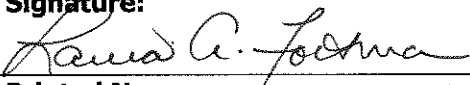


# State of Maine Waiver of Competitive Bidding Request Form (Formerly Sole Source Authorization Form)

**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>	Judith Pelletier, Program Manager Edward Upham, Director Bureau of Employment Services	<b>Office/Division/Program of Contract Administrator:</b>	Maine Department of Labor – Bureau of Employment Services
<b>Est. Contract Amount:</b>	\$1,120,000	<b>Contract or RQS Number:</b>	
<b>Proposed Start Date:</b>	July 15, 2019	<b>Proposed End Date:</b>	June 30, 2021
<b>Vendor/Provider Name, City, State</b>	Kansas Department of Commerce, America's Job Link Alliance – Technical Support (AJLA-TS)		
<b>Short Description of Good or Service:</b>	America's Job Link Alliance (AJLA) is a nonprofit association of state workforce agencies dedicated to providing powerful, affordable workforce development systems through subscriptions to a web-based management information system (MIS) capable of accommodating all federal tracking and reporting requirements. Subscription includes customizable solutions to replace current labor exchange (Maine's Job Bank), case management (One-Stop Operating System) and fiscal and data reporting.		
<b>Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Purchases' website for a period of seven consecutive calendar days.</b>		<b>To be completed by the Division of Purchases</b> Posting dates on Division of Purchases' website: From: <u>5/23/2019</u> To: <u>5/29/2019</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0520190730	
<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;		
<b>X</b>	<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> LAURA A. FORTMAN	
		<b>Date:</b> 5/20/19	
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: <ol style="list-style-type: none"> <li>(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;</li> <li>(2) A sharing of project responsibilities and, when appropriate, costs;</li> </ol>		
<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 Purchases "GOVCOOP" form, found here:</i>			

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<http://www.maine.gov/purchases/info/forms/govcoop.doc>.

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.

In September of 2015, MDOL contracted with AJLA TS and converted all legacy data from OSOS and Maine Job Bank to Maine JobLink and CertLink. Maine receives more than \$20 million from the United States Department of Labor (USDOL) to administer and implement a number of workforce development programs. USDOL requires that specific program participant data and outcomes be tracked and reported on a regular basis. Such tracking and reporting by Maine Department of Labor's (MDOL) Bureau of Employment Services (BES) takes place through Maine JobLink and CertLink. Maine JobLink is used for Labor Exchange, Case management and fiscal tracking of all WIOA, Trade, and CSSP Programs. Certlink is utilized for WOTC application processing, tracking and reporting. These systems interact with parts of the unemployment insurance system, Maine Stars (Adult Education), AWARE (Bureau of Rehabilitation Services) and Work Services Solution (Community Pro)

### Legacy Systems Becoming Obsolete

In the past, BES needed to replace or upgrade these outdated and costly management information systems. The costs in 2015 to MDOL exceeded \$650,000 a year in OIT personnel, server maintenance, server and program upgrades, and related costs. Upgrading functional features would have added additional OIT development costs that could have exceeded another \$225,000 or more, depending on project estimates.

OSOS, was the largest of the systems and developed using Progress software. OIT's "Integrated Development Environments" brick states that Progress is "in containment", meaning that no new applications should be developed in the software. OIT encouraged their customers to explore external commercial off-the-shelf (COTS) solutions to replace such current systems that are written in Progress.

### Federal Regulations and Compliance

The Workforce Investment Act (WIA) that mandated Maine's workforce development system since 1998 was reauthorized to the Workforce Innovation and Opportunities Act as of July 1, 2015. With that transition came numerous additional requirements that would have required Maine to invest significant dollars in reprogramming the MIS systems' functionality. States had to be fully transitioned to WIOA by July 1, 2016 in order to meet compliance regulations of November 1, 2016, when WIOA data must be reported to the Federal Government.

Therefore, MDOL subscribed to a Commercial off-the-Shelf (COTS)/Software as a Service (Saas), hosted, cloud-based solution that provides all-in-one labor exchange, case management, and fiscal and data reporting, and whose member consortia is directly involved in the development and direction of the solution moving forward.

