

## 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.

<b>Requesting Department's Contract Administrator:</b>	Doug Reed	<b>Office/Division/Program of Contract Administrator:</b>	Dept. of Agriculture, Conservation and Forestry/ Bureau of Parks and Lands				
<b>Est. Contract Amount:</b>	\$ 226,107.20 <small>(\$30,000. Amend)</small>	<b>Contract or RQS Number:</b>	01A 20150279*0399				
<b>Proposed Start Date:</b>	08/10/2015	<b>Proposed End Date:</b>	12/31/2019				
<b>Vendor/Provider Name, City, State:</b>		Elizabeth Petruska, 983 Dutch Neck Rd, Waldoboro, ME 04572					
<b>Short Description of Good or Service:</b>		Conservation Easement Monitoring					
<p>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>		<p><b>To be completed by the Division of Procurement Services</b></p> <p>Posting dates on Division of <b>Procurement Services</b> website:            From: <u>7/23/2019</u> To: <u>7/29/2019</u></p>					
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0720191252					
<p><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.</p>							
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.	<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><b>Signature:</b></p> <table style="width: 100%; border: none;"> <tr> <td style="border: none; width: 60%;"><b>Printed Name:</b></td> <td style="border: none; width: 40%;"><b>Date:</b></td> </tr> <tr> <td style="border: none; height: 40px;"></td> <td style="border: none; height: 40px;"></td> </tr> </table>		<b>Printed Name:</b>	<b>Date:</b>		
<b>Printed Name:</b>	<b>Date:</b>						
<b>X</b>	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						

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	products;
	<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: <a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</i></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;
	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.

Public Law 412 enacted on June 25, 2007 requires all conservation easements to be monitored at least once every three years. Maine's conservation easements that were acquired with funds from the Forest Legacy Program must be monitored annually. This contractor has been responsible for monitoring for the first part of this season, which will not be completed by August 2<sup>nd</sup>. Extending the contract to December would allow us to complete the monitoring season. This contractor has the experience, expertise and tools to perform the easement monitoring using the specific protocol system that is in place for these easements. This contractor has been monitoring easements for BPL for 4 years and is very knowledgeable about the properties, allowing her to efficiently perform the easement monitoring and quickly detect changes to the land and potential violations of the easement conditions. This service is very specialized and to open up for competitive bidding is not feasible in order to complete monitoring before the end of the year.

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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.

Monitoring of conservation easements is very specialized and requires specific tools and training due to the complexity of each easement. The Bureau has not had the staff to perform this work and has relied on contractors to perform this service for more than 5 years. BPL is now assessing whether this function will be taken over by staff or continued through contracting. In the interim, contractor assistance is needed to ensure timely completion of this year's monitoring and reporting.

**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 contractor's rate of \$75/hour is considered fair and reasonable and is below the rate that other BPL contractors have been paid. There would be a substantial cost to find another contractor to perform this service because this contractor has years of familiarity with the complex terms of these easements and relationships with landowners that allows her to perform the service efficiently and at a reasonable cost. Dedicated endowment funds for Conservation Easement monitoring are used to fund this work.

**5. Future Competition**

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

BPL is now assessing whether this function will be taken over by staff or continued through contracting. If the work will continue to be done by contractors, a new RFP process will be initiated for providing 2020 easement monitoring services.

**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.**

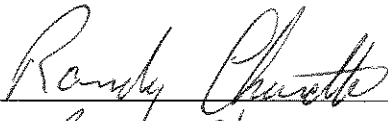
**6. Uniqueness**

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.

Time is of the essence since monitoring is underway and field work, along with reports, must be completed by the end of the year. This contractor has the experience, expertise and tools to perform the easement monitoring using the specific protocol system in place for these easements. This contractor has been monitoring BPL's easements for 4 years and is very knowledgeable about the properties, allowing her to efficiently perform the monitoring and quickly detect changes to the land and potential violations of easement conditions. Opening this up for competitive bidding would delay required monitoring for 2019 and cause a potential loss of years of training, knowledge and history with these easements. The contractor has begun 2019 monitoring field work and is already working with landowners on annual reporting and requests for 2019. This extension and additional funds will help fulfill the required monitoring for this year.

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**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.

<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>	 Randy Charrette
<b>Date:</b>	7/15/19