

State of Maine Waiver of Competitive Bidding Request Form

DHHS/DCM Contract Administrator:	Nancy Tan/Debbie Weston	Office/Division/Program of Contract Administrator:	OADS/APS/Legal Services
Est. Contract Amount:	\$33,000.00	Contract or RQS Number:	CT 10A 20191029*1420
		Purchasing Maine ID:	
		DHHS Agreement Number:	ADS-20-2318
Proposed Start Date:	11/01/2019	Proposed End Date:	6/30/2020
Vendor/Provider Name, City, State	Christopher C. Leighton Freeport, Maine		
Short Description of Good or Service:	Outside counsel legal services		
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.		To be completed by the Division of Procurement Services Posting dates on Division of <i>Procurement Services</i> website: From: <u>11/7/2019</u> To: <u>11/13/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 1120191854	
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.			
	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;		
	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>	By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement. Signature:	
		Printed Name:	Date:
	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: http://www.maine.gov/purchases/info/forms/govcoop.doc.</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.		
X	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:		State Directed

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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.

Pursuant to 22 M.R.S. § 3482 and 18-A M.R.S. § 5-601 et seq., the Department of Health and Human Services must on occasion petition the Probate Court to be appointed as guardian or conservator or to nominate a private party as guardian or conservator of an incapacitated person. Approximately 10% of these cases are contested and require representation by an attorney. After the Department's appointment as guardian or conservator, legal issues sometimes arise that require the services of an attorney to assist the Department in carrying out its fiduciary responsibilities.

This is an agreement for purchase of outside counsel legal services related to the Department's guardianship and conservatorship program in the following county and other surrounding counties when the contract attorney for those counties is unavailable: Cumberland County and, if necessary, York County

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 does not possess internal staff or expertise to perform the services required.

No other governmental resources external to the Department are available to perform the services required. The Attorney General's Office has indicated that it does not have the capacity to provide the services required.

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 Department understands that the hourly billable rate under this Agreement is lower than the hourly billable rate generally charged by attorneys in Maine based on past negotiations for this service.

5. Future Competition

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

Competitive bidding is not appropriate as agreements for legal services must be approved by the Office of the Attorney General pursuant to 5 M.R.S. § 191.

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.

Attorney Christopher C. Leighton has been authorized by the Office of the Maine Attorney General to represent the Department in public guardian and conservator cases. The Department understands that a search for potential attorneys to perform this service was conducted by the Office of the Maine Attorney General and the division chief for the Health and Human Services division.

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.

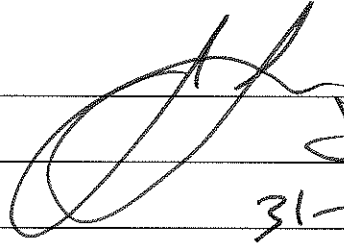
N/A

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:

Date:


 Jim Leighton
 31 - Oct - 19