



**Request for Proposals
to
Provide Legal Back Up Services Regarding Medicaid and General
Health Care Issues Impacting Persons With Disabilities**

Reference LBU-02-FY23 (Health)

August 9, 2022

The Training and Advocacy Support Center (TASC) of the National Disability Rights Network (NDRN) requests proposals from qualified entities to provide legal back-up and related services to Protection and Advocacy (P&A) agencies regarding Medicaid and General Health Care Issues Impacting Persons With Disabilities (*Reference LBU-02-FY23 (Health)*). The P&A Network comprises a nationwide network of 57 disability rights agencies which are mandated under various federal statutes to provide legal representation and advocacy services to persons with disabilities.

TASC is making funds available for a fixed price contract to provide legal training and technical assistance services to NDRN and the P&A agencies. **The dollar amount available for the contract is \$60,000 for a twelve-month period from October 1, 2022 through September 30, 2023. The contract will be for one year, with the option for TASC/NDRN to renew the contract for up to two additional twelve-month periods.** Any contract renewal will be based on available funds and such renewal could, but is not guaranteed, to include an increase during the renewal period.

**The deadline for the receipt of applications is:
Thursday, September 1, 2022 by 6:00 pm ET**

A. BACKGROUND

1. The P&A System

Protection and Advocacy System agencies (P&As) receive federal grants under a variety of statutes that are designed to promote the legal rights of persons with disabilities. There are P&A agencies in each of the 50 States, the District of Columbia, the U.S. Territories, and a Native American P&A. The P&As provide legal representation and other advocacy services. P&As also have special authority under federal statutes to investigate incidents of abuse and neglect of persons with disabilities in institutions and other settings. In a given year, P&As serve tens of thousands of people with disabilities through a variety of mechanisms including individual case representation, class actions, information and referral services, investigation and monitoring, and education and public outreach efforts. Collectively, P&As are the largest provider of legal services to people with disabilities in the United States. More information about the P&A System is available at www.ndrn.org.

2. TASC

The Training and Advocacy Support Center (TASC), a division of NDRN, provides training and technical assistance services to P&As. TASC is funded through contracts and grants with the federal agencies which oversee several of the P&A programs: the Administration on Community Living (ACL) and the Substance Abuse and Mental Health Services Administration (SAMHSA) - both within the U.S. Department of Health and Human Services, and the Rehabilitation Services Administration, within the U.S. Department of Education. TASC supplements its in-house legal training and technical assistance expertise through contracts with legal back-up centers supported by funding provided under the TASC/NDRN federal training and technical assistance contract.

3. NDRN

The National Disability Rights Network (NDRN), is the non-profit, voluntary membership association for the federally mandated P&As and Client Assistance Programs (CAPs). NDRN facilitates coordination among these programs and represents their interests before Congress and the Executive Branch of Government. In addition, as noted above, NDRN provides training and technical assistance through TASC.

B. LEGAL BACK UP CONTRACTS

1. Requirements of Eligible Applicants

- a. Applicants must currently provide legal advocacy and/or technical assistance services in support of the rights of persons with disabilities as a major focus of their activities or business.

- b. Applicants must have demonstrable, significant complex litigation experience.
- c. Applicants must have expertise in **one or more of the specific substantive areas of disability law addressed in paragraph 4 of this section.**
- d. Applicants must have experience that includes providing professional and effective in-person and virtual legal training.
- e. Applicants must demonstrate experience working with P&A agencies and have a firm understanding of the work and practical needs of the P&As and their clients.
- f. Applicants must demonstrate experience and expertise in providing services in a culturally competent manner and the ability to explore issues that are relevant to discrete, distinct, and underserved populations, and a commitment to diversity, equity, and inclusion.
- g. Applicants must demonstrate that they are guided by, and adhere to, the P&A philosophy that people with disabilities are full and equal citizens under the law entitled to equal access to opportunities afforded to all members of society, and that people with disabilities are entitled to be free from abuse, neglect, exploitation, discrimination and isolation, to be treated with respect and dignity, to exercise meaningful choice, and to have unlimited opportunities for integration in all aspects of life.

