

# MAINE STATE HOUSING AUTHORITY

## PROCUREMENT POLICY

### I. Purpose of Procurement Policy

This Procurement Policy is intended to ensure that vendors providing goods and services to Maine State Housing Authority ("MaineHousing") are selected through a competitive process designed:

- (1) to provide MaineHousing with the best value, taking into account cost (including initial and ongoing costs), and where appropriate, giving strong consideration to expertise, experience in providing goods or services of the type requested, quality, service, and other factors that may be appropriate to a specific procurement, and
- (2) to ensure compliance with Maine law and with applicable federal regulations and standards when federal procurement regulations are triggered by the use of federal funds.

This Procurement Policy applies to the purchase or lease of goods, supplies, equipment, and consultant and professional services.

A request for information to determine what goods or services are potentially available in the market is not by itself an invitation to compete. The information submitted in response to a request for information may or may not lead to a subsequent procurement.

### II. Basic Principles

**A. Definitions.** As used in this Procurement Policy the following terms have the following meanings.

1. **"Contract Duration"** means the initial term of a contract plus all possible extension terms provided by the contract.
2. **"Federal Funds"** means the HMIS grant and the lead hazard control grant from HUD and the weatherization grant from DOE, including the portion of grant funds used for administration of those programs, and any other funds defined by law as federal funds.
3. **"Non-Federal Funds"** means
  - a. Fees paid to MaineHousing by HUD to administer
    - (1) new construction/substantial rehabilitation HAP contracts under 24 CFR Section 883.606 or its successor, or

- (2) project-based Section 8 HAP contracts as a Performance-Based Contract Administrator, or
  - (3) the Section 8 Housing Choice Voucher Program under 24 CFR Part 982 or its successor; or
- b. U.S. DHHS funds used by MaineHousing to administer LIHEAP; or
  - c. All other funds not included in the definition of "Federal Funds".

**B. Procurement - \$10,000 or less.** If the amount of Non-Federal Funds or Federal Funds that MaineHousing will pay for goods or services over the Contract Duration will not exceed \$10,000, MaineHousing will use the following procurement procedure to purchase those goods or services:

Solicit by phone, email, vendor website, catalog or price list, or similar means one price quote.

If MaineHousing considers the quoted price reasonable based on one or more factors identified by MaineHousing, such as recent purchases of, or research on, goods or services of the same kind or related knowledge or expertise, no further solicitation is required; otherwise, solicit two price quotes by similar means.

**C. Procurement – Over \$10,000 to \$250,000.**

**1. Generally Applicable Policy – Any Source of Funds.** If the amount of Non-Federal Funds or Federal Funds that MaineHousing will pay for goods or services over the Contract Duration will be over \$10,000 but not over \$250,000, MaineHousing will use the following procurement procedure to purchase those goods or services:

Send to at least three vendors (i) a written request for quote when price is the primary or only factor to be considered or (ii) a written invitation to submit proposals when selection factors in addition to price will be considered, stating the date by which vendor responses must be received.

**2. Exception for Consumable Office Supplies.** When only Non-Federal Funds will be used to purchase consumable office supplies, up to \$250,000 may be spent on such supplies per calendar year for a maximum of 5 calendar years based on the procurement procedure described in Section II.C.1 above, without the need to do a new procurement until the expiration of the 5-year period.

"Consumable office supplies" are items that are generally used up in the course of MaineHousing's business and that need to be replaced on a recurrent basis. By way of illustration only, consumable office supplies include, but are not limited to, paper, envelopes, pens, file folders, post-it notes, paper and binder clips, staplers and staples, tape, rubber

bands, scissors, computer disks, and toner and ink cartridges. Consumable office supplies do not include office furniture or equipment.

**D. Procurement – Over \$250,000.**

**1. Generally Applicable Policy – Any Source of Funds.** If the amount of Non-Federal Funds or Federal Funds that MaineHousing will pay for goods or services over the Contract Duration will be over \$250,000, MaineHousing will use the following procurement procedure to purchase those goods or services:

Issue a request for proposals ("RFP") that is publicized on MaineHousing's website and is sent to those who respond to the notice and those on any qualified vendors list. The RFP must state the date by which written proposals must be received and may contain other terms and conditions as determined by MaineHousing.

