

**PM-19676
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:	Linda Bacon	Office/Division/Program of Contract Administrator:	DEP/BWQ/DEA/LAS
Est. Contract Amount:	\$200,000.00	Contract or RQS Number:	
Proposed Start Date:	Sept. 1, 2019	Proposed End Date:	June 30, 2021
Vendor/Provider Name, City, State:	Lake Stewards of Maine – Volunteer Lake Monitoring Program, 24 Maple Hill Rd, Auburn ME 04210		
Short Description of Good or Service:	This Grant is to pass through legislatively authorized funds to the Lake Stewards of Maine – Volunteer Lake Monitoring Program as allocated under the following public laws (\$15,000 annually under 126th 2013-2014, PL, C. 591, and, \$75,000 annually under 129th 2019-2020, PL, C. 519), to fund management and analysis of data gathered by their program during FY19 and FY20.		
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 style="text-align: center;">To be completed by the Division of Procurement Services</p> <p>Posting dates on Division of Procurement Services website: From: <u>09/27/2019</u> To: <u>10/03/2019</u></p>		
Notice of Intent to Waive Competitive Bidding Number:	NOI# 0920191609		
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:	Printed Name:	Date:

**State of Maine
Waiver of Competitive Bidding Request Form**

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.	
X	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:	Funds have been authorized under public law (\$15,000 annually under 126th 2013-2014, PL, C. 591, and, \$75,000 annually under 129th 2019-2020, PL, C. 519) to pass through DEP to the Lake Stewards of Maine – Volunteer Lake Monitoring Program to fund management and analysis of data gathered by their volunteers.

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.

a. The Lake Stewards of Maine Volunteer Lake Monitoring Program (LSM-VLMP) facilitates the collection and quality assurance of lake monitoring data gathered from over 400 Maine Lake stations. The Maine DEP and other agencies use data gathered through the VLMP for reporting purposes (to government and the public), research, education, trend analysis, and for identifying sensitive waterbodies. DEP reporting required by statute includes the biennial Integrated Water Quality Monitoring and Assessment Report to the U.S. Environmental Protection Agency as required of Sections 305(b) and 303(d) of the Clean Water Act which also fulfills of the reporting requirements of 38 M.R.S.A. Section 464.3.A of the State of Maine's Water Classification Program.

b. Reliable information concerning the quality of Maine lakes is essential in addressing non-point source pollution and the management of lake watersheds on a statewide and local basis. The purpose of this grant is to ensure partial program

State of Maine Waiver of Competitive Bidding Request Form

funding for the LSM-VLMP. The program is currently sponsored by a combination of federal funds (Section 106), state funds allocated under 38 MRSA Sections 410-L&M and subsequent legislation, grants from private foundations, private donations and volunteer efforts. This grant is intended to allow for adequate base program funding for State FY20/21. Funds will be used for support of staff, office operating expenses, travel, equipment, and supplies.

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 Lake Stewards of Maine Volunteer Lake Monitoring Program (LSM-VLMP) is a network of over 1100 volunteers located across the state 500+ who have been trained and provided with equipment to collect water quality data from Maine lakes. This program, formerly known as the Volunteer Monitoring Program (VMP), resided at the Maine Department of Environmental Protection in the Lake Assessment Section from the early 1970s until approximately 1994, when budget cuts eliminated both the 1.5 positions involved with maintaining it and all of the funding to support it. At that time, a steering committee was formed comprised of volunteers and department staff; the committee determined that because the need for lake monitoring data still existed at all levels (federal, state & local), the best course of action was to establish the program as a non-profit entity. By existing as a stand-alone entity, the LSM-VLMP became eligible for federal resources, previously not directly available to the Department, as well as grants and funds from private foundations, local organizations like lake associations, and private individuals. The Department has been intimately involved with the development of this non-profit entity since that time, with a staff member attending their Board of Director meetings as the Department liaison and as the Quality Assurance Officer for the program. The LSM-VLMP is one of the partners listed in the Quality Assurance Project Plan (QAPP) for the Maine Lake Assessment Program, written by Department staff and approved by EPA. No other entity exists within state or local government that provides the service the LSM-VLMP provides.

