

## 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>	Jessica Waller Thomas Gildersleeve	<b>Office/Division/Program of Contract Administrator:</b>	DMR/BMS Lobster research program
<b>Est. Contract Amount:</b>	<del>\$11,000</del> <sup>TG 7/30/19</sup> \$11,157.50	<b>Contract or RQS Number:</b>	RQS-13A-20190729*096
<b>Proposed Start Date:</b>	8/1/2019	<b>Proposed End Date:</b>	7/31/2020
<b>Vendor/Provider Name, City, State:</b>		Sea-Bird Electronics, Inc. 13431 NE 20th Street Bellevue, WA 98005 VC1000082620	
<b>Short Description of Good or Service:</b>		Purchase of a Sea-Bird SeaFET for oceanographic pH measurements	
<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> Posting dates on Division of <b>Procurement Services</b> website: From: <u>08/28/2019</u> To: <u>09/03/2019</u></p>	
<b>Notice of Intent to Waive Competitive Bidding Number:</b>		NOI# 0820191438	
<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>			
<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;</p>			
<p>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;</p>			
<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>	
		<b>Printed Name:</b>	<b>Date:</b>

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<b>X</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;
	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.
	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.

In May 2019, Jesica Waller (DMR) and Cheyenne Adams (DMR) received an award from the Maine Outdoor Heritage Fund (MOHF) to implement a long-term ocean acidification (OA) and water quality assessment program at DMR in West Boothbay Harbor. This project will contribute to local, statewide and regional efforts to develop indicators of marine ecosystem health across the Gulf of Maine.

Documenting changes in pH is essential for OA and water quality monitoring. To correctly understand the variability in pH over long-periods of time in the marine environment requires specific oceanographic instruments that are carefully designed for the marine environment. **The Sea-Bird SeaFet is the only oceanographic instrument on the market designed for this specific purpose.** We have confirmed this and the suitability of this instrument through conversations with researchers at UMaine, Bigelow Laboratory for Ocean Sciences, UNH and several citizen science groups in Maine.

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For these reasons, we listed this provider and specific instrument on our MOHF application and budget. This instrument is designed for long-term use without costly calibration or maintenance. After the purchase of this instrument, the costs associated with the Sea-Bird SeaFet and starting DMR's OA assessment program should be minimal.

**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.

There is no expertise within the Department to construct this scientific equipment. The federal government and many academic institutions have a need for these same services and contracts with the same provider.

**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**.

Oceanographic pH instruments provided to other organizations that perform similar work are of similar expense. Both Bigelow Laboratory for Ocean Sciences and UMaine paid comparable amounts for this same instrument from Sea-Bird. It is also worthy of note that pH sensors designated for lab use (not oceanographic use) are double the price of the proposed purchase.

**5. Future Competition**

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

Sea-Bird Electronic inc is the only company that can manufacture this oceanographic instrument. This instrument needs to be made to specific criteria to record high-quality data continuously for long-periods of time. This is the only instrument of this kind that can be deployed in the marine environment without extensive calibration and maintenance. If more companies become available in a reasonable distance from the state of Maine we will discuss fostering competition

**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**

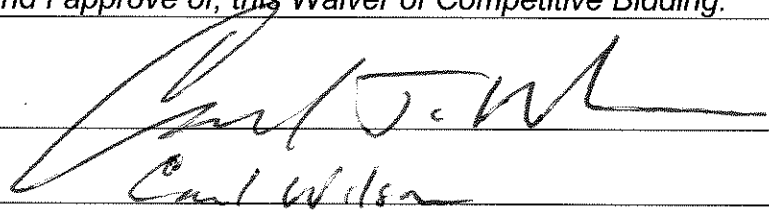
Please explain if the goods or services required are unique to a specific vendor. Describe the unique qualifications, abilities, and/or expertise of the vendor and how those particular unique factors address the specific need identified above. If the vendor has unique equipment, facilities, or proprietary data, also explain the necessity of these particular unique assets.

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This provider is experienced in the production of these oceanographic instruments and is the only provider of this specific instrument. The Sea-Bird SeaFet is widely acknowledged in the scientific community as the best option for this type of oceanographic data collection. Sea-Bird has built and sold this instrument to research groups at the University of Maine, Bigelow Laboratory for Ocean Sciences, Friends of Casco Bay and countless other groups. We specifically listed this instrument in our Maine Outdoor Heritage Fund application to ensure high-quality data collection and that our efforts would be comparable to other programs across the state.

**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>	
<b>Date:</b>	Carl Wilson 7/18/12

014-13A-M326-39