

# 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>Requesting Department's Contract Administrator:</b>	Mary Adley	<b>Office/Division/Program of Contract Administrator:</b>	<b>Department of Education Special Services</b>
<b>Est. Contract Amount:</b>	Amend Amt \$21,508.00	<b>Contract or RQS Number:</b>	20180523*3712
<b>Proposed Start Date:</b>	<b>07/01/2018</b>	<b>Proposed End Date:</b>	06/30/2019
<b>Vendor/Provider Name, City, State</b>	<b>Maine Behavioral Healthcare 236 Gannett Drive South Portland, ME 04106</b>		
<b>Short Description of Good or Service:</b>	<b>Provide special education services to children with disabilities who are State Agency Clients</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>To be completed by the Division of Procurement Services</b> Posting dates on Division of <i>Procurement Services</i> website: From: <u>07/24/2019</u> To: <u>07/30/2019</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0720191263	
<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.			
<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>	
		<b>Signature:</b>	
		<b>Printed Name:</b>	<b>Date:</b>
<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: <a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</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		

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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. **Maine Behavioral Healthcare operates a special purpose private school that serves children with disabilities who are not successful in public schools. Students are placed here after multiple failed placements in the public school system, therefore they require a therapeutic environment.**
- b. **IDEA, CFR, §1400 (d) (1) – (4); MRSA 20-A §7001 (2a), (6) both statutes provide that children identified as receiving special education services are entitled to a free and appropriate education. MRSA 20-A §15689-A 1. A.B.C.D. determines that the special educations costs for State Agency Clients must be paid by the department in the allocation year at 100% of the actual costs.**
- c. **Increase is due to additional student enrollments throughout the year.**

**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 Maine Department of Education does not provide direct services to children with disabilities.**

**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 DOE has a yearly approval process and rate setting process for each special purpose private school in the State of Maine.**

**5. Future Competition**

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

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Students are placed at Maine Behavioral Healthcare by their IEP team. The DOE does not make decisions as to where the students receive their educational services. Therefore, this procurement does not lend itself to the use of a formal competitive process.

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.

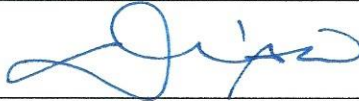
Maine Behavioral Healthcare operates a special purpose private school that specializes in supporting children with learning disabilities in their special educational program.

## 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):

By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.



Printed Name:

Daniel A. Clarke

Date:

15 Jul 2019