

Sole Source Determination

Instructions for Completion and Publication of Sole Source Determination

Pursuant to Miss. Code Ann. § 27-104-7(2)(o) and (4) and Section 3-206 of the *PPRB OPSCR Rules and Regulations*, the Agency Head must determine in writing that only one source is available to provide a personal or professional service needed by the Agency (regardless of the cost of the service). This determination and the terms of the proposed contract must be published on the Procurement Portal¹ for 14 consecutive days. Any potential objectors have 7 days following the last date of publication to file an objection with the Agency (i.e. 21 days following initial publication).

OPSCR recommends that Agencies publish a full copy of the proposed contract with this determination. OPSCR further recommends that Agencies post this determination and the terms of the proposed contract on the Agency website concurrently with posting on the Procurement Portal.

The determination must provide the following required information:

1. The personal or professional service offered in the contract;
2. An explanation of why the personal or professional service is the only one that can meet the needs of the agency;
3. An explanation of why the source is the only person or entity that can provide the required personal or professional service;
4. Any market analysis conducted in order to ensure that the service required was practicably available from only one source;
5. An explanation of why the amount to be expended for the personal or professional service is reasonable; and
6. The efforts that the agency went through to conduct a noncompetitive negotiation to obtain the best possible price on the personal or professional service for the taxpayers.
7. Instructions to file an objection to the sole source determination (see page 3 of determination).

The Agency should maintain a copy of this determination in its procurement file, which will meet the requirements of Miss. Code Ann. § 27-104-7(4).

If no objections are filed, the Agency may submit the contract for PPRB approval using the process and timelines for all other personal and professional service contracts requiring PPRB approval. If an objection is filed, the Agency may either agree with the objector that the vendor is not a sole source and conduct a competitive procurement or appeal the objection to the PPRB 30 days prior to the next regularly scheduled PPRB meeting. The Agency will have the burden to prove to the PPRB that the vendor is a sole source. If the PPRB has any reasonable doubt as to whether the vendor is a sole source, the Agency shall conduct a competitive procurement.

The PPRB submits quarterly reports to the Committees on Accountability, Efficiency, and Transparency in the Mississippi State Senate and House of Representatives, which may request Agencies who have submitted sole source contracts to offer an explanation of those contracts by December 15 each year.

¹Throughout this document, any reference to the Procurement Portal refers to the Buying and Selling to Government in Mississippi website: https://www.ms.gov/dfa/contract_bid_search/Home/Sell. If you need assistance with posting to the Procurement Portal, contact the MMRS helpdesk at mash@dfa.ms.gov.

Sole Source Determination

Miss. Code Ann. § 27-104-7(2)(o) and (4)

Section 3-206 of the PPRB Rules and Regulations

THE PROPOSED CONTRACT TERMS ARE ATTACHED TO THIS DETERMINATION.

Agency: MDCPS Office of Legal Counsel

Proposed Sole Source Vendor: American Bar Association

Intended Contract Term: September 18, 2023 - September 17, 2024

Anticipated Contract Amount: \$45,660

The personal or professional service offered in the contract is:

MDCPS seeks the services of the American Bar Association for training and coaching 75 child welfare attorneys. These attorneys have the primary responsibility of representing the best interests of children in legal matters involving child abuse, neglect, dependency, custody, foster care, adoption, and other issues. The outcome of these trainings is to: refine attorney litigation skill set; sharpen advocacy skills; and encourage competent interactions with families, jurors, and judges.

ABA will 1.) Prepare and deliver a minimum of twelve one-hour online webinars between September 18, 2023, and September 17, 2024; 2.) Provide one (1) day of in-person intensive targeted training which includes a lecture and discussion format; small group breakout sessions; and skill building exercises to be held before September 13, 2024; 3.) tailor all training to Mississippi Law; 4.) Provide support materials for all participants; and 5.) Perform required services at any place or location selected by MDCPS that is consistent with the services to be provided.

The personal or professional service described above is the only one that can meet the needs of the agency because:

The ABA designed this Trial Skills program more than 20 years ago to help fill a gap in the availability of nationally informed child welfare attorney training. To date they have provided this training at the ABA Center on Children and the Law national conferences, and to over 16 states. The ABA Center on Children and the Law is the only organization that provides this training.

