

MAINE STATE LEGISLATURE

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January 22, 2019

Honorable Troy D. Jackson
President of the Senate
3 State House Station
Augusta, Maine 04333

Honorable Sara Gideon
Speaker of the House
2 State House Station
Augusta, Maine 04333

Dear President Jackson and Speaker Gideon:

Pursuant to 5 M.R.S.A., Section 12023, please consider this the letter of transmittal for the required report from the Loring Development Authority of Maine due by February 1, 2019.

Please contact me if you have any questions or need additional information.

Thank you.

Very truly yours,

Carl W. Flora
President and CEO

REPORT TO THE STATE OF MAINE LEGISLATURE
QUASI-INDEPENDENT STATE ENTITY
TITLE 5 MRSA SECTION 12022

LORING DEVELOPMENT AUTHORITY OF MAINE

FEBRUARY 2019

HONORABLE TROY D. JACKSON
PRESIDENT OF THE SENATE
3 STATE HOUSE STATION
AUGUSTA, MAINE 04333

HONORABLE SARA GIDEON
SPEAKER OF THE HOUSE
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333

**QUASI-INDEPENDENT STATE ENTITIES
ANNUAL REPORTS TO THE LEGISLATURE**

**LORING DEVELOPMENT AUTHORITY OF MAINE
FEBRUARY 1, 2019**

Sec. A-1. 5 MRSA c. 379, sub-c. 3

§12023. Reports to the Legislature

A. A list of all procurements exceeding \$10,000 in the preceding year for which competitive procurement was waived under the policies adopted pursuant to section 12022, subsection 3, including procurements exceeding \$10,000 that were made under contracts previously entered into for which competitive procurement was not required. The list must include the names of the vendors and costs associated with those procurements;

Vendor	Cost	Description
Dead River Company	\$ 58,140.54	Propane
Drummond Woodsum	\$ 12,206.00	Legal services
Emera Maine	\$ 100,162.26	Electricity
Limestone Water & Sewer District	\$ 374,600.20	Wastewater treatment
Maine Employers' Mutual Insurance Co.	\$ 15,615.25	Insurance - Worker's Comp
Maine Municipal Employees Health Trust	\$ 136,133.01	Employee health insurance
Maine Risk Management	\$ 44,211.09	Property and liability insurance
Mechanical Services, Inc.	\$ 12,092.63	Heat systems services
Powers Roofing and Sheet Metal, Inc.	\$ 153,477.00	Roofing services
Tri Community Recycling and Sanitary	\$ 11,150.36	Waste disposal
TRP	\$ 15,346.98	Equipment repair
UNIVAR USA INC	\$ 18,681.09	Water treatment chemicals

B. A list of all persons to which the entity made contributions greater than \$1,000 in the preceding year and the total amount contributed to each; and

No contributions, which are payments for membership dues and fees, gifts, donations and sponsorships, including those that result in public advertisement of the entity, greater than \$1,000 were made.

C. A description of changes made in the preceding year to the written policies and procedures required by section 12022 or to the procedures used by the governing body to monitor compliance with those policies and procedures.

Changes made pursuant to a review of the LDA policy by the LCRED Committee are highlighted in the attached document.

A copy of the amended policy is also attached.

CHANGES TO QUASI-INDEPENDENT POLICIES

MAY 2018

A. From existing policy governing contributions:

Quasi-independent State Entity Financial Reporting Policy
Title 5 MRSA Chapter 379, subchapter 3

Policies as adopted October 24, 2012 by the Board of Trustees of the Loring Development Authority of Maine (LDA) and amended on April 9, 2014:

LD 1843 requires written policies and procedures governing (1) selection of vendors; (2) contributions; and (3) travel, meals, entertainment.

1. Policy on Selection of Vendors (procurement policy):

See attached Procurement Policy.