2. Open Procurement Process

This is an open procurement process. Small businesses and small disadvantaged businesses certified or eligible for certification as such by the Small Business Administration are encouraged to apply.

3. Subcontractors

Applicants may propose to work with a subcontractor in performing work; however, the applicant as the prime contractor will be responsible for ensuring that the subcontractor fully performs all appropriate legal back up duties. If an applicant proposes to work with a subcontractor, such entities shall be identified in the proposal, with full information about the subcontractor's expertise and experience, and the role the prime contractor and all subcontractors shall play in fulfilling obligations under the contract.

4. Substantive Areas of Law

The contractor will be required to provide the following to TASC/NDRN and/or the P&A Network:

- a. Legal back up services related to health care for persons with disabilities.

- b. Assistance relating to Medicaid and general health care issues impacting persons with disabilities.
- c. Assistance regarding Medicaid litigation (individual and class actions, including waiting list litigation), Medicaid/Medicare law and regulations, and federal policy impacting access to community-based supports.
- d. Address specific topics which may include, but are in no way limited to, Section 1983 litigation; Early Periodic Screening, Diagnosis, and Treatment (EPSDT); Home and Community Based Services (HCBS) and waivers; Medicaid changes under the Deficit Reduction Act of 2005; Medicaid funding in schools; children's mental health; Medicaid preemption; the Affordable Care Act (ACA); and coverage for individuals eligible for both Medicare and Medicaid including Medicare Part D, the Health Insurance Portability and Accountability Act (HIPAA), and Pre-Admission Screening and Resident Review (PASRR).
- e. Utilize the contractor experience and expertise in complex litigation, including class actions, and may be called upon to provide technical assistance on general litigation issues outside this general substantive topic area.

The contractor must have the capacity and experience to provide technical assistance in a culturally competent manner, for people of all backgrounds including racial, ethnic, gender, and disability cultures.

5. Nature of Contract Services

- a. In general, the contractor will be called upon to provide oral and written advice to P&A staff on the substantive area of disability law outlined above.
- b. In addition, the contractor will be required to provide quarterly narrative reports describing significant activities performed under the contract, maintain and submit a detailed log of the contractors' responses to technical assistance requests from the P&A Network and TASC/NDRN, and include a monthly aggregate count of contacts.
- c. The contractor will also be required to provide training at TASC conferences and coordinate virtual training on emerging legal issues.
- d. The contractor will be required to comply with all terms and conditions, including federal statutes, regulations, and policies, that apply to the federal award financing the proposal, including completion of the *FAR 52.209-5 Certification Regarding Department, Suspension, Proposed Debarment, and Other Responsibility Matters* (August 2020).

C. SPECIFIC TASKS

The legal back up services, which are outlined below, must be designed to enhance the capacity of Protection and Advocacy System staff to independently and effectively handle their litigation and other advocacy initiatives. It is anticipated that the contractor will be required to perform the following tasks:

1. Legal Advocacy Support

- a. At the request of TASC/NDRN staff and/or P&A staff, the contractor will be asked to provide legal support services by telephone, video call, e-mail and regular mail, as appropriate. The bulk of the contractor's time under the contract will be devoted to these activities.
- b. The contractor may receive between 50 to 100 requests for technical assistance each quarter from P&A or NDRN staff related to each of the broad areas of legal advocacy addressed in the contract. It is anticipated that the majority of such requests can be addressed through brief consultation by e-mail, telephone or video call, and that a smaller proportion (perhaps 15-25%) will require more in-depth assistance (such as reviewing and providing recommendations with regard to advocacy strategies). These legal technical support services shall include:
 - 1) Providing oral and written advice, including referrals to other entities;
 - 2) Advising on case planning and litigation strategies, including identifying appropriate claims and remedies, discovery, development of settlement proposals, use of experts, trial preparation, and appeal strategies;
 - 3) Reviewing draft pleadings, briefs, and other legal documents; and
 - 4) Assisting in identification and assessment of medical and other expert witnesses.
- c. The contractor will not be asked to provide co-counseling services or to assume other significant litigation activities under the contract. However, the contractor may enter into separate contractual arrangements with individual P&As to provide co-counseling activities, so long as such arrangements do not interfere with the contractor's obligations under this contract. Any separate co-counseling arrangements shall be reported in the contractor's quarterly reports to NDRN.

