

MAINE STATE LEGISLATURE

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January 23, 2024

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

Honorable Rachel Talbot Ross
Speaker of the House
2 State House Station
Augusta, Maine 04333

Dear President Jackson and Speaker Talbot Ross:

Pursuant to 5 M.R.S.A., Section 12023, please consider this the letter of transmittal for the required report from the Maine State Housing Authority due by February 1, 2024.

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

Thank you.

Sincerely,



Daniel E. Brennan
Director

**Maine State Housing Authority
 For The Year Ended December 31, 2023**

A. Procurements Greater than \$10,000

Description	Amount	Justification for Waiver
Casco Bay Food and Beverage, LLC	\$ 10,517.34	Casco Bay Food and Beverage provides an assortment of beverage supplies and vending machines services for staff to purchase drinks and other refreshments. They were an existing vendor prior to MaineHousing's move to its new office facilities in 2020 and were retained to mitigate the number of service provider changes during the transition period. A competitive procurement process was initiated in January, 2024.

B. Contributions Greater than \$1,000

Description	Amount	Description
Council of State Community Development Agencies Annual Membership	\$1,500	Advocates for the community development goals of the States, including Housing and Homelessness.
Growsmart Maine Annual Conference Sponsor	\$4,000	Works to promote smart growth to give communities choices in how they respond to growth and change.
Maine Real Estate & Development Association Annual Membership	\$1,200	Advocates for responsible real estate development and affordable housing.
Maine Real Estate Management Association 2023 Conference Sponsorship	\$2,500	Promotes professional asset management by providing effective leadership through collaborative relationships and educational training programs.
Maine Resident Service Coordinator Association Annual Sponsor	\$2,500	Works to build capacity of Resident Service Coordinators, as required by the Low Income Housing Tax Credit program.
Mortgage Bankers Association Annual Affiliate membership	\$1,350	Advocates for a safe and sustainable real estate finance system.
National Affordable Housing Management Association Affiliate Membership	\$1,300	Promotes professional asset management.
National Association for State Community Services Programs Annual Membership	\$1,627	Provides training and technical assistance, networking and advocacy for Department of Energy Weatherization Grant recipients.

	Amount	Description
National Council of State Housing Agencies Annual Membership	\$32,242	National trade association for state housing finance agencies. Provides significant technical resources, professional staff training, information sharing, and effective advocacy with Congress and the Administration around housing issues.
National Energy Assistance Directors' Association Annual Membership – LIHEAP and LIHWAP	\$7,905	Provides training, technical assistance, networking, and advocacy for all Low Income Home Energy Assistance Program (LIHEAP) and Low Income Household Water Assistance Program (LIHWAP) grantees.
New England Resident Service Coordinator Conference Sponsor	\$3,000	Provides training and professional development for Resident Service Coordinators in New England and beyond.

C. Changes to MaineHousing's written policies or procedures.

MaineHousing’s Procurement Policy was updated in 2023. The Policy itself did not change, but the document was amended to recognize and define “cloud services” and related information technology platforms.

Other minor edits were made to text and formatting for greater clarification. A copy of the Procurement Policy effective April 25, 2023 is included with this report.

MAINE STATE HOUSING AUTHORITY
PROCUREMENT POLICY

I. Purpose of Procurement Policy

This Procurement Policy is intended to ensure that vendors providing goods and services to Maine State Housing Authority (“MaineHousing”) are selected through a competitive process designed:

- (1) to provide MaineHousing with the best value, taking into account cost (including initial and ongoing costs), and where appropriate, giving strong consideration to expertise, experience in providing goods or services of the type requested, quality, service, and other factors that may be appropriate to a specific procurement, and
- (2) to ensure compliance with Maine law and with applicable federal regulations and standards when federal procurement regulations are triggered by the use of federal funds.

This Procurement Policy applies to the purchase or lease of goods, supplies, equipment, and consultant and professional services.

