarded bids. As with MaineDOT, procurement is subject to market pressures. After one contractor responded, the rejected bid was for bridge painting, and the cost estimate was well over the forecast. After providing the out-of-state contractors with additional notice, MTA rebid the project and received five competitive bids. There are no in-state bridge painting contractors.

Contracts Not Awarded with Single Bidder
2023 - 2024

Job #	Job Title	Bid Opening	Engineer's Estimate	Low Bid	Contractor	2nd Low Bid	Contractor	Total Number of Bids Received	Award Y/N
2024.05	Bridge Painting - Various Locations	3/14/2024	$ 1,384,000.00	$ 2,789,999.00	Amstar	none		1	N

The Economic Impact of Construction in the United States and Maine

The industry provided the following construction statistics:

Economic Impact of Construction:

- U.S. gross domestic product (GDP)—the value of all goods and services produced in the country—totaled $29 trillion at a seasonally adjusted annual rate in the 2nd quarter of 2024; construction contributed $1.3 trillion (4.5%).

- In Maine, construction contributed $4 billion (3.8%) of the state's GDP of $98 billion.

- There were 943,000 construction establishments in the U.S. in the 1st quarter of 2024, including 6,145 in Maine. (An establishment is a fixed business location; about 99% of construction firms have only one establishment.) Maine had ~77 construction firms prequalified, about one percent of the total number of construction firms in Maine.

Construction Spending:

- Nonresidential spending in the U.S. totaled $1.1 trillion in 2023 ($706 billion private, $440 billion public).

- Residential construction spending in the U.S. totaled $878 billion ($400 billion single-family, $136 billion multifamily, $331 billion improvements, $11 billion public).
  Private nonresidential spending in Maine totaled $927 million in 2023. State and local spending totaled $1.6 billion. (Totals are unavailable for residential, railroad, power, communication, or federal construction.)

- MaineDOT's Bureau of Project Development awarded 170 capital improvement contracts in 2023 for a construction value of $494 million. For 2024, through the last week of December, MaineDOT had awarded 167 contracts representing a construction value of $463 million. A handful of 2024 projects advertised in late December have not been officially awarded as they are currently in the advertising/bid/award process. This represents approximately an additional

$98 million yet to be awarded from 2024.

- MTA value of construction contracts in 2023 was $36,892,411 and in 2024 $22,977,749.

Construction Employment (Seasonally Adjusted):

- Nationally, construction (residential + nonresidential) employed 8.3 million workers in October 2024, an increase of 223,000 (2.8%) from October 2023 and an increase of 9.1% from February 2020, the peak pre-pandemic month.

- Construction employment in Maine in October 2024 totaled 33,400, an increase of 200 (0.6%) from October 2023 and an increase of 2,700 or 9% from February 2020.

Construction Industry Pay:

- Construction jobs pay well. In Maine, four of the five most numerous construction occupations had median annual pay exceeding the median for all employees in 2023.

During COVID, the prices continued to rise, and material supply was complex. In January 2024, the industry reported that the producer price index rose 11.2 percent in twelve months in 2022. Some key products, such as diesel, spiked 61.5 percent, concrete 14.1 percent, and asphalt 20.7 percent; in **Appendix B-1**, the industry inflation index details the market. However, the field was even more complex, resulting in complicated workarounds, such as fabricating products on the job site. The delays in material supplies caused work slowdowns, and the search for alternative products resulted in additional costs. Contractors reported that some products became so difficult to secure that the prices were only guaranteed for 48 hours for private contracts, and that was increasingly challenging for public contracts with traditional bidding. The conditions were harshest on products with a short shelf life before installation or requiring massive storage logistics to protect against weather conditions.

AGC discussed this issue with MaineDOT and will work separately on a plan to increase capacity through education and outreach programs to potential contractors in identified regions. This includes contractors who might currently bid on smaller projects, such as culverts, but are interested in expanding their potential work.

Key Takeaways:

- Industry will work with agencies to elevate awareness of the public bid process with new or growing companies, particularly in rural areas of Maine.
- The industry will continue to provide feedback when a typical barrier to receiving qualified bids, such as night work or a schedule, is identified.

Objective 3. Identify regulations, policies, or specifications that contractors allege result in unwarranted project costs or delays.

Objective three collected the most feedback on various challenges identified by contractors, many of which can be resolved. Below are the topics shared and details of ongoing discussions or action items.

Communication: Decision-Making Matrix

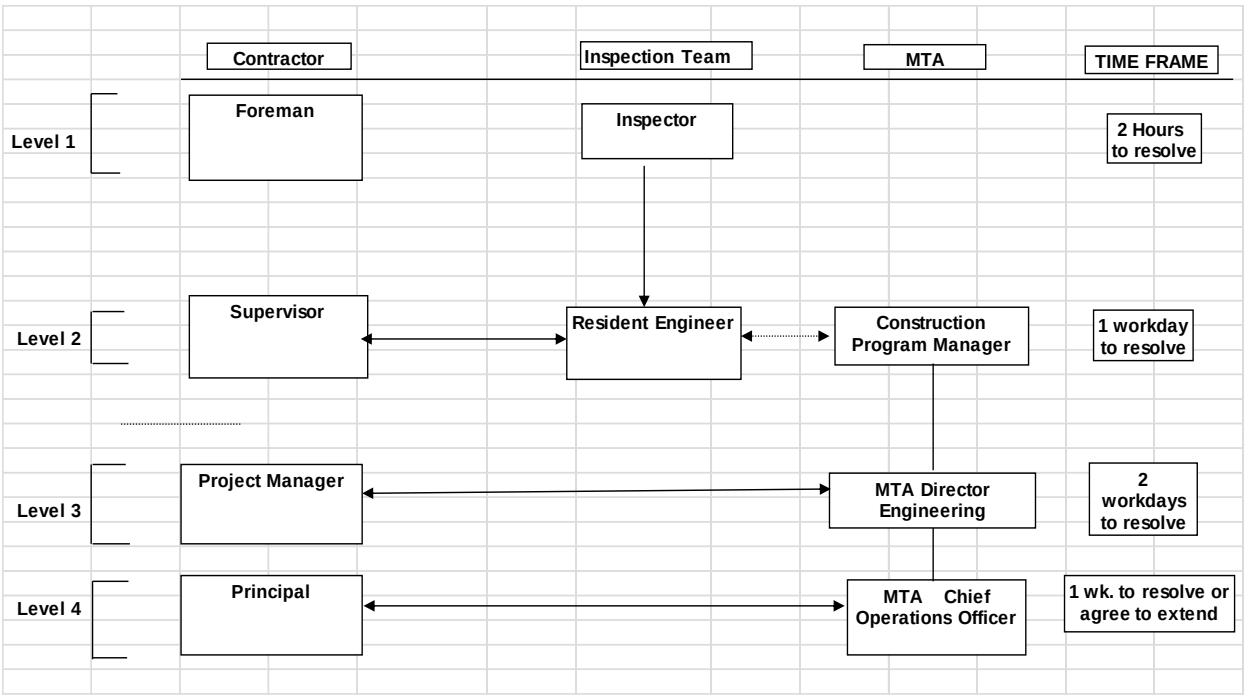
Some contractors alleged that communication on MTA projects, such as night work when some decision-making staff may not be available, resulted in delays in the field. To address this issue, the MTA suggested an emphasis on the decision-making matrix that is established during the pre-construction meeting or a return to more formal Partnering meetings before starting work to discuss night work to avoid field issues later specifically. MTA will also review how the construction team is structured. However, for the most part, only two people above the Resident Engineers address issues before going to the COO/Executive Director unless there is a design change where the design engineer may need to be contacted. The problems especially are apparent when projects have multiple shifts day and night, and the assigned Resident Engineer for MTA and Superintendent for the contractor are not on-site 24/7. During the pre-construction meeting, assignments can be made for those times, so there is always someone to call who will answer the phone and have the authority to make decisions.

The decision matrix has been used successfully on many projects to clarify responsibility levels and ensure the correct individuals are contacted when questions or issues arise. MaineDOT did not receive the same feedback from contractors, although communications have been an ongoing topic for the last decade, resulting in improvements from both sides.

Project Decision Matrix

A Project "communication decision tree" currently in use, will be mutually discussed by the Authority and the Contractor during the preconstruction meeting or partnering session. This Decision Matrix will clearly define, by descriptive job title and name, the respective counterparts for the Authority, and the Contractor who will be responsible for resolving issues at their respective levels of communication. Each level of communicators will be assigned a designated period within which all disputed issues must either be resolved or referred to the next higher level of communicators. This Decision Matrix aims to accelerate the resolution of decisions, promote resolution at the lowest possible level, and reduce the number of issues that become disputes. Notably, MaineDOT has the same process but hasn't received similar feedback.

The following is a sample of the Decision Matrix:



Close-Outs

The industry reported that in recent years, once work is done in the field, the final close-out process and project paperwork to generate final payments have continued to take longer with MaineDOT. Both felt some of the issues were related to reports back from the field staff. In response to this, MaineDOT has focused on improving this area. They have added additional staff in their Contracts Office dedicated to closing out construction contracts promptly. Additionally, they have educated and informed field staff, MaineDOT employees, and consultants on the priority of timely progress payments during construction and the closeout process once a contract is completed.

Increased costs: Liquidated Damages & Lane Rentals

As outlined in the specifications, liquidated damages (LDs) are amounts due and payable to the Department or MTA by the Contractor, usually realized through a reduction of amounts to be paid to the Contractor. Said amount is calculated by multiplying a daily amount outlined in the Contract by the number of Days the Work remains Incomplete after the Contract Completion Time or a specific milestone has expired. In the past, disputes over widespread liquidated damages related to early winter weather. Some felt that the MTA applied LDs unfairly. It appears, after discussion, that the contention was not about liquidated damages but lane rentals/ramp closures because of delay. A contractor questioned if this was punitive, and the MTA offered that they would often reduce the damages if warranted by the conditions and efforts of the contractor. The big concern for the MTA is the traffic impact these delays cause and the resulting safety issues for the traveling public.

Generally, this can be one point where industry and agencies may have a difference of opinion. Contractors will typically defend conditions, supply chain issues, project changes, or weather conditions that impact the timeline for opening ramps or lanes or completing a project. During these discussions, we didn't find a common theme that resulted in a specific challenge. From a contractor's perspective, the "damages" are an unanticipated cost, and they contend that risk is considered in procurement. In the MTA's perspective, , LD's, when assessed, are associated with actual costs incurred by the owner either through additional inspection costs, which, when assessed, are related to actual costs incurred by the owner either through additional inspection costs or from traffic diversion and toll revenue loss. LDs also level the playing field between bidders on a project, so a contractor can't extend the timeframe without consequences.

Tolling

Active construction vehicles may receive a "plastic card" they hand to the toll taker when MTA construction occurs. This indicates that they are active and on the site and should receive a waiver of tolls. The industry suggested a more modern approach, citing that the current process slows down trucks and isn't entirely accurate.

The subject of tolling construction vehicles has been discussed for many years. The MTA suggested they have options to consider. MTA recognizes that this slows down the process, and it would be better if trucks could use the E-ZPass lanes where they don't have to stop. One option includes contractors, including the expected tolls in the bid, and the second option is for MTA to provide non-revenue E-ZPass devices to allow free tolls. Contractors generally preferred the electronic tolling device, sticker tags, or an E-ZPass transponder. The MTA is reviewing this possibility and finalizing a pilot program to share with the industry soon. The MTA reviewed policies from other states and will discuss a similar strategy utilized in Ohio, where the pass is non-revenue generating with a $100 device deposit.

Qualified Products List Submittals

When applicable, the MTA uses products from the MaineDOT Qualified Products List (QPL); a list of construction materials that have been determined to be qualified for use on construction projects. The industry suggested MTA simplify the submittal process for products that are listed on MaineDOT's Qualified Products List (QPL).

When a Contractor requests to use any construction product, MTA requires them to submit the corresponding manufacturer's product data sheet(s) in their submittal. Since products on the QPL are already approved for use, MTA agrees the Contractor does not need to submit the corresponding manufacturer's product data sheet(s) in the submission request for the qualified products they intend to use.

Progress Payment Schedule

MaineDOT and MTA have had different progress payment cycles for contractors. Contractors carry material and labor costs throughout a project and cited during the meetings that reducing payment cycles can reduce costs to the project. MTA's special provision allowing for payments twice a month was issued in mid-2024 and is included below.

108.2.1 Generation of Progress Payment Estimates - The Authority will estimate the amount of Work performed at least monthly and make payments based upon such estimates. Estimates may be paid bimonthly (twice-a-month) if, the bimonthly (twice-a-month) invoices exceed $100,000. No such estimates or payments will not be made if, in the judgment of the Authority, the Work is not proceeding per the provisions of the Contract. The Contractor agrees to waive all claims relating to the timing and amount of such estimates.

Additionally, in 2024, the MTA modified its payment terms for mobilization. The MTA now pays the balance of all remaining mobilization when the project's physical work is complete rather than at the project closeout/final payment. The MTA has modified its contract specification language to reflect this change. Not all contractors may utilize the progress payments, but they will be offered.

Buy America

The current Federal requirements listed below on materials purchased have increased regulatory compliance conditions that are complicated for industry and MaineDOT. While all recognize the intent, the process places downward pressure and consequences on the state and industry. The challenge for contractors and regulatory agencies charged with compliance is the vast number of products and components that must be verified downstream for project use. The Build America, Buy America Act (BABA) and the Federal Highway Administration's (FHWA) policies apply to Buy America provisions for the state's federally funded highway projects:

- **BABA Section 70914**

Requires federal agencies to apply Buy America preferences to all federal financial assistance programs for infrastructure

- **FHWA policies**

Require that all steel or iron products used in federal-aid highway construction projects are manufactured domestically

- **Waivers**

The FHWA administrator can issue waivers if:

  - The application of Buy America provisions would be inconsistent with the public interest
  - Iron and steel materials are not produced in the United States in sufficient quantities
  - A state elects to include an alternate bidding provision in the project advertisement
  - The Secretary of Transportation makes an informal public notice and comment opportunity on the intent to issue a waiver

The BABA requires that all iron, steel, manufactured products, and construction materials made available for a federal financial assistance program for infrastructure be produced in the United States. The cost of a product's components that were mined, produced, or manufactured in the United States must also be greater than 55% of the total cost of the product's components.

Industry and agencies have asserted that Federal agencies should develop a qualified product list of American-made goods. However, under these requirements, the industry is responsible and must comply through a slow and challenging compliance process. The Buy American provisions only apply to MaineDOT.

Key Takeaways

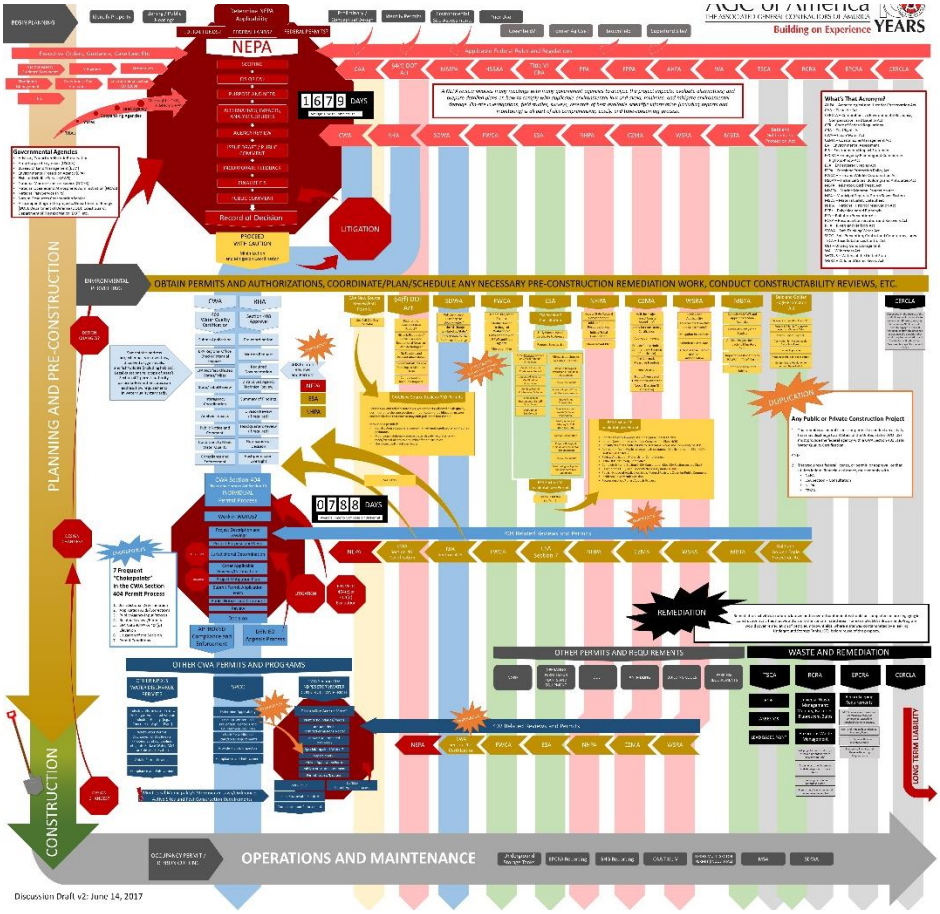
- Monitor the use of industry/agency feedback on the decision matrix, particularly the use of the matrix during exceptional circumstances, such as night work, to ensure access to timely decisions.
- The MTA agreed to examine and modify the frequency of the payment schedule and amend provisions for payment of mobilization. It has since developed contract language that is now in place.
- If feasible, work with the MTA on a tolling pilot project to determine a path to allowing construction vehicles to use E-ZPass lanes rather than stopping in cash lanes to show identification. The purpose, if it can be attained without undue burden, would be to allow contractor convenience and reduced risk while benefiting the MTA in resulting cost savings.
- Industry and agencies should continue discussing Buy America laws and track issues and challenges. Currently, the process places the burden on the contractor and agency instead of a federally verified products list.
- MaineDOT recognized the need to improve its contract closeout process to ensure contractors are paid in a timely manner. In short order, MaineDOT added critical staffing and better tracking and developed improved training for contract and field staff responsible for the process.

<u>Objective 4. Include newly enacted or existing laws or regulations that increase transportation construction costs, especially those that appear to add little value to the regulation's intent</u>.

Regulations Overview

Industry and agencies discussed regulations that have time or direct costs on construction operations. The subsequent list does not suggest removing these requirements but acknowledges they have significant timeline and field operational costs. Contractors asserted that regulations have increased time and costs; some are more restrictive during the busy construction season or have become more challenging.

Permits and compliance with federal, state, and local construction are more detailed, expensive, and evolving. In 2017, AGC America developed a flow chart for permitting through the National Environmental Policy Act (NEPA).



*A larger version of this graphic is included in **Appendix D-1**.*

Required state permitting varies from project-specific to project-adjacent, such as for material suppliers (asphalt/concrete). Maine DEP publishes a goals timeline to process permits, which can be viewed here or in **Appendix D-2**. Additionally, you can view the list of permit fees associated with items outside the state's application and the citizen's guide for compliance. The additional permits or compliance includes, but is not limited to, the following:

Air Quality

This applies to rock crushers, asphalt, and crushing plants.

- NonMetallic Mineral Processing Plants (Rock Crushers) Chapter 149
- Concrete Batch Plants Chapter 164
- Mineral Processing Application Chapter 115 & 140 (Minor & Major)

Land Bureau

Natural Resources Protection Act (NRPA) - This program regulates activities in, on, over or adjacent to natural resources such as lakes, wetlands, streams/rivers, fragile mountain areas, and sand dune systems. Standards to be met focus on the possible impacts to the resources and to existing uses. On the NRPA page you will find information on:

- Permit by Rule
- Sand Dune Systems
- Significant Groundwater Wells
- Significant Wildlife Habitat
- Vernal Pools
- Wetlands

Stormwater - The Maine Stormwater Program includes stormwater regulation under three core laws: The Site Location of Development law (Site Law), Stormwater Management Law, and Waste Discharge Law (MEPDES). Aspects of stormwater are also addressed under industry-specific laws such as the borrow pit and solid waste laws and the rules administered by the Land Use Planning Commission. Contractors indicated concern for a new process, consensus rulemaking, that would expand the current purpose for stormwater controls, effectively zoning through regulation, and expanding the current scope.