In addition, when Federal Funds will be used, the RFP must identify all evaluation factors, including price, and their relative importance. Proposals will be evaluated against the technical and price criteria and any other selection criteria included in the RFP, and competitive proposals will be ranked based on the results of the evaluation.

**2. Exception for Financial Instruments.** An RFP will not be required when only Non-Federal Funds will be used to pay for purchases of financial instruments and associated financial services exceeding \$250,000 in connection with MaineHousing bonds. The procurement procedure described in Section II.C.1 above must be used for such purchases.

**3. Exception for Off-the-Shelf Software and related Maintenance Agreement.** An RFP will not be required for purchases of off-the-shelf software that includes, as a condition of using the software, a mandatory year-to-year maintenance agreement with the software manufacturer or its representative, provided that all of the following requirements are satisfied:

- (a) the cost of the off-the-shelf software, excluding ongoing software maintenance, is not over \$250,000;
- (b) only Non-Federal Funds will be used; and
- (c) the procurement procedure described in Section II.C.1 above is used.

**E. Prohibition on Arbitrary Division of Purchases.** Required goods or services will not be arbitrarily or artificially divided or broken up into two or more purchases merely to allow the use of procurement procedures that would apply to a lower dollar threshold and avoid the requirements that apply to purchases that exceed that threshold.

**F. Compliance with Federal Requirements.** MaineHousing will comply with all applicable federal procurement requirements in purchasing goods or services to be paid with Federal Funds.

**G. Sole Source Procurement.** If the amount of Non-Federal Funds or Federal Funds that MaineHousing will pay for goods or services over the Contract Duration will be over \$10,000, MaineHousing may procure those goods or services by soliciting a proposal from only one source for one of the following reasons.

For purchases not exceeding \$150,000 under subsection 1, 2, 3, 4 or 5 of this Section II.G, the Director must approve the sole source solicitation in advance. For any purchase exceeding \$10,000 under subsection 1, 2, 3, 4 or 5 under this Section II.G, a report of the purchase, including its cost and the reason for the sole source procurement, must be made to the Board of Commissioners at its next scheduled meeting. For purchases exceeding \$150,000, the Director must approve the sole source solicitation in advance after consultation with the Chair of MaineHousing's Board of Commissioners, or the Vice Chair of the Board if the Chair is unavailable.

In all sole source procurements, the solicitation and the proposal must be in writing (which may include e-mail).

**1. Uniqueness.** The item or service is available from only one source, based on a reasonable, good faith review of the market for the type of item or service needed. A prior relationship between MaineHousing and a vendor does not, by itself, satisfy the requirement of uniqueness.

If an item is unique to a specific vendor, the nature and necessity of the unique characteristics must be documented. If a vendor has unique expertise in providing a service, the expertise and its necessity must be documented.

**2. Emergency or Urgent Need.** An emergency situation or other urgent need exists and only one known source can provide the required goods or services within the time needed. Emergency or urgent situations include, but are not limited to, natural disasters, epidemics, equipment failures, or inability to carry out MaineHousing's business operations or comply with a federal, state or local law or regulation due to the loss of critical services or resources.

Written information must be provided on the following: how the date by which the goods or services are needed was determined and the significance of that date; the impact of delay beyond that date; and the time needed to acquire necessary goods or services from another source.

**3. Inadequate Competitive Proposals.** After evaluation of all proposals submitted in a competitive procurement, all proposals are determined to be inadequate.

Written information must be provided explaining the respects in which the proposals are inadequate.

**4. Software Improvements.** Customization, upgrade, modification, enhancement, or addition of modules (collectively, "Software Improvements") to software owned or used by, or licensed to, MaineHousing, including but not limited to software hosted on MaineHousing's infrastructure and software offered as a service (i.e., software hosted externally and accessed through the Internet, commonly referred to as software in the "cloud") if the Software Improvement is needed for an identified reason relating to MaineHousing's business, including but not limited to a MaineHousing business process, program or other activity or a change in federal or state requirements.

