

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.

DHHS/DCM Contract Administrator:	Chris Moiles	Office/Division/Program of Contract Administrator:	DHHS, MeCDC, DS, HETL, Sue Dowdy
Est. Contract Amount:	\$30,000 / 3-years	Contract or RQS Number:	20190621*1365
Funding: 014.10A.2310.04.5606; 14.10A.2320.04.5606		Purchasing Maine ID:	
		DHHS Agreement Number:	CD0-19-5419
Proposed Start Date:	06/01/2019	Proposed End Date:	05/30/2022
Vendor/Provider Name, City, State	Environmental Resource Associates (ERA) Dept CH 19753 Palatine, IL 60055-9753		
Short Description of Good or Service:	The Health and Environmental Testing Laboratory (HETL) is requesting a 3-year master agreement with ERA to provides proficiency testing and reference samples to environmental laboratories.		
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.		To be completed by the Division of Procurement Services Posting dates on Division of Procurement Services website: From: <u>6/26/2019</u> To: <u>7/2/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0620191082	
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;		
	<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:	
		Printed Name:	Date:
<input checked="" 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;		
	<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>		

State of Maine Waiver of Competitive Bidding Request Form

	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.

HETL must be certified by the Maine Laboratory Certification Program, and EPA, to test public and private water supplies and environmental waters in the State of Maine. Tests are conducted for specific contaminants listed in HETL's certification "fields of testing" (FOT) that may be harmful to humans, animals, and/or the environment. To maintain this required certification, HETL must analyze and pass annual proficiency samples for each analyte (contaminate) listed in their FOT by October 31st of that year. ERA is an approved vendor that can provide HETL with the necessary proficiency samples to keep their certification active. ERA also provides a rapid "turn-a-round" of test results, with-in two-days after a study closes. This allows more time to retest analytes that may be missed in a study.

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.

Only the vendors on the approved proficiency testing (PT) providers list, of which ERA is one, can provide proficiency testing materials to an environmental laboratory. ERA provides the fastest turn-a-round for study results.

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 of materials provided by vendor is similar to other approved PT providers, but this vendor offers a 10% discount to HETL. The total estimated cost for the 3-year duration of the Master Agreement is based on purchasing history with this vendor and anticipated need.

5. Future Competition

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

At present, other approved PT providers do not provide the same service to HETL, that ERA does.

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 vendor has thousands of possible samples, standards and reference materials available.

ERA (Environmental Resource Associates) is an approved vendor under the Certification Officer's list from the State of Maine and EPA as a "Certified TNI/EPA Approved Vendor". HETL purchases their proficiency samples and standards from this vendor because they are the only vendor that can provide results two days, after a study closes, whereas other vendors could take weeks or even longer to provide results. Also, if for some reason a proficiency is missed, ERA will send out a QR proficiency sample overnight/two-day S/H to enable the lab to make it up quickly.

State of Maine Waiver of Competitive Bidding Request Form

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

Date:

17 MAY 2019