The proposed sole source vendor is the only person or entity that can provide the required personal or professional service because:

The American Bar Association (ABA) is uniquely qualified to provide these services to the Mississippi Department of Child protection Services based upon the following:

- a. They are the only source known for the specialized Trial Skills training program. The ABA works to promote the best quality legal education, competence, ethical conduct and professionalism, and public service work in the legal profession.
- b. They are committed to set the legal and ethical foundation by advancing the rule of law across the United States and beyond by providing practical resources for legal professionals. Mississippi welfare attorneys would benefit from learning how to successfully advocate for children, families, and MDCPS.
- c. They have successfully provided the ABA Trials Skills training to over 16 states. The American Bar Association (ABA) was founded in 1878 on a commitment to set the legal and ethical foundation by advancing the rule of law across the United States and beyond by providing practical resources for legal professionals.

Sole Source Determination

The Agency conducted the following market analysis in order to ensure that the service required was practicably available from only one source (any documentation relevant to the market analysis conducted should be attached to this determination):

Only One Responsible Source and No Other Services Will Satisfy the agency requirements. The National Association of Counsel for Children, Rocky Mountain Children's Law Center, Zero to Three, and Kempe Center are other groups that assist in providing training to represent children, families, and agencies. However, none of these groups provide interdisciplinary training (simultaneously training judges, prosecutors, GAL's, parent reps, agency attorneys, and AG attorneys) through live courtroom simulations and feedback.

The amount to be expended for the personal or professional service is reasonable because:

Without the proposed service, the cost that the agency would incur to provide this important training to its legal team would be monumentally higher than the contract price of \$45,660, as the agency would have to send each attorney to multiple conferences across the country to obtain the same amount of trainings that are being offered on-site by the contract.

The Agency conducted a noncompetitive negotiation with the proposed sole source vendor to obtain the best possible price on the personal or professional service by:

Only One Responsible Source and No Other Services Will Satisfy the agency requirements. The National Association of Counsel for Children, Rocky Mountain Children's Law Center, Zero to Three, and Kempe Center are other groups that assist in providing training to represent children, families, and agencies. However, none of these groups provide interdisciplinary training (simultaneously training judges, prosecutors, GAL's, parent reps, agency attorneys, and AG attorneys) through live courtroom simulations and feedback.

Based on the foregoing, I have determined the intended vendor is the sole provider of the personal or professional services needed by the Agency. Pursuant to Miss. Code Ann. § 27-104-7(2)(o) and (4) and Section 3-206 of the PPRB Rules and Regulations, the Agency intends to award this contract through a sole source procurement.

Agency Head Name: Andrea Sanders Title: Commissioner

Signature:  Date: 8/21/2023 | 12:48 PM CDT

Sole Source Determination

The Agency Head must sign this determination and cannot delegate that authority to other Agency personnel.

Instructions to File an Objection to this Sole Source Determination:

Any person or entity who objects to the determination that the proposed vendor is the sole provider of the personal or professional services described herein should file an objection with the Agency and the Public Procurement Review Board (PPRB).

The objection must provide a detailed explanation of why the personal or professional service provider is not a sole source; identify the Agency; identify the proposed Sole Source Vendor; state the RFIN Number for the sole source determination and the date that determination was first published (if available); and identify the objecting party to include valid contact information by which the objecting party can be immediately reached by the Agency or the PPRB (or its staff).

The Agency is required to publicize the sole source determination for 14 days, after which parties who object to that determination have 7 days to file their objections. Timely submission of the objection is the sole responsibility of the objecting party, and the objecting party bears all risk regarding delivery of the objection. Objections received after the deadline will not be considered by the Agency or the PPRB.

Any such objection should be clearly labelled "OBJECTION TO SOLE SOURCE DETERMINATION" and should be submitted to the following persons:

For the Agency:

c/o Jerrika Brantley
Contracts and Procurement
Mississippi Department of Child Protection Services

Hand Delivery:

750 North State Street,
Jackson, Mississippi 39202

U.S. Mail:

Post Office Box 346
Jackson, Mississippi 39205

Electronic Mail:

Jerrika Brantley
cc: contracts@mdcps.ms.gov

For the PPRB:

Public Procurement Review Board
c/o Brittney Thompson, Director
Office of Personal Service Contract Review
Mississippi Department of Finance and Administration

Hand Delivery:

501 North West Street, 7th Floor
Jackson, Mississippi 39201

U.S. Mail:

Post Office Box 267
Jackson, Mississippi 39205

Electronic Mail:

Brittney.Thompson@dfa.ms.gov
cc: OPSCR@dfa.ms.gov

Once an objection to the sole source determination is filed, the Agency may withdraw the sole source determination and competitively procure the service or appeal the objection to the PPRB. The Agency will have the burden to prove the proposed vendor is a sole source provider of the personal or professional services needed by the Agency. If the PPRB has any reasonable doubt as to whether the personal or professional service can only be provided by one source, then the Agency must

competitively procure the service.