

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:	Michelle Newbegin	Office/Division/Program of Contract Administrator:	Quality Assurance and Regulations
Est. Contract Amount:	\$ 60,000	Contract or RQS Number:	20190916*889
Proposed Start Date:	10/1/19	Proposed End Date:	9/30/2022
Vendor/Provider Name, City, State:	Northeast Laboratory Services PO Box 788 Waterville, ME 04903		
Short Description of Good or Service:	Provide chemical and microbiological testing in support of the Maine Meat and Poultry Inspection (MMPI) program. These tests are required to ensure USDA and the public that meat and poultry products under MMPI program meet or exceed corresponding food safety requirements.		
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;">To be completed by the Division of Procurement Services</p> Posting dates on Division of Procurement Services website: From: <u>9/26/2019</u> To: <u>10/2/2019</u>		
Notice of Intent to Waive Competitive Bidding Number:	NOI# 0920191588		
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;		
<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</i>	<i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i> Signature:		
	Printed Name:	Date:	

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	<i>Governor's "designee") sign and date on the right.</i>	
X	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: 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) <u>all</u> 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.		
As per the Cooperative Agreement between the USDA-Food Safety Inspection Service (FSIS) and MMPI, the laboratory that MMPI uses must be capable of testing meat and poultry products for pathogens of human concern in an equal manner to which the FSIS laboratories test meat and poultry products from their federal plants. Pathogens of human concern include but are not limited to: Salmonella sp., Campylobacter sp., E. coli O157H:7, Non-O157H:7 Shiga-toxin producing E. coli (STECs), O26, O45, O143, O111, O121, O145, Listeria monocytogenes, Shigella sp., Staphylococcus aureus. Required per MRSA Title 22, Chapter 562-A Subsection 2512.2.H and USDA-FSIS Directive 5720.3 Comprehensive Review Methodology of State Meat and Poultry Inspection Programs.		

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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 Maine Department of Agriculture, Conservation and Forestry, the Division of Quality Assurance and Regulations nor the Maine Meat and Poultry Inspection program operate or staff a microbiological laboratory capable of testing meat and poultry products for pathogens of human concern. The Maine Health and Environmental Testing Laboratory (HETL) does not currently hold the certifications expected by USDA-FSIS-FSAB to test meat and poultry for pathogens of human concern.

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**.

No other laboratory in Maine is capable of or certified to perform microbiological and chemical testing using the analytical methods required by USDA-FSIS. The pricing for testing using the USDA-FSIS required testing protocols at the State of Wisconsin state laboratories is comparable to what NEL is charging for testing in Maine. See attached.

5. Future Competition

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

MMPI has provided other analytical laboratories with a list of tests currently being required by MMPI for the Cooperative Agreement with USDA, FSIS and an estimate of the number of tests/year that MMPI would request from a lab. It would be up to those laboratories to consider whether it would be feasible for them to add the extra expertise and equipment and try to gain the appropriate certification to fulfill MMPI's testing needs

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.

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Pathogens of human concern for which MMPi must test meat and poultry products include but are not limited to: Salmonella sp., Campylobacter sp., E. coli O157H:7, Non-O157H:7 Shiga-toxin producing E. coli (STECs), O26, O45, O143, O111, O121, O145, Listeria monocytogenes, Shigella sp., Staphylococcus aureus

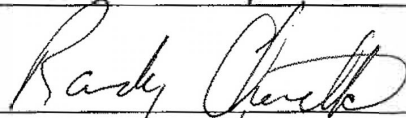
Of the three analytical labs located in Maine, Nelson Analytical Lab in Kennebunk, Katahdin Analytical Services in Scarborough and Northeast Laboratory Services in Westbrook, only NEL can meet the needs of MMPi. Unlike the other two labs, NEL has been audited by USDA to test for pathogens of human concern in meat and poultry products using approved USDA testing protocol and, and has the ability to out-source testing to IEH/Warren Analytical Laboratory for testing of Non-O157H:7 E. coli (STECs). Certifications for both NEL and IEH/Warren Analytical Laboratory are attached as well as USDA methods review of testing protocols at NEL and the labs with which it contracts.

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.

N/A

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:

Randy Charette

Date:

9/20/19