

Alabama State Department of Education



Request for Proposals RFP ALSDE 2015-07 Special Education Services

Independent IDEA Due Process Hearing Officer

**Note: FAXED OR E-MAILED APPLICATIONS WILL NOT BE
ACCEPTED**

Inquiries and response submissions related to this RFP are to be addressed to:

Mr. Jacky P. Todd
Administrator – Office of Operations
Alabama State Department of Education
50 North Ripley Street, Room P305
Gordon Persons Building
Montgomery, AL 36104
Telephone 334-242-9760
E-mail: jtodd@alsde.edu

Deadline:

Applications **must be received no later than 4:00 p.m. on June 10, 2015.**
It is required that each vendor clearly mark the envelope RFP# ALSDE 2015-07 in the lower left corner of the envelope (response packages that are not marked will be rejected).

The application package must contain the following:

1. Original application plus four copies with original signatures (the proposal must be signed by an official authorized to legally bind the vendor to the information provided).
2. Information to certify that the vendor is currently registered with the Alabama Department of Finance, Division of Purchasing, as a State Vendor and the vendor number must be provided.
3. A completed affidavit for business entity/employer/vendor. Verification of enrollment in E-Verify should be presented on the form found in Appendix A.

<p>Proposal Public Opening Thursday June 11, 2015 9 a.m. Gordon Persons Building, Room 3346 50 North Ripley Street Montgomery, AL 36104</p>

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SECTION 1.00 ADMINISTRATIVE OVERVIEW

1.0 Purpose and Background

Purpose:

The Alabama State Department of Education (ALSDE) is seeking proposals from eligible applicants to contract as independent IDEA due process hearing officers for special education due process hearings under Part B of the *Individuals with Disabilities Education Act* (IDEA). The purpose of these contracts is to fulfill the ALSDE’s responsibility to provide this IDEA procedural safeguard in accordance with 20 U. S. C 1400, et. seq., (IDEA, P. L. 108-446) CFDA 84.027A, 34 *Code of Federal Regulations* (C.F.R.) Part 300 and *Alabama Administrative Code* (AAC) 290-8-9.08(9)(c) Impartial Due Process Hearing Procedures. The ALSDE seeks to offer contracts to four eligible applicants to serve as independent IDEA due process hearing officers for special education due process hearings under Part B of the IDEA.

The contract will be for a one-year period with an option for a second year. Vendors will be paid per due process hearing request filing and the total contract amount may not exceed \$150,000. Historical data for the cost per due process hearing request filing is provided to assist the applicant in formulating the bid.

In addition, up to 12.5 professional development days will be available at a daily rate of \$1,000 per day. In-state and out-of-state travel and travel-related expenses will be reimbursed according to the standard rates and practices as set by the state of Alabama.

Background:

The major goal of this project is:

- To establish a contract for independent IDEA due process hearing officers for special education due process hearings concerning Part B of the IDEA. In accordance with the Alabama Administrative Code (AAC), 290-8-9.08(9)(c), Impartial Due Process Hearing Procedures, a parent, guardian, or the responsible educational agency may request a due process hearing by the State Board of Education with respect to any matter relating to identification, evaluation, educational placement, or the provision of a free appropriate public education of the child.

Historical data for cost per due process hearing request filing:

Fiscal Years	Due Process Request Filings	Due Process Request Filings that Proceeded to a Hearing	Total Hearing Officer Invoices	Average Hearing Officer Cost Per Filing
2012-2014	478	28	\$1,511,473	\$3162

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Those eligible to apply must:

- Be licensed to practice law.
- Not be a person who is an employee of the SEA or the LEA that is involved in the education or care of the child, or a person having a personal or professional interest that would conflict with his or her objectivity in a hearing.
- Possess knowledge of and the ability to understand the provisions of the IDEA, federal and state regulations pertaining to the IDEA, and legal interpretations of the IDEA by federal and state courts.
- Possess the knowledge and ability to conduct hearings in accordance with appropriate standard legal practice.
- Possess the knowledge and ability to render and write decisions in accordance with appropriate standard legal practice.

