

## 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>	J. Macdonald W. Mason	<b>Office/Division/Program of Contract Administrator:</b>	DAFS/OSC/Bureau of Budget (Central Apps)
<b>Est. Contract Amount:</b>	\$ 7,160.00	<b>Contract or RQS Number:</b>	RQS 18B 20191007*436
<b>Proposed Start Date:</b>	11-20-2019	<b>Proposed End Date:</b>	11-19-2020
<b>Vendor/Provider Name, City, State:</b>		Apeon Inc. 425 1st Street, Unit 1507 San Francisco, CA 94105	
<b>Short Description of Good or Service:</b>		PowerBuilder Universal Annual Subscription (3), PowerServer Web Workgroup Software (125) – Software Support	
<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>		<b>To be completed by the Division of Procurement Services</b> Posting dates on Division of <b>Procurement Services</b> website: From: <u>10/10/19</u> To: <u>10/16/19</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 1020191704	
<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>	<i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i> <b>Signature:</b>	
<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		

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	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: <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:	
<b>Please note that the following four points below (#2 through 5) <u>all</u> require a response.</b>		
<b>2. Description of Specific Need</b>		
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.		
<p>The Bureau of Budget Enterprise Financial Management Application (BFMS) operates using PowerBuilder. The software must be maintained to assure compatibility with the latest version of Oracle. To assure proper information security, OIT must update the software and maintain it at supported levels. PowerBuilder Universal software is a subscription software product, which must be licensed annually to continue BFMS operations. PowerBuilder support is only available from Appeon.</p> <p>The BFMS application is widely used across Maine State Government. BFMS uses Appeon's PowerServer Web Services toolkit in companion with a Microsoft IIS (webserver environment) running on a current Windows Server platform to provide a web-based long-term, scalable, highly secure solution.</p>		

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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 software subscription tool being purchased, and software support, are licensed off-the-shelf software products, not maintainable by the State.

### 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**.

Original purchase price in 2018 was \$19,985.00. Annual subscription and support cost for 2020 is now \$7,160. Use of PowerServer Web has allowed OIT to eliminate Citrix for the application, a considerable cost savings.

### 5. Future Competition

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

NA. Software support for this proprietary software tool is only available through Appeon. When the BFMS system is considered for upgrade/replacement, replacement of Powerbuilder will be considered.

**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.

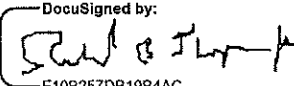
Bureau of the Budget has utilized PowerBuilder for the Budget Financial Management System (BFMS) since 2004. PowerBuilder is a core software tool required for BFMS. BFMS's features and capabilities cannot be found, to date, in other vendor or COTS applications.

The BFMS financial application creates a flow for budget processing ensuring users are following appropriate steps required, creates budgeting at all funding levels and at the object level to satisfy agency needs, institutes layers of security to meet business need, has a sophisticated reporting module and ensures validity of data via a daily QA process.

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

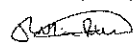
Please explain if time is of the essence and an emergency exists which requires the immediate procurement of goods or services. Describe the nature of this emergency, provide the date by which the goods or services must be delivered, and explain how that date was determined and its significance (i.e. 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.

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<b>Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):</b>	<i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i>
	DocuSigned by:  E108257DB1984AC
<b>Printed Name:</b>	Richard B. Thompson
<b>Date:</b>	10/7/2019

Frederick Brittain

10/7/2019

DocuSigned by:  
  
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