

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.

Requesting Department's Contract Administrator:	Dawna Pease	Office/Division/Program of Contract Administrator:	DAFS/OIT
Est. Contract Amount:	\$2,193,940.00	Contract or RQS Number:	CT-18B-20181114*1658
Proposed Start Date:	08/01/2019	Proposed End Date:	02/29/2024
Vendor/Provider Name, City, State:		CyberNorth LLC 400 Commercial Street, Suite 303 Portland, ME 04101	
Short Description of Good or Service:		Cohesity hardware and software implementation for the HPE Simplivity backup solution.	
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 Procurement Services website: From: <u>8/26/2019</u> To: <u>9/1/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0820191421	
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 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> Signature: N/A	
		Printed Name:	Date:
<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		

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	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: http://www.maine.gov/purchases/info/forms/govcoop.doc.</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:

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.

Cohesity is a core component of the HPE Simplivity environment. Cohesity will provide long-term backup, restore and archiving, of physical and virtual server infrastructure. File Share capability will replace the State of Maine's aging EMC hardware. Cohesity, will seamlessly integrate with our HPE Simplivity environment and is fully supported by our partner CyberNorth. We have three specific functions we are looking to accomplish.

- 1 - Server-level system backup and recovery for disaster recovery.
- 2 - File storage with both hot and cold data options with the ability to present file shares back to end-users.
- 3 - Native ability to migrate to cloud providers.

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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.

This solution and the associated product are proprietary and cannot be duplicated within the state or other governmental entities. CyberNorth would augment and improve installation times to meet the projects timeframe.

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**.

Cohesity is being purchased through CyberNorth, a certified and authorized HPE Simplivity reseller. The department concluded the negotiated cost is fair and reasonable because due to the number of Cohesity nodes the State of Maine will be purchasing, we are receiving a 56% discount off the list price.

5. Future Competition

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

Future competition opportunities are dependent on the performance of the Simplivity solution. As the technology evolves, and non-proprietary solutions become available, OIT will obtain these services by the most appropriate means, including a competitive process such as releasing an RFP.

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.

Cohesity is the HPE approved product in the HPE Simplivity solution. Any other product purchased through another vendor would violate the terms and conditions of the HPE Simplivity contract. Cohesity was selected by HPE because it integrates with Simplivity in a seamless manner and performs best within this environment. Cohesity has all three functions referenced in section 2 built into the solution. A similar solution would require three separate solutions, from three separate vendors, and increase cost and risk to the State.

CyberNorth was awarded the State of Maine Hyperconverge support contract through a competitive bid. CyberNorth, is a local Maine vendor, with Maine-based employees. They are currently supporting

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the State of Maine Hyperconverge infrastructure, and have a dedicated support-telephone number just for the State. CyberNorth can support remotely and has a 1-hour window for travel to be onsite. CyberNorth has dedicated subject matter experts on staff. CyberNorth identified Cohesity as the backup solution in their backup redesign deliverable.

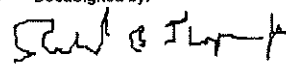
Richard Dowling, Enterprise Account Manager for HPE stated: I wanted to write you to let you know that Cohesity is our solution for Simplivity customers looking to backup, archive and connect to the cloud for tier 2 data requirements. Hewlett Packard Enterprise has a 20% equity investment in Cohesity and we OEM the solution for our Simplivity customers. CyberNorth is our lead partner in ME and all of New England for Simplivity and Cohesity. The State of Maine already has a contract with the CyberNorth and should add Cohesity to that contract as Simplivity and Cohesity are complementary solutions providing customers with an end-to-end solution.

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.

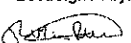
DocuSigned by:

F10B257DB19B4AC...

Printed Name:

Richard B Thompson

Date:

8/19/2019

DocuSigned by:

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 Frederick Brittain

8/16/2019