

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.

Requesting Department's Contract Administrator:	David Lemery	Office/Division/Program of Contract Administrator:	DEP/Air Quality/Air Assessment/Lab & QA (Response Building)
Est. Contract Amount:	\$ 19,561 .23	Contract or RQS Number:	06A 20200131*0896
Proposed Start Date:	2/2/20	Proposed End Date:	2/1/21
Vendor/Provider Name, City, State:	SPECTRO ANALYTICAL INSTRUMENTS, Inc. 91 McKee Dr Mahwah, NJ 07430		
Short Description of Good or Service:	Annual Service Contract for the XEPOS Spectrometer System which is used for metals analysis for various samples that the department acquires.		
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 style="text-align: center;">To be completed by the Division of Procurement Services</p> <p>Posting dates on Division of Procurement Services website: From: <u>2/13/2020</u> To: <u>2/19/2020</u></p>		
Notice of Intent to Waive Competitive Bidding Number:	NOI# 0220200127		
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>	<i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i> Signature: 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;		

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	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: (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; (2) A sharing of project responsibilities and, when appropriate, costs;
	<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: http://www.maine.gov/purchases/info/forms/govcoop.doc.</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 SPECTRO XEPOS XRF Spectrometer is a complicated lab system which needs to be verified each year by a certified technician. This full service contract covers preventative maintenance visits and all parts needed, including a detector which is over \$15,000 in itself and is specific to SPECTROS. The SPECTRO XEPOS XRF Spectrometer is manufactured, supplied and supported by SPECTRO Analytical Instruments. The parts and support for this lab system are unique and exclusively available from SPECTRO. This service is essential for air samples to be analyzed for lead and thirty other metals which gives the department crucial information concerning air quality.

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.

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It has been determined that the State of Maine cannot complete the task because the SPECTRO XEPOS XRF Spectrometer is a complicated lab system which needs a certified technician from SPECTROS to complete the job and ensure that it complies with our QA/QC program and supplies high quality data and results. High radiation is involved with the operation of this instrument and safety is of utmost importance.

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 is negotiated yearly with SPECTRO and a renewal discount has been applied.

5. Future Competition

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

The SPECTRO XEPOS XRF Spectrometer is extremely dependable and steady in its output of important data that is provided to the Department regarding metals analysis. The Department is always on the lookout for a different system which will provide the specific information, and is less costly.

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.

The SPECTRO XEPOS XRF Spectrometer is manufactured, supplied and supported by SPECTRO Analytical Instruments. The parts and support for this lab system are unique and exclusively available from SPECTRO.

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.

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Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):	<i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i>
	
Printed Name:	Gerald D. Reid, Commissioner
Date:	01/30/2020