2. Policy on Contributions:

A. Small financial contributions. The LDA Board may approve an amount in the annual budget for small contributions to support projects, activities or events of local nonprofit organizations or units of government which have economic significance for the communities affected by Loring's closure if such contributions are consistent with LDA's mission. Such contributions shall not exceed in monetary or in-kind value the sum of \$250 unless specifically authorized by the Board. The President & CEO shall within 3 months following the end of each of LDA's July 1 to June 30 fiscal years report to the Board any such contributions made during the fiscal year. The LDA's periodic financial statements reported to the Board shall include a separate line item accounting for small contributions.

B. Personal property donations. The LDA Board may approve an amount in the annual budget for contributions of personal property to certain communities and donees. The President & CEO is authorized to donate items of personal property having a total estimated value equal to or less than the budgeted amount. ~~belonging to the LDA~~ to any of the impact communities (as defined in the LDA's enabling legislation) or governmental or quasi-governmental entities or non-profit entities operating within the impact communities. ~~Any donated item must if a single item~~ no longer ~~hashave~~ utility for the LDA, and ~~hasmust have~~ an estimated value of \$500 or less. The President & CEO shall first ascertain that the item of personal property proposed for donation will be kept and used within the geographic area of the impact communities and will be used for legitimate governmental, charitable, educational or other commonly accepted non-profit purposes, that the proposed use of the item is consistent with LDA's mission, and that such use has a value to the public in excess of the estimated value of the item. The LDA Board may approve a donation

of personal property with an estimated value in excess of \$500 if it determines that the contribution or donation meets the same criteria. The President & CEO shall within 3 months following the end of each of LDA's July 1 to June 30 fiscal years report to the Board any such donations made during the fiscal year. The LDA's periodic financial statements reported to the Board shall include a separate line item accounting for contributions of personal property.

3. Policy on Travel, Meals, and Entertainment:

The LDA Board may approve an amount in the annual budget for travel, meals and entertainment costs. The LDA's periodic financial statements reported to the Board shall include a separate line item accounting for travel, meals and entertainment expenses. The LDA's policy on reimbursement of business expenses shall be as set forth in the LDA's Employee Handbook, Section VII., "Expense Reimbursement". (Attached). As authorized by Title 5 MRSA Section 13080 B. 5., members of the LDA Board of Trustees are entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out their duties. Reimbursement for such expenses shall be governed by the policies in the Employee Handbook applicable to employees.

This policy does not apply to an employment contract where a vehicle or vehicle allowance is identified as part of a larger compensation package that is negotiated in good faith.

Records and Reporting. The President & CEO shall maintain records relating to Procurements; Travel, Meals and Entertainment expenses; and, Contributions and submit annual (fiscal year July 1 to June 30) reports as required by Title 5 MRSA section 120123 subparagraph 2.

Attachments:

LDA Procurement Policy

LDA Employee Handbook, Section VII., "Expense Reimbursement"

B. From Employee Handbook section governing meals, travel and entertainment expenses

VII. EXPENSE REIMBURSEMENT

BUSINESS TRAVEL EXPENSES

Employees will be reimbursed for reasonable and necessary business travel expenses incurred while on assignment away from their normal work locations. All business travel must be approved in advance by the President & CEO.

Employees whose travel plans have been approved should make all travel arrangements through the most economical means available.

When approved, the actual costs of travel, meals, lodging, and other expenses directly related to the business travel will be reimbursed by the LDA. To be eligible for reimbursement, Employees' expenditures must be necessary and in are expected to limit expenses to reasonable amounts.

C. From LDA Procurement Policy adopted effective June 28, 2000:

Add a new Section 7 as follows:

7. WRITEN JUSTIFICATION FOR CERTAIN NON-COMPETITIVE PROCUREMENTS; RECORD RETENTION

For any procurement exceeding \$10,000 that was not competitively procured, the LDA President & CEO shall prepare a written justification for the waiver of the competitive procurement and shall retain the written justification and other evidence of approvals on file for 5 years, in accordance with the requirements of Title 5 MRSA Section 12022, subsection 3.

