



Judicial Council of California
Administrative Office of the Courts

Finance Division
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Chief Justice of California
Chair of the Judicial Council

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Administrative Director of the Courts

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Chief Deputy Director

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Director
Finance Division

TO: POTENTIAL BIDDERS

FROM: Court of Appeal, First Appellate District

DATE: August 29, 2002

SUBJECT/PURPOSE OF MEMO: REQUEST FOR PROPOSAL
ADVANCED TRAINING FOR MEDIATORS IN APPELLATE
MEDIATION PROGRAM

ACTION REQUIRED: You are invited to review and respond to the attached Request for Proposals
("RFP"):
Project Title: Advanced Training for Mediators in Appellate Mediation
Program
RFP Number: I DCA RFP 02/03-1

DEADLINE: **Proposals must be received by 5. p.m. on October 15, 2002**

SUBMISSION OF PROPOSAL: Proposals should be sent to:
Court of Appeal, First Appellate District
350 McAllister Street
San Francisco, CA 94102
Attention: Justice Ignazio J. Ruvolo

CONTACT FOR FURTHER INFORMATION: **NAME:** John A. Toker **TEL:** 415-865-7375 **FAX:** 415-865-7374 **E-MAIL:** john.toker@jud.ca.gov

1.0 GENERAL INFORMATION

1.1 Background

The Judicial Council of California, chaired by the Chief Justice of California, is the chief policy making agency of the California judicial system. The California Constitution directs the Council to improve the administration of justice by surveying judicial business, recommending improvements to the courts, and making recommendations annually to the Governor and the Legislature. The Council also adopts rules for court administration, practice, and procedure, and performs other functions prescribed by law. The Administrative Office of the Courts (AOC) is the staff agency for the Council and assists both the Council and its chair in performing their duties.

1.2 Appellate Mediation

In 1997, Chief Justice Ronald M. George appointed a Task Force on Appellate Mediation to determine whether to propose an experimental mediation program for civil appeals in the First Appellate District of the Court of Appeal. The task force recommended a pilot program to include:

- Mediation on a mandatory and confidential basis for selected civil cases;
- Minimal disruption of appellate procedures and deadlines;
- Mediators chosen by the court from among appellate attorneys, mediators, and retired judges who successfully complete a training course sponsored by the court;
- Implementation and administration by an administrator, with oversight by the court; and
- An evaluation after the program has been operating for a period of time.

The Judicial Council obtained funding by the Legislature for a two-year pilot program that commenced on July 1, 1999, and extended through June 30, 2001.

Program goals have been to address the interests of both litigants and the court, by:

- Reducing costs;
- Reducing time to resolution;
- Reducing the adversary culture of litigation;
- Increasing litigant satisfaction with the judicial process; and
- Increasing dispositions without judicial intervention.

All of these goals were met during the pilot period and the mediation program was extended indefinitely. The fourth year of operation began on July 1, 2002.

1.3 Previous Mediator Training

The success of the mediation program has been the result of the services of approximately 200 mediators who received from 19 to 31 hours of training in appellate mediation provided by the court. The principal subjects covered in the 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
- Drafting a memorandum of understanding

2.0 PURPOSE OF THIS REQUEST FOR PROPOSAL

The Judicial Council, on behalf of the Court, seeks the services of a service provider with experience in training mediators to conduct advanced appellate mediation training sessions as continuing education for current members of the court's mediator panel. The Court contemplates a training model consisting of two days (approximately 16 hours, including breaks) of training per mediator, in two groups of approximately 25 mediators each.

Training topics might include, but not necessarily be limited to, some of 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
- Ethical considerations
- 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
- Closing the deal

3.0 SCOPE OF SERVICES

3.1. Services are expected to be performed by the service provider between January 1, 2003 and July 1, 2003.

3.2. 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;
- B. Describe the faculty, and their qualifications, who will participate in the conduct of training sessions;
- C. Meet and work with the Program Administrator and other designated staff to review development of the training program;
- D. Submit the proposed training program to the Administrator for approval;
- E. Secure approved credit for the training from the State Bar of California as continuing legal education.

