

# 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.

<b>Requesting Department's Contract Administrator:</b>	Derek Davidson	<b>Office/Division/Program of Contract Administrator:</b>	Consumer Assist. And Safety Div., Maine Public Utilities Commission
<b>Est. Contract Amount:</b>	\$ 16,500.00	<b>Contract or (RQS) Number:</b>	20200110 + 0809
<b>Proposed Start Date:</b>	1-29-2020	<b>Proposed End Date:</b>	5-1-2020
<b>Vendor/Provider Name, City, State</b>	New England Committee of Managing Underground Safety Training (MUST)		
<b>Short Description of Good or Service:</b>	MUST will provide six separate training sessions across Maine about how to reduce and prevent damage incidents involving underground facilities. The training covers safe work practices around underground facilities, compliant excavation site and underground facility markings, the design of various underground facilities and the risks involved when proper damage prevention steps are not taken.		
<b>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.</b>		<b>To be completed by the Division of Purchases</b> Posting dates on Division of Purchases' website: From: 1/14/2020 To: 1/20/2020	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0120200052	
<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> Derek D. Davidson	<b>Date:</b> 1/29/19
<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 Purchases "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>		
<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		

## State of Maine Waiver of Competitive Bidding Request Form (Formerly Sole Source Authorization Form)

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:	
<b>Please note that the following four points below (#2 through 5) all require a response.</b>	
<b>2. Description of Specific Need</b> 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.	
<p>Pursuant to 23 M.R.S.A. §3360-A, "Protection of Underground Facilities," the Maine Public Utilities Commission (MPUC) is responsible for enforcing Maine's Damage Prevention Program. Education and Public Awareness Programs are an integral part of the program. The safety training seminars are designed to reduce and prevent damage incidents involving underground facilities and ensure the safety of residents, utility and excavator personnel, and protect property located near the facilities, thus contributing to the overall PUC goal of ensuring safe and adequate utility service.</p> <p>The MPUC, with the Managing Underground Safety Training – Regional NE (MUST) group, has been providing this training for excavators and underground operators for several years. From 2005 to 2009, the PUC organized, sponsored, and staffed annual training events, held at several locations throughout the state during March and April.</p> <p>Organizing the training programs required a considerable amount of staff time to prepare training materials, arrange for speakers/trainers, manage registrations, and arrange meeting space and food for the events. The PUC has determined that the cost and responsibility for organizing, designing and hosting the training events can no longer be absorbed fully by the agency. In 2010, the MUST organization agreed to take on the commitment of arranging and organizing the training and the PUC continued to financially support the training using funds that the Damage Prevention program has collected in administrative penalties. This arrangement has worked very well in past years; therefore, we propose the same arrangement for 2020.</p>	
<b>3. Availability of other Public Resources</b> 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.	
<p>In August 2009, with the retirement of a senior legal secretary and the subsequent freezing of her position, we lost most of the staff resources that had previously been devoted to administering underground damage prevention training. Because MUST was involved with designing the training and is comprised of industry experts (both utility personnel and excavators), it was most efficient to shift responsibilities for providing the training to MUST.</p>	
<b>4. Cost</b> 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 <b>fair and reasonable</b> .	

## State of Maine Waiver of Competitive Bidding Request Form (Formerly Sole Source Authorization Form)

Because the PUC has provided the funding for these training programs in the past, we are uniquely qualified to determine the reasonable cost of providing the training. In the past, the PUC has provided the funds for the vendors, as well as staff time, to arrange the seminars. Thus, the PUC is keenly aware of the cost of providing this type of training.

### 5. Future Competition

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

The MUST group is uniquely qualified and situated to provide this service. Their mission is "to promote underground facility safety through training efforts in cooperation with Dig Safe, underground facility owners, private locating companies, municipalities, excavators and regulatory agencies, and to continually evaluate the New England one-call laws and underground safety best practices." There is no other similar entity in Maine. Thus, I do not believe there will be future opportunities to foster competition in this area of expertise.

**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.

MUST is the only statewide organization in Maine devoted to helping those that work on or with underground utility facilities complete that work safely. The MUST organization is made up of Dig Safe, utility and excavator representatives who monitor best practices to prevent damage to underground facilities and provide expert training on compliance with the state's Underground Damage Prevention law and rule. Training topics include: enhanced Dig Safe call-in and notification procedures; procedures to work safely around underground utility lines, including electric, natural gas, telecommunications, and privately-owned facilities; marking techniques for excavation sites and underground facilities; excavator impact and experience; and locating and marking privately-owned underground facilities.

### 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.


The MUST Damage Prevention training is scheduled to take place in six separate one day sessions in March and April. Sessions will be held in Presque Isle, Brewer, Augusta, Freeport, Newry and Wells. These dates were chosen to be near the beginning of the construction season so participants can receive up-to-date information but not interfere with construction work. If the training is not provided in this time period, we will miss an entire construction season.

The timeframe for this project is not the reason we are seeking sole source authorization.

**Signature of requesting**

*By signing below, I signify that my Department requests, and I approve of, this*

**State of Maine Waiver of Competitive Bidding Request Form  
(Formerly Sole Source Authorization Form)**

<b>Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):</b>	<i>Waiver of Competitive Bidding</i>
	
<b>Printed Name:</b>	Harry Lanpher
<b>Date:</b>	11/10/20