- Maine Construction General Permit

Contractor Certification - Any individual involved with soil disturbance activity, including filling, excavation, landscaping, and other earthwork, can earn certification in erosion and sedimentation control. To perform work in the Shoreland zone, a contractor must be certified. For initial certification, attendance at one 8-hour training course and completing a construction site evaluation are required.

Waste

Underground Oil Storage Tank Installers and Inspectors Certification - 38 MRS §567 requires all underground oil storage facilities to be installed by certified underground tank installers. 38 MRS 566-A.5 further requires all abandonments of underground oil storage tanks having stored Class 1 liquids (such as gasoline) be conducted by certified underground tank installers. 38 MRS §563.9 mandates all underground oil storage facilities be inspected annually by certified

underground oil tank inspectors or installers. 32 MRS Subchapter 104-A provides authority for certification of underground storage tank installers and inspectors by the Board of Underground Storage Installers

Solid Waste Transporters - 38 MRS §1304(1-A) requires the board to adopt rules relating to the licensing of solid waste transporters. The licensing requirements and procedures are set forth in Chapter 411.

Specific permit requirements have complicated the construction process, whether these derive from Permit by Rule or full application. Particularly, compliance with "work windows," where activity is permitted, conflicts with our best season to build. Below are some of the most challenging examples:

Bats

Following the discovery of "white-nose syndrome," new regulations were established to curb human impact on bat habitat. According to IFW, White-nose syndrome (WNS) is a disease that affects bats that hibernate in the winter and is associated with a newly discovered fungus, *Geomyces destructans*. The disease was named white-nose syndrome because infected bats had white fungus on their muzzles when first discovered. WNS was first documented in New York in 2006 and has since spread throughout the Northeast and Canada. WNS has killed more than 1 million bats in the Northeast, and in several hibernacula (the structure where bats hibernate during the winter), 90 to 100 percent of the hibernating bats have died. In 2009, the U.S. Fish and Wildlife Service advised cavers and researchers to curtail caving activities and implement decontamination procedures to reduce the spread of white-nose syndrome.

On May 20, 2011, MDIFW received results indicating that several bat carcasses tested positive for WNS. Bat species that spend their winter in mines or caves are susceptible to WNS; in Maine those species include:

- Big brown bat (*Eptesicus fuscus*)
- Little brown bat (*Myotis lucifugus*)
- Northern long-eared bat (*Myotis septentrionalis*)
- Eastern small-footed bat (*Myotis leibii*)
- Tri-colored bat (*Pipistrellus subflavus*)

The 127th Legislature added three different bats to the State List of Endangered and Threatened Species, which became effective in 2015, and additional species were added in 2023.

- Little Brown Bat, Title 12 MRSA §12803.3.XX, 2015, Endangered
- Northern Long Eared Bat, Title 12 MRSA §12803.3.YY, 2015, Endangered
- Eastern Small Footed Bat, Title 12 MRSA §12803.3.XX, 2015, Endangered
- Tricolored bat, Title 12 MRSA §12803.3.III, 2023, Threatened

The Northern Long long-eared bat was also designated Threatened under the US Endangered Species Act. As a result of state and federal listings, tree cuttings are not permitted in peak

construction, June through July. They are generally directed by permits to cut occur between October 16th and April 19th.

In-Stream Work Window

In 2018, MaineDOT, MTA, and the construction industry met numerous times with the regulatory agencies specifically about in-stream work windows; construction activities in streams must occur between July 15th and October 1st under a permit-by-rule to protect aquatic species in non-tidal water. If the water is less than three feet, it must be diverted. For tidal waters, activity must occur from November 8th to April 9th. Contractors believe an alternative approach should be considered when testing indicates no presence of protected species before construction starts. Construction work should be allowed. Work windows are cited as one of the primary challenges to meeting construction demand since the restrictions fall within the very short construction season. MaineDOT and MTA acknowledged these challenges and stated they routinely negotiate with regulatory agencies to extend in-stream work windows to the extent practical. Some species that are not endangered or protected create the same in-stream work window conditions, such as Brook Trout. It is important to note that MaineDOT has secured an additional six weeks on either end of the window under an agreement with Maine IF&W.

Prevailing Wage

The prevailing wage is a minimum for construction activity determined by a survey process and applies to each craft worker. There are two prevailing wage laws in Maine: Federal Davis-Bacon and Maine's Prevailing Wage. Federal Davis-Bacon prevailing wages are required on contracts with federal funds, and State prevailing wages are required on State or MTA-funded projects. Maine's statute dictates that the higher of the two minimum wages be used, which results in continued inflation. The survey process has also changed; the Maine Department of Labor (MaineDOL) previously requested contractors' wages during a peak construction period. However, MaineDOL reported a lack of submissions and modified the process. Data is collected from contractors, MTA, MaineDOT, and union collective bargaining agreements. This process can be duplicative and not reflective of accurate field wages. As mentioned, using either Federal or State policy also has an inflationary impact. This is a contributing factor to a rise in overall project costs.

Key Takeaways

- Industry should continue to discuss endangered or threatened species as they are updated to adjust work windows as needed.
- The industry should support interagency agreements regarding permitting and regulations and work with MaineDEP to find solutions to execute desired outcomes.
- It is recommended that the ongoing increases due to the new methodology for collecting wage data be reviewed. The industry should work with agencies to analyze prevailing wage increases over the last decade and report to the Transportation Committee.

Objective 5: Share potential legal, financial, or operational barriers for the Maine Turnpike Authority regarding the possible consolidation of services.

The industry felt that agencies and policymakers were best able to answer questions about service consolidation and review potential legal, financial, or operational barriers to this question. As mentioned, there are some areas where agencies could leverage resources or create additional potential benefits with clarity, such as combining specifications. In the past, the legislature has examined eliminating the MTA, eliminating tolling, and merger of the MTA with MaineDOT. However, each attempt concluded there was greater value in supporting the toll highway for continued improvements, resulting in the MTA as it's structured today. See Objective 6 for more detail regarding the last 25 years.

There have been legislative attempts to combine MaineDOT and MTA. The Maine Turnpike Authority was created in 1941 (P&SL 1941, c. 69) as an independent state agency given the authority to construct and operate a turnpike "from some point at or near Kittery to a point at or near Fort Kent." PL 1981, c. 492 repealed parts of the 1941 legislation and codified the Turnpike Authority's enabling legislation in 23 MRS §311 et seq. These statutes were repealed by PL 1981, c. 595, and the current laws are codified in 23 MRS §1961 et seq.

P&SL 1941, c. 69, §16 (repealed) and 23 MRS §1978 provide a mechanism for the dissolution of the Turnpike Authority. Numerous proposals have also been to terminate the Authority, merge its duties and operations with the Department of Transportation, or create a new agency by combining both entities. This legislative history covers these attempts and changes to P&SL 1941, c. 69, §16. A matrix with links in the electronic document to the law library materials and the history of the MTA is in **Appendix E-1**.

Objective 6. Identify ways to improve cost efficiencies at both agencies and current or potential barriers to making those improvements.

The issue of consolidating the MTA with MaineDOT, or making both agencies' operations more efficient, has been discussed many times over the years. Under MTA's original statutory framework, when the original turnpike bonds were paid off in 1982, MTA was to be merged with MaineDOT. Due to needs of the state at that time, a gas tax increase was proposed to provide the additional transportation funding that would be required if tolls were eliminated. The decision of the legislature at that time was to keep MTA in place to take advantage of its borrowing capacity and revenue-generating capacity in the future.

From 1982 to 2023, MTA contributed $238 million to the state. In addition, multiple reviews initiated by three different governors in the past 24 years have implemented a series of ongoing collaboration and efficiency improvements. To this day, MTA and MaineDOT continue to collaborate in the spirit of supporting the thoughtful and efficient operation of Maine's transportation network.

A comprehensive review of MTA and MaineDOT, initiated by Governor King and MaineDOT Commissioner Melrose and conducted by past MaineDOT commissioner, Roger Mallar, was completed in 2000. One option the study was intended to examine was the transformation of the MTA into a statewide toll agency, with maintenance responsibilities transferred to MaineDOT, but this option was found not to be feasible or cost efficient. The study examined all aspects of MTA operations and made the following recommendations that were determined to be feasible, appropriate and which might yield actual savings:

- MTA would purchase a new paint machine and perform line painting on DOT roads when requested,
- MTA would utilize MaineDOT sign shops when needed, though would continue to maintain its own sign shop,
- MTA would assist MaineDOT with Guardrail work, if required,
- A review of plowing operations should be conducted each year in order to swap or create efficient plowing operations when conditions change, and
- There should be a discussion of MaineDOT painting MTA bridges.

The only recommendation that bore fruit was an exchange of snowplow operations. MTA plows and maintains certain sections of I-95 in Kittery under a contract with MaineDOT. As a result of subsequent annual review meetings, MTA has taken over plowing of I-195 in Saco and other routes, providing yearly savings to MaineDOT. In addition, further collaboration was agreed to in 2001, including:

- Consolidation of MaineDOT rest areas and MTA service plazas into one location in West Gardiner- a project that was mostly funded by the MTA and cost over $15 million (completed in 2008);

- Two connector projects were studied jointly in Gorham (East-West Feasibility study in 2012, with further research ongoing) and Lewiston/Auburn (final report in 2010, with the Lewiston Interchange Reconstructed as a result in 2014); and

- MTA provided $6 million to MaineDOT to replace two bridges over a turnpike ramp in South Portland that were ultimately transferred to the MTA.

In 2007-2008, Governor Baldacci initiated a comprehensive review of the potential streamlining of services by MaineDOT and MTA. Peter Merfeld, Chief Operations Officer for MTA, and Bruce Van Note, then Deputy Commissioner, met regularly, along with other staff from both agencies, during 2007 & 2008. Large binders of data and information were exchanged. A short list of areas where further collaboration could occur was developed. Examples of MTA-MaineDOT cooperation referenced in the 2008 report included:

- Gray Bypass/Rt. 202 - $2.3 million joint agreement with MaineDOT,
- GPCOG/Shuttlebus (Rideshare program with Zoom bus - $2.8 million),
- Park & ride lot studies- $53,000,
- Interchange studies - $32.6 million,
- Wells Train Station - $2.4 million,
- O&D joint studies (final report in 2010) - $522,000, and
- Interstate renumbering and redesignation effort - $50,000.

The 2008 findings recommended 18 areas of cooperation that the two agencies continue to review.

2009 LD 664, Resolve, Directing the MaineDOT and MTA to Find Efficiencies in the Maine Transportation System, was introduced. It was voted Ought Not To Pass (ONTP) by the Transportation Committee. MTA testimony pointed out that consolidation and cooperation were recently studied jointly during the governor's streamlining initiative. In addition, MaineDOT had studied the privatization of MTA and did not recommend it as a viable option. This was because consolidation or privatization could require full repayment of MTA bonds ($420 million at the time) and because the MaineDOT recognized that MTA's independent access to capital funding could be a benefit to MaineDOT projects, such as the Gray Bypass and the reconstruction of the Sara Mildred Long Bridge, that benefited both agencies.

Also, in 2009, the legislature's Government Oversight Committee initiated an OPEGA review of the MTA. The review was completed in January 2011. One of the questions OPEGA examined was why the MTA no longer made annual payments according to a statutory requirement that MTA's "operating surplus" be transferred to MaineDOT. OPEGA found that, while MTA had paid significant sums from 1997 onwards in debt service on special obligation bonds issued to help finance MaineDOT projects, direct payments under the statute in question had not been made because MTA had no "operating surplus".OPEGA recommended that the legislature more clearly define what if any, direct support it expected the MTA to provide to MaineDOT. As a result, MaineDOT and MTA jointly recommended the current statutory language, adopted in 2011, under which the MTA dedicates 5 percent of its operating budget to funding MaineDOT projects that benefit both the Turnpike and state systems. A spreadsheet detailing the expenditures is shared with the transportation committee each session.

In 2011 LD 208 Resolve to establish a study commission to examine the Maine Turnpike was voted ONTP as the OPEGA study was on-gong.

In 2011-12 Roger Mallar and Peter Mills came to the MTA and reviewed the agency from top to bottom. Mr. Mills put together a bill that implemented many of OPEGA's recommendations, including the 5 percent mechanism mentioned above and changes in governance and contracting practices. The MTA developed a competitive consultant selection process, which included mitigations for the competitive advantages held by the MTA's General Engineering Consultant. MTA's consultant process, created in 2011, was modeled after MaineDOT and utilizes MaineDOT's consultant pre-qualification process (except for tolling-related services unique to the MTA).

In 2013, LD 533, An Act to Abolish the MTA and Transfer Functions and Duties to MaineDOT, was introduced. Testimony was given regarding replacing toll revenue with a gas tax increase of 10-11 cents per gallon and managing the MTA's bond debt. The Maine Motor Transport Association (MMTA) was opposed to the transfer. The bill was voted ONTP.

In 2017 and 2018, initiated by Governor LePage, MaineDOT studied a take-over of the turnpike as part of LD 1617 & LD 1890 (replica of LD1617). The file was indefinitely postponed to June 2018, with no House or Senate roll calls.

Over the past 10 years, many MaineDOT projects have been undertaken with MTA participation:

- Auburn improvements (MTA paid $500,000 for improvements to Rt. 4/100 in 2018).

- Gorham study/planning- MTA has spent $9 million on studying mobility issues in the Gorham to Portland corridor and the possibility of a tolled Gorham Connector.

- The MTA jointly funded the Central York County Improvement Study (LD in 2007, final report 2016).

- I-95 Piscataqua River Bridge joint project between MaineDOT, NHDOT, and MTA for bridge rehab and installation of part-time shoulder use (PTSU). MTA participated in these critical projects ($13 million) and continued to operate the PTSU through our Transportation Management & Communications Center and share future PTSU maintenance commitments with the other two agencies.

- In 2015, MTA purchased the first two miles of I-95 in Kittery for $ 30 million to support the replacement of the Sarah Mildred Long Bridge, which serves as a critical link between Maine and New Hampshire. The MaineDOT bridge project was completed in 2018.

- MTA participated in the Exit 32/South Street connector study. Portions of the interchange improvement project recommended by that study are now included in the MTA's capital plan

- The new Saco Interchange (Exit 35), currently under construction, resulted from a three-party agreement with MTA funding (2020-2025). The cost of this project to MTA has been

over $50 million.

- MTA is currently funding a portion of a Rapid Transit phase 2 study in the Gorham / Westbrook / Portland corridor (2024-2025).

- MTA continues to support MaineDOT's GoMaine commuter program with financing and staff resources.

- MTA transferred a park & ride lot in Auburn to the MaineDOT to facilitate the construction of a bus terminal there.

- MTA paid for travel-time signs on the turnpike that MaineDOT continues to operate ($600k+, 2018/2019).

-END-

APPENDIX

A-1 List of materials purchased by the MTA in 2024

Financial Oversight and Accountability at the MTA

There are multiple layers of oversight and disclosure to assure financial accountability at the Maine Turnpike Authority (MTA). Some of them are described below.

1. The MTA Board of Directors

The seven member MTA Board of Directors meets monthly throughout the year and receives detailed financial reports. Further, the Board formed four subcommittees to allow for more detailed discussions: Finance & Audit, Personnel, Long Range Planning and Succession. By statute, six of the seven Board members are appointed by the Governor and confirmed by the Senate; the seventh member is ex-officio and is the MaineDOT Commissioner or his/her designee. The current Board Chair is a past Chief Justice of the Maine Supreme Judicial Court. Other members include two bankers, lawyers, business professionals, and a public chief financial officer. The board members are accomplished and take their responsibilities seriously.

2. MTA Executive Director

The MTA staff is led by an Executive Director who is appointed by the MTA Board and is confirmed by the Senate. Peter Mills became the Executive Director in 2011. He is a lawyer, former legislator, member of countless public boards, and is generally considered one of the best policy minds in Maine. Just as important, he has a well-earned reputation for integrity, openness, fairness, and good government.

3. Treasurer/ Chief Financial Officer

The Chief Financial Officer (CFO) at the MTA is responsible for financial oversight and personally executes many certified disclosures to auditors, bond rating agencies, the Trustee, and insurers. He takes those duties very seriously. Also, as part of the 2011 changes, the CFO reports directly to the MTA Board concerning matters of financial integrity.

4. Other MTA Staff

Working under the supervision of the Executive Director, CFO and the Chief Operating Officer, the MTA has established and implemented numerous administrative checks and balances to assure that all expenditures are properly accounted for. MTA employees know that they need be accountable to earn the trust they deserve.

5. General Engineering Consultant (GEC)

Obligations to investors contained in contractual bond terms call for an outside General Engineering Consultant (GEC) to, among other things, inspect the Turnpike assets, recommend

capital spending levels that assure that the Turnpike is maintained properly, and make recommendations to Board for all final payments to contractors.

6. Bondholder's Trustee

The bond terms also establish a Trustee to oversee the finances of the MTA to protect bondholders. The Trustee is not like your home mortgage banker who is satisfied as long as periodic payments are made. Because these 30-year bonds are repaid only through future MTA revenue streams (and not by a claim against any physical asset), this Trustee asks for updates and information on an on-going basis regarding anything that could affect revenue over the long-term. Ultimately, the Trustee has the power to assume operational control of the Turnpike if it deems it necessary to protect bondholders. Trustee questions can include changes in traffic, accidents, and news articles on tolling, Legislative bills and debates, project costs, and other matters. Again, this is because the Trustee has a duty to assure that MTA finances will allow bond repayment over the long term.

7. Audits

Pursuant to state law and contractual bond terms, the MTA performs quarterly and annual audits and reports. Reports are sent to the Office of Program Evaluation and Review (OPEGA) and the Transportation Committee. Outside audits are performed every year and presented to the Board.

8. Bond Rating Agencies

As anyone involved in bonding knows, Wall Street bond rating agencies require extensive disclosures and process. Further, level of review by rating agencies has been higher since the economic collapse of 2008 and the subsequent reviews and critiques of Wall Street processes.

9. Insurer Disclosures

The MTA is required to have a full complement of insurances including commercial, auto, general liability, comprehensive crime, public officials and employee liability, fiduciary responsibility, privacy and network liability and excess cyber liability. These insurers require periodic disclosures as well.

10. Legislative Review of Operating Budget

Further, state law provides that the MTA Operating Budget be presented annually for legislative review and approval. 23 MRSA §1961(6). Although such review is very rare for toll agencies that have no state funding and that have independent bonding capacity, the MTA welcomes the opportunity to show the Transportation Committee what we do, how we do it, and why it is good for Turnpike travelers, our transportation system, and the Maine economy.

