

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:	Timothy Peabody	Office/Division/Program of Contract Administrator:	Inland Fisheries & Wildlife
Est. Contract Amount:	\$ 34,000	Contract or RQS Number:	CT09A201910090*1269
Proposed Start Date:	11-01-2019	Proposed End Date:	3-31-2020
Vendor/Provider Name, City, State:		Kleinschmidt	
Short Description of Good or Service:		Forest City Reservoir operation and generation modeling	
<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>		<p>To be completed by the Division of Procurement Services Posting dates on Division of Procurement Services website: From: <u>10/28/2019</u> To: <u>11/4/2019</u></p>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 1020191789	
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;		
<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>	
		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;		

State of Maine Waiver of Competitive Bidding Request Form

	<p>D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;</p>
	<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 style="margin-left: 20px;">(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 style="margin-left: 20px;">(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>

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 letter signed by Governor Mills, and New Brunswick Premier, Blaine Higgs state the following: The Forest City Project Dam impounds East Grand Lake, which is part of the St. Croix International Waterway. This 16,000-acre shared boundary lake is one of Maine's most important recreational fisheries. For generations, the lake has served as the economic lifeblood of the region. For more than 20 years Woodland Pulp has challenged the necessity to have FERC jurisdiction over the operation of the dam. The most recent reissue of the license in 2015 has caused Woodland to file the pending surrender request for the Forest City Project license and to reach out for alternatives to sustain the heritage of East Grand Lake and the entire St. Croix International Waterway. The St. Croix River has been designated by Canada as a Canadian Heritage River and recognized by Maine as one of the state's Outstanding Rivers. The State of Maine and the Province of New Brunswick share the responsibility to protect the natural, historical and recreational resources that support its communities and form their economic lifeblood. To that end the Government of Maine and New Brunswick's Provincial Government are discussing alternative models for ownership and management of the dam, which would support the long-term plan for preserving the natural, historical heritage and recreation and fishing interests of East Grand and the St. Croix system. Both parties understand the complexities of the regulatory interest of FERC and are prepared to address those. Through preliminary discussions between Maine and New Brunswick, we believe we have a path forward that meets the needs of all parties.

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

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.

Modeling river flows in relation to hydropower generation is a very specialized service, the service is not available within Maine at the state and local level. Kleinschmidt Associates, with an office in Pittsfield, Maine has previously modeled the river flow on the St. Croix River for the Forest City Dam in relation to downstream power generation for Woodland Pulp LLP. The previous flow data will be used by Kleinschmidt to perform the scope of work requested by the Department. To start this modeling request using another company would require the contractor to gather all the previous data which would be inefficient and costlier to the Department.

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**.

Reviewing the 2019 rate structure for Kleinschmidt Associates it appeared consistent with comparable professional engineering service rates.

5. Future Competition

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

If there is a renewed focus on hydropower in Maine it would create more need for understanding water flows and power generation potential and create more business interest in providing expertise in working with the Federal Energy Regulatory Commission (FERC) and hydropower licensing.

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

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.

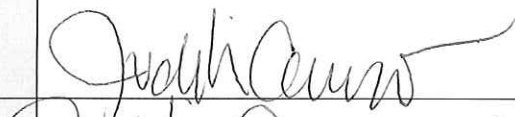
Kleinschmidt Associates has done previous power generation modeling on the St. Croix River, Forest City Dam in respect to power generation for Woodland Pulp LLP. They will be updating a previous analysis done on the Forest City Dam in 2010. The matter of license surrender for the Forest City Dam is pending before FERC. The state of Maine and Province of New Brunswick are working jointly to find a solution to protect the natural resources and economics in the area. It is not feasible for another vendor to produce this power generation modeling in a timely manner.

7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)

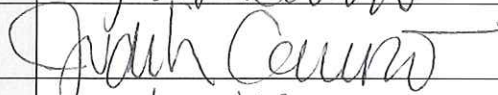
Please explain if time is of the essence and an emergency exists which requires the immediate procurement of goods or services. Describe the nature of this emergency, provide the date by which the goods or services must be delivered, and explain how that date was determined and its significance (i.e. 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.

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:



Date:

10/23/19