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No. 2047

H.P. 1309

House of Representatives, December 13, 2023

An Act to Increase the Expenditure Limit for Informal Bidding Processes and Update References to the Office of Procurement Services

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 203.

Received by the Clerk of the House on December 11, 2023. Referred to the Committee on State and Local Government pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative STOVER of Boothbay.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **PART A**

3 **Sec. A-1. 5 MRSA §1825-B, sub-§2, ¶F**, as amended by PL 1999, c. 105, §2, is
4 further amended to read:

5 F. The procurement of goods or services involves expenditures of ~~\$10,000~~ \$25,000 or
6 less, in which case the Director of the Bureau of General Services may accept ~~oral~~
7 ~~proposals~~ informal written quotes or bids; or

8 **PART B**

9 **Sec. B-1. 1 MRSA §501-A, sub-§2**, as enacted by PL 1997, c. 299, §1, is amended
10 to read:

11 **2. Production and distribution.** The publications of all agencies, the University of
12 Maine System and the Maine Maritime Academy may be printed, bound and distributed,
13 subject to Title 5, sections 43 to 46. The ~~State Purchasing Agent~~ Chief Procurement Officer
14 may determine the style in which publications may be printed and bound, with the approval
15 of the Governor.

16 **Sec. B-2. 1 MRSA §501-A, sub-§3**, as amended by PL 2021, c. 549, §1, is further
17 amended to read:

18 **3. Annual or biennial reports.** Immediately upon receipt of any annual or biennial
19 report that is not included in the Maine State Government Annual Report provided for in
20 Title 5, sections 43 to 46, the ~~State Purchasing Agent~~ Chief Procurement Officer shall
21 deliver at least 4 copies of that annual or biennial report to the State Librarian for exchange
22 and library use. The ~~State Purchasing Agent~~ Chief Procurement Officer shall deliver the
23 balance of the number of each such report to the agency that prepared the report.

24 **Sec. B-3. 1 MRSA §501-A, sub-§6**, as enacted by PL 1997, c. 299, §1, is amended
25 to read:

26 **6. Forwarding of requisitions.** The ~~State Purchasing Agent~~ Chief Procurement
27 Officer, Central Printing central printing service and all other printing operations within
28 State Government shall forward to the State Librarian upon receipt one copy of all
29 requisitions for publications to be printed.

30 **Sec. B-4. 3 MRSA §163, sub-§1**, as amended by PL 2003, c. 673, Pt. QQQ, §2, is
31 further amended to read:

32 **1. Executive officers.** To act as executive officer of the Legislature when it is not in
33 session and unless the Legislature otherwise orders, the Executive Director shall, with the
34 cooperation of the Secretary of the Senate and the Clerk of the House of Representatives
35 have custody of all legislative property and material, arrange for necessary supplies and
36 equipment through the ~~State Bureau of Purchases~~ Office of Procurement Services, arrange
37 for necessary services, make all arrangements for incoming sessions of the Legislature,
38 have general oversight of chambers and rooms occupied by the Legislature and permit state
39 departments to use legislative property. The Executive Director may sell, in accordance
40 with procedures established by the Legislative Council, unneeded legislative equipment
41 and materials and, with the approval of the President of the Senate and the Speaker of the
42 House of Representatives, dispose of obsolete or unusable equipment and materials through

1 the Bureau of General Services' surplus property program. Proceeds from the sale of
2 unneeded equipment and materials must be credited to the legislative account. The
3 Executive Director has the authority to enter into contracts authorized by the Legislative
4 Council and shall approve accounts and vouchers for payment. A perpetual inventory of
5 all legislative property must be maintained under the supervision of the Legislative Council
6 and an accounting of the inventory must be made to the Legislature upon its request.

7 **Sec. B-5. 5 MRSA §244, 2nd ¶**, as enacted by PL 2003, c. 450, §4, is amended to
8 read:

9 By September 15th of each year, the State Auditor shall schedule a meeting with each
10 joint standing committee of the Legislature having jurisdiction over those departments or
11 agencies in the audit of which the State Auditor has identified findings and the joint
12 standing committees of the Legislature having jurisdiction over appropriations and
13 financial affairs and state and local government matters. The State Auditor shall present
14 an assessment of findings and recommendations of the most recently completed audit
15 performed pursuant to this section, including, but not restricted to, questioned costs and
16 material weaknesses of state programs. The State Auditor shall notify affected state
17 agencies and applicable state central service agency officials, such as, without limitation,
18 the State Controller, State Budget Officer, ~~State Purchasing Agent~~ Chief Procurement
19 Officer and Chief Information Officer, of the meeting time and place.

20 **Sec. B-6. 5 MRSA §1762-A, sub-§1**, as enacted by PL 1991, c. 246, §1, is amended
21 to read:

22 **1. ~~Bureau of Purchases~~ Office of Procurement Services.** The ~~Bureau of Purchases~~
23 Office of Procurement Services under chapter 155;

24 **Sec. B-7. 5 MRSA §1812-A**, as amended by PL 1989, c. 585, Pt. C, §2, is further
25 amended to read:

26 **§1812-A. Report on purchase of recycled products**

27 The ~~State Purchasing Agent~~ Chief Procurement Officer shall report on or before
28 January 1st of the ~~First Regular Session~~ first regular session of each Legislature to the joint
29 standing committee of the Legislature having jurisdiction over natural resources matters on
30 the State's efforts to purchase supplies and materials composed in whole or in part of
31 recycled materials. The ~~State Purchasing Agent~~ Chief Procurement Officer shall also
32 report on any procurement policies, incentives, educational programs, promotional efforts
33 or other activities undertaken by the ~~Bureau of Purchases~~ Office of Procurement Services
34 to encourage the purchase of those supplies and materials. The ~~State Purchasing Agent~~
35 Chief Procurement Officer shall include in the report any recommendations to increase or
36 facilitate the purchase of those supplies and materials.