Quasi-independent State Entity Financial Reporting Policy
Title 5 MRSA Chapter 379, subchapter 3

Policies as adopted October 24, 2012 by the Board of Trustees of the Loring Development Authority of Maine (LDA) and amended on April 9, 2014 and May 2, 2018:

LD 1843 requires written policies and procedures governing (1) selection of vendors; (2) contributions; and (3) travel, meals, entertainment.

1. Policy on Selection of Vendors (procurement policy):

See attached Procurement Policy.

2. Policy on Contributions:

A. Small financial contributions. The LDA Board may approve an amount in the annual budget for small contributions to support projects, activities or events of local nonprofit organizations or units of government which have economic significance for the communities affected by Loring's closure if such contributions are consistent with LDA's mission. Such contributions shall not exceed in monetary or in-kind value the sum of \$250 unless specifically authorized by the Board. The President & CEO shall within 3 months following the end of each of LDA's July 1 to June 30 fiscal years report to the Board any such contributions made during the fiscal year. The LDA's periodic financial statements reported to the Board shall include a separate line item accounting for small contributions.

B. Personal property donations. The LDA Board may approve an amount in the annual budget for contributions of personal property to certain communities and donees. The President & CEO is authorized to donate items of personal property having a total estimated value equal to or less than the budgeted amount, to any of the impact communities (as defined in the LDA's enabling legislation) or governmental or quasi-governmental entities or non-profit entities operating within the impact communities. Any donated item must no longer have utility for the LDA, and must have an estimated value of \$500 or less. The President & CEO shall first ascertain that the item of personal property proposed for donation will be kept and used within the geographic area of the impact communities and will be used for legitimate governmental, charitable, educational or other commonly accepted non-profit purposes, that the proposed use of the item is consistent with LDA's mission, and that such use has a value to the public in excess of the estimated value of the item. The LDA Board may approve a donation of personal property with an estimated value in excess of \$500 if it determines that the contribution or donation meets the same criteria. The President & CEO shall within 3 months following the end of each of LDA's July 1 to June 30 fiscal years report to the Board any such donations made during the fiscal year. The LDA's periodic financial statements reported to the Board shall include a separate line item accounting for contributions of personal property.

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The LDA Board may approve an amount in the annual budget for travel, meals and entertainment costs. The LDA's periodic financial statements reported to the Board shall include a separate line item accounting for travel, meals and entertainment expenses. The LDA's policy on reimbursement of business expenses shall be as set forth in the LDA's Employee Handbook, Section VII., "Expense Reimbursement". (Attached). As authorized by Title 5 MRSA Section 13080 B. 5., members of the LDA Board of Trustees are entitled to receive reimbursement for necessary expenditures, including travel expenses, incurred in carrying out their duties. Reimbursement for such expenses shall be governed by the policies in the Employee Handbook applicable to employees.

This policy does not apply to an employment contract where a vehicle or vehicle allowance is identified as part of a larger compensation package that is negotiated in good faith.

Records and Reporting. The President & CEO shall maintain records relating to Procurements; Travel, Meals and Entertainment expenses; and, Contributions and submit annual (fiscal year July 1 to June 30) reports as required by Title 5 MRSA section 120123 subparagraph 2.

Attachments:

LDA Procurement Policy as Amended May 2018

LDA Employee Handbook, Section VII., "Expense Reimbursement" as Amended May 2018

LORING DEVELOPMENT AUTHORITY

PROCUREMENT POLICY & GUIDELINES

1. GENERAL PROVISIONS

The Loring Development Authority (LDA) is an autonomous authority of the State of Maine and therefore is not subject to the State's administrative processes for procurement of goods and services through third parties. However, because the LDA does procure substantial goods and services through various vendors, it is in the best interests of the LDA, the general public as well as the vendors to establish a simple, expedient and fair procurement process.

In general, these policies attempt to strike a balance between a variety of interests. For example, small procurements will require the lowest level of formality because the potential savings from a formal, competitive procurement process may quickly be offset by the administrative costs of a more formal procurement procedure. Conversely, the greatest potential savings exists with larger procurements which justify a more exhaustive, time-consuming and expensive procurement procedure.

