



## Maine Turnpike Authority Procurement Policy

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### I. Statement

- A. The goal of this policy is to ensure the Authority procures goods and services at the best value for the Authority.
- B. The Authority has established competitive procurement as the standard procurement method. Competitive procurement is defined as seeking a request for proposal, written request for qualifications or other invitation to compete on price or qualifications to at least 3 responsible suppliers.
- C. If the competitive procurement process is not used, the sole sourcing procedure must be followed.

### II. Policy

- A. The Authority will maintain a roster of vendors competitively selected and allocate purchases among them.
- B. Periodically, the roster shall be refreshed by conducting a new competitive process.
- C. When another public agency, such as the Maine Department of Transportation, has selected a vendor through a competitive process, the Authority is satisfied that all procurement requirements regarding competitive bidding, have been met, and may procure the same product or service from that vendor if the terms of procurement are essentially identical to those provided to the other public agency.
- D. Through adoption of this policy, the Authority has determined that this method of procurement is the most economical, effective and appropriate means of fulfilling a demonstrated need, pursuant to 23 MRSA § 1966(C) for the following reasons.
  - 1. First, this method takes advantage of the benefits of a competitive procurement process without the duplication of effort and additional expenditure of resources that would be necessary if the Authority were to duplicate the process solely for its own needs.
  - 2. Second, the Authority believes this method has the advantage of allowing the Authority to benefit from favorable terms, such as pricing, available to a larger entity like the State of Maine which the Authority might not be able to obtain on its own.



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E. Engineering Consultant Services: Please see the most current version of the Authority's engineering services document for more detail on the procurement of engineering consultant services.

### 1. General Engineering Consultant

- a. At least once every ten years, the Authority will invite three or more engineering firms having a favorable nationwide reputation for skill and experience in toll road engineering to submit proposals to perform the duties of the General Engineering Consultant (GEC) as defined by the Authority's bond resolutions.
- b. The Board will appoint a selection committee to screen and score applications and to recommend to the Board the best qualified firm with whom to negotiate a contract.

### 2. Consultant Program Manager

- a. At least once every five years, the Authority will invite consultants to submit proposals to provide additional resources and expertise to supplement the Authority's staff in the areas of engineering, permitting, planning, traffic analysis and toll design.
- b. The number of consultants invited for any particular contract is dependent on the value of the contract and the distribution of needed skills.
- c. A selection committee will evaluate qualifications and determine whom to select as the best qualified consultants with whom to negotiate a contract.

### 3. Project Engineering Services

- a. At least once every five years, the Authority will invite consultants to submit proposals to perform engineering projects which may include engineering studies, preliminary and final design of projects, right of way services, environmental permitting and traffic data collection.
- b. The number of consultants invited will depend on the value of the contract.
- c. A consultant selection committee will evaluate relative qualifications and select the consultants with whom a contract should be negotiated.



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### 4. Construction Inspection Services

- a. At least once every five years, the Authority will invite engineering firms to submit proposals for construction inspection and material testing services.
- b. The number of firms invited will depend on the value of the contract.
- c. A consultant selection committee will evaluate relative qualifications and select the inspectors and testers with whom a contract should be negotiated.

### F. Construction Contracting

1. Construction contracts for projects valued above \$10,000 shall be awarded on the basis of sealed competitive bids made either in response to public advertising of plans and specifications or in response to invitations made to three or more contractors qualified to perform the work.
2. This requirement may be waived by the Authority's Executive Director in the case of bridge hits and/or emergency repairs required to keep the organization/roadway in operation.

### G. Legal Services

1. The Authority should cover routine legal matters through in house staff to the extent that it is reasonable to do so.
2. Matters ordinarily performed in house include negotiation of labor contracts, the early phases of grievance proceedings, early defense of discrimination claims, environmental and construction permitting, toll violation appeals, and negotiation of contracts for construction, for purchasing and for purchase or sale of real estate.
3. When retaining outside counsel, the Authority should hire individual attorneys rather than law firms unless it is known who will be responsible to perform the work.
4. At least once every five years, the Authority will conduct a competitive process to select a roster of approved counsel to perform services in the areas of:
  - a. Workers Compensation;
  - b. Labor Law;



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- c. General litigation and insurance;
  - d. Real Estate Law;
  - e. Eminent Domain;
  - f. Environmental issues and permitting; and
  - g. Bonding and Finance
5. Counsel will be selected and added to each roster on the basis of qualifications with consideration for comparative costs.
6. Each time a bond issue is in prospect the Turnpike may:
- a. Use attorneys already approved for work in that area; or
  - b. May conduct a competitive process to select bond counsel and special corporate counsel on the basis of qualifications with consideration for comparative costs.
  - c. The attorneys selected may continue to counsel the Authority on bond matters arising in the interim between bond issues.

### H. Banking

1. Trustee
  - a. At least once every five years, the Authority will invite three or more banks to submit proposals to act as Trustee for bondholders of the Authority.
  - b. The Authority shall then select a Trustee based on comparative qualifications and financial advantage offered by those responding to the request.
2. Depository Services
  - a. At least once every five years, the Authority will invite three or more banks to submit proposals to provide regular depository services.
  - b. The Authority shall then select one or more depository banks based on relative qualifications with consideration for comparative costs.



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### I. Accounting

#### 1. Annual Auditing

- a. At least once every five years, the Authority will invite three or more accounting firms to submit proposals to perform the Authority's annual audit.
- b. The Authority shall then select an auditor based on relative qualifications with consideration for comparative costs.