Maine Turnpike Authority

State Contract Purchases

2024

Vendor Name	Total Payments Through 12/31/2024	Contract Type	Description
CONSOLIDATED COMMUNICATIONS	$ 374,899.29	State Contract	The MTA uses the state of Maine contract with Consolidated Communications for telephone services.
W.B. MASON	$ 216,635.29	State Contract	The MTA uses the State of Maine contract for all
KUEPER NORTH AMERICA LLC	$ 189,733.00	State Contract	Snow plow blades were purchased under the State of
DELL MARKETING LP	$ 175,940.05	State Contract	The MTA uses the State of Maine contract for Dell
POTTERS INDUSTRIES, LLC	$ 138,852.00	State Contract	Roadway reflective glass beads, added to paint to increase night-time visibility for patron safety on the
AT&T MOBILITY	$ 102,044.75	State Contract	The MTA utilizes the State of Maine's contract for
SULLIVAN TIRE	$ 77,764.52	State Contract	The MTA purchases tires under the State of Maine's
WHELEN ENGINEERING COMPANY, INC	$ 73,887.76	State Contract	Strobe lights for plow trucks and other heavy duty equipment, to enhance safety, were purchased under
GRAINGER, INC	$ 63,505.33	State Contract	The MTA purchased supplies under the State of Maine
TRANSPO INDUSTRIES, INC	$ 37,530.27	State Contract	The MTA purchased Light/Sign pole breakaway bolts
VULCAN ALUMINUM	$ 34,906.64	State Contract	The MTA uses the State of Maine's contract for sign
MINNESOTA MINING & MFG	$ 34,400.14	State Contract	Reflective scotch-lite used on signage was purchased
CDW LLC	$ 32,942.08	State Contract	The MTA utilizes the State of Maine's contract for Proofpoint with support for network security.
RICOH USA INC	$ 32,060.50	State Contract	The MTA purchases under the State of Maine's
EVERETT J PRESCOTT, INC	$ 15,599.87	State Contract	The MTA utilizes the State of Maine's contract for
US CELLULAR	$ 15,209.80	State Contract	The MTA utilizes the State of Maine's contract for US
PORTLAND GLASS AND CUMBERLAND	$ 12,687.58	State Contract	Windshield replacements are purchased under the
Total amount purchased	**$ 1,628,598.87**		

A-2 MaineDOT Prequalification Form

CONTRACTOR PREQUALIFICATION NOTICE

Revised April 3, 2024

CONTRACTORS ARE REQUIRED TO BE PREQUALIFIED WITH THE DEPARTMENT TO BE AWARDED CONSTRUCTION PROJECTS THAT ARE CONTRACTED THROUGH THE DEPARTMENT'S BUREAU OF PROJECT DEVELOPMENT (BUREAU) AND OTHER DEPARTMENTAL BUREAUS AND OFFICES. THE CONTRACTOR MAY REQUEST PREQUALIFICATION IN ONE OR MORE OF THE FOLLOWING AREAS: HIGHWAY, BRIDGE, TRAFFIC/LIGHTING, PAVING, MARINE, AND BUILDING.

COMPLEX PROJECT MAY REQUIRE PREQUALIFICATION IN SEVERAL DISCIPLINES.

MOST PROJECTS WITH A CONSTRUCTION VALUE OF LESS THAN $600,000 ARE EXEMPT. PROJECT SPECIFIC PREQUALIFICATION REQUIREMENTS WILL BE LISTED IN THE "NOTICE TO CONTRACTORS" AT THE ADVERTISEMENT OF EACH CONTRACT.

PLEASE E-MAIL THE COMPLETED INFORMATION TO:

contractor.prequal@maine.gov

MOST PREQUALIFICATION PERIODS WILL BE FOR ONE YEAR. RENEWALS WILL NOT REQUIRE A NEW APPLICATION FORM, BUT RATHER, UPDATED DATA ON BONDING, SAFETY EXPERIENCE RATING MODIFIER, CHANGE IN CORPORATE STATUS OR ADDRESS AND ANY OTHER INFORMATION THE FIRM WOULD LIKE TO INCLUDE UPDATING THE FILE.

Maine Department of Transportation
CONTRACTOR'S PREQUALIFICATION PROCEDURE

Overview. This prequalification procedure has three basic components: (1) an application for specified project types (see Section 2 below), (2) a determination by the Department's Prequalification Committee (see Section 3 below), and (3) an appeal procedure (see Section 4 below).

1. GENERAL PROVISIONS

1.1 Applicability and Scope

All Contractors must be prequalified every one to three years in accordance with the provisions of this Procedure to be eligible to be awarded Construction Projects, EXCEPT that such prequalification is not required if:

A. the Contractor is prequalified pursuant to a separate prequalification process specific to that project;

B. the "Notice to Contractors" does not list a prequalification requirement;

C. the Commissioner waives the requirement for prequalification for good cause shown and in the best interest of the State.

1.2 Definitions

Application The "Contractor's Prequalification Application" form prepared by the Department to be used to request prequalification and provide information upon which the Department will rely.

Bridge Construction A Construction Project that consists predominately of the construction of a bridge, but that may include non-bridge construction work including highway construction, the installation of traffic signals, landscaping, and/or paving. Such projects include all subcontracted work necessary to complete the project.

Business Days All days on the calendar except Saturdays, Sundays, and holidays officially recognized by the State of Maine.

Claim Any appeal, proceeding, or other process for additional consideration of a Dispute, including litigation, that is initiated by the Contractor and to which the adverse party (example - project owner) did not consent. A Claim does not include Disputes being negotiated in good faith by the Contractor and the adverse party or proceedings before third party neutrals to which the adverse party has consented to participate including Dispute Review Board proceedings and mediation.

Commissioner The Commissioner of Transportation established by 23 MRSA §4205.

Committee The Prequalification Committee.

Construction Projects Projects being developed by the Department as stated in the advertisement for bids with a scope of work that encompasses the construction of on-the-ground improvements including roads, bridges, paths, wharves, piers, buildings, and other transportation

infrastructure, but excepting Landscaping Projects. It does not include planning, appraisal, design, survey or other engineering services unless such services are to be provided by the Contractor and are specifically within the scope of Work.

Contractor Individuals, partnerships, corporations, limited liability companies, joint ventures or other entities that desire to submit bids on Construction Projects.

Days Unless the context clearly indicates otherwise, "days" means Business Days.

Deliver or Delivery "Deliver" or "Delivery" means Receipt by the person to whom the materials are to be delivered, or their authorized representative. See definition of "Received or Receipt".

Department "Department" means the Maine Department of Transportation, an agency of the government of the State of Maine, established by 23 MRSA §4205.

Disputes Disputes include disagreements, matters in question, and differences of opinion between the Contractor (and those working for or through the Contractor) and an adverse party (example - project owner) regarding matters related to the Work including interpretation of and compliance with the contract, compensation and costs, time for performance, and quality.

Filing "Filing" means Receipt by the person with whom the materials are to be filed, or their authorized representative. See definition of "Received or Receipt".

Hearing An evidentiary proceeding of sufficient nature and scope to adequately review the Department's previous prequalification determination(s). A "Hearing" need not be an "adjudicatory proceeding" within the meaning of the Maine Administrative Procedure Act.

Highway Construction A Construction Project that predominately consists of the construction or reconstruction of a highway, but that may include non-highway construction work including bridge construction, the installation of traffic signals, landscaping, and/or paving. Such projects include all subcontracted work necessary to complete the project.

Key Personnel Personnel, the loss of whom is likely to impact the cost, quality, timeliness, or conformance of project Work provided for the Department as reasonably determined by the Contractor.

MDOT Department.

MRSA Maine Revised Statutes Annotated.

Paving A project that predominately consists of the paving or repaving, but that may include non-paving work including bridge construction, highway construction, the installation of traffic signals, and/or landscaping. Such projects include all subcontracted work necessary to complete the project.

PIN The Department's Project Identification Number. Also see WIN below.

Predecessor Entities Any individual or entity that was legally organized at any time during the past five years (even if not operating) and that was previously owned, operated, or controlled to a Significant degree by the Contractor requesting prequalification, or that Contractor's owners, officers, or Key Personnel.

Predominately Unless the context clearly indicates otherwise, "predominately" means not less than 50% of cost, excepting the percent goal set for the contract work to be performed by Disadvantaged / Women Enterprises.

Prequalification Committee The committee, appointed by the Commissioner, with primary responsibility and authority to carry out this Procedure. See Section 3.1 of this Procedure.

Prequalification Periods One (1), Two (2), or Three (3) year periods starting and ending on March 1st.

Procedure The procedure and requirements contained in this Contractor's Prequalification Procedure and the accompanying Application.

Project Type The classification of project for which prequalification may be sought or granted as listed in Section 2 of the Application.

Qualifying Bonding Company An insurance, bonding, and/or surety company that is (a) licensed or approved by the State of Maine Department of Business Regulation, Bureau of Insurance, to do business in the State of Maine AND (b) listed on the most recent Federal Department of the Treasury listing of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies".

Received or Receipt Actual receipt by either US mail, overnight courier, service in hand, or fax by the person to whom the materials are addressed, or their authorized representative, with confirmation of receipt originating from the such person or their authorized representative.

Related Entities All general partners, joint ventures, parent firms, subsidiaries, or sister firms that (a) are currently legally organized (even if not operating), (b) are owned, operated, or controlled to a Significant degree by the Contractor requesting prequalification, or that Contractor's owners, officers, or Key Personnel.

Significant The level or degree that would be reasonably relevant to a party who is contemplating contracting with the Contractor and who is therefore attempting to determine the qualifications, experience, competence, and trustworthiness of the Contractor.

WIN The Department's Work Identification Number, referred to also as PIN. See above.

Work The furnishing of all labor, materials, equipment, supplies, services, personnel, and other incidentals necessary for the completion of the project in conformity with the contract documents.

Unless the context clearly indicates otherwise, all other words, phrases or terms shall have the meanings contained in the latest version of the Department's Standard Specifications, Highways and Bridges.

1.3 Authority

Pursuant to 23 M.R.S.A. sections 753, 4206 & 4243, the Commissioner has full power in the letting of all contracts for work under its jurisdiction and thus has the authority to determine whether bidders on construction contracts are responsible. Accordingly, the Commissioner has approved this Contractor's Prequalification Procedure and hereby delegates all authority necessary to carry it out as provided in this Procedure.

1.4 Contractor Changes

The Contractor has an ongoing duty to notify the Department's Contracts and Specifications Engineer within thirty (30) days of any changes to the information provided in the Application that significantly alters, as reasonably determined by the Contractor, the Contractor's ability to perform the Work required for the Project Types for which it is prequalified. Upon notification by the Contractor or upon discovery by the Department, the Department may require the Contractor to re-apply for prequalification.

Nothing in this Procedure, the accompanying Application, or any communications from the Department regarding prequalification shall be interpreted as depriving the Department of the authority to disqualify Contractors pursuant to the Department's Contractors Performance Rating (CPR) process, or the authority to reject any bid in the best interest of the State, when, in the discretion of the Department, changed circumstances have affected the responsibility and/or qualifications of the Contractor.

1.5 Duration of Prequalification

Unless disqualified or otherwise barred from bidding by the Department or other entity with competent jurisdiction, Contractors prequalified pursuant to this Procedure shall be considered eligible to be awarded Project Types for which the Contractor is prequalified from the date of prequalification to the commencement of their next Prequalification Period.

Maine Department of Transportation
CONTRACTOR'S PREQUALIFICATION PROCEDURE
2. APPLICATION FOR PREQUALIFICATION

2.1 Requirement to Submit Application

Contractors desiring to be awarded a Construction Projects must submit a properly completed Application unless one of the exceptions to prequalification listed in Section 1.1 (A) - (D) of this Procedure applies.

2.2 Application Deadlines

2.2.1 Other Prequalification Periods

Contractors that anticipate they will be bidding on Construction Projects anytime during the upcoming Prequalification Period should prepare and normally submit an Application between October 1 and November 30.

2.2.2 Application Deadline in All Cases

In any event, Contractors desiring to bid on a specific Construction Project should submit an Application that is received at least ten (10) Business Days before the date of bid opening for said Construction Project.

Contractors are encouraged to apply earlier. As provided in Section 4 of this Procedure, Contractors determined to be not qualified are not eligible to be awarded Contracts pending appeal.

2.3 Project Types for Prequalification

The Contractor must apply for, and the Department may prequalify the Contractor for, one or more of the Project Types listed in Section 2 of the Application. The Project Type for individual projects shall be as stated in the "Notice to Contractors", or if not stated, shall be determined by the Contracts and Specifications Engineer.

2.4 Submittal Requirements

The Contractor must honestly, accurately and completely supply all information requested in the Application. Applications will not be considered received until the Contracts and Specifications Engineer has received a properly completed Application including all required supporting data.

Maine Department of Transportation
CONTRACTOR'S PREQUALIFICATION PROCEDURE
3. PREQUALIFICATION DETERMINATION

3.1 Prequalification Committee

3.1.1 Membership

The Commissioner hereby creates a standing committee, to be known as the Prequalification Committee, with primary responsibility and authority to carry out this Procedure. The Commissioner appoints the following Departmental personnel, or their successors, as permanent members of the Committee.

Director - Bureau of Project Development, Chair
Asst Director - Bureau of Project Development, Vice Chair
Asst Program Manager, Urban & Federal Bridge Program
Asst Program Manager, Highway Program
Contracts and Specifications Engineer

In the event that any of the above members are unable to serve, or in the event that the Chair determines additional members would be of assistance in the fulfillment of the duties of the Committee, the Chair may appoint other Departmental personnel to serve as alternate or additional members.

3.1.2 Committee Administration

Committee meetings will be called and scheduled when necessary as determined by the Contracts and Specifications Engineer with the approval of the Chair. A quorum shall consist of at least three (3) members; at least two (2) of whom shall be permanent members. The Chair shall preside at all meetings. In the absence of the Chair, the Vice Chair may assume all authority of the Chair. The Contracts and Specifications Engineer or designee shall keep minutes of all meetings, record all decisions, and otherwise document the actions of the Committee.

3.2 Review and Investigation

The Committee shall review all information provided in the Application. The Committee or its designees may (a) contact any person or entity necessary to verify and/or supplement any of the information requested by or provided in the Application and (b) review information from other published sources of industry information, information from transportation departments in other states, the Federal Highway Administration, and any other Significant information.

3.3 Interview and Additional Information

Whenever the Committee determines that the nature or extent of the information provided in the Application is insufficient or indicates that the Contractor is not qualified, the Committee will, within ten (10) Business Days of receipt of the application, contact the Contractor to seek additional information and, if desired by the Contractor, to schedule an interview to discuss the specific reasons

that have caused that preliminary determination. The Contractor will submit all additional information requested by the Committee.

3.4 Pass-Fail Evaluation System

The Committee shall evaluate all the information provided or obtained as a whole on a pass-fail basis to determine whether the Contractor is responsible and qualified. In doing so, the Committee will use the following descriptive categories.

QUALIFIED: With respect to the Project Type under consideration, sufficient information exists to determine that the Contractor is likely to build an acceptable project in a timely manner using acceptable processes.

NOT QUALIFIED: With respect to the Project Type under consideration, the information demonstrates that it is unlikely that the Contractor can build an acceptable project in a timely manner using acceptable processes.

3.5 Grounds for Determination of "Not Qualified"

A finding by the Committee based upon substantial evidence that any one of the following conditions exists shall be sufficient grounds, though not mandatory grounds, for an overall determination of "Not Qualified". The Department's Chief Engineer will approve all Committee findings of "Not Qualified."

(1) Unsatisfactory and/or insufficient Contractor experience.

(2) Number of personnel with applicable knowledge and experience significantly below industry standards.

(3) Insufficient bonding capability.

(4) Safety record significantly below industry standards.

(5) Environmental record significantly below industry standards.

(6) Civil rights or equal opportunity record significantly below industry standards.

(7) A denial of prequalification or award of contract, disbarment, or other irregularities with respect to any federal, state, or local government or procurement agencies.

(8) A pattern of unsupported Claims.

(9) Conviction of a bid or other crime or indictment with substantial evidence regarding the same.

(10) Deceptive, evasive or fraudulent statements or omissions contained in the Application, made or omitted at any interview or hearing, or otherwise made to or omitted from the Department.

(11) Other substantial deficiencies that are clearly below industry standards and that clearly demonstrate that the Contractor is "Not Qualified".

3.6 Notice of Prequalification

3.6.1 Time and Contents of Notice

If the Contractor submits a timely and conforming Application, the Department will deliver to the Contractor a "Notice of Prequalification" before the date the Contractor sought prequalification as listed on the cover page of the Application. The Notice will set forth the Project Types for which the Contractor is eligible to bid, if any. If the Department determines that the Contractor is not qualified for any or all Project Types applied for, said Notice will also set forth the specific reasons therefore to the extent practical.

3.7 Reduction or Removal of General Prequalification Status

A prequalified Contractor which has a pattern of below standard Performance Ratings and/or becomes Not Qualified (see section 3.5) may have their general prequalification status reduced or removed. The Department will notify the Contractor via certified mail of its intent to reduce or remove their general prequalification status. The notification letter will indicate a meeting time and place to discuss this issue. The Contractor's failure to respond to the notice within 5 business days will result in the reduction or removal of their prequalification status. The Contractor's prequalification status will automatically be reduced or removed from the MaineDOT website's general prequalification list on the indicated date if the contractor does not attend the meeting or does not provide adequate rebuttal to the Department's Performance Ratings.

Maine Department of Transportation
CONTRACTOR'S PREQUALIFICATION PROCEDURE
4. APPEAL

Contractors are encouraged to apply for prequalification early. Contracts will only be awarded to Contractors Prequalified as required in the "Notice to Contractors."

4.1 Notice of Appeal to Commissioner

To appeal, the Contractor must deliver a written "Notice of Appeal Regarding Prequalification" to the Commissioner on or before 4:00 P. M. on the fifth full Business Day after the date of receipt of the "Notice of Prequalification" provided under Section 3.6. At a minimum, the "Notice of Appeal Regarding Prequalification" must contain:

A. The specific errors that the Contractor alleges were made by the Department regarding prequalification;
B. The specific relief sought;
C. A request to submit additional written materials (if desired);
D. A request for a Hearing (if desired); AND
E. A designation of counsel or any other party that will be representing the Contractor in the appeal (if any).

4.2 Submission of Written Materials

Within ten (10) Business Days of the filing of the Notice of Appeal Regarding Prequalification, the Contractor and the Committee must deliver to the Commissioner (or such other person(s) as the Commissioner may designate in writing), and to each other, all written materials that each party contends is necessary for the Commissioner to fairly and objectively evaluate and decide the appeal. Such materials can include evidence or arguments. The Committee's written materials may include a request for a Hearing.

4.3 Hearing

If requested by the Contractor, the Committee, or the Commissioner or his designee(s), a Hearing will take place within ten (10) Business Days of the filing of additional written materials by the Contractor and/or the Committee, whichever occurs later, at a time and place determined by the Commissioner or his designee(s). The parties will have at least 72 hour advance notice of such Hearing. The Contractor and the Committee shall each be afforded the opportunity to be heard by the Commissioner or his designee.

4.4 Decision

The Commissioner or his designee(s) may leave the record of the appeal open for the submission of further evidence or arguments for up to ten (10) Business Days after the conclusion of the Hearing, or to such other mutually agreeable date certain. If no Hearing is held, the record of the appeal shall close on the date of filing of additional written materials by the Contractor and the Committee, whichever occurs later.

Unless the Commissioner or his designee(s) reasonably determines that special circumstances exist that justify delay of the decision, the Commissioner or his designee(s) will, within ten (10) Business Days of the closing of the record:

A. in writing, revise, modify, or reverse the previous determinations regarding prequalification;

B. in writing, affirm the said determinations;
C. in writing, submit the matter to binding or non-binding alternative dispute resolution;
D. in writing, state that the Commissioner does not intend to take further action; OR
E. take no written action, which shall be considered a decision affirming said determination.

4.5 Final Agency Action

Any written revision, modification, reversal, affirmation, or statement that no further action will be taken from the Commissioner or his designee(s) shall be final agency action as of the date of receipt by the Contractor of such writing. If the Commissioner or his designee(s) takes no written action, the Department's latest determinations regarding prequalification shall be final agency action as of the date of expiration of the ten (10) Business Day period for a decision by the Commissioner provided in Section 4.4 of this Procedure. If the Commissioner or his designee(s) submits the matter to alternative dispute resolution, the date of final agency action shall be established by the mediator, arbitrator, or other dispute resolution neutral.

4.6 Judicial Review

Any judicial review of any claim arising from this Procedure must be commenced in the Maine Superior Court, Kennebec County pursuant to Rule 80C of the Maine Rules of Civil Procedure.

Maine Department of Transportation
Prequalification Application

APPLICATION

_____
[Legal Name of Contractor Applying for Prequalification, hereafter "Contractor" or "you"]

The Contractor Seeks Prequalification By The Following Date [Check One]

☐ Start of Next 1 Year Prequalification Period

☐ Bid Opening for the Following Specific Project
[List currently scheduled bid opening date, project type, location, and WIN below.]

