



Administered by  
**UNIVERSITY OF MAINE SYSTEM**  
Office of Strategic Procurement

**REQUEST FOR PROPOSALS**

**TO LEASE EXCESS EDUCATIONAL  
BROADBAND SERVICE (EBS) CAPACITY  
From The University of Maine System**

**RFP # 23-10**

ISSUE DATE:  
March 26, 2010

PROPOSALS MUST BE RECEIVED BY:  
Tuesday, April 27, 2010

DELIVER PROPOSALS TO:

University of Maine System  
Office of Strategic Procurement  
Attn: Hal Wells  
16 Central Street  
Bangor, ME 04401

## SECTION ONE

### 1.0 GENERAL INFORMATION:

- 1.1 Purpose: The University of Maine System is seeking proposals from vendors to lease excess Educational Broadband Service (EBS) capacity as defined by the regulation of the Federal Communications Commission (FCC), on twenty-six (26) EBS stations located in the State of Maine. Please refer to Attachment A for a list of the stations, their call signs, locations, licensed channels to be leased.

The University is the sole license holder for these channels.

This Request for Proposals (RFP) states the instructions for submitting proposals, the procedure and criteria by which a vendor may be selected and the contractual terms by which the University intends to govern the relationship between it and the selected vendor.

- 1.2 Definition of Parties: The University of Maine System will hereinafter be referred to as the "University." Respondents to the RFP shall be referred to as "Bidder(s)" or "bidder(s)". The Bidder to whom the Contract is awarded shall be referred to as the "Lessee or Contractor."
- 1.3 Background: The University has operated and maintained an Instructional Television (ITV) network using licensed EBS (formerly Instructional Television Fixed Service – ITFS) channels since 1989. The University has transmitted ITV using analog transmission equipment in all Basic Trading Areas (BTAs) except in the Portland/Brunswick BTA where the University has transmitted ITV with digital transmission equipment since that BTA was transitioned. To date, no excess capacity has been leased. Use of the EBS spectrum for ITV transmissions will cease during the summer 2010. Thus, the University expects to satisfy FCC educational use requirements by utilizing services on the wireless system(s) throughout the State of Maine that include the University's spectrum.
- 1.4 Scope: The University is prepared to enter into a long term lease arrangement for an initial term of at least ten (10) years with an overall term not-to-exceed thirty (30) years and with end-of-term provisions customary in the industry. The University is prepared to lease channels: A1, A2, A3, B1, B2, B3, C1, C2, C3, D1, D2, D3, G1, G2, and G3 in all EBS station's channel groups (as stated in Attachment A) for which the University is licensed. However, the University will also consider proposals which include lease of capacity in channels A4, B4, C4, D4 or G4. Pursuant to the FCC's new band plan, the selected lessee would be granted the rights to establish facilities for upstream and downstream digital pathways under a "de facto transfer lease" under FCC rules and policies.

The desired funding schedule would provide an upfront payment of at least ten percent (10%) of the overall net present value of the income stream of the lease over its lifetime, as well as annual payments monthly payments increasing annually by the CPI or other index. The University will consider proposals that include non-monetary compensation.

The University has a strong preference for a single lease with a single operator for all its stations however the University will consider proposals to lease fewer than all the stations. In that event, that the University receives several proposals to lease selected channel stations, the University may lease different stations to different operators.

- 1.5 Evaluation Criteria: Proposals will be evaluated on many criteria deemed to be in the University's best interests, including, but not limited to the financial value (revenue) of the proposal; build out and "substantial service" plans; compliance with contractual requirements

and preferences stated in this RFP; adherence to FCC rules and protection of University's licenses; bidder experience and qualifications to include technical strength and financial stability.

- 1.6 Communication with the University: It is the responsibility of the bidder to inquire about any requirement of this RFP that is not understood. Responses to inquiries, if they change or clarify the RFP in a substantial manner, will be forwarded by addenda to all parties that have received a copy of the RFP. Addenda will also be posted on our web site, [www.maine.edu/strategic/upcoming\\_bids.php](http://www.maine.edu/strategic/upcoming_bids.php). The University will not be bound by oral responses to inquiries or written responses other than addenda.

The deadline for written inquiries is Monday, April 12, 2010

If it is required, the final addendum will be submitted to bidders on Tuesday, April 20, 2010

Inquiries must be made to: Hal Wells  
Office of Strategic Procurement  
University of Maine System  
16 Central Street  
Bangor, Maine 04401  
(207) 973-3302  
hcwells@maine.edu

