

## 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>	Julie L. Flynn, Deputy Secretary of State	<b>Office/Division/Program of Contract Administrator:</b>	Secretary of State, Bureau of CEC, Elections Division
<b>Est. Contract Amount:</b>	\$ 218,226	<b>Contract or RQS Number:</b>	29A 20121005*1487
<b>Proposed Start Date:</b>	1/1/2020	<b>Proposed End Date:</b>	6/30/2020
<b>Vendor/Provider Name, City, State:</b>		Election Systems & Software, LLC Omaha, NE	
<b>Short Description of Good or Service:</b>		Six-month extension of existing contract for the State to lease precinct ballot scanning/tabulating units provided to towns with more than 1,000 voters and lease a central count scanner to the Elections Division for conducting the Ranked-choice Voting central count.	
<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>		<b>To be completed by the Division of Procurement Services</b> Posting dates on Division of <i>Procurement Services</i> website: From: <u>12/20/2019</u> To: <u>12/26/2019</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 1220192081	
<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>		<i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i> <b>Signature:</b>	
		<b>Printed Name:</b>	<b>Date:</b>

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<b>X</b>	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 Department has an existing contract for a ballot scanning and tabulating system that was selected after a competitive bid issued in the Summer of 2012. The current contract expires at the end of 2019. The Department has been working on an RFP for a new ballot scanning and tabulating system, but the timing of the new Presidential Primary Election on 3/3/2020 and State Primary Election on 6/9/2020 make it impossible to procure and implement new equipment and software efficiently and securely prior to or between these two elections. Accordingly, we believe it is more prudent to make a short extension (6 months) of the existing tabulation system contract, so that the State and municipalities can use the familiar software and hardware for the new Presidential Primary and existing State Primary elections, which have a very short (90-day) period in between them. The plan for the RFP is to have a new system procured and a contract in place by 7/1/2020, which would allow for a smooth roll-out and training in July and August of 2020, sufficiently in advance of the 11/3/20 Presidential General Election.

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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.

There are a small number of vendors (4 or 5) that manufacture ballot scanning and tabulating equipment which has been federally certified to comply with the Voluntary Voting System Guidelines promulgated by the U.S. Elections Assistance Commission, the federal agency authorized to oversee voting system testing and certification. There are no State or other governmental agencies that can provide this equipment and attendant software and services.

**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 costs for this extension represent a 6-month proration of the annual lease costs, which were obtained through a competitive bid process in 2012.

**5. Future Competition**

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

The Department is drafting an RFP is to have a new system procured and a contract in place by 7/1/2020, which would allow for a smooth roll-out and training in July and August of 2020, sufficiently in advance of the 11/3/20 Presidential General Election.

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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.

The existing lease agreement expires on 12/31/19, and an extension is necessary to ensure a successful Presidential Primary election on 3/3/20 and State Primary election on 6/9/20 using equipment that already is in use in the 265 municipalities with over 1,000 voters. We expect to issue an RFP to lease new equipment starting on 7/1/20 after the expiration of this extension.

### 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.*



**Printed Name:**

Julie L. Flynn, Deputy Secretary of State

**Date:**

12/19/19