



AMENDMENT #1 (6/26/2025)

MAINE DEPARTMENT OF TRANSPORTATION
REQUEST FOR PROPOSALS

FOR

Consultant Services for Implementing the U.S. EPA Clean Ports Grant -Funded Maine Port
Electrification Clean Energy Planning Project
RFP# T202506003

The State of Maine Department of Transportation (“MaineDOT”) is seeking Technical Proposals under **Service Number 101.6 – Port Planning, Design, and Technical Assistance**. The Consultant will assist MaineDOT with a specific project within the general category of marine/port planning and design projects, which include systems and facility preliminary design and technical assistance, and development of plans and estimates as well as applications for Federal Discretionary Grants.

1. **RFP COORDINATOR**

All contact with the MaineDOT regarding this RFP must be made through the RFP Coordinator listed below, via e-mail. This contact includes, but is not limited to, questions, requests for clarification and/or additional information, and Technical Proposal submissions.

RFP Coordinator: Nicole Soiett
Title: Contract/Grant Specialist
Office: Contract Procurement Office
E-mail: nicole.soiett@maine.gov

2. **PRE-BID CONFERENCE**

Yes No

If there is a Pre-Bid Conference, is attendance at the Pre-Bid Conference mandatory to be able to submit a Technical Proposal in response to this RFP?

Yes No

3. **REQUESTS FOR CLARIFICATION / RFP AMENDMENTS**

During the Technical Proposal preparation period, all questions, requests for clarification, and requests for additional information, must be submitted, via e-mail, to the RFP Coordinator listed in Section 1 above. Such correspondence must reference the RFP Number and Project Name in the e-mail subject line.

The deadline to submit questions and/or requests is **July 9, 2025** ~~5:00 p.m. ET on June 30, 2025~~. Requests received after this deadline will not be accepted. Responses to questions and clarification requests will be placed on the MaineDOT website: [MaineDOT RFPs](#), no later than close of business on ~~July 7, 2025~~. **July 16, 2025**. MaineDOT reserves the right not to answer any question received.

It is the potential Proposer’s responsibility to check the referenced RFP website for the posting of (1) responses to all received questions/requests and (2) any amendments that may be issued in regard to this RFP.

4. **TECHNICAL PROPOSAL DUE DATE**

Technical Proposals must be received by the RFP Coordinator, via e-mail, no later than: =

Date Due: ~~July 18, 2025~~ **July 28, 2025**

Local Time: 2:00 p.m. ET

E-mail: nicole.soiett@maine.gov

Any Technical Proposal, portion of a Technical Proposal, or unrequested Technical Proposal revision received by the RFP Coordinator after the time and date specified above will not be accepted.

For ease of identification, Technical Proposal submissions must include the RFP Number and Project Name in the e-mail subject line.

5. **DISADVANTAGED BUSINESS ENTERPRISES**

A. **General Considerations**

Because of the prospective use of federal funds, Maine DOT's Civil Rights Office may, at their option, participate in the committee meetings to advise and monitor Title VI (CRA 1964) and *Disadvantaged Business Enterprise* (DBE) concerns. Selection criteria, including an *Affirmative Action Questionnaire*, schedule of meetings, reports, etc. will be made available to the affirmative officer who will evaluate the adequacy of the *affirmative action*.

B. **Certified DBE**

MaineDOT Certified Disadvantaged Business Enterprise (DBE) Consultants are encouraged to apply as the prime Consultant for this work. Non-DBE Consultants shall ensure that DBEs have the maximum opportunity to participate in the performance of any project contract in accordance with MaineDOT current requirements for DBE utilization when utilizing Subconsultants. Consultants certified by another state's transportation agency must be certified by MaineDOT.

