

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:	Erik R. Gundersen	Office/Division/Program of Contract Administrator:	DAFS/OMP
Est. Contract Amount:	\$ 10,000.00	Contract or RQS Number:	CT#18M 20190412*2932
Proposed Start Date:	4/9/2019	Proposed End Date:	5/1/2019
Vendor/Provider Name, City, State	BOTEK Analysis Los Angeles, California		
Short Description of Good or Service:	L.D. 1719 rulemaking consulting		
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 Procurement Services website: From: <u>04/26/2019</u> To: <u>05/02/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0420190520	
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.			
	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;		
	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>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i>	
<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>	Signature:		
	Printed Name:	Date:	
	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;		
	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;		
X	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 Office of Marijuana Policy (OMP), within the Department of Administrative and Financial Services (DAFS), has been tasked with developing rules to implement Maine's adult-use marijuana industry. Legalized adult use marijuana was passed by Maine voters in 2016. To setup a regulatory structure for adult-use marijuana sales, OMP is currently drafting rules in an expedited manner to present them to the First Regular Session of the 129th Legislature.

Because of the expeditious way OMP, in consultation with Freedman & Koski, are developing rules, it is imperative that another group of subject matter experts are brought in to ensure that OMP develops a framework that ensures the safety of Maine's communities, provides equitable treatment to Maine's small business owners and ensures legal access to consumers.

Having BOTEC serve as the second group of subject matter experts would ensure thorough rule making review, benefiting OMP, DAFS and the State of Maine.

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.

Only a handful of states have legalized adult-use marijuana and no federal framework governing the cannabis industry exists. Maine is one of the first to set up a new regulatory structure for adult-use marijuana industry. There are very few subject matter experts that have the firsthand experience that BOTEC offers.

OMP is unable to identify internal resources that could offer the expertise of BOTEC.

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**.

OMP concluded the negotiated costs for services to be reasonable considering the nature and timing of the work to be done. Costs are delivery based. Once OMP is near completion of its rules, BOTEC will have a team of subject matter experts thoroughly review the rules for potential issues, conflicts and supply suggestions. The detailed work will be done in a tight timeframe.

5. Future Competition

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

Services specific to this contract are needed only for a one-time basis.

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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.

BOTEC of one of the original bidders for RFP #201807139 - Consultant Services for Rulemaking pursuant to L.D. 1719 and L.D. 1539. Their proposal came in second and they have an impressive team of subject matter experts and experience in drafting rules similar to those required by L.D. 1719.

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:

Richard B. Thompson

Date:

4/8/2019