

## 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>	Gail Wippelhauser Tom Gildersleeve	<b>Office/Division/Program of Contract Administrator:</b>	Div. Sea-Run Fisheries and Habitat Accounting and Finance
<b>Est. Contract Amount:</b>	\$46,000	<b>Contract or RQS Number:</b>	RQS-13A-20190808*172
<b>Proposed Start Date:</b>	08/23/19	<b>Proposed End Date:</b>	12/31/19
<b>Vendor/Provider Name, City, State:</b>	EdgeTech, 4 Little Brook Road, West Wareham, MA 02576 VC0000236857		
<b>Short Description of Good or Service:</b>	The EdgeTech 4125 Telemetry Side Scan Sonar System is a portable, high-resolution, scientific-grade equipment for imaging and identifying targets in marine and aquatic systems.		
<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 style="text-align: center;">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# 0820191441		
<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.			
<input type="checkbox"/>	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;		
<input type="checkbox"/>	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;		
<input checked="" type="checkbox"/>	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;		
<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> <hr/> <p><b>Printed Name:</b> _____ <b>Date:</b> _____</p>		

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	<p>D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;</p>
	<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>
	<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;</p>
	<p>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.</p>
	<p>If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:</p>

**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 Department of Marine Resources (DMR) is a cabinet level agency of the State of Maine. DMR was established in part to regulate, conserve, and develop marine, estuarine, and diadromous fish resources; to conduct and sponsor scientific research; and to advise and cooperate with state, local, and federal officials concerning activities in coastal waters.

Two of Maine's diadromous fishes are listed under the federal Endangered Species Act (ESA). The shortnose sturgeon was listed as endangered in 1973, and the Gulf of Maine Distinct Population Segment of Atlantic sturgeon was listed as threatened in 2012. The intent of an ESA listing is provide a high degree of protection for the species and its habitat until the population(s) become large enough to prevent extinction and make the loss of genetic diversity unlikely - at which time protection under the ESA is no longer needed. Specific actions required under the ESA for these species are to 1) determine the overall size and stability of the population size, 2) determine the number of spawning individuals, 3) map fish concentrations to reduce injury or mortality resulting from human activity, and 4) survey and protect habitat critical to the survival of the species.

DMR (Gail Wippelhauser) obtained a grant to purchase a side-scan sonar and to conduct periodic assessments of the overall abundance of both sturgeon species, the number of spawning fish of both species, and locations where fish tend to concentrate. This information will be used when consulting with state, local, and federal officials on how to reduce project impacts (for example, during bridge construction and dredging) to sturgeon in coastal waters. Unlike more traditional methods (gillnetting and tagging), side scan sonar will not kill, injure, or stress the protected species; the data can be acquired very quickly with fewer people; and the results will be more accurate. For example, the first estimate of the

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number of shortnose sturgeon in the Kennebec River required five years of sampling. Using the side scan sonar, we will be able to scan the three wintering areas (where the sturgeon congregate) in the Kennebec River in one day, and analyze the recordings in perhaps a month. The software that comes with the equipment allow post-processing of recorded images including the ability to obtain length data.

There are other diadromous species managed by DMR (striped bass and American shad) and some invasive species (white catfish) that are large, bottom-oriented fish species for which we have little information. We will be able to use side scan sonar transects to obtain abundance, distribution, and length data for these species as well.

DMR will also use this equipment in coastal waters to help locate derelict fishing gear or "ghost gear." Ghost gear is an discarded, lost, or abandoned, fishing gear in the marine environment, which continues to fish and trap animals, entangle and potentially kill marine life, smother habitat, and act as a hazard to navigation.

### 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 State Police and DMR Marine Patrol share a similar piece of equipment made by Marine Sonic Technology that is used solely for search and recovery operations; the unit is 4-5 years old and is experiencing problems resulting from contact with the substrate. The DMR works closely with researchers at the University of Maine and the University of New England, and neither of these institutions possess this type of equipment. DMR also works closely with federal biologists at the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, and neither of these agencies possess this type of equipment.

### 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**.

As described in point 6, Edgetech is the only company that makes a side-scan sonar unit with the unique features needed to accomplish the work described in point 2. The quoted price (attached) is reasonable compared to the only other unit with a high frequency transducer (Marine Sonic Technology), but which has limited software capabilities needed to conduct our research.

### 5. Future Competition

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

We do not foresee opportunities that would foster competition for this type of specialized scientific equipment that is used by a limited group of people.

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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.

Seven companies make towed side-scan sonar units (EdgeTech, Marine Sonic Technology, Klein, Imagenex, Tritech, Kongberg, and J W Fishers). Only Edgetech and Marine Sonic Technology make a dual-frequency tow body with an upper frequency of 1600 kHz. This very high frequency sonar is necessary to show small, soft targets in high detail\*.

Only Edgetech has advanced software with an integrated navigation module that allows 1) survey lines to be drawn, 2) real-time plotting of actual location within the survey lines, and 3) importation of navigation charts (bathymetry) that can be overlain with survey. Other modules are the standard “waterfall” display which shows real-time sonar output and allows control of the sonar unit and (e.g. gain, color, frequency) and a target logger that allows a target to be displayed, enhanced, measured, and logged on the survey line.

\* H. Jared Flowers and Joseph E. Hightower (2013) A Novel Approach to Surveying Sturgeon Using Side-Scan Sonar and Occupancy Modeling, Marine and Coastal Fisheries: Dynamics, Management, and Ecosystem Science 5(1): 211-223.

### 7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)

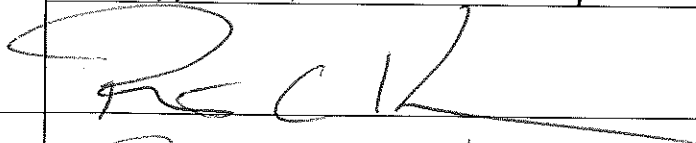
Please explain if time is of the essence and an emergency exists which requires the immediate procurement of goods or services. Describe the nature of this emergency, provide the date by which the goods or services must be delivered, and explain how that date was determined and its significance (i.e. 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:**

**Date:**

  
Patrick C Keller  
July 30, 2019

014-13A-S220-72