



REQUEST FOR PROPOSALS

ADMINISTRATIVE OFFICE OF THE COURTS

**REGARDING:
LIVE AND RECORDED TRAINING FOR
MEDIATORS - MEDIATING WITH SELF-
REPRESENTED LITIGANTS**

RFP # OGC-ADR-03-NN

**PROPOSALS DUE:
May 4, 2012 NO LATER THAN 5:00 P.M. PACIFIC TIME**

INTRODUCTION

The purpose of this Request for Proposals (RFP) is to solicit and award a one (1) year contract to a qualified person or entity to design, present and produce a live and recorded training program, suitable for statewide use by California courts, to improve mediators' effectiveness in mediating limited and unlimited civil cases with one or more self-represented litigants.

Additional information about and documents pertaining to this solicitation, including electronic copies of the solicitation documents can be found on the California Courts Website, at www.courts.ca.gov/rfps.htm).

1.0 BACKGROUND INFORMATION

- 1.1 The Judicial Council of California (Council), 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 and is a Judicial Branch Entity. The AOC's Office of the General Counsel provides support for superior court (trial court) alternative dispute resolution (ADR) programs for unlimited and limited civil cases (general civil cases) and small claims, unlawful detainer, and civil harassment proceedings.
- 1.2 Mediation Programs for Self-Represented Litigants. Many California trial courts offer or collaborate with ADR programs to help litigants resolve general civil cases and small claims, unlawful detainer, and civil harassment proceedings by agreement. Trial courts and the Judicial Council of California have recognized that mediation programs can be very beneficial—for courts and for litigants—in the increasing number of cases involving self-represented litigants (SRLs). However, SRLs often need information or assistance to participate effectively in court-connected mediation programs; courts may need to supplement or adapt these programs to serve effectively SRLs; and mediators may need special knowledge, skills, and abilities (KSAs) to handle effectively these cases.
- 1.3 Mediator training requirements and rules of conduct. In mediation programs for general civil cases, courts must establish minimum qualifications for the mediators who are eligible to be included on a court's list or to be recommended, selected, appointed, or compensated by the court (Cal. Rules of Ct., rule 10.781). And, the mediators who serve in these programs are required to observe the Rules of Conduct for Mediators in Court-Connected Mediation Programs for Civil Cases (Cal. Rules of Ct., rule 3.850 et seq.).

Model qualification standards developed by the AOC to assist courts in establishing local qualification requirements suggest that these mediators should have received at least 40 hours of mediation training covering specified topics, including mediator ethics and the rules of conduct, and should have completed at least six (6) mediations of at least two hours in length. The model qualification standards also suggest that mediators should receive at

least seven (7) hours of continuing mediation education or training every two years, including at least one (1) hour addressing mediator ethics. Some trial courts apply similar qualification requirements and/or require mediators to follow the Rules of Conduct for general civil cases in small claims, unlawful detainer and civil harassment proceedings.

- 1.4 Mediators in court-connected mediation programs. Many court-connected mediation programs rely on panels or lists of neutrals, who often serve as volunteers or at a reduced rate of compensation. To ensure the quality of these programs and to provide an incentive for mediators to serve in them, courts frequently make training available to these mediators without cost or at a reduced cost.

The mediators who serve in court-connected mediation programs may or may not be attorneys and, in either case, may or may not have knowledge or expertise about the subject matter of the dispute. Some trial courts have reported that attorneys on their panels are reluctant or unwilling to serve in cases involving SRLs. Attorney and non-attorney mediators may have some similar and some different challenges and concerns when handling cases involving SRLs. And, the challenges, concerns, and solutions for both attorney and non-attorney mediators may vary depending on the subject matter of the dispute and whether the mediator has knowledge or expertise in that area.

2.0 DESCRIPTION OF SERVICES AND DELIVERABLES

- 2.1 Introduction. The AOC seeks the services of a team of professionals with the subject matter expertise, technical skills, and equipment to develop, present, and produce live and recorded training programs to improve mediators' comfort, confidence, and effectiveness in mediating general civil cases involving one or more self-represented litigants. The monetary range of the proposed contract to be awarded from this RFP is **\$15,000.00 to \$25,000.00**, which is subject to availability of funding. If a contract is awarded, the work is expected to begin on **June 29, 2012** and to be completed by **June 30, 2013**.

