

REQUEST FOR PROPOSALS

COURT OF APPEAL, THIRD APPELLATE DISTRICT

REGARDING:

ADVANCED TRAINING FOR MEDIATORS, THIRD
APPELLATE DISTRICT MEDIATION PROGRAM

PROPOSALS DUE:

Friday, July 28, 2017, NO LATER THAN 4:30 P.M. PACIFIC TIME

1.0 BACKGROUND INFORMATION (definitions set forth in Appendix D)

- 1.1 In October 2006, the Court of Appeal, Third Appellate District (Court), launched its Appellate Mediation Program to facilitate civil case resolution and to reduce costs to the litigants and the Court. This program provides facilities for mediation conferences and offers support staff to assist mediators and the parties. In the Court of Appeal, Third Appellate District, mediation is mandatory for selected civil cases. The mediation process for identifying selected civil cases begins with the filing of the notice of appeal. The Court's Local Rule 1 governs mediation in the Third Appellate District and can be found at <http://www.courts.ca.gov/3140.htm>.
- 1.2 The panel of mediators consists of attorneys and retired judges who have been trained by a person or entity selected by the Court to provide mediator training. This proposal is for advanced training for mediators who have already participated in Court-sponsored mediator training. In its 11 years of operation, the Court has trained over 100 attorneys and retired judges who in turn provide the Court with mediation services. The Court's last beginner mediator training was held in 2012.
- 1.3 The success of the mediation program has been the result of the services of approximately 120 mediators who received approximately 35 hours of Court-sponsored training in appellate mediation. The principal subjects covered in the Court-sponsored mediator training were:
 - 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.

2.0 DESCRIPTION OF SERVICES AND DELIVERABLES

- 2.1 The Court seeks the services of a person or entity with expertise in training mediators at an advanced level for the continuing education of the Court-paneled mediators. A working knowledge of Local Rule 1, Standards of Appellate

Review and Confidentiality and Ethical Standards are required. Training topics might include, but not necessarily be limited to, the following:

- Negotiation theory and application, including psychological factors;
- Mediation styles: facilitative, evaluative, directive, and transformative;
- Obtaining the attendance of decision makers and interested parties;
- Ensuring confidentiality;
- Communication skills;
- Cross-cultural communication issues;
- Unique subject area issues;
- Dealing with power imbalances;
- Addressing conflicts between attorneys and clients;
- Educating trial attorneys about standards of review, reversal rates, and other appellate considerations;
- Working with trial attorneys, appellate counsel, and parties together;
- Working with the difficult attorney or party;
- Responding to efforts to manipulate the mediation process;
- Dealing with money issues;
- Using caucus effectively;
- Preparing for and breaking impasse; and
- Closing the deal.

2.2 Services are expected to be performed by the provider by the end of October, 2017, at a location in Sacramento, California, as determined by the Court. Facility related costs will be at the expense of the Court. The Court contemplates a mediation training model consisting of a minimum of two days (16 hours, including breaks). The Court prefers the training to be conducted in full or half day sessions, which do not have to be consecutive.

2.3 The service provider will be asked to:

- A. Provide an instructional design methodology that includes a description of the training approach, format, duration, tools, and curriculum for the training program.
 - a. obtain review and approval of the above deliverables by the Mediation Program Committee prior to conducting any training.
- B. Provide specific qualifications of each faculty member to include a detailed description of the following:
 - a. appellate mediator experience
 - b. appellate mediator training experience
 - c. define appellate law expertise
 - d. number of mediation trainings provided each year; average number of mediators trained each year

- e. participation with mediation organizations and associations
- f. recognitions received
- g. mediation training certifications received
- h. ongoing training obtained - year, course and content

C. Describe the training organization’s mediation and training experience

- a. number of individuals trained
- b. years involved in mediation and mediation training

D. Meet in person or via telephone with the Mediation Program Administrator, Mediation Program Committee and/or other designated staff to discuss the mediation training program.

E. Obtain certification from the State Bar of California of a minimum of 12 hours continuing legal education credit (MCLEs).

