

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:	Pamela Bryer, State Toxicologist	Office/Division/Program of Contract Administrator:	DACF/Board of Pesticides Control
Est. Contract Amount:	\$9,577.00	Contract or RQS Number:	RQS 01A 20190514*1236
Proposed Start Date:	7/1/2019	Proposed End Date:	12/31/2019
Vendor/Provider Name, City, State:		Environmental Sampling Technologies, Inc. St. Joseph, MO	
Short Description of Good or Service:		Water quality equipment (passive sampling) for the detection of pesticides in surface water	
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 style="text-align: center;">To be completed by the Division of Procurement Services</p> Posting dates on Division of Procurement Services website: From: <u>05/28/19</u> To: <u>06/03/19</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0520190756	
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;		
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;		
X	<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> <p>Printed Name: _____ Date: _____</p>		

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	<p>D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;</p>
	<p>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:</p> <p>(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;</p> <p>(2) A sharing of project responsibilities and, when appropriate, costs;</p> <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>
	<p>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;</p>
	<p>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.</p>
	<p>If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:</p>

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 BPC is the state lead agency for the regulation of pesticides in the state of Maine. The BPC is dictated by statute to assess the potential for pesticide contamination throughout the waters of Maine. This summer our surface water sampling project is evaluating a newer water quality sampling technology. The benefit to this passive sampling approach is that there is the potential for detecting more pesticides at lower levels than with our traditional grab samples - think of the difference between grabbing a 1 liter jar of water versus a device continuously emplaced for 4 weeks absorbing pesticides as they move by. This year's study is a comparison of these two approaches so that we can compare our results of the traditional and newer sampling technology. We are looking to use two different types of passive samplers; one of the membranes is best at absorbing compounds that are found in fatty tissues, the hydrophobic compounds, and another one that is best at absorbing compounds that freely dissolve in water, the hydrophilic compounds. The SPMD w/ triolein is the membrane for hydrophobics and the POCIS is the membrane for the hydrophilics.

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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.

We started searching for passive sampling equipment on the internet and during scientific meetings. This is the only company that provides this service with a well esteemed product available at the national level. In this field, having an established product is reassuring because of the newness of this technology. Consulting companies will develop something similar for their clients but we are not looking for the help provided from consultants due to the additional cost of that approach.

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 cost for our department to be able to create this product ourselves greatly exceeds the cost for this product from EST Inc. We would have to create a housing and test it prior to deployment and since these membranes are emplaced for 4 weeks in the environment this requires a sturdy device. As we are testing for contaminants the housing construction is typically stainless steel. The membranes are selected for their availability to absorb contaminants which is based on their chemical properties. The membrane itself is a piece of plastic filled with an additional absorptive material -none of these compounds are rare but figuring out which pesticides absorb to which plastics would take our department \$100,000s because we do not have an analytical lab to test and validate each combination. The time and materials for us to be able to recreate this sampling gear establishes the prices at EST Inc as fair and reasonable.

5. Future Competition

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

Continued use of this relatively new technology is likely to change the product availability landscape. Right now there are efforts in various research labs to bring about cheaper versions. As a regulatory agency we rely on EST's established research reputation and validation in producing these samplers. They are currently, the only company, that offers this research-level equipment to entities like the SOM.

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.

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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.

Several years ago, scientists with the federal government developed these passive samplers, then a few of those scientists split off and developed a patent that is the basis for this passive sampling system. While this has frustrated many, EST remains the best place to get the highest quality passive sampling membranes. There will be competition eventually but this is a niche area of environmental sampling. EST is an incredibly helpful company that provides great support and insight to best uses which comes from the people who literally wrote the book on how to do passive sampling starting the company. Without a laboratory or shop of our own the BPC is not in a position to recreate these membranes and their housing and we are completely dependent on being able to purchase a completely built and ready-to-use system. This company is the only place we can go and purchase both a membrane for hydrophobic compounds and a membrane for hydrophilic compounds. When they prep the hydrophobic membrane for us they will spike it with a PRC that we select -as in, this item gets customized for our needs.

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.

Randy Charette

Printed Name:

Randy Charette

Date:

5/19/22