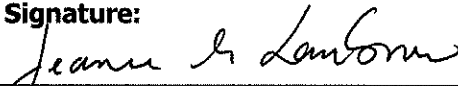


State of Maine Waiver of Competitive Bidding Request Form

| | | | |
|--|--|---|--|
| DHHS/DCM Contract Administrator: | Nancy Tan | Office/Division/Program of Contract Administrator: | DHHS - MaineCare Services; Office of Aging & Disability Services |
| Est. Contract Amount: | \$ 761,064 | Contract or RQS Number: | |
| | | Purchasing Maine ID: | |
| | | DHHS Agreement Number: | ADS-19-9712 |
| Proposed Start Date: | June 1, 2019 | Proposed End Date: | June 30, 2022 |
| Vendor/Provider Name, City, State | Economic Systems, Inc. (EconSys.com) Falls Church, VA | | |
| Short Description of Good or Service: | Comprehensive Consulting and Implementation Services for Home and Community Based Services (HCBS) Settings Rule Changes for MaineCare Waiver Programs, MaineCare Benefits Manual, Chapter II, Section 18, 19, 20, 21, and 29. | | |
| 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 <i>Procurement Services</i> website: From: <u>6/28/2019</u> To: <u>7/4/2019</u> | |
| Notice of Intent to Waive Competitive Bidding Number: | | NOI# 0620191119 | |
| 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 checked="" 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 checked="" 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> | By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement. Signature:  | Printed Name: JEANNE R. LAMBREW |
| | | | Date: 5-22-19 |
| <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; | | |
| | <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 type="checkbox"/> | If a different authorization specifically allows for this non-competitive procurement, please provide that reference here: | | |

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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.

Through the Office of MaineCare Services and the Office of Aging and Disability Services, Maine's Department of Health and Human Services currently has five key Home and Community Based Services waiver programs in place, established under Section 1915c of the Social Security Act. These programs are under the oversight of the federal Centers for Medicare and Medicaid Services (CMS), and their purpose is to meet the needs of people who prefer to receive long-term services and supports in their home or community, rather than in an institutional setting. These five waiver programs -- Sections 18, 19, 20, 21, and 29 of the MaineCare Benefits Manual ([CMR 10-144, Chapter 101](#)) -- serve adults with intellectual disabilities, physical disabilities, brain injuries, or other related conditions.

The federal Home and Community Based Services (HCBS) final rule, adopted in January 2014 by CMS, requires states that utilize 1915 waiver programs to ensure alignment and compliance with the requirements listed below:

1. Settings are integrated into and support full access to the greater community; including access to competitive, integrated employment;
2. Settings are selected by the individual from among setting options;
3. Settings ensure individual rights of privacy, dignity and respect, freedom from coercion and restraint; optimizing autonomy and independence in making life choices; and
4. Settings facilitate choice regarding services and who provides them.

Maine must assess the current waiver services and all program service locations (i.e. "Settings"), make any required changes, and ensure full compliance with the HCBS rule by a deadline of March 17, 2022. **Failure to do so will jeopardize the federal matching funds for the five 1915c waivers, and the State will be unable to continue these critical programs.**

A significant amount of work, is necessary to achieve full compliance by the deadline. Utilizing the services of Economic Systems, Inc. (EconSys) – an organization with extensive and proven HCBS subject matter expertise – is proposed to achieve this goal.

The purpose of this contract is to be in compliance with the HCBS final rule. The comprehensive, time sensitive work that is necessary includes:

1. Development of a work plan;
2. Creation of an executive oversight group (Commissioner, OADS, OMS);
3. Redrafting of the STP, including the systemic analysis of all five 1915c waiver programs;
4. A public comment process to receive and consider feedback; and
5. Changes to the STP, leading to submission and initial approval by CMS.

Finally, the State must develop a quality assurance monitoring process to ensure all settings in the five waiver programs remain in compliance and all future settings meet compliance standards prior to approval.

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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.

Staffing and expertise related to these services currently do not exist within the Department.

