

**PM-21037**  
**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.

<b>Requesting Department's Contract Administrator:</b>	Lynne Cayting	<b>Office/Division/Program of Contract Administrator:</b>	Environmental Protection Bureau of Air Quality Mobile Sources Section
<b>Est. Contract Amount:</b>	\$ 500,000	<b>Contract or RQS Number:</b>	
<b>Proposed Start Date:</b>	December 30, 2019	<b>Proposed End Date:</b>	September 30, 2021
<b>Vendor/Provider Name, City, State:</b>	Maine Marine Trades Association 91 Camden Street, Suite 304 Rockland, Maine 04841		
<b>Short Description of Good or Service:</b>	Administer a federal grant to repower commercial marine vessels		
<b>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.</b>	<p style="text-align: center;"><b>To be completed by the Division of Procurement Services</b></p> Posting dates on Division of <b>Procurement Services</b> website: From: <u>12/04/2019</u> To: <u>12/10/2019</u>		
<b>Notice of Intent to Waive Competitive Bidding Number:</b>	NOI# <b>1220191963</b>		
<b>1. Statutory Justification</b>			
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> <b>Signature:</b>	
	<b>Printed Name:</b>	<b>Date:</b>	
	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:  <a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</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.	
<b>X</b>	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:	EPA DERA grant award 00A00352

**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 Maine Department of Environmental Protection (DEP) received a federal EPA award through the National Clean Diesel Campaign for Diesel Emission Reduction Act (DERA) approved projects. The Sub-recipient, Maine Marine Trades Association is specified in the awarded federal grant application as the grant administrator for the Clean Marine Engine Program. The Maine DEP will sub-award the grant to Maine Marine Trades Association (MMTA) for administering the Maine Clean Marine Engine Program to repower commercial marine vessels. MMTA will work with boatyards and individual fishermen for project completion and reimburse the fishermen directly.

The Maine Clean Marine Engine Program provides grants for 40% of the costs to install a cleaner engine in commercial marine vessels. U.S. EPA approved the DEP work plan that included the partnership with Maine Marine Trades Association (MMTA) for administering the program. MMTA has been our partner since 2009.

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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.

MMTA has administered the Clean Marine Engine Program since September 2009. MMTA has the experience and the expertise in the marine industry to successfully administer this program. DEP has neither the expertise for reviewing marine repower projects nor the staff resources.

**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**.

MMTA established administration procedures already in place including forms, invoice and reimbursement procedures and agreements with boat yards and fishermen. The administrative costs are roughly \$150 per vessel.

Because MMTA currently administers the Clean Marine Engine Program, the costs are significantly lower to continue the program with existing procedures in place. Any other contractor would require more time and money to develop the program. MMTA is a non-profit organization.

**5. Future Competition**

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

If DEP was awarded more funding for the same purposes, it is most cost-effective to continue our partnership with MMTA administering the existing program. All projects that receive funding are competed for and are the most cost-effective repower projects for reducing diesel particulate.

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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.

DEP will sub-award grant funds to Maine Marine Trades Association (MMTA) to administer the Maine Clean Marine Engine program. MMTA will continue to coordinate with the boat yards and fishermen for ordering engines and reimbursement of installation costs as well as working with scrap yards for demonstration of destruction of the old engine. MMTA is a non-profit organization that represents the marine trades industry including boat yards; and is uniquely qualified to administer this program. MMTA has been our partner since 2009 and is specified in the approved federal DERA grant application as the administrator.

**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.*

*Melanie [Signature] for Jerry Reid*

**Printed Name:**

Gerald D. Reid, Commissioner

**Date:**

November 27, 2019