

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:		Dept. of Professional & Financial Regulation			
Department Contract Administrator or Grant Coordinator:		Shawn C. Brooks 207-624-8511			
(If applicable) Department Reference #:					
Amount: (Contract/Amendment/Grant)		\$ 30,000.00	Advantage CT / RQS #:	20210916*698	
CONTRACT	Proposed Start Date:	10/1/2021	Proposed End Date:	9/30/2023	
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:		F. Mark Terison, Esq. 1 Rabbit Way Falmouth, ME 04102			
Brief Description of Goods/Services/Grant:		Hearing Officer Services			

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		J. Willing and Qualified
	E. Emergency		K. Client Choice
	F. University Cooperative Project		L. Other Authorization

PART III: SUPPLEMENTAL INFORMATION

Please respond to ALL of the following:

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

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PART III: SUPPLEMENTAL INFORMATION

The underlying mission of state regulatory agencies is to provide meaningful due process to individuals who have a property interest in a license issued by the State. The adjudicatory hearing process is the outward sign of due process in action and forms the basis of due process in the administrative law process. The regulatory agencies and licensing programs within the Department of Professional and Financial Regulation conduct many adjudicatory hearings during the course of a year. The integrity of the PFR adjudicatory hearing process rests on the Department's ability to provide independent impartial hearing officers to preside over these adjudicatory hearings. The Department's process was questioned recently during discussions with stakeholders and legal counsel. It was noted that the Department had a single hearing officer to handle the 60 – 100 hearings conducted each calendar year. At that time, the Department agreed to make efforts to increase the number of available hearing officers. This justification addresses the need to add another individual with the required administrative law background to the existing roster of independent hearing officers available to the Department.

It is not an easy task to identify appropriate candidates for this specialized legal work. Although we have tried other ways of providing this service, the Department has found that attorneys with the required administrative law and procedural experience provide the highest quality service to state agencies. More importantly, we see an individual who is completely independent of any agency within the Department 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 to the dispute.

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

To avoid the perception of a conflict of interest or lack of objectivity, a hearing officer must be independent of the Department and the regulatory agencies within it.

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.

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

The Department compared the costs over time since we entered into the first multiyear contract with the primary hearing officer. This contract is for two years and the hourly charge for the service is not unreasonable given the increases in overall expenses of licensing programs.

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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, our 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.

Mr. Terison has significant experience working in the administrative law arena, as well as experience as an Assistant Attorney General, Assistant District Attorney and an Assistant U.S. Attorney. He has also served as the Administrative Hearing Officer for the Maine Public Employees Retirement System since 2011.

PART IV: APPROVALS

Signature of requesting Department's Commissioner (or designee):	<i>By signing below, I signify that I approve of this procurement request.</i>		
	<i>Anne L. Head</i>		
Printed Name:	Anne L. Head	Date:	9/16/2021
Signature of DAFS Procurement Official:	<div style="border: 1px solid black; padding: 2px; display: inline-block;"> <small>DocuSigned by:</small> <i>Debbie Jacques</i> </div>		
Printed Name:	<small>1DFA565D481F42E...</small> Debbie Jacques	Date:	9/24/2021