Current requirements may be found at the MaineDOT website, "Certified Disadvantaged and Women Business Enterprise" directory: [MaineDOT Disadvantaged Business Enterprises](#), or by contacting:

**Maine Department of Transportation
ATTN: Mary Bryant, Civil Rights Unit
Civil Rights Office
16 State House Station
Augusta, ME 04333
Tel#: 207-624-3056
Fax#: 207-624-3021**

6. PROJECT BACKGROUND / SCOPE OF WORK (TECHNICAL REQUIREMENTS)

A. Purpose and Description of Project

This study will utilize existing information and data to build case studies for Maine’s ports to consider electrification options for vessels and equipment, so the State may consider several options to pursue public funding for construction and implementation.

The studies and reports that are available to the public and recommended for consultant review are:

- 1.) [Shore Power, Sub-Transmissions Interconnection Feasibility Study, Final Report 2024, Central Maine Power.](#)
- 2.) [One Climate Future, Charting a Course for Portland and South Portland, Climate Action and Adaptation Plan, 2020, Portland and South Portland.](#)
- 3.) [Maine Won’t Wait \(2020\)](#)
- 4.) [Maine Won’t Wait \(2024 Update\)](#)
- 5.) [Maine Clean Energy Partnership](#)
- 6.) [Maine Energy Plan](#)
- 7.) [Maine Energy Storage Program](#)
- 8.) [Maine Clean Energy Industry Report](#)
- 9.) [Long Duration Energy Storage](#)
- 10.) [US DOE PNNL Port Electrification Handbook Featuring Microgrids](#)
- 11.) [US EPA Shore Power Technology Assessment at U.S. Ports](#)

B. Project Funding and Budget

The budget for this project is not to exceed \$1,000,000. The funding is provided through the EPA Clean Ports Program planning grant, [Grant Number A01618.](#)

C. Scope of Work

I. Project Definitions and Acronyms

<u>Term/Acronym</u>	<u>Definition</u>
Department	Department of Economic & Community Development
RFP	Request for Proposals
State	State of Maine
MaineDOT	Maine Department of Transportation
EPA	US Environmental Protection Agency
MaineDEP	Maine Department of Environmental Protection
DECD	Maine Department of Economic and Community Development
GEO	Maine Governor’s Energy Office
MOT	Maine Office of Tourism
USCG	United States Coast Guard
CMP	Central Maine Power
USCBP	United States Customs and Border Protection
QAPP	Quality Assurance Project Plan

IMT	International Marine Terminal
BE	Battery Electric
PM	Particulate Matter
SOx	Sulfur Dioxide
NOx	Nitrogen Dioxide
GHG	Greenhouse Gasses
STS	Ship to Shore

II. Key Project Stakeholders

- 1.) MaineDOT (Project Lead)
- 2.) US EPA
- 3.) Maine State Chamber of Commerce
- 4.) City of Rockland
 - a. Rockland Harbormaster
 - b. Rockland Harbor Committee
- 5.) City of Portland
 - a. Portland Board of Harbor Commissioners
- 6.) Port of Eastport/Eastport Port Authority
- 7.) Town of Searsport
- 8.) Maine DECD
 - a. MOT
 - b. CruiseMaine
- 9.) Cruise Lines International Association (CLIA)
- 10.) CMP (Utility Company)
- 11.) Versant Power (Utility Company)
- 12.) USCG
- 13.) USCBP
- 14.) GEO
- 15.) Municipal Government (Portland, Eastport, Searsport, Rockland)

III. Consultant Tasks

i. Kickoff, Collection of Data, Gap Analysis

- a. Convene a key stakeholder meeting to understand project roles and responsibilities, participant stakeholders and the data and information they can provide and for what purpose. Aggregate and review all available data and studies and identify gaps.

ii. Grid Infrastructure, Capacity, and Transmission Overview and Analysis (Portland, Searsport, Eastport, Rockland)

- a. Identify the current and future demand requirements to get enough power from existing and potential new substations to the ports to provide shore power to cargo and passenger vessels (primarily), and to port equipment such as hustlers, reach stackers, cranes, and other equipment.

