

# 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>	Steve Lyons	<b>Office/Division/Program of Contract Administrator:</b>	DECD – Office of Tourism
<b>Est. Contract Amount:</b>	\$11,766,000 original amt. \$ 3,774,000 amendment \$15,540,000 new amt.	<b>Contract or RQS Number:</b>	CT20171211000000001915
<b>Proposed Start Date:</b>	<b>July 1, 2018</b>	<b>Proposed End Date:</b>	December 31, 2019
<b>Vendor/Provider Name, City, State</b>	BVK 250 W. Coventry Court, Suite 300, Milwaukee, WI 53217		
<b>Short Description of Good or Service:</b>	Full-service marketing agency.		
<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>		<b>To be completed by the Division of Procurement Services</b> Posting dates on Division of <b>Procurement Services</b> website: From: <u>5/4/2019</u> To: <u>5/10/2019</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0520190550	
<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.			
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;		
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>	<b>Date:</b>
<b>X</b>	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;		
	D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;		
	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>		
	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;		
	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.		

# State of Maine Waiver of Competitive Bidding Request Form

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 per Title 5 §13090-C or Maine Revised Statutes, "The Office of Tourism shall administer a program to support and expand the tourism industry and promote Maine as a tourist destination."

Title 5, §13090-K states that the Tourism Promotion Fund receives two revenue transfers from the General Fund. One in July and the other in October. As a result, we cannot commit the full amount of funds we wish to allocate to this contract in July because we don't know what the total of the two revenue transfers will be until we receive the October transfer. Therefore, following the notification of the October transfer, we typically draft an amendment to this contract to purchase additional Paid Media/Advertising using these funds.

## 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.

Title 5, §13090-C specifies that the Office of Tourism may "Employ or engage outside technical or professional consultants or organizations as are necessary or appropriate to assist the office in carrying out its functions." A campaign of this size and structure requires a professional advertising agency capable of negotiating media rates that will provide the most cost-effective campaign with value-added options.

## 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**.

This cost structure of this contract shall remain the same as it was when BVK was awarded the contract through the competitive bidding process. The amendment is not changing the Scope of Services, simply increasing the pass-through amount to expand the paid media campaign. The only exception is an additional one-time agency fee of approximately 5% of the total amendment budget to cover the additional costs necessary to negotiate and place media buys in about 10 new markets. We believe this is a fair and reasonable cost for these specialized services.

## 5. Future Competition

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

The current contract is valid through December 31, 2019 with the option for one more two-year renewal as per RFP#201511202. The full-service marketing agency contract will be put out to competitive bid at that time.

## State of Maine Waiver of Competitive Bidding Request Form

**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.

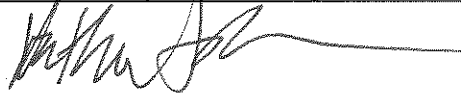
BVK has established relationships with media outlets throughout the country and in the media markets we wish to pursue. They have held the Office of Tourism advertising contract since 2012 and developed and managed a campaign that has resulted in average annual increases in visitation to Maine of approximately 5%, about two times more than visitation increases within the U.S.

**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):**

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



**Printed Name:**

Heather Johnson

**Date:**

3/12/19