37 **Sec. B-8. 5 MRSA §1812-B**, as enacted by PL 1989, c. 585, Pt. C, §3, is amended
38 to read:

39 **§1812-B. Purchasing of paper and paper products**

40 **1. Purchase of paper and paper products with recycled material content.** Subject
41 to subsection 3, the ~~State Purchasing Agent~~ Chief Procurement Officer shall provide that
42 of the total dollar amount spent in each fiscal year on paper and paper products purchased
43 by the State:

- 1 A. On or after October 1, 1989, not less than 15% ~~shall~~ must be spent on paper and
2 paper products with recycled material content;
- 3 B. On or after October 1, 1991, not less than 30% ~~shall~~ must be spent on paper and
4 paper products with recycled material content; and
- 5 C. On or after October 1, 1993, not less than 50% ~~shall~~ must be spent on paper and
6 paper products with recycled material content.

7 **2. Federal guidelines and cooperative purchases.** To qualify as having recycled
8 material content, paper or paper products must have recycled material content ~~which~~ that
9 meets or exceeds the standards established for that paper or paper product category in Table
10 1 of the Guideline for Federal Procurement of Paper and Paper Products, 40 Code of
11 Federal Regulations, Part 250. The ~~State Purchasing Agent~~ Chief Procurement Officer
12 shall determine whether a paper or a paper product qualifies. The ~~State Purchasing Agent~~
13 Chief Procurement Officer may join with other states in making cooperative requests for
14 bids to supply paper and paper products.

15 **3. Bids; price preference.** A person who submits a bid for a contract to supply paper
16 or paper products shall certify the percentage and nature of any recycled ~~materials~~ material
17 content in the product subject to bid. Bids offering paper or paper products with recycled
18 material content that are within 10% of the lowest bid that meets all other specifications
19 may receive up to a 10% price preference. Any bids to supply paper or paper products with
20 recycled material content that exceed by more than 10% the low bid ~~which~~ that meets all
21 other specifications ~~shall~~ may not be considered. If no bids are received on a request for
22 bids ~~which~~ that offer paper or paper products with recycled material content, the ~~State~~
23 ~~Purchasing Agent~~ Chief Procurement Officer may award the contract to a bidder whose
24 paper or paper product has substandard percentages of or no recycled ~~materials~~ material
25 content.

26 **Sec. B-9. 5 MRSA §1812-D**, as amended by PL 2017, c. 475, Pt. A, §4, is further
27 amended to read:

28 **§1812-D. Coordination of procurement information and policies**

29 The ~~Bureau of Purchases~~ Office of Procurement Services shall coordinate with the
30 Department of Transportation, the Department of Agriculture, Conservation and Forestry
31 and the Department of Environmental Protection to develop a central database of
32 information including, but not limited to, procurement policies, market information,
33 technical data and demonstration project results. This data must be compiled annually and
34 provided to local public agencies by the Department of Environmental Protection.

35 **Sec. B-10. 5 MRSA §1812-E, first ¶**, as enacted by PL 1991, c. 207, is amended
36 to read:

37 Except for cars and light duty trucks purchased for law enforcement and other special
38 use purposes as designated by the ~~State Purchasing Agent~~ Chief Procurement Officer, the
39 ~~State Purchasing Agent~~ Chief Procurement Officer may not purchase or lease any car or
40 light duty truck for use by the State or any department or agency of the State unless:

41 **Sec. B-11. 5 MRSA §1815** is amended to read:

42 **§1815. Requisitions required**

1 Except as otherwise provided in chapters 141 to ~~155~~ 154 and this chapter and the rules
2 and regulations adopted ~~hereunder~~ under those chapters and this chapter, services, supplies,
3 materials and equipment shall may be purchased by or furnished to the State Government
4 or any department or agency thereof only upon requisition to the ~~State Purchasing Agent~~
5 Chief Procurement Officer. The ~~State Purchasing Agent~~ Chief Procurement Officer, or his
6 the officer's authorized representative, shall examine each requisition submitted to ~~him~~ the
7 officer by any department or agency of the State Government and may revise it as to
8 quantity, quality or estimated cost after consultation with the department or agency
9 concerned.

10 **Sec. B-12. 5 MRSA §1816-A, sub-§2, ¶I**, as enacted by PL 2003, c. 501, §1 and
11 affected by §3, is amended to read:

12 I. An equivalent basis for cost comparison between state employee and private
13 contractor provision of services is calculated, as established by rules adopted by the
14 ~~State Purchasing Agent~~ Chief Procurement Officer pursuant to section 1825-B,
15 subsection 11, and it is determined that the private contractor provides the best value.

16 **Sec. B-13. 5 MRSA §1817**, as amended by PL 2015, c. 102, §8, is further amended
17 to read:

18 **§1817. Printing of laws**

19 When the Revisor of Statutes has prepared material for a revision of the entire statutes
20 of the State, the revisor shall deliver the revision prepared for printing to the ~~State~~
21 ~~Purchasing Agent~~ Chief Procurement Officer, who shall contract for the printing, binding
22 and delivery to the State of a sufficient number of volumes to meet the needs of the State
23 and for sale as provided.