- b. Conduct a transmission and distribution study at each port – like the one already completed for plugging in cruise vessels in Portland – for cruise and cargo operations in Searsport and Eastport, as well as for cargo operations at the IMT in Portland. Investigate electrical supply and demand for a scenario at each port that involves utilizing vessel shore power and/or EV port equipment.
- c. Identify options, where feasible, to use a microgrid or similar options/alternatives to meet electrification needs.

iii. Emissions Inventories (Portland, Searsport, Eastport, Rockland)

The fence line for Emissions Inventories conducted at the four target ports will be consistent, where appropriate, with the defined physical fenced boundaries of each facility, where applicable. For facilities without physical fenced in areas, the area studied for the emissions inventory will include the vessel berths and piers, cargo handling and equipment staging areas, warehouse and office buildings, rail sidings, and truck, shuttle, motorcoach, bus queueing areas in the vicinity of the terminal. There is a mix of ownership among the four ports, however most of the port facilities involved in the study are publicly owned.

- a. Develop a QAPP with guidance from EPA. This requires consultation with EPA as a first step. At a high level, the QAPP should provide a framework for how the data in this task will be collected and used to provide reliable information about the potential benefits of port electrification in Maine. The QAPP must be approved by EPA before data collection can begin, and the approval process can take 30-60 days.
- b. Develop a port-wide inventory at each port location (Portland, Eastport, Searsport, and Rockland) including, but not limited to:
 - i. A baseline emissions inventory following the [US EPA Port Emissions Inventory Guidance](#).
 - ii. Inventory of existing port equipment to include emissions relevant characteristics such as age, fuel type, engine tier, annual usage hours or mileage (depending on the asset), and projected useful life.
 - iii. Projected future year emissions inventory (five-year increments through 2050) following the EPA's Port Emissions Inventory Guidance. The emissions inventory should consider three potential build scenarios:
 - 1. No build: This scenario means no shore power or EV equipment is installed in the four studied ports.
 - 2. Partial build out: This scenario means only a subset of the four studied ports are “electrified,” or limited shore power and EV equipment is installed at the ports.
 - 3. Full build out: This scenario means all four ports are fully equipped with shore power and EV equipment.
- c. Collect and process data to inform the emissions inventory, including but not limited to:
 - i. Any existing data available to the public, including any baseline data or guidance provided by US EPA and MaineDEP, and any of the

emissions monitoring devices that are currently deployed at the target ports.

- ii. Stakeholder interviews and surveys, to include terminal operators, vessel owners and operators.
 - iii. Vessel registry and traffic information.
 - iv. Truck, motorcoach, and locomotive counts, traffic studies for heavy duty engines on port property, including origin and destination surveys. This data will be used to capture the transitory vehicles with heavy duty engines that utilize the port.
 - v. Fleet and duty cycle analyses.
- d. Generate inventories for the build (electrified), partial build, and non-build scenarios (baseline).
 - e. Include particulate matter (PM), nitric oxide and nitrogen dioxide (NOx), sulfur dioxide (SOx), and greenhouse gases (GHG).
 - f. After a discussion with MaineDEP on emissions monitoring methodology, and where appropriate, utilize data from any existing emissions monitoring devices currently in service at the four ports.

iv. Emissions Reduction Plans

Develop plans for each of the target ports to reduce emissions generated by port activity. Each port plan should describe options to reduce emissions.

