

**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.

<b>Requesting Department's Contract Administrator:</b>	Andrea Galasyn	<b>Office/Division/Program of Contract Administrator:</b>	MEDEP, Division of Air Quality Assessment, Lab and QA Section
<b>Est. Contract Amount:</b>	\$ 14,943	<b>Contract or RQS Number:</b>	<b>06A 20200131*0895</b>
<b>Proposed Start Date:</b>	1/1/20	<b>Proposed End Date:</b>	12/31/20
<b>Vendor/Provider Name, City, State:</b>	Labworks LLC Lehi, Utah		
<b>Short Description of Good or Service:</b>	Annual Laboratory Information Management System (LIMS) "Assist" Software Support Plan Renewal		
<b>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.</b>	<p style="text-align: center;"><b>To be completed by the Division of Procurement Services</b></p> <p>Posting dates on Division of <b>Procurement Services</b> website:          From: <u>2/3/2020</u> To: <u>2/10/2020</u></p>		
<b>Notice of Intent to Waive Competitive Bidding Number:</b>	NOI# 0220200103		
<b>1. Statutory Justification</b>			
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 checked="" 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;		
<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>		<i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i>	
		<b>Signature:</b>	
		<b>Printed Name:</b>	<b>Date:</b>
<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		

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	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;
	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: <ol style="list-style-type: none"> <li>(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;</li> <li>(2) A sharing of project responsibilities and, when appropriate, costs;</li> </ol>
	<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: <a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</i>
	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:

**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 Laboratory Information Management System (LIMS) known as Labworks that is provided by Labworks LLC. This system was put into operation in 2004. It has been maintained annually to ensure that the data collected by the Air Lab is in a database format that can be easily managed for QA/QC and reporting purposes. Using the Labworks data tables Air Bureau staff are then able to routinely report the HAPs (Hazardous Air Pollutants) results, in the required formats, to the EPA Air Quality System (AQS) database. We are also in the process of converting the Metrology Laboratory to the Labworks system so that we can both store and report particulate matter data in the same way. The annual "Assist" support plan for this complex software covers upgrades, email and telephone technical support, and personal training.

### 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

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address the identified need more efficiently and effectively than the identified vendor.

The Labworks LIMS software is copyrighted property owned and maintained by Labworks LLC. The technical support service plan provided is beyond the expertise of Air Bureau staff and OIT staff will not have access to the proprietary program codes. It is also required by Labworks if we want any access to their support staffs time and resources.

**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**.

Labworks offers three levels of support. This contract will be for the Labworks "Assist" plan, the least expensive option, providing only a fundamental level of support.

**5. Future Competition**

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

Attendance at and participation in various conferences, meetings and symposia where LIMS vendors have exhibits are opportunities where DEP/BAQ staff can routinely view new software, assess how they meet or don't meet our laboratory information management needs, and obtain ideas for improvements, new features, etc. It has been generally observed that the cost of the Labworks support plan is in line with industry norms.

**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.

While other companies may offer similar Laboratory Information Management Systems, it is not in the best interest of the State of Maine and the Department to arbitrarily change such a database system. Such changes would disrupt a process that works and may jeopardize data management. Failure to maintain an annual Labworks support plan will result in the loss of access to Labworks technical support.

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**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.

The current Labworks support agreement with Labworks LLC expires 12/31/2019

**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.*

*Melanie Luzzo for Jerry Reid*

**Printed Name:**

*Melanie Luzzo*

**Date:**

*1/31/2020*