

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:	Lindsay Caron	Office/Division/Program of Contract Administrator:	Resource Administratio
Est. Contract Amount:	\$ 60,000.00	Contract or RQS Number:	
Proposed Start Date:	1 JUNE 2019	Proposed End Date:	31 DECEMBER 2021
Vendor/Provider Name, City, State	Maine Port Authority 16 State House Station Augusta, ME 04333		
Short Description of Good or Service:	2018 Continuing Education Assistance Program – Maine Pilot Commission		
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.		<i>To be completed by the Division of Procurement Services</i> Posting dates on Division of <i>Procurement Services</i> website: From: <u>05/21/2019</u> To: <u>05/27/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0520190685	
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;		
	<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> Signature:	
		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;		
	<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>		
<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.		

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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.

The Maine Department of Environmental Protection (DEP) has a Memorandum of Understanding with the Maine Pilotage Commission to provide support for their Continuing Education Program for Maine Pilots. DEP maintains the Maine Ground and Surface Waters Clean-Up and Response Fund to provide in part for prevention and response to oil spills in Maine waters, and has identified prevention as an important factor in protection of the environment. DEP also recognizes that a key element of prevention is the training and competency of marine pilots as they guide vessels through Maine waters.

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.

Through meetings and consultations with the Maine Pilotage Commission regarding the nature of vessel pilot training requirements, DEP has determined that this type of training is not readily available through government agencies at the local, state or federal levels.

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 \$20,000/year for three years, is a negotiated amount between the Department and the Maine Pilotage Commission. We do not view the amount to be in excess. The Maine Pilotage Commission provides a world-class training program to ship pilots who berth in Portland harbor. With nearly 3 million barrels of petroleum product entering Portland harbor monthly, the DEP feels that this is a small amount to pay for well-trained ship pilots and avoid a catastrophic petroleum incident.

State of Maine Waiver of Competitive Bidding Request Form

5. Future Competition

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

If and when any organization approaches DEP with a stated desire and ability to provide these services, we will provide them with the scope of work we are seeking.

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.

While there are courses for general pilot education, the specialized courses offered to Maine Pilots through the Maine Pilots Association are designed to meet the unique characteristics of Maine's coastal waters and ports.

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.

N/A

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.

Melanie Loyzim for Jerry Reid

Printed Name:

melanie Loyzim

Date:

5/16/19

MEMORANDUM OF UNDERSTANDING
between the
MAINE PILOTAGE COMMISSION
and the
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
to provide support for the
CONTINUING EDUCATION PROGRAM FOR MARINE PILOTS

Whereas, The Maine Pilotage Commission was originated in 1969 by State Law (MRSA 38 §81), and was amended in 1999 (MRSA 38 § 85) "to provide for a system of state pilotage... devoted to the preservation and protection of lives, property, the environment and vessels entering or leaving these waters at the highest standard of efficiency ... in aid of commerce and navigation." And,

Whereas, The Commission's area of jurisdiction includes all Maine coastal waters and navigable waters with the exception of the Piscataqua River, and Portland Harbor. And,

Whereas, The duties of the Commission are established in MRSA 38 § 90. and, in fulfilling its duties under this subchapter", the Commission undertook rulemaking, under the guidelines of the Administrative Procedures Act. As part of this rulemaking process the Commission proposed new requirements on licensed pilots in an effort to ensure their continuing efforts to maintain a high degree of competence in providing piloting services to the maritime community. These new rules included a requirement for continuing education that states, beginning January 1, 2003, a pilot must provide " ... proof of continuing education consisting of a minimum of 40 hours during the previous five years." And,

Whereas, The Maine Department of Environmental Protection (MDEP) maintains the Maine Ground and Surface Waters Cleanup and Response Fund to provide in part for prevention and response to oil spills in Maine waters. And,

Whereas, The MDEP has identified prevention as an important factor in protection of the environment, and recognizes that a key element of prevention is the training and competency of marine pilots as they guide vessels through Maine waters. And,

Whereas, A one year program was renewed for a one year term in 2018 at a funding level of \$20,000 per year and those funds have been expended or are committed for approved pending programs.

Therefore, MDEP authorizes a fund transfer from the Maine Ground and Surface Waters Cleanup and Response Fund to the Maine Pilotage Commission not to exceed \$20,000 per year for the calendar years 2019 through 2021. The Maine Pilotage Commission will submit a valid invoice annually on or before 1 June. These funds will be placed into a dedicated account to be used only for the Continuing Education Assistance Program (CEAP), The

Commission will administer the CEAP to meet the needs of Maine Pilots as detailed in the Annual Pilot Training Plan.

Further, The Commission will submit to the MDEP at its request, a review of the CEAP and expenditures. The MDEP and Commission will review the program's merits and make recommendation for continuation, modification, or termination.

This Memorandum Agreed to this ____ day of _____ 2019

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

Gerald D. Reid, Commissioner

MAINE PILOTAGE COMMISSION

Charles B. Weeks, Chair