#### 2. Compliance Auditing

- a. At least once every five years, the Authority will invite three or more accounting firms to submit proposals to perform compliance auditing.
- b. The compliance auditor may not be the same as the firm providing annual audit services.
- c. From those submitting proposals, the Authority shall then select a compliance auditor based on relative qualifications with consideration for comparative costs.

### J. Layered Competitive Procurement

#### 1. Procurement Agent

- a. In cases where competitive procurement of the ultimate service or product is managed by an intermediary, such as an agent or broker, the Authority's choice of the intermediary must be governed by a competitive process and the relationship must be periodically reviewed.
- b. It is not enough to ensure competition for the ultimate purchase.
- c. The selection of the broker, agent or dealer must also be done competitively.

#### 2. Insurance Agents

- a. At least once every five years, the Authority will invite three or more qualified agents to submit proposals to represent the Authority in the purchase of insurance.



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- b. The Authority shall then select an agent based on comparative qualifications among those responding to the request.
  - c. The Authority may divide its insurance business among different agents or may procure insurance from a direct underwriter if it is advantageous to do so.
3. Real estate brokers: The Authority will maintain a roster of qualified brokers subject to competitive review at least every five years for use in real estate transactions where the Authority's staff determines the use of a real estate broker is necessary.

### K. Bond Issuance

1. When the Authority issues bonds, it may conduct either a negotiated or a competitive sale.
2. In a negotiated sale, the Authority will issue a request for proposals for qualified banks and brokers to comprise the selling group for marketing of the Authority's bonds.
3. The selling group may include as many banks and brokers as have capacity to enhance the market for the Authority's bonds.
4. From those qualified to participate in the selling group the Authority will invite proposals to serve as underwriters, managers and co-managers to be selected based on comparative qualifications and financial advantage offered by those responding to the request.
5. In a competitive sale of its bonds, the Authority will conduct a competitive process to choose a financial advisor.
6. With assistance of the advisor, the Authority's bonds will be structured and offered for sale in an auction to be closed at a certain time.

### L. Auctioneers

1. At least once every five years, the Authority will invite three or more qualified auctioneers to submit proposals to manage the Authority's disposition of surplus property.



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2. The Authority shall then select one or more auctioneers based on comparative qualifications and financial advantage offered by those responding to the request.
3. The Authority may select more than one firm and maintain a list of approved auctioneers to provide the service as the need arises.

### M. Brokers of Electric Power

1. At least once every five years, the Authority will invite three or more brokers to submit proposals to manage the Authority's competitive purchase of electric power.
2. The Authority shall then select one or more brokers based on comparative qualifications and financial advantage offered by those responding to the request.

### N. Maintenance / Office Supplies

1. The Authority uses multiple vendors for items such as small tools and equipment, truck parts, electrical, janitorial, and office supplies.
2. For procurements that exceed \$10,000 on an annual basis that were not competitively procured, the Authority will include written justification for and evidence of approvals and maintain on file for 5 years.

### O. Approval by the Board

1. Every procurement entered into by the MTA which is greater than \$150,000 in total value must be approved in advance or, in the case of emergencies, ratified at the next following meeting, by the MTA Board.
2. Contracts which are less than \$150,000 in total value will be handled in accordance with the procedures described below under "Contract Consent Agenda."

### P. Contract Consent Agenda

1. Every procurement entered into by the MTA which is greater than \$25,000 and less than \$150,000 in total value is reported to the MTA's board on a monthly Contract Consent Agenda.
2. Individual purchases of less than \$25,000 in value do not have to be reported to the board on the Contract Consent Agenda or otherwise.



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3. Purchases of multiple Items (finished products such as tools or components of products and processed material such as spare parts or lumber) which exceed \$25,000 in total value do have to be reported to the board if these purchases are:
  - a. Made through a single procurement; and
  - b. That procurement commits the MTA to purchasing a specific number of items such that the total value of the procurement can be established.
4. Requests for prices on items which do not commit the MTA to purchasing any products do not have to be reported to the Board.
5. Requests for prices on or procurements of Raw Materials (such as gravel, salt, sand) which contemplate an estimated amount of quantity to be purchased in a specific period of time (e.g. X number of tons over the coming year) should be reported to the Board on the Consent Agenda if over \$25,000 and less than \$150,000.
6. All procurements greater than \$25,000 must be signed by an officer of the company.

### Q. Sole Source Procurement

1. Any product or service that costs less than \$10,000 may be procured by a director or a director's designee based on personal knowledge of the market as informed by reasonable and knowledgeable inquiry.
2. Selection must be based on objective criteria without personal favoritism.
3. Through adoption of this policy, the Authority has determined that this method of procurement is the most economical, effective and appropriate means of fulfilling a demonstrated need, pursuant to 23 MRSA § 1966(C).
4. For purchases exceeding \$10,000, the requirement for competitive procurement may be waived:
  - a. By the executive director when the purchase is for \$25,000 or less and the executive director determines that procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need;





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- b. By the chair of the board when the chair determines that procurement is required by an emergency; or
  - c. By the board pursuant to a written finding that:
    - i. Procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need;
    - ii. The service or product is uniquely available from only one source; or
    - iii. Only one known source can meet the Authority's needs within the required time.
5. For procurements exceeding \$10,000 that were not competitively bid, written justification and evidence of approvals shall be maintained on file for at least five years.
6. For purposes of this requirement, "procurements" includes multiple acquisitions of items from a single vendor that aggregate more than \$10,000 in value in a single calendar year.

### R. General

- 1. See Sole Source form and instructions.
- 2. See the Purchasing Department Operation Manual for more details.