The execution date for the contract is for the period of October 1, 2015, to September 30, 2016. The approved contract will become effective on the date it is signed by all parties. A person who otherwise qualifies to conduct a hearing is not an employee of the ALSDE solely because he or she is paid by the ALSDE to serve as an independent IDEA due process hearing officer. There is no entitlement to any state merit system benefits to anyone working under this agreement. This agreement is subject to termination in the event of proration of the fund from which payment under this agreement is to be made or may be terminated by either party upon receipt of a thirty (30) day written notification. This agreement shall not be subject to modification or amendment except by written agreement with the appropriate authorized signatures. Neither party shall have the right to assign or transfer its rights or obligations under this contract without the written consent of the other party.

1.02 Anticipated Time Table:

June 10, 2015	Proposal Submission Deadline
June 11, 2015	RFP Opening

1.03 Application Evaluation:

An Evaluation Team will review the proposals and make the selection. The criteria listed below will be used to evaluate the proposals for the purpose of ranking them in relative position based on how fully each proposal meets the requirements of this RFP.

Evaluation Criteria:

Professional Experience	50 points
Qualifications	30 points
Cost per due process hearing request filing	10 points
References	10 points

Best and Final Offers:

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The ALSDE may either accept a vendor's initial proposal by award of a contract or enter into discussions with vendors whose proposals are deemed to be reasonably acceptable for consideration of an award. After discussions are concluded, a vendor may be allowed to submit a "Best and Final Offer" for consideration. The ALSDE will make all decisions regarding evaluation of the RFP. The ALSDE reserves the right to judge and determine whether a request is compliant with and has satisfactorily met the requirements of the RFP. The ALSDE reserves the right to waive technical defects if, in its judgment, the interest of the ALSDE so requires. At the ALSDE's request and discretion, RFP revisions may be permitted after submission but before selection. Any further information disclosed about the RFP during this process will be provided to all applicants. For the purpose of verifying the contents of the applications, the ALSDE may request additional information, staff interviews, and content presentations. Discussions may be conducted with applicants that submit RFPs determined to be reasonably suitable of being selected for the purpose of clarifying and assuring full cooperation in meeting these terms but are not required. The ALSDE reserves the right to reject at its sole discretion the proposals it deems non-cooperative applications. No decision will be made prior to the awarding of the RFP at the bid opening.

Method of Payment:

Payment will be made upon receipt of an approvable itemized, signed claim documenting the dates the due process hearing request was assigned and the date the due process hearing was completed. Supporting documentation must be submitted if requested by the ALSDE. Final claims must be received prior to November 30, 2016. In the event that a due process hearing remains open past the conclusion of the fiscal year an invoice may be submitted noting the date assigned and the anticipated date of completion. Invoicing for professional development days and related travel expenses will be invoiced using the standard set by the state of Alabama.

Rejection of Proposal:

The ALSDE reserves the right to reject any or all proposals that are deemed to be non-responsive, late in submission, or unsatisfactory in any way. The ALSDE shall have no obligation to award a contract for work, goods, and/or services as a result of this RFP.

Confidentiality:

All information contained in the RFP is considered to be the exclusive property of the ALSDE. Recipients of this RFP are not to disclose any information contained within the RFP unless such information is publically available. This RFP is provided for the sole purpose of allowing vendors to respond to these specifications. A previous contract has existed for the services being obtained via this RFP. A copy of the contract can be requested by contacting the ALSDE, Special Education Services Section, at (334) 242-8114.

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Selection Process:

Final selection of the successful vendors will be based on the evaluation criteria indicated. RFPs will be reviewed to ascertain that minimum requirements have been met.

Professional experience evaluation criteria includes the following:

- Number of years as a licensed attorney.
- Number of years as a teacher, educational administrator, or postsecondary instructor.
- Number of years as an arbitrator, hearing officer, or administrative law judge.
- Number of years as an IDEA mediator, IDEA hearing officer, or IDEA administrative law judge.

Qualifications evaluation criteria includes the following:

- Juris Doctor degree.
- Additional or specialized legal certification or endorsement.
- Additional earned Doctorate degree.
- Membership(s) in professional organization(s).
- Teaching or Education Administration certification.

Cost per due process hearing request filing criteria includes the following:

- Dollar amount bid per due process hearing request filing.

Applicants must provide a minimum of three and no more than five professional references that describe the applicant's character, experience, and performance. The applicant may not use references from any current full-time employee of the ALSDE or attorney that is currently litigating IDEA cases in the state of Alabama.

The ALSDE reserves the right to conduct discussions with potential vendors in order to clarify information contained in their proposals, but the ALSDE has no obligation to do so.

