

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:	Nicholas Marquis	Office/Division/Program of Contract Administrator:	DAFS/OIT/RADIO SERVICES
Est. Contract Amount:	\$ 20,000.00 Increase (this amendment) \$ 50,000.00 Total	Contract or RQS Number:	CT-18B-20190130*2204
Proposed Start Date:	4/15/2019	Proposed End Date:	7/30/2019
Vendor/Provider Name, City, State	Fletcher, Heald & Hildreth, PLC 1300 North 17 th Street 11 th Floor Arlington, VA 22209		
Short Description of Good or Service:	Radiotelephone license consent per Federal Communications Commission, DA-18-1077A1. Legal aid work with State of Maine - MSCommNet Project for license compliance.		
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>5/3/2019</u> To: <u>5/9/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0520190554	
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>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:
X	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;		
	G. The procurement of goods or services involves expenditures of \$10,000 or less, and procurement from a single		

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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.

On July 22, 2016, The Office of Information Technology's (OIT) Radio Operations division was made aware that 29 critical State of Maine radio frequencies on ten licenses had not been properly maintained and had been terminated by the Federal Communication Commission (FCC).

Radio Operations, with the assistance of the Harris Corporation who engineered the MSCommNet system, requested a waiver to extend the construction deadline for the 10 licenses and associated frequencies. The FCC ruled that the State of Maine has until April 2019 to obtain Letters of Concurrence (LOC) necessary from co-channel and adjacent channel entities along with Canadian Coordination for any licenses falling above line A. The inability to complete this work by the deadline would cause the State of Maine to have to disable tower communications within the MSCommNet system placing first responders and the public at risk.

The uniqueness of this situation requires an attorney who is experienced in dealing with FCC Part 22 and Part 90 licensing issues on a regular basis and who can help negotiate with the FCC on the ruling, timelines and any modifications that may be required along with arbitrating the LOC's and Canadian coordination effort.

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 Maine Attorney General's office has authorized this agreement.

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 name of a Firm, along with resumes and a cost estimate of \$30,000 was obtained and was approved by the AG's office. Since work has been initiated, the estimated cost has increased to \$50,000. Legal aid for work with the Canadian Radio Regulatory body is not included and will be contracted for separately.

5. Future Competition

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

This contract for services is a one-time event to correct radiotelephone/pager frequency license permission issues. Once the FCC license issues are resolved, and with the radio network fully built-out, future contracts should be unnecessary.

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.

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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 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.

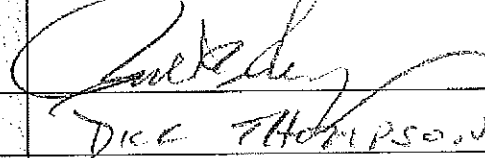
In the FCC ruling, (DA-18-1077 attached) the Commission states that the State of Maine has until April 2019 to complete this effort. The inability to meet this deadline would cause the State of Maine to have to disable tower communications within the MScCommNet system placing first responders and the public at risk. OIT needs to continue work with this legal specialist company to resolve the frequency licenses.

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:

DICK THOMPSON

Date:

4/11/19