- a. Conduct scenario analysis; estimate reductions of emissions based on the deployment of shore power and charging infrastructure for EV port equipment.
- b. The plans should include reasonable targets for Maine ports to reduce emissions that are complementary with established state goals for GHG and PM reduction to improve air quality.
- c. Each port should have a unique plan that accounts for the different functions of each port and make recommendations that include the introduction of shore power and EV equipment in five-year intervals, projected out to 2050.

v. Port Electrification Infrastructure Feasibility Studies (Portland, Searsport, Eastport, Rockland)

- a. Identify gaps in the current port power supply infrastructure that, if closed, would allow for the deployment of electrical infrastructure at Maine's deep-water ports for STS power for marine cargo and passenger vessels.
- b. Assess the cost and feasibility of deploying shore power and EV equipment in all ports being studied, including the cost and feasibility of upgrading power supply. For the cargo terminals, this task will also include requirements to power a fleet of battery-electric port equipment including hustlers, reach stackers, cranes, and other equipment.
- c. Calculate Rough Order of Magnitude (ROM) cost estimates for electrification infrastructure at the four ports.
- d. Perform a preliminary investigation into permitting requirements for port electrification infrastructure.

vi. Stakeholder Communication and Engagement (Portland, Searsport, Eastport, Rockland)

At MaineDOT's direction, help identify and engage with stakeholders among port authorities, port businesses and port communities. Engagement will happen via meetings, interviews, and a project website hosted by MaineDOT.

- a. Interview and meet in groups with port authorities and businesses to gather information on operations, plans, interests, resources, and other factors that inform emissions reduction planning.
- b. In coordination with municipal governments, host one public meeting per port to describe the project and the feedback received from port businesses and authorities and gather public feedback.
- c. Host one statewide public meeting per project year to provide in-person and remote participants with info and updates on the overall project and elicit feedback.

vii. Workforce Development Plan

Conduct a workforce analysis, including engaging with workers, labor unions, training programs, and other stakeholders. Draft a plan that describes how high- quality jobs and workforce pathways could be generated (or lost) by port shore power and other electrification. The planning process will include:

- a. An assessment of the viability of and an implementation plan to institute paid internships, apprenticeship programs, and recruitment at community colleges and community organizations to develop the workforce.
- b. Making good use of previous and ongoing work from the State of Maine, such as the Clean Energy Partnership, to ensure that this effort to promote clean energy workforce is complementary with and enhances existing resources available to the public.
- c. Considering an iterative approach to workforce development that is tied to the phases of implementation of shore power and EV equipment at Maine ports consistent with the Emissions Reduction Plan portion of the work scope.

viii. Final Report and Website

Support MaineDOT in preparing a final EPA grant report and finalizing the project website in a form that will allow the State to continue to update it through future phases of this project, such as funding, design, construction, and operations.

7. TECHNICAL PROPOSAL SUBMISSION PACKAGE

Technical Proposals submitted in response to this RFP must be formatted to provide all information requested below, in the order presented, in one PDF file:

A. Appendix A - Proposer's General Information Form

Proposers are to complete all sections in **Appendix A**, which has been included with this RFP.

B. Proposer's Staff Qualifications

Proposers are to identify all staff their company will assign to fulfill the contract requirements, including subcontractors, if applicable, and are to describe each staff's role on the project. (i.e. Project Managers, Quality Control personnel, assigned technicians, subconsultants, etc.). Resumes for each assigned staff must be included and must describe the staff's educational and work experience, specifically their role on projects similar in nature to the services in this RFP.

C. Proposer's Experience

Proposers are to provide three (3) similar projects their firm has completed with their current staff in the last three (3) years. For each project, Proposers are to include a brief description of the project, dates of the project, results of the project, and points of contact (client's firm name, physical address, contact name, contact e-mail, and contact telephone number). Points of contact may be contacted to verify results and to inquire as to the client's general level of satisfaction with the Proposer's services.

D. Proposer's Understanding of and Proposed Approach to the Project

1. Proposers are to demonstrate their understanding of the work required by the State of Maine for this project.
2. Proposers are to demonstrate their capacity to be successful in performing the work required for this project.
3. Proposers are to present their approach to delivering each project task, milestone, deliverable, etc. as well as the completion of the overall Project.
 - a. In addition to describing their approach, Proposers are to include a timeline covering from initiation to finalization of the Project.
 - b. Proposers are to discuss their project coordination with the MaineDOT, as well as key project stakeholders.
 - c. Also describe how the firm will manage its role in this project and how it intends to maintain effective communication for the assignment.
4. Proposers are to provide a brief outline of the methods used by their firm to control and monitor client costs, control quality, and, if applicable, assure constructability of design plans.

