

# MAINE STATE LEGISLATURE

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CHAPTER 155

PURCHASES

Sec.

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**§ 1811. Powers and duties.** The Department of Finance and Administration, through the Bureau of Purchases, shall have authority:

**1. Purchases.** To purchase all services, supplies, materials and equipment required by the State Government or by any department or agency thereof, subject to chapters 141 to 155;

**2. Specifications.** To adopt and enforce, subject to chapters 141 to 155, specifications which shall apply to services, supplies, materials and equipment purchased for the use of the State Government or any department or agency thereof;

**3. Postal service.** To purchase or contract for all postal service required for the use of the State Government or any department or agency thereof;

**4. Central duplicating service.** To establish and conduct a central duplicating service at the seat of government. Such duplicating service shall be available to all departments and agencies of the State Government. The State Purchasing Agent is empowered to make charges to those departments and agencies of the State Government making use of the facilities and supplies of the central duplicating service;

1959, c. 33, § 10.

**5. Storerooms.** To establish and operate, with the approval of the Commissioner of Finance and Administration, such storerooms which, in the judgment of the State Purchasing Agent, are deemed necessary for the storage and distribution of supplies,

materials and equipment required for use by the State Government or any department or agency thereof;

**6. Surplus property.** To transfer to or between state departments and agencies, or sell supplies, materials and equipment which are surplus, obsolete or unused;

**7. Central mailing room.** To establish and conduct a central mailing room for the state departments and agencies at the seat of government.

R.S.1954, c. 16, § 35; 1957, c. 340, § 1; 1959, c. 33, § 10.

### § 1812. Scope of purchasing authority

The terms "services," "supplies," "materials" and "equipment" as used in this chapter, shall be held to mean any and all services, articles or things which shall be used by or furnished to the State or any department or agency thereof, and any and all printing, binding, publication of laws, journals and reports. Except as provided in chapters 141 to 155, any and all services, supplies, materials and equipment needed by one or more departments or agencies of the State Government shall be directly purchased or contracted for by the State Purchasing Agent, as may be determined from time to time by rules adopted pursuant to chapters 141 to 155, which rules the Department of Finance and Administration is authorized and empowered to make. It is the intent and purpose of this chapter, that the State Purchasing Agent shall purchase collectively all services, supplies, materials and equipment for the State or any department or agency thereof in a manner that will best secure the greatest possible economy consistent with the grade or quality of the services, supplies, materials and equipment best adapted for the purposes for which they are needed.

The trustees of the University of Maine, the State Board of Education and the directors of the Maine Port Authority may authorize the Department of Finance and Administration to act for them in any purchases.

The word "services," when used in this chapter, shall be held to mean any and all window cleaning services, elevator repair and maintenance services, laundry service, linen supply service, dry cleaning service, janitor service, floor maintenance service, rubbish and garbage disposal service, tree surgeon service, all types of office machine repair and maintenance service, exterminator service, refrigerator repair and maintenance service and oil burner repair and maintenance service when any such service

is performed by an independent contractor. The State Purchasing Agent may, with the approval of the Commissioner of Finance and Administration add to or eliminate from the various types of service set forth in this paragraph such services performed by independent contractors as may be deemed by him to be in the best interests of the State.

R.S.1954, c. 16, § 36; 1957, c. 340, § 1.

### **§ 1813. Rules and regulations**

The State Purchasing Agent, with the approval of the Commissioner of Finance and Administration, may adopt, modify or abrogate rules and regulations for the following purposes:

**1. Direct purchases.** Authorizing any state department or agency to purchase directly certain specified services, supplies, materials and equipment, limiting their powers in relation thereto, and describing the manner in which purchases shall be made;

**2. Purchase and distribution of supplies.** Prescribing the manner in which the supplies, materials and equipment shall be purchased, delivered, stored and distributed;

**3. Monthly reports.** Requiring monthly reports by state departments or agencies of stocks of supplies, materials and equipment on hand and prescribing the form of such reports;

**4. Requisitions and estimates.** Prescribing the dates for making requisitions and estimates, the periods for which they are to be made, the form thereof and the manner of authentication;

**5. Inspection and tests.** Prescribing the manner of inspecting all deliveries of supplies, materials and equipment, and making chemical and physical tests of samples submitted with bids and samples from deliveries;

**6. Surplus property.** Providing for transfer of supplies, materials and equipment which are surplus from one state department or agency to another which may need them, and for the disposal by private and public sale of supplies, materials and equipment which are obsolete and unusable;

**7. Deposit or bond with bids.** Prescribing the amount of deposit or bond to be submitted with a bid on a contract and the amount of bond to be given for the faithful performance of a contract;

**8. Other matters.** Providing for such other matters as may be necessary to give effect to the foregoing rules and to chapters 141 to 155.

