

## 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.

<b>Requesting Department's Contract Administrator:</b>	Kim Esquibel, PhD, MSN, RN - Executive Director	<b>Office/Division/Program of Contract Administrator:</b>	Maine State Board of Nursing
<b>Est. Contract Amount:</b>	\$ 120,000	<b>Contract or RQS Number:</b>	02N 20190502*3433
<b>Proposed Start Date:</b>	July 1, 2019	<b>Proposed End Date:</b>	June 30, 2020
<b>Vendor/Provider Name, City, State:</b>	Maine Medical Professionals Health Program ("MPHP") Maine Medical Association P.O. Box 190 Manchester, ME 04351-0190		
<b>Short Description of Good or Service:</b>	Monitoring, screening, documentation, treatment referral and advocacy of nurses in remission from chemical dependency/substance use/behavioral health, including regular urine/blood testing and group/individual therapy.		
<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>	<p><b>To be completed by the Division of Procurement Services</b></p> <p>Posting dates on Division of <i>Procurement Services</i> website:          From: <u>5/21/2019</u> To: <u>5/27/2019</u></p>		
<b>Notice of Intent to Waive Competitive Bidding Number:</b>	NOI# 0520190693		
<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.			
<p>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;</p> <p>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;</p>			
<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")</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>

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	<i>sign and date on the right.</i>	
<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: (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:  <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;	
	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.

The program is operated within the state to assist nurses challenged with substance use, mental health, and behavioral issues. If these nurses are not treated with a supervised, individualized program of recovery, it might result in a risk to the public.

Although there are for profit and non-profit entities which operate programs for recovery from chemical, mental or physical impairment within the state, there are none designed and statutorily empowered to provide the unique program tailored to licensed nurses except that presently provided by the contractor under the terms of the statutes and protocols referred to in this contract. The protection of the public, and simultaneous regulation of the recovering nurse provided by this contractual arrangement, do not conform to statute if another entity is contracted with.

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**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.

There is no other program of this nature available to nurses in Maine, whereby they may retain their licenses and practice safely while recovering. The program also intervenes with nurses who may be becoming impaired to interrupt progression of their disease. Prior to inception of this program, nurses had to seek help out-of-state on their own or be disciplined by license sanction after their impairment was discovered.

Services provided under the contract are not available to Maine licensed nurses from any other State of Maine agency. Provisions of services rendered under this contract have no impact on state employees, civil service, or otherwise.

**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 Maine Medical Professionals Health Program is also utilized by healthcare professionals in medicine, dentistry, osteopathy, and pharmacy throughout the state. The program is funded through state licensing boards, professional associations, medical staffs, and malpractice carriers. Participant fees also account for a significant portion of the operating budget. The Board of Nursing contract is paid with 100% Dedicated Revenue from licensing fees. No General Fund Revenues are used. Each year the vendor has provided an annual report to the Board, both in writing and in a discussion forum. Costs have been discussed openly. The program has been used by the Board for many years and the Board has been satisfied with the vendor's performance.

**5. Future Competition**

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

MPHP is a program designed for healthcare (medical) professionals {physicians, nurses, pharmacists, dentists} in Maine. It would be resource intensive to try to find another vendor. MPHP is unique in its services.

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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.

Although there are for profit and non-profit entities which operate programs for recovery from chemical, mental or physical impairment within the state, there are none designed and statutorily empowered to provide the unique program tailored to licensed nurses except that presently provided by the contractor under the terms of the statutes and protocols referred to in this contract. The protection of the public, and simultaneous regulation of the recovering nurse provided by this contractual arrangement, do not conform to statute if another entity is contracted with.

**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.

Services will be for the duration of the contract (July 1, 2019 to June 30, 2020). A one year contract renewal for CT # 02N 20190502\*3433. There would be a break in monitoring and follow-up treatment of nurses in recovery, all of whom are required to undergo assessment and sign a contract. There is no contractor in the state of Maine. MPHP is operated by a small staff and many volunteer monitors. No work or cost concessions are possible.

**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:**

KIM ESQUIBEL

**Date:**

5-16-2019