

RFP Title: Mediator Training for Appellate Mediation Program
RFP Number: 3 DCA RFP 19/20-02

REQUEST FOR PROPOSALS

COURT OF APPEAL, THIRD APPELLATE DISTRICT

REGARDING:

Mediator Training for Appellate Mediation Program
3DCA RFP 19/20-02

PROPOSALS DUE:

Friday, November 22, 2019, NO LATER THAN 4:30 P.M., PACIFIC TIME

1.0 GENERAL INFORMATION (definitions set forth in Appendix D)

- 1.1 In October 2006, the Court of Appeal, Third Appellate District (Court), launched the Appellate Mediation Program to facilitate civil case resolution and to reduce costs to the litigants and the court. Modeled after programs in the First and Fourth Appellate Districts, this program also provides facilities for mediation conferences and offers support staff to assist mediators and the parties. In the Appellate Mediation Program, mediation is mandatory for selected civil cases and the mediation process for identifying selected civil cases begins with the filing of the notice of appeal. *Local Rule 1* of the Court of Appeal, Third Appellate District, governs mediation in the Third Appellate District and can be found on its website at <http://www.courts.ca.gov/3140.htm>.
- 1.2 To become a mediator for the Court, attorneys and retired judges interested in joining the Court's panel must be trained by a person or entity selected by the Court. In its 13 years of operation, the Court has trained over 105 attorneys and retired judges who provide the Court with mediation services. Depending on funding, mediator training sessions are conducted every other year. It is planned that the next mediator training will take place before the end of the 2019-2020 fiscal year, which is June 30, 2020. (JCC confirmed availability dates in April, May and June 2020.)

2.0 DESCRIPTION OF SERVICES AND DELIVERABLES

- 2.1 The Court seeks the services of a person or entity with expertise in training mediators to conduct fundamental appellate mediation training sessions for no more than 24 applicants to the Court's mediation panel. The training must include a segment on the appellate process and standards of review and reversal rates on appeal, as well as role playing exercises based on hypothetical appeals.
- 2.2 Services are expected to be performed by the provider by the end of June 2020. (JCC confirmed availability dates in April, May and June 2020.)

The Court contemplates a training model consisting of a minimum of 32 hours of mediation training. The Court prefers the training to be conducted in full or half day sessions. Classes should be structured to encourage participation and may include weekends.

- 2.3 The service provider will be asked to:
 - A. Provide a detailed project outline with a methodology that includes a description of the format, duration, materials, and curriculum for the training program, which should include:
 - A comparison of the appellate process and the mediation process;

- Standards of appellate review;
- Ethical standards for mediators;
- Confidentiality;
- Negotiated problem solving;
- Communication skills;
- Risk analysis;
- Structuring the mediation;
- Understanding the dispute from each party’s perspective;
- Defining problems to be solved;
- Caucusing;
- Generating and testing options;
- Reaching resolution; and
- Drafting a memorandum of understanding.

- B. Describe the faculty, and their qualifications, who will participate in conducting the training sessions, with a desired faculty to student ratio of 6 to 1;
- C. Meet and work with the Mediation Program Coordinator or other designated staff to review development of the training program;
- D. Submit the proposed training program to the Mediation Program Committee for approval;
- E. Secure approved credit for the training from the State Bar of California as continuing legal education;
- F. Provide the proposed training at a location in Sacramento, California, as determined by the Court by June 30, 2020. (JCC confirmed availability dates in April, May and June 2020.)

3.0 TIMELINE FOR THIS RFP

The Court has developed the following list of key events related to this RFP. All dates are subject to change at the discretion of the Court.

EVENT	DATE
RFP issued	October 25, 2019
Deadline for questions	November 1, 2019
Questions and answers posted	November 8, 2019

EVENT	DATE
Latest date and time proposal may be submitted	November 22, 2019 4:30 P.M., Pacific Time
Evaluation of proposals (<i>estimate only</i>)	December 9, 2019
Notice of Intent to Award (<i>estimate only</i>)	December 12, 2019
Solicitation Specifications Protest	December 13, 2019
Negotiations and execution of contract (<i>estimate only</i>)	December 2019 - January 2020
Contract start date (<i>estimate only</i>)	December 2019 - January 2020
Contract end date (<i>estimate only</i>)	June 30, 2020