Written information must be provided describing the specific Software Improvement and the specific need for it.

**5. Other Documented Procurement.** Another entity has obtained goods or services to be shared by MaineHousing for a mutual purpose pursuant to a documented procurement acceptable to MaineHousing.

Evidence of the other entity's documented procurement and of MaineHousing's review thereof must be provided.

**6. Federal Agency Approval.** A federal agency expressly authorizes in writing procurement of the goods or services from a single source, which may be in response to a written request from MaineHousing.

The written authorization of the federal agency and any written request of MaineHousing must be retained.

**7. State of Maine Competitive Procurement.** The State of Maine has entered into a contract with a vendor for goods or services, or both, selected after a competitive procurement conducted by the State, and has made those goods and services available to State agencies and quasi-independent state entities (as defined in 5 M.R.S.A. §12021), including MaineHousing, under the contract with the selected vendor.

Evidence of the State's procurement and contract must be retained by MaineHousing.

## **H. Multi-year Contracts.**

**1. Generally Applicable Policy.** Except as provided in this Procurement Policy, the maximum Contract Duration (as defined in Section II.A.1 above) is 5 years. The procurement must state the total number of years of the contract, including any extension term(s). Except as otherwise provided herein, the Contract Duration cannot be for a longer period than the total number of years stated in MaineHousing's procurement and in the successful proposal without an additional competitive procurement. A procurement for

goods and services for which an exception to the maximum 5-year Contract Duration applies must still be conducted using the applicable procurement procedures above.

**2. Exception for Software.** The maximum 5-year Contract Duration does not apply to software or Software Improvements.

**3. Exception for Procurements based on Federal Agency Approval, State of Maine Competitive Procurement, or Other Documented Procurement.** If MaineHousing is procuring goods or services under Section II.G.4, 5 or 6 above, the Contract Duration for such procurements will be the maximum term allowed by the Federal agency authorizing the procurement or the contract entered into by the State of Maine or other entity for the goods or services, as applicable.

**4. Exception for Disaster Preparedness or Recovery.** An exception to the maximum 5-year Contract Duration will apply to the purchase or lease of goods, supplies, equipment or services of any type in connection with disaster preparedness or recovery activities.

**5. Exception for Certain Financial Instruments.** An exception to the maximum 5-year Contract Duration will apply to the renewal or rollover of the term of a financial instrument tied to MaineHousing bonds.

**6. Exceptions Subject to Board Approval.** An exception to the maximum 5-year Contract Duration may be made by the Board of Commissioners of MaineHousing for any other MaineHousing business purpose, including but not limited to circumstances where the start-up investment in the project covered by the contract is so large that spreading those costs over a longer period is in MaineHousing's best interests. For any procurement not covered by an express exception to the maximum 5-year Contract Duration, the procurement should state the anticipated maximum term of the contract and indicate the possibility of an extension of the contract term if Board approval of such an extension is expected to be requested.

**I. Other Laws and Standards.** MaineHousing will comply with applicable conflicts of interest laws and regulations and codes of conduct in conducting procurements.

### **III. Documentation**

For each procurement, MaineHousing will retain, for the longer of 3 years after any contract award or the period specified in any applicable federal regulations, a copy of the solicitation, all proposals received in response, all evaluations of the proposals, written reasons for selecting or rejecting proposals. For goods and services paid with Federal Funds, information required by applicable federal regulations will also be retained.

In the case of a sole source solicitation, MaineHousing will retain a copy of the solicitation and the proposal received in response, a record of any required approval by the Director, and the

information required under Part II.G, *Sole Source Procurement*, above in MaineHousing's records for 5 years.

#### **IV. Procurement Authority and Administration**

The department directors of MaineHousing will be responsible for administration of this Procurement Policy within their respective areas of responsibility. The Director of Finance will be responsible for developing procedures and documentation regarding the use of requisitions and purchase orders.

Effective November 20, 2018