Membership in AJLA reduces or eliminates compliance related costs generated by new federally-based regulations that occur during a membership year, as AJLA builds regulatory change management costs into their licensing. Any state generated compliance changes would be managed within an annual budgeted change management process for single state changes.

# State of Maine Waiver of Competitive Bidding Request Form (Formerly Sole Source Authorization Form)

### 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.

MDOL has subscribed to the Hosted Solution through AJLA. AJLA-TS can leverage existing skill sets, which help subscribers reduce cost, risk, and installation time by hosting their entire technical operation. The Kansas Department of Commerce, of which AJLA-TS is a division, provides administrative oversight to the consortium and ensures that activities are consistent with laws and policies of the state of Kansas. The National Association of State Workforce Agencies (NASWA) provides fiscal oversight to AJLA and serves as the fiscal administrator for subscriptions.

This level of collaboration among State Workforce Agencies that comprise the consortium, combined with its focus on peer-to-peer expertise on federal regulations and compliance, make AJLA a solution uniquely positioned to serve the needs of MDOL BES.

#### Internal IT resources not sufficient:

OIT did not retain sufficient resources to completely redesign the MDOL BES related systems with the required functionality. They would have had to seek qualified contractors to research and design functional upgrades, which could cause a delay in project startup. Design and construction of a similarly functioning product based on the current systems could easily have cost significantly more and exceeded our regulatory compliance time frame. It was more logical to select a proven, open source product hosted in the cloud for a licensing fee rather than continue to pay hosting costs for old systems while incurring developmental design and construction costs for a new internal application.

### 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**.

#### Cost Assessment

In 2011, MDOL put out a request for proposals seeking a new WIA Case Management System to replace OSOS. The response included potential vendors who provided oral presentations and hands-on evaluation, with scoring based on cost, ability to meet the needs of the system, and ability to perform the work. Six of the vendors moved on to the scoring stage, with ultimately two vendors moving to the final round. Of these two vendors – Geographic Solutions and Empyra – the initial costs for OSOS replacement alone exceeded \$4 million to \$2 million, respectively, and did not include products to replace the Maine Job Bank and/or for fiscal reporting—all of which are key components included in the AJLA subscription. The project ended up being terminated due to the selected vendor not meeting development milestones.

In 2015, MDOL engaged OIT's Project Management Office (PMO) to facilitate business requirements gathering sessions and product demonstrations that would gauge the needs of BES for any type of MIS system. At the end of the business requirements and demonstrations, a recap meeting was held with MDOL and PMO to gather notes, comments, and opinions about the AJLA system, its costs, and required OIT engagement.

AJLA and OIT developed a high-level time and cost assessment based on the interfaces, data extracts, and custom coding needed to "standup" AJLA for MDOL (i.e. importing vendor information, client data, charge codes, and various other list driven data).

#### Subscription to Hosted Solution

Subscription rates for AJLA's web-based labor exchange, case management system, and data reporting tools are the

# State of Maine Waiver of Competitive Bidding Request Form (Formerly Sole Source Authorization Form)

same per-state, no matter the size or number of clients served.

All work by AJLA needed to import data that was required for standing up the MIS was part of the implementation process and was included in the implementation fee of \$150,000. One-time implementation costs had also included 200 hours of Maine-specific customization. Any work that required a discrete code change inside the AJLA system itself was deducted from the 200 hour pool for development, which was part of the initial fee.

## Ongoing Design, Development and Enhancements

As a subscriber, Maine is a part of a multistate consortium of State Workforce Agencies that has a voice in the continued design, development and enhancement of the solution. The consortium consists of 10 states, including Arizona, Arkansas, Delaware, Idaho, Illinois, Kansas, Kentucky, Oklahoma and Vermont. These states use at least one of the AJL products – case management, labor exchange, fiscal reporting or data reporting – or a combination of all as a package, to which Maine subscribes. This Steering Committee utilizes best practices, frequent peer-to-peer communication, and feedback based on user experience to recommend software enhancements. Whether mandated by program regulations or recommended by the Steering Committee, such enhancements that benefit member states of the Consortium are included in the subscription costs. Unique, locally driven regulatory change enhancements are charged back to the state at a reasonable development cost per hour by AJLA technical support. Such enhancements in our past legacy systems typically required significant OIT resources and incurred additional costs.

