

## 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>	Anna Ryerson, Director	<b>Office/Division/Program of Contract Administrator:</b>	Bureau of Human Resources, Office of Workers' Compensation
<b>Est. Contract Amount:</b>	Original \$ 800,000.00 Add'l: \$ 200,000.00 Total: \$1,000,000.00	<b>Contract or RQS Number:</b>	CT20170130*2259
<b>Proposed Start Date:</b>	Amendment 1/1/2019	<b>Proposed End Date:</b>	12/31/2019
<b>Vendor/Provider Name, City, State:</b>		Norman, Hanson & DeTroy Two Canal Plaza PO Box 4600 Portland, ME 04112-4600	
<b>Short Description of Good or Service:</b>		Legal Services for Self-Insured Workers' Compensation Program	
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.		<p style="text-align: center;"><b>To be completed by the Division of Procurement Services</b></p> Posting dates on Division of <b>Procurement Services</b> website: From: <u>08/12/2019</u> To: <u>08/18/2019</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0820191351	
<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")</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>

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	<i>sign and date on the right.</i>	
<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;	
	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:	
<b>Please note that the following four points below (#2 through 5) <u>all</u> require a response.</b>		
<b>2. Description of Specific Need</b> 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.		
The Bureau of Human Resources, Office of Workers' Compensation currently has a contract with Norman, Hanson & DeTroy for timeframe 1/1/2018 to 12/31/2021. We are currently during our second renewal period and need some additional funds in the amount of \$200,000.00 (original amount \$800,000.00 and new total \$1,000,000.00) to get us thru the end of this calendar year. We have had several expensive claims to deal with over the last six months and therefore the need for additional funds. This is a fee for service contract.		

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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.

In past years the Attorney General's Office represented the State in workers' compensation cases. In 2006 it was determined that the Office of Workers' Compensation would use private firms instead of the Attorney General's Office due to the ever-changing workers' compensation laws and regulations.

**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**.

NH&D currently charges the State of Maine \$140.00 per hour per contract which is well below the going rate in Maine. I averaged our current costs this year and estimated that an additional \$200,000.00 is needed to get us thru this calendar year. I also reviewed our current caseload with this firm and believe that our most expensive cases with NH&D have already been resolved for this time frame.

**5. Future Competition**

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

The Attorney General's Office has approved this relationship with this firm and two others for the past thirteen (13) years. Current contracts with all three firms expire on 12/31/2021. If the decision is made to go out to RFP for these services then that will be the course of action to be taken.

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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.

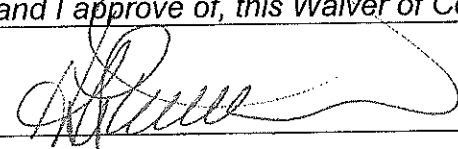
**6. Uniqueness**


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.

At this current time the Office of Workers’ Compensation has 90 pending cases in active litigation with NH&D. This firm has all case files on each claim including medical and personnel records. This law firm is one of the best firms in this specialized area in the State.

**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.

<b>Signature of requesting Department’s Commissioner or Chief Executive (or designee within the Commissioner’s Office):</b> *	<i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i> 
<b>Printed Name:</b>	Heather Perreault, Deputy Commissioner
<b>Date:</b>	8/7/19

WCB \* in agreement w/ office of the Attorney General, per attached email  Page 4 of 4  
Rev. April 2019

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**From:** Ryerson, Anna R  
**Sent:** Friday, July 19, 2019 11:00 AM  
**To:** Pomelow, Holly <[Holly.Pomelow@maine.gov](mailto:Holly.Pomelow@maine.gov)>; Schorr, Jaime C <[Jaime.C.Schorr@maine.gov](mailto:Jaime.C.Schorr@maine.gov)>  
**Cc:** Bissell, Breena <[Breena.Bissell@maine.gov](mailto:Breena.Bissell@maine.gov)>  
**Subject:** Approval From AG's Office ~ Norman, Hanson & DeTroy Contract Amendment  
**Sensitivity:** Confidential

Good morning ~ here is the AG's approval for the additional funds thru 12/31/2019. Thank you.

Anna Ryerson, Director  
Office of Workers' Compensation  
Bureau of Human Resources  
114 State House Station  
Augusta, ME 04333-0114  
Telephone (207) 624-7377  
Cell (207) 592-1437  
Fax (207) 287-9062  
TTY Users Dial Maine Relay 711  
Website: [www.maine.gov/bhr/owc](http://www.maine.gov/bhr/owc)

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**From:** Herman, Susan  
**Sent:** Wednesday, July 17, 2019 5:24 PM  
**To:** Ryerson, Anna R <[Anna.R.Ryerson@maine.gov](mailto:Anna.R.Ryerson@maine.gov)>  
**Cc:** Morrell, Kelly L <[Kelly.L.Morrell@maine.gov](mailto:Kelly.L.Morrell@maine.gov)>  
**Subject:** RE: Norman, Hanson & DeTroy Contract  
**Sensitivity:** Confidential

Hi Anna: I have authorization from the AG to approve an amendment to the existing contract for an additional \$200K through 12/31/2019. In the meantime, can you please forward the existing contract, along with the amendment for the additional \$200K? Thank you Anna. Susan

Thanks.  
Susan P. Herman  
Deputy Attorney General  
6 State House Station  
Augusta ME 04333-0006  
tel: 207 626-8814  
fax: 207 287-3145  
email: [susan.herman@maine.gov](mailto:susan.herman@maine.gov)

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