4.0 SPECIFICS OF A RESPONSIVE PROPOSAL

The following information shall be included in the proposal:

- 4.1 Name, address, telephone and fax numbers, and social security number or federal tax identification number.
- 4.2 Ten copies of the proposal signed by an authorized representative of the service provider, including name, title, address, and telephone number of one individual who is the responder's designated representative.

- 4.3 Resumes describing the background and experience of key staff, as well as each individual's ability and experience in conducting the proposed activities.
- 4.4 Describe key staff's knowledge of the requirements necessary to complete this project.
- 4.5 Names, addresses, and telephone numbers of a minimum of five (5) clients for whom the service provider has conducted mediation trainings. The AOC may check references listed by the service provider.
- 4.6 Responsive proposals should provide straightforward, concise information that satisfies the requirements noted above. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the state's instructions, requirements of this RFP, and completeness and clarity of content.
- 4.7 Overall plan with time estimates for completion of all work required.
- 4.8 Proposed methodology to complete the Project.

5.0 COST PROPOSAL

Submit a detailed line item budget showing total cost of the services. Fully explain and justify all budget line items in a narrative entitled "Budget Justification."

The total cost for service provider 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.

6.0 RIGHTS

The AOC reserves the right to reject any and all proposals, in whole or in part, as well as the right to issue similar RFPs in the future. This RFP is in no way an agreement, obligation, or contract and in no way is the AOC or the State of California responsible for the cost of preparing the proposal. One copy of a submitted proposal will be retained for official files and becomes a public record.

Only written responses will be accepted. Responses should be sent by registered or certified mail or by hand delivery. The service provider may send the AOC an advance copy by facsimile to the Project Manager at the fax number listed in Section 7.0, below. However, sending an advance copy by fax does not satisfy the submission requirements of paragraph 4.2.

7.0 PROJECT MANAGEMENT

The Project Manager for this RFP process is:

John A. Toker
Mediation Program Administrator
Court of Appeal, First Appellate District
350 McAllister Street
San Francisco, CA 94102-3660
Tel: 415-865-7375
Fax: 415-865-7374
john.toker@jud.ca.gov

8.0 EVALUATION OF PROPOSALS

Proposals will be evaluated by the Court of Appeal, First Appellate District, using the following criteria:

- a. Quality of work plan submitted
- b. Experience on similar assignments
- c. Credentials of staff to be assigned to the project
- d. Ability to meet timing requirements to complete the project
- e. Reasonableness of cost projections
- f. Proposed curriculum

9.0 ADDITIONAL REQUIREMENT

It may be necessary to interview prospective service providers to clarify aspects of their submittal. If so, the Project Manager will notify prospective service providers regarding the interview arrangements.

10.0 PROPOSED CONTRACT TERMS AND ADMINISTRATIVE RULES

Contracts with successful firms will be signed by the parties on a State of California Standard Agreement form and will include terms appropriate for this project. Generally, the terms of the contract will include, but are not limited to: (1) completion of the project within the time frame provided; (2) no additional work authorized without prior approval; (3) no payment without prior approval; (4) funding availability subject to Legislature; (5) termination of contract under certain conditions; (6) indemnification of the State; (7) approval by the State of any subservice providers; (8) national labor relations board, drug-free workplace, nondiscrimination, and ADA requirements; and (9) minimum appropriate insurance requirements.

Incorporated in this RFP, and attached as Attachment A, is a document entitled “Administrative Rules Governing Requests for Proposals. Service providers shall follow these rules in preparation of their proposals.

11.0 DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS

The State requires contract participation goals of three percent (3%) for disabled veteran business enterprises (DVBEs). Therefore, your response should demonstrate DVBE compliance; otherwise, if it is impossible for you to comply, please use the DVBE participation form attached as Attachment B to explain why, and demonstrate written evidence of a “good faith effort” to achieve participation. You must complete the attached DVBE participation requirement form even if it is only to explain why you cannot achieve the participation goal. Completing the attached form to the extent feasible is mandatory to be responsive to this solicitation’s requirements. If you have any questions regarding the form, you should contact the Contracting Officer, Stephen Saddler, at 415-865-7989. For further information regarding DVBE resources, please contact the Office of Small Business and DVBE Certification, at 916-375-4940.

