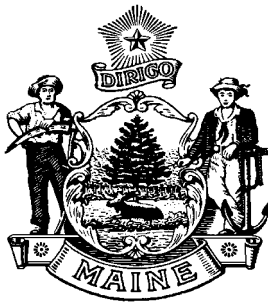


**State of Maine
Risk Management Division**



**85 State House Station
Augusta, ME 044333-0085**

***Request for Proposal*
#200802136
Agent/Broker Services
For Ocean Marine
Insurance Program
2008**

IMPORTANT

No insurance agent/broker is authorized to approach an insurer or reinsurer in relation to this Request for Proposal until given permission to do so by Risk Management Division. Failure to comply with this restriction, or reserving or “tying up” a market not assigned to a bidder, will result in the disqualification of the broker from bidding.

Table of Contents

Introduction -----	Page 3
Services Required -----	Page 4
General Proposal Requirements -----	Page 5
Specific Proposal Requirements -----	Page 6
Proposal Submission Form -----	Page 7
Bidder Questionnaire-----	Page 8
Proposed Insurer Form-----	Page 9
General Exposure Underwriting Information -----	Page 10
Overview - Risk Management Division -----	Page 12
Sample -State of Maine Agreement to Purchase Services -----	Page 14

INTRODUCTION

The State of Maine Risk Management Division (the State) is seeking proposals from agents and brokers qualified and licensed to design, market and service an Ocean Marine Insurance Program. Vessels and their operations insured under this program are owned and/or operated by the State, its higher education entities such as the Maine Community College System and the Maine Maritime Academy, Wells National Estuarine Research Reserve and the Casco Bay Island Transit District. Although the State reserves the right to bid insurance when deemed in its best interest, historically the State has remained with an ocean marine insurance program for a three to five year period. The existing insurance policy will expire on October 1, 2008. A two part bid process will be utilized. Table one contains the timetable for both parts of this process.

Table One - Timetable			
2008 DATES	TIME	PART	KEY EVENT
March 18	n/a	1	Request for Proposal (RFP) release
April 9	2:00 PM Local Time	1	Closing date for agent/broker inquiries
April 29	2:00 PM Local Time	1	Proposal submission due in Augusta, Maine
May 14	n/a	1	Selection of one or more agents/brokers to participate in part two. Market assignments made.
May 22	n/a	2	Request for Proposal (RFP) release to successful part one bidders
August 12	2:00 PM Local Time	2	Closing date for agent/broker inquiries
September 2	2:00 PM Local Time	2	Proposal submission due in Augusta, Maine
September 11	n/a	2	Insurance program and agent/broker selection
September 25	4:00 PM Local Time	2	Issuance of Binder of Insurance to be effective October 1, 2008

In part one, all proposals found to be in compliance with the requirements stated on page five and six will be evaluated based on the weighted evaluation criteria shown in table two after which Risk Management Division intends to **select one or more agents/brokers** to continue in the process.

Table Two – Part One Evaluation Criteria	Weight
Qualifications of firm and personnel assigned to this account <u>and</u> experience with insureds and insurance programs of this size and type. References may be considered.	30%
Agent/Broker costs and fees	30%
Established relationships with insurers in the ocean marine line of insurance	25%
Provisional plan for marketing the ocean marine insurance program <u>and</u> for services to be provided after placement.	15%

In part two, the State will assign one or more markets to each selected part one bidder. The State reserves the sole right to assign these markets as it deems best to serve the State's needs. In part two, the State will provide the information in table three and any other information requested which the State deems available or economically feasible to secure/develop in a timely manner.

Table Three – Ocean Marine Underwriting Information
Detailed insurance coverage information, including forms, limits and deductibles
Vessel schedules and usage information
Loss runs
Historical exposure and premium information

SERVICES REQUIRED

Ultimately, the State seeks and expects the services set forth in this section. In part two, some of these services will be further defined.