Disclaimer Notice:

The ALSDE will not be liable for any costs associated with the preparation of proposals or negotiations of a contract incurred by any party.

Availability of Funds:

It is expressly understood and agreed that the obligations of the ALSDE to proceed is conditioned upon the continued availability of funds that may be expended for these purposes.

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1.04 Conditions and Terms

Contract Terms:

The contract resulting from this RFP has the option to be renewed for one additional year pending agreement of the vendor and the ALSDE. The contract will commence pending Legislative Review Committee approval and the Governor's signature.

Responses should reference each element in the RFP by number on the cover of each copy and be arranged in the same sequence. All fees and costs are to be stated in United States currency. Respondents must reply to each element of the RFP.

SECTION 2.00 SCOPE OF WORK

2.01 Scope of Provider's Work and Responsibilities

Independent IDEA due process hearing officers:

The vendor shall provide hearing officer services for the ALSDE in accordance with the following provisions and requirements:

- The vendor shall provide services in compliance with, but not limited to, 20 U. S. C 1400, et. seq., (IDEA, P. L. 108-446) CFDA 84.027A, 34 *Code of Federal Regulations* (C.F.R.) Part 300 and *Alabama Administrative Code* (AAC) 290-8-9.08(9)(c) Impartial Due Process Hearing Procedures.
- The vendor must conduct due process hearings and render and write decisions in accordance with appropriate standard legal practices.
- The vendor will determine if a parent or guardian participating in a due process hearing has limited English proficiency and needs language assistance. If so, the vendor will request the ALSDE to provide qualified language assistance, including interpreting and translation services, for the parent or guardian.
- The vendor shall ensure that the due process hearings, including the rendering, writing, and mailing of the decision order, are completed within the statutory timeline allowed unless an extension to such timeline is granted. The vendor shall have the discretion to grant or deny timeline extension requests received from a participating party. Timeline extension requires the motion of a party, good cause for granting the motion to extend, and the extension to be in the best interest of the child. Extensions may not be routinely granted. In the event the vendor grants an extension of the timeline, the vendor shall document the party's request for such extension and shall grant the extension for a date-certain. The vendor shall notify the ALSDE for each instance a timeline extension is granted. This notification will document the party or parties requesting the timeline extension, the cause for which the timeline extension was requested, and the date-certain of the extension.
- Within the 30 calendar day resolution period the vendor will set the date for the commencement of the due process hearing.

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- Within the 30 calendar day resolution period the vendor will provide both parties and the ALSDE a prehearing order specifically identifying the claims and issues raised in the hearing request.
- The vendor shall control the hearing process. In general, a hearing should last no longer than three days. The vendor shall document good cause in the record and decision if the hearing exceeds three days.
- The vendor shall control the presentation of evidence in accordance with standard legal practice.
- The vendor shall agree and understand that failure to meet either the statutory and regulatory timeline, or the requirement for documentation of the specific extension of the timeline, which must be at the request of either party, may result in the cancellation of the contract.
- The vendor may not preside over a due process hearing request that is filed by, or against, the local education agency in which the independent IDEA due process hearing officer has his primary place of residence.
- The vendor shall participate in all training deemed to be appropriate by the ALSDE for independent IDEA due process hearing officers. This training includes, but is not limited to, special education statutes, special education rules and regulations, and special education litigation. In addition, the hearing officer will be required to stay current with special education issues by reviewing (at a minimum) all special education due process hearing decisions rendered by independent IDEA due process hearing officers on contract with the ALSDE as well as the biweekly *Individuals with Disabilities Education Law Report*.

2.02 Scope of Alabama State Department of Education’s Work and Responsibilities

Specific responsibilities of the ALSDE are stated below.

- Appoint, on a rotational basis, a qualified hearing officer.
- Provide for a qualified court reporter to make an official transcript of the hearing.
- Arrange for an interpreter as requested by the independent IDEA due process hearing officer.
- Keep a list of persons who serve as independent IDEA due process hearing officers, which must include a statement of the qualifications of each person.
- Ensure that not later than 45 days after the expiration of the 30 calendar day resolution period or the adjusted time periods, a final decision is reached and a copy of the decision is mailed to each of the parties.
- Maintain comprehensive tracking and filing regarding each impartial due process hearing to include, but not be limited to, all written correspondence, evidence, decisions, and transcripts.
- Provide non-redacted copies of hearing findings and decisions to each independent IDEA due process hearing officer.
- Provide non-redacted copies of select orders and other hearing documents that would assist independent IDEA due process hearing officers to fulfill their role and responsibilities.
- Provide professional development for independent IDEA due process hearing officers.
- Provide for an annual review of the independent IDEA due process hearing officers’ work and responsibilities.