2. Forums and Listservs

- a. The contractor will be required to actively participate on TASC/NDRN discussion forums and e-mail listservs addressing areas of legal advocacy covered by the contract.
- b. The contractor will be expected to answer the questions posed on the forums and listservs if the contractor has relevant information, expertise, or materials.

- c. The contractor will alert forum and listserv participants of significant new developments in the law by posting such information, as appropriate.

3. Fact Sheets

- a. The contractor will prepare at least three (3) fact sheets or analyses of 10 to 15 pages focusing on an area of law addressed by the contract and which are of common interest to the P&A Network.
- b. The subject matter of the fact sheets and analyses shall be mutually determined by the contractor and TASC/NDRN at least three weeks in advance of each document's due date in order to respond to emerging needs of the P&A Network.
- c. These fact sheets shall be due on a specific date agreed to by TASC/NDRN and the contractor so as to be spaced out throughout the twelve-months.

4. Legal Questions and Answers (Q&As) / Law in Briefs

- a. The contractor shall prepare a total of six (6) brief analyses addressing a legal issue covered under the contract of which at least four shall be in a Question and Answer format (Q&As) of 3 to 5 pages. Two (2) of the brief analyses may be a Law in Brief of 2 to 3 pages at the option of the contractor.
- b. The subject matter of each brief analysis shall be mutually determined by the contractor and NDRN at least three weeks in advance of each document's due date in order to respond to the emerging needs of the P&A Network.
- c. The topic may be based on a commonly asked question or one relating to an emerging or complex area of the law.
- d. Each Q&A/Law in Brief shall be due on a specific date to be agreed to by TASC/NDRN and the contractor so as to be spaced out through the twelve-months.

5. Webcasts/teleconference

- a. At the request of TASC/NDRN, the contractor shall plan, coordinate and participate in up to three (3) teleconferences or interactive webcasts for the P&A Network on areas of law addressed by the contract.
- b. The subject matter of the teleconference or interactive webcast shall be mutually determined by the contractor and TASC/NDRN.
- c. In preparing for the teleconference or interactive webcast, the contractor shall work with TASC/NDRN staff to develop the teleconference or interactive webcast

to i) ensure sufficient interactive activities or discussions with participants are included, ii) decide how the teleconference or webcast will be incorporated within the TASC/NDRN learning management system, and iii) agree on the materials necessary for the teleconference or webcast.

6. Training

- a. At the request of TASC/NDRN, the contractor shall plan and conduct up to two half-day workshops or one full-day workshop at the TASC/NDRN in-person annual conference.
- b. The contractor shall develop appropriate materials for the workshop(s) and shall comply with all directions and deadlines for producing the materials for the conference training sessions, which may include working with TASC/NDRN staff to develop interactive exercises.
- c. TASC/NDRN will reimburse the contractor for reasonable travel expenses incurred by the contractor related to the conference trainings.

D. SELECTION PROCESS

1. Criteria

Applicants will be evaluated in each of the following selection criteria areas for a total of 100 points, with an additional 5 bonus points awarded for small businesses or small disadvantaged businesses. Proposals should demonstrate a commitment to direct resources toward the specific requirements of this request for proposals:

a. Expertise and Experience (40 points)

- 1) Applicants must demonstrate their experience working with the P&A network, a commitment to the P&A System philosophy, and their familiarity with the work of the P&As.
- 2) Applicants must demonstrate specific expertise and experience in litigating complex cases in the areas of law described in paragraph 4 of Section B.
- 3) Applicants must show an expertise and experience in the full range of relevant substantive legal issues and litigation strategies involved in the particular subject area described under paragraph 4 of Section B.
- 4) Applicants should demonstrate a record of coordinating effective advocacy initiatives relating to the areas of law in paragraph 4 of Section B.