1. Deliver services that meet or exceed industry standards or best practices.
2. Design and market an ocean marine insurance policy submission on the State's behalf to assigned markets.
3. Evaluate insurer submissions/quotations and issue a comprehensive market report to the State, such report to include a recommendation for placement. At a minimum, this report should compare important coverage features, exclusions, estimated rates and premiums, reporting requirements and other important features.
4. Make recommendations as to alternatives the State should consider, given the current state of the insurance market.
5. Assist the State in making the final selection of an insurer's program, finalize policy wording, place the insurance and obtain binder(s) of insurance to be effective October 1, 2008.
6. Provide ongoing account services, which shall include all of the following:
 - a. Issue binders, certificates of insurance and bills as needed or as requested.
 - b. Check policy, endorsements, bills, claim reports and any other document received from the selected insurer for accuracy. Obtain revisions as needed.
 - c. Promptly submit originals of all policies and endorsements to the State.
 - d. Provide technical review of all policy provisions when asked. Obtain answers to insurance coverage questions from underwriters when requested to do so by the State.
 - e. Monitor insurer solvency and inform state of changes.
 - f. Facilitate effective communications between State, agent and insurer personnel. Provide the State with direct access to the account underwriter(s) and other insurance company personnel as requested by the State.
 - g. Keep State informed of market conditions, availability of new coverages and trends in insurer(s).
 - h. Assist in developing a well coordinated claims program between the State and its insurer(s).
 - i. Assist in developing a well coordinated loss prevention/loss control program between the State and its insurer(s).

General Proposal Requirements

1. All proposals must be typewritten. Changes or corrections must be initialed.
2. Written questions and answers. Questions about this RFP must be directed in writing to: David A. Fitts, Director, Maine Risk Management Division, 85 State House Station, Augusta, ME 04333-0085; E-mail: David.A.Fitts@Maine.gov; Fax: (207)287-4008. Mail, e-mail or fax is acceptable. Phone calls will not be accepted. Risk Management Division will respond in writing to all substantive questions received. The deadline for written questions is April 17, 2008. Bidders are not to contact any other state agency directly. All contact is to be directed to Risk Management Division.
3. Revision of Request for Proposals. The State alone may elect to amend this RFP prior to the proposal due date. If it is necessary to revise any part of this RFP, an amendment will be provided to all bidders of record. Acknowledgement of receipt of all issued amendments is required in all proposals. In no case will the RFP be amended within seven (7) days of the proposal due date, unless the amendment includes an extension of time to allow seven days between the amendment and the proposal due date. The State will not be responsible for any additional costs incurred as a result of said changes in the RFP.
4. Deadline for Submitting Proposals. Four sealed copies of each proposal must be clearly marked with the bidder's return address and the notation "Proposal #200802136: Agent/Broker Services for Ocean Marine Insurance Program" and must be delivered to the Division of Purchases, Burton M. Cross Building – 4th Floor, 9 State House Station, Augusta, ME 04333-0009 no later than 2:00 P.M. local time on April 29, 2008 at which time and place they will be opened. Please note that only proposals actually received and date stamped at the Division of Purchases will be considered; bidders submitting by mail are responsible for allowing adequate time for delivery. Proposals received after the 2:00 P.M. deadline will be rejected without exception. Proposals will be publicly opened at the date, time, and place specified above. All proposals received after the above date and time will not be considered and will be returned unopened.
5. All bidders will be notified in writing of the award decision as soon as that decision is made.
6. The State will not accept responsibility for any costs incurred by a bidder in the preparation of their proposal.
7. The State reserves the right to reject any and all proposals in their entirety.
8. The State reserves the option to require a personal interview as part of the evaluation process.
9. Acceptance of Standard State of Maine Contract Terms. Depending on the cost methodology submitted by the successful bidder, the bidder may be required to execute a Standard State of Maine Agreement to Purchase Services (BP54), a copy of which can be found beginning on page fourteen of this RFP. Submission of a proposal in response to this RFP will be understood as the bidder's acceptance of the standard contract's terms and conditions. A contract is not considered fully executed and valid before completing final approval and encumbrance. Contract Term. If a contract is executed, the initial contract term shall be for a period of one year, commencing upon approval of the contract document. At the State's discretion, the contract may be renewed for up to two (2) additional one-year periods.
10. Disclosure of Data: According to State procurement law, the contents of all proposals, correspondence, addenda, memoranda, working papers, or any other medium which discloses any aspect of the request for proposals process will be considered public information when the award decision is announced. This includes all proposals received in response to this RFP, both the selected proposal and the proposal(s) not selected, and includes information in those proposals which a bidder may consider to be proprietary in nature. Therefore, the State makes no representation that it can or will maintain in confidentiality such information.

Specific Proposal Requirements

Proposals should be well organized, clear and concise. Your proposal must include all of the information noted below. Please present the information in the order requested.

