

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.

Requesting Department's Contract Administrator:	Julie L. Flynn, Deputy Secretary of State	Office/Division/Program of Contract Administrator:	Secretary of State, Bureau of CEC, Elections Division
Est. Contract Amount:	\$ 866,007	Contract or RQS Number:	29A 20191223*1932 20191223*1932
Proposed Start Date:	1/1/2020	Proposed End Date:	12/31/2023
Vendor/Provider Name, City, State:		PCC Technology, Inc. Windsor, CT	
Short Description of Good or Service:		Maintenance and support of the software used by the Elections Division and 500 municipalities to manage Maine voter registration and election activities for the 4-year election cycle.	
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 Procurement Services website. From: <u>12/24/2019</u> To: <u>12/30/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 1220192118	
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;		
<input type="checkbox"/>	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.	By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement. 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 of Maine
Waiver of Competitive Bidding Request Form**

	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.
	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.	
This contract is for maintenance and support of the proprietary ElectioNet™ software developed by PCC Technology, Inc. This is the application that runs the Central Voter Registration (CVR) system used by the Elections Division and by 500 municipalities to manage Maine voter registration and election activities. The CVR is required by Federal law, the Help America Vote Act of 2002 (HAVA). This vendor and its software were selected by a competitive bid process in late 2004, prior to full implementation of its product throughout the State's voting infrastructure in 2007. The initial bid included the implementation and customization of the software plus 8 years of support and maintenance. The software is still viable and functional, and its continued use and maintenance are essential to operation of this mission critical election management resource.	

**State of Maine
Waiver of Competitive Bidding Request Form**

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.

Because the software is proprietary, no other vendor or agency employee or contractor can support it.

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 2020 base agreement annual rate represents about a 3% increase over the annual cost of the previous support and maintenance agreement covering the period of 2016 – 2019. We believe this is still competitive with similar agreements for other software. The new negotiated hourly rate for development services of \$105/hour with the 3% annual increase still is within the industry standard rate.

5. Future Competition

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

If the vendor should cease to modernize and/or support its software, it may become necessary for the State to go out to bid for new Central Voter Registration system software. However, as a new system would likely cost between \$10-20 million dollars and several years to implement, this is not a viable option unless the system no longer remains functional.

**State of Maine
Waiver of Competitive Bidding Request Form**

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.

Again, this is proprietary software owned and licensed by the vendor. This is a major statewide enterprise system, used by both the state and 500 municipalities to carryout statutorily mandated voter registration and election management functions. To be required to issue an RFP to replace the current system would be costly and time-consuming - and moreover, unnecessary - considering that the current software is functional and well-supported by the vendor. The difficulty of implementing a new system and training election officials from 500 municipalities to use a new system is not something that should be undertaken unless the current system cannot be maintained and upgraded to work with new technology. This is not the case.

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:

12/23/19