

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:	Tom Gildersleeve	Office/Division/Program of Contract Administrator:	Damian Brady
Est. Contract Amount:	\$ 37,000	Contract or RQS Number:	CT13A 2019 0808X0456
Proposed Start Date:	August 20, 2019	Proposed End Date:	June 30, 2020
Vendor/Provider Name, City, State:	University of Maine, Orono, ME		
Short Description of Good or Service:	<p>The University of Maine has developed a FVCOM fine mesh hydrographic model for segments of coastal Maine. The services provided will be an expansion of the FVCOM model to significant shellfish areas. This model will be used to evaluate the impact of wastewater treatment plant effluent on the water quality of the receiving waters and in turn the impact on bivalve shellfish. The model will aid in determining if harvest areas can be reopened now or in the future as wastewater infrastructure improves throughout the state.</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>To be completed by the Division of Procurement Services</p> <p>Posting dates on Division of Procurement Services website: From: <u>9/12/2019</u> To: <u>9/18/2019</u></p>		
Notice of Intent to Waive Competitive Bidding Number:	NOI# 0920191514		
<p>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.</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</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>Signature:</p>	

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<i>requesting Department's Commissioner or Chief Executive (as the Governor's "designee") sign and date on the right.</i>	Printed Name:	Date:
<p>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>		
<p>D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;</p>		
X	<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:</i> http://www.maine.gov/purchases/info/forms/govcoop.doc.</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>		
<p>Please note that the following four points below (#2 through 5) <u>all</u> require a response.</p>		
<p>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.</p>		

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In 2015, Maine softshell clam harvest topped \$22 million, second only to American lobster by value, and from 2011 to 2016 the American oyster aquaculture industry increased 6-fold. However, one of the largest threats to the Maine shellfish industry is point source pollution. Shellfish yields are often limited in critical harvesting areas because of closures due to bacterial pollution and a lack of understanding of the sources, load delivery and residence time of bacteria in the system affected by physical environmental variables. The cost associated with closures is particularly significant in regions of the state highly dependent upon marine resources. The Maine Department of Marine Resources (DMR) regulates shellfisheries and aquaculture along the state's 3478 miles of coastline. The overall objective of this work is to help the DMR make strategic shellfish management decisions by providing and integrating new information on circulation and hydrography, potential transport of bacteria, and science-based management strategies. Two newly developed numerical ocean circulation models (Conlon et al. 2018, Gray et al. in prep) now exist for most of the Maine coast, at scales appropriate to assess the spread of bacterial pathogens in estuaries. Extending these modeling resources to the DMR coast-wide, starting in low income, fishery/aquaculture-dependent regions will dramatically improve shellfish management. Growing area closing and reopening timescales, and the delineation of growing area boundaries, can be updated based on improved knowledge of ocean circulation extracted from these tools.

Teaching: Dr. Brady teaches a course called Estuarine Oceanography which fulfills the Oceanography requirement for undergraduate Marine Science majors at the University of Maine. In the course, students explore how to use oceanographic models and data to make real-world decisions such as shellfish closures. We will use the information generated in this project to explore how residence time and estuarine circulation determine susceptibility to pollution.

Research: The use of hydrodynamic models to inform susceptibility to discharge and rain events is a burgeoning research area that links land management, estuarine circulation, public health, and biology. Dr. Brady and colleagues at the University of Maine's Sustainable Solutions Initiative have already submitted several proposals with Maine DMR support to extend this work to the rest of the coast.

Public Service: The core of this research program is the idea that science can inform management that benefits public health and shellfish harvesters to the benefit of local economies. We take that perspective in each step of the program. Umaine's Mission Statement includes: "Using research-based knowledge, outreach efforts promote sustainable use of Maine's abundant natural resources and build intellectual, cultural, and economic capacity throughout Maine and beyond." The goal of this project which is to better characterize pollution problems fits the service mission of the University.

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 Department of Marine Resources staff does not have the hydrographic modeling capacity or expertise required to perform this scope of work. The FVCOM model is very complicated and takes not only trained modelers to expand it to new regions, but also advanced computing resources. Hydrographic modeling of this caliber cannot be done in house at DMR.

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**.

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Negotiated costs cover the salary of a post-doctoral student for the duration of the project for performance of the scope of work. The post-doctoral student has developed FVCOM models for several other areas on the Maine coast and will be the most efficient individual to expand this model. Any other approach will require significant training and development time just to get started.

5. Future Competition

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

As existing FVCOM modeling of the Maine coast become public and/or private entities develop their own fine mesh modeling structures, the state may have more opportunity to pursue competitive bids. However, the shellfish program is an audited program by the US Food and Drug Administration and has clearly indicated that any change in Prohibited classifications around wastewater treatment plant outfalls require sophisticated scientific support.

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.


Dr. Brady’s lab was involved in the New England Sustainability Consortium (NEST) which received funding from the National Science Foundation to study water quality and impacts to shellfish growing areas. This multidisciplinary research project worked closely with DMR for the past several years and has produced several advances in Maine’s shellfish management by developing the tools to understand system dynamics and the impact of pollution on communities and the coastal economy. One of the most promising projects was led by Dr. Brady and included detailed hydrographic modeling of estuaries and a control mechanism allowing managers to input various stressors on the system like a waste water treatment plant (WWTP) failure and model the distribution of the resulting pollutants. This tool, for example can support management decisions to open shellfish flats that are not impacted during normal operations of WWTPs.

Because this research was specific to coastal Maine waters and designed for shellfish sanitation management, there is no other existing tool like it that could easily be expanded.

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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Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):	<i>By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.</i>
	
Printed Name:	J. Kohl Kanwit
Date:	8/14/19