****

CONTENTS - INFORMATION TO BE SUBMITTED

[MDOT Use Only Below This Line]
****

Date Application Received:

Contractor Prequalified For The Following Project Types

☐ Bridge construction
☐ Highway Construction
☐ Paving
☐ Marine Construction (Wharves, Piers. etc.)
☐ Buildings
☐ Traffic Signals and/or Lighting

Date of Prequalification:

Maine Department of Transportation
Prequalification Application

****

INSTRUCTIONS

1. If you have not worked with MaineDOT previously, please review the enclosed sheet containing some basic information entitled "Doing Business with MaineDOT".
2. This Application must be filled out in accordance with all requirements of the Department's Prequalification Procedure. The Application and Procedure is available from MaineDOT's web site at **http://www.maine.gov/mdot/contractors/prequal/** for additional information call the Department's Contracts Section at **(207) 624-3410**. Do not attempt to complete this form without understanding this Procedure.
3. Unless you meet an exception listed in section 1.1 of the Procedure, you must be prequalified to be awarded Construction Contracts, as defined. If you seek to be prequalified for a specific project, you generally must apply for prequalification at least 10 Business Days before bid opening.
4. Regarding the time frame after application, MaineDOT anticipates that most Contractors will be prequalified within two weeks of applying. However, if you are determined to be not qualified, you are not eligible to be awarded Contracts. A full appeal process can take about 3 months within the Department. Therefore, Contractors are encouraged to apply early.
5. Words or phrases shown with initial capitalization (i.e. Initial Capitalization) usually are defined in section 1.2 of said Procedure.
6. Please print legibly, type, or word process. Sign in ink. When attaching sheets, please place the question number to which you are responding in the upper right-hand corner of each sheet and number the sheets.
7. Note that the person signing this Application must swear that the information provided below is true, accurate, and complete.

****

1. Basic Information

Name of Contractor:

Contact Person(s):

Telephone No: Fax No:

E-Mail:

Mailing Address:

Physical Address:

Federal Tax ID No:

2. Project Types for Which Prequalification Is Applied

[See definitions in section 1.2 of Procedure.]

- ☐ Bridge Construction
- ☐ Highway Construction
- ☐ Paving
- ☐ Marine Construction (Wharves, Piers. etc.)
- ☐ Buildings
- ☐ Traffic Signals and/or Lighting

Maine Department of Transportation
Prequalification Application

3. Organizational Structure & History

3.1 The Contractor is duly organized under the laws of the State of .

3.2 The Contractor has the following organizational structure.

☐ Individual ☐ Corporation ☐ Partnership
☐ Limited Liability Company ☐ Joint Venture
☐ Other

3.3 Please provide the year the Contractor (and not any Predecessor Entities or Related Entities) was first organized.

3.4 Please list all Predecessor Entities below (or on attached sheets if necessary).

1. _____
2. _____
3. _____
4. _____
5. _____

3.5 Please list all Related Entities below (or on attached sheets if necessary).

1. _____
2. _____
3. _____
4. _____
5. _____

3.6 If organized in any state other than Maine or in a foreign country, are you in compliance with all laws and regulations necessary to legally do business in the State of Maine? (Example: filings with the Maine Secretary of State.)

YES ☐ NO ☐

Maine Department of Transportation
Prequalification Application

4. Officers and Owners

4.1 **Officers**
Please list the name, title, and address of current Officers, Directors, Partners, Members, and any other persons with analogous positions, in descending order of degree of control.

	Name	Title	Address
1.			
2.			
3.			
4.			
5.			
6.			

4.2 **Owners**.
Please list the name, address, and percentage of ownership of all persons or entities owning 10 percent or more of the Contractor, in descending order of percentage of ownership.

	Owner	Address	%
1.			
2.			
3.			
4.			
5.			
6.			

[Attach additional sheets as necessary.]

Maine Department of Transportation
Prequalification Application

5. Experience

5.1 Summary of Contractor Experience

With respect to each the following Project Types, list the approximate number of years of experience that the Contractor has as a prime contractor or as a subcontractor with primary responsibility.

Project Type	Years
Bridge Construction	
Highway Construction (excluding paving)	
Paving	
Marine Construction (Wharves, Piers. etc.)	
Buildings	
Traffic Signals and/or Lighting	

5.2 Most Recently Completed Contracts

Please provide the following information regarding the last six contracts completed by the Contractor. Please list in reverse chronological order (most recently completed project first, next most recently completed project, etc.). [Please feel free to provide this information on attached sheets in another format as long as it contains all the information requested.]

Contract Amount	Were you the Prime or a Sub	Project Type & Location	Month / Year Completed	>Name >Email Address >Contact Person >Telephone of Owner	Describe the work your firm provided, relevant to the prequal category being applied for
	☐ Prime ☐ Sub			>	
	☐ Prime ☐ Sub			>	
	☐ Prime ☐ Sub			>	
	☐ Prime ☐ Sub			>	
	☐ Prime ☐ Sub			>	

Maine Department of Transportation
Prequalification Application

5.3 **Contracts in Progress**

Please provide the following information regarding all contracts currently in progress, in descending order of contract amount. [Please feel free to provide this information on attached sheets in another format as long as it contains all the information requested.]

Contract Amount	Were you the Prime or a Sub	Project Type & Location	% Completed (0 – 100)	>Name >Email Address >Contact Person >Telephone of Owner	Describe the work your firm provided, relevant to the prequal category being applied for
	☐ prime ☐ Sub			>	
	☐ Prime ☐ Sub			>	
	☐ Prime ☐ Sub			>	
	☐ Prime ☐ Sub			>	
	☐ Prime ☐ Sub			>	

5.4 Provide an alphabetical listing of all states in which the state Department of Transportation (or analogous agency) has awarded the Contractor (or any Predecessor Entities and Related Entities) a contract during the last five years.

1. 6.
2. 7.
3. 8.
4. 9.
5. 10.

[Attach additional sheets as necessary.]

5.5 **Liquidated Damages**

Within the last five years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) had liquidated damages assessed against it?

YES ☐ NO ☐

If YES, please provide full details on attached sheets including the per diem amount of liquidated damages, the original contract time, and the number of days for which liquidated damages were assessed. Please feel free to include a written summary of your position on the matter.

5.6 **Terminations / Suspensions / Defaults**

(a) Within the last five years, or since your last Prequalification Application has a contract of the Contractor (or any Predecessor Entities or Related Entities) been terminated or suspended for cause?

YES ☐ NO ☐

(b) Within the last five years, or since your last Prequalification Application has another party (e.g. surety) completed Work which the Contractor (or any Predecessor Entities or Related Entities) was originally responsible to perform?

YES ☐ NO ☐

(c) Within the last five years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) been considered in default of a contract that was not cured within the time frame allowed by the contract?

YES ☐ NO ☐

If the answer to any of questions 5.6(a)-(c) is YES, please provide full details on attached sheets. Please feel free to include a written summary of your position on the matter.

5.7 **Denial of Prequalification or Award**

(a) Within the last 5 years, or since your last Prequalification Application has any federal, state, or local government or procurement agency denied the Contractor (or any Predecessor Entities or Related Entities) prequalification?

YES ☐ NO ☐

(b) Within the last 5 years, or since your last Prequalification Application has any federal, state, or local government or procurement agency, after the Contractor (or any Predecessor Entities or Related Entities) submitted the apparent low bid, refused to award a contract for reasons related to the Contractor's qualifications, experience, competence, or financial situation?

YES ☐ NO ☐

If the answer to either of questions 5.7(a) or (b) is YES, please provide full details on attached sheets. Please feel free to include a written summary of your position on the matter.

5.8 **Debarments, Etc…**

(a) Within the last 5 years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) been debarred for any reason by any federal, state, or local government or procurement agencies?

YES ☐ NO ☐

(b) Within the last 5 years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) refrained from bidding for any reason, such as suspension or agreement not to bid, or as part of the settlement of a Dispute of any type with any federal, state, or local government or procurement agencies?

YES ☐ NO ☐

If the answer to either of questions 5.8(a) or (b) is YES, please provide full details on attached sheets. Please feel free to include a written summary of your position on the matter.

5.9 **Claims History**

Within the last 5 years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) been a party to a Claim with an originally claimed amount in excess of $50,000? [Please note the relatively narrow definition of "Claim" in section 1.2 of the Procedure.]

YES ☐ NO ☐

If YES, please provide full details for each Claim on attached sheets including (a) whether the Claim was brought by or against the Contractor (or any Predecessor Entities or Related Entities), (b) the nature of the Dispute underlying the Claim, (c) originally claimed amounts, (d) the resolution of such Claims (including the amount) or if unresolved, the current status of such Claims, and (e) the name, address and phone number of the primary adverse party who can be contacted for additional information, and (f) a written summary of your position on the matter (if desired).

5.10 **Bid or Other Crimes**

Within the last 10 years, has the Contractor (or any Predecessor Entities or Related Entities), or any officers, owners, or Key Personnel of the same ever been indicted on, convicted of, or plead or consented to a violation of a bid crime including bid collusion or any other crime involving fraud or knowing misrepresentation?

YES ☐ NO ☐

If YES, please provide full details on attached sheets. Please feel free to include a written summary of your position on the matter.

5.11 **Quality Control**

Does the Contractor have a written organizational-level quality control plan (as opposed to project-level plans)?

YES ☐ NO ☐

If YES, please answer the following two questions.

(a) What year was it first adopted?

(b) In what year was its substance last revised?

Maine Department of Transportation
Prequalification Application

6. Key Personnel

6.1 Please provide the following information for all Key Personnel whose duties consist primarily of one or more the following functions: (a) project management, (b) quality control and (c) safety oversight. [Please feel free to provide this information on attached sheets in another format as long as it contains all the information requested.]

Name	Job Duties (a-c above)	Relevant Licenses or Certifications	Experience (# of Years)	Education (Degree or # of Years)
1.	☐ Project Management ☐ Quality Control ☐ Safety Oversight			
2.	☐ Project Management ☐ Quality Control ☐ Safety Oversight			
3.	☐ Project Management ☐ Quality Control ☐ Safety Oversight			
4.	☐ Project Management ☐ Quality Control ☐ Safety Oversight			
5.	☐ Project Management ☐ Quality Control ☐ Safety Oversight			

7. Bonding

7.1 Is the Contractor capable of obtaining from a Qualifying Bonding Company a performance bond and a payment bond each in the amount of the bid prices that the Contractor will be submitting to the Department? [See definition of "Qualifying Bonding Company" in section 1.2 of Procedure.]

YES ☐ ☐

If YES, please attach a letter from a Qualifying Bonding Company that (a) states that the said company meets the definition of "Qualifying Bonding Company" set forth in section 1.2 of the Procedure and (b) sets forth the bonding capacity of the Contractor including a specific dollar amount for single project and aggregate amount. Letters indicating "unlimited" bonding capacity are not acceptable.

If NO, please explain why you cannot meet the bonding standards set forth in question 7.1 above on attached sheets.

Maine Department of Transportation
Prequalification Application

8. Safety

8.1 Does the Contractor have a written safety program?

YES ☐ NO ☐

If YES, please answer the following two questions.

(a) What year was it first adopted?
(b) In what year was its substance last revised?

8.2 Does the Contractor hold regular work site safety meetings for immediate supervisors?

YES ☐ NO ☐

If YES, at what frequency? Weekly ☐ Monthly ☐ Other ☐

8.3 For each of the last three (3) full calendar years, provide the following totals from your "OSHA Injury and Illness Recordkeeping forms. [Please feel free to attach copies of your OSHA No. 300, 300A and 301 forms or to provide this information in another format on attached sheets as long as it contains all the information requested.]

OSHA No 300 Column #	Description	3 Years Ago Yearly Total	2 Years Ago Yearly Total	Last Year Yearly Total
G	# of Injury Related Fatalities			
H / I	# of Injuries Involving Lost or Restricted Workdays			
H	# of Injuries Involving Days Away from Work			
K	# of Days Away from Work Due to Injuries			
L	# of Restricted Workdays Due to Injuries			

On attached sheets, please feel free to provide other information to aid in the interpretation of the above information including, for example, the ratio of the above line items to total days worked.

8.4 Have you had any accident in the past three years that caused over $ 50,000 in property damage?

YES ☐ NO ☐

If YES, please provide full details of each such accident on attached sheets.

Please feel free to include a written summary of your positions regarding any of the information provided in this section 8 - Safety.

Complete and attach the Safety Supplemental.

Maine Department of Transportation
Prequalification Application

9. Environmental and Civil Rights Information

9.1 **Environmental Record**

Within the last 5 years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) been found to be in violation of any federal, state or local environmental law or regulation in an administrative, civil or criminal proceedings.

YES ☐ NO ☐

If YES, please provide full details, including a summary of your position, on attached sheets.

9.2 **Civil Rights Record**

Within the last 5 years, or since your last Prequalification Application has the Contractor (or any Predecessor Entities or Related Entities) had any findings and/or rulings of sexual harassment, discrimination, or other civil rights violations against it?

YES ☐ NO ☐

If YES, please provide full details, including a summary of your position, on attached sheets.

Complete and attach the Equal Employment Opportunity/Civil Rights Supplemental.

Maine Department of Transportation
Prequalification Application

10. Certifications Under Oath

E-mail application along with this page signed and notarized to contractor.prequal@maine.gov to complete the requirements of prequalification.

By signing below, the person signing below hereby certifies and swears, **ON OATH**, as follows.

1. I have personal knowledge of all the information contained in this Application OR I am responsible for the accuracy of all such information

2. The information contained in this Application is true and complete.

3. I hereby authorize the Department to contact any person or entity necessary to verify or supplement any of the information requested by or provided in this Application without liability, and I hereby further authorize any person or entity contacted to provide any and all information requested without liability.

4. The Contractor has read, understands, and agrees to all terms of the Prequalification Procedure and this Application.

5. I am duly authorized by law and by the Contractor to sign this Application on behalf of the Contractor.

Click or tap to enter a date.
Date

CONTRACTOR

Witness

[Signature]

By: _____
[Name and Title Printed]

State of _____

County of _____

Date: _____

Then personally appeared the person who signed this page above and acknowledged this instrument to be his or her free act and deed and the free act and deed of the Contractor, and further said person swore, ON OATH, that the statements made under the section 10 entitled "Certifications Under Oath" are true and complete.

_____
[Signature of Notary Public]

Name Printed: _____

My Commission Expires: _____

Maine Department of Transportation
Safety Supplemental

CONTRACTOR SAFETY QUESTIONNAIRE

Company Name _____

A. Our contracts require that your company meet certain requirements related to safety achievements. Using your OSHA 300 recordkeeping forms and statements provided by your insurance, please provide the following for the immediate past (3) three years:

	Year	20___	20___	20___
1.	Workers' compensation *EMR (interstate)	_____	_____	_____
2.	Total employee hours worked (May be obtained from OSHA from 300A)	_____	_____	_____
3.	Total number of cases (columns G, H, I, J from the OSHA form 300)	_____	_____	_____
4.	Total lost work day cases (column H from the OSHA form 300)	_____	_____	_____
5.	Total number of cases with job transfer or restriction (column I from OSHA form 300)	_____	_____	_____
6.	**TCIR (item #3 above x 200,000/ #2 above)	_____	_____	_____
7.	*** TLWDI (#4 above x 200,000/ #2 above)	_____	_____	_____
8.	Total fatalities (column G taken off the OSHA form	_____	_____	_____

*EMR= Experience Modification Rate
**TCIR= Total Case Incidents
***TWDI= Total Lost Work Day Incidents

B. Has your company sustained any work-related fatalities during the past (3) three years?

Yes ☐ No ☐

If yes, please provide full details of each fatality by attachment, include corrective actions identified and implemented to prevent reoccurrence.

C. State to whom and how often incident/accident report summaries are distributed.

	Monthly	Quarterly	Annually	No
CEO	_____	_____	_____	_____
President	_____	_____	_____	_____
Manager of Construction	_____	_____	_____	_____
Site Managers	_____	_____	_____	_____

Maine Department of Transportation
Safety Supplemental

D. Has your company received an OSHA (or state OSHA) citation within the last 5 years?

Yes ☐ No ☐

If yes, provide the number and type of violation?

E. Are on site safety meetings conducted for field supervisors?

Yes ☐ No ☐

If yes, how often

F. Does your company have a safety officer/department?

Yes ☐ No ☐

If yes,

Name:

Title:

Telephone/Cell Phone #

Email: _____

G. Does your company conduct field safety inspections to determine compliance with applicable regulatory standards and company procedures?

Yes ☐ No ☐

If yes, who conducts these inspections?

Name

Title

How Often?

H. Does your company have a written Safety and Health Policies, Program, and Procedure manual?

Yes ☐ No ☐

If yes, please provide electronic copy (CD, USB Flash Drive or e-mail attachment) for review.

I. Has your company developed any job/site-specific policies and procedures manuals?

Yes ☐ No ☐

If yes, please provide electronic copy (CD, USB Flash Drive or e-mail attachment) for review.

Maine Department of Transportation
Safety Supplemental

J. Has your company developed and utilized an orientation program for new employees? New employees would include those persons who are new to each specific location.

Yes ☐ No ☐

If yes, does it include instruction and/or training in the following areas?

		Yes	No
1.	Personnel Protection Equipment	☐	☐
2.	Eye Protection	☐	☐
3.	Hearing Protection	☐	☐
4.	Respiratory Protection	☐	☐
5.	Fall Protection/Prevention	☐	☐
6.	Silica Exposure Control	☐	☐
7.	Lead Exposure Control	☐	☐
8.	Scaffolds/ Ladders/Aerial Lifts	☐	☐
9.	Working over or near Water	☐	☐
10.	Hot Work - Welding & Cutting	☐	☐
11	Hand & Power Tool Safety	☐	☐
12.	Perimeter Guarding	☐	☐
13.	Fire Protection	☐	☐
14.	Emergency Response	☐	☐
15.	First Aid Procedures	☐	☐
16.	Hazard Communications, as per OSHA 1910.1200,	☐	☐
	including Safety Data Sheets (SDS)	☐	☐
17.	Electrical Safety	☐	☐
18.	Lock-Out/Tag-Out Procedures	☐	☐
19.	Trenching and Excavation	☐	☐
20.	Substance Abuse	☐	☐
21.	Rigging and Crane Safety	☐	☐
22.	Confined Spaces	☐	☐
23.	Work Zone Safety	☐	☐
24.	Traffic Control (MUTCD)	☐	☐
25.	COVID-19 Response and Procedures	☐	☐

K. Does your company have a formal Hazardous Communication program as per OSHA 1926.59 (1910.1200)?

Yes ☐ No ☐

Please provide in its entirety (note: 1910.1200 was updated in 2013 and must include the Global Harmonization Standard).

L. Does your company have a foreman-supervisor's training program?

Yes ☐ No ☐

Maine Department of Transportation
Safety Supplemental

If yes, does it include instruction and/or training in the following areas?

		Yes	No
1.	New Work/Work Site Orientation	☐	☐
2.	First Aid	☐	☐
3.	Emergency Response Procedures	☐	☐
4.	Incident Investigation	☐	☐
5.	Hazard Communication	☐	☐
6.	Fire Protection and Prevention	☐	☐
7.	Conducting Craft Safety Meetings	☐	☐
8.	Safety Work Practices	☐	☐
9.	Job Safety/Hazard Analysis	☐	☐
10.	Where applicable, are foremen trained in Process Safety Management requirements as state in OSHA 1910.119?	☐	☐

M. Are weekly craft safety meetings held? If yes, submit a sample of meeting notes

Yes ☐ No ☐

N. Do you hire subcontractors?

Yes ☐ No ☐

Do you use a subcontractor prequalification process?
If yes, please attach method used to qualify lower-tier subcontractors.

Yes ☐ No ☐

O. Have you had an incident in the past three years that caused over $50,000 in property damage?

Yes ☐ No ☐

If YES, please provide full details of each such incident by attachment.

It is imperative that all contractors, subcontractors, and lower-tier contractors adhere to all applicable Federal, State, Local, and client safety rules and regulations.

Please print and sign below. Either mail to Contracts Section, Maine Department of Transportation, 16 SHS, Child St., Augusta, ME 04333-0016 or Fax to 207-624-3431, Attn: Prequalification Section or send by email to contractor.prequal@maine.gov .