E. Cost Proposal

Bidders must submit a cost proposal that covers the period starting August 1st, 2025, and ending on December 31, 2027. Bidders are required to use the [Completed Consultant's Detailed Cost Proposal Form](#) (*click link to access document*)

1. RFP Number, project location, phase of work, firm name and address and a contact name and e-mail address.
2. Direct Labor Expenses/Employee Classifications: The Cost Proposal must include each employee's direct labor expenses based on their actual rate of pay along with each employee's respective classification of labor. If using an average rate for a classification, please indicate the employee's names and classifications on the Appendix A-1 Form.
3. Proposed Overhead Rate: The Cost Proposal must reflect a current audited overhead rate. The selected firm must have a current Audited Overhead Report (AOR) to be approved and accepted by MaineDOT's Office of Audit. If a current AOR is not on file with MaineDOT, one must be provided. If there are changes to an approved overhead rate following contract execution, the firm must submit an updated AOR to MaineDOT's Office of Audit for approval and acceptance.
4. Profit: The proposed profit is based on project-specific factors such as the degree of risk, relative difficulty of work, size of job, etc., and must fall within the range of 6% - 15%.

5. Itemized Direct Non-Salary Expenses (Direct Expenses): Project specific expenses such as printing, tolls, mileage (current mileage rate is \$.54 per mile), postage, Subconsultant costs, etc., that are not included in the Direct Labor, Profit and Overhead.
6. Total Proposed Cost: The maximum amount proposed - the sum of all Direct Labor, Overhead, Direct Expenses and Fixed Fee/Profit.
7. This RFP does not commit MaineDOT to pay any costs incurred in submitting your Technical Proposal, making studies or designs for preparing the Technical Proposal or in procuring or sub-contracting for services or supplies related to the Technical Proposal.

8. TECHNICAL PROPOSAL RATING AND SELECTION PROCESS

- A. Technical Proposals will be reviewed and rated using the Scoring Criteria and Weights stated below in Section 9 of this RFP.
- B. MaineDOT, at its sole discretion, reserves the right to recognize and waive minor informalities and irregularities found in Technical Proposals received in response to this RFP.
- C. This is a Best Value selection process, and technical Proposals submitted in response to this RFP must include a cost proposal. The cost proposal must reflect the total proposed cost for conducting all the functions specified in the RFP and will be assigned a score according to a mathematical formula. The lowest bid will be awarded 20 points. Proposals with higher bid values will be awarded proportionately fewer points calculated in comparison with the lowest bid.
The scoring formula is:
(Lowest submitted cost proposal / Cost of proposal being scored) x 25 = pro-rated score
No Best and Final Offers: The State of Maine will not seek or accept a best and final offer (BAFO) from any Bidder in this procurement process. All Bidders are expected to provide their best value pricing with the submission of their proposal.
- D. Contract history with the State of Maine will be considered in the rating process, even if not provided by the Proposer. MaineDOT reserves the right to disqualify from consideration any Proposer with "Unsatisfactory" or "Below Standard" performance ratings on previous work for MaineDOT, if the MaineDOT determines that such disqualification is in the best interest of the State.

9. TECHNICAL PROPOSAL SCORING CRITERIA AND WEIGHTS

Technical Proposals will be scored on the criteria below, using a 100-point scale. The point values/weights of each criterion are also provided below.

