


**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>	Jaime Pelotte	<b>Office/Division/Program of Contract Administrator:</b>	Department of Public Safety, Bureau of Highway Safety
<b>Est. Contract Amount:</b>	\$ 85,000.00 (not to exceed)	<b>Contract or RQS Number:</b>	CT16A 20191118000000001590
<b>Proposed Start Date:</b>	12/01/2019	<b>Proposed End Date:</b>	06/30/2020
<b>Vendor/Provider Name, City, State:</b>		National Medical Services (NMS) 3701 Welsh Road Willow Grove, PA 19090	
<b>Short Description of Good or Service:</b>		Forensic Testing	
<p>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.</p>		<p><b>To be completed by the Division of Procurement Services</b> Posting dates on Division of <i>Procurement Services</i> website: From: <u>11/22/2019</u> To: <u>11/28/2019</u></p>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 1120191919	
<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"/>	<p><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>	<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> <p><b>Printed Name:</b> Michael Sauschuck, Commissioner</p> <p><b>Date:</b> 11-19-19</p>	
<input 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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	D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum 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.		
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:</td> <td style="width: 40%;"></td> </tr> </table>	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:	
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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.

Under Maine law Title 29-A §2521 Implied consent to chemical tests 1. Mandatory submission to test. *If there is probable cause to believe a person has operated a motor vehicle while under the influence of intoxicants, that person shall submit to and complete a test to determine an alcohol level and the presence of a drug or drug metabolite by analysis of blood, breath or urine.*

- Due to an extended staffing vacancy at DHHS-Maine Health and Environmental Testing Lab (HETL) there is a current backlog of chemical tests. The current backlog is approximately 400 urine samples needing drug presence testing for evidentiary purposes. The testing of specific drugs in urine samples is time sensitive. This timeline depends, in part, upon storage space and conditions. The laboratory may soon be unable to meet these storage conditions with the current sample volume (and incoming samples). The backlog combined with the incoming samples is so severe the estimated timeline for HETL to have the backlog completed will take approximately two or more years.
- NMS has been the selected laboratory to perform this backlog testing since they fall under the statute for testing by being licensed by the Pennsylvania Department of Health and Clinical Laboratory Improvement Amendments (CLIA). Additionally, they are certified by American

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National Accreditation Board (ANAB) showing the high quality of testing the laboratory performs. There is no laboratory, other than HETL, in the State of Maine that can meet the legal certification requirement for confirmatory drug testing.

Also under Maine law Title 29-A §2453 A (1) A (B). *To provide maximum safety for all persons who travel on or otherwise use the public ways; and to remove quickly from public ways those persons who have shown themselves to be a safety hazard by operating a motor vehicle while under the influence of drugs.*

- Bureau of Motor Vehicles (BMV) suspends a driver's license based on a report from law enforcement that the driver operated under the influence of a drug. This happens independently of any criminal process, and in most cases happens before the driver goes to court on a criminal charge for the same conduct. In order to suspend a license, BMV must have both a police report **and** a certified drug test result in order to suspend license. If the urine testing backlog can be cleared, this will enable BMV to proceed with suspensions where a drug is confirmed. Currently BMV is waiting for approximately 250 test results before suspension may be imposed.
- The Department of Public Safety, Bureau of Highway Safety currently has funding to assist in this backlog, but the funding will expire by June 30, 2020.

**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.

There are no other laboratories other than DHHS-HETL in the State of Maine that can meet the legal certification requirements for confirmatory drug testing.

**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 cost has been negotiated and is deemed to be 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.

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This is a onetime service to assist in current backlog. If vendor fails to meet the performance requirements, or the services are needed further the State would issue an RFP for future services.

**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.

The testing of specific drugs in urine samples can be time sensitive, this depends upon storage conditions, the laboratory may soon be unable to meet these storage conditions with the current sample volume (and incoming samples).  
Law enforcement officers are required to submit OUI reports to the BMV within 72 hours of the offense. In order for BMV to suspend a license, BMV must have both a police report **and** a certified drug test result.

<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>	Michael Sauschuck, Commissioner
<b>Date:</b>	11-19-19