R.S.1954, c. 16, § 41; 1957, c. 340, § 1.

#### § 1814. Standardization Committee

A Standardization Committee as heretofore established shall consist of the Governor or his representative, the State Purchasing Agent, 2 public members and such department or agency heads or their representatives as may be designated by the Governor. The 2 public members and the department or agency heads or their representatives shall serve at the pleasure of the Governor. The 2 public members shall be representative of the industry and commerce of Maine.

The Governor or his representative, the State Purchasing Agent and the appointed department or agency heads or their representatives shall serve on the Standardization Committee without additional compensation but shall be reimbursed for expenses incurred in connection with such service. The 2 public members shall be paid the necessary expenses incurred in the performance of their duties, and in addition thereto, they shall each receive \$25 per day for attendance at committee meetings.

The State Purchasing Agent shall be the recording secretary of the Standardization Committee and shall maintain a complete record of the minutes of every committee meeting. The committee shall meet at least semi-annually and at such other times as the Commissioner of Finance and Administration may request or at such other times as may be deemed necessary by at least 3 members of the committee. Committee meetings shall be held at such locations as may be agreed upon by a majority of the members of the committee.

The per diem allowance and the expenses of the public members and the expenses of the Governor or his representative, the State Purchasing Agent and the designated department or agency heads or their representatives, for attendance at committee meetings, shall be paid from the appropriation of the State Bureau of Purchases.

It shall be the duty of the Standardization Committee to advise the State Purchasing Agent and the Commissioner of Finance and Administration in the formulation, adoption and modification of the rules and regulations which shall prescribe the purchasing policy of the State and to assist the State Purchasing

Agent in the formulation, adoption and modification of such specifications as may be deemed necessary for the procurement of services, supplies, materials and equipment required for use by the State or any department or agency thereof.

R.S.1954, c. 16, § 39; 1957, c. 340, § 1; 1963, c. 371.

**§ 1815. Requisitions required**

Except as otherwise provided in chapters 141 to 155 and the rules and regulations adopted hereunder, services, supplies, materials and equipment shall be purchased by or furnished to the State Government or any department or agency thereof only upon requisition to the State Purchasing Agent. The State Purchasing Agent, or his authorized representative, shall examine each requisition submitted to him by any department or agency of the State Government and may revise it as to quantity, quality or estimated cost after consultation with the department or agency concerned.

R.S.1954, c. 16, § 50; 1957, c. 340, § 1.

**§ 1816. Bids, awards and contracts**

**1. Purchases by competitive bidding.** Except as otherwise provided by law, or by rules and regulations adopted pursuant to this chapter, the State Purchasing Agent shall make purchases of services, supplies, materials and equipment needed by the State or any department or agency thereof by competitive bidding;

**2. Waiver.** The requirement of competitive bidding may be waived by the State Purchasing Agent whenever:

**A.** The purchase of required services, supplies, materials and equipment involves the expenditure of less than \$50 and the interests of the State would best be served thereby;

**B.** In the opinion of the Governor an emergency exists of a nature which requires the immediate procurement of services, supplies, materials or equipment, the State Purchasing Agent may be authorized by the Governor to make purchases without the formality of competitive bidding.

**C.** After reasonable investigation by the State Purchasing Agent, it appears that any required unit or item of supply, or brand of such unit or item, is procurable by the State from only one source.

1959, c. 33, § 11.

**3. Competitive bidding defined.** Competitive bidding shall mean the transmission of a written or oral proposal or invitation to bid to at least 3 responsible suppliers to be replied to at a stated time. In obtaining competitive bids, if the State Purchasing Agent shall find that 3 responsible bidders are not available, he may make such exceptions to subsection 1 as he may deem in the best interests of the State;

**4. Registry of suppliers.** Proposals or invitations to bid shall be sent to a representative registry of responsible suppliers on file in the office of the State Bureau of Purchases. Suppliers desiring to have their names entered on a registry of suppliers shall submit, in writing, to the State Purchasing Agent, a request for such action. The State Purchasing Agent shall prescribe the manner and form in which such a request shall be submitted and is empowered to limit the number of names of out-of-state bidders on any and all registries. In the interests of economy to the State, the name of any supplier entered in such registry, who fails to submit a bid on 3 consecutive proposals or invitations to bid, may be removed from said registry at the discretion of the State Purchasing Agent;

