

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:	Thomas Gildersleeve, Michael Kersula	Office/Division/Program of Contract Administrator:	Marine Resources
Est. Contract Amount:	\$ 50,242.65	Contract or RQS Number:	
Proposed Start Date:	June 1, 2019	Proposed End Date:	May 31, 2020
Vendor/Provider Name, City, State	Eleanore LLC (captain John Mitchell), Bass Harbor, Maine		
Short Description of Good or Service:	Harvest of 2019 Research-Set-Aside scallops awarded to DMR		
<p>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.</p>		<p><i>To be completed by the Division of Procurement Services</i></p> <p>Posting dates on Division of <i>Procurement Services</i> website: From: <u>5/2/2019</u> To: <u>5/8/2019</u></p>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0520190545	
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;		
	<p><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></p>	<p><i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i></p> <p>Signature:</p>	
		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;		
	<p><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></p>		
<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.

Mr. Mitchell will be responsible for harvesting 50% (or 17,629 lbs) of the 2019 Maine DMR allotment of Research-Set-Aside (RSA) scallops granted by NOAA/NMFS under project code 19-SCA-06. Maine DMR will not directly pay Mr. Mitchell, instead his compensation comes from a portion of the sale of the harvested scallops. He will compensate DMR for 30% of the landed value of the harvest, as stated in the approved grant proposal. Maine DMR has been awarded 35,258 lbs in RSA quota, so Mr. Mitchell would harvest 17,629 lbs. NOAA/NMFS has assumed a per-pound value of \$9.50. Mr. Mitchell holds a federal limited access scallop permit which enables him to do this work. He is an experienced and active federally-permitted Maine scallop fisherman.

Maine DMR neither owns nor operates a vessel that would be appropriate for these services, thus they must be contracted. Furthermore, the vendor named here for harvesting research set-aside scallops was explicitly specified for this purpose in an approved federal grant application and subsequent award. We will lose these funds if this work is not performed.

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 State of Maine does not own or operate a commercial fishing vessel with a limited access scallop permit. The vendor named here for these services was explicitly specified in an approved federal grant application and subsequent award.

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 costs for these services were specifically detailed in the federal grant application and subsequent award, with 30% of revenue from the sold scallops to be given to DMR as compensation, while 70% remains with the vessel. As it has been specified in the grant proposal and subsequent award, this ratio cannot be changed, regardless of vessel or service provider.

5. Future Competition

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

The vendor named here for these services was explicitly specified in an approved federal grant application and subsequent award.

The split between compensation for the vessel and the DMR is determined through the grant proposal process within this particular program before any grant is awarded. As such, cost would be the same regardless of vessel performing the services. It is possible in the future that another vessel could partake in providing these services, but cost would not change.

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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

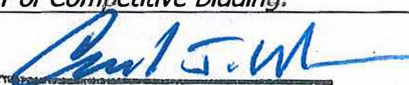
Please explain if the goods or services required are unique to a specific vendor. Describe the unique qualifications, abilities, and/or expertise of the vendor and how those particular unique factors address the specific need identified above. If the vendor has unique equipment, facilities, or proprietary data, also explain the necessity of these particular unique assets.

The vendor named here for these services was explicitly specified in an approved federal grant application and subsequent award.

The vendor possesses a specific federal limited access scallop fishing permit, commercial vessel with appropriate gear, and knowledge and experience to use these to complete the research set-aside fishing in an efficient manner following appropriate permit specifications.

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):	<i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i>
Printed Name:	 Carl J. Wilson, Director Maine Department of Marine Resources Bureau of Marine Science
Date:	4/24/19