

## **Purchasing Policy**

Addison County Communications Union District d/b/a Maple Broadband

Adopted by Maple Broadband Executive Committee August 19, 2021

Amended and readopted by Maple Broadband Executive Committee January 5, 2023

### **PURPOSE AND PURCHASING AUTHORITY**

The purpose of this document is to describe the process that Maple Broadband will use to execute purchases of the highest quality goods and services at the lowest possible price. It is designed to clarify financial controls over the purchasing process, to define authority for the purchasing function, to allow fair and equal opportunity among qualified suppliers, and to provide transparency regarding its purchasing procedures.

Maple Broadband has designated the Treasurer, Chair, and Executive Director as Purchasing Agents for the district. The Purchasing Agents are responsible for ensuring that the best possible price and quality are obtained with each purchase, and they will review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies, and services. Purchasing Agents shall also ensure that competition is not restricted with limits on the geographic location of vendors, , except as may be required by applicable state or federal law or agreement, with unreasonable requirements or qualifications placed on vendors, or by allowing vendors to be selected who have engaged in noncompetitive pricing practices.

### **PROCUREMENT TYPES AND REQUIREMENTS**

#### **Discretionary Purchases (up to \$1,500)**

A Discretionary purchase is the acquisition of supplies or services of up to \$1,500. Purchasing Agents may make discretionary purchases without prior approval of the Executive Committee, provided those purchases do not exceed the amount currently available in the approved budget.

#### **Incidental Purchases (\$1,500 to \$10,000.00)**

An incidental purchase is the acquisition of supplies or services of up to \$10,000.00 and is referred to as the micro-purchase threshold under the Federal Acquisition Regulation (FAR) 2.101. Purchasing Agents may make incidental purchases without prior approval of the Executive Committee, provided those purchases do not exceed the amount currently available in the approved budget, and provided that the Purchasing Agent first receives written approval from a second Purchasing Agent.

#### **Minor Purchases (between \$10,000.00 and \$250,000.00)**

Minor purchases are defined as the acquisition of supplies and services of between \$10,000.00 and up to \$250,000.00 in accordance with the FAR simplified acquisition threshold. Minor purchases of between \$10,000 and \$30,000 may be made only with prior approval of the Executive Committee. Minor purchases of \$30,000.00 or greater require a competitive bid as described in Appendix A. Minor purchases not already included in the approved budget may only be made with approval of the Governing Board.

**Major Purchases.** (\$250,000.00 and above)

Major purchases are defined as all purchases over \$250,000.00, and all require prior approval of the Governing Board. A standard competitive bidding process as defined in Appendix A is required for all major purchases.

The Governing Board may authorize a procurement process other than a standard RFP if:

- the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation,
- the item or service is available only from a sole source,
- the prior experience and knowledge of the vendor is likely to yield a superior result with regard to risk mitigation, efficiency, speed and value of insight,
- because of the specific geographic location of goods or services sought, a standard RFP process is unlikely to yield a superior result.

**PURCHASES MADE WITH STATE OR FEDERAL FUNDS**

If state or federal funding is used for purchases between \$10,000 (\$2,000 in the case of construction projects subject to Davis Bacon requirements) and \$250,000, price or rate quotes must be obtained from two or more qualified sources following the affirmative action provision of this policy and all provisions regarding fair and unrestricted competition.

Purchases and construction projects at or exceeding \$250,000 that are funded with state or federal dollars will follow a sealed bid process as outlined in Appendix A. In addition, a pricing analysis must be completed by a Purchasing Agent or a qualified consultant prior to issuing the RFP to ensure that there is a reasonable estimate against which to compare bid proposal pricing.

All procurement must follow any procurement guidance as outlined in a grant agreement from which the purchase will be paid, regardless of the amount of the purchase.

Maple Broadband’s RFP for bids that will use state funds must be compliant with Standard RFP Attachments C (Standard State Provisions for Contracts and Grants) and D (Provisions for IT Professional Services) which can be found on the *State of Vermont Agency of Administration Buildings and General Services* website.

**AFFIRMATIVE ACTION AND LOCAL PREFERENCE**

Whenever possible, qualified small, minority, and women-owned businesses shall be included in the solicitation lists for bids or non-bid purchases. If the purchase is federally funded in whole or in part, minority and women owned businesses must be included in the solicitation lists, wherever possible, and all other affirmative action requirements outlined in the grant provisions must be followed.

**PROCUREMENT CODE OF CONDUCT**

Employees, officers, and agents of Maple Broadband, (in this document, “agents” includes Maple Broadband volunteers), who are involved in the procurement and selection of bids and purchases will adhere to the “Addison County CUD Conflict of Interest Policy”.

**DOCUMENTATION**

Records documenting the procurement process for any Minor or Major purchases, as those terms are defined in this document, including the reason for the specific procurement method chosen, the basis for the award and contract pricing (showing evidence that the process was fair and equitable), as well as any other significant decisions that were part of the procurement process shall be maintained for a period of at least three years from the date of the submission to the federal government of the final expenditure report if the purchase or project was funded with federal grants, or until the completion of any litigation, claim, negotiation, audit, or other action involving the records, whichever is longer. Otherwise, records shall be maintained by Maple Broadband in accordance with the retention and disposition schedules as set by the Vermont State Archivist.

## **APPENDIX A COMPETITIVE BID PROCESS**

All competitive bids must contain all requirements and conditions of the particular procurement process. Each competitive bid must contain a Statement of Work and describe the criteria Maple Broadband is using to select the vendor. Maple Broadband shall evaluate bids in accordance with the criteria set forth in the RFP. Competitive bids should be distributed to known providers soliciting bid responses.

