

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:	Beth Swartz Brenda Lord, Secretary	Office/Division/Program of Contract Administrator:	Dept. of Inland Fisheries and Wildlife, Bureau of Resource Management, Wildlife Division
Est. Contract Amount:	\$14,130	Contract or RQS Number:	CT-09A-20190516*3452
Proposed Start Date:	06/7/2019	Proposed End Date:	05/31/2020
Vendor/Provider Name, City, State:	Biodrawversity LLC Ethan Nedeau, Principal 206 Pratt Corner Road Leverett, MA 01054		
Short Description of Good or Service:	Capture-Mark-Recapture (CMR) study to implement a long-term monitoring plan at two sites for the Brook Floater (state-Threatened). Services require a three-person team with extensive expertise in freshwater mussel survey and CMR methodology. Majority of field work is performed underwater via snorkel and/or SCUBA.		
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.	To be completed by the Division of Procurement Services Posting dates on Division of Procurement Services website: From: <u>5/21/2019</u> To: <u>5/27/2019</u>		
Notice of Intent to Waive Competitive Bidding Number:	NOI# 0520190688		
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.			
	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;		
	By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.		
<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>	Signature:		
	Printed Name:	Date:	

State of Maine Waiver of Competitive Bidding Request Form

X	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: http://www.maine.gov/purchases/info/forms/govcoop.doc.</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.
	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 Brook Floater is a species of freshwater mussel that has declined throughout its range and is currently undergoing a federal status review to determine if listing under the U.S. Endangered Species Act is warranted. Because Maine hosts some of the best remaining populations rangewide, MDIFW has a high level of responsibility for conservation of the species. As a partner in a multi-state Competitive State Wildlife Grant (CompSWG) award, MDIFW received funding to implement long-term monitoring at sites where Brook Floaters are known to occur. This contract would continue (year 2) a Capture-Mark-Recapture (CMR) study initiated in 2018 at two sites believed to have healthy populations based on past qualitative surveys. Following a survey and monitoring protocol developed by the Brook Floater Working Group as part of the CompSWG grant, the CMR study will provide data that allow MDIFW to estimate population size, trends, and demographic rates over time, as well as enable comparison among populations throughout the species' range.

Maine statute mandates it is the policy of the State to conserve all species of fish and wildlife found in Maine, and to maintain and enhance the numbers of species at risk of extirpation. In order to meet this mandate for the state-Threatened Brook Floater, MDIFW needs current data on population size and demographics, and the ability to monitor populations over time using a standardized protocol.

**State of Maine
Waiver of Competitive Bidding Request Form**

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.

Competently locating, handling, and studying a rare, cryptic and sensitive species like the Brook Floater, especially in large river systems, requires extensive experience in freshwater mussel survey, handling and monitoring techniques – a field of expertise not widely available and which is practiced entirely underwater, necessitating the use of expert snorkel and SCUBA capability. Staff resources at MDIFW are limited and extended underwater survey capability coupled with mussel expertise is not available. This expertise is also not available from any other in-state governmental agency.

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**.

Biodrawversity offers a significantly reduced labor rate for services to state, federal and private conservation agencies that is not available from other consultants of the same caliber and experience. MDIFW has compared *Biodrawversity*'s estimates for similar projects to the average billing rate of other well-respected environmental consulting companies offering services in Maine and found it to be discounted by 30% or more.

5. Future Competition

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

Unless other local biological or environmental consulting companies or private contractors hire staff who specialize in freshwater mussel identification, survey, monitoring, and conservation, have SCUBA capabilities, and demonstrate an equal or higher level of proficiency and expertise with the Brook Floater, there will be few potential opportunities for future competition.

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.

Ethan Nedeau (*Biodrawversity* LLC) and his staff have extensive experience surveying for freshwater mussels in Maine and the Northeast, and in particular with conducting Brook Floater surveys and monitoring on behalf of state, federal, and private conservation agencies in all Northeast states (<http://www.biodrawversity.com/ethan.htm>). MDIFW has previously contracted *Biodrawversity* to conduct Brook Floater surveys in more than 30 Maine rivers, including the original qualitative surveys at the two sites to be surveyed under this contract, therefore they are very familiar with these rivers and where mussels are distributed. MDIFW also contracted *Biodrawversity* to set-up, implement, and manage the data for Year 1 of this CMR study in 2018. The current contract is a continuation (Year 2) of this work. No other consulting mussel biologist in the Northeast has Ethan’s experience with and direct knowledge of this rare species, or the two study areas and their populations of marked mussels. While several other consulting firms in the region do offer mussel survey capabilities, *Biodrawversity* is the only contractor currently available where expertise in freshwater mussel survey and conservation is the priority focus. Ethan’s knowledge, experience, writing proficiency and unique graphic talents result in high quality final products that also serve as valuable outreach and management tools for MDIFW in support of freshwater mussel conservation in Maine.

**State of Maine
Waiver of Competitive Bidding Request Form**

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.

Frank Camuso

Printed Name:

Frank Camuso

Date:

5/20/19