24 **Sec. B-14. 5 MRSA §1818** is amended to read:

25 **§1818. Deliveries**

26 Supplies, materials and equipment, purchased or contracted for by the ~~State Purchasing~~
27 ~~Agent~~, shall Chief Procurement Officer must be delivered by ~~him~~ the officer or by the
28 contractor to the department or agency by which or for whom the same are to be used from
29 time to time as required.

30 **Sec. B-15. 5 MRSA §1819** is amended to read:

31 **§1819. Unlawful purchases**

32 Whenever any department or agency of the State Government, ~~required by~~ pursuant to
33 chapters 141 to ~~155~~ 154 and this chapter and rules and regulations adopted ~~pursuant thereto,~~
34 under those chapters and this chapter applying to the purchase of services, supplies,
35 materials or equipment through the ~~State Purchasing Agent~~, shall ~~contract~~ Chief
36 Procurement Officer, contracts for the purchase of such services, supplies, materials or
37 equipment contrary to chapters 141 to ~~155~~ 154 and this chapter or the rules and regulations
38 ~~made hereunder~~ adopted under those chapters and this chapter, such that contract shall be
39 is void and have has no effect. If any such department or agency purchases any services,
40 supplies, materials or equipment contrary to chapters 141 to ~~155~~ 154 and this chapter or
41 rules and regulations ~~made hereunder~~ adopted under those chapters and this chapter, the
42 head of ~~such that~~ department or agency shall ~~be~~ is personally liable for the costs thereof,
43 and if ~~such~~ the services, supplies, materials or equipment are so unlawfully purchased and

1 paid for out of state ~~moneys~~ money, the amount thereof may be recovered in the name of
2 the State in an appropriate action instituted therefor.

3 **Sec. B-16. 5 MRSA §1824-B, sub-§1, ¶B**, as enacted by PL 2021, c. 332, §4, is
4 amended to read:

5 B. The ~~director of the division of procurement services~~ Chief Procurement Officer of
6 the Office of Procurement Services within the Department of Administrative and
7 Financial Services or the ~~director's officer's~~ designee;

8 **Sec. B-17. 5 MRSA §1824-B, sub-§2**, as enacted by PL 2021, c. 332, §4, is
9 amended to read:

10 **2. Chair.** The ~~director of the division of procurement services~~ Chief Procurement
11 Officer of the Office of Procurement Services within the Department of Administrative and
12 Financial Services or the ~~director's officer's~~ designee shall serve as chair of the committee.

13 **Sec. B-18. 5 MRSA §1825-A, sub-§2**, as enacted by PL 1989, c. 785, §2, is
14 amended to read:

15 **2. Approved equal.** "Approved equal" means any goods or service other than
16 specified in the bid proposal that in the opinion of the ~~State Purchasing Agent~~ Chief
17 Procurement Officer is equivalent in character, quality and performance to the goods or
18 service specified in the bid proposal.

19 **Sec. B-19. 5 MRSA §1825-A, sub-§3**, as enacted by PL 1989, c. 785, §2, is
20 amended to read:

21 **3. Competitive bidding.** "Competitive bidding" means the transmission of a written
22 proposal or invitation to bid to at least 3 responsible suppliers that is to be replied to at a
23 stated time. In obtaining competitive bids, if the ~~State Purchasing Agent~~ Chief
24 Procurement Officer finds that 3 responsible bidders are not available, the ~~State Purchasing~~
25 Agent Chief Procurement Officer may make such exceptions to this subsection as are in
26 the best interests of the State.

27 **Sec. B-20. 5 MRSA §1825-B, sub-§11**, as amended by PL 2015, c. 179, §2, is
28 further amended to read:

29 **11. Rulemaking; unfair competition.** State departments and agencies may not
30 achieve cost savings due to cost differentials that derive from a bidder's failure to provide
31 health and retirement benefits to its employees. The ~~State Purchasing Agent~~ Chief
32 Procurement Officer shall adopt rules governing the purchase of services and the awarding
33 of grants or contracts for personal services to establish a basis for bid price and cost
34 comparison among businesses that provide health and retirement benefits to their
35 employees and those that do not provide these benefits. The rules must include a
36 methodology for calculating bid price and cost differentials for services provided by
37 businesses and state employees due to the provision of health and retirement benefits for
38 employees. The rules must adjust the bid prices to establish an equivalent basis for bid
39 price and cost comparison among businesses when awarding contracts or grants and
40 between businesses and state employees when determining whether or not a contract or
41 grant is permitted under section 1816-A. These rules must apply to all state departments
42 and agencies. Rules adopted pursuant to this subsection are routine technical rules as
43 defined in chapter 375, subchapter 2-A.

1 **Sec. B-21. 5 MRSA §1825-B, sub-§12**, as enacted by PL 2007, c. 193, §1, is
2 amended to read:

3 **12. Vendor's fee.** The ~~State Purchasing Agent~~ Chief Procurement Officer may collect
4 a fee in an amount equal to 1% of the bid from a supplier of apparel, footwear or textiles
5 with a winning bid under this section. The ~~State Purchasing Agent~~ Chief Procurement
6 Officer shall apply the fee under this subsection to the costs of implementing and
7 administering the state purchasing code of conduct under section 1825-L, including
8 developing a consortium to monitor and investigate alleged violations of the code of
9 conduct. The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt routine
10 technical rules under chapter 375, subchapter 2-A to carry out the purposes of this
11 subsection.