Title:

Date:

Sign:

MaineDOT

EQUAL EMPLOYMENT OPPORTUNITY
CIVIL RIGHTS SUPPLEMENTAL
PREQUALIFICATION REQUIREMENT

PLEASE NOTE: The EEO Supplemental must be completed by all contractors entering into a Federal Aid Contract with MaineDOT regardless of the number of employees. Please provide documentation in numerical order as numbered below and submit for consideration by the Prequalification Committee. This form must be completed in its entirety.

REQUESTED SUPPLEMENTAL INFORMATION	COMPLETED
1. Please submit your written Affirmative Action Plan with goals & timetables to correct any manifest imbalance in your employment of women & minorities. Plan must be signed by Company President or authorized representative & reflect current date.	☐
2. Please submit your Company's written sexual harassment policy that includes *sexual orientation. Policy must be signed by Company President or authorized representative & reflect current date.	☐
3. Does your Company provide sexual harassment training to employees & supervisors? If yes, how often & by whom? YES ☐ NO ☐	☐
4. Please submit your Company's non-discrimination policy. Policy must be signed by Company President or authorized representative and reflect current date.	☐
5. Within 5 years, has your company had any findings of probable cause or court rulings of sexual harassment, discrimination, or other civil rights violations? YES ☐ NO ☐ If yes, please provide full details, including a summary statement of your position.	☐
6. Does your company actively solicit bids/quotes from disadvantaged, minority, and/or women owned businesses? If no, why? YES ☐ NO ☐	☐
7. Describe the procedure you use to ensure your company is compliant with Disadvantaged Business Enterprise (DBE) requirements.	☐
8. Describe the procedure your company uses to ensure all subcontractors are compliant with EEO laws.	☐
9. Provide a list of all companies from whom you solicit subcontract bids/quotes.	☐
10. What is the name and telephone number of your company's EEO Officer?	☐
11. Provide a job description that outlines all EEO duties of your company EEO Officer.	☐
12. What percentage of that person's time is spent on EEO duties?	☐
13. Complete the attached Company Construction Workforce (EEO-1 Report).	☐

REFERENCE LINKS

External Program Special Provisions - http://law.justia.com/cfr/title23/23-1.0.1.3.8.1.1.12.2.html

Maine Sexual Harassment Policy - http://www.mainelegislature.org/legis/statutes/26/title26sec807.html

Maine Human Rights Act - http://www.mainelegislature.org/legis/statutes/5/title5sec4571.html

MaineDOT Standard Specifications - http://maine.gov/mdot/contractors/publications/standardspec/

For questions or more information related to the requests listed above, please refer to the 2020 Standard Specification Book, Division 100, Appendix A-2 (link above)

MaineDOT

EQUAL EMPLOYMENT OPPORTUNITY
CIVIL RIGHTS SUPPLEMENTAL
PREQUALIFICATION REQUIREMENT

Company Construction Workforce Report (EEO-1 Report)

Contractor/Company Name: _____ Year covered by report: _____

Report below - employment statistics for the entire company workforce, by number of employees for each craft during the last calendar year.

POSITION	TOTAL EMPLOYEES		WHITE CAUCASIAN		HISPANIC LATINO		BLACK AFRICAN AMERICAN		AMERICAN INDIAN OR ALASKA NATIVE		ASIAN		NATIVE HAWAIIAN PACIFIC ISLANDER		PERSONS WITH DISABILITIES		# OF RECALLS
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	
Superintendent	0	0															
Operating Engineer	0	0															
Equipment Operator	0	0															
Mechanics	0	0															
Truck Drivers	0	0															
Ironworkers/Re-Rod	0	0															
Carpenters	0	0															
Const. Worker Bridge	0	0															
Construction Worker Highway	0	0															
Pipelayer	0	0															
Bridge Maintenance Worker	0	0															
Laborer, Semi-Skilled	0	0															
Laborer, Unskilled	0	0															
Foreperson, Bridge	0	0															
Foreperson, Highway	0	0															
Welder	0	0															
Other:	0	0															
	0	0															
	0	0															
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

DO NOT TYPE IN THE GRAY SHADED AREAS - THESE ARE AUTO CALCULATING CELLS

A-3 Federal Brooks Act

THE BROOKS ACT

Federal Government Selection of Architects and Engineers

Public Law 92-582
92nd Congress, H.R. 12807
October 27, 1972

An Act

To amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by adding at the end thereof the following new title:

TITLE IX - SELECTION OF ARCHITECTS AND ENGINEERS DEFINITIONS

"Sec.901. As used in this title "(1) The term 'firm' means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering. "(2) The term 'agency head' means the Secretary, Administrator, or head of a department, agency, or bureau of the Federal Government. "(3) The term "architectural and engineering services" means -

1. professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph;

2. professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

3. such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operation and maintenance manuals, and other related services.

POLICY

"Sec.902. The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

REQUESTS FOR DATA ON ARCHITECTURAL AND ENGINEERING SERVICES

"Sec.903. In the procurement of architectural and engineering services, the agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him, no less than three of the firms deemed to be the most highly qualified to provide the services required.

NEGOTIATIONS OF CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES

"Sec.904. (a) The agency head shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the agency head determines is fair and reasonable to the Government. In making such determination, the agency head shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. "(b) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the Government, negotiations with that firm should be formally terminated. The agency head should then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency head should terminate negotiations. The agency head should then undertake negotiations with the third most qualified firm. "(c) Should the agency head be unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached."

The Brooks Act:

How to Use Qualifications Based Selection

The Brooks Act (Public Law 92-582), also known as Qualifications Based Selection (QBS), which was enacted on October 18, 1972, establishes the procurement process by which architects and engineers (A/Es) are selected for design contracts with federal design and construction agencies. The Brooks Act establishes a qualifications-based selection process, in which contracts for A/Es are negotiated on the basis of demonstrated competence and qualification for the type of professional services required at a fair and reasonable price. Under QBS procurement procedures, price quotations are not a consideration in the selection process. This QBS process, as established by the Brooks Act, has long been enthusiastically supported by every professional A/E society.

There are seven basic steps involved in pursuing federal design work under QBS:

1. Public solicitation for architectural and engineering services
2. Submission of an annual statement of qualifications and supplemental statements of ability to design specific projects for which public announcements were made
3. Evaluation of both the annual and project-specific statements
4. Development of a short-list of at least three submitting firms in order to conduct interview with them
5. Interviews with the firms
6. Ranking of at least three of the most qualified firms
7. Negotiation with the top ranked firm.

A brief explanation of each of these steps, along with a description of what is involved in each, follows. The user must be reminded that while QBS procedures are mandated by law, agencies may modify the procedures slightly, within the confines of the act and the Federal Acquisition Regulation.

1. Public Announcement

QBS calls for public announcement of opportunities for design contracts. The government fulfills this obligation by publicizing opportunities in the Commerce Business Daily. The Commerce Business Daily, or "CBD," as it is known, is published Monday through Friday by the U.S. Department of Commerce. The CBD lists proposed government procurements, subcontracting leads, and contract awards. A proposed procurement action appears in the CBD only once.

All intended procurement actions of $25,000 or more, whether for military or civilian agencies, are published in the CBD. Also, this publication identifies contracts that have been awarded, if the contract amount exceeds $25,000 for civilian agencies and $100,000 for the Department of Defense. The CBD does not list procurements that are:

- Classified for reasons of national security
- For perishable items
- For certain utility services
- Required within 15 days
- Placed under existing contracts
- For personal professional services
- Made only from foreign sources
- Not to be given advance publicity, as determined by the Small Business Administration

These notices in the CBD give the location and scope of a project and may also contain such information as:

- Estimated construction contract award range
- Project schedule and the date and time limit for receiving replies
- Categories of evaluation criteria and weight factors
- Any requirements for submitting supplemental information.

Usually, opportunities for A/E services are listed under the "R" section. However, design opportunities can be included in other sections, such as those for design/build services (listed under "Y," Construction of Structures and Facilities).

2. Statements of Qualification

A/E firms with an interest in being considered for design services contracts must submit the required statements of qualifications to each agency with which the A/E wants to contract. The Standard Form 254 (SF 254), Architect-Engineer and Related Services Questionnaire, may be filed each year with a field office of each agency with which the architect intends to do business. This form can also be updated and resubmitted at any time. A completed form furnishes the federal agency with general information on the size, capabilities, personnel, and past experience of an interested firm. Many federal agencies keep the SF 254 on file and review this file for prospective design firms if they have a small project that will not be advertised. The A/E firm can submit this form at the same time as the required project-specific form is submitted. The next statement of qualifications that a firm is to submit is the Standard Form 255 (SF 255), Architect-Engineer and Related Services Questionnaire for Specific Project. Following the review of the notices in the CBD, if an A/E firm wants to be considered for a specific project listed in it, then it must submit Standard Form 255, Architect-Engineer and Related Services Questionnaire for Specific Project. This form is submitted in response to a specific solicitation and ,when completed, contains the data relative to the specific project.

When a project is advertised in the CBD, the agency does not usually notify firms directly that have filed a SF 254. The project advertisements, or notices, that appear in the CBD are tailored

to each specific project and invite interested firms to submit both the SF 254 and the SF 255, along with any supplemental data requested in the announcement. Firms that have a current SF 254 on file with the listed procurement office are not required to resubmit that form; however, they must submit a SF 255, Architect-Engineer and Related Services Questionnaire for Specific Project, to be considered for each separate project. Instructions on how to complete Standard Forms 254 and 255, which include substantial guidance on what information to add to your 254 and 255 and what information to add, are contained in the forms. For example, the instruction in Standard Form 254 stress that additional data, brochures, photos, etc. should not accompany this form unless specifically requires. On the other hand, the instructions for Standard Form 255 state that when appropriate, respondents may supplement this proposal with graphic material and photographs that best demonstrate design capabilities of the proposer for the specific project.

3. Evaluation of Statements

The evaluation/selection process for architectural/engineering evaluation boards composed of members who, collectively, have experience in architecture, engineering, construction, and government and related acquisition matters. The members of the boards are usually appointed from among the professional employees of the agency or other agencies. In some situations, private practitioners sit on these boards if authorized by agency procedures. Of course, when these private practitioners sit on an evaluation board, they or their firms are not eligible for award of a design contract.

The evaluation boards then review the statements of qualifications (Standard For 254 and 255). The boards must evaluate them in accordance with the criteria contained in the CBD notice. For example, some of the criteria in the CBD notice may include the following: professional qualifications and experience of the firm with design of a specific type of project; experience and professional qualifications of the firm's staff to be assigned to the project; location of the main office of the proposing firm and its consultants; overall performance record of the firm; and analysis of the firm's current workload.

4. Development of a Short-list

Following the evaluation of the statements of qualifications, the boards prepare reports that recommend the firms to be on the short-list. The reports rank at least three of the firms for the purpose of discussing the project with them. The boards are not limited in the number of firms that they can select for these "interviews"; it is left to the discretion of the boards.

5. Interviews/Discussions With Firms

The interviews usually involve discussions on project concepts and the relative utility of alternative methods of furnishing the required services. Before the interview, some agencies send detailed selection criteria and other information about the project to the firms recommended for further consideration. Under the system established by QBS, the architect-engineer designer does not produce any design product in competing for the project. Usually these interviews are held at the agency's office. Occasionally, and in special circumstances, phone interviews are conducted. The interviews are brief, usually lasting only 30 to 60 minutes.

6. Ranking of the "Top Three" Firms

Following the interviews, the boards' reports are presented to the agency head or a person who is designated to act in the head of the agency's behalf. The reports list, in order of preference, at

least three firms that are considered to be the most highly qualified to perform the services. This is considered to be the final selection of the competing firms. If the firm listed as the most preferred is not the firm that was recommended as the most highly qualified by the evaluation board, the head of the agency must provide a written explanation for the reason for the preference. The head of the agency, or that person's designate, may not add names of other firms to the final report. The report reviews the recommendations of the evaluation board and, from that, the agency head makes the final selection.

7. Negotiation with the Top-Ranked Firm

When the final selection is made by the agency head, the contracting officer is authorized to begin negotiations with the top-ranked firm. The negotiations are conducted pursuant to the procedures set forth in the FAR. Usually, the firm is requested to submit a fee proposal listing direct and indirect costs as the basis for contract negotiations. Contract negotiations are conducted following an evaluation of the fee proposal and an audit when the proposed design fee is more than $100,000. If a fee is not agreed upon within a reasonable time, the contracting officer will conclude negotiations with the top-ranked firm and initiate negotiations with the second-ranked firm. If a satisfactory contract is not worked out with this firm, then this procedure will be continued until a mutually satisfactory contract is negotiated. If negotiations fail with all selected firms, the contracting firms, which are ranked by competence and qualifications, are identified. The negotiation process will then continue until an agreement is reached and a contract awarded. As a practical note, it is rare that a contract is not successfully negotiated with the top-ranked firm.

The 6 Percent Fee Limitation on Federal Design Contracts Since 1939, federal construction agencies have been required by law to limit the fee payable to an architect or engineer to 6 percent of the estimated construction cost. Presently, there are at least four statutes that prescribe limitations on architect-engineer fees and apply to all civilian and military construction agencies with the exception of the U.S. Department of State. Federal agencies have interpreted the statutory fee limitations as applying only to the part of the fee that covers the production and delivery of "designs, plans, drawings, and specifications." The agencies, therefore, consider that the 6 percent fee limitation does not apply to the cost of field investigation, surveys, topographical work, soil borings, inspection of construction, master planning, and similar services not involving the production and delivery of designs, plans, drawings, and specifications. Most direct federal awarding agencies have, as a part of their supplement to the Federal Acquisition Regulation, a list of those items exempt from the 6 percent fee limitation.

STATE OF ALABAMA Administrative Code Alabama Board of Licensure for Professional Engineers & Professional Land Surveyors

Rules of Professional Conduct - Practice (Canon IV) (Rule 330-14.05)

The engineer or land surveyor shall endeavor to build a practice and professional reputation on the merit of his or her services as follows:

...(f) The engineer or land surveyor, in the public interest, shall not participate in fee determination procedures (bid submittals or contract negotiations) which contribute to an inferior quality of workmanship. The engineer or land surveyor shall refrain from participating in procurement practices which do not first determine the qualifications of the engineering and land surveying services contractor prior to entering into fee negotiations for services being sought. An engineer or land surveyor having submitted a statement of qualification and performance data, and having first been judged as the qualified individual or firm to provide the services required for the proposed project, may proceed to negotiate a contract with a client and establish compensation for the required services…..

American Consulting Engineers Council of Alabama

660 Adams Avenue, Suite 333
Montgomery, Alabama 36104
PH: (334) 264-1500 FAX: (334) 264-0099
acecalabama@aol.com

A-4 MaineDOT Specifications Manual Division Contents

The ~800+ page MaineDOT manual includes the following components:

- **DIVISION 100 - GENERAL CONDITIONS**
- **SECTION 101 - CONTRACT INTERPRETATION**
- **SECTION 102 - BIDDING**
- **SECTION 103 - AWARD AND CONTRACTING**
- **SECTION 104 - GENERAL RIGHTS AND RESPONSIBILITIES**
- **SECTION 105 - GENERAL SCOPE OF WORK**
- **SECTION 106 - QUALITY**
- **SECTION 107 - TIME**
- **SECTION 108 - PAYMENT**
- **SECTION 109 - CHANGES**
- **SECTION 110 - INDEMNIFICATION, BONDING, AND INSURANCE**
- **SECTION 111 - RESOLUTION OF DISPUTES**
- **SECTION 112 - DEFAULT AND TERMINATION**
- **APPENDIX A TO DIVISION 100**
  - I. GENERAL
  - II. NONDISCRIMINATION
  - III. NONSEGREGATED FACILITIES
  - IV. Davis-Bacon and Related Act Provisions
  - V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT
  - VI. SUBLETTING OR ASSIGNING THE CONTRACT
  - VII. SAFETY: ACCIDENT PREVENTION
  - VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS
  - IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT
  - X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION
  - XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

- **DIVISION 200 - EARTHWORK**
  - SECTION 201 - CLEARING RIGHT-OF-WAY
  - SECTION 202 - REMOVING STRUCTURES AND OBSTRUCTIONS
  - SECTION 203 - EXCAVATION AND EMBANKMENT
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- SECTION 719 - SIGNING MATERIAL
- SECTION 720 - STRUCTURAL SUPPORTS FOR HIGHWAY SIGNS, LUMINAIRES AND TRAFFIC SIGNALS
- SECTION 721 - BREAKAWAY DEVICES
- SECTION 722 - GEOTEXTILES

The MTA issued in 2016 supplemental conditions for the following sections:

- Division 101 CONTRACT INTERPRETATION
- Division 102 BIDDING
- Division 103 AWARD AND CONTRACTING
- Division 104 GENERAL RIGHTS AND RESPONSIBILITIES
- Division 105 GENERAL SCOPE OF WORK
- Division 106 QUALITY
- Division107 TIME
- Division 108 PAYMENT
- Division 109 CHANGES
- Division110 INDEMNIFICATION, BONDING AND INSURANCE
- Division 111 RESOLUTION OF DISPUTES
- Division112 DEFAULT AND TERMINATION
- Division 401 HOT MIX ASPHALT PAVEMENT
- Division 502 STRUCTURAL CONCRETE
- Division 518 STRUCTURAL CONCRETE REPAIR
- Division 652 MAINTENANCE OF TRAFFIC Division

Division 656 TEMPORARY SOIL EROSION AND WATER POLLUTION CONTROL

B-1 AGC America Inflation Index Report

AGC
THE CONSTRUCTION ASSOCIATION

DEC

2022

CONSTRUCTION INFLATION ALERT

For nearly three years the U.S. construction industry has been buffeted by unprecedented volatility in materials costs, supply-chain bottlenecks, and a tight labor market. To help project owners, government officials, and the public understand how these conditions are affecting contractors and their workers, the Associated General Contractors of America (AGC) has posted frequent updates of the Construction Inflation Alert.

New challenges keep emerging, even as some conditions improve. Overall inflation rates and economic growth have cooled, while congestion at West Coast ports has eased. These changes have led some owners to assume that construction costs and completion times must also have improved. Unfortunately, this is not the case for a large number of projects, materials, and contractors.

Demand for infrastructure, manufacturing, and power construction appears to be strong and likely to strengthen further, perhaps for several years to come. In any case, the cost of construction materials and labor does not generally move in sync with the overall economy. In short, owners should not assume that delaying projects will enable them to avoid volatility and disruptions in construction costs, delivery times, and labor supply, even if the economy slows significantly.

Meanwhile, Russia's ongoing attack on Ukraine and Western sanctions against Russia have disrupted production and transport of dozens of commodities. China's prolonged lockdown of Shanghai and other areas in an attempt to control the spread of covid has also affected production and shipping. New variants of covid, as well as a growing number of people with lingering or recurrent symptoms ("long-haul covid"), add to uncertainty about labor supply.
This version of the Alert is the eighth update since the first edition was posted in March 2021—an indication that the situation remains far from "normal." This document will continue to be revised to keep it timely as conditions affecting demand for construction, labor supply, and materials costs and availability change. Each new version is posted here: https://www.agc.org/learn/construction-data/agc-construction-inflation-alert.

Readers are invited to send comments and feedback, along with "Dear Valued Customer" letters or other information about materials costs and supply-chain issues, to AGC of America's chief economist, Ken Simonson, ken.simonson@agc.org.

Recent changes in input costs

Earlier editions of this guide highlighted the extreme runup in materials costs that began in early 2020. More recently, prices have moved in divergent directions for different materials. But, on balance, they continue to climb at a much higher rate than the consumer price index (CPI), the most commonly cited measure of inflation.

The extent of these increases is documented by the Bureau of Labor Statistics (BLS). BLS posts producer price indexes (PPIs) around the middle of each month for thousands of products and services (at www.bls.gov/ppi). Most PPIs are based on the prices that sellers say they charged for a specific item on the 11th day of the preceding month. Producers include manufacturers and fabricators, intermediaries such as steel service centers and distributors, and providers of services ranging from design to trucking.

The index declined at the beginning of the pandemic but began climbing on a year-over-year basis in August 2020. As prices rose at unprecedented rates for a wide range of construction inputs, the index accelerated steeply, rising at a record-high annual rate of 24% in June 2021. Year-over-year increases remained at or above 20% from May 2021 through April 2022.

