

**PM-20617
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:	Julie Richard	Office/Division/Program of Contract Administrator:	NA
Est. Contract Amount:	\$ 11,220	Contract or RQS Number:	
Proposed Start Date:	07/01/2019	Proposed End Date:	06/30/2020
Vendor/Provider Name, City, State:	various		
Short Description of Good or Service:	Partnership Grants provide valuable operating support to Maine's cultural organizations of all sizes and in all parts of the state.		
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>11/08/2019</u> To: <u>11/14/2019</u></p>		
Notice of Intent to Waive Competitive Bidding Number:	NOI# 1120191858		
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;		
<input checked="" type="checkbox"/>	<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		

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	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.

In accordance with Title 27, Section 404, the Maine Arts Commission has the duty to "encourage and stimulate public interest and participation in the cultural heritage and programs of our State and to expand the state's cultural resources" and to "encourage and assist freedom of artistic expression essential for the well-being of the arts". The aforementioned program seeks to fulfill those duties.

This sole source request is being made in accordance with Title 27, Sections 405 and 406. Although the Maine Arts Commission is not exempt from competitive purchasing, it is acknowledged that the funding of cultural and creative programs is not easily completed through a competitive process, and instead, it is the responsibility of the Commission and its appointed Director to make such funding and programming decisions, in accordance with State statute.

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

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address the identified need more efficiently and effectively than the identified vendor.

The aforementioned funding provides support for cultural events which and cannot be provided by a public resource within State Government or the Federal Government.

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 Maine Arts Commission receives its funding through the National Endowment for the Arts, gifts, contributions and bequests. The Commission is responsible for "enter[ing] into contracts, within the limit of funds available" (Title 27, Section 405) and "the Commission is the official agency of the State to receive and disburse any funds made available by the Federal Government for programs related to the purposes of the commission" (Title 27, Section 406). In the case of this particular cultural event, the Commission has determined that the grant amount is a fair and reasonable distribution for the benefits received.

Funding amounts are determined by a formula which is informed by the scores each grantee receives during the panel review process. The grantees final score as well as the amount of funding available, determines the final grant awards.

5. Future Competition

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

As noted above, the Maine Arts Commission is not exempt from competitive purchasing, but it is acknowledged that the funding of cultural and creative programs is not easily completed through a competitive process. Instead, it is the responsibility of the Commission and its appointed Director to make such funding and programming decisions, in accordance with State statute. In the event of procurement by the Commission that is not a cultural or creative program; the Commission will use competitive procedures to the extent practicable.

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.

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As noted above, it is the responsibility of the Maine Arts Commission and its appointed Director to make funding and programming decisions in accordance with their mission, and in accordance with State statute. These grantees have been determined to be unique by the Commission, and eligible to receive funding in accordance with the Commission's previously stated duties.

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:

Julie A. Richard,

Date:

11-4-19

WCB Maine Arts Commission Grant List

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Bates College (Bates Dance Festival)		\$5,100.00
Penobscot Theatre Company		\$6,120.00
TOTAL		\$11,220.00