

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 892

S.P. 284

In Senate, February 6, 1997

An Act to Require Municipalities to Purchase Insurance by Competitive Bidding.

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BENOIT of Franklin.
Cosponsored by Representative GOOLEY of Farmington.

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

4 Sec. 1. 30-A MRSA c. 118 is enacted to read:

6 CHAPTER 118

8 INSURANCE PURCHASE BY COMPETITIVE BIDDING

10 §2260 Insurance purchase by competitive bidding

12 1. Insurance purchase by competitive bidding. Except as
14 otherwise provided by waiver in subsection 2, a municipality or
16 county shall purchase insurance by competitive bidding. On each
18 insurance policy, a competitive bid must be sought at least once
20 every 5 years. To take advantage of commercial package policies
22 in the marketplace, a municipality or county shall group
qualifying lines of insurance into a single competitive bid
process. Each policy secured by competitive bidding must be
issued with a 3-year policy term or, if this is not possible, a
commitment for 3 one-year policy terms with an option for 2
additional one-year policy terms, subject to annual review and
adjustment.

24 2. Waivers. The requirement of competitive bidding may be
26 waived by a municipality or county when:

28 A. In the opinion of the municipality or county, an
30 emergency exists that requires the immediate procurement of
32 insurance. The emergency may include the premature
34 cancellation of an existing policy or acquisition of a risk
that can not be added to an existing policy, including the
signing of a lease. However, at the next renewal of the
policy, procurement of insurance is subject to competitive
bidding;

36 B. After reasonable investigation by the municipality or
38 county, it appears that the required insurance is procurable
from only one source;

40 C. It appears to be in the best interest of the municipality
42 or county to negotiate for the procurement of an excess
insurance line; or

44 D. The line of insurance is workers' compensation or an
46 employee benefit such as life, disability or health
insurance.

48 3. Registry required. A registry of bidders must be
50 maintained by the municipality or county. Invitations to bid or
proposals must be sent to a registry of bidders on file with the

2 municipality or county. Insurance agents or brokers licensed by
3 the Bureau of Insurance and public self-funded pools authorized
4 under Title 24-A or Title 30-A, chapter 117 desiring to have
5 their names entered on a registry of bidders shall submit to the
6 municipality or county in writing a request for such action. The
7 name of a bidder entered in a registry who fails to submit a bid
8 on 3 consecutive proposals or invitations to bid may be removed
9 from the registry at the discretion of the municipality or county.

10 4. Competitive bidding process. The following multistep
11 process must be used in all competitive bids.

12
13 A. At least 4 months before the expiration date of the
14 policy for which bids are being solicited, a
15 prequalification questionnaire, referred to in this
16 paragraph as the "questionnaire," must be developed by the
17 municipality or county for the purpose of prequalifying
18 bidders. The questionnaire must contain at a minimum:

19 (1) Questions on the bidder's insurance knowledge,
20 educational background, licensing, errors and omissions
21 insurance, experience with public entities, experience
22 with municipalities or counties and number of years in
23 business. The questionnaire must state that qualified
24 bidders must be insurance agents or brokers licensed by
25 the Bureau of Insurance or duly authorized public
26 self-funded pools under Title 24-A or Title 30-A,
27 chapter 117;

28
29 (2) The evaluation criteria and relative scoring
30 weights to be applied in the prequalification
31 evaluation process;

32
33 (3) A statement that bidders are subject to
34 prescreening and may not approach an insurer or
35 reinsurer until given permission by the municipality or
36 county to do so since markets are allocated by the
37 municipality or county. The questionnaire must state
38 that failure to comply with this restriction
39 automatically disqualifies the bidder. The
40 questionnaire must state that the municipality or
41 county reserves the option to require a personal
42 interview at any time in the process; and

43
44 (4) The address and contact person to which the
45 questionnaire must be submitted and the opening date
46 and time, which may not be less than 3 1/2 months from
47 the expiration date of the policy or policies being
48 sought. The questionnaire must state that: all
49 proposals are publicly opened at the date, time and
50 place noted; a questionnaire received after the date

2 and time specified is rejected, but retained and not
4 evaluated or considered further; and proposals are not
6 available for inspection until after the bid is
8 awarded. The questionnaire must state that the
10 municipality or county reserves the right to reject a
12 questionnaire and does not accept responsibility for
14 costs incurred by a bidder in the preparation of a
16 questionnaire. The questionnaire must state that
18 bidders are notified of the outcome in writing no later
20 than 10 days after the closing date.