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

ADMINISTRATIVE RULES GOVERNING REQUESTS FOR PROPOSALS

A. General

1. This solicitation document, the evaluation of proposals, and the award of any contract shall conform with current competitive bidding procedures as they relate to the procurement of goods and services. A vendor's proposal is an irrevocable offer for 30 days following the deadline for its submission.
2. A nondiscrimination clause will be included in any contract that ensues from this solicitation document.
3. In addition to explaining the State's requirements, the solicitation document includes instructions which prescribe the format and content of proposals.

B. Errors in the solicitation document

1. If a vendor submitting a proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the vendor shall immediately provide the State with written notice of the problem and request that the solicitation document be clarified or modified. Without disclosing the source of the request, the State may modify the solicitation document prior to the date fixed for submission of proposals by issuing an addendum to all vendors to whom the solicitation document was sent.
2. If prior to the date fixed for submission of proposals a vendor submitting a proposal knows of or should have known of an error in the solicitation document but fails to notify the State of the error, the vendor shall bid at its own risk, and if the vendor is awarded the contract, it shall not be entitled to additional compensation or time by reason of the error or its later correction.

C. Questions regarding the solicitation document

1. If a vendor's question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the vendor may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the vendor must submit a statement explaining why the question is sensitive. If the State concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the State does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the vendor will be notified.

Attachment A

2. If a vendor submitting a proposal believes that one or more of the solicitation document's requirements is onerous or unfair, or that it unnecessarily precludes less costly or alternative solutions, the vendor may submit a written request that the solicitation document be changed. The request must set forth the recommended change and vendor's reasons for proposing the change. Any such request must be submitted to John A. Toker, Project Manager, at the Court of Appeal, First Appellate District by 5:00 p. m. on October 1, 2002.

D. Addenda

1. The State may modify the solicitation document prior to the date fixed for submission of proposals by faxing an addendum to the vendors to whom the solicitation document was sent. If any vendor determines that an addendum unnecessarily restricts its ability to bid, it must notify John A. Toker, Project Manager, at the Court of Appeal, First Appellate District no later than one day following the receipt of the addendum.

E. Withdrawal and resubmission/modification of proposals

1. A vendor may withdraw its proposal at any time prior to the deadline for submitting proposals by notifying the State in writing of its withdrawal. The notice must be signed by the vendor. The vendor may thereafter submit a new or modified proposal, provided that it is received by John A. Toker, Project Manager, at the Court of Appeal, First Appellate District by 5:00 p. m. on October 15, 2002.
Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after 5:00 p.m. on October 15, 2002.

F. Evaluation process

1. An evaluation team will review in detail all proposals that are received to determine the extent to which they comply with solicitation document requirements.
2. If a proposal fails to meet a material solicitation document requirement, the proposal may be rejected. A deviation is material to the extent that a response is not in substantial accord with solicitation document requirements. Material deviations cannot be waived. Immaterial deviations may cause a bid to be rejected.
3. Proposals that contain false or misleading statements may be rejected if in the State's opinion the information was intended to mislead the State regarding a requirement of the solicitation document.

4. Cost sheets will be checked only if a proposal is determined to be otherwise qualified. All figures entered on the cost sheets must be clearly legible.
5. During the evaluation process, the State may require a vendor's representative to answer questions with regard to the vendor's proposal. Failure of a vendor to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal nonresponsive.

G. Rejection of bids

1. The State may reject any or all proposals and may or may not waive an immaterial deviation or defect in a bid. The State's waiver of an immaterial deviation or defect shall in no way modify the solicitation document or excuse a vendor from full compliance with solicitation document specifications. The AOC reserves the right to accept or reject any or all of the items in the proposal, to award the contract in whole or in part and/or negotiate any or all items with individual vendors if it is deemed in the AOC's best interest. Moreover, the AOC reserves the right to make no selection if proposals are deemed to be outside the fiscal constraint or against the best interest of the government.