- 1.7 Award of Proposal: Presentations may be requested of two or more bidders deemed by the University to be the best suited among those submitting proposals on the basis of the selection criteria. After presentations have been conducted, the University may select the bidder which, in its opinion, has made the proposal that is the most responsive, most responsible and in the best interests of the University and may award the Contract to that bidder. The University reserves the right to waive any irregularities. Scholarships, donations, or gifts to the University, will not be considered in the evaluation of proposals. The University reserves the right to reject any or all proposals, in whole or in part, and is not necessarily bound to accept the highest cash value proposal if that proposal is contrary to the best interests of the University. The University may cancel this Request for Proposals or reject any or all proposals in whole or in part. The University may also seek best and final offers from one or more bidders. To obtain best and final offers, the University may, at its option, disclose elements of the highest bids such as net present value. Should the University determine in its sole discretion that only one bidder is fully qualified, or that one bidder is clearly more qualified than any other under consideration, a contract may be awarded to that bidder without further action.
- 1.8 Confidentiality: Except as described in 1.7 above, the information contained in proposals submitted for the University's consideration will be held in confidence until all evaluations are concluded and an award has been made. At that time, the winning proposal will be available for public inspection. Pricing and other information that is an integral part of the offer cannot be considered confidential after an award has been made. The University will honor requests for confidentiality for information of a proprietary nature to the extent allowed by law. Clearly mark any information considered confidential.
- 1.9 Costs of Preparation: Bidder assumes all costs of preparation of the proposal and any presentations necessary to the proposal process.
- 1.10 Debarment: Submission of a signed proposal in response to this solicitation is certification that your firm (or any subcontractor) is not currently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal department or agency. Submission is also agreement that the University

will be notified of any change in this status.

- 1.11 Proposal Understanding: By submitting a proposal, the bidder agrees and assures that the specifications are adequate, and the bidder accepts the terms and conditions herein. Any exceptions should be noted in your response.
- 1.12 Proposal Validity: Unless specified otherwise, all proposals shall be valid for ninety (90) days from the due date of the proposal.
- 1.13 Proposal Submission: A **SIGNED** original and two (2) copies of the proposal must be submitted to the Office of Strategic Procurement, University of Maine System, 16 Central Street, Bangor, Maine 04401, in a sealed envelope by **Tuesday, April 27, 2010**, to be date stamped by the Office of Strategic Procurement in order to be considered. Normal business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. Bidders may wish to call (207) 973-3298 to determine if University operations have been suspended. Proposals received after the due date will be returned unopened. There will be no public opening of proposals (see Confidentiality clause). In the event of suspended University operations, proposals will be due the next business day. Vendors are strongly encouraged to submit proposals in advance of the due date to avoid the possibility of missing the due date because of unforeseen circumstances. Vendors assume the risk of the methods of dispatch chosen. The University assumes no responsibility for delays caused by any package or mail delivery service. Postmarking by the due date WILL NOT substitute for receipt of proposal. Additional time will not be granted to any single vendor, however additional time may be granted to all vendors when the University determines that circumstances require it. **FAXED OR E-MAIL PROPOSALS WILL NOT BE ACCEPTED.** The envelope must be **clearly** identified on the outside as follows:

Name of Bidder  
Address of Bidder  
Due Date  
RFP #23-10

Where possible, all materials submitted should be fully recyclable. Submissions shall be on standard 8.5 x 11, letter-sized paper and be clipped together without binding.

- 1.14 Award Protest: Bidders may appeal the award decision by submitting a written protest to the University of Maine System's Director of Strategic Procurement within five (5) business days of the date of the award notice, with a copy of the protest to the successful bidder. The protest must contain a statement of the basis for the challenge.

END SECTION ONE

## SECTION TWO

### 2.0 GENERAL TERMS AND CONDITIONS:

- 2.1 Contract Documents: A separate contract will be written.
- 2.2 Contract Administration: Contract Administration: The Associate Director for Academic Technologies and End-user Support or his designee shall be the University's authorized representative in all matters pertaining to the administration of this Contract.
- 2.3 Contract Term: The Contract term shall be for a period of at least ten (10) years commencing upon a date to be mutually agreed upon by the University and the Lessee.
- 2.4 Contract Validity: In the event one or more clauses of the Contract are declared invalid, void, unenforceable or illegal, that shall not affect the validity of the remaining portions of the Contract.
- 2.5 Non-Waiver of Defaults: Any failure of the University to enforce or require the strict keeping and performance of any of the terms and conditions of this Contract shall not constitute a waiver of such terms, conditions, or rights.
- 2.6 Litigation: This Contract and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Maine without reference to its conflicts of laws principles. The Contractor agrees that any litigation, action or proceeding arising out of this Contract, shall be instituted in a state court located in the State of Maine.
- 2.7 Indemnification:

The Lessee shall indemnify, hold harmless and defend the University, its Trustees, employees and agents from and against all losses, expenses, claims, lawsuits, damages, judgments and costs, including reasonable attorneys' fees, suffered or sustained by the University or for which the University may be held or become liable by reason of injury (including death) to persons or property or other causes whatsoever, in connection with the acts, omissions or operations of the Contractors or any subcontractor under this agreement.

The University agrees to indemnify and hold the Contractor harmless from and against any and all claims, actions, lawsuits, judgments and costs, including reasonable attorney's fees, that the Contractor may become liable to pay or defend due to bodily injury or property damage caused by the negligent acts or omissions of the University, arising out of or in connection with the University's performance of its obligations under this Agreement; PROVIDED that any liability of the University under this Agreement shall be limited by the provisions and limitations of the Maine Tort Claims Act, 14 M.R.S.A §8101, et seq.

