

# 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.

<b>DHHS/DCM Contract Administrator:</b>	Chris Moiles	<b>Office/Division/Program of Contract Administrator:</b>	DHHS, MeCDC, DS, HETL, Sue Dowdy
<b>Est. Contract Amount:</b>	\$ 9,708.60	<b>Contract or RQS Number:</b>	RQS 10A 20190510*1226
<b>014.10A.2327.04.4742</b>		<b>Purchasing Maine ID:</b>	VC1000072345
		<b>DHHS Agreement Number:</b>	CD0-20-54SA12
<b>Proposed Start Date:</b>	<b>7/7/2019</b>	<b>Proposed End Date:</b>	<b>7/6/2020</b>
<b>Vendor/Provider Name, City, State</b>	PerkinElmer Health Sciences, Inc. 710 Bridgeport Ave Shelton, CT 06484-4794		
<b>Short Description of Good or Service:</b>	This request is for a Maintenance Agreement for Clarius 590 Turbomatrix GC Headspace analyzer to determine blood alcohol content in suspected OUI defendants.		
<b>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.</b>		<b>To be completed by the Division of Procurement Services</b> Posting dates on Division of <i>Procurement Services</i> website: From: <u>07/03/19</u> To: <u>07/09/19</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0720191150	
<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>
<b>X</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 Procurement Services "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;		

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	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.

- a. This maintenance agreement is for the Gas Chromatograph headspace instruments used to determine the presence of alcohol and/or other drugs in persons suspected of OUI. This maintenance agreement ensures the instrument is in working order and provides immediate service, should the instrument not be in proper working order.
- b. The laboratory determined this service to be critical due to the nature of the work and the statutory (RS 29-A and MRS 17-A), and accreditation requirements (ASCLD/LAB) that quality systems and analytical instrumentation used in the analysis of forensic samples meet the standards established by ASCLD/LAB

**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 instruments covered under this maintenance agreement are highly advanced analytical instruments. They have advanced electronic and computer components that require specific training and experience to maintain and repair. The staff of the HETL are analytical chemists and not trained as application chemists that would be necessary to service the system's product, applications and software.

**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 no other available vendors qualified to service PerkinElmer instruments.

The company will come up and do preventive maintenance (PM) annually, recalibration of the instrument and supply parts that need replaced through wear and any software updates. They will certainly be here at least twice a year.

**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 service at this time. It is imperative the maintenance of instruments used in the laboratory to acquire data be conducted by a representative familiar with the system product, applications and software. Currently the Blood alcohol headspace instrument used in the HETL are PerkinElmer systems and therefore need to be serviced by qualified PerkinElmer representatives.

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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.

The unique method of analysis offered by PerkinElmer Health Sciences' Headspace analyzer (i.e., the pressure balanced approach to headspace sampling) is similarly priced based on discussions with other vendors, including the manufacturer of our current headspace system (Agilent). The benefits of the Pressure balanced method of headspace sampling eliminates 'carryover' at concentrations up to 0.60 g/dl. Current system at HETL used a 'sample loop' and carryover is evident at concentrations as low as 0.30 g/dl, and quite evident at higher concentrations. PerkinElmer Health Sciences is the only vendor using Pressure balanced headspace sampling.

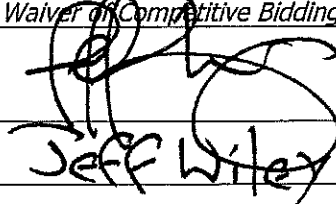
**7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)**

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:**

20 JUN 2019