A request for information to determine what goods or services are potentially available in the market is not by itself an invitation to compete. The information submitted in response to a request for information may or may not lead to a subsequent procurement.

II. Definitions

As used in this Procurement Policy the following terms have the following meanings:

- A. “Cloud Services”** are infrastructure, platforms, or software that are hosted by third-party providers and made available to users through the internet. This includes Infrastructure as a Service, Platform as a Service, and Software as a Service.
- B. “Consumable Office Supplies”** are items that are generally used up in the course of MaineHousing’s business and that need to be replaced on a recurrent basis. Consumable Office Supplies include, but are not limited to, paper, envelopes, pens, file folders, post-it notes, paper and binder clips, staplers and staples, tape, rubber bands, scissors, and toner and ink cartridges. Consumable Office Supplies do not include office furniture or equipment.
- C. “Contract Duration”** means the initial term of a contract plus all possible extension terms provided by the contract.
- D. “Federal Funds”** means any funds obtained from the United States or an agency or instrumentality thereof, used for the administration of federal programs, or any other funds defined by law as federal funds.

- E. “Infrastructure as a Service (IaaS)”** is a form of Cloud Services that provides virtualized computing resources over the internet.
- F. “Maintenance Agreement”** is an agreement that obligates the software vendor to provide technical support and updates for an existing software product to its customers.
- G. “Non-Federal Funds”** means
1. Fees paid to MaineHousing by HUD to administer;
 - i. new construction/substantial rehabilitation HAP contracts under 24 CFR Section 883.606 or its successor, or
 - ii. project-based Section 8 HAP contracts as a Performance-Based Contract Administrator, or
 - iii. the Section 8 Housing Choice Voucher Program under 24 CFR Part 982 or its successor;
 2. U.S. DHHS funds used by MaineHousing to administer LIHEAP; or
 3. All other funds not included in the definition of “Federal Funds”.
- H. “Off-the-Shelf Software”** means a software and/or hardware product that is commercially ready-made and available for sale, lease, or license to the general public.
- I. “Platform as a Service (PaaS)”** is a form of Cloud Services where a third-party provider hosts hardware and software on its own infrastructure and delivers hardware and software tools to users over the internet.
- J. “Software”** means programs and other operating information used by a computer.
- K. Software as a Service (SaaS)”** is a form of Cloud Services in which software is accessed online via a subscription, rather than bought and installed on individual computers.
- L. “Software Improvements”** means customization, upgrade, modification, enhancement, or addition of modules to Software owned or used by, or licensed to, MaineHousing, including but not limited to Cloud Services.

III. Procurement Rules

The following Procurement Rules apply to every Procurement unless otherwise stated:

- A. Prohibition on Arbitrary Division of Purchases.** Required goods or services will not be arbitrarily or artificially divided or broken up into two or more purchases merely to allow the use of procurement procedures that would apply to a lower dollar threshold and avoid the requirements that apply to purchases that exceed the threshold.

- B. Prohibition on Geographical Preferences.** In evaluation of bids or proposals, except where expressly mandated or encouraged by applicable Federal Statutes, geographic preferences (state, local or tribal) should not be used.
- C. Compliance with Federal Requirements.** MaineHousing will comply with all applicable federal procurement requirements in purchasing goods or services to be paid with Federal Funds.
- D. Compliance with Other Laws and Standards.** MaineHousing will comply with applicable conflicts of interest laws and regulations and codes of conduct in conducting procurements.
- E. Multi-year Contracts.** Except as otherwise provided in this Procurement Policy, the maximum Contract Duration is five (5) years. Every procurement must state the total number of years of the contract, including any extension term(s), not to exceed 5 years in total.
1. **Exceptions.** The maximum 5-year Contract Duration does not apply to:
 - i. **Software, Software Improvements, Infrastructure as a Service, Platform as a Service and Software as a Service.**
 - ii. **Procurements based on Federal Agency Approval, State of Maine Competitive Procurement, or Other Documented Procurement.** If MaineHousing is procuring goods or services using Sole Source Procurement based on Federal Agency Approval, State of Maine Competitive Procurement or Other Documented Procurement, outlined below, the maximum term will be the maximum term allowed by the Federal agency authorizing the procurement or the contract entered into by the State of Maine or other entity for the goods or services, as applicable.
 - iii. **Disaster Preparedness or Recovery.** The purchase or lease of goods, supplies, equipment or services of any type in connection with disaster preparedness or recovery activities.
 - iv. **Financial Instruments.** The renewal or rollover of the term of Financial Instruments tied to MaineHousing bonds.
 - v. **Board Approved Exceptions.** The Board of Commissioners of MaineHousing may approve an exception for any other MaineHousing business purpose, including but not limited to circumstances where the start-up period is in MaineHousing's best interests. A request for exception should state the anticipated maximum term and indicate the possibility of an extension to the term.
- F. Minority Owned, Women Owned, Small Business Vendors and Labor Surplus Area Firms.** All necessary affirmative steps must be taken to assure that minority businesses, women's business enterprises and labor surplus area firms are used when possible. These steps include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps in paragraphs (1) through (5) above.