END SECTION TWO

## SECTION THREE

### 3.0 PERFORMANCE TERMS AND CONDITIONS:

- 3.1 Payments: Lease payments will be made to UMS-ITS, 46 University Drive, Augusta, ME 04330.
- 3.2 The Lessee will assume all costs associated with use of the leased capacity, including but not limited to, equipment, tower space, permits, taxes and insurance.

END SECTION THREE

## SECTION FOUR

### 4.0 PROPOSAL CONTENT:

Bidders shall ensure that all information required herein is submitted with the proposal. All information provided should be verifiable by documentation requested by the University. Failure to provide all information, inaccuracy or misstatement may be sufficient cause for rejection of the proposal or rescission of an award. Bidders are encouraged to provide any additional information describing operational abilities. Responses to each requirement below should be in order and clearly marked with the section number to which they respond.

In formulating your response, bidders are advised to carefully review the entire document paying particular attention to the current background (section 1.3); scope (section 1.4) to get a sense of the University's current situation and expectations. Bidders are also advised to review the evaluation criteria (section 1.5).

- 4.1 Business Profile: Submit a short introduction to the bidder's history, financial capability and business plan including contemplated use of the University's channels, likely service offerings, technologies, build-out and service timing and milestones.
- 4.2 Financial Proposal: Bidders shall provide information regarding;
  - 4.2.1 Timing and amount of up-front payments
  - 4.2.2 Fixed monthly (or annual) payments
  - 4.2.3 Periodic increases of monthly payments
  - 4.2.4 Lump-sum payments at the ten and twenty year intervals
- 4.3 Describe the proposed length and structure of the term of the agreement and end of term provisions (such as rights of first refusal) or any other proposed restrictions and/or limitations on the University's freedom of action during and after the agreement.
- 4.4 Describe how much excess capacity is to be leased. Under FCC rules, a maximum of 95% of the University's capacity can be leased.
- 4.5 Discuss your commitment to meeting the FCC's substantial service deadline of May 1, 2011 and provide appropriate details about how that commitment will be met in the time remaining.
- 4.6 Discuss your commitment to protect the University's licenses by abiding with all FCC rules during the term of the Contract.
- 4.7 With regard to this Contract, provide a statement of how your firm would comply with FCC technical and leasing rules.
- 4.8 Describe your willingness to guarantee that the University's agreement will be no less favorable than any other agreement that your firm enters into with any other EBS licensee in the market, taking into account the MHz/population provided under the respective leases

END SECTION FOUR

# SIGNATURE PAGE

COMPANY NAME: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Phone)

\_\_\_\_\_  
(Cell Phone)

\_\_\_\_\_  
(E-mail Address)

\_\_\_\_\_  
(Date)



ATTACHMENT A

<b>Call Sign</b>	<b>Site Name</b>	<b>Transmitter City/State</b>	<b>Licensed channels</b>
WHR987	Parkhurst	PRESQUE ISLE, ME	B1, B2, B3, B4
WHR965	Ragged Mtn	CAMDEN, ME	D1, D2, D3, D4
WHR966	Cook Hill	VASSALBORO, ME	B1, B2, B3, B4
WHR967	Applesas	LEWISTON, ME	C1, C2, C3, C4
WHR968	Litchfield	LITCHFIELD, ME	A1, A2, A3, A4
WHR969	Sand Hill	AUGUSTA, ME	G1, G2, G3, G4
WHR982	Portland Law	PORTLAND, ME	B1, B2, B3, B4
WHR983	Bull Hill	CHARLESTON, ME	G1, G2, G3, G4
WHR985	York Hill	NEW SHARON, ME	C1, C2, C3, C4
WHR986	Smyrna	SMYRNA, ME	C1, C2, C3, C4
WHR988	Blackcap	EAST EDDINGTON, ME	D1, D2, D3, D4
WHR991	Fish Hill	LINCOLN, ME	B1, B2, B3, B4
WHR992	Peaked Mtn	DIXMONT CENTER, ME	C1, C2, C3, C4
WHR996	Charrette Hill	FORT KENT, ME	A1, A2, A3, A4
WHR998	Quaggy Joe Mtn	PRESQUE ISLE, ME	G1, G2, G3, G4
WHR999	Number Nine Mtn	BRIDGEWATER, ME	A1, A2, A3, A4
WLX202	Aggie	YORK, ME	D1, D2, D3, D4
WLX203	Greenville	GREENVILE, ME	A1, A2, A3, A4
WLX205	Winn Mtn	SEBAGO, ME	G1, G2, G3, G4

WLX215	Blue	BLUE HILL, ME	A1, A2, A3, A4
WLX216	Cooper	COOPER, ME	A1, A2, A3, A4
WLX217	Machias	EAST MACHIAS, ME	G1, G2, G3, G4
WLX218	Musquash	TOPSFIELD, ME	D1, D2, D3, D4
WLX219	Daigle	STOCKHOLM, ME	C1, C2, C3, C4
WLX305	Streaked Mtn	BUCKFIELD, ME	D1, D2, D3, D4
WLX580	Sugarloaf Mtn	CARRABASSETT, ME	A1, A2, A3, A4