This policy applies to the LDA and to those employees of the LDA whose assigned duties require them to make purchasing or contracting decisions. There are many criteria that the LDA may use for selecting a particular vendor over others, and LDA employees should develop (in advance of the solicitation of bids) any specific or unique criteria that will assure that the chosen vendor delivers a satisfactory product or service that meets the LDA's needs. The LDA employee should also take into account any of the following general considerations, to the extent applicable:

- A. Initial cost
- B. Suitability for intended purpose or operation
- C. Initial quality
- D. Potential maintenance costs
- E. Availability of parts and service work
- F. Terms of warranty
- G. Need for quick delivery
- H. Potential cost savings resulting from more competition among bidders
- I. Avoidance of purchases based on family relationship, friendship or other loyalties based on non-relevant factors
- J. Whether a potential vendor fits any established preference
- K. Past performance of vendor

2. TYPES OF PROCUREMENT PROCEDURES

The type of procurement process will initially be determined by the anticipated or estimated level of expenditure, as follows:

- A. Contracts up to \$2,500. No formal procurement process is required. However, the LDA employee shall use their discretion to secure the goods or services which represent the best value for the LDA. To do this, the employee:

- 1) should be generally familiar with the product or service sought;

- 2) should be generally familiar with the vendors or suppliers of the particular product or service, particularly those who are local businesses; and
 - 3) should engage in comparison shopping where possible and to the extent appropriate in light of the level of expenditure involved.
- B. Contracts between \$2,501 and \$20,000. The LDA employee shall attempt to obtain competitive bids between at least three (3) potential vendors. The solicitation of bids from potential vendors may be conducted in any manner deemed feasible, including communication by telephone, e-mail, letter, or personal visit, and not all potential vendors need be contacted in the same manner. Where time is not a factor, some form of public notice is encouraged especially where the universe of potential vendors is not well known to the LDA. The LDA employee may use his/her discretion to establish the method of receiving bids which may include oral bids accepted over the phone.
- C. Contracts over \$20,000. The LDA employee should develop a more formal bid process which should contain the following elements:
- 1) a written notice of the procurement effort (i.e., Request for Proposals, Request for Qualifications, etc.) published in one or more newspapers, trade publications or other media designed to reach a wide selection of potential vendors;
 - 2) a detailed written RFP or RFQ to provide to interested parties. This should include information on the scope of the project, the credentials or characteristics that qualified candidates will possess, the selection criteria in addition to price which will be evaluated, bid submission deadlines and other procedures, dates of any prebid conferences and whether attendance at the same is mandatory, and any other relevant information or procedure developed to make the bidding process competitive and fair. Unless otherwise stated in the RFP, a public opening of sealed bids is not required.

The LDA President & CEO may modify the applicability of the above procedures to a particular procurement if, in his/her discretion, the modification will serve the best interests of the LDA.

3. SPECIAL SERVICES AND SOLE SOURCE CONTRACTS

A single source or special services contract may be awarded only when the LDA's President & CEO has determined, in his/her discretion, that the product or service needed by the LDA:

- A. is available only from a sole source;
- B. is of such narrow scope or constraints that the need can be met satisfactorily only by a single source;
- C. is of such compelling urgency that operations would be seriously impaired by delay inherent in normal competitive procedures; or
- D. otherwise is the most economical, effective and appropriate means of fulfilling a demonstrated need.

4. LIST OF INTERESTED VENDORS

The LDA maintains a list of vendors with an expressed interest in providing particular products or services to the LDA. The LDA regularly consults this list when procuring products or services. As a courtesy, the LDA will attempt to notify vendors on this list of upcoming or pending procurements in which particular vendors may have an interest. Vendors who wish to be added to the list must

submit a letter of interest clearly stating the types of products, services and contracts which they have a demonstrated ability to provide and in which they have a significant interest.

5. APPEAL PROCEDURE

Any aggrieved party may appeal any decision of the LDA awarding any contract by submitting a written notice of appeal within 15 days of the decision.

