

## DIVISION OF PURCHASES

Chapter 110: RULES FOR THE PURCHASE OF SERVICES AND AWARDS

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**Summary:** This chapter outlines the procedures to be used in the purchase of services and the awarding of grants and contracts pursuant to 5 M.R.S.A. §1825-C.

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**Section 1. DEFINITIONS**

- A. **REQUEST FOR PROPOSAL:** Means a document listing the scope of work, requirements of the state and all evaluation criteria for a service needed by the state. This document is also known by the initials "RFP".
- B. **CONTRACT REVIEW COMMITTEE:** Means the committee established by Executive Order which reviews agency documents and actions related to contracts for special services.
- C. **CONTRACT:** Means the agreement between a vendor and the State of Maine, describing the service to be performed, the terms and conditions agreed to by the parties, the cost of the service and how payment will be made.
- D. **GRANT:** Means an agreement between a group organization or other recipient and the state which describes terms and conditions and scope of performance or action which is expected of the recipient.

**Section 2. REQUEST FOR PROPOSAL PROCEDURE**

- A. All contracts issued under the review of the Contract Review Committee which do not qualify as sole source or emergency procurements must be competitively bid using the Request for Proposal.
  - i. The request for proposal must contain at a minimum a clear definition (scope) of the project, the evaluation criteria and relative scoring weights to be applied, the proposal opening date and time, and agency contact person.
    - aa. Cost of the contract must be included in the evaluation criteria and must receive a minimum of 25% of the total weight of all criteria.
    - bb. All proposals shall be opened publicly at the Bureau of Purchases, main office. Proposals received at the Bureau of Purchases main office after the advertised opening time shall be rejected, unless the advertised opening date and time have been extended by the State Purchasing Agent due to circumstances requiring such an extension of time.

- ii. Request for proposals must be submitted to the Contract Review Committee for review prior to release. Review includes, but is not limited to appropriateness of scope and clearly defined evaluation criteria with cost at a minimum of 25%. Agencies will be notified of approval.
- iii. Request for proposals must be advertised for a minimum of three consecutive days in the Kennebec Journal of Augusta, allowing a minimum of fifteen (15) calendar days from the final day of advertising to the proposal opening date. This section does not limit advertising in any other publication, trade publication or other media.
  - aa. Advertisements must include at a minimum a brief description of the service requirements of the state, the name of the department and division issuing the RFP, the name of the contact person and address where copies of the RFP can be obtained, the opening date, the opening time and the opening location: Division of Purchases, Burton M. Cross Building, 4<sup>th</sup> Floor, 111 Sewall Street, 9 State House Station, Augusta, Maine 04333-0009.
- iv. Pre-Bidders conferences are allowed, but are not required. These conferences are used to be certain that all bidders have an equal understanding of the state requirements.
  - aa. Pre-Bidders conferences must be advertised within the RFP advertisement, including location, day and time. Conference must be scheduled a minimum of seven calendar days from the final day of advertising and a minimum of two weeks prior to proposal opening date. The State Purchasing Agent may authorize a pre-bidders conference an shorter notice that has not been advertised in the RFP. The contracting agency shall notify all prospective bidders who requested the RFP of the date and time of the conference under these circumstances.
  - bb. Conferences must be open to the public, questions raised must be documented in writing and responses must be written and forwarded to each prospective bidder who received an RFP, whether in attendance or not.
  - cc. No alterations or changes to any requirement or specification within the original RFP can be made without notifying all bidders in writing a minimum of seven (7) calendar days before opening date.
- v. Proposals shall be opened publicly at the Bureau of Purchases or a nearby appropriate facility at the discretion of the Bureau of Purchases. The opening of proposals shall be open to public attendance. The name of the respondent will be read aloud. No other information will be made available prior to evaluation and award notification. All proposals shall be sequestered from this time until notification of award by the contracting agency after which time they become public record.

Proposals received at the Bureau of Purchases later than the date and time specified will not be accepted and will be returned unopened or held at the Bureau to be picked up by the respondent. Late proposals not picked up within seven (7) calendar days will be destroyed.

- vi. All opened proposals shall be turned over to the contracting agency's representative after the opening. A written record of the vendor names, date and time received, cost/price and agency representative shall be kept at the Bureau of Purchases.

### Section 3. AWARD

- A. The contracting agency is responsible for reviewing all RFP's based on the criteria established within the original Request for Proposal document. The agency shall document the scoring, substantive information that supports the scoring, and make the award decision which shall be subject to the Contract Review Committee approval.
  - i. Interviews/Presentations: Interviews and/or presentations may be considered within the review for information and scoring, if that provision was included within the original RFP documentation.
  - ii. Pricing/Negotiations: Pricing changes, alterations or negotiations are not allowed prior to the award decision and must not be used in scoring. Minor negotiations after notice of award are allowed and if agreement cannot be reached, the proposal may be rejected and the award made to the next highest rated bidder who was in compliance with all terms, conditions and requirements.
  - iii. Documentation: Written records must be kept by each person reviewing or ranking proposals. These records must be made available upon request.
  - iv. Award: Award must be made to the highest rated proposal which conforms to the requirements of the state as contained in the RFP.
  - v. Proposed Award Decision Notification: Contracting agency must notify all bidders responding to an RFP of the award decision in writing, postmarked or delivered a minimum of fourteen (14) calendar days prior to contract effective date. This notice must include a statement that the award is conditional pending Contract Review Committee approval.

The award decision, a copy of the award notification to bidders, supporting justification of award, individual and summarized scoring and a minimum of four contracts with the state agency head and vendor authorized original signatures must be sent to the Contract Review Committee for final review and approval a minimum of fourteen (14) calendar days prior to contract effective date.
- B. Upon final approval by the Contract Review Committee, the Chairman shall affix an original signature to the contracts, keep one copy, and forward to Accounts and Control for final approval of encumbrance, terms, and account coding. The Controller will keep one copy and the remaining copies shall be returned to the contracting agency for distribution to vendor.
  - i. Contracts are not considered fully executed and valid before completing final approval of encumbrance. No contract will be approved based on an RFP which has an effective date less than fourteen (14) calendar days after award notification to bidders.

- ii. Attorney General approval is not required unless changes have been made to existing boilerplate or at the request of the Contract Review Committee. Nothing within this paragraph prevents agency requests for Attorney General review of any contract.
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STATUTORY AUTHORITY: 5 M.R.S.A. §1825-C

EFFECTIVE DATE:

February 11, 1991

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 1, 1996

NON-SUBSTANTIVE CORRECTION:

August 13, 1996 - paragraph alignment

April 22, 2010 – address in Section 2.A(iii)(aa)