**BID SPECIFICATIONS.** A list of bid specifications shall be prepared for each purchase over \$30,000. Bid specifications shall include:

- Bid name.
- Bid submission deadline.
- Details associated with the bid opening.
- Specifications for the project or services including quantity, design, and performance features.
- Bond and/or insurance requirements where appropriate.
- Any special requirements unique to the project or purchase.
- Delivery or completion date.
- For construction projects, language that sets a requirement for a bid guarantee in the amount of 5% of the bid price from all bidders, as well as performance and payment bonds in the amount of 100% of the contract price from the contractor awarded the bid. If federally grant funded, the bidders must also include costs for Davis Bacon compliance if that is a requirement of the federal agency providing the funding.
- For construction projects over \$2,000, a statement that contractors will be provided with a copy of the most current wage determination (from the DOL [website](#)) and must comply with the Davis Bacon Act and/or the [Vermont State Construction Prevailing Wage Rate Schedule 2022](#)
- Language that reserves for Maple Broadband the right at its sole discretion to reject any and all bids, wholly or in part, to waive any informalities or any irregularities therein, to accept any bid even though it may not be the lowest bid, to call for rebids, to negotiate with any bidder, and to make an award which in its sole and absolute judgment will best serve the District's interest. Maple Broadband reserves the right to investigate the financial condition of any bidder to determine its ability to assure service throughout the term of the contract.
- Bid opening date and location, setting the date and time to accommodate the next appropriate Executive Committee or Governing Board meeting.

**BID SUBMISSION** All bids must be mailed to Maple Broadband and not opened until a duly warned Executive Committee or Governing Board meeting. Any bids received after the time and date specified shall not be considered and shall be returned to the bidder unopened.

Bidders shall bid to specifications and any exceptions must be noted by the bidder. A bidder submitting a bid thereby certifies that the bid is made in good faith without fraud, collusion, or connection of any kind with any other bidder for the same work, and that the bidder is competing solely on his/her behalf without connection with or obligation to any undisclosed person or firm.

**BID OPENING.** Every bid received prior to the bid submission deadline will be opened during a duly warned Executive Committee or Governing Board meeting, at which time an Executive Committee member shall open each sealed bid and announce Pricing Detail associated with each bid. Pricing Detail shall include the name and address of bidder; for lump sum contracts, the lump sum base bid, and the bid for each alternate; for unit price contracts, the unit price for each item and the total, if stated; and the nature and the amount of security furnished with the bid if required.

**CRITERIA FOR BID SELECTION.** In evaluating bids, the Maple Broadband will consider the following criteria:

- Price
- Bidder's ability to perform within the specified time limits
- Bidder's experience and reputation, including past performance for Maple Broadband.
- Quality of the materials and services specified in the bid.
- Bidder's ability to meet other terms and conditions, including insurance and bond requirements.
- Bidder's financial stability.
- Bidder's availability to provide future service, maintenance, and support.
- Nature and size of bidder.
- Contract provisions that are acceptable to Maple Broadband.
- For construction projects over \$2,000, contractor's indication of acceptance of wages in the current wage determination provided as part of the RFP.
- Any other factors that the Executive Committee determines are relevant and appropriate in connection with a given project or service.

*In addition to the above, in the case of a contract supported by federal funds, the additional criteria shall apply:*

- There shall be no preference exercised for local contractors or suppliers.
- Minority and women-owned businesses must be included in the solicitation list for the request for proposal. If the purchase is federally funded in whole or in part, minority and women owned businesses must be included in the solicitation lists, wherever possible.

- Maple Broadband will not select a bidder who is listed on the Department of Labor [Excluded Parties List System website](#).

**CHANGE ORDERS.** If specification changes are made prior to the close of the bid process, the RFP will be amended, and notice shall be sent to any bidder who already submitted a bid and a new bid process will be initiated. Once a bid has been accepted, if changes to the specifications become necessary, Maple Broadband will prepare a change order specifying the scope of the change. Once approved, the contractor and the Maple Broadband Chair must sign the change order.

**EXCEPTIONS.** The following exceptions may apply, however there must be written documentation created and maintained that outlines the process and rationale for such exceptions:

**Competitive Proposals.** If time does not permit the use of the bid process described above, or if the award will be made on the basis of non-price related factors, a competitive proposal process shall be initiated by the issuance of a Request for Bids (RFB) or Request for Qualifications (RFQ) prepared by the Executive Committee or its designee that includes the factors that will be used to evaluate and compare the proposals. Bids or qualifications shall be obtained from an adequate number of qualified sources (at least two vendors) to ensure that Maple Broadband has received a fair and reasonable price and all notification and recordkeeping requirements of the bid process shall be followed. If competitive proposals are used, all the steps in the process described above should be followed except that the price will not be the primary factor in the proposal selection.

**Sole Source Purchases.** If Maple Broadband determines that there is only one possible source for a proposed purchase, it may waive the bid process and authorize the purchase from the sole source.

**Recurring Purchases.** If the total value of a recurring purchase of a good or service is anticipated to exceed \$20,000 during any fiscal year, the bid process shall be utilized and shall specify the recurring nature of the purchase. Once the bid has been awarded, all future purchases shall be made from that bidder without necessity of additional bids, until such time as Maple Broadband votes to initiate a new bid process.

**Professional Services.** The bid process shall not apply to the selection of providers for services that are characterized by a high degree of professional judgment and discretion including legal, financial, auditing, risk management, and insurance services with a value of up to \$30,000 per year.

Federally funded non-competitive purchases for \$250,000 or more require a cost analysis to determine the reasonableness of the proposed pricing and should be completed in accordance with the requirements of the federal or state agency issuing the grant funding.