- A. **Stays.** The aggrieved party may also request a stay of the contract award decision, if performance under the contract awarded has not already begun. A stay may be issued upon a showing that substantial irreparable harm will result to the petitioner, there is a reasonable likelihood of success on the merits, and there is no substantial harm to adverse parties or to the LDA and the general public. The failure to grant a stay shall not deprive the petitioner of an opportunity to a hearing.
- B. **Right to Hearing.** The President & CEO or Vice President & General Counsel, as hearing officer, shall conduct the hearing within a reasonable time, but not exceeding 20 days, following the receipt of notice of appeal. If the appeal raises substantial questions concerning the procurement process, raises serious questions concerning the integrity of a member of the LDA staff, or raises significant financial or policy issues, the President & CEO may designate a three (3) member appeal committee to hear and decide the appeal. No person may serve as hearing officer or as a member of an appeal panel if he or she has any direct or indirect personal, professional or financial conflict of interest or if that person's participation creates the appearance of an impropriety.
- C. **Conduct of Hearing.** The petitioner has the burden of proof and burden of persuasion with respect to any alleged facts that would provide the basis for any requested relief. Other interested parties, including other vendors submitting bids or proposals to the LDA, shall be provided notice and an opportunity to be heard. The rules of evidence and the rules of civil procedure shall not apply to proceedings under this policy, but may be consulted to assist in the evaluation of the admissibility of evidence or the weight to be given thereto, and to assist in establishing procedures for the conduct of the hearing.
- D. **Frivolous Appeals.** The hearing officer or the appeal panel, as appropriate, may dismiss any appeal found to have been brought on frivolous grounds.
- E. **Decision and Remedy.** At the conclusion of the hearing, the hearing officer or appeal panel must issue a decision addressing the following items, as applicable:
 - 1) Whether the procurement policy and procedure of the LDA was followed
 - 2) If the established policy and procedure was followed, whether the procedure itself resulted in an inappropriate contract award
 - 3) If there were deviations from the procurement policy or established procedure, whether the deviations had a material effect on the award decision resulting in an inappropriate contract award
 - 4) If an inappropriate contract award was made, whether to invalidate the contract award decision. (In determining whether to invalidate a contract award, the hearing officer or appeal panel should consider how such action might affect the LDA's operations and whether and to what extent the invalidation would provide significant relief to the aggrieved party)
 - 5) Whether to affirm the contract award appealed from

6. LOCAL PREFERENCE

It is the policy of the LDA to encourage business with local vendors. In any case where substantially identical proposals are received from a bidder within Maine and a bidder from outside Maine, preference in the award of the contract shall be given to the business based within Maine. In any case where substantially identical proposals are received from a bidder within Aroostook County, and a bidder from outside Aroostook County, preference in the award of the contract shall be given to the business based within Aroostook County.

7. WRITTEN JUSTIFICATION FOR CERTAIN NON-COMPETITIVE PROCUREMENTS; RECORD RETENTION

For any procurement exceeding \$10,000 that was not competitively procured, the LDA President & CEO shall prepare a written justification for the waiver of the competitive procurement and shall retain the written justification and other evidence of approvals on file for 5 years, in accordance with the requirements of Title 5 MRSA Section 12022, subsection 3.

This policy may be modified only by action of the LDA Board of Trustees.

Effective Date: June 28, 2000

Amended: May 2, 2018

VII. EXPENSE REIMBURSEMENT

BUSINESS TRAVEL EXPENSES

Employees will be reimbursed for reasonable and necessary business travel expenses incurred while on assignment away from their normal work locations. All business travel must be approved in advance by the President & CEO.

Employees whose travel plans have been approved should make all travel arrangements through the most economical means available.

When approved, the actual costs of travel, meals, lodging, and other expenses directly related to the business travel will be reimbursed by the LDA. To be eligible for reimbursement, employees' expenditures must be necessary and in reasonable amounts.

