

## 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>  | Eric Dibner<br>3-7950  | <b>Office/Division/Program of Contract Administrator:</b>  | Division of Vocational Rehabilitation |
| <b>Est. Contract Amount:</b>  | \$ 327,134   | <b>Contract or RQS Number:</b>   | CT 12A 20190930*1087                  |
| <b>Proposed Start Date:</b>   | October 1, 2019  | <b>Proposed End Date:</b>  | September 30, 2020                    |
| <b>Vendor/Provider Name, City, State:</b>   | Alpha One<br>South Portland, ME 04106  |  |                                       |
| <b>Short Description of Good or Service:</b>  | Independent Living Services (ILS) for persons with disabilities  |  |                                       |
| <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><br>Posting dates on Division of <b>Procurement Services</b> website:<br>From: <u>10/18/2019</u> To: <u>10/24/2019</u> |                                       |
| <b>Notice of Intent to Waive Competitive Bidding Number:</b>  | NOI# 1020191744  |  |                                       |
| <b>1. Statutory Justification</b><br>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><br><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 from only one source;  |  |                                       |

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|  | <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:<br/><a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</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.

This contract provides a program of Independent Living Services (ILS). Operation of this program helps ensure that individuals with severe disabilities can live safely in their homes and participate in community activities. The program is "funding of last resort" and provides equipment and home modifications for which individuals have no other resources. Without a State ILS Program, potential recipients of the services would be unable to accomplish their independent living goals, which would result in irreparable economic and human loss to the State.

Under subpart B of Title VII of the federal Rehabilitation Act, as amended, the State receives funds for the purpose of providing Independent Living Services. The Act requires that the State approve a State Plan for Independent Living (SPIL), which Maine has done, describing how the funds will be distributed. The SPIL, in establishing how the Title VII-B funds shall be used, specifies that the funds will go to the independent living center, Alpha One, to support services to consumers.

Maine statute (Title 26, Chapter 19, Subchapter 2, Article 3) authorizes such services.

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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 federal funds in this contract are available from Administration for Community Living (ACL) through Title VII of the Rehabilitation Act, and the Division supplements the IL funding with a State match as mandated by the Act. Under the contract with Alpha One, the Title VII funds are leveraged to the extent that individual clients can contribute from family resources or may be eligible for loans or resources from other programs. The contract requires Alpha One to identify any funding resources available from other government agencies which can be used before using ILS funding.

This IL service is not available through any of the Department's other service programs. The State staff expertise and State resources are inadequate to mount an independent living program.

**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**.

Consumers who apply for funds from the ILS Program may be eligible for other programs, such as those of Department of Health and Human Services or the mPower Loan Program. Alpha One is obliged to identify such other funding for each consumer so that the ILS Program funds are only used as a "last resort."

The State established the costs for delivering IL services with Alpha One several years ago, and they have not changed. The costs of the professional services by Alpha One's Independent Living Specialists are consistent with service fees for similar organizations. The consumers who are the end-recipients of IL funding for home improvements are given training by Alpha One on finding appropriate providers/installers at the most reasonable costs.

**5. Future Competition**

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

In 2002, the Division advertised and solicited letters of intent for proposals for ILS, and Alpha One was the only respondent. In 2006, the Division again advertised and solicited letters of intent and several organizations responded, so the Division promulgated an RFP; five organizations requested a copy of the RFP, but none submitted proposals except Alpha One.

While development of additional IL centers in Maine might foster a more competitive IL network, the Statewide Independent Living Council, in the State Plan for Independent, does not envision such development as a viable option. The Title VII allocation to Maine is inadequate to support additional centers, and Alpha One is providing services to all areas of the state.

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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.

Centers for Independent living are defined in the Rehabilitation Act and qualified centers are listed. [See <http://www.ilru.org/html/publications/directory/>.] There is only one independent living center in Maine, Alpha One, which provides services statewide from offices in Bangor and South Portland and with staff in Presque Isle.

Independent living centers are consumer-directed non-profit organizations, with directors and the personnel who deliver services being individuals who have disabilities or having direct personal experience with disability issues. Other than Alpha One, no other independent living center is available to provide these services in Maine. The prescribed standards for establishing and operating an independent living center are in Section 725 of the Rehabilitation Act.

### 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.*



**Printed Name:**

Laura A. Fortman, Commissioner of Labor

**Date:**

10/11/2019