

# State of Maine Waiver of Competitive Bidding Request Form

<b>Requesting Department's Contract Administrator:</b>	Jennifer Chisum CS-Kimbalie Lawrence	<b>Office/Division/Program of Contract Administrator:</b>	OIT on behalf of MaineDOT Project development
<b>Est. Contract Amount:</b>	Not to exceed \$75,000	<b>Contract or RQS Number:</b>	2019041100000002904
<b>Proposed Start Date:</b>	<b>3/15/2019</b>	<b>Proposed End Date:</b>	3/14/2020
<b>Vendor/Provider Name, City, State</b>	XRIVER Technologies LLC Herndon, VA		
<b>Short Description of Good or Service:</b>	software maintenance and support- <b>Amendment to corrects error in the original contract amount.</b>		
<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>		<b>To be completed by the Division of Procurement Services</b> Posting dates on Division of <i>Procurement Services</i> website: From: <u>5/14/2019</u> To: <u>5/20/2019</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0520190628	
<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 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> <b>Signature:</b>	
<input type="checkbox"/>	<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 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: <a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</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.		
<input type="checkbox"/>	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:		



# State of Maine Waiver of Competitive Bidding Request Form

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 PROJEX system was created by and has been solely supported by XRIVER for 20 years. The Department contracted in 2017-2019 for a major modernization of the software by XRIVER. One of the intents of this major effort was to move to software language and architecture that can be maintained in-house. This contract is to provide us an opportunity for knowledge transfer and emergency support during the transition as this is a critical software to the Department and the software is complex. The new in-house support team needs to be able to ask XRIVER questions in order to more quickly learn how to maintain it. And if there is a critical failure, we want the flexibility of having XRIVER with their institutional knowledge and expertise in the system provide a fast fix.

## 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.

PROJEX is a custom built MaineDOT owned system used only by MaineDOT. No other entities are familiar with the PROJEX system. In-house resources are currently gaining that expertise.

## 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 blended rate of \$165/hr. is for program manager and senior developer roles. Among similarly supported systems at MaineDOT, it is the lowest rate - our average senior developer rate among similarly supported systems is currently \$189.75. The low total cost of \$30,000/yr. for the application's support is based on the fact that they can provide the needed services quickly due to their system expertise, which saves many hours of internal OIT labor time, making it available for other IT maintenance and development work in our backlog. MaineDOT finds Xriver Tech prices to be fair and reasonable.

XRIVER charges the same rates to other government customers and provided documentation to that effect.

## 5. Future Competition

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

This contract is part of our transition to in-house support. Should we need additional resources in future, the system has now been transitioned to common applications programming tools (.NET toolset) and we will by this contract's end have sufficient understanding of the system to provide in-house support to a contracted labor augmentation hired through the State OIT's contracted labor augmentation contract which is competitively bid.

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.

## State of Maine Waiver of Competitive Bidding Request Form

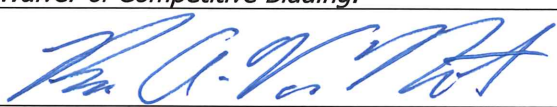
### 6. Uniqueness

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.

PROJEX was custom built and maintained by XRIVER and no others for the last 19 years although the Department's OIT started gaining application knowledge during the 2017-2019 upgrade project there are still many gaps in our knowledge. Only XRIVER's staff have deep knowledge of the application system at this point. The purpose of this contract is to provide a contractual mechanism for knowledge transfer and emergency assistance while we continue to gain understanding of the application.

### 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.

<b>Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):</b>	<i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i>
<b>Printed Name:</b>	
<b>Date:</b>	Bruce A. Van Natta 5/10/19