- 5) Applicant should have significant experience in providing relevant technical assistance to attorneys and managers on the subject areas in paragraph 4 of Section B.
- 6) Applicant should have experience in providing effective training to attorneys in the legal areas listed in paragraph 4 of Section B which should include complex litigation.

b. Staff Capability (25 points)

- 1) Applicants must provide evidence of qualified personnel to carry out the contract, including identification of one key staff person who will have principal responsibility for carrying out the obligations under the contract.
- 2) The application must contain necessary position descriptions, resume(s), and assurances of availability of key staff with appropriate competencies and experience.
- 3) The application must contain assurances that no staff is presently debarred, suspended, proposed for debarment, or otherwise declared ineligible for the award of contracts by any Federal agency.

c. Organizational Capability and Management Plan (20 points)

- 1) Applicants must demonstrate the ability to work effectively with P&A staff and offer evidence of proven organizational ability to provide high-quality legal services using appropriate key personnel.
- 2) Applications must include a management plan that provides evidence of project control by management, efficient and timely use of staff and other resources, and effective quality control.
- 3) In addition, applicants must submit a budget outlining the proposed allocation of contract funds (see Application Requirements for business proposal at section D.2.b).

d. Resources/Facilities/Equipment (5 points)

Applicants must demonstrate the availability and appropriateness of resources (other than personnel), physical facilities, and equipment proposed to be used to carry out the contract.

e. Cultural Competency / Diversity, Equity and Inclusion (10 points)

Applicants must demonstrate capacity and experience in providing technical assistance in a culturally competent manner for all cultural backgrounds,

including racial, ethnic, and disability cultures and to address diversity, equity and inclusion.

f. Status as a Small Business or Small Disadvantaged Business (5 points)

Small business applicants must demonstrate their status or eligibility to be certified as a small business or small disadvantaged business under SBA guidelines.

2. APPLICATION REQUIREMENTS

a. Technical Proposal

- 1) An original of a technical proposal, signed by the organization's executive director, CEO or similar individual, must be submitted electronically.
- 2) The technical proposal must provide a project strategy and plan (without any reference to cost) which addresses in detail the following: all of the selection criteria listed above, the applicant's goals and expected outcomes in performing the contract, the area(s) of law to be addressed, and the manner in which the applicant would provide back up services (with reference to the particular required tasks).
- 3) If a relationship is proposed with a subcontractor, the applicant must describe the proposed relationship and provide a letter of commitment from the prospective subcontractor.
- 4) References or letters of support may be provided at the discretion of the applicant and will be considered by the selection committee.

b. Business Proposal

- 1) The applicant must submit a separate budget outlining the proposed allocation of contract funds. All costs must be consistent with allowed costs as defined by 2 CFR Part 200 Subpart E
- 2) For-profit organizations submitting an application must be certified as a small business or small disadvantaged business by the Small Business Administration or must provide an assurance that such certification will be obtained prior to beginning work under the contract.

c. Submissions

Applications must reference in the subject line **LBU-02-FY23 (Health Care)** and be sent electronically via e-mail, in Word or PDF format, to david.hutt@ndrn.org.

NDRN must receive all parts of an application by Thursday, September 1, 6:00 p.m. (ET). The time received will be determined by the "Sent" date and time indicated on the e-mail as received at NDRN in David Hutt's e-mail. **No application, or any part of an application, will be considered if received after the deadline.**

d. Questions

Any questions regarding this request for proposals should be directed to David Hutt via e-mail at david.hutt@ndrn.org.

To ensure consideration, all proposals must be received in full via e-mail to david.hutt@ndrn.org at NDRN by 6:00 p.m. (ET) on Thursday, September 1, 2022