

## State of Maine Procurement Justification Form

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 website (Forms page) for additional instructions.

PART I: OVERVIEW				
Department Office/Division/Program:		Maine Revenue Services		
Department Contract Administrator or Grant Coordinator:		Mark A. Nadeau		
(If applicable) Department Reference #:				
Amount: (Contract/Amendment/Grant)	\$ 10,000.00	Advantage CT / RQS #:		
CONTRACT	Proposed Start Date:	09/01/2021	Proposed End Date:	08/31/2023
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:		Fusselman Law Firm, PC 1616 South Voss Rd., Ste. 775 Houston, TX 04332		
Brief Description of Goods/Services/Grant:		Legal representation in the courts of other states for the collection of overdue taxes.		

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

PART III: SUPPLEMENTAL INFORMATION
Please respond to ALL of the following:
<b>1. Provide a more detailed description and explain the need for the goods, services or grant to supplement the response in Part I.</b>

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## PART III: SUPPLEMENTAL INFORMATION

People and businesses located outside Maine's borders owe approximately \$16,922,669.13 in unpaid taxes. Since the State's administrative powers for the collection of taxes are limited to the territory within its borders, Maine Revenue Services (MRS) pursues such debts through the courts of the states in which those persons reside or where the businesses are located. Warrants and judgments are secured from Kennebec County Superior Court and sent to attorneys in the appropriate states for domestication and enforced collection. There is no alternate method for forcing involuntary payment of overdue taxes.

Title 36, the Maine statute that governs Maine State Taxes, charges the State Tax Assessor with the administration and collection of taxes imposed under that title.

### 2. Provide a brief justification for the selected vendor to supplement the response in Part II.

Neither Maine Revenue Services nor any other governmental agencies are available or authorized to collect Maine tax debts outside Maine's borders, making it necessary to retain attorneys in those states. Legal representation for Maine Revenue Services must be provided by attorneys authorized to practice law in those states.

The law firm has represented the State in collection cases in Texas for approximately 13 years. They currently have 11 cases under negotiation, in litigation or being collected. The contract, the vendor, and the methodology used by MRS have been approved by the Attorney General. Cases are sent throughout the period of the contract and require one or more years to resolve. The continuity of legal services in any given state has been maintained through sole-source contracting usually with the same law firm selected repeatedly. MRS requires representation in 19 different states which makes having more than one firm per state extremely burdensome if not totally unworkable. Also, there can be efficiencies in having one firm cover a Disclosure Hearing for more than one tax debtor.

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

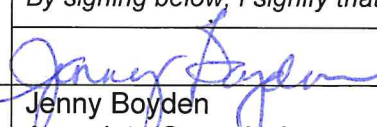
The Department has determined that the cost of these services is fair and reasonable. Through the bureau's investigation it was determined the average contingency fee of an attorney ranges from 33% to 40%. The costs specified in the contract are the standard amounts paid to all out-of-state collection attorneys under contract with the State of Maine.

If this contract is put out for competitive bidding with a subsequent change in law firms, the State must expect to pay Fusselman Law Firm, PC for the withdrawal of cases at the rate of \$200.00 per billable hour. It is likely that the total will exceed \$17,600.00 for the current inventory. In addition to the costs for withdrawal, reassignment of cases will unnecessarily disrupt ongoing negotiations and litigation.

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

Cases placed for collection with attorneys in other states must be litigated by attorneys licensed to practice in those states. Since MRS currently pursues debtors in more than 19 states, it appears impractical to conduct competitive bidding in each state where a significant number of tax debtors reside. If circumstances related to these services should change, the department will obtain said services by the most appropriate means, including a competitive process such as releasing a RFP. Maine Revenue Services' continues to monitor the successfulness and case load with the above-mentioned law firm.

## PART IV: APPROVALS

<b>Signature of requesting Department's Commissioner (or designee):</b>	<i>By signing below, I signify that I approve of this procurement request.</i>		
<b>Printed Name:</b>	 Jenny Boyden Associate Commissioner	<b>Date:</b>	08/04/2021

**State of Maine  
Procurement Justification Form**

<b>Signature of DAFS Procurement Official:</b>	DocuSigned by: <i>Kathy Paquette</i>		
<b>Printed Name:</b>	41C2BA36FAF44CD... kathy Paquette	<b>Date:</b>	8/5/2021

AARON M. FREY  
ATTORNEY GENERAL



STATE OF MAINE  
OFFICE OF THE ATTORNEY GENERAL  
6 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0006

TEL: (207) 626-8800  
TTY USERS CALL MAINE RELAY 711

REGIONAL OFFICES  
84 HARLOW ST. 2ND FLOOR  
BANGOR, MAINE 04401  
TEL: (207) 941-3070  
FAX: (207) 941-3075

125 PRESUMPCOT ST., SUITE 26  
PORTLAND, MAINE 04103  
TEL: (207) 822-0260  
FAX: (207) 822-0259

14 ACCESS HIGHWAY, STE. 1  
CARIBOU, MAINE 04736  
TEL: (207) 496-3792  
FAX: (207) 496-3291

July 27, 2021

Jerome D. Gerard, Executive Director  
Maine Revenue Services  
24 State House Station  
Augusta, ME 04333-0024

**Re: Authorization to Retain Outside Counsel**

Dear Executive Director Gerard:

The purpose of this letter is to provide authorization to Maine Revenue Services ("MRS") to retain outside counsel to initiate collection actions in the State of Texas for delinquent taxes. This authorization is provided pursuant to 5 M.R.S. § 191 and is subject to the terms and conditions set out below.

I am authorizing the retention of Christopher A. Fusselman, Esquire of The Fusselman Law Firm, P.C. (the "Firm") to provide legal representation to MRS for enforcement of delinquent taxes owed to the State of Maine pursuant to final assessments made by MRS, plus any accrued interest and penalties. My staff has reviewed and approved the language of Riders A and B of the proposed contract between the Firm and MRS. The contingent fee attorney's fee agreement, which I have also approved, is fully described in the contract. If MRS should withdraw a claim and the Firm has performed work on the claim, the reasonable compensation owed to the firm is limited to an hourly billing rate of \$200.00.

The legal services contract between MRS and the Firm is subject to the terms of this outside counsel authorization letter and to the extent there is any conflict between the contract and this authorization letter, the terms of this authorization letter will control.

Any amendments or changes to the contract between the Firm and MRS must be first authorized by the Office of the Attorney General (the "Office"). Christopher A. Fusselman, Esquire must provide Amy Oliver, Research Assistant/Paralegal by email at [amy.oliver@maine.gov](mailto:amy.oliver@maine.gov) with proof of the Firm's adequate professional liability insurance. Counsel for the Firm providing representation under this authorization may not represent any client who is in litigation or other proceeding adverse to the State of Maine, its officers or employees during the time counsel is providing this legal service to MRS.

The Firm must promptly provide a copy of any civil action filed by the Firm on behalf of MRS to Thomas A. Knowlton, Deputy Attorney General and a copy of the reporting required in Rider A, Section III, paragraph 10 of the contract must also be copied to Mr. Knowlton. In all cases the Office retains the right to require withdrawal of any action filed, and the Firm may not file an appeal absent authorization in writing by this Office. Finally, this authorization begins on September 1, 2021 and ends on August 31, 2023 or earlier upon written notice from this Office.

If you have any questions about this authorization please feel to contact Thomas A. Knowlton, Assistant Attorney General at [thomas.a.knowlton@maine.gov](mailto:thomas.a.knowlton@maine.gov), with a courtesy copy to Amy Oliver at [amy.oliver@maine.gov](mailto:amy.oliver@maine.gov).

Sincerely,



Aaron M. Frey  
Attorney General

AMF/ajo

cc: Thomas A. Knowlton, Deputy Attorney General  
Michael W. Fortin, Director, Compliance Division, Maine Revenue Services  
Mark Nadeau, Tax Section Manager, Maine Revenue Services  
Brock P. DeRaps, Senior Tax Examiner, Maine Revenue Services  
Leslie L. Flores, Deputy Director, Maine Revenue Services  
Christopher A. Fusselman, Esquire