## Current Costs vs. Subscription Costs

MDOL paid \$650,000 to OIT to maintain the legacy systems in Fiscal Year 2015. Several needed upgrades to these systems did not move forward. In 2014, a previous effort to replace these systems ended when the selected vendor was unable to deliver acceptable systems which forced BES to continue to pay for current system upgrades – which are estimated at an additional \$225,000 – support, and hosting beyond originally budgeted plans.

There are no hidden costs in the AJLA Hosted Solution. After implementation of AJLA to Maine, the renewed annual subscription rate is \$540,000 per year. AJLA provides enhancements, US DOL-mandated changes, problem resolutions, system analysis and resolution, ad-hoc reports, and upgrade installs as part of the annual subscription. The Hosted Solution also includes replacement of depreciated equipment and annual software license fees for third party software. Unique, state-driven regulatory change enhancements are charged a reasonable development cost of \$100 per hour by AJLA technical support. This agreement includes 40 hrs of customization for future enhancements.

Additionally, as WIOA is a federally mandated set of changes to functionality, subscription costs include all required system changes.

## 5. Future Competition

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

MDOL does not intend to seek future competition due to the benefits the consortium provides (as stated in section 4), however we will re-evaluate other program options every two years should the need or other opportunities present themselves.

**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.

## State of Maine Waiver of Competitive Bidding Request Form (Formerly Sole Source Authorization Form)

Training and Employment Notice 7-11 from the US DOL, Employment and Training Administration (ETA), encourages state partnerships and consortia to support the workforce investment system. Specifically, the TEN states, "The Department encourages ETA grantees and the public workforce investment system to establish state partnerships and consortia to leverage Federal funds to solve problems and provide technical solutions for needs common to member states." The TEN also mentions AJLA as an example of such a state partnership or consortia.

What is now known as the non-profit AJLA was initially developed with US DOL funds by the Kansas Department of Commerce. AJLA is considered to be in the public domain, therefore making the software free, with costs associated with implementation, hosting and a subscription that pays for ongoing maintenance, enhancements, and any system changes needed to respond to federal law, regulation, and reporting changes. Once other State Workforce Agencies began requesting similar systems, AJLA expanded availability to other states through a consortium model. The states that utilize the product fully share in the cost for new development and ongoing maintenance.

In our research, there is no entity that offers a cloud-based subscription model to an all-in-one MIS for labor exchange (MJB), case management (OSOS), WOTC and data and fiscal reporting, that is also supported by a consortium of state workforce agencies, other than AJLA.

### 7. Timeframe

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.

A timeliness emergency existed in this original purchase for three key reasons:

- During business requirements gathering sessions with OIT, it was determined that implementing AJL would take at least 10 months and possibly up to as many as 18 months.
- MDOL was required to have fully transitioned to WIOA by July 1, 2016 in order to be able to report WIOA data to the Federal Government by November 2016.
- The MJB and OSOS systems required costly upgrades to Progress software to continue to function.

The implementation timeline was based on two primary elements:

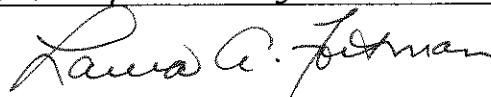
- AJLA's experience suggests that a normal implementation would take approximately 12 months  
*AJLA uses a number of point-to-point web services as means to convey data back and forth between systems vs. utilizing older methods – such as flat file transfers via FTP.*
- OIT has limited internal technical resources with experience to develop the interfaces needed to connect MDOL's other systems, such as UI, with any web based solution. *OIT will hire contractor technicians and/or train internal resources to fill this resource gap. This will add to time to the implementation due to developing skills sets, and testing of code for the new interfaces.*

For these reasons – costs of updating software deemed "in containment" by OIT; project length for implementation; and timeliness to meet federal mandates under the new WIOA – beginning the implementation of AJLA by September 1, 2015 was vital to meeting these requirements.

Therefore, the renewal of this contract to continue the use of Maine JobLink and CertLink in Maine is instrumental in providing daily services to our customers, meeting federal/state reporting/program mandates, and fiscal tracking of projections/expenditures.

**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.*



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<b>Printed Name:</b>	Laura A. Fortman
<b>Date:</b>	5/20/19