H. Award of contract

1. Award of contract, if made, will be in accordance with the solicitation document to a responsible vendor submitting a proposal compliant with all the requirements of the solicitation document and any addenda thereto, except for such immaterial defects as may be waived by the State.
2. The State reserves the right to determine the suitability of proposals for contracts on the basis of a proposal's meeting administrative requirements, technical requirements, its assessment of the quality of service and performance of items proposed, and cost.

I. Decision

1. Questions regarding the State's award of any business on the basis of proposals submitted in response to this solicitation document, or on any related matter, should be addressed to John A. Toker, Project Manager, Court of Appeal, First Appellate District, 350 McAllister Street, San Francisco, CA 94102.

J. Execution of contracts

1. The State will make a reasonable effort to execute any contract based on this solicitation document within 30 days of selecting a proposal that best meets its requirements.

2. A vendor submitting a proposal must be prepared to use a standard state contract form rather than its own contract form.

K. Protest procedure

1. The Administrative Office of the Courts intends to be completely open and fair to all vendors in selecting the best possible system within budgetary and other constraints described in the solicitation document. In applying evaluation criteria and making the selection, members of the evaluation team will exercise their best judgment.
2. A vendor submitting a proposal may protest the award if it meets all the following conditions:
 - a. the vendor has submitted a proposal which it believes to be responsive to the solicitation document;
 - b. the vendor believes that its proposal meets the State's administrative requirements and technical requirements, proposes items of proven quality and performance, and offers a competitive cost to the State; and
 - c. the vendor believes that the State has incorrectly selected another vendor submitting a proposal for an award.
3. A vendor submitting a proposal who is qualified to protest should contact the Contract Officer at the Administrative Office of the Courts at the address given below or call him at 415-865-7989.

Stephen Saddler
Contracts Officer
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3660

4. If the Contract Officer is unable to resolve the protest to the vendor's satisfaction, the vendor should file a written protest within five working days of the contract award notification. The written protest must state the facts surrounding the issue and the reasons the vendor believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

Grant Walker
Business Services Manager
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3660

A receipt should be requested for hand-delivered material.

L. News releases

1. News releases pertaining to the award of a contract may not be made without prior written approval of the Director of the Administrative Office of the Courts.

M. Disposition of materials

1. All materials submitted in response to this solicitation document will become the property of the State of California and will be returned only at the State's option and at the expense of the vendor submitting the proposal. One copy of a submitted proposal will be retained for official files and become a public record. However, any confidential material submitted by a vendor that was clearly marked as such will be returned upon request.

N. Payment

1. Payment terms will be specified in any agreement that may ensue as a result of this solicitation document.
2. **THE STATE DOES NOT MAKE ANY ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon completion of tasks as provide in the agreement between the State and the selected vendor. The State may withhold ten percent of each invoice until receipt of the final product. The amount of the withhold may depend upon the length of the project and the payment schedule provide in the agreement between the State and the selected vendor.

Attachment B

Propser Name: _____
RFP Project Title: _____
RFP Number: _____

The State’s goal of awarding of at least three percent (3%) of the total dollar contract amount to Disabled Veterans Business Enterprise (DVBE) has been achieved for this Project. *Check one:*

Yes _____ *(Complete Parts A & C only)*

No _____ *(Complete Parts B & C only)*

“Service provider’s Tier” is referred to several times below; use the following definitions for tier:

- 0 = Prime or Joint Service provider;
- 1 = Prime subservice provider/supplier;
- 2 = Subservice provider/supplier of level 1 subservice provider/supplier

PART A – COMPLIANCE WITH DVBE GOALS

Fill out this Part ONLY if DVBE goal has been met; otherwise fill out Part B.