12 **Sec. B-22. 5 MRSA §1825-B, sub-§14**, as amended by PL 2015, c. 179, §2, is
13 further amended to read:

14 **14. Condition of doing business with the State.** Notwithstanding any provision of
15 law to the contrary, any purchase by the State of \$100,000 or more of tangible personal
16 property, except for public utility purchases, as defined in Title 36, section 1752, subsection
17 17, or emergency purchases pursuant to subsection 2, paragraph B, may be made only from
18 a person who is registered as a seller pursuant to Title 36, section 1754-B. As a condition
19 of doing business with the State, the seller must collect, report and remit taxes in
20 accordance with Title 36, Part 3. As provided in this subsection, the State is prohibited
21 from doing business with a person who is not registered as a seller pursuant to Title 36,
22 section 1754-B and is not in compliance with the requirement to collect, report and remit
23 taxes pursuant to Title 36, Part 3. After notification of the award, the seller must provide
24 the ~~State Purchasing Agent~~ Chief Procurement Officer with a valid retailer certificate
25 issued by the State Tax Assessor within 7 business days. If the seller fails to provide the
26 registration certificate within 7 business days, the ~~State Purchasing Agent~~ Chief
27 Procurement Officer may cancel the award and make a new award pursuant to subsection
28 7. The ~~State Purchasing Agent~~ Chief Procurement Officer shall provide the State Tax
29 Assessor with a copy of all contracts and grants awarded pursuant to this section. The State
30 Tax Assessor shall notify the ~~State Purchasing Agent~~ Chief Procurement Officer if at any
31 time during the term of the contract or grant the person is no longer registered or is not
32 collecting, reporting and remitting taxes in compliance with the requirements of Title 36,
33 Part 3. Until the noncompliance is corrected, the ~~State Purchasing Agent~~ Chief
34 Procurement Officer may withhold any payments to the person.

35 **Sec. B-23. 5 MRSA §1825-C**, as amended by PL 2015, c. 179, §3, is further
36 amended to read:

37 **§1825-C. Rulemaking**

38 The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt rules under this
39 subchapter governing the purchase of services, the awarding of grants or contracts and the
40 procedure by which aggrieved persons may appeal award decisions made by a department
41 or agency of State Government. These rules must be adopted in accordance with the Maine
42 Administrative Procedure Act and apply to all departments and agencies of State
43 Government subject to the authority of the Department of Administrative and Financial
44 Services as set forth in this chapter.

1 **Sec. B-24. 5 MRSA §1825-D, first ¶**, as amended by PL 2015, c. 179, §4, is further
2 amended to read:

3 The ~~State Purchasing Agent~~ Chief Procurement Officer shall make the public aware of
4 contracts and grants for which bids are being requested and the procedure to be used in
5 reviewing bids. Rules adopted under this subchapter must include a clear procedure:

6 **Sec. B-25. 5 MRSA §1825-D, 3rd ¶**, as enacted by PL 1989, c. 785, §2, is amended
7 to read:

8 A department or agency of State Government may not change or substitute the
9 procedures adopted under this subchapter without the ~~State Purchasing Agent Chief~~
10 Procurement Officer's first adopting those changes or substitutions as rules under this
11 subchapter in accordance with the Maine Administrative Procedure Act, ~~chapter 375~~.

12 **Sec. B-26. 5 MRSA §1825-F, first ¶**, as amended by PL 1993, c. 192, §2, is further
13 amended to read:

14 Decisions made by an appeal committee under section 1825-E, subsection 3 constitute
15 final agency action on the petitioner's appeal for the purposes of judicial review under
16 chapter 375, subchapter ~~VII~~ 7. The ~~State Purchasing Agent Chief Procurement Officer~~
17 shall notify a petitioner of a final agency action made under this subchapter in writing
18 within 7 days of the final agency action. Notification of final agency action must include:

19 **Sec. B-27. 5 MRSA §1825-G**, as amended by PL 2015, c. 179, §7, is further
20 amended to read:

21 **§1825-G. Failure to act**

22 Failure or refusal of the ~~State Purchasing Agent~~ Chief Procurement Officer to adopt
23 rules under this subchapter is sufficient grounds for an aggrieved person to request judicial
24 review of agency rulemaking pursuant to section 8058. In the event that a judicial
25 declaration of an invalid rule is made under this section and section 8058, the contract or
26 grant award under appeal becomes immediately void and of no legal effect.

27 **Sec. B-28. 5 MRSA §1825-H**, as enacted by PL 1989, c. 785, §2, is amended to
28 read:

29 **§1825-H. Deadline for adoption of rules**

30 The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt rules implementing
31 this subchapter no later than January 1, 1991.

32 **Sec. B-29. 5 MRSA §1825-K, sub-§3**, as enacted by PL 2005, c. 554, Pt. A, §1, is
33 amended to read:

34 **3. Availability of copy of code of conduct.** The ~~State Purchasing Agent Chief~~
35 Procurement Officer shall make a copy of the state purchasing code of conduct available
36 to all bidders subject to this subchapter.

