

State of Maine Waiver of Competitive Bidding Request Form

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| DHHS/DCM Contract Administrator: | Nancy Tan/ Ryan Roberts | Office/Division/Program of Contract Administrator: | DHHS/SAMHS/Residential Treatment/ Kathy Lavallee |
| Est. Contract Amount: | Amend \$27,200.00 New Total \$36,146.00 | Contract or RQS Number: | CT-10A-20190206*2255 |
| | | Purchasing Maine ID: | |
| | | DHHS Agreement Number: | MH1-19-203A |
| Proposed Start Date: | 3/5/19 | Proposed End Date: | 11/30/2019 |
| Vendor/Provider Name, City, State | Maine Behavioral HealthCare South Portland, ME | | |
| Short Description of Good or Service: | Other Residential Services and Supports | | |
| 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. | | <i>To be completed by the Division of Procurement Services</i> Posting dates on Division of <i>Procurement Services</i> website: From: <u>6/4/2019</u> To: <u>6/10/2019</u> | |
| Notice of Intent to Waive Competitive Bidding Number: | | NOI# 0620190828 | |
| 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. | | | |
| <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> Signature: | |
| <input type="checkbox"/> | | Printed Name: | Date: |
| <input 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: http://www.maine.gov/purchases/info/forms/govcoop.doc.</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 checked="" type="checkbox"/> | If a different authorization specifically allows for this non-competitive procurement, please provide that reference here: | Any Willing and Qualified | |

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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.

Paragraph 93 of the Bates Consent Decree states that DHHS "shall fund, develop, recruit and support a variety of housing options, which can accommodate varying levels of supportive assistance to clients, according to client need. Some class members will live independently". The Decree also states that "others will need to live out of home in more restrictive environments which are fully staff supported". Finally, paragraph 32 of the Decree states that "Non-Class Members shall not be deprived services solely upon the basis they are not members of the plaintiff's class".

According to the Court Master's findings of October 29, 2008, "Pursuant to paragraph 295 of the Settlement Agreement, I recommend that the Department reinstate service eligibility in accordance with their plan of October 13, 2006 and resume state funding, seeking any necessary appropriations to provide mental health services included in the State's Medicaid Plan (i.e. community integration, ACT, daily living support, skills development, outpatient services, medication management and residential treatment) for all persons who are clinically eligible, even though they may be financially ineligible for MaineCare."

The purpose of this amendment is to extend the end date to November 30, 2019 and to add funding.

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 Department does not have the resources or expertise to provide this service.

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 cost was determined by the amount of Other Residential Supports needed to maintain this individual in the community.

5. Future Competition

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

These services are being delivered by a "willing and qualified" provider who is licensed with the Division of Licensing and Regulatory Services and has a contract with SAMHS.

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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.

DHHS, the Office of Substance Abuse and Mental Health Services has determined that this provider is willing and qualified to provide this service because they are licensed with the Division of Licensing and Regulatory Services, employs qualified licensed practitioners and is a provider of this service under MaineCare.

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:

Jim Lopatosh
6-May-19

Date: