

State of Maine Waiver of Competitive Bidding Request Form

Form Instructions: Please provide the requested information in the white boxes below. This form is to precede all contract requests that are not the direct result of a competitive bid process.

Requesting Department's Contract Administrator:	Penny Vaillancourt	Office/Division/Program of Contract Administrator:	Maine Board of Dental Practice
Est. Contract Amount:	\$ 10,000.00	Contract or RQS Number:	CT 02D 20190909000000000793
Proposed Start Date:	July 1, 2019	Proposed End Date:	June 30, 2020
Vendor/Provider Name, City, State	F. Mark Terison, Esq. 135 Field Road Falmouth, ME 04105		
Short Description of Good or Service:	To serve as Presiding Officer in adjudicatory matters pending before the Maine Board of Dental Practice pursuant to Title 5, Section 9062.		
Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Purchases' website for a period of seven consecutive calendar days.		To be completed by the Division of Purchases Posting dates on Division of Purchases' website: From: <u>9/10/2019</u> To: <u>9/16/2019</u>	
Notice of Intent to Waive Competitive Bidding Number:		NOI# 0920191492	
1. Statutory Justification			
State of Maine statute (5 M.R.S. §1825-B(2)) allows waivers of competitive bidding only for the specific reasons listed below. Please mark the appropriate box (X) next to the justification which applies to this specific request.			
<input type="checkbox"/>	A. The procurement of goods or services by the State for county commissioners pursuant to Title 30-A, section 124, involves the expenditure of \$2,500 or less, and the interests of the State would best be served;		
<input type="checkbox"/>	B. The Director of the Bureau of General Services is authorized by the Governor, or the Governor's designee, to make purchases without competitive bidding because, in the opinion of the Governor or the Governor's designee, an emergency exists that requires the immediate procurement of goods or services;		
<input type="checkbox"/>	<i>If citing the above justification for this Waiver of Competitive Bidding request, please have the requesting Department's Commissioner or Chief Executive (as the Governor's "designee") sign and date on the right.</i>	<i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i>	
<input type="checkbox"/>	Signature:		Date:
<input type="checkbox"/>	Printed Name:		
<input type="checkbox"/>	C. After reasonable investigation by the Director of the Bureau of General Services, it appears that any required unit or item of supply, or brand of that unit or item, is procurable by the State from only one source;		
<input type="checkbox"/>	D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;		
<input type="checkbox"/>	E. The purchase is part of a cooperative project between the State and the University of Maine System, the Maine Community College System, the Maine Maritime Academy, or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State involving: (1) An activity assisting a state agency and enhancing the ability of the university system, community college system, Maine Maritime Academy, or a private, nonprofit, regionally accredited institution of higher education with a main campus in this State to fulfill its mission of teaching, research, and public service; (2) A sharing of project responsibilities and, when appropriate, costs;		
<input type="checkbox"/>	<i>If citing the above justification for this sole source request, please note that the specific approval of the Governor's Office is required, in accordance with Executive Order 26 FY 11/12, "An Order to Enhance Competitive Bidding". The approval must be documented on DAFS/BGS/Division of Purchases "GOVCOOP" form, found here: http://www.maine.gov/purchases/info/forms/govcoop.doc.</i>		
<input type="checkbox"/>	F. The procurement of goods or services involves expenditures of \$10,000 or less, in which case the Director of the Bureau of General Services may accept oral proposals or bids;		
<input checked="" type="checkbox"/>	G. The procurement of goods or services involves expenditures of \$10,000 or less, and procurement from a single		

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	source is the most economical, effective and appropriate means of fulfilling a demonstrated need.
	If a different authorization specifically allows for this non-competitive procurement, please provide that reference here:

Please note that the following four points below (#2 through 5) all require a response.

2. Description of Specific Need

Please identify, and fully describe, the specific problem, requirement, or need the resulting non- competitive contract would address and which makes the goods or services necessary. Explain how the requesting Department determined that the goods or services are critical and/or essential to agency responsibilities or operations.

The services provided by F. Mark Terison, Esquire are critical to the Maine Board of Dental Practice meeting its statutory obligation to adjudicate matters involving consumer complaints against licensed practitioners pursuant to its authorizing statute, Title 32, Chapter 143 and 5 MRS Section 9062. The Board has several cases that need to be scheduled immediately and requires an experienced vendor, who is familiar with serving as a presiding officer in adjudicatory matters involving licensed practitioners.

The scope of work requires that the vendor be uniquely qualified and experienced to conduct pre-hearing conferences, hear pre-hearing motions and render rulings with appropriate consultation with the Board. The vendor would preside over adjudicatory hearings, which includes ruling on the admissibility of evidence, administering oaths, rulings on motions, and regulate the course of the hearing. In an adjudicatory proceeding, the vendor also serves as the legal advisor on process matters. The vendor would be required to prepare a proposed decision and order, which reflects findings of fact and conclusions of law reach by the Board.

3. Availability of other Public Resources

Please explain how the requesting Department concluded that sufficient staffing, resources, or expertise is not available within the State of Maine's government, or other governmental entities (local, other state, or federal agencies) external to the requesting Department, which would be able to address the identified need more efficiently and effectively than the identified vendor.

The Board has coordinated with the Department of Professional and Financial Regulation to identify available resources to conduct adjudicatory hearings and appropriately staff the proceedings with an adjudicatory hearing officer. The Board is affiliated with the Department and shares a common mission of protecting the public against unethical and/or incompetent practitioners.

4. Cost

Since a waiver of competitive bidding is being requested for this procurement, please explain how the requesting Department concluded the negotiated costs, fees, or rates are **fair and reasonable**.

The Board has concluded that the cost of the services is fair and reasonable based on viewing other contracts for similar services.

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5. Future Competition

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

The potential opportunity to foster competition in the future depends on the number of adjudicatory hearings to be scheduled.

Please note that only one of the two points below ("Uniqueness" or "Timeframe") requires a response. Requesting Departments are not required to respond to both points.

6. Uniqueness

Please explain if the goods or services required are unique to a specific vendor. Describe the unique qualifications, abilities, and/or expertise of the vendor and how those particular unique factors address the specific need identified above. If the vendor has unique equipment, facilities, or proprietary data, also explain the necessity of these particular unique assets.

F. Mark Terison is uniquely qualified to serve in the capacity of a hearing officer presiding over adjudicatory matters related to professional licensing boards such as the Maine Board of Dental Practice. His education, experience and existing contract work with other state agencies set him apart. Specifically, Mr. Terison has extensive experience in litigation and currently teaches at the University of Maine Law School.

7. Timeframe (Complete only if B. is the Statutory Justification marked on Page 1)

Please explain if time is of the essence and an emergency exists which requires the immediate procurement of goods or services. Describe the nature of this emergency, provide the date by which the goods or services must be delivered, and explain how that date was determined and its significance (i.e. impact if delayed beyond this date). Also, provide information as to how it was determined this vendor is the best option to address this time-sensitive procurement.

Signature of requesting Department's Commissioner or Chief Executive (or designee within the Commissioner's Office):

By signing below, I signify that my Department requests, and I approve of, this Waiver of Competitive Bidding.

Printed Name:

Penny Varilancourt, Executive Director

Date:

September 9, 2019