- 2.2 General scope of services requirements.

- 2.2.1 The live and recorded program must:

- 2.2.1.1 Be targeted to and suitable for mediators who have already completed a basic mediation training program and have varied levels of actual mediation experience;

- 2.2.1.2 Include one three-hour core segment that identifies, explores, and provides techniques, tools, and strategies to address key issues that commonly arise for attorney and non-attorney mediators when mediating cases with SRLs;

- 2.2.1.3 Include three one-hour segments that supplement the core segment by addressing specific issues that may arise and be particularly challenging (1) for attorneys mediating with SRLs; (2) for non-attorneys mediating with

SRLs; and (3) when attorneys or non-attorneys mediate particular types of cases;

2.2.1.4 Incorporate audio/visual vignettes that serve as discussion points for both live and recorded programs; and

2.2.1.5 Develop associated written materials to support the course work, including job aids and handouts.

2.2.2 The live program must also:

2.2.2.1 Include a significant amount of participatory activity;

2.2.2.2 Be presented, in its entirety, one time in Southern California and one time in Northern California, at facilities specified by the AOC (which facilities will be made available without charge to the contractor); and

2.2.2.3 Be captured in high definition video, for use in the recorded program.

2.2.3 The recorded program must also:

2.2.3.1 Be designed and produced in a manner that will educate and hold the interest of mediators who watch it;

2.2.3.2 Incorporate video from the live programs with graphics and other multi-media elements, such as audio/visual vignettes, animations, slides, and narration; and

2.2.3.3 Be professionally produced in high definition.

2.3 Tasks and Deliverables.

The AOC anticipates the following major tasks and specific deliverables in connection with the scope of services described in this Request for Proposal (RFP). The Proposer should correct, validate and expand on these items in the Technical Proposal, as deemed necessary or desirable by the Proposer.

2.3.1 Task 1 - Research. Identify challenges and desirable KSAs for attorneys and non-attorneys mediating with SRLs.

2.3.1.1 Tasks:

- Review information about California court-connected mediation programs for SRLs
- Review literature about mediating with SRLs
- Obtain input from judicial officers and court ADR program staff, persons who assist SRLs (e.g. self-help center and legal services provider staff), and attorney and non-attorney mediators to identify and learn about: the

perceived challenges and benefits of SRL participation in mediation, the assistance SRLs require to effectively prepare for and participate in mediation, and mediators' concerns, challenges, practices, and approaches with respect to mediating with SRLs. (Proposers should consider recording some of this input for possible use in training program.)

2.3.1.2 Deliverable: Narrative report summarizing findings and conclusions about desirable KSAs for mediating with SRLs.

2.3.2 Task 2 - Curriculum development.

2.3.2.1 Tasks: Conduct gap analysis to determine what KSAs for mediating with SRLs are not covered in basic mediation training; develop overall learning objectives; determine and outline content of core and supplemental programs; determine instructional strategies and format for live and recorded programs; develop storyboards for the recorded program; develop instructor and participant materials, including, but not limited to, agendas, PowerPoint presentations and other multi-media presentations, and exercises, hypothetical scenarios, participant evaluation forms, and other handouts for live and recorded programs.

2.3.2.2 Deliverable: Complete curriculum package, including all items mentioned above.

2.3.3 Task 3 – Live program presentations.

2.3.3.1 Tasks: Schedule and coordinate logistics for live programs in two AOC locations with AOC staff; reproduce and assemble program materials for instructors and participants; conduct training; review feedback and debrief; and revise curriculum package as indicated.

2.3.3.2 Deliverable: Program presented in two locations; audio/video of the live trainings and revised curriculum package submitted to AOC.

2.3.4 Task 4 – Produce recorded program.

2.3.4.1 Tasks: Development and integration of multi-media program elements, including video segments from live training programs.

2.3.4.2 Deliverable: Complete training program submitted to AOC, in high definition, on master DVDs and electronic files and formats suitable for streaming on the internet.

