

PM-19200
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:	Gwen DeCicco	Office/Division/Program of Contract Administrator:	AOC Judicial Branch
Est. Contract Amount:	\$ 7500	Contract or RQS Number:	2019 0905 * 754
Proposed Start Date:	7/1/2019	Proposed End Date:	6/30/2019
Vendor/Provider Name, City, State:		Maine Bar Association, 124 State St Augusta 04330	
Short Description of Good or Service:		CLE, attendance and meals at MSBA events	
<p>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>		<p>To be completed by the Division of Procurement Services Posting dates on Division of Procurement Services website: From: <u>09/09/2019</u> To: <u>09/15/2019</u></p>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0920191484	
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.			
	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;		
		<p><i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i></p> <p>Signature:</p>	
		Printed Name:	Date:
	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;		

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	<p>D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;</p>
	<p>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:</p> <p>(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;</p> <p>(2) A sharing of project responsibilities and, when appropriate, costs;</p> <p><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></p>
	<p>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;</p>
x	<p>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.</p>
	<p>If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:</p>

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.

The Maine Judicial branch requires training for our judges, justices, magistrates and law clerks in order to stay current in legal topics and provide a forum for best practices. For many, such as magistrates and law clerks the training is mandatory per Maine Bar Rule 5 - Continuing Legal Education which requires 12 CLE per year.

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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.

The state of Maine does not offer these services. While the MSBA is not a government entity, through its various sections, the MSBA serves as an information resource to Maine's citizen legislature. It also serves the public interests through volunteer work:

The perceived complexity of the judicial system often causes confusion and misinterpretation of the roles of lawyers as officers of the court. Many members of the Maine State Bar Association accordingly volunteer to share their education and experience with groups of students and other residents of Maine to help them better understand subjects ranging from personal rights to the separation of powers to the function of lawyers in American society. Requests for speakers are welcome from businesses, civic groups, community groups and schools. Volunteer speakers stimulate lively discussions in presenting programs that encourage questions and answers.

In addition to providing speakers to schools and organizations, the MSBA's Speakers Bureau also sends volunteer lawyers to workplaces around the state in a "Lunch 'n Learn" program to educate the public about legal issues relevant to their immediate lives. The program takes place at employees' workplaces during the lunch hour to make the program accessible and to accommodate the busy lives of today's working adults. Attendees are also given relevant legal information pamphlets and information about the Lawyer Referral and Information Service.

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 cost is extremely fair. A competitive for-profit cost of a 5 credit online CLE course is \$70. At that rate, \$7500 would not even allow each member of our judiciary to take one online course.

Compare that to our agreement with the MSBA for \$7,500 which allows our members to take multiple courses, in person and online. It covers attendance at MSBA institutes, live seminars and webcasts. It also covers the meals for our members at these live events.

5. Future Competition

Please describe potential opportunities which may be available to foster competition for these goods

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or services in the future.

Unknown. It would be unlikely that another non profit entity would arise to duplicate the purpose of what the MSBA offers and it would be highly unlikely that a for profit vendor would arise that could compete with the cost, depth and breadth of the MSBA.

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 Mission of the MSBA sets it apart from other CLE vendors and provides it with a depth and breadth of information and opportunities unmatched by other CLE vendors and allows it to extend the judicial branch a very favorable price for its offerings.

MISSION:

The Maine State Bar Association promotes the honor, dignity and professionalism of lawyers, advances the knowledge, skills and interests of its members, and supports the public interest in a fair and effective system of justice. Read our bylaws.

For the Public Good

The concept of helping those in need has long been an essential part of being a lawyer in Maine. It is captured in the Latin phrase *pro bono publico*, "for the good of the public," and is built on a simple premise: equal access to justice for all. *Pro bono* service makes legal representation and recourse available to people who are unable to pay for legal services. The Maine State Bar Association and its philanthropic arm, the Maine Justice Foundation, create opportunities for Maine lawyers to volunteer *pro bono* work, and instill in its members a sense of responsibility to the legal profession and to the people living in Maine communities. Traditionally, Maine lawyers have ranked at the top of the nation in donating legal services to people unable to afford them.

Maine Justice Foundation

Established by the Maine State Bar Association in 1983, the Maine Justice Foundation is Maine's only statewide nonprofit 501(c)(3) organization devoted exclusively to law-related charitable work. As the Maine bar's philanthropic arm, it is one of nearly 200 such organizations in the United States and Canada established to increase access to justice for indigent and vulnerable populations, and to support, encourage, and implement the legal profession's commitment to law-related public service. The Foundation also supports programs designed to improve the quality and scope of legal education in law schools, scholarly research on law-related subjects, programs of law reform, and law libraries. It serves the legal profession and Maine's communities through its proactive administration of the Interest On Lawyers Trust Accounts (IOLTA) program and other public service

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law-related activities. For more information, please visit www.justicemaine.org.

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:

Ellen Hjelm
Ellen Hjelm

Date:

9/5/19
9/5/19