- A signed Proposal Submission Form (page seven)
- A completed Bidder Questionnaire Form (page eight) from your firm.
- Three business references. Reference information should include the reference firm's name, the name and telephone number of a contact person at the reference firm and an indication of the nature and duration of the account relationship. References provided will likely be contacted by our office and thus should be willing to discuss their business relationship and level of satisfaction with your firm.
- A completed Proposed Insurer Form (page nine)
- A Certificate of Insurance for Professional Liability (Errors and Omissions) naming the State of Maine as certificate holder
- Service tasks number five and six (page four) states our minimum service expectations during and after binding. Your proposal must state that these basic services will be provided and should also describe any other services your firm will provide at no cost. Any services your firm will provide that do involve an additional cost should so be stated and a specific cost for each service noted.

You may provide other information you believe the State should consider in evaluating your proposal.

PROPOSAL SUBMISSION FORM

In submitting this proposal, the undersigned agrees that:

1. No insurer or reinsurer has been approached by this firm in relation to this Request for Proposal; and
2. This bid proposal will remain in effect and is not subject to change or withdrawal for a period of at least 90 days from the date and time of the bid opening; and
3. This bid proposal is submitted by a firm duly licensed or authorized to write or place such insurance in the State of Maine; and
4. The undersigned firm representative is authorized to bind this firm; and
5. The firm and firm representative acknowledge receipt of all issued proposal amendments, if any.
6. The following required documents are included in this bid proposal:
 - This signed and completed Proposal Submission Form
 - A completed Bidder Questionnaire Form
 - Three business references
 - A completed Proposed Insurer Form
 - A Certificate of Insurance for Professional Liability Insurance (Errors and Omissions) naming the State of Maine as a certificate holder.
 - Statement of services to be provided.

Proposal Costs

Check off the box below that applies to your proposal's cost and provide any additional information you deem pertinent. If choosing "other" it is important that you be very clear on both your cost methodology and your maximum cost to the State, exclusive of policy premium.

- Exclusive of insurance policy premium, there is no cost or service fees associated with this proposal to deliver the services required. Bidder income will be derived solely from commissions and/or profit sharing paid by an insurer to the bidder, both of which will be fully disclosed to the State upon request.
- A flat fee of \$_____ will be billed. No additional compensation will be paid by an insurer to the bidder.
- Other: _____

Firm Name: _____

State of Maine Insurance Department License Number for firm: _____

Typed Name of Firm Representative: _____

State of Maine Insurance Department License Number for representative: _____

Date: _____ Signature of Firm Representative: _____

BIDDER QUESTIONNAIRE

General Information About Your Firm

Firm's Name: _____
Mailing Address: _____
Telephone: _____ Fax: _____ Email: _____
Total number of years in business: _____ Number of personnel in your firm: _____
Number of employees devoted to commercial lines (property and casualty): _____
Number of employees devoted to property and casualty claims: _____
What percentage of your property and casualty employees hold the "ARM"¹ designation? _____ %
What percentage of your property and casualty employees hold the "CPCU"² designation? _____ %
What percentage of employees hold other insurance designations? _____ %
Of your total book of business, what percentage is :
 State governments? _____ %
 Other public entities? _____ %
 Self insured property & casualty pools? _____ %
 Property and casualty insurance? _____ %
 Ocean marine insurance? _____ %
What is your firm's total premium volume in property and casualty insurance? \$ _____
What is your firm's total premium volume in the ocean marine line of insurance? \$ _____
Have you previously done similar work for State of Maine government? Yes No
If yes, specify nature of work and time frame: _____

Servicing Office (This refers to the office that will service this specific account.)

Mailing Address: _____
Physical Location: _____
Telephone: _____ Fax: _____ E-mail: _____

Servicing Personnel (This refers to the personnel who will service this specific account.)

Name of account manager: _____
What percentage of our work will be done by the account manager? _____ %

Please attach a brief resume for each person who will work on this account.

As a minimum, please be sure the following information is included:

- Name and position
- Length of time in insurance business
- Length of time in this firm
- Membership in professional organizations
- Professional designations held
- Nature of their work on this account
- Experience with boat insurance
- Experience with self-insurance property and casualty pools
- Experience with governmental business

¹ Associate in Risk Management

² Chartered Property Casualty Underwriter

PROPOSED INSURER FORM

Important

No insurance agent/broker is authorized to approach an insurer or reinsurer in relation to this RFP until given written permission to do so by the State of Maine Risk Management Division.