Since the spring of 2022, prices have tumbled for lumber and most metals products, and the PPI for nonresidential construction inputs moderated to an 11.2% rate of increase from October 2021 to October 2022. But that is still far higher than the 7.7% annual rate of increase in the CPI over the same interval. In fact, as Figure 1 shows, the yearly increase in the PPI for nonresidential construction inputs has exceeded consumer price inflation every month since August 2020.

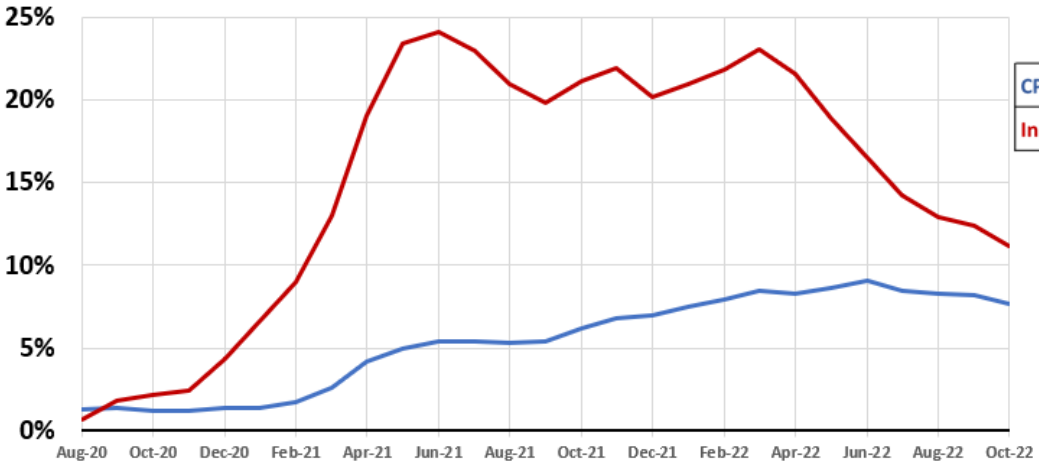
11.2%

The PPI for nonresidential construction inputs rose 11.2% in 12 months

Figure 1

Costs for new nonresidential construction vs. consumer prices

Year-over-year change in PPI for construction inputs and CPI
August 2020 - October 2022, not seasonally adjusted



	12 months to:	
	Aug-20	Oct-22
CPI	1.3%	7.7%
Inputs PPI	0.7%	11.2%

Source: Bureau of Labor Statistics, consumer price index, www.bls.gov/cpi; producer price index, www.bls.gov/ppi

The actual increase in costs varies a lot by type of material. Figure 2 shows the change in PPIs for four material inputs and four types of subcontractors in October 2022 from one month earlier (September 2022) and one year earlier (October 2021). The monthly change in materials costs ranged from a decrease of 0.7% for asphalt paving mixtures and blocks to 9.8% for #2 diesel fuel, while year-over-year changes varied from 14.1% for concrete products to 61.5% for diesel fuel. (Contractors use diesel fuel for their own trucks and offroad equipment. The price of fuel is also reflected in the cost of the thousands of truckloads needed to deliver equipment and materials to jobsites and haul away dirt, debris, and equipment. In addition, many materials require large quantities of diesel fuel or other petroleum-based energy to mine, mix, or manufacture.)

Subcontractors' prices reflect their own materials costs, labor costs, and the degree of tightness in the market for their services. Notably, the PPI for all four types of subcontractors rose far more than the 7.7% increase in the CPI from October 2021 to October 2022: 21.5% for roofing contractors, 18.8% for electrical contractors, 15.7% for plumbing contractors, and 10.9% for concrete contractors.

Prices for many inputs have been extremely volatile, making it difficult for contractors to predict even near-term prices reliably. For instance, the PPI for diesel fuel, which jumped 9.8% from September to October, had declined 12.8% just two months earlier. Conversely, the PPI for steel mill products fell 6.6% from September to October but increased 10.5% from April to May.

Several factors are likely to keep some costs high in 2023, with the possibility of further price spikes. Russia's cutoff of natural gas to central and western Europe has led to a surge in natural-gas prices as the United States exports more liquefied gas to Europe. That affects the cost of construction plastics, glass, and other products that use natural gas as a feedstock or fuel source. Similarly, European demand for diesel fuel, sanctions against Russian oil, and attempts by the "OPEC+" group of oil producers to limit supplies have kept diesel and asphalt prices elevated and subject to large swings.

61.5%

The PPI for diesel fuel increased 61.5% from October 2021

Figure 2

Wide variation in construction input cost trends

Change in producer price indexes (not seasonally adjusted)

	Oct 2022 change from: Sep 2022	Oct 2021
#2 diesel fuel	9.8%	61.5%
Architectural coatings (paint, etc.)	1.1%	27.5%
Asphalt paving mixtures and blocks	-0.7%	20.7%
Concrete products	0.1%	14.1%
Subcontractor price indexes, nonresidential building work		
Roofing contractors	1.9%	21.5%
Electrical contractors	2.1%	18.8%
Plumbing contractors	3.7%	15.7%
Concrete contractors	1.1%	10.9%

Source: BLS, producer price indexes, www.bls.gov/ppi

Given such volatility, owners should not expect contractors' bid prices to mirror a short-term decline in prices for certain inputs or in the overall index for nonresidential inputs, let alone changes in the CPI. The CPI measures the cost of a "basket" of consumer goods and services, which has very little relation to the items driving construction costs.

Input costs and bid prices

Some owners may be under the misimpression that contractors' bid prices are closely linked to changes in input costs. In fact, the two often diverge, as has occurred over the past three years.

The pandemic drastically disrupted production and distribution of many construction materials and caused sharp changes in demand for numerous goods and structure types. Unanticipated price spikes occurred for many inputs—to record levels for lumber, steel, and copper products.

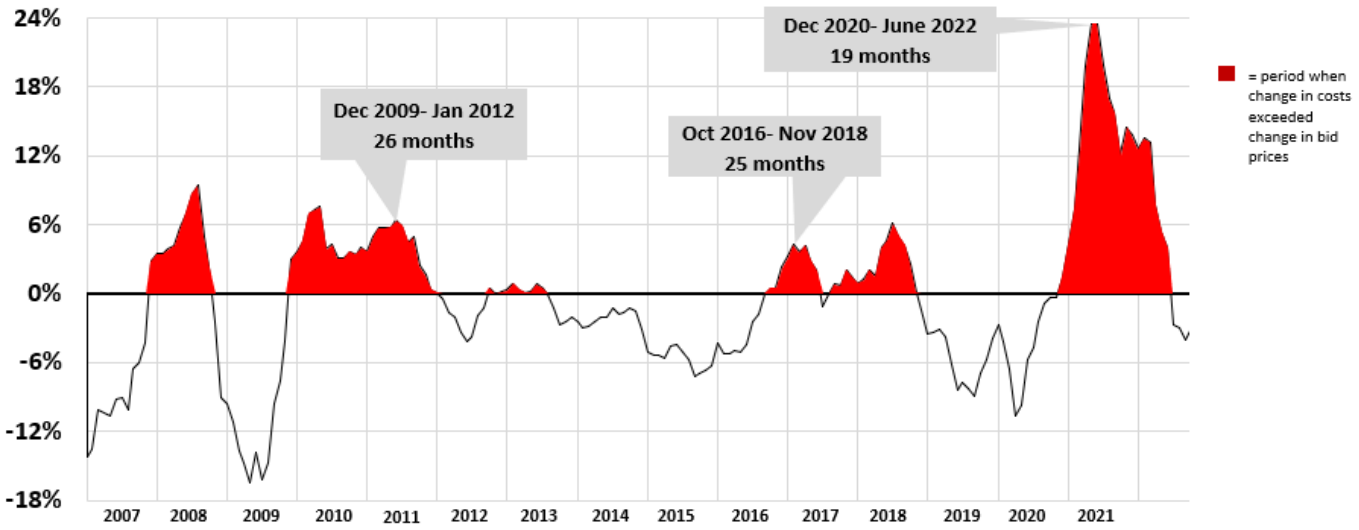
Contractors did not immediately pass along these increases in bid prices. Demand for some project types and in some regions remained weak; as a result, firms refrained from passing through a portion of costs in order to win contracts. In other cases, contractors may have assumed prices would fall by the time they had to purchase the materials.
As demand for construction heated up in 2021 and inflation became established throughout much of the economy, contractors did raise prices to a greater extent. But bid price increases did not "catch up" with increases in input costs until the summer of 2022.

Figure 3 shows the difference in the year-over-year change in input prices (specifically, the PPI for goods inputs to nonresidential construction) minus the change in bid prices (in this case, for new school construction building construction; other comparisons are similar). Periods in red show months when cost increases exceeded bid price increases, while periods below the 0% line show the reverse.

Figure 3

Cost squeeze on contractors can last two years or more

Difference between year-over-year change in materials costs vs. bid prices, Jan 2007-Oct 2022



Source: Source: Bureau of Labor Statistics, www.bls.gov/ppi, producer price indexes for goods inputs to nonresidential construction (material costs) and new school building construction (bid prices)

Over the 16-year history of the series, the number of months and total areas of the two differentials are similar. This is to be expected: If contractors consistently experienced cost increases that exceeded the increases in their bids, they would go out of business. Conversely, if bid-price increases consistently outran costs, other firms would enter the business, driving down profitability.

From December 2020 to June 2022, a period of 19 months, the year-over-year change in materials costs exceeded the year-over-year change in bid prices. Although there were two such intervals that lasted even longer, the gap was three times as great (in the summer of 2021) as in previous episodes, meaning the profit squeeze was much more intense.

As Figure 3 shows, the duration and amplitude of these differences vary greatly and unpredictably. The implication for owners in the current environment is they should not assume a moderation in materials cost increases will be associated with an immediate or proportionate change in bid prices.

Supply chain issues

From the first days of the pandemic, availability and delivery times for materials have been never-ending headaches for construction firms. Recently, shortages and extended lead times have moderated or disappeared for some items but have worsened for others.

On the positive side, port congestion on the West Coast has lessened. Waiting times for lumber and steel products have returned to pre-pandemic levels. There have not been any recent events with supply impacts as severe as the February 2021 freeze in Texas that decimated the production of resins for construction plastics.

Not all bottlenecks have cleared up, however. Contractors continue to be affected by the much-publicized shortage of computer chips. Not only is the construction industry a major buyer of pickup trucks that are in short supply, but deliveries of construction equipment also have been held up by a lack of semiconductors.

Lead times remain unusually long for electrical transformers. In fact, some utilities are reportedly refusing to hook up new construction because they are saving their remaining supply for emergencies. The sole U.S. producer of electrical steel used in transformers has been unable to keep up with demand.

Perhaps the most consequential and long-lasting supply chain issue involves cement and concrete products. Shortages of cement had spread from a few states early in 2021 to 43 states by October, according to the Portland Cement Association. No cement capacity has been added in the United States since 2009. At the same time, the supply of two other “cementitious materials” that are added to some concrete mixes—fly ash and slag—has diminished with the shutdown of coal-fired power plants that supplied those materials as a byproduct of burning coal. (Those closures have also reduced the supply of artificial gypsum for making wallboard.) Exceptionally low water levels in the Mississippi River have limited barge movements of cement in the middle of the country.

43 states

Cement shortage appeared in 43 states by October 2022

Meanwhile, demand for ready-mixed and precast concrete has increased. As a result, many suppliers have placed contractors on allocation, meaning they receive a percentage of previous years’ orders (or possibly none if they are new customers). When contractors can’t pour as much concrete as needed at one time, project completions are delayed, with attendant cost increases. The Portland Cement Association has indicated that additional cement production capacity will come online in the spring of 2023. Some states may receive more cement from Mexico. But availability is likely to remain tight in many areas, particularly as demand increases once projects funded by the Infrastructure Investment and Jobs Act of 2021 and other recent laws and bond issues get underway.

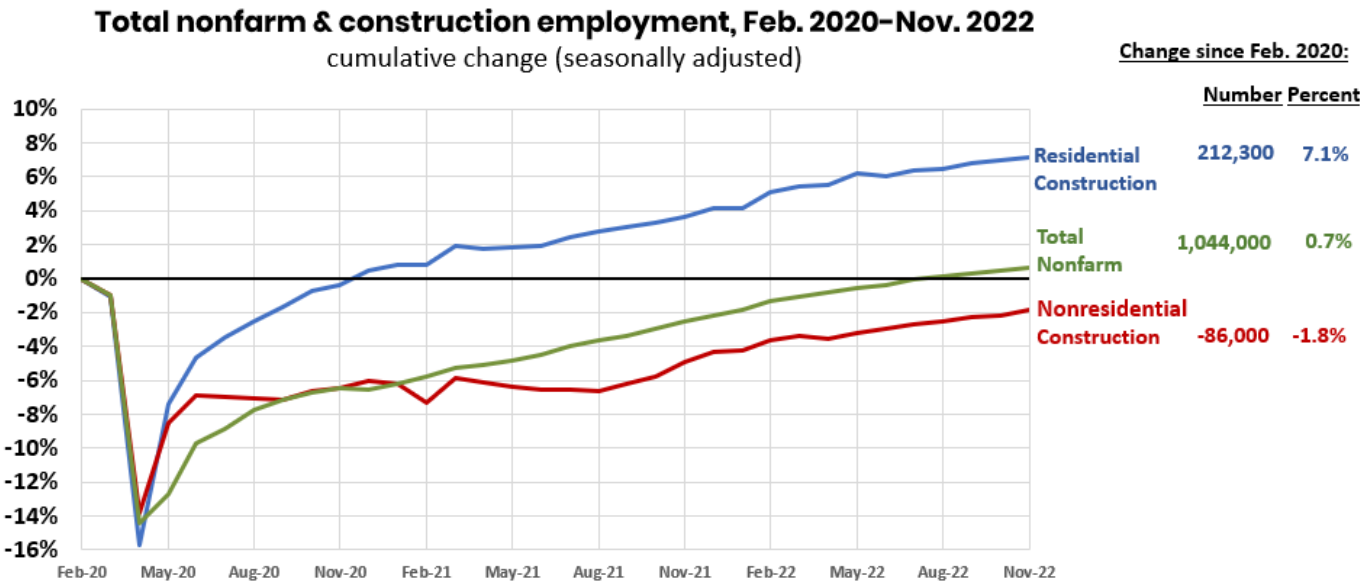
Furthermore, the last three years have shown that the supply chain for many items remains fragile and can easily be disrupted by governmental interventions such as covid-induced shutdowns in China, natural disasters such as hurricanes and freezes, or "one-off" events such as strikes or lockouts of rail or port workers.

Labor supply and costs

Construction employment has bounced back well from the early months of the pandemic. However, construction firms are far short of the number of workers they have been seeking. They have partially closed the gap by getting more overtime from the workers they have, but this cannot continue indefinitely.

As shown in Figure 4, construction industry employment declined by 15% from February to April 2020—a loss of 1.1 million employees in just two months. While both residential and nonresidential construction employment rebounded somewhat in May 2020, for more than a year after that date employment stalled among nonresidential firms—nonresidential building and specialty trade contractors plus civil and heavy engineering construction firms. During that period, thousands of experienced workers moved into residential construction (homebuilding and remodeling), found jobs in other sectors, or left the workforce completely.

Figure 4

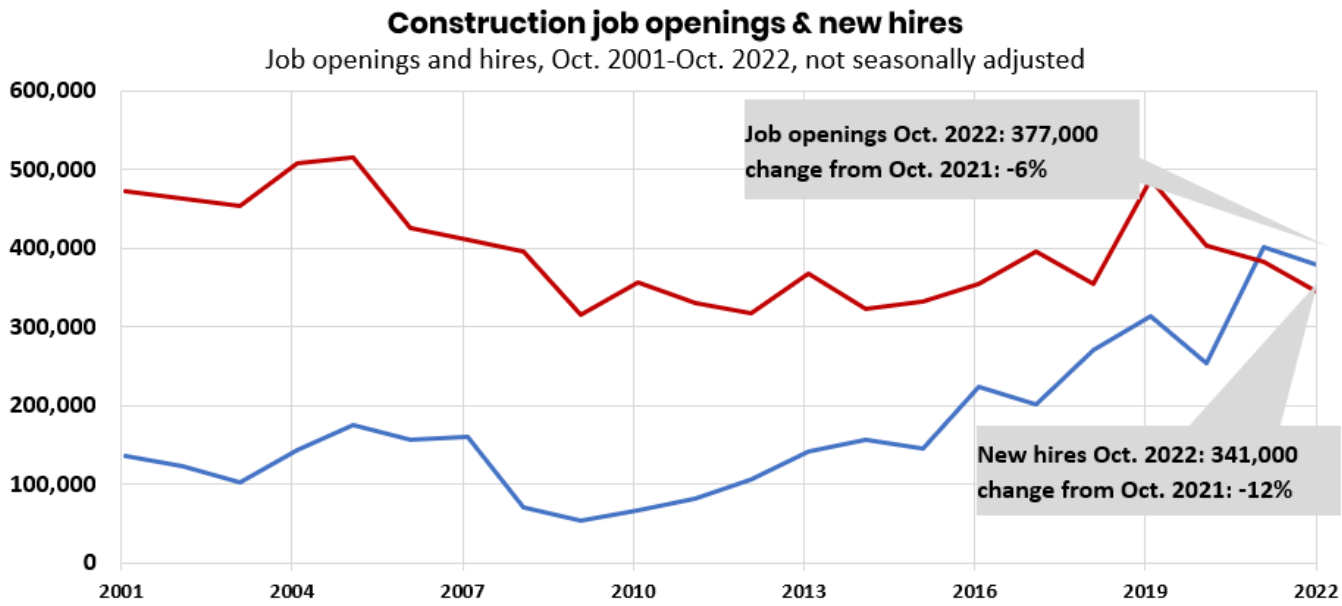


Source: BLS current employment statistics, https://www.bls.gov/ces/

By November 2022, seasonally adjusted construction employment totaled 7,750,000, or 126,000 more than in February 2020. But there was a large shift between residential and nonresidential subsectors. Compared to February 2020 levels, residential construction firms had added more than 210,000 workers, while employment in nonresidential construction was still down 86,000 employees or 1.8%, as shown in Figure 4.

There is strong evidence that the construction industry would have added many more workers if they had been available. As shown in Figure 5, job openings in construction at the end of October totaled 377,000 (not seasonally adjusted), exceeding the 341,000 workers hired during the month. This gap never occurred before 2021 but has occurred in most months of 2022, implying that construction firms are having increasing difficulty filling positions and would have hired twice as many workers each month as they were able to, if there had been enough qualified applicants.

