

# 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.

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| <b>Requesting Department's Contract Administrator:</b>   | Ruta Dzenis  | <b>Office/Division/Program of Contract Administrator:</b>  | BRILUP - Municipal Planning Assistance     |
| <b>Est. Contract Amount:</b>   | \$52,636.00  | <b>Contract or RQS Number:</b>   | 01A201090517*3463                          |
| <b>Proposed Start Date:</b>  | <b>July 1, 2019</b>  | <b>Proposed End Date:</b>  | <b>June 30, 2020</b>                       |
| <b>Vendor/Provider Name, City, State</b>   | Southern Maine Development Commission 110 Main Street, Suite 1400, Saco, ME 04072  |  |  |
| <b>Short Description of Good or Service:</b>   | Land use planning assistance for local and regional efforts within the geography covered by the Southern Maine Development Commission.   |  |  |
| <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><br>Posting dates on Division of Purchases' website:<br>From: <u>6/11/2019</u> To: <u>6/17/2019</u>   |  |
| <b>Notice of Intent to Waive Competitive Bidding Number:</b>   |  | NOI# 0620190945  |  |
| <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><br><b>Signature:</b><br>N/A<br><br><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:<br>(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;<br>(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:   |  | 30-A MRSA Chapter 187, Section 4346 (3)(4) |

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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 grant to regional planning organizations is to deliver land use planning technical assistance for regional and local efforts pursuant to Chapter 187 §4346 in the Planning and Land Use Regulation Act 30-A MRSA 4301 et. seq. ('Act'). The Technical and Financial Assistance Program in the Act was established to encourage and facilitate the adoption of local and regional land use planning. The legislative purpose and state goals of the Act read:

### **§4312. STATEMENT OF FINDINGS, PURPOSE AND GOALS**

#### **1. Legislative findings.**

[ 1991, c. 622, Pt. F, §16 (RP) .]

#### **2. Legislative purpose.** The Legislature declares that it is the purpose of this Act to:

A. Establish, in each municipality of the State, local comprehensive planning and land use management; [1991, c. 622, Pt. F, §17 (AMD) .]

B. Encourage municipalities to identify the tools and resources to effectively plan for and manage future development within their jurisdictions with a maximum of local initiative and flexibility; [1991, c. 622, Pt. F, §17 (AMD) .]

C. Encourage local land use ordinances, tools and policies based on local comprehensive plans; [1991, c. 622, Pt. F, §17 (AMD) .]

D. Incorporate regional considerations into local planning and decision making so as to ensure consideration of regional needs and the regional impact of development; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

F. Provide for continued direct state regulation of development proposals that occur in areas of statewide concern, that directly impact natural resources of statewide significance or that by their scale or nature otherwise affect vital state interests; [2001, c. 578, §7 (AMD) .]

G. Encourage the widest possible involvement by the citizens of each municipality in all aspects of the planning and implementation process, in order to ensure that the plans developed by municipalities have had the benefit of citizen input; and [2001, c. 578, §7 (AMD) .]

I. Encourage the development and implementation of multimunicipal growth management programs.

[2001, c. 578, §8 (NEW) .]

[ 2001, c. 578, §§7, 8 (AMD) .]

**3. State goals.** The Legislature hereby establishes a set of state goals to provide overall direction and consistency to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use and development. The Legislature declares that, in order to promote and protect the health, safety and welfare of the citizens of the State, it is in the best interests of the State to achieve the following goals:

A. To encourage orderly growth and development in appropriate areas of each community and region while protecting the State's rural character, making efficient use of public services and preventing development sprawl; [2001, c. 578, §9 (AMD) .]

B. To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

C. To promote an economic climate which increases job opportunities and overall economic well-being; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

#### **MRS Title 30-A §4312. STATEMENT OF FINDINGS, PURPOSE AND GOALS**

D. To encourage and promote affordable, decent housing opportunities for all Maine citizens; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

E. To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

F. To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

G. To protect the State's marine resources industry, ports and harbors from incompatible development

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and to promote access to the shore for commercial fishermen and the public; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

H. To safeguard the State's agricultural and forest resources from development which threatens those resources; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

I. To preserve the State's historic and archeological resources; and [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

J. To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

The Department of Agriculture, Conservation and Forestry is identified in statute as the agency responsible for the Act through its Municipal Planning and Assistance Program.

### 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.

Staffing and expertise to provide this service more efficiently and effectively is not currently available within State government or other local, state or federal agencies. The department communicated with other State agencies, with municipalities and with the professional planning community within Maine to make this determination.

### 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 determined that the costs for these services is fair and reasonable. The Department has experience contracting for planning services from private consulting firms and the rates charged by the regional planning organizations falls at or below the rates of those firms and individuals.

The amount of this award is determined by a formula based on the number of municipalities and the population within the area covered by each regional planning organization divided by the total number of organized municipalities and the total population in organized municipalities for the entire state. The formula weights the factors as follows: municipalities \*.6 and population \*.4.

### 5. Future Competition

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

The Department will continue to monitor the rates charged and the quality of the services provided by these organizations to insure that the services being purchased through these grants are being done so in a fiscally responsible manner.

**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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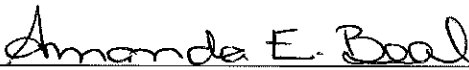
### 6. Uniqueness

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 regional planning organizations are formed by the municipalities; there is only one per planning development district making each one unique within its region. The delivery of land use technical assistance to municipalities is a place-based effort requiring local knowledge, strong working relationships, and the capacity to deliver services which require field work, meetings, and workshops.

### 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.

|   |   |
|---|---|
| <b>Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):</b> | <i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i> |
| <b>Printed Name:</b>  | <br>Amanda E. Beal, Commissioner   |
| <b>Date:</b>  | 6/6/19  |