Market Allocation

Each bidder selected to participate in part two of this bid process will be assigned by Risk Management Division one or more insurance companies from which to solicit a bid for ocean marine insurance.

List below in your order of preference those insurers with which you are legally authorized to transact this line of insurance and which you are licensed to place this line of insurance in the State of Maine. Failure to list at least one insurer will result in an automatic rejection of your bid. You are not required to list more than one insurer, but it is highly recommended that you do so. You may attach an additional sheet if necessary.

Preference #1

Company name: _____
Group Affiliation: _____ A.M. Best # _____
A.M. Best Current rating and Modifier _____ FSC: _____
What percentage of your firm's total property and casualty book is placed with this company? _____ %
What percentage of your firm's total ocean marine insurance book is placed with this company? _____ %
How many years have you been licensed with this company? _____
What reinsurer(s) does this company use? _____

Preference #2

Company name: _____
Group Affiliation: _____ A.M. Best # _____
A.M. Best Current rating and Modifier _____ FSC: _____
What percentage of your firm's total property and casualty book is placed with this company? _____ %
What percentage of your firm's total ocean marine insurance book is placed with this company? _____ %
How many years have you been licensed with this company? _____
What reinsurer(s) does this company use? _____

Preference #3

Company name: _____
Group Affiliation: _____ A.M. Best # _____
A.M. Best Current rating and Modifier _____ FSC: _____
What percentage of your firm's total property and casualty book is placed with this company? _____ %
What percentage of your firm's total ocean marine insurance book is placed with this company? _____ %
How many years have you been licensed with this company? _____
What reinsurer(s) does this company use? _____

GENERAL EXPOSURE UNDERWRITING INFORMATION

Named Insured	State of Maine, et al
Insured's Interest	Vessel owners and operators
Insured Individual Schedules on Policy	<ul style="list-style-type: none">I Department of Transportation, including Maine Ferry ServiceII Department of Marine Resources, including Bureau of Marine PatrolIII Washington County Community CollegeIV Southern Maine Community CollegeV Department of Inland Fisheries & Wildlife, including Maine Warden ServiceVI Department of Environmental Protection, including Bureau of Hazardous Material & Solid Waste ControlVII Maine Maritime AcademyVIII Casco Bay Island Transit District (Casco Bay Lines)IX Wells National Estuarine Research ReserveX Department of Conservation, including Bureau of Lands and ParksXI Department of Corrections, including Long Creek Youth Development Center
Insured Mailing Address	c/o Risk Management Division 85 State House Station Augusta, ME 04333-0085
Policy Term	We optimally would like a three year policy term, with rates guaranteed, but premium variable depending on actual vessel schedules. Minimally, we must have a commitment for three annual policies, preferably with rates guaranteed, but again premium variable depending on vessel schedules. In both scenarios, we would like an option for two additional years, beyond the first three. We obviously understand that if an exposure significantly changes or a new exposure is added, rates may be adjusted accordingly.
Vessels	Detailed vessel information and usage exposure will be provided in part two of the bid process. At renewal in October of 2007, there were a total of 231 vessels insured for protection and indemnity and 33 vessels insured for hull. Of the 231 vessels, vessel sizes vary from Maine Maritime Academy's 499 foot <i>State of Maine</i> training vessel to ferry vessels (12) and down to rowboats and skiffs.
Coverage	Detailed coverage information will be provided in part two of the bid process. Major forms include the following: <ul style="list-style-type: none">▪ Protection and Indemnity (SP-23 1/56)▪ American Institute Hull Clauses (6/2/77)▪ American Institute Tug Form (8/1/76)▪ American Institute Hull War Risks and Strike Clauses(12/1/77)▪ American Hull Insurance Syndicate War Risk P&I Clauses (1/18/70)▪ Pollution Exclusion Clause and Buy Back Ends't A (7/4/76)▪ Pollution Exclusion Clause and Buy Back Ends't No 1▪ American Institute Trade Warranties (7/1/72)▪ Various exclusions, including terrorism, chemical, radioactive, etc.