37 **Sec. B-30. 5 MRSA §1825-K, sub-§4**, as enacted by PL 2005, c. 554, Pt. A, §1, is
38 amended to read:

39 **4. Affidavit requirement.** The ~~State Purchasing Agent~~ Chief Procurement Officer
40 may not accept a bid for the sale of goods covered by this subchapter unless:

1 A. Prior to the close of the bidding deadline, the bidder has filed with the agent officer
2 a signed affidavit, executed and filed by a person authorized to commit the bidder to
3 the code of conduct, stating:

4 (1) That the bidder will comply with the code of conduct;

5 (2) That the bidder has furnished a copy of the code of conduct to each supplier at
6 the point of assembly of the goods subject to the bid process and required that each
7 supplier inform the bidder of whether the supplier is in compliance with the code
8 of conduct; and

9 (3) That, to the best of the bidder's knowledge, each supplier at the point of
10 assembly of the goods subject to the bid process is in compliance with the code of
11 conduct; and

12 B. The bidder has submitted a list of the names and addresses of suppliers at the point
13 of assembly of goods subject to the bid process.

14 **Sec. B-31. 5 MRSA §1825-K, sub-§5**, as enacted by PL 2005, c. 554, Pt. A, §1, is
15 amended to read:

16 **5. Affidavit update requirement.** If, after complying with the filing requirements of
17 this section, a bidder is awarded a contract, that contractor must, during the term of the
18 contract, promptly inform the State Purchasing Agent Chief Procurement Officer of any
19 change in the information furnished in the affidavit submitted at the time of the original bid
20 and must submit a new, updated affidavit that conforms with the requirements of subsection
21 4.

22 **Sec. B-32. 5 MRSA §1825-L, sub-§1**, as enacted by PL 2001, c. 439, Pt. NNNN,
23 §1, is amended to read:

24 **1. Statement of belief; protection of local interests.** The affidavit provided by the
25 State Purchasing Agent Chief Procurement Officer to bidders for contracts to provide
26 goods covered by this subchapter must include a copy of the following statement:

27 "Maine is a state that believes employers should fairly compensate hard work, that the
28 health and safety of working people should be protected and that no form of unlawful
29 discrimination or abuse should be tolerated. Maine citizens are aware that laws and
30 regulations designed to safeguard basic tenets of ethical business practice are
31 disregarded in many workplaces, commonly referred to as "sweatshops." State
32 Government purchase of goods made under abusive conditions on behalf of its citizens
33 offends Maine citizens' sense of justice and decency. Moreover, when the State of
34 Maine contracts with vendors whose suppliers profit by providing substandard wages
35 and working conditions, Maine's businesses are put at a competitive disadvantage.
36 Therefore, the State of Maine believes in doing business with vendors who make a
37 good faith effort to ensure that they and their suppliers at the point of assembly adhere
38 to the principles of the State of Maine's purchasing code of conduct.

39 "In its role as a market participant that procures goods covered by this code, the State
40 of Maine seeks to protect the interests of Maine citizens and businesses by exercising
41 its state sovereignty to spend Maine citizens' tax dollars in a manner consistent with
42 their expressed wishes that the State deal with responsible bidders who seek contracts
43 to supply goods to the State of Maine, and protect legally compliant Maine businesses

1 and workers from unfair competition created by downward pressure on prices and
2 conditions attributable to businesses that violate applicable workplace laws.

3 "Seeking to protect these local interests through the least discriminatory means
4 available, the State of Maine requires that all bidders seeking contracts to supply the
5 State of Maine with goods covered by this code sign an affidavit stating that they and,
6 to the best of their knowledge, their suppliers at the point of assembly comply with
7 workplace laws of the vendor's or supplier's site of assembly and with treaty obligations
8 that are shared by the United States and the country in which the goods are assembled."

9 **Sec. B-33. 5 MRSA §1825-M**, as enacted by PL 2001, c. 439, Pt. NNNN, §1, is
10 amended to read:

11 **§1825-M. Exception**

12 The ~~State Purchasing Agent~~ Chief Procurement Officer may accept and award a bid to
13 a supplier who has not met the requirements provided in section 1825-K if, after reasonable
14 investigation by the ~~State Purchasing Agent~~ Chief Procurement Officer, it appears that the
15 required unit or item of supply or brand of that unit or item, is procurable by the State from
16 only that supplier.

17 **Sec. B-34. 5 MRSA §1825-N**, as amended by PL 2005, c. 554, Pt. A, §3, is further
18 amended to read:

19 **§1825-N. Support to suppliers of goods and services**

20 The ~~State Purchasing Agent~~ Chief Procurement Officer shall provide to bidders and
21 contractors resources to assist with compliance with the state purchasing code of conduct
22 established in this subchapter. These resources must include a list, easily accessed by the
23 public, of bidders and vendors who have adopted the state purchasing code of conduct.

24 **Sec. B-35. 5 MRSA §1825-O, first ¶**, as enacted by PL 2001, c. 439, Pt. NNNN,
25 §1, is amended to read:

26 The ~~State Purchasing Agent~~ Chief Procurement Officer shall adopt rules under this
27 subchapter governing the award of bids. Those rules must include specific guidelines for
28 vendors to follow in order to comply with the state purchasing code of conduct and criteria
29 for seeking disclosure of names and addresses of vendors' suppliers and suppliers' working
30 conditions.