Part 7A	Preliminary Information Proposer's General Information Form (see Appendix A of the RFP)	(10 points)
Part 7B, C	Organization Qualifications and Experience Proposal materials to be evaluated in this section include Proposer's Staff Qualifications, and the Proposer's Experience.	(30 points)
Part 7D	Proposed Services Proposal materials to be evaluated in this section demonstrate the proposer's understanding and approach to the scope of work.	(40 points)
Part 7E	Cost Proposal The cost proposal is required to use the cost proposal form.	(20 points)

10. **AWARD**

It is the intent of Maine DOT to make one award, to the Highest Qualified Proposer, as a result of this RFP process. However, MaineDOT reserves the right to make multiple awards if it is determined to be in the best interest of the State of Maine.

The “Highest Qualified Proposer” is defined as the Proposer whose Technical Proposal received the highest score based on the evaluation criteria stated above. MaineDOT will enter negotiations with the Highest Qualified Proposer to finalize the contract for this project. If MaineDOT is unable to negotiate a satisfactory contract with that Proposer, MaineDOT reserves the right to formally terminate negotiations and to enter negotiations with the next most qualified Proposer, and so forth, until a contract is finalized. MaineDOT also reserves the opportunity to withdraw any award and not enter into a contract if it is determined to be in the State’s best interest.

As part of this RFP process, the contracted firm resulting from this RFP will also be added to MaineDOT’s list of consultant firms that are prequalified to perform services for 101.60 Port Planning, Design & Technical Assistance, if that firm is not currently on that prequalified list.

11. **CONTRACT REQUIREMENTS**

The following documents will be requested from the bidder with the highest scoring proposal for the development of the resulting contract following the evaluation and rating process.

A. **Appendix A-1 Form** *(click link to access document)*

This form shall be completed utilizing the proposed Overhead and Profit Rates used to complete the Consultant’s Detailed Cost Proposal Form. The employees’ names and classifications listed are those that will or potentially will be working on the specified project. The employee rates listed must be actual rates paid to them and shall be supportable via certified payroll. For an Adjustable Burdened Rate payment method, any changes to the Appendix A-1 Form after contract execution shall be sent to the Contract Specialist with supporting documentation prior to any changes in billing. This form must be signed by an authorized financial or payroll representative of the Consultant firm.

B. **Wage Rate Waiver Form** *(when applicable - click link to access document)*

Consultants with employee direct labor rates that are greater than MaineDOT’s \$87.13 reimbursement limit must submit their Appendix A-1 Form, accompanied by a Wage Rate Waiver Form to MaineDOT for approval.

C. **Consultant Bidders List (DBE) Form** *(click link to access document)*

The DBE Form must reflect all Subconsultants used on a specified project; identifying whether they are DBE, WBE or Non-DBE and the percentage of the Subconsultant work that is proposed of the total contract value. The DBE Form shall also reflect whether the Prime Consultant themselves are a DBE.

D. **Insurance Certificates**

Insurance Certificates (Acord Form) must accompany your Cost Proposal. Insurance shall not reference a specific project. Minimum coverages include, but depending on the project may not be limited to the following:

- 1) Professional Liability or Negligent Acts, Errors and Omissions Policy - \$1,000,000 per claim and annual aggregate
- 2) Commercial General Liability, listing MaineDOT as additional insured - \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- 3) Automobile Liability - \$1,000,000 per occurrence

- 4) Worker's Compensation – in accordance with the laws of the State of Maine.
- 5) Excess/Umbrella Liability (if applicable)

E. Insurance Waiver Form (when applicable)

Consultants who do not meet the minimum insurance requirements must submit their Insurance Certificates accompanied by an Insurance Waiver Request Form to MaineDOT for approval.

F. Subconsultant Proposal (when applicable)

If a Subconsultant will be performing work on a project, the Prime Consultant must submit the Subconsultant's Cost Proposal with an itemized cost breakdown as supporting documentation.

If a Subconsultant is performing 25% or more of the value of the contract or modification, additional supporting documentation for the Subconsultant is required, i.e. A-1 Form and Audited Overhead Report.

