

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:	Karynlee Harrington	Office/Division/Program of Contract Administrator:	Maine Health Data Organization
Est. Contract Amount:	\$ 28,000	Contract or RQS Number:	90H20190927*1060
Proposed Start Date:	October 1, 2019	Proposed End Date:	November 30, 2020
Vendor/Provider Name, City, State:		Ten2Eleven Business Solutions, LLC	
Short Description of Good or Service:		The purpose of this Contract is for the Provider to assist the MHDO in complying with a new mandate regarding pharmacy transparency, specifically by providing the subject matter expertise in the data submission requirements and data reporting as mandated in Public Law Chapter 470.	
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 <i>Procurement Services</i> website: From: <u>10/3/19</u> To: <u>10/9/19</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 1020191640	
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;		
X	<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: Printed Name: Date:	

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	<p>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;</p>
	<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>
	<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.

Public Law 470 creates a new pharmacy transparency mandate that the MHDO is responsible to implement. The new law requires MHDO to develop a data collection rule that will require pharmacy manufactures, pharmacy benefit managers and wholesale distributors to submit to the MHDO specific data elements so that the MHDO can then produce an annual report that is due to the Legislature in the month of November beginning in 2020. The report must include information developed from the data the MHDO receives on the trends in the cost of prescription drugs, analysis of manufacturer prices and price increases, the major components of prescription drug pricing along the supply chain and the impacts on insurance premiums and cost sharing and any other information the MHDO determines is relevant to providing greater consumer awareness of the factors contributing to the cost of prescription drugs in the State. To meet the timelines in the new mandate, MHDO must adopt a data collection rule in the first quarter of calendar year 2020. We were on track to make that happen

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but ran into an unexpected road block in the process that we need assistance with resolving. We do not have time to develop and release an RFP at this stage. However, if we believe that we need ongoing support in this area we will develop and release an RFP after the rule making and the development of the first annual report.

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 MHDO team has been working on drafting a proposed rule as required in Public Law Chapter 470 for the last several months and recently hit a road block in finalizing the data elements needed to produce the mandated pharmacy report, because of the complexity of the pharmaceutical supply chain and the fact that data collection from this sector which includes the pharmacy manufactures, pharmacy benefit managers and wholesale distributors is relatively new with no national reporting standards like there are for the submission of medical claims data. Initially, MHDO believed that the minimum data element set that was developed by NASHP/Mathematic would be the data elements that it would propose to adopt in its data submission rule but unfortunately it has become clear that the data elements contained in the minimum data set are far too broad based on the experience of several other States that have implemented similar data submission requirements including the state of California. MHDO staff has learned a lot about the pharmacy supply chain over the last several months and we will continue to gain more experience and expertise over time as we work with pharma. However, given the recent change in direction and the legislative timelines we need someone in short order that has the experience and expertise working with States in developing data collection rules specific to Pharma to help us finalize our proposed rule and assist us in the rule making process. There is no other state agency that is collecting data from pharmacy manufactures, pharmacy benefit managers and wholesale distributors as required in PL 470 that can assist the MHDO in defining the granular data elements, definitions and structures that are needed to comply with the new law. The most efficient and effective way to reach our end goal is to contract with Ten2Eleven Business Solutions, LLC. They have been working with other states across the country that have implemented pharmacy transparency laws and they are prepared to hit the ground running as they understand the complexity of pharma and our new mandate.

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**.

Ten2Eleven Business Solutions, LLC has experience working with other State government entities and understands the limited resources that are available and as such have developed a pricing model for work that they do with state government. The hourly rate Ten2Eleven Business Solutions, LLC is providing to MHDO is competitive with the hourly rates of our data vendor which was a competitive bid.

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5. Future Competition

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

After the rule making process and drafting of the first pharmacy report as required in Public Law Chapter 470, MHDO is prepared to develop and release an RFP for ongoing support as needed.

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.

Ten2Eleven Business Solutions, LLC has worked with several states over the last several years as they contemplated and eventually passed similar pharmacy transparency laws; specifically, the state of California which is successfully collecting data from manufactures and have produced specific public reporting using this data as required by their laws. The complexity in understanding the entities in the pharmacy supply chain and how their roles and actions affect the pricing of the prescription drug by the time the individual picks the prescription up at the pharmacy is challenging at best and not understood by many. Unlike most of the other state mandates, Maine’s new mandate goes further and requires price transparency from not just the pharmacy manufacturer and pharmacy benefit managers but also from the wholesale distributors. This area is especially where we need assistance in defining the specific data elements needed. Ten2Eleven Business Solutions, LLC has been working in this space for many years assisting their clients define the Rx price transparency data elements that are needed and most likely available from the entities in the pharam supply chain, to produce specific mandated reporting. Ten2Eleven Business Solutions, LLC is ready on day one to jump into a process that is 75% complete and help us immediately with identifying and defining the data elements that we are currently missing that we need to define and collect to meet the reporting requirements in PL 470.

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.

Time is of the essence. To meet the requirements in PL 470, MHDO must adopt a data collection rule in the first quarter of 2020 (at the latest). Our current timeline is for the MHDO to hold a public hearing on the proposed rule November 21, 2019. To make that happen we need to button up the proposed rule by October 22, 2019. Given Ten2Eleven Business Solutions, LLC experience and expertise in the subject matter, experience and success working with other states and their new pharmacy transparency mandates and their willingness to step in and help us address the

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outstanding issues immediately, we have determined that contracting with Ten2Eleven Business Solutions, LLC is our most efficient and effective path forward in the short term. As previously stated MHDO will develop and release an RFP for support of this work if needed beyond this initial investment.

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:

Karynlee Harrington

Date:

9/27/2019