


## 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>	Jennifer Chisum	<b>Office/Division/Program of Contract Administrator:</b>	MaineIT/DAFS on behalf of Maine State Ferry Services/Transportation
<b>Est. Contract Amount:</b>	\$ 9991.50	<b>Contract or RQS Number:</b>	
<b>Proposed Start Date:</b>	December 1, 2019	<b>Proposed End Date:</b>	February 1, 2020
<b>Vendor/Provider Name, City, State:</b>	LEE BAXTER ENT INC DBA CINCINNATI TIME REC OF MAINE, Westbrook, ME		
<b>Short Description of Good or Service:</b>	Upgrade of iParc parking gate system to keep it PCI compliant.		
<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 <b>Procurement Services</b> website:          From: <u>11/7/2019</u> To: <u>11/14/2019</u></p>		
<b>Notice of Intent to Waive Competitive Bidding Number:</b>	NOI# 1120191852		
<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 checked="" 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>	<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> Bruce Van Note	<b>Date:</b> 11/4/19	

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	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:  <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:

**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 parking gate at Rockland Ferry Services Terminal provides a significant income stream to the Maine State Ferry Services. Users pay at the unmanned gate upon exiting, normally by credit card.

The parking gate's POS Terminal machine is currently Windows 7 and TLS 1.1 network protocol. On January 14, 2020, Microsoft will desupport Windows 7, at which time the system no longer be PCI compliant. PCI compliance is required by credit card agreements as well as Treasury to prevent theft of credit card data, so the Department must upgrade the terminal before that date in order to continue processing credit cards.

In addition, MaineIT Security requires use of TLS 1.2 or better network communications protocol. Updating all portions of the system to operate via TLS 1.2 requires an upgrade of the AMG 6800 Pay in Lane device, the replacement of the two Digi brand port servers and an upgrade of the iParc b19

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software to the latest release.

**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.

No public resource manufactures or maintains these proprietary electronic gate components.

**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**.

The labor and travel fixed cost divided by the high end of the time estimate comes out to a lower hourly rate for labor alone for most MaineDOT IT systems. The fixed labor price is welcome as there have been unexpected return visits required through no fault of the vendor in the previous major upgrades. The Amano McMann components are MSRP with 24% discount on the server although the vendor does not typically discount them. The new POS is 65% less than the POS it replaces. The Digi ports can be purchased online and shipped through a Digi distributor at a similar price to that offered in this proposal.

**5. Future Competition**

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

When non-emergency work must be performed, the Department can solicit quotes from other authorized Amano McGann dealers in the Northeast US. The Department will go to RFP when the parking gate system must be replaced (these systems typically last 10-15 years).

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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.

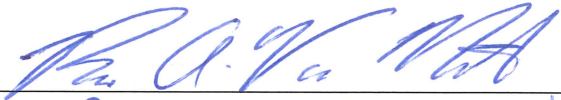
**7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)**

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.

If the work is not done before January 14, 2020, the Department will be out of compliance with its credit card merchant agreements and State policy; continued acceptance of credit cards at the gate would open the State to liability, fines, revocation of rights to process credit cards, and loss of reputation due to cardholder data breaches, and blacklisting. The State would have the option of waiving fees or forcing cash payment to an attendant, but would incur either significant financial loss or publicity hit for the user inconvenience.

This vendor has performed the original installation and maintenance to date, so is familiar with the system and the work coordination / communication procedures required when working with the Ferry Services and MaineIT.

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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>
	
<b>Printed Name:</b>	Bruce A. Van Not
<b>Date:</b>	11/4/19