12. CONTRACT TERM, TYPE, AND PAYMENT METHOD

The anticipated initial contract term shall be for a period of two years, commencing upon full execution of the contract. MaineDOT reserves the right to modify the initial contract term, at its sole discretion, as well as awarding additional phases of the Project when it is in the best interest of the State. The contract type and payment method utilized for this Project shall be determined following successful contract negotiations.

13. TERMS & CONDITIONS / FUNDING SOURCE / GENERAL INFORMATION

- A. The contract resulting from this RFP will be governed by the most recent version of MaineDOT's Consultant General Conditions. A copy of the current Consultant General Conditions has been included with this RFP (See **Appendix B**).
- B. This project will be funded with EPA funds. A copy of the current EPA General Terms and Conditions has been included with this RFP (See **Appendix C**).
- C. In the event of a conflict between the MaineDOT and EPA terms and conditions, the order of precedence is:
 - a. Appendix C EPA General Terms and Conditions
 - b. Appendix B MaineDOT Consultant Terms and Conditions

14. NON-APPROPRIATION

Consultant acknowledges that MaineDOT is a governmental entity, and that the validity of any contract entered into by the MaineDOT is dependent upon the availability of public funding under the authority of its statutory mandate. Although the issuance of this RFP manifests MaineDOT's intent to honor its terms and to seek funding to fulfill any contractual obligations arising in connection with it, by law, any such obligations are subject to available budgetary appropriations by the Maine Legislature and, therefore, this agreement does not create any obligation on behalf of MaineDOT in excess of such appropriations. Therefore, notwithstanding any other provision of this RFP and any contract resulting therefrom, if at any time the Maine Legislature fails to appropriate, de-appropriates or appropriates insufficient funds to meet the obligations established pursuant thereto, or if for any reason MaineDOT is denied legal authority by the Maine Legislature or the Court system to expend funds appropriated for such purposes, then MaineDOT may terminate any contractual relationship established as a result of this solicitation and shall not be penalized for doing so.

15. FREEDOM OF ACCESS ACT - CONFIDENTIALITY

Interested parties are advised that under Maine's Freedom of Access Act, Title 1 M.R.S.A. Chapter 13 §402 (3), et seq., "Public Records" (as that term is defined in: [Title 1, § 402: Definitions](#)) are available for public inspection and copying once an award notification has been made.

As a general matter, information submitted in response to this RFP will be considered "Public Records", available for public inspection and copying, once an award notification has been made. If, however, a Proposer believes that parts of its Technical Proposal fall within one or more of the exceptions to the definition of "Public Records" set forth in Title 1 M.R.S.A. Chapter 13 §402(3), that Proposer may submit those parts of its Technical Proposal, with each page marked "Confidential". Proposers must include a non-confidential statement of the basis for Proposer's claim that those parts of its Technical Proposal fall within one or more of the exceptions to the definition of "Public records". Designating part of a Technical Proposal "Confidential" does not, by itself, ensure that those parts of the Technical Proposal will remain confidential. Technical Proposals with no sections designated as "Confidential" will be considered public information after award notification and will be released as such when requested.

In the event MaineDOT receives a request to inspect or copy those parts of the Proposer's Technical Proposal marked confidential, MaineDOT will notify the Proposer that such a request has been received. If MaineDOT agrees that the documents so identified fall within one of the exceptions to the definition of "Public Records", MaineDOT will notify the party requesting disclosure ("Requestor") that the documents will be withheld. If MaineDOT determines that the confidential designation submitted is overbroad, MaineDOT will contact the Proposer in an effort to narrow the confidential designation. If the Proposer disagrees with MaineDOT's determination of what constitutes public records available for disclosure, the Proposer can seek a protective order or other legal remedy under Title 1, § 409. If the Requestor files a legal action to gain access to confidential information withheld under this section, then the Proposer must retain counsel and file for a protective order. Proposer's failure to join the action and secure a protective order shall constitute a waiver of its claim that the information is confidential. MaineDOT will comply with the order issued by the reviewing court.