


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:	Andrew Johnson	Office/Division/Program of Contract Administrator:	DEP / BAQ / Division of Air Quality Assessment
Est. Contract Amount:	\$ 5,20000	Contract or RQS Number:	
Proposed Start Date:	10/1/2019	Proposed End Date:	9/30/2020
Vendor/Provider Name, City, State:	Lakes Environmental Association Bridgton, ME		
Short Description of Good or Service:	Deposition Monitoring Site Operations and Maintenance		
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><i>To be completed by the Division of Procurement Services</i></p> <p>Posting dates on Division of <i>Procurement Services</i> website: From: <u>10/25/2019</u> To: <u>10/31/2019</u></p>		
Notice of Intent to Waive Competitive Bidding Number:	NOI# 1020191770		
<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 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>Signature: </p>	
		<p>Printed Name: Gerald D. Reed</p>	<p>Date: 10/17/19</p>
<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>			

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	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;
X	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 need for seeking a contractor to perform the work described at this Bridgton monitoring site is because the sampling protocols for precipitation chemistry and mercury deposition samples require that they be collected at a specific time of day on Tuesdays of each week. In order to meet minimum quality assurance and sample validation requirements, this aspect of the sampling protocol must be met. The collection of deposition trend data is essential for DEP to determine the effectiveness of state and national air pollution emission control strategies and regulations designed to protect air and water quality and ecological systems health.

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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 deposition sample protocol also stipulates if precipitation is occurring at the prescribed time of sample collection, the site operator is to wait until the precipitation event stops before collecting the sample. Due to the distance of the site from any DEP Regional Office and the timeliness needed to collect deposition samples, it is neither a practical nor efficient use of Department or other governmental staff resources to comply with this requirement when other options are available. Because the contractor has staff that lives in the immediate area, they can retrieve samples at the appropriate time even when they have to wait for a precipitation event to end without wasting a lot of travel and work time.

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 compensation rates negotiated for the services provided in this contract are considered fair and reasonable when based on a comparison of similar contracts previously used for local individuals in the Greenville area where DEP also operated another long-term trend deposition site. The contract "per sample" rates are less than the hourly rate of a DEP Environmental Specialist 2 position performing the same scope of work for an equivalent amount of time spent for trip preparation, tasks in the field at the site (sample collection/set-up, maintenance, troubleshooting, etc.), conducting field chemistry tasks, recording and reporting results and shipping and receiving samples and supplies via UPS.

5. Future Competition

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

Because the specific combination of site experience, site proximity and laboratory access required by this contract are not ones that could typically be found in the private sector, the Department has been working with LEA staff to educate other members of the local Lakes Environmental Association to expand the number of individuals who may be available to perform this work in the future.

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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.

Contractor staff members have been performing the Bridgton site operator duties for the DEP for the past 38 years, and as such unquestionably have the most extensive knowledge, skills and abilities to perform the tasks required at the site of anyone we could possibly hope to find in this area. These kinds of qualifications are necessary in order for the Department to meet and maintain the highest levels of data quality and completeness possible. The Lakes Environmental Association (LEA) provides various types of water quality testing, similar to the field chemistry tasks it performs on samples from the Bridgton site, as part of its services to member lakes. The LEA has a laboratory area that is particularly well suited for performing the deposition samples' field chemistry checks.

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.

The Bridgton deposition site is part of a national long-term trends network, where consistency in all aspects of sample collection and analysis is highly valued. Any delay in not having these services provided would compromise sample integrity by not being able to collect them according to the protocol as previously described. Any kind of interruption in the sample collection process would have an adverse negative impact on determining important long-term trends in deposition by impacting data quality and completeness. Because field work like this is conducted year-round, and each season presents its own specific challenges to understand and cope with, it would essentially take an entire year to fully bring another contractor up to speed to a basic level of experience with site operations, while LEA staff possess 35 years of experience at this particular site. The estimated costs to get another contractor to provide an equivalent level of services in terms of dollars would impose an additional cost in Department resources of approximately \$634 in transportation costs (Portland regional office to Bridgton site round trip is ~ 80 miles, times \$0.44/mile, times 10 trips for training and quality assurance); in man-hours it would be at least 40 hours and more than \$600 (3 hours round trip travel time, plus 1 hour at the site, for 4 hours multiplied by 10 trips; more time if precipitation event is occurring at 9:00AM).

**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: Gerald D Reid



Date: 10/1/19