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 Department has determined that the cost proposed by EconSys is fair and reasonable. This determination was reached based upon comparison with other, similar consulting contracts that were previously approved and determined to be fair and reasonable. Those rates are shown in a comparative table below. Additionally, the Department successfully negotiated with EconSys a reduction to their initial cost proposal by approximately \$100,000 without sacrificing performance or timeline requirements.

| | Project Director | Developers | Research Analyst | Admin Support | Lead SME | Other SMEs |
|------------------|------------------|------------|------------------|---------------|----------|------------|
| Initial Rates | \$190.00 | \$175.00 | \$105.00 | \$60.00 | \$195.00 | \$165.00 |
| Negotiated Rates | \$190.00 | \$150.00 | \$100.00 | \$45.00 | \$190.00 | \$164.00 |

5. Future Competition

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

The Department does not intend to RFP this one time service.

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.

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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.

The Provider has the technical ability and expertise to provide comprehensive services to the State to meet the obligations under the HCBS rule. The Provider's subject matter expert will be leading the Maine team to provide the necessary services to the State and coordinate the work.

The Provider's subject matter expert has previous experience in Maine, Alabama, Michigan, Tennessee, and Wisconsin on HCBS final settings rule compliance and Medicaid waiver changes. CMS and the Administration for Community Living (ACL) contracted with subject matter experts working with EconSys to provide technical education and information for all states on implementation of the HCBS rule. Furthermore, EconSys has prior experience in Maine, with DHHS on an Office of Aging and Disability Employment Policy Technical Grant (2013-2016) coordinating a comprehensive workplan and documentation portal for the three-year project which included assistance to analyze the 2015 STP in relationship to State statutes and policies, and development of provider self-assessments for the HCBS rule implementation. EconSys' data collection experience spans over 25 years. EconSys has developed data collection tools, both web-based and Microsoft Excel-based, to collect programmatic data.

The unique qualifications, experience and expertise in the HCBS final rule and the previous experience with Maine make EconSys the preferred vendor to enable the State to achieve full compliance with the Community Based Services (HCBS) final rule by March 17, 2022.

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.

As noted in Section 2 above, in accordance with Centers for Medicare and Medicaid Services (CMS) requirements, Maine must ensure full compliance with the HCBS rule by March 17, 2022. Although this may seem like an extended period, there is a *significant* amount of work necessary to achieve full compliance. The timeline below provides a step-by-step view of the Department's anticipated requirements of EconSys, to achieve compliance with the HCBS rule.

1. OADS/OMS Executive Oversight Team

- First meeting upon contract start, monthly or bi-monthly meetings thereafter

2. Creation of Comprehensive Work Plan

- Presented to Executive Oversight Team in mid-June, 2019

3. Development of OADS/OMS Stakeholder Advisory Committee

- First meeting held mid-June, 2019

4. Education for Successful Stakeholder Engagement

- Plan/strategy by mid-June, 2019 and reviewed/tentatively approved by Stakeholder Advisory Committee

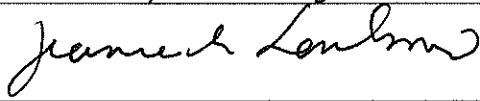
5. Systemic Assessment

6. Plan and Timeline for Ensuring Compliance of All Existing HCBS Settings by March 17, 2022

7. Initial Statewide Transition Plan

- Drafting September 2019; public comment phase; submission to CMS by January 1, 2020

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|---|--|
| 8a. HCBS Setting Assessments: Provider Setting-Specific Self-Assessments | |
| 8b. HCBS Setting Assessments: Setting-Specific Validation Assessments | |
| 9. HCBS Setting-Specific Transition-to-Compliance Plans | |
| 10. Final Statewide Transition Plan | <ul style="list-style-type: none"> • Drafting January-February 2021; public comment phase; submission to CMS by June 1, 2021 |
| 11. Quarterly-Bi-Monthly Monitoring | |
| 12. Heightened Scrutiny Process Developed and Implemented | <ul style="list-style-type: none"> • Defined with timelines identified for existing HCBS settings that are unable or unwilling to remediate setting characteristics by September 1, 2020 • For those settings, the state must prepare a Heightened Scrutiny packet to submit to CMS for final decision; public comment phase; packet submission to CMS by October 31, 2020 |
| 13. Development of a Quality Monitoring Process for Ongoing Compliance | <ul style="list-style-type: none"> • Develop and provide training on reports that will be utilized to monitor ongoing compliance with the HCBS Setting rule; from CMS approval through March 17, 2022 and beyond |
| Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office): | <p><i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i></p>  |
| Printed Name: | J. N. LAMBERTON |
| Date: | 5-22-19 |