

**State of Maine
Waiver of Competitive Bidding Request Form**

	<i>Governor's "designee") sign and date on the right.</i>	
X	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: http://www.maine.gov/purchases/info/forms/govcoop.doc.</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.

Title I of the Federal Elementary and Secondary Education Act (ESEA) requires local educational agencies (LEAs) to provide an annual assessment of English proficiency for all students with limited English proficiency in schools served by the State educational agency (SEA).

Since 2003 Maine has been a WIDA consortium member and used the ACCESS for ELLs® to meet the federal requirements under Title I of the Federal Elementary and Secondary Education Act. Maine DOE as a WIDA Consortium Member approves and/or purchases the Core Package of WIDA Consortium educational services to satisfy the state and local educational agencies requirements of Title I and Title III of ESEA to build and enhance Maine DOE's capacity to assist English learners obtain academic standards and English proficiency, and determine annual growth towards and attainment of English language proficiency to meet accountability requirements.

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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.

Developing and administering a statewide large-scale assessment program far exceeds the capacity of the Maine Department of Education, or that of governmental resources external to the department. This work requires, and has always utilized, the services of a team of specialists at a major testing company. The Department would need to hire a team to meet this need.

The Maine DOE is the only agency in state government with staff who have expertise in the areas of English language acquisition and assessment of English language proficiency.

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**.

There are limited contractors who produce English language proficiency assessments but none that are aligned to Maine's English language development standards, correspond to Maine's academic standards or provide the professional development and training. Maine evaluated the cost and benefit of joining the consortium in 2002 and reevaluated when WIDA MOU and membership when exploring computer-based English language proficiency assessment.

5. Future Competition

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

Maine has entered into a MOU with the next generation of English language proficiency assessment with the WIDA consortium for the 2015-2016 and through 2019 testing years. This amendment would now include testing year 2020. Maine is a member of the WIDA consortium that includes more than 35 states. There are no other options if Maine DOE is to have an English language proficiency test that is aligned to the state's English language development standards and corresponds with the state's academic standards as an evaluation measure for meeting annual state and local Title I and III requirements. Maine will follow the development of any new English language assessment(s) if and when that occurs,

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.

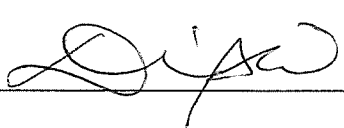
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Maine has used ACCESS for ELLs, and then ACCESS for ELLs 2.0 since 2003 to determine its annual measurable achievement objectives. Maine signed a Memorandum of Understanding to design and develop the next generation of ACCESS for ELLs to be created as a computer based assessment, as of 2018 ACCESS for ELLs. Changing to another assessment would mean additional cost to have an outside contractor perform an independent, alignment student and crosswalk study.

Title I and Title III of the Federal Elementary and Secondary Education Act require educational agencies to evaluate and report the annual progress made by English proficient children; and requires State Education Authorities (SEAs) to develop annual measurable achievement objectives for English learners that relate to the student's development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards. Maine receives the educational services offered under the name WIDA Consortium to WIDA Consortium Members, namely: technical assistance and professional development associated with implementing the WIDA *English Language Proficiency Standards for English Language Learners in Pre-Kindergarten through Grade 12*; the printing, distributing, scoring, and reporting of the ACCESS for ELLs English test; and technical assistance and professional development associated with administering and interpreting the ACCESS for ELLs.

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):	<i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i>
Printed Name:	
Date:	Daniel Chuhta, Deputy Commissioner 5/31/19