31 **Sec. B-36. 5 MRSA §1825-P**, as enacted by PL 2001, c. 439, Pt. NNNN, §1, is
32 amended to read:

33 **§1825-P. Report**

34 By January 15th of each year, the ~~State Purchasing Agent~~ Chief Procurement Officer
35 shall submit a report to the joint standing committee of the Legislature having jurisdiction
36 over state and local government matters concerning the administrative and fiscal impact of
37 the requirement that vendors comply with the state purchasing code of conduct; the degree
38 of voluntary compliance with the state purchasing code of conduct; the number of vendors
39 who agreed to and the number that declined to comply with the provisions of this
40 subchapter; and any other information relevant to the state purchasing code of conduct.

41 **Sec. B-37. 5 MRSA §1825-Q**, as corrected by RR 2005, c. 2, §4, is amended to
42 read:

1 **§1825-Q. Complaints of noncompliance with code of conduct; investigations of**
2 **complaints**

3 **1. Complaints alleging noncompliance.** The ~~State Purchasing Agent~~ Chief
4 Procurement Officer shall initiate an investigation to determine whether a violation of the
5 code of conduct has occurred if:

6 A. The ~~State Purchasing Agent~~ Chief Procurement Officer has independent knowledge
7 that a contractor or a supplier at the point of assembly of goods subject to a contract is
8 not in compliance with the code of conduct;

9 B. The contractor informs the ~~State Purchasing Agent~~ Chief Procurement Officer that
10 the contractor or a supplier at the point of assembly of goods subject to a contract is
11 not in compliance with the code of conduct;

12 C. A worker for a contractor or for a supplier at the point of assembly of goods subject
13 to a contract files a written complaint directly with the ~~State Purchasing Agent~~ Chief
14 Procurement Officer stating that the contractor or supplier, to the best of the worker's
15 knowledge, is not in compliance with the code of conduct;

16 D. A 3rd party established and based outside the United States, on behalf of or on the
17 basis of information from a worker or workers, files directly with the ~~State Purchasing~~
18 ~~Agent~~ Chief Procurement Officer a signed and dated written complaint stating that, to
19 the best of the 3rd party's knowledge, a contractor or a supplier at the point of assembly
20 of goods subject to a contract is not in compliance with the code of conduct. If possible,
21 the 3rd party's written complaint must be signed and dated under oath before an official
22 authorized to administer oaths; or

23 E. A 3rd party established and based in the United States, on behalf of or on the basis
24 of information from a worker or workers, files directly with the ~~State Purchasing Agent~~
25 Chief Procurement Officer a written complaint, signed and dated under oath before an
26 official authorized by applicable law to administer oaths, stating that, to the best of the
27 3rd party's knowledge, a contractor or a supplier at the point of assembly of goods
28 subject to a contract is not in compliance with the code of conduct.

29 **2. Specificity required.** Any complaint made to the ~~State Purchasing Agent~~ Chief
30 Procurement Officer must state with reasonable specificity each reason a party subject to
31 the complaint is allegedly not in compliance with the code of conduct.

32 **3. Notification to party subject to complaint.** After receiving a complaint alleging
33 noncompliance with the code of conduct, the ~~State Purchasing Agent~~ Chief Procurement
34 Officer shall contact in a timely manner, in writing and by certified letter, the contractor
35 that is the subject of the complaint or whose supplier is the subject of the complaint.

36 **Sec. B-38. 5 MRSA §1825-R**, as enacted by PL 2005, c. 554, Pt. A, §5, is amended
37 to read:

38 **§1825-R. Determinations of noncompliance with code of conduct**

39 **1. Relevant information.** In making a determination of whether a violation of the
40 code of conduct has occurred, the ~~State Purchasing Agent~~ Chief Procurement Officer may
41 take into account any factors, information, sources of information and materials determined
42 reliable and relevant by the ~~State Purchasing Agent~~ Chief Procurement Officer, as
43 determined on a case-by-case basis. The ~~State Purchasing Agent~~ Chief Procurement

1 Officer has specific authority and discretion to employ an independent monitor to
2 investigate a complaint.

3 **2. Determination by ~~State Purchasing Agent~~ Chief Procurement Officer.** The
4 determination of whether a party subject to a complaint is in compliance with the code of
5 conduct is solely that of the ~~State Purchasing Agent~~ Chief Procurement Officer.

6 **3. Notice of determination.** After rendering a determination under this section, the
7 ~~State Purchasing Agent~~ Chief Procurement Officer promptly shall inform the complainant
8 and contractor in writing.

9 **Sec. B-39. 5 MRSA §1825-S**, as amended by PL 2007, c. 193, §3, is further
10 amended to read:

11 **§1825-S. Consequences of noncompliance with code of conduct**

12 **1. Action by ~~State Purchasing Agent~~ Chief Procurement Officer.** Upon
13 determination of a violation of the code of conduct by a contractor or contractor's supplier
14 at the point of assembly of goods covered by this subchapter, the State, through the ~~State~~
15 ~~Purchasing Agent~~ Chief Procurement Officer, shall inform the contractor and engage in
16 discussions with the contractor about the violation. The purpose of the discussions is to
17 work in partnership with the contractor to influence the contractor to change its practices
18 or to use its bargaining position with the offending supplier to change the supplier's
19 practices, rather than to cease doing business with the contractor or supplier. The ~~State~~
20 ~~Purchasing Agent~~ Chief Procurement Officer shall prescribe appropriate measures to
21 ensure compliance with the code of conduct. These measures may include, but are not
22 limited to:

23 A. Requesting that each party found not to be in compliance with the code of conduct
24 provide continued access to independent monitors, if available;

25 B. Requesting that each party found not to be in compliance with the code of conduct
26 offer their workers and managers the training and guidelines necessary to bring the
27 workplace into compliance with the code of conduct; and

28 C. Requesting that each party found not to be in compliance with the code of conduct
29 demonstrate to the ~~State Purchasing Agent~~ Chief Procurement Officer that prescribed
30 changes or improvements have been completed and implemented.