**5. Alternate bids.** Whenever, in bid forms and specifications, an article or material is defined by using a trade name and catalog number of a manufacturer or vendor, the term "or approved equal", if not inserted therewith, shall be implied. It is to be understood that any reference to a particular manufacturer's product either by trade name or by limited description has been made solely for the purpose of more clearly indicating the minimum standard of quality desired. The term "or approved equal" is defined as meaning any other make which in the opinion of the State Purchasing Agent is of such character, quality and performance equivalence as to serve the purpose for which it is to be used equally as well as that specified. Consideration will be given to proposals submitted on alternate commodities to the extent that such action is deemed to serve the best interest of the State. The bidder quoting on a commodity other than as specified shall furnish complete identification, descriptive literature or data with respect to the alternate commodity he proposes to furnish. Lack of such information on the bid shall be construed to mean that the bidder proposes to furnish the exact commodity as described. The State reserves the right to reject any or all bids, in whole or in part, to waive any formality and technicality in any bid and to accept any item or items in any bid. No bid may be withdrawn during a period of 21 calendar days immediately following the opening thereof;

1961, c. 10, § 1.

**6. Record of bids.** Each bid, with the name of the bidder, shall be entered on a record. Each record with the successful bid indicated shall, after the award or letting of the contract, be open to public inspection. A bond for the proper performance of each contract may be required of each successful bidder in the discretion of the State Purchasing Agent, with the approval of the Commissioner of Finance and Administration;

**7. Awards to lowest bidder.** Except as otherwise provided by law, orders awarded or contracts made by the State Purchasing Agent or by any department or agency of the State Government shall be awarded to the lowest responsible bidder, taking into consideration the qualities of the services, supplies, materials or equipment to be supplied, their conformity with the specifications, the purposes for which they are required, the date of delivery and the ultimate cost thereof to the State, it being the intent and purpose, as previously stated, that the State Purchasing Agent shall purchase collectively all services, supplies, materials and equipment for the State or any department or agency thereof in a manner that will best secure the greatest possible economy consistent with the grade or quality of the services, supplies, materials and equipment best adapted for the purposes for which they are needed;

**8. Tie bids.** Tie bids shall be resolved on the basis of factors deemed by the State Purchasing Agent to serve the best interests of the State or by the drawing of lots, provided that price, quality, availability and other factors being equal, contracts or purchases shall be awarded to the in-state bidder or to bidder offering commodities produced or manufactured in the State of Maine, and services rendered by Maine bidders;

1961, c. 10, § 2.

**9. "In-state bidder" defined.** The phrase "in-state bidder" shall be held to mean one having its principal place of business, or a branch thereof, located in Maine. (1959, c. 33, § 12.)

R.S.1954, c. 16, § 42; 1957, c. 340, § 1; 1959, c. 33, §§ 11, 12; 1961, c. 10, §§ 1, 2.

## § 1817. Printing of laws

When the Director of Legislative Research shall have prepared material for a revision of the statutes or for a volume containing the laws passed at a session of the Legislature with accompanying material, he shall deliver the same prepared for printing to the State Purchasing Agent who shall contract for the print-

ing, binding and delivery to the State of a sufficient number of volumes to meet the needs of the State and for sale as provided.

R.S.1954, c. 42, § 21.

### § 1818. Deliveries

Supplies, materials and equipment, purchased or contracted for by the State Purchasing Agent, shall be delivered by him or by the contractor to the department or agency by which or for whom the same are to be used from time to time as required.

R.S.1954, c. 16, § 52; 1957, c. 340, § 1.

### § 1819. Unlawful purchases

Whenever any department or agency of the State Government, required by chapters 141 to 155 and rules and regulations adopted pursuant thereto, applying to the purchase of services, supplies, materials or equipment through the State Purchasing Agent, shall contract for the purchase of such services, supplies, materials or equipment contrary to chapters 141 to 155 or the rules and regulations made hereunder, such contract shall be void and have no effect. If any such department or agency purchases any services, supplies, materials or equipment contrary to chapters 141 to 155 or rules and regulations made hereunder, the head of such department or agency shall be personally liable for the costs thereof, and if such services, supplies, materials or equipment are so unlawfully purchased and paid for out of state moneys, the amount thereof may be recovered in the name of the State in an appropriate action instituted therefor.

R.S.1954, c. 16, § 53; 1957, c. 340, § 1.

### § 1820. Motor vehicles sold by State

Any motor vehicle sold by the State shall be sold to the highest bidder. Specific terms of delivery and terms of interim usage prior to delivery shall be stated to the prospective purchaser prior to the time that the State accepts any bid, and such terms shall be complied with by agents or employees of the State having control of the disposition of such motor vehicle or vehicles after any such bids have been accepted. This section shall not apply to the exchange of motor vehicles for new models between the State and authorized dealers.

1955, c. 363; 1957, c. 340, § 1.