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- Provide for payment of the independent IDEA due process hearing officers, court reporter, and interpreter.

SECTION 3.0 GENERAL REQUIREMENTS

3.01 Requirements of Proposal

The vendor must provide the following mandatory information. **Failure to provide this information may be cause for the proposal to be rejected.** Qualifications, experience, and references will be evaluated for contract award. The proposal may be submitted under the same cover with Vendor Requirements and Cost Proposal in two distinct sections. E-verify information is required to be submitted for all employees to include contractors of the vendors if necessary and applicable.

Part I

Signed Cover Letter:

The cover letter that shall serve as the first page of the applicant's proposal. The vendor shall complete the cover letter and attach it to the completed plan in response to the RFP. The cover letter must be signed by an official authorized to legally bind the applicant. It will state that the applicant is a legal entity that will meet the specification. The cover letter must be attached as the first page to the entire plan and must have original signatures and must include contact numbers and e-mail address for the authorized official signing the letter.

Part II

Vendor Qualification and Experience:

Vendor shall provide satisfactory evidence of the vendor's capability to coordinate the types of activities and to provide the services described in the RFP in a timely manner. Special attention should be given to the discussion of experience. The discussion shall include a description of the vendor's background and relevant experience as related to the required activities in the RFP.

Describe vendor's qualifications and experience providing similar services as required in this RFP. Resumes or minimum qualifications to provide this service shall be included that contain education, experience, and license/or certifications.

Part III

Production Proposal:

Vendor shall provide a detailed description of how the services will be performed to meet the components as required in the RFP. The detailed description must be prepared and organized in a clear and concise manner that is easily understandable. The detailed description should address the tasks to be accomplished and the processes to be undertaken to accomplish those tasks. An executive summary should condense and highlight the contents of the entity's proposal.

Vendor Organization:

Describe your organizational structure and explain how your organization qualifies to be responsive to the requirements of this RFP.

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References:

The vendor shall provide a minimum of three (3) and no more than five (5) professional references who can support and validate the qualifications and ability to provide service as an IDEA due process hearing officer.

Executive Summary:

An executive summary is required. This summary will condense and highlight the contents of the vendor's application.

Part IV

Subcontractor Disclosure:

The vendor is not authorized to subcontract the work to be performed. However, the vendor may utilize employees of his or her firm to assist with the completion of standard administrative tasks necessary to fulfill the provider's scope of work and responsibility. The vendor shall remain solely responsible for the performance of all work.

SECTION 4.0 GENERAL TERMS AND CONDITIONS

4.01 Governance

This RFP and its terms shall be governed and construed according to the laws of the state of Alabama. Any dispute arising out of this RFP shall be brought in the state of Alabama, with venue in Montgomery County, Alabama. Applicants agree to comply with all applicable federal and state laws and regulations.

4.02 Immigration

The proposal must contain a statement that the firm is aware of the requirements of the *Beason-Hammon Alabama Taxpayer and Citizen Protection Act* and a statement that the Proposer is enrolled in the E-Verify as required by Section 31-13-9 (b), *Code of Alabama*, 1975, as amended.

BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT
COMPLIANCE

The Beason-Hammon Alabama Taxpayer and Citizen Protection Act (31-13-1 et seq, *Code of Alabama*, 1975 as amended by Act 2012-491) regulates illegal immigration in the State of Alabama. All contracts with the State or political subdivision thereof must comply with that law.

For the purposes of this RFP and any responding Proposal, the following sections of that law impose specific requirements: Section 9 (a) of the Act provides "As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or a state-funded

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entity to a business entity or employer that employs one or more employees, the business entity or employer shall not knowingly employ an unauthorized alien within the State of Alabama.”

Section 9(b) of the Act requires “As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or a state-funded entity to a business entity or employer that employs one or more employees within the State of Alabama, the business entity or employer is enrolled in the E-Verify program.”