Expenses that generally will be reimbursed include the following:

- *A. Airfare for travel in coach or economy class, or the lowest available fare.
- *B. Car rental fees will normally be for compact or mid-sized cars unless otherwise justified.
- **C. Fares for shuttle or airport bus service, where available.
- **D. Costs of public transportation or other ground travel.
- **E. Taxi fares, if other lower cost transportation is not available or appropriate.
- **F. Mileage costs for use of personal cars, only when less expensive transportation is not available. The per mile reimbursement rate will be at the IRS established rate.
- *G. Cost of standard accommodations in reasonably priced hotels, motels, or similar lodgings, or required lodging in connection with sponsor.
- *H. Reasonable cost of meals when traveling or a business meal. Receipts are required if claiming more than \$25.00
- **I. Tips not exceeding 20% of the total cost of a meal or 20% of taxi fare.
- *J. Charges for telephone calls, fax, and similar services required for business purposes.
- *K. Charges for one personal telephone call each day. Phone call should not exceed fifteen (15) minutes.
- *L. Charges for laundry and valet services, only on trips of five or more days.

****M. Parking, tolls and other miscellaneous expenses.**

***Receipt required.**

****Itemized list for each day of amount spent for each applicable area.**

The following are examples of expenses that are non-reimbursable: baby-sitting, personal entertainment, in-room movies, traffic fines, haircuts, health club services, etc.

It is impossible to anticipate every situation that may be encountered while traveling on LDA business. Therefore, the LDA expects each employee to exercise good judgment and discretion when incurring travel expenses. Any expenditure not specifically covered under these guidelines will have to be approved by the President & CEO or his designee.

An employee may request an advance for business travel. If the advance is more than the travel expense the employee will reimburse the LDA for the excess amount. Employee may authorize the LDA to deduct excess amounts from regular pay.

Any employee who is involved in an accident while traveling on business must promptly report the incident to the President & CEO. Vehicles owned, leased, or rented by LDA may not be used for personal use without prior approval.

When travel is completed, employee must submit completed travel expense reports within thirty (30) days. Expense report must be prepared in ink or typewritten. Forms completed in pencil will not be accepted. Applicable receipts for all individual expenses of five dollars or more should accompany reports.

Employees should contact their supervisor for guidance and assistance on procedures related to travel arrangements, expense reports, reimbursement for specific expenses, or any other business travel issues.

Employee will receive regular pay while traveling on business. Hourly employees who must travel to attend meetings, training or seminar outside of their normal duty hours or on non-scheduled workdays will be paid overtime as applicable in accordance with the LDA's overtime policy.

Abuse of the Business Travel Expenses policy, including falsifying expense reports to reflect costs not incurred by the employee, may result in disciplinary action, up to and including termination of employment.

REIMBURSEMENTS

The LDA will reimburse employees for the use of their own vehicles in the performance of LDA services at the IRS established rate.

Claims for mileage reimbursements must include the purpose for which private vehicle was used and the mileage for each use.

The LDA will also reimburse employee for expenses incurred which are directly related to LDA business.

Claims for expense reimbursement will be submitted with a bill and substantiating documentation, i.e.: copy of credit card slip; restaurant check; copy of phone bill with calls circled.

Falsification of claims may result in disciplinary action.

EXPENDITURES

No invoice will be paid, regardless of the dollar amount, without the approval of the President & CEO or his designee.

Any individual expenditure in excess of \$5,000 will require any two of the following signatures:

- A. President & CEO
- B. Director of Finance and Accounting
- C. Facilities Manager
- D. LDA Board of Trustees Treasurer

Any single expenditure in excess of \$50,000 will require Board of Trustee approval prior to disbursement, except when the expenditure is provided for in the annual budget or is otherwise provided for in accordance with the by-laws.

The Director of Finance and Accounting will develop an accounting system for the LDA and its operations and insure it is maintained ready for an audit at all times. The Director of Finance and Accounting is responsible for monitoring expenditures of funds and transferring money between accounts as needed to meet the needs of the LDA. The Director of Finance and Accounting will determine trends to identify high cost areas and recommend procedures to reduce expenditures, take advantage of discounts and insure that proper reimbursements can be realized.