

# 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.

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| <b>DHHS/DCM Contract Administrator:</b>  | Chris Moiles   | <b>Office/Division/Program of Contract Administrator:</b>  | DHHS, MeCDC, HETL, DS, Sue Dowdy |
| <b>Est. Contract Amount:</b>   | \$ 9,499.92  | <b>Contract or RQS Number:</b>   | 10A 20190510*1227                |
| 014.10A.2328.04.5606   |  | <b>Purchasing Maine ID:</b>  | VC1000037602                     |
|  |  | <b>DHHS Agreement Number:</b>  | CD0-19-5425                      |
| <b>Proposed Start Date:</b>  | <b>05/09/2019</b>  | <b>Proposed End Date:</b>  | <b>05/08/2020</b>                |
| <b>Vendor/Provider Name, City, State</b>   | Life Technologies Corporation, North American Sales and Services<br>Attn: Service Contract Administration, Mailstop PLE C-1<br>5781 Van Alley Way<br>Carlsbad, CA 92008  |  |                                  |
| <b>Short Description of Good or Service:</b>   | Service Agreements for 7500 Fast DX instruments<br>S/N 275031200 in Microbiology   |  |                                  |
| <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><br>Posting dates on Division of <i>Procurement Services</i> website:<br>From: <u>05/16/19</u> To: <u>05/22/19</u> |                                  |
| <b>Notice of Intent to Waive Competitive Bidding Number:</b>   |  | NOI# 0520190654  |                                  |
| <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. |  |  |                                  |
| 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>  |                                  |
|  |  | <b>Signature:</b>  |                                  |
|  |  | <b>Printed Name:</b>   | <b>Date:</b>                     |
| <b>X</b>   | 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:<br>(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;<br>(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: <a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</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;   |  |                                  |

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|  | 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.

HETL has multiple ABI 7500 Fast DX real-time PCR thermocyclers because these are used in day to day operations to determine the absence or presence of infectious diseases within a clinical specimen. Such diseases include; Pertussis, Salmonella, STEC, Influenza, Eastern Equine Encephalitis, TB, measles, mumps, rubella, clostridium, anthrax, tularemia, varicella, and emerging infectious diseases like Zika virus and Chikungunya. This is a 1-year service agreement that is required under Federal (CLIA) Clinical Laboratory Improvement Amendments guidelines and available only through Life Technologies. Service may only be performed by Life Technologies/Applied Biosystems qualified technicians.

This equipment is supported by the Bioterrorism Preparedness and Response Program (BPRP) at the CDC and is required equipment for the participation in the Laboratory Response Network (LRN) for the detection of Bioterrorism Agents. It is the responsibility of the lab to perform these functions for the State of Maine. If these machines were not placed under service agreements and these broken down, several tests performed at HETL would be delayed or no longer offered.

**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.

HETL is the State Health and Environmental Testing Laboratory and the sole source of the state to provide such services. The instruments covered under this service/maintenance agreement is a highly advance analytical instrument. It has advanced electronic and computer components that require specific training expertise to maintain and repair. Service may only be performed by Life Technologies qualified technicians.

**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 laboratory has received a 36% discount on these systems due to its “not-for-profit laboratory” status and HETL is also a member of the Association of Public Health Laboratories (APHL). Without a service agreement, HETL may be considered out of regulatory compliance and would pay for repairs beyond cost of the service agreement.

**5. Future Competition**

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

There are no other opportunities to foster competition for these services since Life Technologies Corp is the only company capable of servicing the proprietary systems. This is a one-year service/maintenance agreement that is only available through Life Technologies who have qualified technicians due to the proprietary nature of the systems.

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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.

This is a one-year service/maintenance agreement that is only available through Life Technologies who have qualified technicians due to the proprietary nature of the systems. Services performed by a non-Life Technologies Corp technician may have an adverse effect on the system and will null and void any guarantees regarding the system.

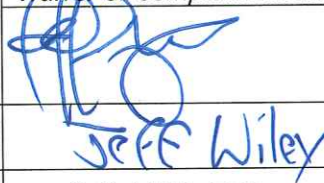
**7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)**

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.

N/A

**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:**

JEFF WILEY  
08 MAY 2019

**Date:**