INCOMPLETE DOCUMENTATION MAY RESULT IN DISQUALIFICATION FROM FURTHER PARTICIPATION IN SELECTION PROCESS FOR THIS CONTRACT

PRIME SERVICE PROVIDER

Company Name: _____

Nature of Work _____ Tier: _____

Claimed Value: DVBE \$ _____

Percentage of Total Contract Cost: DVBE _____%

SUBCONTRACTORS/SUBSERVICE PROVIDER/PROPOSERS/SUPPLIERS

1. Company Name: _____
 Nature of Work: _____ Tier: _____
 Claimed Value: _____ DVBE \$. _____

Percentage of Total Contract Cost: DVBE _____%

2. Company Name: _____
 Nature of Work _____ Tier: _____
 Claimed Value: _____ DVBE \$ _____

Percentage of Total Contract Cost DVBE _____%

3. Company Name: _____
 Nature of Work _____ Tier: _____
 Claimed Value: _____ DVBE \$ _____

Percentage of Total Contract Cost DVBE _____%

GRAND TOTAL: DVBE _____%

PART B – ESTABLISHMENT OF GOOD FAITH EFFORT

Fill out this Part ONLY if DVBE goal will not be met but you have made a good faith effort to meet such goal.

INCOMPLETE DOCUMENTATION MAY RESULT IN DISQUALIFICATION FROM FURTHER PARTICIPATION IN SELECTION PROCESS FOR THIS CONTRACT

- List contacts made with personnel from state or federal agencies, and with personnel from DVBEs to identify DVBEs.

<i>Source</i>	<i>Person Contacted</i>	<i>Date</i>

Attachment B

2. List the names of DVBE's identified from contacts made with other state, federal, and local agencies.

<i>Source</i>	<i>Person Contacted</i>	<i>Date</i>

3. If an advertisement was published in trade papers and/or papers focusing on DVBEs, attach proof of publication.

<i>Publication</i>	<i>Date(s) Advertised</i>

4. Solicitations were submitted to potential DVBE service providers (list the company name, person contacted, and date) to be subservice providers. Solicitation must be job specific to plan and/or contract.

<i>Company</i>	<i>Person Contacted</i>	<i>Date Sent</i>

5. List the available DVBEs that were considered as subservice providers or suppliers or both. (Complete each subject line.)

<i>Company Name:</i>	
<i>Contact Name & Title:</i>	
<i>Telephone Number:</i>	

Attachment B

<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

<i>Company Name:</i>	
<i>Contact Name & Title:</i>	
<i>Telephone Number:</i>	
<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

<i>Company Name:</i>	
<i>Contact Name & Title:</i>	
<i>Telephone Number:</i>	
<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

CERTIFICATION *(to be completed by Proposer)*

I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief, each firm set forth in this bid as a Disabled Veterans Business Enterprise complies with the relevant definition set forth in section 1896.61 of Title 2, and section 999 of the Military and Veterans Code, California Code of Regulations. In making this certification, I am aware of section 10115 *et seq.* of the Government Code that establishes the following penalties for State Contracts:

Penalties for a person guilty of a first offense are a misdemeanor, civil penalty of \$5,000, and suspension from contracting with the State for a period of not less than thirty (30) days nor more than one (1) year.

Attachment B

Penalties for second and subsequent offenses are a misdemeanor, a civil penalty of \$20,000 and suspension from contracting with the State for up to three (3) years.

IT IS MANDATORY THAT THE FOLLOWING BE COMPLETED ENTIRELY; FAILURE TO DO SO WILL RESULT IN IMMEDIATE REJECTION.

<i>Firm Name of Proposer:</i>	
<i>Signature of Person Signing for Proposer</i>	
<i>Name (printed) of Person Signing for Proposer</i>	
<i>Title of Above-Named Person</i>	
<i>Date</i>	

PART C – CONTRACT AMOUNT CERTIFICATION

To be filled out by ALL proposers.

I hereby certify that the “Contract Amount,” as defined herein, is the amount of \$_____. I understand that the “Contract Amount” is the total dollar figure against which the DVBE participation requirements will be evaluated.

<i>Firm Name of Proposer</i>	
<i>Signature of Person Signing for Proposer</i>	
<i>Name (printed) of Person Signing for Proposer</i>	
<i>Title of Above-Named Person</i>	
<i>Date</i>	