

## 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.

<b>Requesting Department's Contract Administrator:</b>	Jeannette Sedgwick	<b>Office/Division/Program of Contract Administrator:</b>	Department of Education – Special Services
<b>Est. Contract Amount:</b>	\$ 5,500.00	<b>Contract or RQS Number:</b>	20190925*1007
<b>Proposed Start Date:</b>	11/01/2019	<b>Proposed End Date:</b>	11/30/2019
<b>Vendor/Provider Name, City, State:</b>	Special Education Solutions, LLC 307 Good Hill Road Weston, CT 06883		
<b>Short Description of Good or Service:</b>	<b>Provide a one-day professional development training program to the MDOE's IDEA hearing officers, with corresponding written materials.</b>		
<b>Please note, for transparency purposes, Waivers of Competitive Bidding will be publicly posted. Public postings are placed on the Division of Procurement Services website for a period of seven consecutive calendar days.</b>	<p><b>To be completed by the Division of Procurement Services</b></p> <p>Posting dates on Division of <i>Procurement Services</i> website:          From: <u>10/09/2019</u> To: <u>10/15/2019</u></p>		
<b>Notice of Intent to Waive Competitive Bidding Number:</b>	NOI# 1020191693		
<b>1. Statutory Justification</b>			
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.			
<p>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;</p> <p>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;</p>			
<p><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></p>	<p><i>By signing below, I signify as the Governor's designee there is an emergency that necessitates this non-competitive procurement.</i></p> <p><b>Signature:</b></p>		
	<b>Printed Name:</b>	<b>Date:</b>	

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<b>X</b>	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;
	D. It appears to be in the best interest of the State to negotiate for the procurement of petroleum products;
	<p>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:</p> <p>(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;</p> <p>(2) A sharing of project responsibilities and, when appropriate, costs;</p> <p><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 Procurement Services "GOVCOOP" form, found here:</i>  <a href="http://www.maine.gov/purchases/info/forms/govcoop.doc">http://www.maine.gov/purchases/info/forms/govcoop.doc</a>.</p>
	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;
	G. The procurement of goods or services involves expenditures of \$10,000 or less, and procurement from a single 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 Maine Department of Education has a need for training for our dispute resolution contracted employees to ensure that the presiders continue to be unbiased and trained with current legal practices and established law. The IDEA, as implemented by 34 CFR 300.511, states that the Department of education must ensure that hearing officers**

*(ii) Must possess knowledge of, and the ability to understand, the provisions of the IDEA, Federal and State regulations pertaining to the IDEA, and legal interpretations of the Act by Federal and State courts;*

*(iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and*

*(iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.*

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**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 Maine Department of Education does not provide direct training to Hearing Officers.**

**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**.

**He is coming from Connecticut, a state closer to Maine than many of the other states where other consultants are located. Mr. Merced is a senior consultant to CADRE. Other senior consultants that we considered for our highly experienced and hard-working dispute resolution contractors were Art Cernosia, who is from Vermont. His reviews were not as favorable and one person who had heard him speak stated that he was very "lawyerly" and not particularly engaging. Other senior consultant we considered was Art Stuart who has had considerable experience in dispute resolution but lives in Virginia, so a one-day training option (a cheaper option for the Department) would not have been viable. Other senior consultants who specialize in complaint investigations and hearings were from outside of the Northeast region of the United States.**

**5. Future Competition**

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

**This consultant just presented at this year's IDEA Academy for Administrative Law Judges. The reviews from his presentation, which was attended by a Maine resident, were excellent.**

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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.

**We searched through CADRE’s national directory of trainers and consultants, which contains the names and biographies of individuals highly experienced in policy and practice within special education, conflict prevention and dispute resolution. There were three consultants’ expertise, including his/her familiarity with special education, early intervention and IDEA; reviews of trainings, and services offered.**

**This consultant just presented at this year’s IDEA Academy for Administrative Law Judges. The reviews from his presentation, which was attended by a Maine resident, were excellent.**

**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:**

*Danie A. Chubta*

**Date:**

*8 Oct 2019*