Figure 5

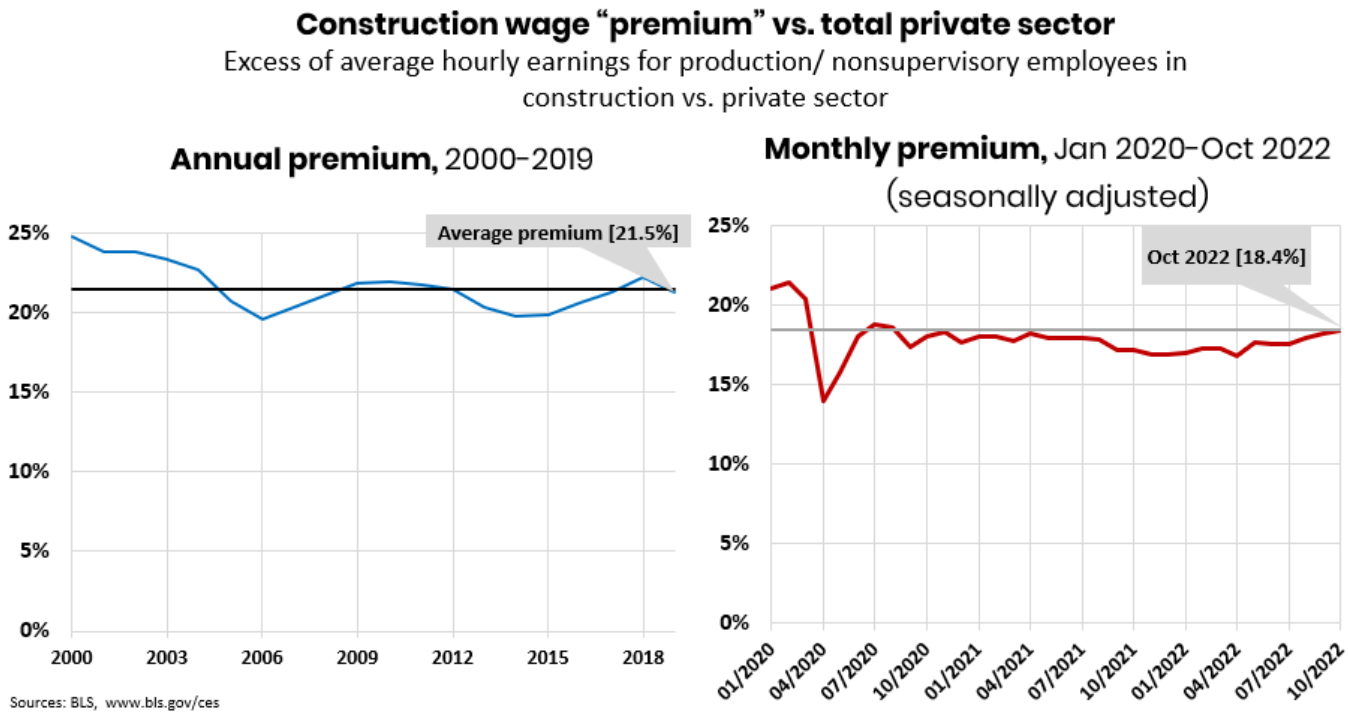


Source: Source: Bureau of Labor Statistics, www.bls.gov/jlt, JOLTS

In order to attract, retain, and bring back workers, construction firms are raising pay. Average hourly earnings in construction for "production and nonsupervisory employees"—mainly hourly craft workers—rose 6.1% from November 2021 to November 2022. That was roughly three times as large as the 2.0% increase that occurred three years earlier, in the 12 months ending in November 2019.

Despite the acceleration in wages, until recently construction pay has not risen as fast since the beginning of the pandemic as in other industries. Historically, as shown in Figure 6, contractors paid a "premium" to attract workers willing to work in the conditions, locations, and hours required for construction. Specifically, average hourly earnings for production workers in construction were 20-23% higher than for than the average for all private sector employees, until the onset of the pandemic. This premium shrank to 15% at the start of the pandemic as restaurants, warehouses, delivery services, and other industries drastically increased pay, and the premium has remained around 17% or less for the past 2-1/2 years. Other industries now offer greater flexibility regarding hours and worksites, including work from home, working conditions that are not possible for construction.

Figure 6



These differences imply that construction wages will have to rise even more steeply to restore (and perhaps expand) the pay premium. In addition, it is likely that contractors will pay more overtime to make up for the workers they don't have. They may also turn more to offsite production and onsite drones, robotics, 3-D printers, and other ways of reducing the number or skill level of the workers they employ.

What can contractors and ownersdo?

Contractors can provide project owners with timely and credible third-party information about changes in relevant material costs and supply-chain snarls that may impact the cost and completion time for a project that is underway or for which a bid has already been submitted.

Owners can authorize appropriate adjustments to design, completion date, and payments to accommodate or work around these impediments. Nobody welcomes a higher bill, but the alternative of having a contractor go out of business because of impossible costs or timing is likely to be worse for many owners.

For projects that have not been awarded or started, owners should start with realistic expectations about current costs and the likelihood of increases. They should provide potential bidders with accurate and complete design information to enable bidders to prepare bids that minimize the likelihood of unpleasant surprises for either party.

Owners and bidders may want to consider price-adjustment clauses that would protect both parties from unanticipated swings in materials prices. Such contract terms can enable the contractor to include a smaller contingency in its bid, while providing the owner an opportunity to share in any savings from downward price movements (as has occurred at various times in recent months with lumber, diesel fuel, and metals prices). The ConsensusDocs set of contract documents (www.consensusdocs.org) is one source of industry-standard model language for such terms. The ConsensusDocs website includes a price escalation resource center (https://www.consensusdocs.org/price-escalation-clause/).

The parties may also want to discuss the best timing for ordering materials and components. Buying items earlier than usual can provide protection against cost increases. But purchase before use entails paying sooner for the items; potentially paying for storage, security against theft and damage, and insurance; and the possibility of design changes that make early purchase unwise.

Conclusion

The construction industry continues to be in the midst of a period of exceptionally volatile and sometimes fast-rising costs for a variety of materials, compounded by major supply-chain disruptions and difficulty finding enough workers—a combination that threatens the financial health of many contractors. No single solution will resolve the situation, but there are steps that government officials, owners, and contractors can take to lessen the pain.

Federal trade policy officials can act immediately to end tariffs and quotas on imported products and materials. With many U.S. mills and factories already at capacity, bringing in more imports at competitive prices will cool the overheated price spiral and enable many users of products that are in short supply to avoid layoffs and shutdowns.

The federal government can improve the labor supply by allowing employers to sponsor more foreign-born workers to fill positions for which there are not enough qualified applicants. In addition, the federal government should fund and approve more apprenticeship and training programs to enable students and career-switchers to acquire the skills needed for construction trades.

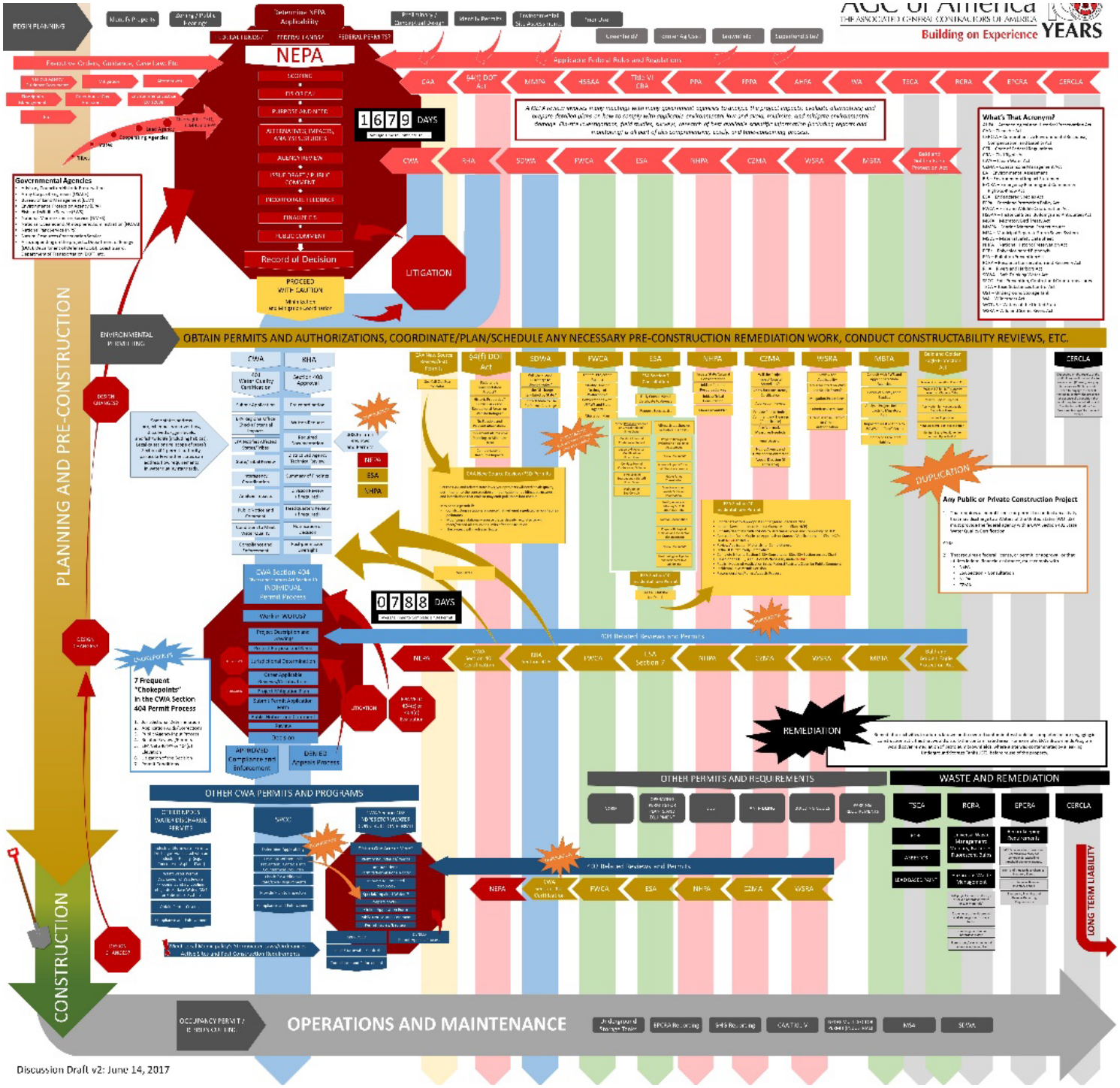
Officials at all levels of government should review all regulations, policies, and enforcement actions that may be unnecessarily driving up costs and slowing importation, domestic production, transport, and delivery of raw materials, components, and finished goods.

Owners need to recognize that fast-changing materials costs and availability require a quick decision regarding bids and requests for changes. For new and planned projects, owners should expect quite different pricing from previous estimates. They may want to consider building in more flexibility regarding design, timing, or cost-sharing.

Contractors need, more than ever, to closely monitor costs and delivery schedules for materials and to communicate information with owners, both before submitting bids and throughout the construction process.

Materials prices do eventually reverse course. Owners and contractors alike will benefit when that happens. Until then, cooperation and communication can help reduce the damage.

D-1 AGC America Permitting Flow Chart



D-2 MaineDEP Permitting Process

Department of Environmental Protection
Processing Times for New Applications
Effective: November 1, 2024 to October 31, 2025

This schedule provides processing times grouped by D.E.P. program. These times apply to license applications accepted as complete for processing by D.E.P. on or after November 1, 2024 that are under the commissioner's jurisdiction, including applications for new licenses, license amendments, minor revisions, condition compliance applications, renewals, transfers and surrenders. Processing times do not apply to after the-fact license applications or applications over which the Board of Environmental Protection has jurisdiction.

The "Processing Time" column is measured from the date the application is accepted as complete for processing[1] to the date of the D.E.P. decision on the application. This is the maximum period of time the agency has to process an application before the forfeiture provisions contained in Maine Revised Statutes Title 38, Section 344-B apply.[2] Where multiple permits for a single project are required, D.E.P. issues a single order including multiple permits, where possible. Such an order is governed by the longest of the processing times for the included permits. The 'goal column,' where a number is provided, is the time within which D.E.P. strives to issue a decision. All times are in calendar days unless specifically noted otherwise.

Air Quality

Code	Description	(Goals)	Processing Time
70	initial part 70 air license (c. 140)	-	548 days
71	new minor source license (c. 115)	-	270 days
71	minor modification at a minor source (c. 115)	-	270 days
77	minor modification at a major source (c. 115)	-	270 days
77	new major source license & major modifications (c. 115)	(270 days)	365 days
	general permit (c. 149. 164, & 165)	-	60 days
75	property or sales & use tax exemption certification	(90 days)	180 days

Land Resources – Dams and Hydropower

Code	Description	(Goals)	Processing Time
32	FERC water quality certification for storage	(300 days)	365 days
33	FERC water quality certification, no increase in capacity	(300 days)	365 days
34	MWDCA maintenance/repair only	(100 days)	180 days
35	MWDCA new construction/expanded generating capacity	(300 days)	365 days
36	water level petitions	(300 days)	-
3D	dams, release of impoundment	--	570 days
3E	non-hydropower dams	(60 days)	120 days
3A	FERC hydropower licensing, first consultation	-	-
3B	FERC hydropower licensing, second consultation	-	-

[1] If a written notice of acceptance or nonacceptance is not sent to the applicant within 15 working days of receipt of the application, the application is deemed to be accepted as complete for processing on the 15th working day after receipt by the department. (38 M.R.S. §344(1)).

[2] If the department does not approve or deny an application within the allotted processing time and the deadline has not been extended in accordance with 38 M.R.S. §344-B(3), the applicant will be refunded 50% of the processing fee. The remainder of the processing fee is payable to the applicant if the application is not approved or denied within 120 calendar days after that deadline. (38 M.R.S. §344-B(5)).

Land Resources – Mining and Excavations

Code	Description	(Goals)	Processing Time
80	notice of intent to comply w/borrow pit or quarry standards	-	45 days
	notice of borrow pit or quarry expansion	-	45 days
	variance from excavation standards; general	-	90 days
	variance from excavation standards excavation below the water table or externally drained	-	120 days
	variance from excavation standards: topsoil salvage	-	90 days
	variance from quarry standards: general	-	90 days
	variance from quarry standards: excavation below the water table or externally drained	-	120 days
	variance from quarry standards: topsoil salvage or air blasts & ground	-	90 days

Land Resources – Natural Resources Protection Act[1]

Code	Description	(Goals)	Processing Time	Over capacity[3]
-	NRPA permit by rule notification	-	14 days	-
08	water quality certification other than hydropower	(60 days)	120 days	150 days
2A	shoreline stabilization on a great pond	(60 days)	120 days	150 days
2B	other activity on a great pond	(60 days)	120 days	150 days
2C	fragile mountains areas	(60 days)	120 days	150 days
2D	irrigation ponds	(90 days)	150 days	180 days
AP	agricultural irrigation pond	(25 days)	30 days	-
2E	cranberry bogs	(90 days)	150 days	180 days
CW	cranberry cultivation	(40 days)	45 days	-
2F	activity adjacent to a protected natural resource	(60 days)	120 days	150 days
2G	fill or alteration of wetlands of special significance	(60 days)	120 days	150 days
DW	significant wildlife habitat: deer wintering area	(60 days)	120 days	150 days
IW	significant wildlife habitat: inland waterfowl area	(60 days)	120 days	150 days
TW	significant wildlife habitat: tidal waterfowl area	(60 days)	120 days	150 days
BN	significant wildlife habitat: seabird nesting island	(60 days)	120 days	150 days
FS	significant wildlife habitat: shorebird feeding & staging areas	(60 days)	120 days	150 days
VP	significant wildlife habitat: significant vernal pools	(90 days)	150 days	180 days
3E	non-hydropower dams	(60 days)	120 days	150 days
GW	significant groundwater extraction well	(90 days)	180 days	210 days
OS	offshore wind energy demonstration project	(45 days)	60 days	-
OT	offshore energy development	(90 days)	150 days	180 days
4C	coastal wetland, fill or structure >1,000 sq. ft. and below highest annual tide or over wetland vegetation	(60 days)	120 days	150 days
4D	shoreline stabilization in a coastal wetland	(60 days)	120 days	150 days
4E	other activity on a coastal wetland	(90 days)	150 days	180 days
4P	coastal: docks, piers & wharves	(60 days)	120 days	150 days

[3] When the department is processing more than 30 applications per Licensing Specialist, the processing time for a newly received NRPA application is longer to account for the availability of staff resources.

4F	sand dune: commercial structure >2,500 sq. ft.; single or multi-family residence >5000 sq. ft.; or any structure >35 ft. tall unless height related to posts	(90 days)	150 days	180 days
4G	sand dune: beach nourishment or restoration on a sand dune	(60 days)	120 days	150 days
4H	other activity on a sand dune	(60 days)	120 days	150 days
4I	sand dune: residential building >2,500 sq. ft. & <5000 sq. ft., and <35 ft. tall	(90 days)	150 days	180 days
4J	sand dune: front dune building	(90 days)	150 days	180 days
4K	sand dune: back dune building	(60 days)	120 days	150 days
4L	sand dune: front dune, new house variance	(90 days)	150 days	180 days
4M	sand dune: post or piling variance	(90 days)	150 days	180 days
L4	stream alteration, fill in floodway	(60 days)	120 days	150 days
L5	stream alteration, shoreline stabilization	(60 days)	120 days	150 days
L6	stream alteration, other	(60 days)	120 days	150 days
MB	mitigation bank	(90 days)	150 days	180 days
MC	mitigation credit	(90 days)	150 days	180 days
TA	freshwater wetland, Tier 1 / 0 - 4,999 sq. ft.	(40 days)	45 days	-
TB	freshwater wetland, Tier 1 / 5,000 - 9,999 sq. ft.	(40 days)	45 days	-
TC	freshwater wetland, Tier 1 / 10,000 - 14,999 sq. ft.	(40 days)	45 days	-
TE	freshwater wetland fill, Tier 2 / 15,000 - 43,560 sq. ft.	(60 days)	60 days	-
TF	freshwater wetland alteration, Tier 2 / 15,000 - 43,560 sq. ft.	(60 days)	60 days	-
TG	freshwater wetland fill, Tier 3 > 43,560 sq. ft.	(90 days)	150 days	180 days
TH	freshwater wetland alteration, Tier 3, > 43,560 sq. ft.	(90 days)	150 days	180 days

[1] All processing times for new NRPA applications are subject to winter deferral provisions. 38 M.R.S. § 480-E(4).

Land Resources – Small-Scale Wind Energy Developments

Code	Description	(Goals)	Processing Time
ES	certification of small scale wind development	(150 days)	215 days

Land Resources – Site Location of Development Act

Code	Description	(Goals)	Processing Time
06	delegation of authority to a municipality	(120 days)	195 days
18	airport development	(120 days)	195 days
19	medical facility development	(120 days)	195 days
20	paper mill development	(120 days)	195 days
21	lumber products sawmill development	(120 days)	195 days
22	school development	(90 days)	165 days
23	shopping center development	(120 days)	195 days
24[2]	non-hydro utility development	(120 days)	150 days
25	warehouse development	(120 days)	195 days
26	other non-residential structure development	(150 days)	230 days
27	pipeline development	(150 days)	230 days
28	recreational site development	(150 days)	230 days
39	industrial park/commercial development	(120 days)	195 days
85	transient lodging development	(120 days)	195 days
87	multi-family or condominium development	(120 days)	195 days
L0	great american neighborhood	(90 days)	165 days

L1	residential subdivision development of affordable housing	(120 days)	195 days
L2	residential subdivision development with public water & sewer	(120 days)	195 days
L3	all other residential subdivision development	(120 days)	195 days
MX	mixed use:		
	residential/condo	(120 days)	195 days
	residential/non-residential	(120 days)	195 days
L7	metallic mining - baseline process	(150 days)	230 days
PS	Solar Projects	(120 days)	195 days
TP	MDOT/MTA	(30 days)	30 days
-	planning permit (pertains to any Site Law project except subdivisions)	-	230 days
-	notice of intent to comply, roundwood	(150 days)	90 days

[2] This type code does not include solar projects; they have the code PS. Additionally, pursuant to 38 M.R.S. § 344(2-A)(A), processing time for an expedited wind energy project is 185 days.