4.0 RFP ATTACHMENTS

The following attachments are included as part of this RFP:

ATTACHMENT	DESCRIPTION
Attachment 1: Administrative Rules Governing RFPs (Non-IT Services)	These rules govern this solicitation.
Attachment 2: Court Standard Terms and Conditions	If selected, the person or entity submitting a proposal (the “Proposer”) must sign a Court Standard Form agreement containing these terms and conditions (the “Terms and Conditions”)
Attachment 3: Proposer’s Acceptance of Terms and Conditions	On this form, the Proposer must indicate acceptance of the Terms and Conditions or identify exceptions to the Terms and Conditions. Note: A material exception to a Minimum Term will render a proposal non-responsive.
Attachment 4: Darfur Contracting Act Certification	If Proposer has had business activities or other operations outside of the United States within the previous three years, Proposer must complete the Darfur Contracting Act Certification and submit the completed certification with its proposal.
Attachment 5 Travel Rate Guidelines	Travel will be reimbursed in accordance with the attached Travel Rate Guidelines.

5.0 SUBMISSIONS OF PROPOSALS

- 5.1 Proposals should provide straightforward, concise information that satisfies the requirements of the “Proposal Contents” section below. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the RFP’s instructions and requirements, and completeness and clarity of content.
- 5.2 The Proposer must submit its proposal in two parts, the technical proposal and the cost proposal.
- A. The Proposer must submit **one (1) original and five (5) copies** of the technical proposal. The original must be signed by an authorized representative of the Proposer. The Proposer must write the RFP title and number on the outside of the sealed envelope.
 - B. The Proposer must submit **one (1) original and five (5) copies** of the cost proposal. The original must be signed by an authorized representative of the Proposer. The original cost proposal (and the copies thereof) must be submitted to the Court in a single sealed envelope, separate from the technical proposal. The Proposer must write the RFP title and number on the outside of the sealed envelope.
 - C. The Proposer must submit an electronic version of the entire proposal on CD-ROM. The files contained on the CD-ROM should be in PDF, Word, or Excel formats.
- 5.3 Proposals must be delivered by the date and time listed on the coversheet of this RFP to:
- Ana Cavazos
Supervising Administrative Specialist
Court of Appeal, Third Appellate District
914 Capitol Mall
Sacramento, CA 95814**
- 5.4 Late proposals will not be accepted.
- 5.5 Only written proposals will be accepted. Proposals must be sent by registered or certified mail, courier service (e.g. FedEx), or delivered by hand. Proposals may not be transmitted by fax or e-mail.

6.0 PROPOSAL CONTENTS

- 6.1 Technical Proposal. The following information must be included in the technical proposal. A proposal lacking any of the following information may be deemed non-responsive.
- A. Proposer's name, address, telephone and fax numbers, and federal tax identification number. Note that if the Proposer is a sole proprietor using his or her social security number, the social security number will be required before finalizing a contract.
 - B. Name, title, address, telephone number, and e-mail address of the individual who will act as Proposer's designated representative for purposes of this RFP.
 - C. For each key staff member: a resume describing the individual's background and experience, as well as the individual's ability and experience in conducting the proposed services. Describe key staff's knowledge of the requirements necessary to complete the mediation training.
 - D. Names, addresses, and telephone numbers of a minimum of three (3) clients for whom the Proposer has conducted similar services. The Court may check references listed by Proposer.
 - E. The Proposer's overall plan with time estimates for completion of all work required and proposed method to complete the work. Proposals will be evaluated by the Court using the following criteria:
 - i. Quality of the work plan submitted;
 - ii. Experience on similar assignments;
 - iii. Credentials of staff to be assigned to the project;
 - iv. Ability to meet the timing requirements to complete the project;
 - v. Reasonableness of cost projections;
 - vi. Acceptance of Terms and Conditions.
 - F. Acceptance of the Terms and Conditions.
 - i. On Attachment 3, the Proposer must either indicate acceptance of the Terms and Conditions or clearly identify exceptions to the

Terms and Conditions. An “exception” includes any addition, deletion, qualification, limitation, or other change.

