

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	Office/Division/Program of Contract Administrator:	Bureau of Marine Science Division of Biological Monitoring
Est. Contract Amount:	\$ 129,900	Contract or RQS Number:	20190314*2600
Proposed Start Date:	4/15/2019	Proposed End Date:	9/30/2020
Vendor/Provider Name, City, State	Blue Water Concepts 208 Pleasant St. Eliot, ME. 03903		
Short Description of Good or Service:	Build up to 50 prototypes of the newest version of the Time Tension Line Cutter (TTL) for field testing with select fishermen. Additional funding was obtained through the federal Bycatch Reduction Engineering Program to expand this project in length and increase the number of units to be made and field tested. 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.		
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.		To be completed by the Division of Procurement Services Posting dates on Division of Procurement Services website: From: <u>10/11/19</u> To: <u>10/17/19</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 1020191712	
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.			
<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;		
	<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: _____	
<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;		
<input type="checkbox"/>	D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;		
<input type="checkbox"/>	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>		
<input type="checkbox"/>	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;		

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	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. Blue Water Concepts developed this technology and has proven that the concept works. Blue Water Concepts is the only company building this technology. They have been working to refine the design to make it more operationally feasible for fishermen. DMR received federally grant money through the Bycatch Reduction Engineering Program, in which Blue Water Concepts is a Co-investigator. The grant tasks Blue Water Concepts 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. DMR is interested in putting this technology on a list of approved methods for fishing safer vertical lines. 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.

No state, local, or federal agency has the expertise to design and build the Time Tension Line Cutter. Blue Water Concepts is the Maine based engineering company that pioneered this idea and has done the initial prototype building and testing. DMR is working with Blue Water Concepts to refine the technology, field test it, and get it into the federal regulations as an option for Maine fishermen to use.

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**.

DMR has worked with Blue Water Concepts to develop the budget for building prototypes and field testing the technology. DMR worked with Blue Water Concepts and some other project partners to apply for and received federal grant funds through the Bycatch Reduction Engineering Program to alleviate state funds needed to support this work.

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5. Future Competition

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

This technology was developed by Blue Water Concepts and they are the only group or company that is designing and building these devices.

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.

Blue Water Concepts developed, built, and tested the initial design of the Time Tension Line Cutter in the early 2000's. They have taken the initial feedback from these tests and recently designed a more operationally friendly prototype. They are the only engineering company that is suited to use their designs, testing data, facilities, and expertise to perfect this technology, build more prototypes, and get them out in the field for testing with fishermen. This is not a product that is available on the market.

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.

DMR is aiming to have the prototypes built and in the field for testing in the fall and winter of 2019 and into the spring of 2020. A workshop will be held with participating fishermen after field testing to learn from their experiences. A report will be generated and needs to be made available before new regulations are implemented likely in 2021. Blue Water Concepts is the only company building these units and, therefore, they are needed to complete the work on the time frame needed for the federal management schedule.

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:


Carl J. Wilson, Director

Maine Department of Marine Resources
Bureau of Marine Science

Date:

9/13/19