

## 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>	Karen Yeaton, Associate Commissioner	<b>Office/Division/Program of Contract Administrator:</b>	Corrections / Central Office Administration
<b>Est. Contract Amount:</b>	\$ 50,304,352	<b>Contract or RQS Number:</b>	03A 20120620-6072
<b>Proposed Start Date:</b>	<b>September 1, 2019</b>	<b>Proposed End Date:</b>	June 30, 2021
<b>Vendor/Provider Name, City, State:</b>	Wellpath, LLC Nashville, TN		
<b>Short Description of Good or Service:</b>	Comprehensive Medical Services		
<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>	<p style="text-align: center;"><b>To be completed by the Division of Procurement Services</b></p> <p>Posting dates on Division of <b>Procurement Services</b> website:          From: <u>9/17/2019</u> To: <u>9/23/2019</u></p>		
<b>Notice of Intent to Waive Competitive Bidding Number:</b>	NOI# 0920191540		
<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;		
<input type="checkbox"/>	<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>	<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><b>Signature:</b></p>	
<input type="checkbox"/>		<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;		

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	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:

**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.

Correctional healthcare is an extremely complex and specialized service. It is also highly regulated (state/federal rules and standards) and the Department aims to meet these requirements in our ongoing efforts to provide quality, comprehensive healthcare services to all prisoners/residents within the MDOC system. The provision of coordinated, evidence-based healthcare services is an essential part of the rehabilitative process which is also a primary goal of the Department. Additionally, an integrated, cost-effective healthcare system holds potential for increased safety and security for prisoners/residents and Department staff, as well as MDOC operations as a whole.

This Amendment proposes to extend the existing Healthcare Services contract for twenty-two (22) months (through June 30, 2021) which aligns with the current biennium budget. Another factor is the complexity involved with onboarding a new healthcare provider during heavy construction (a significant challenge by itself). The Department seeks to maintain the current healthcare provider during this time and will seek competitive bids for said services near the end of the construction phase.

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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.

Maine State government is not equipped to provide this highly specialized service, nor is the Department aware of any other government entity capable of providing this 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 rates set forth in this amendment are consistent with rates this provider has charged under the existing contract which the Department considers to be fair and reasonable. Numerous meetings were held to identify cost containment strategies and budget development. A budget overview is included in the Amendment under Rider E.

**5. Future Competition**

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

June 30, 2019 marked the end of the 7-year term allotted under RFP #201110173. An amendment to provide an additional 60-days of service was recently executed to allow time for the Department and Provider to develop cost-containment strategies. The Department will seek competitive bids to align with the next biennial budget.

**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 stated above, due to the complexities involved with onboarding a new healthcare provider during heavy construction (a significant challenge by itself), the Department seeks to maintain the current healthcare provider until near completion of the construction-renovation project at the MCC facility in Windham. The Department believes the incumbent provider is uniquely situated to deliver said services based on the following considerations:

- The professional rapport the Department has established with the incumbent provider over the last seven years
- Specialized programming and outreach activities at various MDOC locations (including

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evidence-based rehabilitative programs and strategies)

- Recruitment and collaboration with a statewide, community-based provider network (required for offsite medical services)
- Department wide use of provider's proprietary Electronic Medical Records system (ERMA)
- Staffing recruitment and retainment strategies (what works and what doesn't) – Provider has initiated a "Visiting Nurses" program to fill nursing vacancies at hard-to-fill locations
- New program initiatives currently underway, such as Medication-Assisted Treatment (MAT) to combat opioid addiction
- Provision of dental services to Knox county inmates

**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