

State of Maine Waiver of Competitive Bidding Request 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.

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| Requesting Department's Contract Administrator: | James Ross | Office/Division/Program of Contract Administrator: | Maine DEP-BAQ, Air Quality Assessment, Ambient Air Monitoring, Lab and Q/A |
| Est. Contract Amount: | \$ 46,149.00 | Contract or RQS Number: | 06A 20200116*0828 |
| Proposed Start Date: | N/A | Proposed End Date: | N/A |
| Vendor/Provider Name, City, State: | Thermo Environmental Instruments, Inc. 27 Forge Parkway Franklin, MA 02038 | | |
| Short Description of Good or Service: | 3 Thermo 49iQ Calibrators | | |
| Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Procurement Services website for a period of seven consecutive calendar days. | <p>To be completed by the Division of Procurement Services</p> <p>Posting dates on Division of Procurement Services website: From: <u>01/23/2020</u> To: <u>01/29/2020</u></p> | | |
| Notice of Intent to Waive Competitive Bidding Number: | NOI# 0120200071 | | |
| 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. | | | |
| <input type="checkbox"/> | 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; | | |
| <input type="checkbox"/> | 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; | | |
| <input type="checkbox"/> | <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><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> | |
| <input type="checkbox"/> | | Printed Name: | Date: |
| <input checked="" type="checkbox"/> | 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; | | |
| <input type="checkbox"/> | D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products; | | |

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| | <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 Procurement Services "GOVCOOP" form, found here:</i></p> <p>http://www.maine.gov/purchases/info/forms/govcoop.doc.</p> | |
| | <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;</p> | |
| | <p>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.</p> | |
| | <p>If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:</p> | |

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 DEP Bureau of Air Quality operates a statewide network of ozone analyzers and calibrators, which provides the air quality data necessary to document compliance with the federal health-based National Ambient Air Quality Standard for ozone. Each ozone site is outfitted with one analyzer, a calibrator and a data logger – collectively referred to as the site's ozone monitoring "system". As these instruments age, it becomes more and more difficult and expensive to keep them operating per federal regulatory requirements. Several of our existing Thermo ozone calibrators in the network are over ten years old, which far exceeds their normal life expectancy and are no longer supported. We are seeking to replace three of these much older Thermo ozone calibrators with a brand new Thermo ozone calibrator, because staying with the same vendor will eliminate the unavoidable costs of having to reconfigure the site's entire ozone monitoring system in order to incorporate a different make and model of an ozone calibrator.

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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.

N/A (The purchase of these ozone calibrators cannot be obtained from State Government, or other governmental entities, since it does not manufacture or sell such equipment).

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**.

The cost of a Thermo 49iQ ozone calibrator compares well with those of other vendors calibrators, based on a recent on-line comparison of equivalent features, specifications, etc. Besides the capital cost, equally important to us is the quality and level of customer support provided by the vendor when a problem with the analyzer is experienced. Thermo has a very good track record with us on that front. Any potential savings on the purchase cost of a different vendor's ozone calibrator compared to Thermo's, would very likely be offset by the additional costs mentioned above that would be incurred in needing to reconfigure a site's ozone monitoring "system" to accommodate a different make and model of an ozone calibrator into it. Our air monitoring site operators are already familiar with a Thermo calibrator's operating menus and troubleshooting procedures, so no additional training in those areas would be necessary. Plus, we already have a variety of spare parts and consumables for Thermo's calibrators, so this also represents a cost-savings opportunity. Lastly, updating of our Quality Assurance Project Plans and SOPs would be minimal compared to needing to rewrite several sections to reflect an entirely different calibrator.

5. Future Competition

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

We continue to review commercial product literature, attend trade shows, and routinely exchange technical information with peers from EPA and state other monitoring agencies. Through such efforts, we are educated and remain aware of the state of commercial air monitoring technology. We strive to operate the Maine air-monitoring network within our allocated capital and operating budgets, while providing EPA with certified, high quality ozone data.

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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.

As already described above as part of other sections of this waiver form, there are cost savings and benefits to be realized by simply replacing an old existing Thermo ozone calibrator with a brand new Thermo ozone calibrator, so that all of the existing hardware, plumbing, electrical and data signal connections do not have to be reconfigured or replaced entirely to incorporate a different type and style of ozone calibrator.

7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)

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.

**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.*



Printed Name:

Gerald D. Reid, Commissioner

Date:

1/13/20