

## 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>	Ryan B. Robicheau	<b>Office/Division/Program of Contract Administrator:</b>	Karen Estabrook
<b>Est. Contract Amount:</b>	\$6,500.00	<b>Contract or RQS Number:</b>	09A-20190801000000000387
<b>Proposed Start Date:</b>	9-1-2019	<b>Proposed End Date:</b>	10/01/2019
<b>Vendor/Provider Name, City, State:</b>	Derek Davis – Davis Dirt Works 117 Fowler Road Thorndike, ME 04330		
<b>Short Description of Good or Service:</b>	Fill and grade previously identified problem locations on the Frye Mtn. WMA road system		
<b>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.</b>	<p style="text-align: center;"><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>8/22/2019</u> To: <u>8/28/2019</u></p>		
<b>Notice of Intent to Waive Competitive Bidding Number:</b>	NOI# 0820191402		
<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> <p><b>Signature:</b></p>		
	<b>Printed Name:</b>	<b>Date:</b>	

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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: <ol style="list-style-type: none"> <li>(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;</li> <li>(2) A sharing of project responsibilities and, when appropriate, costs;</li> </ol>	
	<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;	
XX	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:	
<b>Please note that the following four points below (#2 through 5) <u>all</u> require a response.</b>		
<b>2. Description of Specific Need</b>		
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.		
<p>The specific problem is the road system at Frye Mtn. WMA in Montville is in desperate need of maintenance. One section of the road has two culverts that are collapsing and in need of replacement. Many areas of road have washed and become rutted and fill will be need to be brought in to stabilize the road. The location for these activities is in a remote section of Montville. Two other contractors that were previously contacted do not want to move heavy equipment to this location because of the time and distance involved. This contractor lives locally to the Frye Mtn. WMA. MDIFW has a mandate to provide access to properties that are owned by the State of Maine, through the MDIFW. These properties receive heavy public use for outdoor recreation and MDIFW is charged with providing safe and reasonable access to the public.</p>		

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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.

The MDIFW simply does not have the equipment, personnel or resources to conduct extensive road maintenance or culvert replacement work. The Frye mtn. WMA is in a very rural location. The MDOT is not a viable option and contractors willing to travel to this location are virtually non-existent. A local contract is necessary to accomplish these tasks.

**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.

Road maintenance work is very expensive as heavy equipment must be utilized. The contractor is local and has a personal connection with the property. His prior work for MDIFW under previous contracts at this location has been exceptional and always a good value for the services received. He is located nearby and his cost to move heavy equipment to the site is minimal making for a great value for MDIFW.

**5. Future Competition**

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

One of the most expensive cost to a contractor is moving heavy equipment long distances to a job site. Two other contractors were contacted to conduct this work and both indicated it was simply too far away for them to consider the job. The selected contractor is local and thus able to accomplish the job with minimal equipment moving cost. Opportunities for other contractors in the same geographic area to bid on this work are minimal and their quality of service is unknown.

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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.

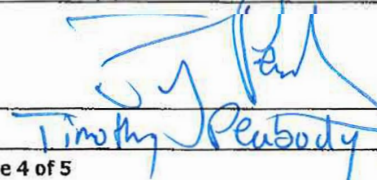
The work to be performed is time sensitive in that portions of the road to be repaired have deteriorated to a point where they have become unsafe for public access. The culvert replacement needs prompt attention as the culvert has collapsed and holes have begun to appear in the road surface above the culvert. These activities need to be conducted as soon as possible but not later than the end of October 2019. The contractor lives close enough to accomplish the task in a timely fashion.

### 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.

 Deputy Commissioner

Printed Name:

Timothy Peabody, Deputy Commissioner