- ii. If exceptions are identified, the Proposer must also submit a red-lined version of the Terms and Conditions that clearly tracks proposed changes, and a written explanation or rationale for each exception and/or proposed change.
- iii. **Note: A material exception to a Minimum Term will render a proposal non-responsive. Minimum terms include those items described in Section 4.0 above.**

G. Certifications, Attachments, and other requirements.

- i. Proposer must include the following certification in its proposal:

Proposer has no interest that would constitute a conflict of interest under California Public Contract Code sections 10365.5, 10410 or 10411; Government Code sections 1090 et seq. or 87100 et seq.; or rule 10.103 or rule 10.104 of the California Rules of Court, which restrict employees and former employees from contracting with judicial branch entities.

- ii. If Proposer has had business activities or other operations outside of the United States within the previous three years, Proposer must complete the Darfur Contracting Act Certification (Attachment 4) and submit the completed certification with its proposal.
- iii. If Proposer is a corporation, proof that Proposer is in good standing and qualified to conduct business in California.
- iv. Copies of current business licenses, professional certifications, or other credentials.
- v. Proof of financial solvency or stability (e.g., balance sheets and income statements).

6.2 Cost Proposal. The following information must be included in the cost proposal.

- A. A detailed line item budget showing total cost of the proposed services.
- B. A full explanation of all budget line items in a narrative entitled “Budget Justification.”
- C. A “not to exceed” total for all work and expenses payable under the contract, if awarded.

- D. The total cost for services will not exceed thirty-five thousand dollars (\$35,000), inclusive of personnel, materials, computer support, travel, lodging, per diem, and overhead rates. The method of payment to the service provider will be by cost reimbursement.

NOTE: It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the Business and Professions Code.

7.0 OFFER PERIOD

A Proposer's proposal is an irrevocable offer for ninety (90) days following the proposal due date. In the event a final contract has not been awarded within this period, the Court reserves the right to negotiate extensions to this period.

8.0 EVALUATION OF PROPOSALS

At the time proposals are opened, each proposal will be checked for the presence or absence of the required proposal contents.

The Court will evaluate the proposals on a 100 point scale using the criteria set forth in the table below. Award, if made, will be to the highest scored proposal.

CRITERION	MAXIMUM NUMBER OF POINTS
Quality of work plan submitted	25%
Experience on similar assignments	25%
Reasonableness of cost projection	25%
Credentials of staff to be assigned to the project	10%
Ability to meet timing requirements to complete the project	10%
Acceptance of the Terms and Conditions	5%

9.0 INTERVIEWS

The Court may conduct interviews with Proposers to clarify aspects set forth in their proposals or to assist in finalizing the ranking of top-ranked proposals, and in its discretion, the Court may interview all Proposers. The interviews may be conducted in person or by phone. If conducted in person, interviews will likely be held at the Court's offices. The Court will not reimburse Proposers for any costs incurred in traveling to or from the interview location. The Court will notify eligible Proposers regarding interview arrangements.

10.0 CONFIDENTIAL OR PROPRIETARY INFORMATION

One copy of each proposal will be retained by the Court for official files and will become a public record after time for submitting the proposal has expired and the proposals have been opened. California judicial branch entities are subject to rule 10.500 of the California Rules of Court, which governs public access to judicial administrative records (see www.courtinfo.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_500).

If information submitted in a proposal contains material noted or marked as confidential and/or proprietary that, in the Court's sole opinion, meets the disclosure exemption requirements of rule 10.500, then that information will not be disclosed upon a request for access to such records. If the Court finds or reasonably believes that the material so marked is **not** exempt from disclosure, the Court will disclose the information regardless of the marking or notation seeking confidential treatment.

11.0 DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS

The Court has waived the inclusion of DVBE participation in this solicitation.

12.0 PROTESTS

Any protests will be handled in accordance with Chapter 7 of the Judicial Branch Contract Manual (see www.courts.ca.gov/documents/jbcl-manual.pdf). Failure of a Proposer to comply with the protest procedures set forth in that chapter will render a protest inadequate and non-responsive, and will result in rejection of the protest. The deadline for the Court to receive a solicitation specifications protest is November 22, 2019. Protests must be sent to:

Hon. M. Kathleen Butz
Chair, Mediation Committee
Court of Appeal, Third Appellate District
914 Capitol Mall
Sacramento, CA 95814