

State of Maine Waiver of Competitive Bidding Request Form (Formerly Sole Source Authorization Form)

Form Instructions: Please provide the requested information in the white boxes below. This form is to precede all contract requests that are not the direct result of a competitive bid process.

Requesting Department's Contract Administrator:	John Smith	Office/Division/Program of Contract Administrator:	DAFS/OIT
Est. Contract Amount:	\$ 25,000	Contract or RQS Number:	CT - 18B - 2016xxxxxxx
Proposed Start Date:	1/1/2016	Proposed End Date:	12/31/2016
Vendor/Provider Name, City, State	XYZ Corp. Portland, Maine		
Short Description of Good or Service:	Data Network Performance Consulting		
Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Purchases' website for a period of seven consecutive calendar days.		To be completed by the Division of Purchases Posting dates on Division of Purchases' website: From: _____ To: _____	
Notice of Intent to Waive Competitive Bidding Number:		NOI#:	
1. Statutory Justification			
State of Maine statute (5 M.R.S. §1825-B(2)) allows waivers of competitive bidding only for the specific reasons listed below. Please mark the appropriate box (X) next to the justification which applies to this specific request.			
X	<p>A. The procurement of goods or services by the State for county commissioners pursuant to Title 30-A, section 124, involves the expenditure of \$2,500 or less, and the interests of the State would best be served;</p> <p>B. The Director of the Bureau of General Services is authorized by the Governor, or the Governor's designee, to make purchases without competitive bidding because, in the opinion of the Governor or the Governor's designee, an emergency exists that requires the immediate procurement of goods or services;</p> <p><i>If citing the above justification for this Waiver of Competitive Bidding request, please have the requesting Department's Commissioner or Chief Executive (as the Governor's "designee") sign and date on the right.</i></p> <p><i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i></p> <p>Signature: </p> <p>Printed Name: John Q. Commissioner Date: 6/12/2015</p>		
	C. After reasonable investigation by the Director of the Bureau of General Services, it appears that any required unit or item of supply, or brand of that unit or item, is procurable by the State from only one source;		
	D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;		
	<p>E. The purchase is part of a cooperative project between the State and the University of Maine System, the Maine Community College System, the Maine Maritime Academy, or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State involving:</p> <p>(1) An activity assisting a state agency and enhancing the ability of the university system, community college system, Maine Maritime Academy, or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State to fulfill its mission of teaching, research, and public service;</p> <p>(2) A sharing of project responsibilities and, when appropriate, costs;</p> <p><i>If citing the above justification for this sole source request, please note that the specific approval of the Governor's Office is required, in accordance with Executive Order 26 FY 11/12, "An Order to Enhance Competitive Bidding". The approval must be documented on DAFS/BGS/Division of Purchases "GOVCOOP" form, found here: http://www.maine.gov/purchases/info/forms/govcoop.doc.</i></p>		
	F. The procurement of goods or services involves expenditures of \$10,000 or less, in which case the Director of the Bureau of General Services may accept oral proposals or bids;		
	G. The procurement of goods or services involves expenditures of \$10,000 or less, and procurement from a single source is the most economical, effective and appropriate means of fulfilling a demonstrated need.		
	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:		

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Please note that the following four points below (#2 through 5) **all** require a response.

2. Description of Specific Need

Please identify, and fully describe, the specific problem, requirement, or need the resulting non-competitive contract would address and which makes the goods or services necessary. Explain how the requesting Department determined that the goods or services are critical and/or essential to agency responsibilities or operations.

The State of Maine maintains a state-wide network consisting of two data centers in the metropolitan Augusta area and many remote sites across the State. Connectivity between these sites is provided by the use of a Multi-Protocol Label Switching (MPLS) network and the local fiber network. Recently, poor end-user response time has been detected between a vital remote site and the two data center locations.

The network is unexpectedly experiencing serious performance issues that are negatively affecting productivity in certain State offices. This urgent contract is to assess the performance and implementation of the network in regard to the remote site and the data centers, make configuration recommendations for the environment components between the remote site and the data centers, and then to reassess the performance after the configuration recommendations have been implemented.

Network performance, which includes connectivity and user response time, is the responsibility of OIT.

3. Availability of other Public Resources

Please explain how the requesting Department concluded that sufficient staffing, resources, or expertise is not available within the State of Maine's government, or other governmental entities (local, other state, or federal agencies) external to the requesting Department, which would be able to address the identified need more efficiently and effectively than the identified vendor.

Specialized test equipment and subject matter expertise in the analysis procedures associated with the engagement are not readily available within OIT. OIT is the data network expert; however, OIT does not have the correct tools or experience to conduct this level of analysis.

OIT was not able to identify other readily available public resources to assist with these services.

4. Cost

Since a waiver of competitive bidding is being requested for this procurement, please explain how the requesting Department concluded the negotiated costs, fees, or rates are **fair and reasonable**.

This is a fixed cost agreement for \$25,000 based on hourly rates for network performance consultants. The cost of the consultant services have been found to be fair and reasonable because they are comparable to other similar engagements that have been competitively bid by OIT via a Request for Proposals (RFP) process (refer to CT 18B 2014xxxxxx).

Similar to other contracts, this work is to occur on-site (for an initial study), provide OIT with remote access of results, provide a review of results and recommendations to the OIT team, and conduct a 2nd on-site visit to confirm performance improvements and provide suggestions for other changes, if identified.

5. Future Competition

Please describe potential opportunities which may be available to foster competition for these goods or services in the future.

This contract is the result of an unforeseen emergency. Going forward, OIT plans to release a RFP for routine maintenance and testing services for this network. The selected vendor, in addition to those services, will also be required to provide emergency services, when necessary, in order to eliminate the need for a contract such as this one.

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Please note that only one of the two points below ("Uniqueness" or "Timeframe") requires a response. Requesting Departments are not required to respond to both points.

6. Uniqueness

Please explain if the goods or services required are unique to a specific vendor. Describe the unique qualifications, abilities, and/or expertise of the vendor and how those particular unique factors address the specific need identified above. If the vendor has unique equipment, facilities, or proprietary data, also explain the necessity of these particular unique assets.

This request for a non-competitive contract is based on an existing emergency that requires the immediate procurement of services. It is not based on "uniqueness".

7. Timeframe

Please explain if time is of the essence and an emergency exists which requires the immediate procurement of goods or services. Describe the nature of this emergency, provide the date by which the goods or services must be delivered, and explain how that date was determined and its significance (i.e. impact if delayed beyond this date). Also, provide information as to how it was determined this vendor is the best option to address this time-sensitive procurement.

The initial network study must be completed within one week. This deadline was established given the need to address serious performance issues prior to adding additional users to the remote site. The users that are currently at the remote site are experiencing performance issues that are negatively impacting productivity. OIT needs to assure the users moving onto the remote site that it will be ready to operate seamlessly after the move. OIT needs to immediately conduct the network study to allow time to change network settings and restudy the environment, confirming network performance improvements prior to agency staff moving to the remote site.

XYZ Corp. provides the support contracts and necessary Local Area Network (LAN) switches for the State's network. XYZ Corp. has confirmed that it is available to rapidly respond to this urgent/emergency performance study analysis requirement.

OIT has not been able to identify another partner that could perform this task, and that is certified to work on the State's existing equipment infrastructure. The learning curve to bring in another group and educate it would extend beyond the time available, and would likely increase the cost of this urgent project.

Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):

By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.

John Q. Commissioner

Printed Name:

John Q. Commissioner

Date:

6/12/2015