

State of Maine Waiver of Competitive Bidding Request Form

DHHS/DCM Contract Administrator:	Nancy Tan / Valerie Andreasen Fredericks	Office/Division/Program of Contract Administrator:	DHHS/OADS/LEGAL
Est. Contract Amount:	\$ 500,158.00	Contract or RQS Number:	CT 10 A 20190829*0688
		Purchasing Maine ID:	
		DHHS Agreement Number:	ADS-20-9308
Proposed Start Date:	10/01/2019	Proposed End Date:	09/30/2020
Vendor/Provider Name, City, State	Legal Services for the Elderly Augusta, ME 04330		
Short Description of Good or Service:	Legal services to Maine residents 60 years of age or older; and advocacy services to Medicare Part D recipients who are disabled or elderly, with limited incomes		
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 Procurement Services website: From: <u>10/4/2019</u> To: <u>10/10/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 1020191645	
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 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:
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:	Unique – Sole Source	

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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.

Legal Services – The federal Older Americans Act requires the Department to establish and maintain legal services for socially and economically disadvantaged seniors when their health, safety and welfare are at risk. Title 22 of Maine Revised Statutes, Section 5106(11-A) requires the Department “support and maintain an Elderly Legal Services Program by agreement with such nonprofit organization as the Department finds best able to provide direct services to those of Maine’s elderly in greatest economic and social need throughout the State.”

Part D Advocacy Services – State statute 22 MRS § 254 requires the Department to ensure efficient operation of an elderly low-cost drug program to meet the calculated need of the recipient population. Under 22 MRS § 254–D(5)(D), the Department is also granted authority to file exceptions and appeals pertaining to Medicare Part D eligibility or benefits on behalf of enrollees who are beneficiaries under Medicare Part D and to identify a designee for this function. Sufficient Department personnel are not available to ensure efficient operation of the elderly low-cost drug program or to file exceptions and appeals.

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.

Legal Services – Under 22 M.R.S. § 5106(11-A), the Department is required to enter into an agreement with a nonprofit organization outside of the State of Maine’s government.

Part D Advocacy Services – The staffing, resources and expertise currently resident in the Office of Aging and Disability Services is not sufficient to support this State mandated program. There is no other governmental entity known to be able to perform the required services efficiently or effectively.

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**.

After careful review of the provider budget submitted for these services the Department has concluded that the costs are fair and reasonable. Year over year expenses for these services budgeted by this provider have not increased appreciably since 2015. At the same time the numbers of clients served and cases opened has increased.

5. Future Competition

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

The Department intends to issue RFP T2018094, for a competitively awarded agreement with a start date of 10/01/2020.

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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.

Legal Services – Legal Services for the Elderly (LSE) was created in 1974 when it became an option for states to use Older Americans Act ("OAA") (Title IIIB) funds to provide elder legal services. When this new source of funding became available, Maine's Commission on Aging (this Commission no longer exists) took the position that Maine's elderly would be best served by a single, dedicated statewide legal services provider. It was believed this would lead to the development of the technical expertise needed to meet the unique legal needs of seniors and to more efficient use of the limited available resources. LSE provides persons age 60 and over with free legal advice regarding health care, health insurance, Medicare (including Part D), MaineCare (Medicaid), Social Security and other public benefits, pension and retirement benefits, powers of attorney, consumer matters including creditor and bankruptcy problems, physical and financial abuse, guardianship defense and other issues. LSE maintains five offices located across the State of Maine and a state-wide helpline to assist Maine's elderly with legal issues. The Provider receives most funding from sources other than the Department, including federal agencies, the Maine Bar Foundation IOLTA Fund, and private donors.

Part D Services - The Provider is uniquely qualified based on its experience in providing elderly advocacy and legal services via an established helpline. The Medicare Part D Prescription Drug program has complex eligibility criteria, a variety of plan options, and multiple approval and appeal processes. Provider has staff attorneys who help seniors navigate the legal issues that arise in this program as well as other related and unrelated legal matters. Major tasks include analysis of why members are experiencing difficulty obtaining certain medications and/or having issues with correct co-pay amounts. Priority is given to anyone who calls the Provider stating that he/she is completely out of their medications. This necessitates legal help in getting the Part D plan to cover an emergency fill and then subsequently working with the Part D plan for a long-term solution. The Provider is also proactive in checking with clients to be sure they have all available help with their Medicare Part D drug expenses. The Provider has an excellent network through which it distributes written materials to seniors so they know what services are provided and how to contact the Provider for those services. This network includes nursing facilities, health care centers, homeless shelters, and pharmacies. OADS is not aware of any other Maine entity which offers legal, emergency and advocacy services to low income Part D consumers.

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.

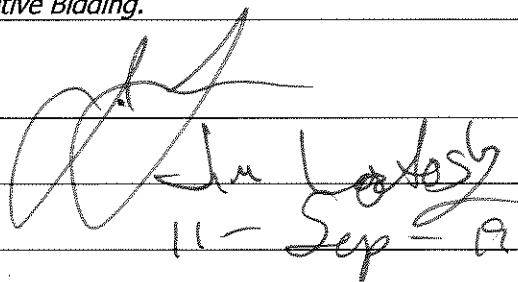
N/A

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:

Date:



Julie L. Levesque
11 - Sep - 19