

PM-20754
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:	Peter T. Moulton	Office/Division/Program of Contract Administrator:	Department of Env. Prot. BRWM Div. of Technical Services
Est. Contract Amount:	\$ 140,000.00	Contract or RQS Number:	2017 05 09 * 3467
Proposed Start Date:	17 January 2017	Proposed End Date:	31 December 2020
Vendor/Provider Name, City, State:	Boudreau's Heating 2866 Riverside Avenue Vassalboro, ME 04989		
Short Description of Good or Service:	Replacement of home heating oil tanks and heating system work. This involves the upgrade of aboveground home heating oil tanks not meeting State standards and posing a high risk of an oil spill. This contract originally written in response to RFP# 201609186 Pre-Qualified Vendor List for Replacing Home Heating Oil Tanks.		
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 <i>Procurement Services</i> website: From: <u>11/19/2019</u> To: <u>11/25/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:	NOI# 1120191897		
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;			
<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:

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X	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.

Due to being awarded multiple projects through the "mini-bid" process, the funds initially designated for this contract are almost depleted. The amount remaining in this contract as of 31 October 2019 is \$24,946 and an additional \$13,940 worth of work has already been scheduled, leaving an approximate future balance of \$11,006 (approximately 4 tank replacements). This amendment to add funds is necessary to ensure funding is available for payment to this vendor should they be selected for future projects.

Object of contract is to prevent heating oil contamination of drinking water supplies by heating oil supply tanks and piping not meeting State regulations and standards and that are at a high risk of failure and causing an oil spill. On average the cost per replacement will be approximately \$2,600 each, depending on circumstances. In contrast the estimated state average (including personnel costs) to remediate such a site if a spill occurs is \$9,000; a potential benefit (avoided costs) to cost ratio of over 3:1.

This contract is needed to implement requirements of 38 MRS §551 §§5N.

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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 Pre-Qualified Vendor List for Replacing Home Heating Oil Tanks, created through RFP# 201609186 contains 38 vendors (heating contractors). Although probably not considered "Public Resources", they are resources available to the Department to replace home heating oil tanks, and the tank replacements that occur at individual homes are awarded – one at a time - to the vendors through the competitive "mini-bid" process. The mini-bid process assures efficient and effective use of the vendors and efficient and effective use of the Department's funds.

This contractor has been awarded multiple projects through this min-bid process. Other qualified vendors have proven, on occasion, to address the identified need more efficiently and effectively than the identified vendor and, in those instances, have been awarded work. The mini-bid process will continue to select efficient and effective vendors for each particular job. However, if this contractor is not allowed to participate due to lack of funds in the contract, the mini-bid process will be hindered and efficiency and effectiveness will be compromised.

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 cost for each tank replacement is determined through the mini-bid process. Cost, fees, and rates were not negotiated. The bid process assures fair and reasonable costs. Further, the Department has the ability to reject all bids received should they be unreasonable.

5. Future Competition

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

The cost for each tank replacement is determined through the mini-bid process. The bid process assures fair and reasonable costs, and it will continue to do so 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.

This vendor, along with the other 37 vendors on the Pre-Qualified Vendor List for Replacing Home Heating Oil Tanks, created through RFP# 201609186, are unique in that they have met the requirements of the Pre-Qualified list. This list, established through the Division of Purchases, establishes a level of competence and reliability that has met the Department's needs.

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.

Not applicable. Time is NOT of the essence in this contract.

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:

11/13/15