

State of Maine Waiver of Competitive Bidding Request Form (Formerly Sole Source Authorization 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:	Lynne Cayting	Office/Division/Program of Contract Administrator:	Environmental Protection Bureau of Air Quality Mobile Sources Section
Est. Contract Amount:	\$688,462.60	Contract or RQS Number:	
Proposed Start Date:	June 5, 2019	Proposed End Date:	June 5, 2021
Vendor/Provider Name, City, State	W.C. Cressey and Son, Inc. 2 Commerce Drive Kennebunk, ME 04043		
Short Description of Good or Service:	Seven Maine school districts applied for funding through the Volkswagen Settlement for replacement of 10 diesel school buses purchased through W.C. Cressey and Son.		
Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Purchases' website for a period of seven consecutive calendar days.		To be completed by the Division of Purchases Posting dates on Division of Purchases' website: From: <u>05/28/2019</u> To: <u>06/03/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0520190767	
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;			
<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:
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 Purchases "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.	
X	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:	Appendix-D of the Volkswagen Consent Decree

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.

On October 2, 2017, the U.S. District Court in Northern California approved a partial consent decree to settle allegations that Volkswagen (VW) had installed defeat devices on 2.0 and 3.0-liter diesel vehicles sold or leased in the United States. The consent decree with VW established an Environmental Mitigation Trust (Trust) to reduce NOx emissions from the transportation sector. In January, 2018 Maine became a Beneficiary of the Trust. Maine’s allocation totals just over \$21 million dollars. Appendix -D-2 of the Consent Decree stipulates eligible actions and funding using the allocated VW settlement funds.

MaineDOT and the DEP worked together on Maine’s Beneficiary Environmental Mitigation Plan. The plan discusses allocation of the funds, which in addition to the nine options for eligible mitigation projects, also commits 20% of the settlement funds to the Diesel Emission Reduction Act (DERA) program.

Nineteen Maine school districts applied through a competitive process for VW funds to replace 29 school buses which meets the requirements of the Trust for eligible NOx emission reduction activities which includes school bus replacement. Seven of those school districts chose to purchase 10 new diesel school buses through W.C. Cressey and Son, Inc. (Cressey).

This is not a contract for services but a pass-through-award for projects approved through a selection process as outlined in the Maine Beneficiary Environmental Mitigation Plan. The award will fund 80% of the base school bus price and the school districts pay the balance to Cressey.

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.

These seven districts selected through a competitive application process chose to purchase their new school buses through Cressey. Another contract for the remaining school bus purchase awards was awarded to O’Connor GMC, Inc.

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 Department of Education conducts a competitive bid process for school bus purchases by Maine school districts. The districts benefit from this state competitive bid when purchasing their replacement school bus. The VW award will fund 80% of the base school bus price approved by the Maine Department of Education.

5. Future Competition

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

The Maine DOT and DEP will continue to solicit for applications through organizations, public meetings, and the website <https://www.maine.gov/mdot/vw/> for eligible projects under Appendix-D until all the funding is disbursed. Applications were selected through a competitive process based on the criteria as outlined in Maine’s Beneficiary Mitigation Plan.

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.

This is a unique situation in which the award recipients have chosen to purchase their approved school bus replacements through O’Connor or Cressey. The DEP has agreed to administer the VW funds to award recipients with eligible projects that meet the Trust criteria and have approved applications.

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.

Melanie Lobz for Jerry Reid

Printed Name:

Gerald D. Reid, Commissioner

Date:

5/23/17

