

## 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>	Vernon Malloch	<b>Office/Division/Program of Contract Administrator:</b>	DAFS, Office of Marijuana Policy
<b>Est. Contract Amount:</b>	\$ 100,000.00	<b>Contract or RQS Number:</b>	CT 18M 20180913*0985
<b>Proposed Start Date:</b>	7/01/2019	<b>Proposed End Date:</b>	6/30/2020
<b>Vendor/Provider Name, City, State:</b>	Maine Sheriff's Association, Oakland, ME		
<b>Short Description of Good or Service:</b>	Conduct compliance investigations in response to complaints related to the Maine Medical Use of Marijuana Program (MMMP) pursuant to M.R.S.A Title 22, Chapter 558-C: MAINE MEDICAL USE OF MARIJUANA ACT		
<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>	<p><b>To be completed by the Division of Procurement Services</b></p> <p>Posting dates on Division of <i>Procurement Services</i> website:            From: <u>10/31/2019</u> To: <u>11/6/2019</u></p>		
<b>Notice of Intent to Waive Competitive Bidding Number:</b>	NOI# 1020191812		
<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;		
	<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><i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i></p> <p><b>Signature:</b></p>	
		<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;		
<input type="checkbox"/>	D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum		

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	products;
	<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:</i>  <a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</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.

The Maine Medical Use of Marijuana Program (MMMP) does not have resources to adequately respond to complaints received. Complaints are received from a variety of sources such as the general community, municipalities, law enforcement, other State licensing boards, other State agencies and all program participants. To appropriately and effectively respond to these complaints, a provider must possess a specialized skill set, including unique expertise in the area of field investigations, have extensive experience in law enforcement to appropriately respond to complaints, have been trained on compliance violations, and be skilled at gathering information to determine if a program participant is in compliance with Maine's statutes and rules related to the MMMP. This amendment is essential in meeting the Department's operational and contractual obligations, subject to 10-144 Code of Maine Rules Chapter 122, the Department is responsible for assuring compliance with the Maine Medical Use of Marijuana Act Chapter 558-C. This amendment would extend the current contract through the end of the fiscal year allowing for continued provision of Field Investigative Services through the Maine Sheriff's Association. This would provide for investigative services used as part of ongoing statutory compliance work that the Program has responsibility to perform. This could include investigations of allegations of non-compliance, written reports of those investigations, technical assistance, and other compliance related activities.

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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 Department and any other governmental entity do not have the staff, resources and expertise to adequately provide this service. The Department surveyed other state agencies, including Public Safety, and determined there were no other agencies capable of performance of these tasks.

**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**.

It has been estimated that each complaint investigation costs the Provide approximately \$1,000 to perform all aspects of an investigation. This includes background information gathering, travel, report writing in addition to an actual site visit. The Provider must pay for specialty insurance to cover staff in the field, technical support on field equipment and all other administrative costs. The proposed rate of \$80/hr. will cover salaries an all associated costs with performing the work. The initial contract with the current vendor was a cost settled agreement. The Department renegotiated to a fee for service contract based on actual costs. The hourly rate for this contract remains the same for this contract amendment. Comparison of rates from other similar investigative services, such as the Maine Chief Association and the Maine Drug Enforcement Agency, indicate that this fee is fair and reasonable.

**5. Future Competition**

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

The Program will work to put this contract out for RFP next year, if additional staffing needs are necessary.

**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.**

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**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.

The provider is an expert in conducting field investigations, is fully trained on Maine's statutes and rules pertaining to MMMP, has extensive experience in law enforcement, as is skilled at effectively responding to complaints. The Maine Sheriff's Association (MSA) is proficient in conducting complaint investigations and has a unique ability to assist in information gathering, utilize their expertise to successfully determine program participant compliance with MMMP rules and statutes. In addition, MSA is highly skilled in determining the priority of complaints, when a criminal investigation is required, and/or when to appropriately refer to other agencies.

The specific training, education, and level of expertise this vendor has is crucial to compliance of MMMP statues and rules, and is essential to effectively and appropriately responding to the complaints received by the Department.

After extensive inquires (the Department surveyed other State Agencies such as Public Safety and other programs within the Maine CDC), it was determined that no other agency exists with statewide jurisdiction, safety training or the expertise to effectively perform all complaint investigations, enforcement, and reporting for the Department.

**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.*



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<b>Printed Name:</b>	Richard B. Thompson, Jr.
<b>Date:</b>	10-28-19