

NEW

State of Maine**Master Agreement****Effective Date:** 01/01/17**Expiration Date:** 12/31/19**Master Agreement Description:** Bulk Argon Gas and Argon Monthly Tank Rental for HETL**Buyer Information**

Donny Crockett 207-624-7336 ext. Donny.Crockett@maine.gov

Issuer Information

LISA ROBBINS 207-287-2727 ext. lisa.robbins@maine.gov

Requestor Information

Lisa Robbins 207-287-2727 ext. lisa.robbins@maine.gov

Authorized Departments

10A DEPT OF HUMAN SERVICES

Vendor Information**Vendor Line #:** 1**Vendor ID**

VC1000061814

Vendor Name

MAINE OXY ACETYLENE SUPPLY INC

Alias/DBA**Vendor Address Information**

100 WASHINGTON STR N

AUBURN, ME 04210

US

Vendor Contact Information

Paul A Rice Jr.

207-415-3936 ext.

price@maineoxy.com

Commodity Information

Vendor Line #: 1

Vendor Name: MAINE OXY ACETYLENE SUPPLY INC

Commodity Line #: 2

Commodity Code: 98141

Commodity Description: Bulk Gas Tank Rental or Lease

Commodity Specifications: As per the specifications attached made part of this MA This commodity line is or tank rental.

Commodity Extended Description: This MA is for bulk Argon & Nitrogen gases and bulk storage tank rental used at DHHS HETL only

Quantity	UOM	Unit Price
0.00000		\$0.00
Delivery Days	Free on Board	
Contract Amount	Service Start Date	Service End Date
\$0.00	01/01/17	12/31/19
Catalog Name	Discount	
	0.0000 %	
	Discount Start Date	Discount End Date

Commodity Information

Vendor Line #: 1

Vendor Name: MAINE OXY ACETYLENE SUPPLY INC

Commodity Line #: 3

Commodity Code: 43042

Commodity Description: Bulk Laboratory Gas-Argon, Nitrogen, etc.

Commodity Specifications: As per the specifications attached made part of this MA This commodity line for gases

Commodity Extended Description: This MA is for bulk Argon & Nitrogen gases and bulk storage tank rental used at DHHS HETL only

Quantity	UOM	Unit Price
0.00000		\$0.00
Delivery Days	Free on Board	
Contract Amount	Service Start Date	Service End Date
\$0.00	01/01/17	12/31/19
Catalog Name	Discount	
	0.0000 %	
	Discount Start Date	Discount End Date

State of Maine Waiver of Competitive Bidding Request Form (Formerly Sole Source Authorization 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:	James Curlett	Office/Division/Program of Contract Administrator:	DHHS, MeCDC, Health & Environmental Testing Lab
Est. Contract Amount:	Master Agreement	Contract or RQS Number:	RQS10A20160408*1589
Proposed Start Date:	When signed	Proposed End Date:	Permanent tank on site
Vendor/Provider Name, City, State	Maine Oxy		
Short Description of Good or Service:	Argon Gas and Monthly Argon Tank Rental		
Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Purchases' website for a period of seven consecutive calendar days.		To be completed by the Division of Purchases Posting dates on Division of Purchases' website: From: 2/3/2017 To: 2/9/2017	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0120170173	
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"/>	<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: <div style="text-align: center; margin-top: 10px;">N/A</div>	
<input type="checkbox"/>	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;		
<input type="checkbox"/>	<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 Purchases "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;		
<input type="checkbox"/>	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.		
<input type="checkbox"/>	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.

Argon is an inert gas that the Health and Environmental Testing Lab uses to operate (6) six instruments. Two are Graphite Furnace Atomic Absorption instruments that support the Childhood Lead Testing project, which is a test required by Maine Statute (Title 22: HEALTH AND WELFARE Chapter 252: LEAD POISONING CONTROL ACT §1319-D. LABORATORY TESTING). One of the other instruments is an Inductively Coupled Argon Plasma Optical Emission Spectrophotometer (ICP/OES) which is used to analyze lead wipes for the state and local housing authorities to ensure that rental housing is safe for the occupants (5500 samples a year). Three (3) Inductively Coupled Argon Plasma Mass Spectrometers (ICP/MS), one analyzes 8800 drinking water samples per year and two (2) that analyze blood and urine samples for toxic metals as part of the Public Health Emergency Preparedness

The HETL lab would have significant problems, safety issues of children, and lost revenue if this went out to bid, resulting in another vendor getting an award. Since the lab needs to operate daily, the coordination of swapping out a tank is formidable and would involve significant expenses including but not limited to blocking off two streets, having two huge flatbeds trucks and two cranes, maybe having to pour a concrete pad, or somehow securing the new tank to the existing pad, hiring gas pipefitters, drilling holes and running a new manifold, decontaminating the piping, draining and filling the tanks, purging the oxygen from everything, which would be a significant cost.