As provided in the Act a “**business entity**” is *any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit* and an “**employer**” is defined as *any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control of custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.*

A proposal must include a statement that the Proposer has knowledge of this law and is in compliance. Before a contract is signed, the Contractor awarded the contract must submit a Certificate of Compliance using the form in Appendix A to this RFP, unless exempt because it has been issued by the United States Department of Homeland Security upon enrollment in the E-Verify Program. E-Verify enrollment can be accomplished at the Web site of the United States Department of Homeland Security at <http://www.uscis.gov>.

See Section 10 for additional language required by Section 10(k) of the Act to be included in the contract. *Rev.5-24-13*

4.03 Conflict of Interest

The applicant attests that no employee, officer, or agent of the applicant shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. A conflict would arise when the employee, officer, agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein has a financial or other interest in the organization selected for an award. The officers, employees, and agents of the applicant shall neither award nor offer gratuities, favors, nor anything of monetary value from vendors or subcontractors.

4.04 Discrimination

Alabama Non-Discrimination Statement:

No person shall be denied employment, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program or activity on the basis of disability, gender, race, religion, national origin, color, age, genetic information, or any other category protected under the law. Ref: **Sec. 1983, Civil Rights Act, 42 U.S.C.; Title VI and VII, Civil Rights Act of 1964; Rehabilitation Act of 1973, Sec. 504; Age Discrimination in Employment Act;** the

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Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Amendments Act of 2008; Equal Pay Act of 1963; Title IX of the Education Amendment of 1972; Title II of the Genetic Information Nondiscrimination Act of 2008. Title IX Coordinator, P.O. Box 302101, Montgomery, Alabama 36130-2101 or call (334) 242-8165.

Federal Non-Discrimination Statement:

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or if all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.) If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found on http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (in Spanish).

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APPENDIX "A"

State of _____)

County of _____)

**CERTIFICATE OF COMPLIANCE WITH THE BEASON-HAMMON ALABAMA TAXPAYER AND
CITIZEN PROTECTION ACT (ACT 2011-535, as amended by Act 2012-491)**

DATE: _____

RE Contract/Grant/Incentive (*describe by number or subject*):

_____ **by and between**
_____ **(Contractor/Grantee)ad**
_____ **(State Agency, Department**
or Public Entity)

The undersigned hereby certifies to the State of Alabama as follow:

1. The undersigned holds the position of _____ with the Contractor/Grantee named above, and is authorized to provide representations set out in this Certificate as the official and binding act of that entity, and has knowledge of the provisions of THE BEASON-HAMMON ALABAMA TAXPAYER AND CITIZEN PROTECTION ACT (ACT2011-535 of the Alabama Legislature, as amended by Act 2012-491) which is described herein as "the Act".
2. Using the following definitions from Section 3 of the Act, select and initial either (a) or (b), below, to describe the Contractor/Grantee's business structure.

BUSINESS ENTITY. Any person or group of persons employing one or more persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not for profit. "Business entity" shall include, but no be limited to the following:

- a. Self-employed individuals, business entities filing articles of incorporation, partnerships, limited partnerships, limited liability companies, foreign corporations, foreign limited partnerships, foreign limited liability companies authorized to transact business in this state, business trusts, and any business entity that registers with the Secretary of State.
- b. Any business entity that possess a business license, permit, certificate, approval, registration, charter, or similar form of authorization issued by the state, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without a business license.

EMPLOYER. Any person, firm, corporation, partnership, joint stock association, agent, manager, representative, foreman, or other person having control or custody of any employment, place of employment, or of any employee, including any person or entity employing any person for hire within the State of Alabama, including a public employer. This term shall not include the occupant of a household contracting with another person to perform casual domestic labor within the household.

_____(a)The Contractor/Grantee is a business entity or employer as those terms are defined in Section 3 of the Act.

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____(b)The Contractor/Grantee is not a business entity or employer as those terms are defined in Section 3 of the Act.

As of the date of this Certificate, Contractor/Grantee does not knowingly employ an unauthorized alien within the State of Alabama and hereafter it will not knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama;

Contractor/Grantee is enrolled in E-Verify unless it is not eligible to enroll because of the rules of that program or other factors beyond its control.

Certified this _____ day of _____ 20 ____.

Name of Contractor/Grantee/Recipient

By: _____

Its _____

The above Certification was signed in my presence by the person whose name appears above, on this _____ day of _____ 20 ____.

WITNESS: _____

Printed Name of Witness