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	Friday, July 7, 2017
Deadline for questions to 3DCA-Info@jud.ca.gov	Friday, July 14, 2017
Questions and answers posted (<i>estimate only</i>)	Wednesday, July 19, 2017
Latest date and time proposal may be submitted	Friday, July 28, 2017, 4:30 p.m. (Pacific Standard Time)
Evaluation of proposals (<i>estimate only</i>)	August 2, 2017
Notice of Intent to Award (<i>estimate only</i>)	August 7, 2017
Negotiations and execution of contract (<i>estimate only</i>)	August 25, 2017
Contract start date (<i>estimate only</i>)	August 31, 2017
Contract end date (<i>estimate only</i>)	October 30, 2017

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: Standard Terms and Conditions	If selected, the person or entity submitting a proposal (the “Proposer”) must sign a 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: General Certifications Form	The Proposer must complete the General Certifications Form and submit the completed form with its proposal.
Attachment 5: Darfur Contracting Act Certification	The Proposer must complete the Darfur Contracting Act Certification and submit the completed certification with its proposal.
Attachment 6: Payee Data Record Form	This form contains information the Court requires in order to process payments and must be submitted with the proposal.
Attachment 7: Conflict of Interest Certification Form	The Proposer must complete Conflict of Interest Certification and submit the completed certification with its proposal.

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 three (3) copies** of the technical proposal. The original must be signed by an authorized representative of the Proposer. The original technical proposal (and the copies thereof) must be submitted in a single sealed envelope,

separate from the cost proposal. 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 three (3) 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 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 or USB memory stick/flash drive. The files must 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:

Andrea Wallin-Rohmann
Clerk/Administrator
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 mail, certified mail, overnight couriers (e.g. FedEx), or delivered by hand and must be delivered by the date and time listed on the coversheet of this RFP. Proposals may not be transmitted by fax or email.

6.0 PROPOSAL CONTENT

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. The 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 email address of the individual who will act as the 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 activities.
- 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 the 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 check the appropriate box and sign the form. If the Proposer marks the second box, it must provide the required additional materials. An "exception" includes any addition, deletion, or other modification.
 - ii. If exceptions are identified, the Proposer must also submit (i) a red-lined version of the Terms and Conditions that implements all proposed changes, and (ii) 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. The Proposer must complete the General Certifications Form (Attachment 4) and submit the completed form with its proposal.

- ii. The Proposer must complete the Darfur Contracting Act Certification (Attachment 5) and submit the completed certification with its proposal.
- iii. If Contractor is a California corporation, limited liability company (“LLC”), limited partnership (“LP”), or limited liability partnership (“LLP”), proof that Contractor is in good standing in California. If Contractor is a foreign corporation, LLC, LP, or LLP, and Contractor conducts or will conduct (if awarded the contract) intrastate business in California, proof that Contractor is qualified to do business and in good standing in California. If Contractor is a foreign corporation, LLC, LP, or LLP, and Contractor does not (and will not if awarded the contract) conduct intrastate business in California, proof that Contractor is in good standing in its home jurisdiction.
- iv. Copies of the Proposer’s (and any subcontractors’) 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.”

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.

If a contract will be awarded, the Court will post a notice of intent to award at <http://www.courts.ca.gov/3dca.htm>.

CRITERION	MAXIMUM NUMBER OF POINTS
Quality of work plan submitted	20
Experience on similar assignments	25
Reasonableness of cost projection	30
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. 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

PROPOSALS ARE SUBJECT TO DISCLOSURE PURSUANT TO APPLICABLE PROVISIONS OF THE CALIFORNIA PUBLIC CONTRACT CODE AND RULE 10.500 OF THE CALIFORNIA RULES OF COURT.

The Court will not disclose (i) social security numbers, or (ii) balance sheets or income statements submitted by a Proposer that is not a publicly-traded corporation. All other information in proposals will be disclosed in response to applicable public records

requests after the time for submitting the proposal has expired and the proposals have been opened.

Such disclosure will be made regardless of whether the proposal (or portions thereof) is marked “confidential,” “proprietary,” or otherwise, and regardless of any statement in the proposal (a) purporting to limit the Court’s right to disclose information in the proposal, or (b) requiring the Court to inform or obtain the consent of the Proposer prior to the disclosure of the proposal (or portions thereof). Any proposal that is password protected, or contains portions that are password protected, may be rejected. Proposers are accordingly cautioned not to include confidential, proprietary, or privileged information in proposals.

11.0 DISABLED VETERAN BUSINESS ENTERPRISE INCENTIVE

The Court has waived the DVBE incentive in this solicitation.

12.0 PROTESTS

Any protests will be handled in accordance with Chapter 7 of the Judicial Branch Contracting 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 June 14, 2017. Protests must be hand-delivered or sent by certified mail, registered mail, or overnight courier to:

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