Land Resources – Solar Decommissioning

Code	Description	(Goals)	Processing Time
DP	review of solar energy development decommissioning plan	(45 days)	90 days

Land Resources – Maine Construction General Permit

Code	Description	(Goals)	Processing Time
E1	NOI - 1 to 3 acres	-	14 days
E2	NOI - 3 to 5 acres	-	14 days

Land Resources – Stormwater Management Law

Code	Description	(Goals)	Processing Time
NA	stormwater (sw) at risk - solely vegetative	(30 days)	45 days
NB	sw at risk – structural	(60 days)	90 days
NI	sw, all other - solely vegetative	(30 days)	45 days
NJ	sw, all other – structural	(60 days)	90 days
-	sw permit by rule (all)	-	14 days

Water Quality – Industrial Stormwater

Code	Description	(Goals)	Processing Time
MN	NOI – multi-sector general permit – industrial facilities	-	30 days

Water Quality – Wastewater Discharge

Code	Description	(Goals)	Processing Time
5A	residential OBD up to 600 GPD	(60 days)	90 days
5B	residential OBD over 600 GPD	(60 days)	90 days
5C	commercial OBD	(120 days)	180 days
5D	publicly owned OBD up to 6,000 GPD	(120 days)	180 days
5J	sanitary wastewater, commercial (non-OBD)	(120 days)	180 days
6A	POTW, <10K GPD, no sig. industrial waste	(120 days)	180 days

6B	POTW, 10K to 100K GPD, no sig. industrial waste	(120 days)	180 days
6C	POTW, 100K to 1M GPD, no sig. industrial waste	(120 days)	180 days
6D	POTW, 1M to 5M GPD, no sig. industrial waste	(120 days)	180 days
5M	POTW over 5 MGD or with significant industrial waste	(150 days)	270 days
5N	major industrial facility/process wastewater	(150 days)	270 days
5O	minor industrial facility/process wastewater	(120 days)	210 days
5P	food handling or packaging wastewater	(120 days)	210 days
6E	fish rearing facility <100K GPD	(120 days)	180 days
6F	fish rearing facility >100K GPD	(150 days)	270 days
5R	non-contact cooling water	(120 days)	180 days
5S	ind. or comm. sources/misc. or incidental non-process	(120 days)	180 days
5T	municipal combined sewer overflow	(120 days)	180 days
5U	aquatic pesticide application	(45 days)	180 days
5V	snow dumps	(60 days)	90 days
5W	salt and sand storage pile	(120 days)	180 days
5X	log storage permit	(60 days)	90 days
5Y	general permit for storm water discharges	(150 days)	270 days
5Z	experimental discharge license	(150 days)	270 days
51	creation of mixing zone	(180 days)	210 days
54	formation of sanitary district	(90 days)	120 days
6G	marine aquaculture facility	(150 days)	270 days
6H	marine aquaculture - general permit	(14 days)	31 days
63	property tax exemption certification	(60 days)	120 days
64	sales & use tax exemption certification	(60 days)	120 days
68	water quality certification--NPDES permit	(60 days)	180 days

Remediation & Waste Management – Oil

Code	Description	(Goals)	Processing Time
90	vessels at anchorage	(190 days)	240 days
91	oil terminal - existing fixed facility	(145 days)	180 days
91	oil terminal - new fixed facility	(290 days)	365 days
92	oil terminal – vessel	(145 days)	180 days
93	underground petroleum tank removal waiver	(70 days)	90 days
94	underground petroleum tank siting variance	(70 days)	90 days

Remediation & Waste Management - Biomedical Waste

Code	**Description**	**(Goals)**	**Processing Time**
BA	biomedical waste transfer facility	(215 days)	270 days
BB	biomedical waste transfer facility/lbr	(145 days)	180 days
BC	biomedical waste treatment facility	(365 days)	450 days
BD	biomedical waste treatment facility - site law	(430 days)	540 days
BG	petition to use alternate treatment	(300 days)	365 days
BWGS	biomedical waste generator registration – very small (<10 lb./mo.)		
BWGM	biomedical waste generator registration – small (10-50 lb./mo.)		

Remediation & Waste Management - Hazardous Waste

Code	Description	(Goals)	Processing Time
HK	hw - interim license	(45 days)	120 days
HL	abbreviated license ("al") for beneficial reuse on-site	(145 days)	180 days
HM	al - beneficial reuse off-site	(145 days)	180 days
HN	al - Elementary Neutralization	(145 days)	180 days
HO	al - thermal treatment	(145 days)	180 days
HP	al - discharge to POTWs	(145 days)	180 days
HQ	al - reuse in wastewater treatment	(145 days)	180 days
HR	al - transfer facility	(145 days)	180 days
HS	al - PCB storage	(145 days)	180 days
HT	al - precious metal recovery	(145 days)	180 days
HU	al - volume reduction unit	(145 days)	180 days
HV	al - other facility treatment in tank	(145 days)	180 days
RA	al - reuse of hazardous waste in solid form	(145 days)	180 days
RB	al - electronics demanufacturing facility	(145 days)	180 days

Remediation & Waste Management - Solid Waste

Code	Description	(Goals)	Processing Time
WB	existing non-secure municipal landfill <15,000 people	-	540 days
WC	existing non-secure municipal landfill >15,000 people	-	540 days
WD	secure landfill	-	540 days
WE	secure landfill for woodwaste, land clearing, and demolition debris	-	540 days
WF	non-secure woodwaste, land clearing, and demolition debris ≤6 acres	-	270 days
WN	landfill - closing plan for secure	-	365 days
WO	landfill - closing plan for non-secure	-	365 days
W1	landfill - alternative approval of a municipal closing plan	-	90 days
WP	application for an approval of a closure modification	(60 days)	90 days
WQ	landfill - preliminary information reports	-	60 days
WR	landfill - license transfer	(90 days)	120 days
W5	public benefit determination	-	60 days
WG	incineration - MSW/special waste	-	540 days
WW	incineration – license transfers	-	120 days
WH	reduced and full procedure for transfer stations & storage facilities	(120 days)	180 days
WH	permit-by-rule <2-acre wood waste storage area		24 days
WI	tire storage facility	(120 days)	180 days
WI	permit-by-rule tire storage		24 days
WK	processing facility other than composting	(270 days)	365 days
WK	permit-by-rule processing soils contaminated with virgin oil		18 working days
WK	permit-by-rule manufacture of flowable fill		18 working days
WK	permit-by-rule processing wood wastes		18 working days
WV	beneficial use - fuel substitution	(120 days)	180 days
WL	on-going beneficial use other than utilization without risk-assessment	(120 days)	180 days
WM	on-going beneficial use other than utilization with risk-assessment	(120 days)	180 days
W2	authorization through notification for beneficial use of encapsulated petroleum contaminated soil when certified by a P.E.		5 working days
W3	one-time beneficial use other than utilization without risk-assessment	(120 days)	180 days
W3	permit-by-rule beneficial use of tire chips as construction fill		24 days
W3	permit-by-rule beneficial use of tires in structures		24 days

W3	permit-by-rule beneficial use of 6,400 tons or less of encapsulated petroleum contaminated soil as construction fill		24 days
W4	one-time beneficial use other than utilization with risk-assessment	(120 days)	180 days
W7	Beneficial use - reduced procedure - on going		90 days
W8	Beneficial use - reduced procedure – one time		90 days
WS	special waste disposal - one time ≤6 cubic yards	-	30 days
WT	special waste disposal - one time >6 cubic yards	-	60 days
WT	permit-by-rule cull potato disposal		5 working days
WU	special waste disposal – routine	-	90 days
WX	transfer - all other than landfill or incineration facility	(60 days)	90 days
WZ	pilot project	(120 days)	180 days
88	experimental license	(120 days)	180 days

Remediation & Waste Management – Asbestos Abatement and Licensing

Code	Description	(Goals)	Processing Time
--	projects involving more than 100 sq. ft. or 100 linear ft. of ACM or any combination thereof, but less than 500 sq. ft. or 2,500 linear ft. of ACM	(14 days)	45 days
--	projects involving more than 500 sq. ft. or 2,500 linear feet of ACM, but less than 1,000 sq. ft. or 5,000 linear feet of ACM	(14 days)	45 days
--	projects involving more than 1,000 sq. ft. or 5,000 linear ft. of ACM or any combination thereof of ACM	(14 days)	45 days
--	asbestos abatement contractor	(14 days)	-
--	asbestos consultant	(14 days)	-
--	asbestos analytical laboratory	(14 days)	-
--	in-house asbestos abatement unit	(14 days)	-
--	asbestos training provider	(14 days)	-
--	asbestos abatement worker	(14 days)	-
--	asbestos abatement project supervisor	(14 days)	-
--	asbestos air monitor	(14 days)	-
--	asbestos inspector	(14 days)	-
--	asbestos abatement design consultant	(14 days)	-
--	asbestos air analyst	(14 days)	-
--	asbestos bulk analyst	(14 days)	-
--	asbestos management planner	(14 days)	-
--	reissuance of a certificate or photo ID card	(14 days)	-

Remediation & Waste Management – Lead Abatement Licensing and Certification

Code	Description	(Goals)	Processing Time
--	lead abatement worker	(14 days)	-
--	lead abatement project supervisor	(14 days)	-
--	lead inspector	(14 days)	-
--	lead design consultant	(14 days)	-
--	lead risk assessor	(14 days)	-
--	lead abatement contractor	(14 days)	-

--	lead consulting firm	(14 days)	-
--	lead training provider	(14 days)	-

Remediation & Waste Management - Septage Facilities

Code	Description	(Goals)	Processing Time
S1	municipal septage management compliance (septage designation)	(45 days)	60 days
S2	septage non-utilization site (disposal)	(270 days)	365 days
S3	septage utilization site	(270 days)	365 days
S4	septage storage site	(60 days)	90 days
S7	septage license transfer	(60 days)	90 days

Remediation & Waste Management - Sludge & Residuals

Code	Description	(Goals)	Processing Time
SB	industrial sludge utilization program approval	(180 days)	270 days
SH	industrial sludge utilization with program approval	(120 days)	180 days
SC	municipal sludge utilization program approval	(180 days)	270 days
SI	municipal sludge utilization with program approval	(120 days)	180 days
SD	bioash utilization program approval	(180 days)	270 days
SJ	bioash utilization with program approval	(120 days)	180 days
SE	wood ash utilization program approval	(180 days)	270 days
SK	wood ash utilization with program approval	(120 days)	180 days
SF	food waste utilization program approval	(180 days)	270 days
SL	food waste utilization with program approval	(120 days)	180 days
SG	other waste utilization program approval	(180 days)	270 days
SM	other waste utilization with program approval	(120 days)	180 days
ST	utilization storage <3,500 cubic yards	(120 days)	180 days
SU	utilization storage ≥3,500 cubic yards	(120 days)	180 days
SV	utilization – other	(180 days)	270 days
SX	utilization - license transfer	(60 days)	90 days
SY	utilization - one-time	(120 days)	180 days
SZ	utilization - pilot project	(60 days)	90 days

Remediation & Waste Management - Composting & Residual Processing

Code	Description	(Goals)	Processing Time
CB	type IA leaf and yard waste	(120 days)	180 days
CF	type 1B & 1C residual <750 yds^3/yr	-	365 days
CG	type 1B & 1C residual >750 yds^3/yr	-	365 days
CH	type II <3500 yds^3/yr	-	365 days
CI	type II >3500 yds^3/yr	-	365 days
CJ	type III <3500 yds^3/yr	-	365 days
CK	type III >3500 yds^3/yr	-	365 days
CL	septage processing <750 yds^3/yr	-	365 days
CM	septage processing >750 yds^3/yr	-	365 days

CX	C&R license transfer	-	365 days
CB	permit-by-rule composting wood, leaf and yard wastes	-	15 working days
CZ	C&R processing pilot project	(120 days)	180 days

Remediation & Waste Management – Bottle Bill

Code	Description	(Goals)	Processing Time
K3	initiator of deposit license fee for brewer/vintner and small beverage manufacturers producing less than 50,000 gallons annually	(60 days)	-
K4	initiator of deposit license fee for water bottlers producing less than 250,000 containers annually	(60 days)	-
K5	initiator of deposit license fee for all others	(60 days)	-
K6	contracted agent licensing fee	(60 days)	-
K7	redemption center licensing fee	(90 days)	-

E-1 Maine Legislative History of the Maine Turnpike Authority

Year	LD #	Bill Title	Amendments	Final Disposition	Legislative Record & Debate	Other Documents & News	LD Summary
1959	LD 575	AN ACT Relating to Issuance of Bonds of and Termination of Maine Turnpike Authorit	N/A	ONTP	No debate.	N/A	This bill directed the transfer of the MTA assets to the state once the bondholders were paid or funds set aside to pay through a trust, dissolving the MTA.
1963	LD 106	AN ACT Relating to Issuance of Bonds of and Termination of Maine Turnpike Authority	Proposed amendr	P&SL 1963, c.	House, March 6, 1963 House, March 7, 1963	Committee on Transportation report on its study of "The feasibility of the Maine Turnpike Authority issuing commuter-type tickets at a reduced cost to regular users of non-commercial vehicles, residing in the area, who for reasons	Similar to LD 575, this bill was passed and signed into law and would transfer the MTA's assets to the state. However, this would occur when the bonds were paid in full, and it would also eliminate tolling. It also prohibited additional bonds being issued.
1971	SP 205	Joint Order Relative to Special Joint Select Committee to study Maine Turnpike Authority	N/A	Leave to With	Senate, February 17, 1971	N/A	The order created a select committee to study tolling and moving MTA assets to the state. It was withdrawn.
1971	SP 291	Joint Order Relative to Joint Select Committee to Study Maine Turnpike Authority	N/A	Passed	No debate.	Report on Maine Turnpike Authority to the One Hundred and Sixth Legislature (Jan. 1973)	The order created a select committee to study tolling and moving MTA assets to the state. It was passed by the Senate & House.

1971	LD 1489	AN ACT Relating to the Maine Turnpike AuthorityN/A	N/A	ONTP	Senate, June 8, 1971 House, June 9, 1971 House, June 10, 1971	N/A	This bill would have moved the MTA to MaineDOT.
1973	LD 1658	AN ACT Relating to the Maine Turnpike Authority		Leave to with	Senate, June 1, 1973	N/A	This bill would have moved the MTA to MaineDOT.
1977	HP 1830	Joint Order Relative to Transportation Committee studying the Maine Turnpike Authority	N/A	Indefinitely pc	Senate, July 11, 1977	Report of the Committee on Transportation on its study of the future administration and operation of the Maine Turnpike (Jan. 1978)	This action was the report back from the Transportation Committee to the Speaker, which found that the MTA should consider operating as a separate tolling entity.
1977	LD 388	AN ACT Relating to the Maine Turnpike Authority	H-734 H-735 H-743 H-881 S-371 S-385	Died between	House, June 27, 1977 House, June 29, 1977 House, June 30, 1977 Senate, July 7, 1977 Senate, July 7, 1977 House, July 8, 1977 Senate, July 8, 1977	Report of the Committee on Transportation on its study of the future administration and operation of the Maine Turnpike (Jan. 1978)	This bill, and subsequent amendments, debated continued investments in the MTA and if a trasnfer or authority should occur.

1978	LD 2125	An Act Relating to the Maine Turnpike Authority	H-1096 S-511	Enacted with PL 1977, c. 6	House, February 24, 19 House, February 27, 1978 Senate, February 28, 1978 Senate, March 1, 1978 Senate, March 2, 1978 House, March 6, 1978 Senate, March 7, 1978	Report of the Committee on Transportation on its study of the future administration and operation of the Maine Turnpike (Jan. 1978)	This law moved the assets and decision-making to MaineDOT, including the transfer of retirement benefits, after bond payments, estimated to be in 1981.
1978	LD 2126	AN ACT Concerning the Administration and Operation of the Maine Turnpike	n/a	ONTP	No debate.	Report of the Committee	This bill, similar to LD 2125, was not passed.
1981	LD 932 ONTP-ND:	An Act to Continue the Maine Turnpike Authority	Proposed amendr S-309	Indefinitely pc	Senate, June 2, 1981 House, June 3, 1981		This bill provides for the continuation of the Maine Turnpike Authority beyond the date of repayment of all existing bonds and interest. It also provides for the construction of a closed system of tolls instead of the present barrier system envisioned by present law. The bill mandates a commuter discount system which would provide a discount of at least 50% for commuters. [Full History]

	LD 1676		S-338 H-531 H-548 H-551		Senate, June 3, 1981 Senate, June 3, 1981 House, June 9, 1981 Senate, June 9, 1981 Senate, June 10, 1981		
1981	LD 1691	An Act to Make Allocations from the Highway Fund and Appropriations from the General Fund for the Fiscal Years Ending June 30, 1982, and June 30, 1983, to Establish a Local Road Assistance Program, to Continue the Maine Turnpike Authority and to Adjust Highway Fund Revenue	n/a	PL 1981, c. 49	House, June 19, 1981 Senate, June 19, 1981 Senate, June 19, 1981 House, February 10, 1982	Implementation Plan for the Maine Turnpike (Feb. 1982)	This law provided a continuance of the MTA, increased tolls, and contributed to the highway fund. A reversal of transition of the assets to MaineDOT. [Full History]
1982	LD 2064	An Act to Amend the Maine Turnpike Authority Statutes	Enacted with ame H-648	PL 1981, c. 59	House, March 15, 1982 Senate, March 18, 1982	Report: Implementation Plan for the Maine Turnpike (Feb. 1982)	This law combines Private and Special Law 1941, chap 8 ter 69 and Public Law 1981, chapter 492, and other laws to consolidate and clarify statutory references to the Maine Turnpike Authority. Additionally, it establishes as annual payment from the MTA to MaineDOT. [Full History]

						Authority. Legislative Report: Fifth Semi-Annual Report (Feb. 1990) Authority. Legislative Report: Sixth Semi-Annual Report (Sept. 1990) Report: Maine Turnpike Authority. Report to the Maine State Legislature Transportation Comm.: Reporting Period January 1992 - June 1992 (Dec. 1992)	
1988	LD 2082	An ACT to Abolish the Maine Turnpike Authority	N/A	ONTP	No debate.	n/a	This bill would have abolished the Maine Turnpike Authority in 2 years and transferred duties and operation of the Turnpike to the Department of Transportation. [Full History]
1992	LD 2426	An Act to Create the Maine Transportation Authority As the Successor Agency to the Maine Turnpike Authority	N/A	ONTP	No debate.	n/a	This bill would have created a new agency to replace the MTA. [Full History]

1997	LD 1422	An ACT to abolish the Maine Turnpike Authority	N/A	ONTP	No debate.	n/a	This bill would have abolished the Maine Turnpike Authority in 2 years and transferred duties and operation of the Turnpike to the Department of Transportation. [Full History]
1999	LD 202	An ACT to abolish the Maine Turnpike Authority	N/A	ONTP	No debate.	n/a	This bill would have abolished the Maine Turnpike Authority in 2 years and transferred duties and operation of the Turnpike to the Department of Transportation. [Full History]
1999	LD 647	An Act to Eliminate Tolls, from the Maine Turnpike, Abolish the Turnpike Authority and Adjust Taxes on Automotive Fuel	N/A	ONTP	No debate.	n/a	This will would have transferred the MTA to the DOT, eliminated tolls, and used a gas tax increase to pay MTA debts. [Full History]
1999	LD 1600	Resolve, to Transfer the Functions and Responsibilities of the Maine Turnpike Authority to the Department of Transportation	N/A	ONTP	Indefinitely postponed	Senate, April 5, 1999	This bill directed MaineDOT and the MTA to create a report back to the legislature where the MTA would become a toll authority only, MaineDOT would manage maintenance. [Full History]

2001	LD 933	Resolve, to Create the Commission to Study Abolishing the Maine Turnpike Authority	N/A	ONTP	No debate.	n/a	This bill would have created a commission to study abolishing the MTA. [Full History]
2001	LD 1671	Resolve, Directing the Department of Transportation and the Maine Turnpike Authority To Find Efficiencies in the Maine Transportation System	N/A	ONTP	No debate.	n/a	This bill directed MaineDOT and MTA to compare costs, consider eliminating or consolidating services under MaineDOT. [Full History]
2011	LD 208	Resolve, To Establish a Study Commission To Examine the Maine Turnpike	N/A	ONTP	No debate.	n/a	This would have directed a commission to review the MTA. [Full History]
2013	LD 588	An Act To Abolish the Maine Turnpike Authority and Transfer Its Functions and Duties to the Department of Transportation	N/A	ONTP	No debate.	n/a	This bill would have abolished the Maine Turnpike Authority and transfers its duties and the operation of the turnpike to the Department of Transportation [Full History]
2017	LD 1617	An Act To Initiate the Process of Terminating the Maine Turnpike Authority	N/A	ONTP	No debate.	n/a	This bill would prevent the MTA from issuing bonds, and plan for a transfer of assets to MaineDOT. [Full History]

2018	LD 1890	An Act To Streamline the Management of Maine's Transportation Infrastructure by Initiating the Process of Terminating the Maine Turnpike Authority	N/A	Indefinitely pc	No debate.	N/A	This bill would prevent the MTA from issuing bonds, and plan for a transfer of assets to MaineDOT. [Full History]