

**PM-19394**  
**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>	Jason Goggin	<b>Office/Division/Program of Contract Administrator:</b>	Central Office - Corrections
<b>Est. Contract Amount:</b>	\$ 35,437.50	<b>Contract or RQS Number:</b>	03A 20160818*0559
<b>Proposed Start Date:</b>	7/1/2019	<b>Proposed End Date:</b>	6/30/2020
<b>Vendor/Provider Name, City, State:</b>		Barbara Wakeen, dba Correctional Nutrition Consultants North Canton, OH 44720	
<b>Short Description of Good or Service:</b>		Menu development, consultation and dietary oversight of statewide foodservice operations	
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 <b>Procurement Services</b> website: From: <u>09/16/2019</u> To: <u>09/22/2019</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# <b>0920191530</b>	
<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		

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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:  <a href="http://www.maine.gov/purchases/info/forms/qovcoop.doc">http://www.maine.gov/purchases/info/forms/qovcoop.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:

**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 dietary needs of inmate populations are nuanced and complex. There are not many dieticians who specialize in correctional settings and Barbara Wakeen is a nationally recognized leader in this field. We attempted competitive bids in the past and ended up with sub-par services, which resulted in unhappy foodservice staff and unruly inmates. Further, many of our food-related ACA standards are dependent upon an effective foodservice program which this provider brings to the table.

Another difficulty with testing the market at this stage concerns continuity of established services. Correctional nutrition is a delicate balance whereby major changes and/or disruptions in service can result in health and safety concerns for both staff and inmates—especially with regard to special medical diets and the like.

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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 Department has no registered dietitians on staff and has no knowledge of other governmental entities that can perform the duties required by this contract.

**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 rates set forth in this amendment are consistent with rates this provider has charged under prior agreements with her which the Department considers to be fair and reasonable. Each item in the contract is tied to specific program deliverables and outcomes.

**5. Future Competition**

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

The Department will consider competitively bidding these services if/when equally competent providers enter the correctional-nutritional market. For reasons noted on this waiver request, the Department considers continuity under the current provider to be of vital importance.

**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.

As noted above, the dietary needs of inmate populations are nuanced and complex. There are not many dietitians who specialize in correctional settings and Barbara Wakeen is a nationally recognized leader in this field. Ms. Wakeen has compiled an impressive list of pertinent credentials and certifications, including owner/operator of Correctional Nutrition Consultants from January 1995 to present. Her CV is available upon request.

Another unique circumstance surrounding this waiver request, also noted above, concerns the continuity of established nutritional services. Correctional nutrition is a delicate balance whereby

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major changes and/or disruptions in service can result in health and safety issues for both staff and inmates, especially with regard to special medical diets and the like.

**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:**

Mark McCarthy

**Date:**

9/13/19