Children that have already been tested with high blood levels in "stat" status must be retested and rechecked. Results must be sent out to these medical facilities as soon as possible. Not having argon to perform these tests could result in the child's health and safety. If samples are rejected because of the timeframe of changing out this tank, children could suffer as well as having to go through the pain of submitting blood samples again, delaying treatment. Per <http://www.maine.gov/dhhs/mecdc/environmental-health/eohp/lead/providers.shtml>, Effective March 2015, for children less than 6 years old, providers should confirm all capillary blood lead levels ≥ 5 ug/dL with venous samples, and follow up on all venous blood lead levels ≥ 5 ug/dL. These changes align Maine CDC's recommendations with the updated national reference value for pediatric blood lead of 5 ug/dL. This testing can only be conducted at HETL.

Please see <http://www.maine.gov/dhhs/mecdc/environmental-health/eohp/lead/providers.shtml> for the specifics of blood lead testing, medical information, billing etc.

Several doctors' offices in the state conduct a small number of pediatric blood lead tests (using a point of care test which does not use Graphite Furnace Atomic Absorption method). These providers are required to submit samples from high lead suspect patients. It is not known if these point of care tests meet the lower reporting levels.

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.

Currently, the 1,000 gallon argon tank that sits 2 stories high and 12 ft in diameter outside of the building at 221 State Street is owned and belongs to Maine Oxy and due to safety consideration can only be serviced by their trained personnel. Liquid argon is -302 degrees and is an asphyxiant so it requires a person trained specifically on that tank system for safety reasons. Not knowing the quality of argon coming from another source from a new vendor is questionable. As stated above, there would be a significant cost and possibly several other bids other than the gas and tank in this situation. Bids would go out for the cost of new piping, pipefitters, rental of flatbed trucks, two cranes, possibly having to pour another concrete slab, and the purchase of a new manifold.

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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 of argon gas is basically the same as the cost of any other gas. A comparison study was done in 2016 and revealed only a few cents a cubic foot difference between various vendors. Another concern is the availability of delivery. Maine Oxy has always been able to deliver as needed, when needed, without any issues any time of the day. Their argon has never destroyed or contaminated an instrument and test results have never been rejected because testing had to stop. (Rejected test results would add to the cost)

5. Future Competition

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

The current argon tank is a 1,000 gallon argon tank that sits 2 stories high and 12 ft in diameter outside of the building at 221 State. There would be a significant cost and possibly several other bids other than the gas and tank in this situation. Bids would go out for the cost of new piping, pipefitters, rental of flatbed trucks, two cranes, possibly having to pour another concrete slab, and the purchase of a new manifold. These costs would exceed the cost of continuing this service with Maine Oxy.

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.

HETL requires Argon on a daily basis to operate six instruments. If the argon tank is empty, several tests conducted at HETL would not be accomplished; included childhood blood lead (Title 22: HEALTH AND WELFARE Chapter 252: LEAD POISONING CONTROL ACT §1319-D. LABORATORY TESTING) Since Maine Oxy owns the tank there will be no delay caused by having to remove and refit the tank and associated plumbing.

7. Timeframe

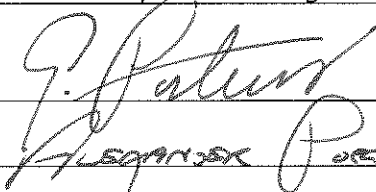
Please explain if time is of the essence and an emergency exists which requires the immediate procurement of goods or services. Describe the nature of this emergency, provide the date by which the goods or services must be delivered, and explain how that date was determined and its significance (i.e.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

Printed Name:

Date:

By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.


J. F. Patterson
2-2-17



Raymond Cusson/maineoxy
08/11/2011 10:32 AM

To Paul Rice/maineoxy@maineoxy
cc Daniel Guerin/maineoxy@maineoxy
bcc
Subject Re: Fw: RE: CYLINDER COUNT AND A RENTAL TOTAL
DUE MAINE OXY

ARGON \$6.23 CCF NO DELIVERY, NO HAZMAT, NO SURCHARGES, \$420.00 MONTH RENT ON
BULK TANK

MR GUERIN WANTS YOU TO QUOTE \$5.75 CCF BECAUSE WE EAT ALL THE OTHER CHARGES

Ray Cusson
Customer Service / IT Manager
Maine Oxy - Acetylene Co.
Direct Phone# 207-514-1592
E-Mail rcusson@maineoxy.com

Paul Rice---08/11/2011 10:09:55 AM---Thank You Ray YOU are the BEST. No matter what Guerin says!Wr

Paul Rice/maineoxy
08/11/2011 10:09 AM

To Raymond Cusson/maineoxy
cc
Subject Re: Fw: RE: CYLINDER COUNT AND A RENTAL TOTAL
DUE MAINE OXY

Thank You Ray YOU are the BEST. No matter what Guerin says!What are we charging Health and
Environmental and what are their rental rates can you get that info back to me PLEASE!

