

## 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.

<b>Requesting Department's Contract Administrator:</b>	Brian Bronson 207-287-4958	<b>Office/Division/Program of Contract Administrator:</b>	DACF, Off Road Recreational Vehicle Office
<b>Est. Contract Amount:</b>	\$ 14,350.00	<b>Contract or RQS Number:</b>	CT-01A-2019060700000003739
<b>Proposed Start Date:</b>	04/01/19	<b>Proposed End Date:</b>	11/30/2019
<b>Vendor/Provider Name, City, State</b>	Town of Portage Lake, Portage Lake, ME		
<b>Short Description of Good or Service:</b>	Municipality/County ATV Trail Maintenance Grant Program		
<b>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.</b>		<b>To be completed by the Division of Purchases</b> Posting dates on Division of Purchases' website: From: <u>6/10/2019</u> To: <u>6/16/2019</u>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0620190927	
<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.			
<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;		
<input type="checkbox"/>	<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> <p style="text-align: center; margin-left: 100px;">N/A</p> <b>Printed Name:</b> _____ <b>Date:</b> _____	
<input 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;		
<input type="checkbox"/>	<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: <a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</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.		
<input checked="" type="checkbox"/>	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:		Title 12, Chapter 220, subchapter 8, Section 1893-2

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**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.

This is a long standing grant program authorized through Title 12 Chapter 220 Subchapter 8, section 1893 subsection 2. This subsection applies to the use of fees credited to the ATV Recreational Management Fund to make Grants-in Aid to political subdivisions, educational institutions, regional planning agencies, Atv groups and others for the construction and maintenance of ATV trails. These grants have been available since 1992 and are managed under the rules promulgated through the APA Process. There is a tremendous cost savings to the state since we only reimburse 70 % of the actual costs. The local municipality matches the state money with local funds and donated labor, equipment, and supplies.

### **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.

The ATV Trail Maintenance Program has been a tremendous partnership between the state and local communities. A considerable amount of local volunteer contributions are a part of this agreement since the state is only obligated for up to 70 percent of the costs. We have a long history of successful trail maintenance grants. There is no way the State could afford the trail system if it were not handled and through grants to local agencies.

### **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**.

ACF ATV Recreational Management Fund promulgated grant rules all funding of up to 70 percent of the approved costs. The approved cost comes from the project Budget developed by the local Town/County and submitted as part of their application. We negotiate the costs to make sure they fit the state guidelines and then they are required to raise 30 to 50 percent of the approved cost locally.

### **5. Future Competition**

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

This is a municipal/county grant awarded to the municipal government. There are no competitors for the political subdivision. It is their responsibility and decision to contract/assign services locally. They may also do the work themselves. The projects are approved based on need and so they do not receive one every year. Grants are awarded yearly based on available funding and the need. Funding comes from ATV registrations which can vary annually.

**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.

The project is administered through a locally appointed Project Director familiar with the area trails, the type of work being done, oversees grooming, maintenance often through local clubs. The maintenance requires very specialized equipment and tools to complete the task. The state does not supervise or direct the work to be done. We do inspect all projects for compliance with the standard agreement for public safety and Best Management practices.

### 7. Timeframe

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.

This is seasonal work including last minute trail preparation and or maintenance resulting from weather events and private land access changes. It is essential these be approved in a timely manner in order for the trails to be open and safe for summer use.

**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:**

*Randy Charette*  
*Randy Charette*

**Date:**

*6/7/19*