3.0 TIMELINE FOR THIS RFP

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

EVENT	DATE
RFP issued	April 17, 2012
Deadline for questions to Solicitations@jud.ca.gov	April 24, 2012,
Questions and answers posted (estimate only)	April 27, 2012
Latest date and time proposal may be submitted	May 4, 2012, at 5:00 P.M.
Evaluation of proposals (estimate only) This period shall include any interviews.	May 7 through May 11, 2012
Notice of Intent to Award (estimate only)	May 14, 2012
Negotiations and execution of contract (estimate only)	May 14 through May 23, 2012
Notice of Award (estimate only)	May 30, 2012
Contract start date (estimate only)	June 29, 2012
Contract end date (estimate only)	June 30, 2013

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: AOC Standard Terms and Conditions	If selected, the person or entity submitting a proposal (the “Proposer”) must sign an AOC Standard Form agreement containing these terms and conditions (the “Terms and Conditions”). The provisions marked with an (*) within the Terms and Conditions are minimum contract terms and conditions (“Minimum Terms”).
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.
Attachment 4: Payee Data Record Form	This form contains information the AOC requires in order to process payments.
Attachment 5: Darfur Contracting Act Certification	Proposer must complete the Darfur Contracting Act Certification and submit the completed certification with its proposal.
Attachment 6: Conflict of Interest Certification Form	Proposer must complete Conflict of Interest Certification and submit the completed certification with its proposal

5.0 SUBMISSION OF PROPOSALS

- 5.1 Proposals should provide straightforward, concise information that satisfies the requirements of Section 6 (“Proposal Contents”). 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 the proposal in two parts, the technical proposal and the cost proposal.
- 5.2.1 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 Proposer must write the RFP title and number on the outside of the sealed envelope.*
- 5.2.2 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 to the AOC 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.*
- 5.2.3 The Proposer must submit a complete electronic version of each proposal on CD-ROM. The files contained on the CD-ROM should be in PDF as well as editable/unprotected Word or Excel formats.
- 5.2.4 In addition to the Technical Proposal and Cost Proposal, *submit one (1) original and one (1) copy of the original signed documents for the following:*
- Attachment 2 – AOC Standard Terms and Conditions (submit only if there are exceptions/modifications as indicated on Attachment 3)
 - Attachment 3 – Proposer’s Acceptance of Terms and Conditions
 - Attachment 4 - Payee Data Record Form
 - Attachment 5 – Darfur Contracting Act Certification
 - Attachment 6 – Conflict of Interest Certification Form
- 5.3 Only written proposals will be accepted. Proposals must be submitted by registered or certified mail, courier service (e.g. FedEx), or delivered by hand to the following address. Proposals may not be submitted by facsimile or email.

Judicial Council of California
Administrative Office of the Courts
Finance Division
Attn: Nadine McFadden, RFP: OGC-ADR-03-NN
455 Golden Gate Avenue 7th Floor
San Francisco, CA 94102-3688

- 5.4 Proposals must be received by the date and time listed on the coversheet of this RFP. Late proposals will not be accepted.

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.

- 6.1.1 General information about Proposer

- 6.1.1.1 Proposer's name, address, telephone and fax numbers, and federal tax identification number. Note that if Proposer is a sole proprietor using his or her social security number, the social security number will be required before finalizing a contract.

- 6.1.1.2 Name, title, address, telephone number, and email address of the individual who will act as Proposer's designated representative (authorized to bind the entity in contract) for purposes of this) RFP.

- 6.1.2 Proposer's experience and ability to meet the RFP deliverable requirements.

- 6.1.2.1 An overview of the Proposer's business activities, including a description, and the duration and extent, of the Proposer's activities, which are relevant to this proposal including a description, and the duration and extent, of the Proposer's experience developing, presenting, and producing live and recorded training programs for mediators and other ADR neutrals or similar professionals.

- 6.1.2.2 For each key staff member who would work on this project, a verifiable resume describing the individual's background, training, and experience, including the individual's ability and experience in conducting similar projects.

- 6.1.2.3 A description of three (3) similar projects that the Proposer has completed and, if feasible, short examples of the project deliverables.

