

## 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>	William N. Lund, Superintendent	<b>Office/Division/Program of Contract Administrator:</b>	Bureau of Consumer Credit Protection
<b>Contract Amount:</b>	\$45,000.00	<b>Contract Number:</b>	20190513*3378
<b>Contract Start Date:</b>	<b>7/01/2019</b>	<b>Contract End Date:</b>	06/30/2020
<b>Vendor/Provider Name, Address, &amp; Email:</b>	Penquis C.A.P., 262 Harlow Street, P.O. Box 1162, Bangor ME 04402	<b>Vendor (VC) Number:</b>	VC1000072290
<b>Short Description of Good or Service:</b>	Foreclosure prevention consumer counseling services		
<b>Please note, for transparency purposes, Waivers of Competitive Bidding are 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>6/28/2019</u> To: <u>7/4/2019</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0620191125	
<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;		
	<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>	<b>Date:</b>
	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 Purchases "GOVCOOP" form, found here: <a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</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.		
<b>X</b>	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:	The department will work with all willing and qualified providers for this service.	

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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.

Thousands of Maine homeowners have fallen behind on their mortgage payments or are facing foreclosure. Foreclosure prevention counselors are trained to use their best efforts to assist homeowners to stay in their homes if they prefer to continue to reside there and to developing a budget to stabilize finances going forward; to address underlying issues such as unemployment and household debt; to identify community resources for assistance; to develop a loan workout plan or refinancing an unfavorable existing loan when options are available; or to plan a transition to stable housing, when homeowners do not wish to, or cannot, remain in their home.

## **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.

On June 15, 2009 Legislature passed LD 1418; Public Law Chapter 402; An Act to Preserve Home Ownership and Stabilize the Economy by Preventing Unnecessary Foreclosures, mandating that the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, in consultation with the Maine State Housing Authority, coordinate an outreach program to help families with their housing needs and expand the outreach program statewide. The bureau was directed to use a portion of the funds received pursuant to the new law for contracts with nonprofit organizations that provide housing counseling services and mortgage assistance.

## **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**.

Our bureau, when the program was being established surveyed all eight non-profit housing agencies in this State that were HUD-certified, and the costs independently quoted to our bureau to provide an additional counselor devoted to referrals from the state were at or above \$45,000. All of the willing and qualified providers perform this service for an annual fee of \$45,000. The department established this rate to be consistent among all providers. This price represents a good value for the foreclosure fund and for Maine homeowners, and the bureau will closely monitor costs and results so as to ensure a favorable cost/benefit ratio.

## **5. Future Competition**

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

Each of these non-profit agencies went through a financial analysis, at our direction, to provide the exact costs of taking on an additional counselor, including salary, overhead, training (which is extensive) and related costs. Therefore, we believe the quote provided is competitive and reasonable. In addition, our bureau's strict reporting requirement ensures that all agencies, including Penquis C. A. P., perform up to the expectations and requirements of the contract. The Bureau has no objection to engaging alternate HUD-certified housing counselors in the future if the alternates can provide equal service at lower cost.

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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.

Penquis C. A. P., has trained counselors on staff to assist Maine consumers with high quality, free assistance responsive to the immediate needs of individual low-income clients and to address the long-range barriers to financial stability affecting low-income people in Maine. These counselors are familiar with Maine foreclosure laws and credit counseling. Their counselors' knowledge of foreclosure issues is extremely beneficial to the foreclosure prevention outreach program.

### 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.

The need for trained, experienced housing counselors is critical and immediate. This provider has been providing these services in an exemplarily manner for 8 years and the bureau has confidence in the provider. If a new provider was brought on board it takes a long period to evaluate the quality and effectiveness of the services provided. To delay this contract would be to put in jeopardy the home ownerships of those consumers. Foreclosure is a complicated legal process, and Penquis C. A. P., is a non-profit housing agency that is experienced in assisting Maine consumers with difficult home ownership challenges.

**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.*

*Anne L. Nead*

**Printed Name:**

**Date:**

*6/4/19*