G. Domestic Preferences. For Federal Funds only, as appropriate and to the extent consistent with law, MaineHousing should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

1. For purposes of this section:
 - i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

IV. Procurement Process and Thresholds

For Non-Federal or Federal Funds that MaineHousing will pay for goods and services over the Contract Duration the following thresholds and requirements apply:

Threshold	Requirements	Notes
\$10,000 or less	Solicit by phone, email, vendor website, catalog or price list, or similar means one price quote.	<p>If MaineHousing considers the quoted price reasonable based on one or more factors identified by MaineHousing, such as recent purchases of, or research on, goods or services of the same kind or related knowledge or expertise, no further solicitation is required.</p> <p>If MaineHousing does not consider the quoted price reasonable, solicit two price quotes by phone, email, vendor website, catalog or price list, or similar means.</p>
Over \$10,000 to \$250,000	<p>Send to at least three vendors:</p> <p>(i) a written request for quote when price is the primary or only factor to be considered; or</p> <p>(ii) a written invitation to submit proposal when selection factors in addition to price will be considered.</p>	Each request or invitation must state the date by which vendor responses must be received.
Over \$250,000	Issue a request for proposals (“RFP”) that is publicized on MaineHousing’s website and is sent to those who respond to the notice and those on any qualified vendors list. The RFP must state the date by which written proposals must be received and may contain other terms and conditions as determined by MaineHousing.	When Federal Funds will be used , the RFP must identify all evaluation factors, including price, and their relative importance. Proposals will be evaluated against the technical and price criteria and any other selection criteria included in the RFP, and competitive proposals will be ranked based on the results of the evaluation.

Exceptions for Non-Federal Funds only. When only Non-Federal Funds will be used, the following exceptions apply:

- A. Consumable Office Supplies.** For Consumable Office Supplies that do not exceed to cost of \$250,000 per calendar year, for a period of 5 calendar years, the Procurement Procedure outlined above for the range of \$10,000 to \$250,000 may be used.
- B. Financial Instruments.** For the purchase of Financial Instruments and associated financial services exceeding \$250,000 in connection with MaineHousing bonds, the Procurement Procedure outlined above for the range of \$10,000 to \$250,000 may be used.

Off-the-Shelf Software, Cloud Services and related Maintenance Agreement. For Maintenance Agreements associated with an Off-the-Shelf Software or Cloud Services, following the initial procurement for the Off-the-Shelf Software or Cloud Services, no further procurement is required for the costs associated with the Maintenance Agreement unless the parties to the Maintenance

Agreement change. The ongoing Maintenance Agreement costs are also not counted in the calculation of the threshold costs for procurement process purposes.

