

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.

Requesting Department's Contract Administrator:	Erin Summers	Office/Division/Program of Contract Administrator:	DMR Bureau of Marine Science Division of Biological Monitoring
Est. Contract Amount:	\$ 94,208	Contract or RQS Number:	CT-13A-20180913*0980
Proposed Start Date:	7/1/2019	Proposed End Date:	6/30/2020
Vendor/Provider Name, City, State:		University of Maine Orono ME VC1000093516	
Short Description of Good or Service:		<p>This is a continuing need for scientific personnel to assist in the implementation of a Section 6 Species Recovery Grant to States that was awarded to the Department of Marine Resources. The grant, which documents how fixed gear fisheries from Maine through Connecticut utilize ropes and vertical lines, is entering its second year of work. It requires consistent research personnel to continue data collection, as per agreed upon protocols and priorities, and data analyses that have already begun under this contractor. To complete the data collection and analyses components of this project in time to inform already on-going conversations about new regulations, work by this contractor must be expanded for another year, as is laid out in the grant that is the funding source. Yong Chen's laboratory at the University of Maine has already begun this work over the last year, has collected data associated with this project, and begun analyses critical to DMR as new regulations for right whales impact the lobster fishery. The Chen lab offers the ability to complete more complex analyses of the resulting data streams. They co-wrote and are Co-Investigators on the grant. Tasks will include continuing field data collection, as well as the outreach necessary to complete the project. This includes work associated with collecting and breaking samples of vertical lines, deploying load cells from fishing vessels and entering and analyzing the resulting data, and analyzing the data collected from a voluntary online survey tool. A graduate student has begun to build models that describe fishing practices and needs throughout the region and will be able to demonstrate how new regulations might make changes in the fishery. It is critically important to DMR that this tool is completed, and we need to continue to the contract with the Chen lab to do so. Other duties will include data entry and auditing, result compilation, analysis, report writing, and presentation of results.</p>	
<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>To be completed by the Division of Procurement Services</p> <p>Posting dates on Division of Procurement Services website: From: <u>08/27/2019</u> To: <u>09/02/2019</u></p>	
Notice of Intent to Waive		NOI# 0820191430	

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Competitive Bidding Number:							
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: <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">Printed Name:</td> <td style="width: 50%; border: none;">Date:</td> </tr> <tr> <td style="border: none; height: 40px;"></td> <td style="border: none; height: 40px;"></td> </tr> </table>	Printed Name:	Date:		
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 Procurement Services "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					

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non-competitive procurement, please provide that reference here:	
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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.

There are currently several regulatory processes proceeding quickly that aim to implement new federal regulations through the Atlantic Large Whale Take Reduction Plan to modify fishing gear or fishing practices of fishermen utilizing fixed gear on the east coast of the United States. These new measures are being sought to protect the endangered North Atlantic right whale, which is experiencing a decline in their population due to low birth rates and an unsustainable number of deaths caused by entanglement in fishing gear. Currently, one of the only gear modification tools that is being discussed for new regulations is the idea of weaker vertical lines. There is little to no information available on how the fixed gear fishery, namely the American lobster fishery, already uses rope as vertical lines and how much strength they require in a line to continue to fish safely and efficiently. The Maine Department of Marine Resources partnered with the University of Maine, among other Co-Investigators, to write a proposal to the National Marine Fisheries Service's Section 6 Species Recovery Grant to States. The proposal aimed to capitalize on all of the Co-Investigators strengths, knowing that DMR did not have the staffing levels available to complete a project of this magnitude in the time frame necessary for inclusion of the results in the regulatory decision-making process. The project was funded at a time when this information is needed most. The conversation about what new federal regulations should be levied against the lobster, and other fixed gear fisheries, is ongoing with new regulations being drafted in the fall of 2019 and winter of 2020. DMR needs the scientific expertise of the personnel from the University of Maine already working on this project to remain engaged to finish data collection efforts and finalize data analyses that already began in the first year of this contract. A failure to produce this information will leave the lobster industry in Maine very vulnerable to new regulations. Without this information, new gear modifications that are required in the lobster industry could cause serious economic hardship, decrease the safety of Maine's fishermen, or potentially not result in the desired conservation benefit to the right whale population. This project is being implemented throughout the Gulf of Maine region from Maine through Connecticut and having University of Maine as a partner will decrease the degree of staff time and travel necessary for the state agencies involved in the project. Additionally, DMR has a representative on the Atlantic Large Whale Take Reduction Team, which is the body that advises NMFS on what the final regulatory measures might be. Through DMR's position on the team, this information is guaranteed to play a pivotal role in the negotiations over how fixed gear fisheries will change to protect right whales.

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.

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DMR only has one staff member that is working on this type of research and inquiries related to right whales. This is a large, regional project and sufficient staffing at DMR is not available. The staff at DMR will be directly involved in the implementation of the project, analysis, and dissemination of results but can't complete the work without a dedicated team. The federal agencies working on this issue are already working at capacity as well.

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**.

Yong Chen at the University of Maine worked through a proposed budget with staff at DMR when the proposal was submitted to the granting agency. Those costs to cover the graduate student's time, tuition, and other associated costs are standard. Yong Chen, as the lead scientist in his lab and Professor at the university, has made some of his time available for this project as in-kind match. The current budget that is cited on this form was considered the minimum needed to cover personnel and the travel that will be necessary to complete this project.

5. Future Competition

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

An RFP process could be possible if there was enough time to foresee what information would be needed, which was not the case with this project. This is also a grant funded project so it is better to have qualified partners identified in the proposal so that their qualifications can be vetted by the reviewers for the granting agency.

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.

Yong Chen has years of experience working in data analyses and modeling for fisheries management and monitoring and is considered one of the region's foremost experts. He has extensive contributions in the scientific literature, as well as being the author of many models for stock assessments at the state and federal level for species that include lobster, scallops, shrimp, and urchins. Yong Chen's laboratory at the University of Maine is not just a partner but a Co-investigator on the grant and helped develop the idea, determine the methodology and how to best implement the project, and assisted with writing the grant. Without their expertise and involvement in the project it may not have been funded.

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.

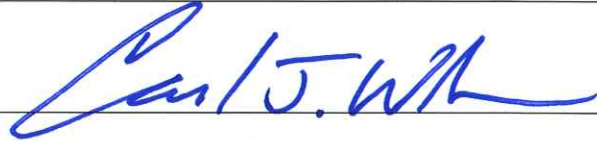
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The time frame is also important as discussed in a section above. New regulatory measures for the lobster fishery in Maine could be decided as early as the fall of 2018. This information is absolutely pivotal in that decision-making process. The data must be collected starting In July of 2018. Preliminary results will be used at an Atlantic Large Whale Take Reduction Team meeting In October of 2018 but will also be necessary for DMR to work with the lobster industry prior to that meeting to build a plan that will work for Maine. Delay beyond these deadlines has the potential to cripple the lobster fishery if new regulations are implemented that don't work for fishermen. See above for why the University of Maine is the best suited for this work.

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:



CARL J. WILSON

Date:

8.26.19