

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:	Judith Shaw	Office/Division/Program of Contract Administrator:	Department of Professional and Financial Regulation/Office of Securities
Est. Contract Amount:	\$20,000 in fiscal year 2019 \$145,000 in fiscal year 2020	Contract or RQS Number:	20190422*3082
Proposed Start Date:	05/13/2019	Proposed End Date:	06/30/2020
Vendor/Provider Name, City, State	Edward Moran/Augusta, ME		
Short Description of Good or Service:	Analysis of complex securities transactions, exam program guidance, performance of gap analysis for agency, testify as subject matter expert as needed		
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.		To be completed by the Division of Procurement Services Posting dates on Division of <i>Procurement Services</i> website: From: <u>4/25/2019</u> To: <u>5/1/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0420190519	
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;		
<input type="checkbox"/>	D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;		
<input type="checkbox"/>	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;		
<input type="checkbox"/>	<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/qovcoop.doc.</i>		
<input type="checkbox"/>	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;		
<input type="checkbox"/>	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.		

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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.

This contract is necessary due to the turnover of the Office of Securities' entire examination division, resulting in a backlog of examinations and an inability for the office to complete examinations within its historical window of every 3 to 5 years, depending on the level of risk. Additionally, this contract is required due to the extended leave of absence of a key investigator which has resulted in a need to reassign, prioritize, and reevaluate pending investigations, especially given the limited industry knowledge and experience of the remaining investigative and examination staff.

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.

The analysis that will be performed by this individual requires understanding of complex securities transactions, knowledge of market forces, and industry experience and expertise. The level of expertise required is not currently available in the Department or, to our knowledge, in Maine State Government.

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**.

We identified a comparable state position (Public Service Executive II, Range 35), added in the value of state benefits, and compared the result to the average hourly rate for this type of expert. Typically, the pay for this level of expertise is \$200/hour; we were able to negotiate a rate of \$70/hour.

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5. Future Competition

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

None known. Few individuals have both securities industry experience and regulatory expertise.

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.

Yes, this individual has experience both as a regulator and as a securities industry professional. Additionally, he is familiar with the day to day operations of the Maine Office of Securities and thus can facilitate the critical gap analysis that needs to be done in order to determine how to organize the agency and its processes and procedures in light of resource and talent deficiencies as well as the rapid developments in the securities industry, particularly as it relates to FinTech, cryptocurrency, and blockchain advancements.

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.

Arme L. Head

Printed Name:

Date:

4/16/19