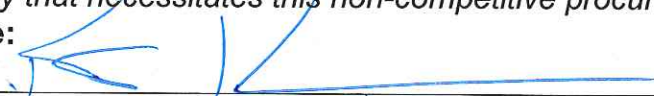


**State of Maine
Waiver of Competitive Bidding Request Form**

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 Thomas Gildersleeve	Office/Division/Program of Contract Administrator:	Biological Monitoring
Est. Contract Amount:	\$ 76,978	Contract or RQS Number:	
Proposed Start Date:	10/15/19	Proposed End Date:	Sept 30, 2020
Vendor/Provider Name, City, State:	FB Environmental Associates 97A Exchange St. Portland, ME VS0000013479		
Short Description of Good or Service:	Fifty prototypes of the newest version of the Time Tension Line Cutter (TTL) will be built by project partner, Blue Water Concepts, for field testing with select lobster fishermen. The TTL is a device that can be used as a gear modification on vertical lines in the lobster fishery to release endangered large whales in the event of an entanglement in the line. Funding has been obtained through the federal Bycatch Reduction Engineering Program (FB Environmental Associates is a Co-investigator on the grant) to get prototypes out to fishermen to document and track the use and performance of the TTL.		
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>09/27/2019</u> To: <u>10/3/2019</u></p>		
Notice of Intent to Waive Competitive Bidding Number:	NOI# 0920191611		
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;		
X	<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")</i>	By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement. Signature: 	
	Printed Name: Patricia Leiber	Date: 9/17/19	

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<i>sign and date on the right.</i>		
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 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.

The Department of Marine Resources (DMR) is currently working with the federal Atlantic Large Whale Take Reduction Team (TRT) on behalf of the State of Maine to reduce the risk of entanglement of right whales in fixed fishing gear. Maine DMR is currently scoping regulatory changes and modifications to gear that will reduce the risk of entanglements and provide the fishery with safe and efficient options. Currently, one of the primary techniques being discussed to achieve this is fishing a weaker vertical line. However, there are significant safety concerns over this technique in parts of the fishery that fish heavier sets of gear. The Time Tension Line Cutter is the only concept that enables the fisherman to maintain the hauling strength of his/her line when needed, but will actively cut the line and release a whale that has been entangled. This is achieved by setting a load that a whale will exert on a line over a time that is longer than it takes a fisherman to haul his/her gear. FB Environmental has already been working with Blue Water Concepts, the partner who created the TTLC technology, to refine their prototype and start tracking its use in the fishery. They are currently doing so under another funding source (not through DMR). DMR partnered with Blue Water Concepts, FB Environmental, and several fishery groups on a grant proposal through the Bycatch Reduction Engineering Program. This money was received, and

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partners have until summer 2020 to complete the project. Blue Water Concepts is tasked with building 50 prototypes of the new design so that they may be field tested with fishermen in the fall, winter, and spring of 2019 and 2020. FB Environmental will expand their outreach efforts to get those prototypes out to fishermen in Maine and in the offshore Area 3 for testing. They will use their already developed field tracking logsheets to track the use and performance of the TTLC prototypes, and use their exclusive knowledge of load cell devices to document how the prototypes are being hauled. DMR needs the partnership of FB Environmental to implement this project on a short timeframe and take advantage of existing knowledge and relationships to do so. DMR is interested in putting this technology on a list of approved methods for fishing safer vertical lines. To do so requires obtaining the necessary performance information from the fishery within the next year. This will provide more flexibility for Maine fixed gear fishermen in the federal regulations to protect endangered 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.

DMR does not currently have the staff available to implement this project on this time frame but will be overseeing and guiding the project directly with partners. FB Environmental is already doing work with the TTLC, has developed the relationship with Blue Water Concepts and the fishing organizations, and will be able to begin collecting information immediately.

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**.

FB Environmental provided a budget for the time necessary to implement the field portion of this project for the Bycatch Reduction Engineering Program proposal that was submitted and recently awarded. This budget was approved by the funding source and no state funds will be necessary to complete the project.

5. Future Competition

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

This will be the only time that a project specific to this need and testing of this technology will be done. After field testing is completed and the data are made available to regulatory agencies and groups, a decision will be made about whether or not the TTLC will be included as a gear modification option for the fishery. Any further testing or development will be left up to the creator of the TTLC, Blue Water Technologies.

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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.

FB Environmental is already working with the TTLC through awards not related to the agency. They have already built the relationships with Blue Water Concepts and the fishery groups that will be participating and are already conducting outreach with fishermen to get the first prototypes of the TTLC out for field testing. They have developed the mechanisms for tracking performance, can implement their exclusive knowledge for also obtaining load cell data on fishing boats to compliment the data collected. FB Environmental would only need to expand the scale of their approach to get the project off the ground. They are a Co-investigator on the grant award and were pivotal in getting the project awarded.

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.

This is only a 1 year grant. The money was awarded after the project period began so there is less than a year to collect all relevant data, hold the post field testing workshop, analyze data, and generate the necessary reports to get to the managing entities for use in their rulemaking. The regulations around gear modifications necessary for the lobster fishery to reduce the risk of entanglement to right whales will be coming as early as 2021. DMR must have this information generated and analyzed by the summer of 2020 to be able to include it, if necessary, in comments or approved lists for use in the fishery. FB Environmental is already working with the TTLC to get information from field testing with fishermen. This gives them the knowledge, as well as sets them up as the best available provider to obtain what DMR needs in the time allowed.

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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:	
Date:	9/17/19