

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:	J. Jordan N. Zaharchuk	Office/Division/Program of Contract Administrator:	DAFS/OIT/IBM Services Rates
Est. Contract Amount:	\$14,660.00	Contract or RQS Number:	RQS 18B 20190919*349
Proposed Start Date:	1/1/2020	Proposed End Date:	12/31/2020
Vendor/Provider Name, City, State:	Compuware Corporation One Campus Martius Detroit, Michigan 48226		
Short Description of Good or Service:	Renewal of technical support, product maintenance and new release upgrades for File-AID for MVS ((38 MIPS)		
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> <p>Posting dates on Division of Procurement Services website: From: <u>10/08/19</u> To: <u>10/14/19</u></p>		
Notice of Intent to Waive Competitive Bidding Number:	NOI# 1020191667		
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.			
<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 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;		
<p><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>		<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>Signature:</p>	
		Printed Name:	Date:

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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: <ol style="list-style-type: none"> (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; <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>
	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.

File-AID is a software product for which the State of Maine purchased a perpetual usage license in conjunction with the competitive bid process when applications systems were still being built on the State of Maine's IBM mainframe application hosting environment. Application systems still in production were designed and built using the functions and features of the File-AID product. Application support staff and technical systems professionals who manage the IBM mainframe environment continue to rely on the product and are expected to have need for the product until all State of Maine agencies migrate their applications off the IBM mainframe.

The State of Maine is not acquiring the File-AID product as a new product, the State of Maine is renewing vendor technical support and product maintenance services from the vendor for a product for which a perpetual usage license was purchased in the past. The support and maintenance services being renewed also provide the State of Maine with access to future releases of the product, at no additional cost. Future releases are necessary due to the vendor discontinuing support for their software products over time, as new releases are developed and made generally available. The agency and application with the ongoing specific need for these services is the Office of the State Controller's Human Resource (Payroll) system.

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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.

Compuware's File-AID for MVS, is licensed proprietary software. The State of Maine does not have access to source code to maintain the product.

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**.

OIT requested a quote from SHI, the State's competitively acquired software VAR. SHI was unable to provide a quote because it is not authorized to resell the software support services. Only Compuware is authorized to provide maintenance and support services, they do not authorize the use of VARs.

5. Future Competition

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

The Controller's Office and OIT are actively working on replacing the HR/Payroll application which will result in retiring the IBM mainframe. Current project projections are that this IBM mainframe and software products such as File-Aid MVS will no longer be required after 2020.

If, at a later date, it is determined this product no longer meets the needs of the State of Maine and a replacement product is deemed to be necessary, procurement will be via the competitive bid process prescribed by State of Maine statute and the policies, procedures and guidelines established by the State of Maine Procurement Services Division.

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.

Compuware, File-AID for MVS = 38 MIPS, is proprietary software. The product owner, Compuware Corporation, is the only vendor that can provide maintenance and release upgrades.

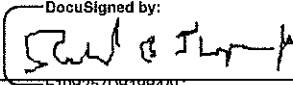
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7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)

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.

DocuSigned by:


Printed Name:

Richard B. Thompson

Date:

10/2/2019

DocuSigned by:



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Frederick Brittain

10/2/2019