

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.

DHHS/DCM Contract Administrator:	Chris Moiles	Office/Division/Program of Contract Administrator:	DHHS, MeCDC, DS, HETL
Est. Contract Amount:	\$187,760	Contract or RQS Number:	RQS 10A 20190806*0168
		Purchasing Maine ID:	
		DHHS Agreement Number:	CD0-20-54MA21
Proposed Start Date:	11/1/2019	Proposed End Date:	10/31/2022
Vendor/Provider Name, City, State	Gen-Probe (Hologic) Sales and Services, C/O Hologic, 250 Campus Drive, Marlborough, MA 01752 (800) 442-9892		
Short Description of Good or Service:	Three-Year Master Agreement for supplies and reagents.		
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>12/5/2019</u> To: <u>12/11/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 1220191974	
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.			
<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>	<i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i> Signature: Printed Name: _____ Date: _____	
<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 products;		
<input type="checkbox"/>	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>		
<input type="checkbox"/>	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;		

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	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.

Nucleic Acid Testing is a highly technical technique requiring dedicated staff, laboratory space, hardware and software. Our testing for chlamydia (CT) and gonorrhea (GC) currently uses the Panther APTIMA by Gen-Probe/Hologic. This automated instrument requires FDA-approved supplies and reagents that cannot be supplied by other companies. CT/GC can be performed from one sample collected at the time of the patient visit. This is a convenience that our clients have requested repeatedly over the past several years. The HETL provides testing for many hospitals, physicians' offices, school-based health centers, and other laboratories. Maintaining this instrument greatly increases the efficiency of diagnosis and reporting test results to the provider expeditiously.

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 state resources available to provide this service.

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**.

Gen-Probe/Hologic owns the Panther instrument, therefore performs routine maintenance at no cost. By having a reagent rental as opposed to owning the instrument, HETL does not incur the cost of an annual service agreement for this instrument. The cost of supplies and reagents for the Panther instrument has remained static for several years. The alternative to this continued use of the current testing instrumentation would be the purchase of an entirely new system which would cost tens of thousands of dollars more, just in capital equipment alone. There would also be a loss of income due to the purchase of unique reagents and consumables, and lost staff time due to training and validation of the new system. During this down time when systems would be exchanged, the state of Maine would be without these diagnostic tests.

5. Future Competition

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

The department does not intend to RFP these 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.

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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 Panther instrument requires a trained technician, provided by Gen-Probe/Hologic, to perform routine maintenance and upgrades to the software. State employees are not properly trained to service this machine. FDA regulated tests require specific reagents and supplies to perform the current test menu. (FDA Analyte specific reagents: 21 CFR 809.10(e), 809.30, and 864.4020 21 CFR 864.4020) Reagents and supplies must be purchased through Gen-Probe/Hologic to honor their rental agreement.

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

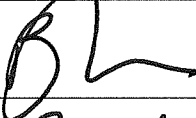
Please explain if time is of the essence and an emergency exists which requires the immediate procurement of goods or services. Describe the nature of this emergency, provide the date by which the goods or services must be delivered, and explain how that date was determined and its significance (i.e. 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:


Ben Mann

Date:

12/2/19