

# 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>	Rebecca Peters & Stephanie Tucker	<b>Office/Division/Program of Contract Administrator:</b>	Department of Marine Resources, Bureau of Marine Science		
<b>Est. Contract Amount:</b>	\$ 196,833	<b>Contract or RQS Number:</b>	CT13A20190327000000002722		
<b>Proposed Start Date:</b>	<b>April 15, 2019</b>	<b>Proposed End Date:</b>	<b>December 31, 2019</b>		
<b>Vendor/Provider Name, City, State</b>	Robert Michael, Inc Portland, ME 04102				
<b>Short Description of Good or Service:</b>	The contractor provides us with a commercial fishing vessel as a research platform, captain and crew as scientific partners to perform the ME/NH Inshore Trawl Survey in the Gulf of Maine coastal waters of Maine and New Hampshire. Two survey cruises are made per year of at least 25 days each. The contractor provides all of the equipment to deploy our research sampling gear and space to process samples. The contractor also repairs and maintains the research nets and doors.				
<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>	<p style="text-align: center;"><b>To be completed by the Division of Procurement Services</b></p> <p>Posting dates on Division of <b>Procurement Services</b> website:                  From: <u>4/2/2019</u> To: <u>4/8/2019</u></p>				
<b>Notice of Intent to Waive Competitive Bidding Number:</b>	NOI# 0420190406				
<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>  <table style="width: 100%; border: none;"> <tr> <td style="border: none;"><b>Printed Name:</b></td> <td style="border: none;"><b>Date:</b></td> </tr> </table>		<b>Printed Name:</b>	<b>Date:</b>
<b>Printed Name:</b>	<b>Date:</b>				
<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 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>				
<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;				

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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.

As the Department of Marine Resources does not own a fishing vessel of sufficient size or that is equipped to execute fishing operations (trawling) using the research net and gear designed for this project, these services need to be contracted. The contractor is currently providing these services and has all of the equipment needed to perform these services.

The project that these services support is federally funded and we would lose those funds if the work was not performed. The information obtained by this project is needed to manage the commercial and recreational harvest of a variety of marine species.

## 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.

The department does not own a 54 foot commercial stern dragger and does not employ a vessel captain or crewmen.

The federal government owns and operates its own research vessel that is too large to survey the near-shore waters of Maine and New Hampshire. That is why this project was initiated.

## 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 daily charter rate is a fair rate for a vessel of that size. Other department projects have chartered vessels at similar rates.

The department's sea scallop survey has a daily rate of \$2,600-\$3,300 for its GOM survey depending on the survey area. The charter rate for other scientific research or commercial vessels is either comparable or greater than this contract.

## 5. Future Competition

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

The department will look into the competitive bidding process at the onset of a new grant cycle

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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 contractor and captain of the vessel are well versed in the procedures and protocols of the ME/NH survey and were active participants in the writing of the procedures manual. The captain has years of experience in executing this survey and due to that survey operations have remained extremely consistent over the last 18 years. This consistency is extremely important to standardize the fishery independent survey this contractor has helped support. The captain has specific knowledge of the survey area and the ports utilized as overnight dockage that he has gained from his involvement with this project. The most important feature of surveys of this type is that they are conducted in the most consistent, standardized way. These attributes are what give standardized surveys their statistical power. There is no doubt that vessel characteristics affect survey results. Length, width, and horsepower all influence survey catchability. Operator behavior, winch speed, trawl warp diameter and other vessel related features will also affect catchability. If catchability were to change then the information from the survey would not be able to inform management of commercially and recreationally important species.

It takes several years for surveys of this type to become valuable as a resource assessment tool. The ME/NH survey achieved this goal a few years ago. A vessel change would certainly be considered a significant change to survey consistency and may be viewed as a significant interruption in the survey time-series. The ME/NH Inshore Groundfish Trawl Survey is one of a number of standardized surveys used in stock assessments for Gulf of Maine species conducted at the NEFSC. Any significant change in the survey approach could jeopardize the further use of this data.

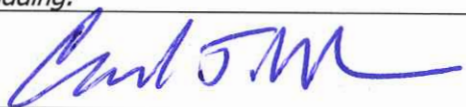
The Maine/New Hampshire Inshore Trawl Survey is a collaborative research project funded by the Department of Commerce, NOAA. The contractor has been involved in the project from its onset and is an integral part of the project. The specifications for the vessel needed to perform this work were established by the current vessel; it is extremely important for the project to maintain consistency in operations and protocols. The information on stock abundance of a variety of commercially important fish and shellfish collected depends on the uniformity of the towing performance. We could risk losing the supporting federal funds if the department chose to use a different vessel.

The vessel has all of the necessary equipment to conduct the research tows. For example, the department and the contractor have the same charting software, P-Sea Windplot™, to facilitate the transfer of tow documentation. The vessel is equipped with a thru-hull transducer that communicates with the department's eSonar™ net monitoring system which is essential to the process of consistent towing. The vessel provides a charging unit for the net monitoring sensors. The vessel has bathroom facilities. The vessel is capable of sleeping 6 people for overnight trips. The MENH research net was designed for a 54 foot dragger with a specific engine and power ratio; essentially it was designed to work at optimum capacity with this particular vessel. The vessel has a system for providing AC power at a constant rate thereby protecting scientific equipment such as weighing scales and computers. The vessel has an 8 person life raft. The vessel has sufficient storage to carry 2 backup research nets and a freezer for biological samples. The contractor is willing to make modifications to the vessel to address any of our needs as they arise.

## 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.

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<b>Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):</b>	<i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i> 
<b>Printed Name:</b>	Carl J. Wilson
<b>Date:</b>	3/26/19