31 **2. Termination of contract.** If, in the opinion of the ~~State Purchasing Agent~~ Chief
32 Procurement Officer, a contractor that has been determined as not in compliance with the
33 code of conduct does not make good faith efforts to change its practices or use its
34 bargaining position with an offending supplier to change the supplier's practices, the ~~State~~
35 ~~Purchasing Agent~~ Chief Procurement Officer may take appropriate remedial action
36 including, but not limited to, barring the subject contractor from bidding on future state
37 contracts or terminating the State's contract with the contractor. ~~Reference to the~~ The
38 authority given in this subsection must be specifically referenced in the State's contracts
39 with those contractors that are subject to the code of conduct.

40 **Sec. B-40. 5 MRSA §1831, sub-§1**, as amended by PL 2023, c. 405, Pt. A, §9, is
41 further amended to read:

42 **1. Adoption of rules.** A department or agency of State Government, subject to
43 chapters 141 to 152, purchasing services or awarding grants or contracts that are not subject

1 to the authority of the Department of Administrative and Financial Services, as defined in
2 chapters 153 and 155, shall establish a procedure by which these services are purchased or
3 by which grants or contracts are awarded. This procedure must be adopted in accordance
4 with the Maine Administrative Procedure Act and must be approved by the ~~State~~
5 ~~Purchasing Agent~~ Chief Procurement Officer prior to the procedure's adoption. The ~~State~~
6 ~~Purchasing Agent~~ Chief Procurement Officer shall ensure that the rules adopted under this
7 section meet the standards of public notice, administrative review and rights to appeal as
8 set forth in chapter 155, subchapter 1-A. A department or agency of State Government that
9 does not adopt rules under this section is subject to rules adopted by the ~~State Purchasing~~
10 ~~Agent~~ Chief Procurement Officer under chapter 155, subchapter 1-A.

11 **Sec. B-41. 5 MRSA §1831, sub-§3**, as amended by PL 2023, c. 405, Pt. A, §10, is
12 further amended to read:

13 **3. Application.** The procedure adopted by a department or agency under this section
14 may be used by the department or agency for any qualifying purchase or award of a contract
15 or grant. This section may not be construed to require the adoption of new procedures for
16 every new purchase, contract or award. This section may not be construed to require the
17 ~~State Purchasing Agent~~ Chief Procurement Officer or the Department of Administrative
18 and Financial Services to approve any contract, grant or award that is not presently
19 approved by the ~~State Purchasing Agent~~ Chief Procurement Officer or the Department of
20 Administrative and Financial Services under chapters 153 and 155.

21 **Sec. B-42. 10 MRSA §1478, sub-§5**, as enacted by PL 1985, c. 569, §2, is amended
22 to read:

23 **5. Temporary certification.** Any motor vehicle for which there is no current and
24 valid certificate of motor vehicle inspection at the time of sale at a state auction and ~~which~~
25 ~~that~~ does not pose a serious threat to the general public, as determined by the ~~Bureau of~~
26 ~~Purchases~~ Office of Procurement Services from the form required in subsection 2 and from
27 an inspection of the vehicle, may be provided a temporary certificate authorizing the
28 operation of the motor vehicle from the auction site to a point designated by the purchaser.

29 **Sec. B-43. 23 MRSA §52, 2nd ¶**, as repealed and replaced by PL 2005, c. 313, §2,
30 is amended to read:

31 The department has full power to purchase all supplies, materials and equipment that
32 are incidental to, or necessary for, project-specific construction, improvement or
33 maintenance of transportation infrastructure. The purchase of supplies, materials and
34 equipment for nonproject-specific purposes must be made through the ~~State Purchasing~~
35 ~~Agent~~ Chief Procurement Officer as provided by law. For the purposes of this section,
36 unless the context otherwise indicates, "project-specific" means relating to a specific
37 location for a limited duration, as opposed to perennial, nonlocation-specific activities. The
38 department may be consulted by and shall, without charge, advise municipal officers and
39 road commissioners on the subject of construction, improvement and maintenance of
40 public highways, bridges and other structures. The department shall whenever practicable
41 give preference in employment to the inhabitants of the town in which such highways are
42 located.

43 **Sec. B-44. 28-A MRSA §83-C, sub-§3**, as amended by PL 2021, c. 658, §56, is
44 further amended to read:

1 **3. Purchase.** Oversee the wholesale purchase and storage of spirits for sale in the
2 State. Spirits delivered to the wholesale spirits provider and stored at a warehouse
3 designated by the commission under section 81 are the property of the spirits supplier.
4 Spirits become the property of the bureau upon removal from the warehouse for shipment
5 to an agency liquor store. Spirits delivered to an agency liquor store become the property
6 of the licensee upon receipt of delivery. The wholesale spirits provider at no time takes
7 legal title to any spirits delivered to the warehouse. The bureau may buy and have in its
8 possession spirits for sale to the public. The bureau shall buy spirits directly and not
9 through the ~~State Purchasing Agent~~ Chief Procurement Officer. All spirits must be free
10 from adulteration and misbranding;

11 **Sec. B-45. 34-A MRSA §1403, sub-§11**, as enacted by PL 1999, c. 583, §4, is
12 amended to read:

13 **11. Contracting agent.** The chief administrative officer is the contracting agent for
14 all sales of articles from a correctional facility and for all other contracts made on behalf of
15 the correctional facility except those made by the ~~State Purchasing Agent~~ Chief
16 Procurement Officer.