Limits	Detailed information on policy limits will be provided in part two of the bid process. Limits vary by individual schedule to meet each agency’s specific needs. Protection and indemnity limits range from \$10,000,000 down to \$400,000. Hull coverage ranges from \$3.2 million down to \$100,000.
Deductibles	Currently, the protection and indemnity deductible is \$10,000 per occurrence on all schedules. The hull deductible is \$100,000 per occurrence on all schedules. (Internally, Risk Management Division reduces these deductibles to \$1,000 per occurrence in our self insurance program.)
Loss Information	Detailed loss information will be provided in part two of this process. Experience is favorable.
Current Policy	Currently the ocean marine policy is placed with Northern Assurance Company of America through Smithwick and Mariners Insurance Inc. The annual premium at renewal was \$260,584.
Billing	We will require this policy to be issued on an “agency bill” basis and will require various premium breakdowns for internal allocation purposes.
Claims Handling	Detailed information on the desired claims handling arrangement between the selected carrier and our office will be provided in part two of this bid process.

OVERVIEW – RISK MANAGEMENT DIVISION

OVERVIEW OF PURPOSE AND FUNCTION

Risk Management Division (RMD) provides insurance advice and services to State government and designated quasi-state entities. With the exception of workers' compensation and health insurance, RMD administers all insurance and self-insurance plans and programs for State government. The division derives its authority from this statute: 5 MRSA, §1728-A to 1736. Link: <http://janus.state.me.us/legis/statutes/5/title5ch152sec0.html>

SELF-INSURANCE RESERVE FUNDS

This same statute establishes two self-insurance funds. The first is called the Self-insurance Fund and is a program for State agencies. The second is called the State Administered Fund and is a program for quasi-state agencies such as the University of Maine System, the Maine Community College System, the Foster Parent program and others. The two funds are maintained separately for accounting purposes.

MAINE TORT CLAIMS ACT

The Maine Tort Claims Act (14 MRSA, §8101 - 8118) provides immunity from suit for governmental entities except as expressly provided by the statute. When immunity is removed, any claim for damages must be brought in accordance with the terms of the statute. The statute also establishes a limitation on damages. Our self-insurance liability programs are built around this statute.

CURRENT MANAGEMENT

The current management of RMD draws on years of experience in the insurance industry to manage the State of Maine's risk management needs.

Director: David A. Fitts

David joined Risk Management Division in 1988 as a risk assessor and was promoted to director in 1992. He graduated from the University of Maine - Farmington in 1977 with a Bachelor in Science degree. David began his insurance career in 1981 with Mid-State Adjustment and has over 20 years experience in the claims and loss control fields as a licensed adjuster.

Risk Assessor: Patricia P. Hayden, CPCU, ARM, AU

Prior to joining Risk Management Division in 1990, Patti was a property and casualty underwriting manager with AIG, where she also taught IIA courses for company personnel. She began her insurance career in 1980 at the agency level, first as a customer service representative and then as a licensed producing agent, all lines.

Case Manager: G. Scott Kibler

Scott joined Risk Management Division in 2004, bringing with him extensive experience in claims handling for public entities. As case manager Scott receives and assigns claims, investigates claims, reviews and analyses claims data, negotiates and authorizes settlements, coordinates legal counsel services and contracts with outside vendors.

ADDITIONAL SUPPORT

The management team is supported by one additional professional staff and one clerical support employee. In addition, we have available the resources of other State agencies such as a dedicated boiler inspector, the Bureau of Labor Standards and their Safety Division, the State Fire Marshal's Office, and the engineering expertise of the Bureau of General Services.

**INSURANCE
ADMINISTRATION**

The Director and Risk Assessor use sound underwriting practices to analyze exposure to loss, provide proper insurance coverage, maintain appropriate pricing and administer the insurance program. Each separate policy is contained in a policy file along with endorsements, underwriting notes, rating methodology and billing. Prior to each policy renewal, losses are analyzed for continued insurability, loss control and rating purposes. A diary system is maintained. State agencies are assisted with certificates of insurance, contractual insurance clauses and exposure identification. Every three to five years, each large commercial policy is put out to bid to secure the best coverage terms and pricing for the State.

CLAIMS PROCESSING

Procedures are in place for the reporting of all claims or potential claims by participating agencies. Prompt reporting is essential to allow RMD to meet its service standards.

