

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:	Douglas Beck	Office/Division/Program of Contract Administrator:	Dept. Agriculture, Conservation & Forestry, Bureau of Parks & Lands, Land & Water Conservation Fund
Est. Contract Amount:	\$137,664.00	Contract or RQS Number:	CT20171113*1686
Proposed Start Date:	9/22/2017	Proposed End Date:	9/30/2020
Vendor/Provider Name, City, State	Town of Windham, 8 School Road, Windham, ME 04062		
Short Description of Good or Service:	Land and Water Conservation Fund Grant		
Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Purchases' website for a period of seven consecutive calendar days.		To be completed by the Division of Purchases	
		Posting dates on Division of Purchases' website: From: <u>12/23/2019</u> To: <u>12/30/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 1220192103	
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:
	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 Purchases "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.		
X	If a different authorization specifically allows for this non-	Land and Water Conservation Fund pass	

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competitive procurement, please provide that reference here:	through grant via an Open Project Selection Process
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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.

This is a pass-through grant under the Land and Water Conservation Fund Program (LWCF), a federal program administered by the Bureau of Parks and Lands. Applications for the grant are assessed via a Federally required Open Project Selection Process in which the grant applications are scored independently by a panel of recreation professionals. Then all scores tabulated and projects are ranked to determine grant recipients. Failure to approve this contract will result in the project not being completed and the potential loss of Federal funds.

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.

Applicants by Federal rule are limited to sub-governmental units; state, county, municipal, and tribal governments and school districts. The funding provides up to 50% of eligible project costs for development and or acquisition of outdoor recreation areas owned by those governmental units or sub units for the benefit of all in perpetuity. It is not work that can be performed by anyone other than the grant recipient.

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**.

Grant applicants must submit a proposed project budget which is scrutinized as part of the selection process for feasibility. Once awarded funding, applicants must adhere to strict fiscal standards and guidelines requiring competitive bids for purchases more than \$5,000 to assure best value.

All bids received by the municipality came in well above the budgeted amount for this project. The low bid was \$286,800 above what had been budgeted. A request has been submitted to the National Parks Service to increase the LWCF assistance to this project in the amount of \$137,664. This amendment also requested additional time (granted through Sept 2020) to complete the project.

5. Future Competition

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

We are limited in our capacity beyond that which has already been described.

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.

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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.

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.

Time is a factor in these grant awards and contract development in support of the awards. Successful applicants are given only two construction seasons in which to complete their work. Timely processing of contract development and execution will provide as much time as possible for their project completion and will significantly reduce the potential for contract extensions.

As mentioned above, this project has received a NPS extension through 09/30/20

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.

Randy Charrette

Printed Name:

Randy Charrette for Amanda E. Beal

Date:

12/18/19

*RRH
12-17-2019*