



## PROCUREMENT JUSTIFICATION FORM (PJF)

This form must accompany all contract requests and sole source requisitions (RQS) over \$5,000 submitted to the Division of Procurement Services.

*INSTRUCTIONS: Please provide the requested information in the white spaces below. All responses (except signatures) must be typed; no hand-written forms will be accepted. See the guidance document posted with this form on the Division of Procurement Services intranet site (Forms page) for additional instructions.*

PART I: OVERVIEW			
Department Office/Division/Program:	Board of Licensure in Medicine		
Department Contract Administrator or Grant Coordinator:	Timothy Terranova		
(If applicable) Department Reference #:			
Amount: (Contract/Amendment/Grant)	\$ 30,000	Advantage CT / RQS #:	20240530000000003480
CONTRACT	Proposed Start Date:	7/1/2024	Proposed End Date: 6/30/2026
AMENDMENT	Original Start Date:		Effective Date:
	Previous End Date:		New End Date:
GRANT	Project Start Date:		Grant Start Date:
	Project End Date:		Grant End Date:
Vendor/Provider/Grantee Name, City, State:	Rebekah Smith, Esq. P.O. Box 912 Union, ME 04862		
Brief Description of Goods/Services/Grant:	Independent hearing officer services		

PART II: JUSTIFICATION FOR VENDOR SELECTION			
Check the box below for the justification(s) that applies to this request. (Check all that apply.)			
<input type="checkbox"/>	A. Competitive Process	<input type="checkbox"/>	G. Grant
<input type="checkbox"/>	B. Amendment	<input type="checkbox"/>	H. State Statute/Agency Directed
<input checked="" type="checkbox"/>	C. Single Source/Unique Vendor	<input type="checkbox"/>	I. Federal Agency Directed
<input type="checkbox"/>	D. Proprietary/Copyright/Patents	<input type="checkbox"/>	J. Willing and Qualified
<input type="checkbox"/>	E. Emergency	<input type="checkbox"/>	K. Client Choice
<input type="checkbox"/>	F. University Cooperative Project	<input type="checkbox"/>	L. Other Authorization

Please respond to ALL of the questions in the following sections.

### PART III: SUPPLEMENTAL INFORMATION

1. Provide a more detailed description and explain the need for the goods, services or grant to supplement the response in Part I.

The underlying mission of State regulatory agencies, such as the Board of Licensure in Medicine, is to provide meaningful due process of law to individuals who have a property interest in a license issued by the State. The adjudicatory hearing process is designed to be an actual and outward sign of due process of law in action and forms the basis of due process in agency administrative proceedings that may affect a license. The Board of Licensure in Medicine conducts a number of adjudicatory hearings during the course of a year. The integrity of the adjudicatory hearing process relies upon the Board's ability to retain an independent and impartial hearing officer to preside over these adjudicatory hearings.

It is not an easy task to identify appropriate candidates for this specialized legal work. Although it has tried other ways of providing this service, the Board of Licensure in Medicine has found that attorneys with the requisite administrative law and procedural experience provide the highest quality service to State agencies. More importantly, the Board of Licensure in Medicine seeks an individual who is completely independent of any State agency in order to reinforce the concept that regulatory matters must be resolved in a setting in which the presiding officer has no bias or allegiance to either party – the State or the individual licensee - involved in the adjudicatory proceeding.

2. Provide a brief justification for the selected vendor to supplement the response in Part II. Reference the RFP number, if applicable.

To avoid the perception of a conflict of interest or lack of objectivity, a hearing officer must be independent of the State agency.

Although borrowing staff from another agency or department may have been an option in the past, current economic conditions and the streamlining of the State workforce make this option unrealistic even if it were determined that staff from other departments or agencies possessed the necessary legal background and experience.

Ms. Smith has significant experience working under contract with other administrative/regulatory State agencies, having served as hearing officer for the Department of Education, Maine PERS, the Maine Labor Relations Board of Arbitration and Conciliation, the Board of Dental Practice, the State Board of Nursing, the Board of Osteopathic Licensure, the Maine Criminal Justice Academy, and the Board of Licensure in Medicine. Acting as a hearing officer for each of these State agencies requires Ms. Smith to have a broad knowledge of administrative law and process as well as the specific regulatory laws and rules and standards for each agency.

3. Explain how the negotiated costs or rates are fair and reasonable; or how the funding was allocated to grantee.

**PART III: SUPPLEMENTAL INFORMATION**

This contract is for two years and the hourly charge for the service, \$185 per hour, is not unreasonable given the depth of Ms. Smith's knowledge and experience as an independent hearing officer for multiple State agencies, and the intricacies of the laws and rules of the agency and the subject matter of adjudicatory proceedings before the agency. In addition, paralegal services will be reimbursed at \$60 per hour.

It is estimated that an attorney without administrative law experience, hearing experience and familiarity with licensing statutes and rules would have at least a one-year learning curve. An inexperienced attorney would drive up the cost of the service by increasing the number of hours spent in preparation for a hearing, drafting a recommended decision and creating the administrative record.

4. Describe the plan for future competition for the goods or services.

Although it may be desirable that all services provided to State agencies should be awarded on a competitive basis, the Department's efforts to generate interest in this service have not been successful. This is not full-time work; as such, the compensation does not meet the needs of most practicing attorneys. We are fortunate, frankly, to have attracted a competent attorney with excellent experience who has been vetted by the Attorney General's Office and who has provided high quality services during the course of past contracts.

**PART IV: AMERICAN RESCUE PLAN ACT (ARPA) / MAINE JOBS & RECOVERY PLAN (MJRP)**

Does this request utilize ARPA/MJRP funds?

Yes, MJRP funds (023) – If Yes, please attach the approved Business Case(s).

Yes, ARPA funds (025) – If Yes, please be aware of the requirements from awarding federal agencies.

No – If No, proceed to Part V.



**PART V: CONFLICTS OF INTEREST (COI); CONTRACT WITH THE STATE**

*Maine law contains Conflict of Interest statutes directed to State Departments, State Officers, and Employees Generally under MRS [Title 5, §18](#) and [§18-A](#), in harmony with MRS [Title 17, §3104](#).*

The requesting department signatory understands and acknowledges Maine's Conflict of Interest statutes.

**PART VI: APPROVALS**

The signatures below indicate approval of this procurement request.

Signature of requesting Department's Commissioner (or designee):			
Typed Name:	Timothy Terranova, Executive Director	Date:	6/3/24
Signature of DAFS Procurement Official:			
Typed Name:	Thomas Paquette	Date:	6/3/2024