Sole Source Procurement. If the amount of Non-Federal Funds or Federal Funds that MaineHousing will pay for goods or services over the Contract Duration will be over \$10,000, MaineHousing may procure those goods or services by soliciting a proposal from only one source for one of the following reasons:

Reason	Requirements
<p>1. Uniqueness</p> <p>The item or service is available from only one source, based on a reasonable, good faith review of the market for the type of item or service needed. A prior relationship between MaineHousing and a vendor does not, by itself, satisfy the requirement of uniqueness.</p>	<p>If an item is unique to a specific vendor, the nature and necessity of the unique characteristics must be documented. If a vendor has unique expertise in providing a service, the expertise and its necessity must be documented.</p>
<p>2. Emergency or Urgent Need</p> <p>An emergency situation or other urgent need exists and only one known source can provide the required goods or services within the time needed. Emergency or urgent situations include, but are not limited to, natural disasters, epidemics, equipment failures, or inability to carry out MaineHousing’s business operations or comply with a federal, state or local law or regulation due to the loss of critical services or resources.</p>	<p>Written information must be provided on the following: how the date by which the goods or services are needed was determined and the significance of that date; the impact of delay beyond that date; and the time needed to acquire necessary goods or services from another source.</p>
<p>3. Inadequate Competitive Proposals</p> <p>After evaluation of all proposals submitted in a competitive procurement, all proposals are determined to be inadequate.</p>	<p>Written information must be provided explaining the respects in which the proposals are inadequate.</p>
<p>4. Software Improvements</p> <p>If the Software Improvement is needed for an identified reason relating to MaineHousing’s business, including but not limited to a MaineHousing business process, program or other activity or a change in federal or state requirements.</p>	<p>Written information must be provided describing the specific Software Improvement and the specific need for it.</p>
<p>5. Other Documented Procurement</p> <p>Another entity has obtained goods or services to be shared by MaineHousing for a mutual purpose pursuant to a documented procurement acceptable to MaineHousing.</p>	<p>Evidence of the other entity’s documented procurement and of MaineHousing’s review thereof must be provided.</p>
<p>6. Federal Agency Approval</p> <p>A federal agency expressly authorizes in writing procurement of the goods or services from a single source, which may be in response to a written request from MaineHousing.</p>	<p>The written authorization of the federal agency and any written request of MaineHousing must be retained.</p>

<p>7. State of Maine Competitive Procurement</p> <p>The State of Maine has entered into a contract with a vendor for goods or services, or both, selected after a competitive procurement conducted by the State, and has made those goods and services available to State agencies and quasi-independent state entities (as defined in 5 M.R.S.A. §12021), including MaineHousing, under the contract with the selected vendor.</p>	<p>Evidence of the State’s procurement and contract must be retained by MaineHousing.</p>
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****The additional requirements listed in the table below apply to Reasons 1-5 listed in the table above. One or more requirements may apply to a Sole Source Procurement.**

Value of Purchase	Requirements
Exceeds \$10,000	A report of the purchase, including its cost and the reason for the sole source procurement, must be made to the Board of Commissioners at its next scheduled meeting
Does not exceed \$150,000	Direct must approve the Sole Source Procurement in advance.
Exceeds \$150,000	Director must approve the Sole Source Procurement in advance after consultation with the Chair of the Board of Commissioners, or the Vice Chair if the Chair is unavailable.

V. Documentation

For each procurement, MaineHousing will retain, for the longer of 5 years after any contract award or the period specified in any applicable federal regulations, a copy of the solicitation, all proposals received in response, all evaluations of the proposals, and written reasons for selecting or rejecting proposals. For goods and services paid with Federal Funds, MaineHousing will retain information required by applicable federal regulations.

In the case of a Sole Source Procurement, MaineHousing will retain a copy of the solicitation and the proposal received in response, a record of any required approval by the Director, and the information required under the Sole Source Procurement Section in MaineHousing’s records for 5 years.

VI. Procurement Authority and Administration

The Department Directors of MaineHousing will be responsible for administration of this Procurement Policy within their respective areas of responsibility. The Director of Finance will be responsible for developing procedures and documentation regarding the use of requisitions and purchase orders.

Effective: April 25, 2023