Staff from other state agencies (DOC, IFW) attend LSM-VLMP training sessions to be trained on the collection of lake data. Thus, I am 100% confident that **a) sufficient staffing/expertise is not available within the department or this departmental division to perform the service, and, b) other governmental resources (local, state, or federal agencies) external to the department are not available to perform the service more efficiently or more cost effectively than the requested sole source.** The basic structure of the Lake Stewards of Maine Volunteer Lake Monitoring Program was designed by Maine DEP to train volunteers to provide the most cost-effective means of collecting statewide lake data.

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**.

The determination that costs negotiated are 'fair and reasonable' can be made from costs that would be incurred to the Department, if the DEP were running the program internally as it did years ago. The annual cost of state funds to administer the volunteer monitoring project in its final year (1994) exceeded \$160,000. The state funds currently being proposed to support the LSM-VLMP water quality monitoring efforts annually are \$83,000.00 (federal funds \$17,000.00).

It has taken since 1970 (49 years) for volunteer lake monitoring in Maine to reach the point that it is now. One could estimate how much investment has been made by totaling all the state (including position costs), federal and private funds used since 1970 ('back of the envelope' estimate: >3 million dollars). If one were to start from scratch, it would take multiple years to establish a functional network of trained and certified volunteers. The cost of supplying basic equipment to such a network would easily exceed \$100,000. Staff to support the network (3 positions), overhead (space, phones, computers, vehicles, equipment, boat, etc.) and reports would easily exceed \$200,000. Because the Department continues to assist with the training and certifications, DEP staff time required would exceed the staff time immediately available and likely be the equivalent of one step 25 FTE (position cost \$100,000). The cost for year one alone would easily exceed \$375,000.00. The basis for these estimates is experience (I've written every state grant with the LSM-VLMP since its formation; I've researched equipment costs and have written grant proposals to federal entities that have included position costs since 1989).

State of Maine Waiver of Competitive Bidding Request Form

5. Future Competition

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

Question five is not applicable. This is a Grant to the Lake Stewards of Maine Volunteer Lake Monitoring Program, a non-profit entity specifically designed to assist DEP in the collection of statewide lake monitoring data (see answer to number 3 above). The cost for another entity to become competitive with the VLMP exceeds the amount being granted by more than a factor of three, and would require more resources than are being granted in terms of Departmental support (see answer to number 4 above).

It is economically unfeasible for another entity to consider competing for the Grant; likewise, given the additional amount of time and resources that would be required by non-existent department staff to train a network of volunteers such that they meet quality assurance goals outlined in the Lake Assessment QAPP, it is unfeasible to even consider this.

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.

Uniqueness for this grantee was described in detail under number 3 above. In addition, the Department has established a sample mail-in program used by the volunteers as another cost savings measure. Volunteers collect and personally pay for phosphorus samples, the results from which are made available to all data users.


Realistically for any other entity to reach the point of establishing a network of 500+ volunteers on 400+ Maine lakes, equipped and trained to collect water quality data, it would cost substantially more than the amount provided in this grant. Similarly it would be financially impossible for consulting professionals to visit 400+ stations every other week for a 4-5 month period during the open water season for the amount of money being granted. This is why Maine DEP established the original Volunteer Monitoring Program in the early 1970s and sponsored legislation which was enacted to allow use of citizen volunteers to collect such data.

It is important to recognize that the amount being granted is less than the annual position cost for the one DEP Aquatic Biologist II and half-time Clerk positions eliminated during the funding cuts of the 1990s. Also important to consider is that this grant money is matched with Federal funds under Section 106, grants from private foundations, donations from local organizations like lake associations and many of the individual volunteers in the program. This is an incredible ‘value-added’ partnership that DEP has cultivated with the LSM-VLMP and is the only way DEP can continue ‘collecting’ the lake assessment data in any significant statewide manner to satisfy state and federal mandates. It is also a ‘flagship’ partnership nationally, that seeks volunteer stakeholder involvement to assist the Department in meeting its Statutory obligations.

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.

**State of Maine
Waiver of Competitive Bidding Request Form**

Not applicable.	
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:	Gerard D. Reid, Commissioner
Date:	9/23/19