- 6.1.2.4 Names, addresses, and telephone numbers of three (3) clients for whom the Proposer has conducted similar projects. The AOC may check references listed by Proposer.

- 6.1.3 Proposed method to meet the RFP deliverable requirements.

- 6.1.3.1 Describe the process or method that would be used to carry out this project.

- 6.1.3.2 List the major tasks that would be performed to complete the project and identify the person(s) assigned to perform each.

- 6.1.3.3 Describe, in detail, the proposer’s final deliverable product.
- 6.1.4 Project timeline. Provide a timeline indicating the number of days after the effective date of a contract that the work would require and when each major task or phase of the project would start and end.
- 6.1.5 Acceptance of the Terms and Conditions.
 - 6.1.5.1 On *Attachment 3, Proposer’s Acceptance of Terms and Conditions*, 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.
 - 6.1.5.2 If exceptions are identified, the Proposer must also submit a redlined version of the Terms and Conditions that clearly tracks proposed changes, and a written explanation or rationale for each exception and/or proposed change.
 - 6.1.5.3 **Note: A material exception to a Minimum Term will render a proposal non-responsive.**
- 6.1.6 Certifications, Attachments, and other requirements.
 - 6.1.6.1 Proposer must include the following certification in its proposal:

Proposer must include in its proposal a completed and signed *Attachment 4, Payee Data Record Form*, or provide a copy of a form previously submitted to the AOC.
 - 6.1.6.2 Proposer must complete *Attachment 5, Darfur Contracting Act Certification* and submit the completed certification with its proposal.
 - 6.1.6.3 Using *Attachment 6, Conflict of Interest Certification Form*, Proposer certifies it 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.
 - 6.1.6.4 If Proposer is a corporation and the contract will be performed within California, proof that Proposer is in good standing and qualified to conduct business in California. AOC may verify by checking with California’s Office of the Secretary of State.
 - 6.1.6.5 Copies of current business licenses, professional certifications, or other credentials.

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

- 6.2.1 A firm, fixed price for all services that may be provided and all expenses that may be incurred in completing each phase of the project and a total price for completing the entire project and all project deliverables. It is expected that all Proposers will offer government or comparable favorable rates.
- 6.2.2 A detailed explanation of how the price was determined, including: (1) a detailed line item budget showing total cost of the proposed services, and (2) 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 ninety (90) day period, the AOC reserves the right to negotiate extensions to this period. The AOC may release all offers upon issuance of a Notice to Award. (See RFP, section 3.0 for *Timeline For This RFP*.)

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 AOC 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
Experience and ability to conduct project (Section 6.1.2)	20
Proposed method to conduct project and project result (Section 6.1.3)	30
Project timeline (Section 6.1.4)	10
Acceptance of the Terms and Conditions (Section 6.1.5)	10
Cost Proposal (Section 6.2)	30
Maximum Score	100

9.0 INTERVIEWS

The AOC 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 be held at the AOC’s offices in San Francisco or Burbank. The AOC will not reimburse Proposers for any costs incurred in traveling to

or from the interview location. The AOC will notify eligible Proposers regarding interview arrangements.

10.0 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 a proposal. One copy of each proposal will be retained by the AOC for official files and will become a public record.

11.0 CONFIDENTIAL OR PROPRIETARY INFORMATION

California judicial branch entities are subject to rule 10.500 of the California Rule of Court (see www.courtinfo.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_500), which governs public access to judicial administrative records.

If information submitted in a proposal contains material noted or marked as confidential and/or proprietary that, in the AOC'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 AOC finds or reasonably believes that the material so marked is **not** exempt from disclosure, the AOC will disclose the information regardless of the marking or notation seeking confidential treatment.

12.0 DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS

The AOC has waived the inclusion of DVBE participation in this solicitation

13.0 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 AOC to receive a solicitation specifications protest is the due date and time for submittal of proposals. Protests must be sent to:

AOC – Business Services
Attn: Protest Hearing Officer, RFP OGC-ADR-03-NN
455 Golden Gate Avenue, Seventh Floor
San Francisco, CA 94102-3688

END OF RFP