17 A. All contracts must be made in the manner prescribed by the commissioner.

18 B. A contract may not be accepted by the chief administrative officer, unless the
19 contractor gives satisfactory security for its performance.

20 C. An employee of the correctional facility may not be directly or indirectly interested
21 in any contract.

22 **Sec. B-46. 34-A MRSA §3004, sub-§1**, as amended by PL 1991, c. 314, §28, is
23 further amended to read:

24 **1. Contract actions.** Actions founded on any contract made with the ~~State Purchasing~~
25 ~~Agent~~ Chief Procurement Officer, or with any official of the department under the authority
26 granted by the ~~State Purchasing Agent~~ Chief Procurement Officer, on behalf of a
27 correctional or detention facility may be brought by the official making the contract or the
28 official's successor in office.

29 **Sec. B-47. 34-B MRSA §1404, sub-§1**, as corrected by RR 2019, c. 2, Pt. B, §89,
30 is amended to read:

31 **1. Contract actions.** Actions founded on any contract made with the ~~State Purchasing~~
32 ~~Agent~~ Chief Procurement Officer, or with any official of the department under the authority
33 granted by the ~~State Purchasing Agent~~ Chief Procurement Officer, on behalf of any of the
34 state institutions may be brought by the official making the contract or that official's
35 successor in office.

36 **Sec. B-48. 35-A MRSA §1908**, as enacted by PL 2013, c. 369, Pt. B, §1, is amended
37 to read:

38 **§1908. Exemption from ~~State Purchasing Agent~~ Chief Procurement Officer rules**

39 Notwithstanding any other provision of law to the contrary, agreements and contracts
40 entered into pursuant to this chapter are not subject to the competitive bid requirements of
41 the ~~State Purchasing Agent~~ Chief Procurement Officer.

1 **Sec. B-49. 35-A MRSA §3210-C, sub-§3**, as amended by PL 2023, c. 77, §7, is
2 further amended by amending the 2nd blocked paragraph to read:

3 The commission may enter into contracts for interruptible, demand response or energy
4 efficiency capacity resources. These contracts are not subject to the rules of the ~~State~~
5 ~~Purchasing Agent~~ Chief Procurement Officer. In a competitive solicitation conducted
6 pursuant to subsection 6, the commission shall allow transmission and distribution utilities
7 to submit bids for interruptible or demand response capacity resources.

8 **Sec. B-50. 35-A MRSA §3212, sub-§2**, as amended by PL 1999, c. 577, §4 and c.
9 578, §1, is further amended by amending the 3rd blocked paragraph to read:

10 Notwithstanding Title 5, section 1831, the commission is not subject to rules adopted by
11 the ~~State Purchasing Agent~~ Chief Procurement Officer in conducting the competitive
12 bidding process required under this section.

13 **Sec. B-51. 35-A MRSA §10105, sub-§4**, as enacted by PL 2009, c. 372, Pt. B, §3,
14 is amended to read:

15 **4. ~~Purchasing agent~~ Chief Procurement Officer rules.** Notwithstanding Title 5,
16 section 1831, the trust is not subject to rules adopted by the ~~State Purchasing Agent~~ Chief
17 Procurement Officer in selecting service providers pursuant to this chapter. The trust shall
18 consider delivery of programs by means of contracts with service providers that participate
19 in competitive bid processes for providing services within individual market segments or
20 for particular end uses.

21 **Sec. B-52. 35-A MRSA §10110, sub-§3**, as enacted by PL 2009, c. 372, Pt. B, §3,
22 is amended by amending the first blocked paragraph to read:

23 In accordance with section 10105, the trust is not subject to rules adopted by the ~~State~~
24 ~~Purchasing Agent~~ Chief Procurement Officer in selecting service providers pursuant to this
25 subsection. The board shall adopt rules establishing procedures governing the selection of
26 service providers under this subsection. The board shall consult with the ~~State Purchasing~~
27 ~~Agent~~ Chief Procurement Officer in developing the rules.

28 **Sec. B-53. 36 MRSA §191, sub-§2, ¶JJ**, as amended by PL 2009, c. 361, §12, is
29 further amended to read:

30 JJ. The disclosure to the ~~State Purchasing Agent~~ Chief Procurement Officer of a
31 person's sales tax standing as necessary to enforce Title 5, section 1825-B, subsection
32 14;

33 **Sec. B-54. 36 MRSA §4372-A, sub-§7**, as amended by PL 1999, c. 616, §6, is
34 further amended to read:

35 **7. Hearings; disposition; deposit of funds.** At a hearing, other than a default
36 proceeding, the court shall hear evidence, make findings of fact, enter conclusions of law
37 and file a final order from which the parties have the right of appeal. When cigarettes are
38 ordered forfeited, the final order must provide for the disposition of the cigarettes by the
39 State Tax Assessor by public auction or by the ~~State Purchasing Agent~~ Chief Procurement
40 Officer. Proceeds must be deposited in the General Fund. Cigarettes described in section
41 4366-C, subsection 1 must be destroyed by the State Tax Assessor in a manner that prevents
42 their reintroduction into the marketplace.