22 B. In the same time frame, the municipality or county shall
24 also develop a request for proposal. The proposal must
26 contain at a minimum:

28 (1) The line or lines of insurance for which bids are
30 being solicited and a clear definition of minimum
32 coverage required, minimum limits required,
34 deductibles, policy forms and endorsements required and
36 policy term required. If coverage identical to the
38 expiring coverage is being sought, a copy of the
40 expiring policy or policies and all endorsements may be
42 enclosed to meet this requirement;

44 (2) Basic underwriting information, such as named
46 insured, mailing address, nature of risk, actual
48 locations, schedules of buildings, business personal
property, vehicles or any other property for which insurance is being sought, if applicable;

(3) At least a 3-year and preferably a 5-year
company-generated loss run;

(4) A clear definition of the services, if any,
required of both the bidder and the insurer;

(5) The minimum A.M. Best rating and financial size
category acceptable to the municipality or county;

(6) The evaluation criteria and relative scoring
weights to be applied to the proposal. Cost of the insurance coverage must be included in the evaluation criteria and must be given a minimum of 50% of the total weight of all criteria;

(7) The address and contact person to whom a bid must
be submitted and the bid opening date and time. The proposal must state that: all proposals are publicly opened at the date, time and place noted; bids received

2 after the date and time specified are rejected, but
3 retained and not evaluated or considered further; and
4 proposals are not available for inspection until after
5 the bid is awarded. The proposal must state that the
6 municipality or county reserves the right to reject a
7 bid and does not accept responsibility for costs
8 incurred by a bidder in the preparation of a proposal.
9 The proposal must state that all bidders are notified
10 of the outcome in writing no later than 20 days after
11 the bid closing date;

12 (8) The name, address and optionally a facsimile
13 number of a municipality or county contact person to
14 whom written questions may be addressed. The proposal
15 must state that the municipality or county will reply
16 to questions submitted in writing before a specified
17 deadline with copies of the questions and answers to be
18 provided in writing to all bidders; and

19 (9) A statement that the successful bidder must
20 present an insurance binder to the municipality or
21 county within 5 days of the award and no later than the
22 expiration date of the existing policy. Failure to do
23 so disqualifies the award and the award is then made to
24 the next highest-rated bidder who was in compliance
25 with the proposal. The proposal must state that all
26 decisions regarding the award are final.

27 C. Each bidder on the registry of bidders must be provided
28 with a questionnaire and proposal 4 months before the
29 expiration of the policy or policies being sought. Each
30 bidder must complete and return the questionnaire before the
31 stated date and time as specified in the questionnaire. In
32 addition, a bidder must state in the order of preference the
33 insurers they prefer to solicit on the municipality or
34 county's behalf. The municipality or county shall then have
35 3 persons independently review a questionnaire on the basis
36 of the established criteria. The reviewers shall document
37 the scoring and select all qualified bidders, but no more
38 than the 5 highest-rated, to participate further in the
39 process.

40 D. The municipality or county shall allocate to each
41 selected bidder at least one insurer from which to solicit a
42 bid. This market allocation must be made on the basis of
43 awarding the bidder's first choice to the bidder. If there
44 is a conflict, an incumbent broker is given preference over
45 the municipality or county's incumbent insurer. Allocation
46 is then made on the basis of highest-qualifying score. Once
47 market allocation is complete, a new bid closing date must
48 be established.

