

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:	Denise Blanchette	Office/Division/Program of Contract Administrator:	DEP Water/ DEA/ Invasive Species Unit
Est. Contract Amount:	\$ 11,200	Contract or RQS Number:	
Proposed Start Date:	July 1, 2019	Proposed End Date:	December 1, 2019
Vendor/Provider Name, City, State	The Cabrazzard Group (DBA)New England Milfoil, 391 Center Conway Road, Brownfield, ME 04010		
Short Description of Good or Service:	Diver assisted Suction harvesting of invasive aquatic plant <i>Najas minor</i> in Spaulding Pond, Lebanon, Maine.		
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>06/18/2019</u> To: <u>06/24/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0620191014	
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:
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 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.		
	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 Maine Department of Environmental Protection (DEP) is charged by the Legislature (38 MRSA §1862 and §1872, among other statutes) with conducting programs designed to reduce the spread of invasive aquatic plants. The legislation requires a variety of functions as part of program operations. It is within the scope of DEP's Invasive Aquatic Species Program (IASP) to evaluate, manage and prevent further spread of newly discovered invasive aquatic plants. DEP is also charged with oversight of the State of Maine rapid response plan to new invasive aquatic plant infestations.

Najas minor (European naiad, Brittle waternymph) is an aggressive invasive aquatic plant. DEP has learned from colleagues in Connecticut that this is also the fastest-spreading invasive aquatic plant due to its natural history.

In September of 2016 while conducting an invasive plant screening, a small patch of *N. minor* was discovered in Spaulding Pond, Lebanon, a ME/NH border water. This new infestation of *N. minor* was in a relatively early stage with scattered growth in Maine and New Hampshire waters. Maine DEP rapid response removed plants found in 2016. A 2017 survey of the pond revealed more plants at greater density. September 2017 hand removal by DEP rapid response scuba divers was done on these patches but late season harvesting made removal efforts difficult.

In 2018, surveys revealed significant increase in *N. minor* growth and DEP rapid response was unable to remove plant without creating further possible spread. In addition to threatening other areas of the pond, this infestation is at risk of spreading downstream to other areas of the Salmon Falls River system. This annual plant spreads predominantly by seed dispersal. By mid-season the plant becomes fragile and plant fragments disperse attached seeds via waves, water flow, wildlife and human activities. To be effective, control of *N. minor* must occur before seeds set.

This contract concerns the manual removal using a diver-assisted suction harvester (DASH), technology which DEP does not possess. DASH can remove a large volume of plants when divers remove plants by hand and feed the plants into a suction hose that carries them to a collection bag for removal from the water. Work under this contract may also involve benthic barriers.

Maine DEP is investigating use of herbicide to control *N. minor* in Spaulding Pond but approval of herbicide application may not be possible because of public drinking water supply intakes approximately 16 miles downstream. If use of herbicide is approved, it's likely that the approval process won't be completed in time for control of this infestation in 2019. Use of DASH and this contractor is therefore even more critical and the best available measure for controlling the infestation and preventing the spread of *N. minor*. Benthic barriers will be used where appropriate, particularly on small dense patches, but aren't feasible to control the entire infestation.

New England Milfoil is the sole professional DASH contractor working to remove invasive aquatic plants in the State of Maine with extensive training and experience. They have worked with a variety of invasive aquatic species in both NH and Maine. *N. Minor* will require refined and modified techniques to effectively and safely remove it. New England Milfoil has the necessary equipment and the capacity to respond to changing conditions with this particular species of plant.

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.

Funding for invasive aquatic plant prevention and control supports 3 FTE and in DEP's Division of Environmental Assessment (DEA). This staffing level is insufficient to run this extensive removal operation while meeting existing program demands, which include intensive plant control and specialized monitoring projects requiring the full range of current staff availability. Besides these 3 FTE, other staff within DEA are charged with conducting research and projects unrelated to invasive aquatic plants and are therefore not available to assist with this rapid response need. Additionally, other DEA staff are not supported by the funding dedicated to work on invasive aquatic species. This also true for Department staff outside of DEA.

Maine DEP does not have access to or own the specialty equipment, i.e., Diver-Assisted Suction Harvester, required to do this work, nor does any other department within the State of Maine government.

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**.

DEP staff considered rates of similar contractors doing similar work in other parts of the northeast U.S. DEP also reviewed the costs and results of other projects conducted by the proposed contractor removing invasive aquatic plants for Maine lake associations and determined this contractor to have an efficient and effective operation.

5. Future Competition

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

The infestation of *N. minor* on Spaulding Pond is at an early growth stage. Successful management and increased need may inspire other professionals to pursue this line of work and obtain the equipment required to conduct the removal.

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.

Providing these services requires a vendor that is certified in SCUBA, OSHA compliant, able to identify aquatic plants and trained in the removal of invasive aquatic plants. At New England Milfoil all divers are OSHA compliant, SCUBA-certified and carry additional SCUBA certification as invasive aquatic plant removal divers. New England Milfoil staff have attended Maine's training on the identification and removal of invasive aquatic plants. They have been working on the removal and management of invasive aquatic plants in Maine since 2002 and have experience with several species of invasive plants. New England Milfoil also has a unique plant collection system on their DASH boat. This equipment will allow for better containment of *N. minor*'s fine seeds, reducing likelihood of infesting other areas. Finally, New England Milfoil is the only contractor in the state with experience using DASH to remove *N. minor*.

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. minor is an annual plant that becomes brittle and fragments, dispersing thousands of seeds starting in mid-July through August. It is imperative that this aquatic plant be removed before it forms seeds and becomes brittle, particularly in light of the fact that herbicide application for the densest growth is unlikely to be permitted during the 2019 growing season. DEP staff is targeting late July or early August for the DASH removal to begin. If this date is delayed, seeds will likely form before all visible *N. minor* can be removed, potentially spreading the plant to new areas within the Salmon Falls River System, making management even more costly and difficult.

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:

Gerald D. Reid, Commissioner

Date:

6/14/19