

## 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>	Megan Patterson	<b>Office/Division/Program of Contract Administrator:</b>	DACF/Board of Pesticides Control				
<b>Est. Contract Amount:</b>	\$65,000.00	<b>Contract or RQS Number:</b>	RQS 01A 20190809*0189				
<b>Proposed Start Date:</b>	September 1, 2019	<b>Proposed End Date:</b>	April 1, 2020				
<b>Vendor/Provider Name, City, State:</b>	University of Maine System acting through the University of Maine						
<b>Short Description of Good or Service:</b>	Grant funding for pesticide certification manual writing and pesticide safety education						
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 style="text-align: center;"><b>To be completed by the Division of Procurement Services</b></p> Posting dates on Division of <b>Procurement Services</b> website: From: <u>08/22/19</u> To: <u>08/28/19</u>						
<b>Notice of Intent to Waive Competitive Bidding Number:</b>	NOI# 0820191400						
<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.							
	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>	<p><i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i></p> <b>Signature:</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 60%; border: none;"><b>Printed Name:</b></td> <td style="width: 40%; border: none;"><b>Date:</b></td> </tr> <tr> <td style="border: none; height: 40px;"></td> <td style="border: none;"></td> </tr> </table>			<b>Printed Name:</b>	<b>Date:</b>		
<b>Printed Name:</b>	<b>Date:</b>						
	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;						

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	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 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>	
	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.	
<b>X</b>	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:	Public Law 1987, Chapter 723 and Board approval by vote (see attached minutes)

**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 University of Maine Cooperative Extension Service's Pesticide Safety Education Program supports the Board of Pesticides Control's occupational licensing and regulatory system for pesticide applicators. PSEPs were originally developed under cooperative agreements with the US EPA and remain well-established at most land-grant Universities. These programs have historically provided the services detailed above to the state lead agencies responsible for pesticide regulatory programs. This relationship is reflected in the funding mandate of Public Law 1987, Chapter 723, which requires the transfer of \$65,000 annually to support the University of Maine Cooperative Extension Service's PSEP.

Pesticide applicator licenses are issued in specific categories of practice, following the successful completion of an exam specific to that category. Licenses must be maintained by the accumulation of continuing education credit hours. Under this agreement, the PSEP will update pesticide applicator training manuals in two examination categories, conduct at least four half-day training sessions for commercial applicators, offer ten recertification credits at the January agricultural trades show, and a minimum of eight one hour private applicator training sessions. These are educational functions well suited to provision by Maine's land grant university, University of Maine, through the Cooperative

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Extension Service. These efforts are, in fact, part of the basic mandate of Extension, to transfer knowledge from the academic institution to the agricultural industry.

**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 pesticide application industry, even in its entirety, is relatively small and is divided into a number of distinct categories of work. There is not a great deal of overlap in the knowledge from one category to another, and the knowledge itself is rarely of general interest. Applicators certified in one category have not necessarily demonstrated that they possess the specific knowledge necessary to operate safely in another. For example, a person certified to apply pesticides to turf grass, has not shown that they have the specific knowledge necessary to safely perform structural pest control. This makes the number of individuals needing to take a particular state pesticide exam also small, and prevents the business of writing state-specific pesticide licensing manuals or providing state-specific training from being economically attractive to private entities.

While BPC staff do possess the knowledge necessary to produce pesticide certification study manuals, the BPC maintains over 41 unique categories of certification, each of which requires production and maintenance of a study manual and associated exam. Given the specialized and technical nature of the content combined with the length and depth of the manuals—it is typical that a single individual can revise/write no more than two manuals per calendar year.

**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 cost is \$65,000 as mandated in Public Law 1987, Chapter 723 and approved by the Board of Pesticides Control at its 4/19/19 meeting.

**5. Future Competition**

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

As the BPC revises regulations and the certification categories listed therein, certification staff are also reviewing manuals produced by other educational institutions—such as Purdue and Cornell. It is possible that in time many of the University of Maine produced manuals may be replaced with manuals produced by these other educational institutions. This has not been previously done because outside manuals were sometimes poorly written, contained content not applicable to Maine, or did not appropriate address pest complexes or human environmental health issues of interest/concern to Maine's citizens.

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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.

The Cooperative Extension Pest Management Office is part of Maine's land grant university system. Historically, these institutions have provided local expertise on agricultural cropping information, including pesticide application information and pertinent pest complexes. This remains true today. The Pest Management Office is uniquely positioned to utilize the expertise of colleagues in both Cooperative Extension and the University of Maine System.

### 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.*

**Printed Name:**

Amanda Beal



**Date:** 8/16/19