Acct # 242100-01

MAINE OXY CYLINDER GAS AGREEMENT

1) MAINE OXY-ACETYLENE SUPPLY COMPANY, AUBURN, MAINE (hereinafter called "seller") hereby agrees to sell, and Health & Environmental Testing Of 221 State Street, Augusta, Maine 04330 (hereinafter called "Buyer") hereby agrees to buy, upon the terms and conditions hereinafter set forth, all Buyer's gas requirements, for buyers own use for a period of 5 years. Beginning on the Tenth day of February 2004 and thereafter from year to year unless notice of cancellation is given by either party in writing at least twelve(12) months prior to the commencement of any such year.

2) The prices for industrial/specialty gases purchased hereunder shall be as follows:

00329 Liquid Argon Bulk \$ 6.23/hcf

price to stay the same for
2 years with a maximum increase
of 5%

3) Terms: Net 30 days upon approval.

4) Seller will have the right to revise the price(s) set forth in paragraph #2 by giving the Buyer not less than thirty(30) days prior notice of the effective date of such revision, provided, however, that if said prices are increased and Buyer, within fifteen(15) days after said notice, furnishes seller with credible written evidence that Buyer can purchase product from a responsible supplier in like quantities under similar terms and conditions at a lower price, and if, within fifteen (15) days thereafter Seller does not agree to either: (a) meet said lower price; or (b) rescind the notice of the revised price, Buyer will have the right within ten (10) days thereafter to terminate this Agreement as to the location(s) and manner of delivery for which such lower price is offered by giving Seller not less than ten (10) days prior written notice. If Seller agrees to meet the lower price, or rescind the revised price, Seller shall also have the right to extend the Basic Term of this Agreement until the end of the contract term set forth in the lower price offer.

5) Buyer shall return each cylinder when empty to Seller. Seller reserves the right to charge a cylinder rental of \$0.220 per cylinder per day on all gas cylinders and of \$1.35 per cylinder per day on all liquid containers in the Buyers possession during each calendar month, which Buyer shall pay or cause to be paid on demand. Buyer shall pay, or cause to be paid promptly on demand to the Seller, at Seller's then established valuations and rates, for loss of or damage to any of said cylinders or fittings resulting from any cause after delivery thereof by Seller and until return to Seller.

6) Seller agrees to Lease to Buyer for the above specified period of time beginning with the date of this agreement:

LEASE TYPE: <u>LSE-999155-012</u>	QTY: <u>1</u>	TERM: <u>5 Years</u>	PRICE EACH: <u>\$420.00</u> <i>ea mos</i>
LEASE TYPE:	QTY:	TERM:	PRICE EACH:
LEASE TYPE:	QTY:	TERM:	PRICE EACH:
LEASE TYPE:	QTY:	TERM:	PRICE EACH:

7) TITLE to above listed cylinders shall at all times remain with Seller and Buyer shall have no interest therein except as provided by this agreement. Buyer agrees to indemnify Seller against loss or damage to any and all cylinders supplied to Buyer by Seller, ordinary wear and tear excepted. Buyer agrees that no cylinder owned by Seller shall be refilled or exchanged except

through Seller.

8) The obligations of Seller to deliver and Buyer to accept deliveries hereunder are subject to strikes, riots, wars, fires, acts of God, accidents, Governmental orders and regulations, curtailment of, and failure in obtaining, sufficient electrical power, lack of transportation facilities, and other similar contingencies beyond the reasonable control of Seller or Buyer, as the case may be.

9) Seller's liability for non-delivery or for quality of material delivered shall not exceed the purchase price of such material.

10) This agreement shall supersede any previous existing agreement between the parties hereto covering the sale of gases for any one or more of Buyer's facilities to be supplied hereunder.

11) This agreement shall inure to the benefit of and be binding upon the successors and assigns of the respective parties hereto.

12) This agreement shall become effective only when signed by Buyer and accepted, in writing by Seller at one of its offices by an authorized person.

13) No change in or addition to the terms and provisions hereof shall be made unless approved in writing by a representative of Seller authorized to accept this agreement.

14) Purchaser acknowledges that there are hazards associated with the storage, distribution and use of the gases, products or cylinders furnished under this Agreement and that the Purchaser and its personnel are fully aware of all such hazards. Purchaser hereby assumes all responsibility for warning its personnel and any third parties on its premises of all hazards to persons and property in any way associated with such gases, products or cylinders themselves or the storage, distribution or use thereof.

Signed the 17 day of Feb 2004

Thomas Crosby
Signature

By Thomas Crosby
(print name)

Title Supplier

MAINE OXY-ACETYLENE SUPPLY COMPANY

Submitted the 17 day of Feb 2004

Maine Oxy
(Seller's Representative)
Paul A. Duf
(Accepted for Seller)