Claim Assignment: Each claim is immediately assigned to one of four professional staff by the Case Manager the same day it is received. The assigned adjuster reviews the provided claim information, determines the existence of insurance for the loss, sets a reserve, and sets in motion the investigation.

Files: A file is established for each claim and a claim number assigned. The claim information is added to the database by support staff within 24 hours of receipt of the claim.

Investigation and Settlement: Outside resources may be utilized in the adjustment of a claim. These resources may include independent adjusting and appraisal services.

Diary System: Files are set on a strict diary system. On a weekly basis, a diary report is pulled.

Payment of Claims: All claims are evaluated within RMD for resolution and settlement purposes. Payment authorities have been established as part of the State's accounting system.

Service Standards: Standards are set forth in a written document, and every effort is made to provide just, prompt, and courteous claim service.

LOSS PREVENTION

By statute, RMD is authorized to expend up to five percent of the self insurance fund balances for loss prevention programs each fiscal year. An average of 29 grants are issued per year. In the past ten years, over \$1 million dollars in loss prevention funds were distributed. We feel that the existence and innovative use of this program allows the state to take positive action when a loss control need is identified. Grants are issued for fire safety equipment, life safety equipment, and to meet training needs. Through this fund, Risk Management Division currently offers a certified defensive driving program to State employees.

SYSTEM SUPPORT

Since 1988, RMD has utilized a risk information management system developed by and for Risk Management. This system is utilized for insurance policy management, billing, claims management and trending and has proven to be a real asset to management. It allows the extraction of claims data in any desired format.

STATE OF MAINE
DEPARTMENT OF _____
Agreement to Purchase Services

THIS AGREEMENT, made this _____ day of _____, _____, is by and between the State of Maine, Department of Administrative and Financial Services, Risk Management Division, hereinafter called "Department," and _____, located at _____, telephone number _____, hereinafter called "Provider", for the period of _____ to _____.

The Employer Identification Number of the Provider is _____

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Department, the Provider hereby agrees with the Department to furnish all qualified personnel, facilities, materials and services and in consultation with the Department, to perform the services, study or projects described in Rider A, and under the terms of this Agreement. The following riders are hereby incorporated into this Agreement and made part of it by reference:

- Rider A - Specifications of Work to be Performed
- Rider B – Method of payment and Other Provisions
- Rider G –Provisions of Contract Services by Foreign Nationals or Work

Performed Abroad

IN WITNESS WHEREOF, the Department and the Provider, by their representatives duly authorized, have executed this agreement in _____ original copies.

DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

By: _____
David A. Fitts, Director Risk Management Division

and

By: _____
Name and Title, Provider Representative

Total Agreement Amount: \$ _____

_____ Approved:

State Controller
BP54 (Rev 6/04)

Chair, State Purchases Review Committee

MFASIS ACCOUNT CODING

RIDER A
SPECIFICATIONS OF WORK TO BE PERFORMED

RIDER B
METHOD OF PAYMENT AND OTHER PROVISIONS

1. **AGREEMENT AMOUNT** \$ _____
2. **INVOICES AND PAYMENTS** The Department will pay the provider as follows:

Payments are subject to the Provider's compliance with all items set forth in this Agreement and subject to the availability of funds. The Department will process approved payments within 30 days.

3. **BENEFITS AND DEDUCTIONS** If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.
4. **INDEPENDENT CAPACITY** In the performance of this Agreement, the parties hereto agree that the Provider, and any agents and employees of the Provider shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.
5. **DEPARTMENT'S REPRESENTATIVE** The Agreement Administrator shall be the Department's representative during the period of this Agreement. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Agreement are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.
6. **AGREEMENT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Provider shall be submitted to:

Name: _____
Title: _____
Address: _____

who is designated as the Agreement Administrator on behalf of the Department for this Agreement, except where specified otherwise in this Agreement.

7. **CHANGES IN THE WORK** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to execution of the work.

8. **SUB-AGREEMENTS** Unless provided for in this Agreement, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Agreement Administrator. Any sub-agreement hereunder entered into subsequent to the execution of this Agreement must be annotated "approved" by the Agreement Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.

9. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Agreement Administrator. No subcontracts or transfer of agreement shall in any case release the Provider of its liability under this Agreement.

10. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Agreement, the Provider agrees as follows:

a. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Provider shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

b. The Provider shall, in all solicitations or advertising for employees placed by or on behalf of the Provider relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

c. The Provider shall send to each labor union or representative of the workers with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.

e. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.

f. Contractors and subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.

g. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. **EMPLOYMENT AND PERSONNEL** The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Contractor shall not engage on a full-time, part-time or other basis during the period of this Agreement, any other personnel who are or have been at any time during the period of this Agreement in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time or other basis during the period of this Agreement any retired employee of the Department who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

12. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly that

would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Provider or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

13. **WARRANTY** The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Department shall have the right to annul this Agreement without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

14. **ACCESS TO RECORDS** The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested.

15. **TERMINATION** The performance of work under the Agreement may be terminated by the Department in whole, or in part, whenever for any reason the Agreement Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination, and modified accordingly.

16. **GOVERNMENTAL REQUIREMENTS** The Provider warrants and represents that it will comply with all governmental ordinances, laws and regulations.

17. **GOVERNING LAW** This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.

18. **STATE HELD HARMLESS** The Provider agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims, costs, expenses,

injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as “claims”) resulting from or arising out of the performance of this Agreement by the Provider, its employees, agents, or subcontractors. Claims to which this indemnification applies include, but without limitation, the following: (i) claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as “person”) providing work, services, materials, equipment or supplies in connection with the performance of this Agreement; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Agreement; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Agreement; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department’s negligence or unlawful act, or (ii) action by the Provider taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Agreement.

19. **NOTICE OF CLAIMS** The Provider shall give the Contract Administrator immediate notice in writing of any legal action or suit filed related in any way to the Agreement or which may affect the performance of duties under the Agreement, and prompt notice of any claim made against the Provider by any subcontractor which may result in litigation related in any way to the Agreement or which may affect the performance of duties under the Agreement.

20. **APPROVAL** This Agreement must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document.

21. **LIABILITY INSURANCE** The Provider shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Agreement with adequate liability coverage to protect itself and the Department from suits. Providers insured through a “risk retention group” insurer prior to July 1, 1991 may continue under that arrangement. Prior to or upon execution of this Agreement, the Provider shall furnish the Department with written or photocopied verification of the existence of such liability insurance policy.

22. **NON-APPROPRIATION** Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

23. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other

provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

24. **INTEGRATION** All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B (except for expressed exceptions to Rider B included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.

25. **FORCE MAJEURE** The Department may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The Department may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

26. **SET-OFF RIGHTS** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Agreement up to any amounts due and owing to the State with regard to this Agreement, any other Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

27. **ENTIRE AGREEMENT** This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Agreement, or to exercise an option or election under the Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement or at law.

RIDER G
PROVISION OF CONTRACT SERVICES BY FOREIGN NATIONALS OR WORK
PERFORMED ABROAD

The Maine Legislature has asked the Division of Purchases³ to determine the country where contracted services will be performed.

The following contract/amendment has been executed with the State of Maine.

1	Division of Purchases Contract Reference
2	Contractor Name
< highlight and enter the Name of the Contractor >	
3	Brief Contract Service Description
< highlight and enter a Brief Description of the Service Provided >	

So that we may comply with the Legislature's request, please provide responses to the following questions. To successfully complete the questionnaire be alert for follow-up entries if certain responses are made. Please show your responses in the spaces provided. You may mark any box with using your computer, keyboard & mouse. Highlight the box () with your cursor and type a lowercase "x." If additional entries are needed, type to the right of the mark (>) shown in questions 1 and 3.

1. Will any of the services described in the contract's scope of work be performed outside of the United States of America?

- No. *Go to Q.3.*
 - Yes. *If "Yes," show in what country(ies) below and Continue w/Q.2 and Q3.*
- >

2. If you responded "Yes," above, who will perform any of the services described in the contract's scope of work?

- Citizens of the USA living abroad. Foreign nationals.

3. In what US state or foreign country is your firm incorporated?

>

Name of the Person Submitting the Information	Voice Phone Number

Thank you for completing this information. You may send the completed form by email to the Division of Purchases [Jerry.Nault@maine.gov] or return it by telephone facsimile [207/287-6578] in addition to a response by regular post [9 State House Station, Augusta, ME 04333-0009].

Notification of Changes to the Information

A provision of the Resolve requires service providers to notify the Division of Purchases of any changes to this information. That notification may be sent to the address shown above and should reference the Purchases File Number.

³ Resolve, Chapter 16, First Special Session-2005.