

Alabama Department of Insurance

REQUEST FOR PROPOSAL for Professional Mediator Services

Responses to this Request for Proposal must be received on or before the date and time specified below. All Respondents must complete the following:

Company Name:	_____
Address:	_____
CityStZip:	_____
Phone No.:	_____
Fax No.:	_____
E-mail address:	_____
Federal Tax ID #:	_____

Return by: _____ 3:00 PM, CDT, September 29, 2006 _____

General Instructions: Respondents must submit a response to this Request for Proposal on or before the return date and time. Pricing must remain good for 180 days. All charges related to the services must be provided on this form. **NOTE: (1) Late responses will not be considered, and (2) award(s) will be made in the best interest of the State.**

**NOTE: FAILURE TO RETURN ALL PAGES OF THIS RFP
DOCUMENT WILL DISQUALIFY RESPONSE.
YOU MAY ATTACH ADDITIONAL PAGES IF NECESSARY.**

The Respondent's authorized agent must sign below. By signing this response, Respondent acknowledges that all information contained in the document is true and correct. Respondent acknowledges and represents that Respondent has read, acknowledges and accepts all requirements of this RFP. Failure to sign below will disqualify this response.

Authorized Signature

Title

Date

Information Index

1.	Type of Solicitation:	Request for Proposal (RFP)
2.	Issuing Office:	Alabama Department of Insurance P. O. Box 303351 201 Monroe Street Montgomery, AL 36130
3.	Responses Requested From:	Qualified Providers
4.	Type:	Professional Mediator Services
5.	Responses to RFP:	Sealed Competitive Offers
6.	Deadline for Responses:	September 29, 2006, 3:00 PM CDT
7.	Optional Pre-Response Conference	Not Applicable
8.	Deadline for Questions to Issuing Office (must be written):	September 19, 2006, 3:00 PM CDT
9.	Contract, if any, resulting from RFP:	Contract will incorporate RFP
10.	Additional Requirements:	Not applicable
11.	Term:	Contract Award Date through September 30, 2008
12.	Optional Terms:	Not Applicable
13.	DOI Contact Personnel for this RFP:	Reyn Norman Fax: (334) 240-7581 E-mail: Reyn.Norman@insurance.alabama.gov
14.	Faxed Responses:	Not Acceptable
15.	Letters of Intent to Submit a Response:	Not Applicable
16.	Evaluation of Responses:	
	<u>Criteria</u>	<u>Weight</u>
	Experience and Qualifications:	50 points
	Cost:	35 points
	Clarity of Response:	15 points
	<u>Total:</u>	<u>100 points</u>

RFP Checklist

Please use this checklist to verify that all required information is included with your proposal:

(Please check each item as completed before submitting proposal.)

- Page 1 – Identifying information completed, including e-mail address.
- Page 1 – Signature of authorized individual.
- Page 5 – Litigation against respondent is listed. (Paragraph 1.2.9)
- Page 7 – Disclosure of Financial Interests form is attached to the proposal submitted to DOI and a copy mailed to the Department of Examiners of Public Accounts, 50 N. Ripley Street, Room 3201, Montgomery, Alabama 36130-2101. (Paragraph 1.3.8)
- Page 10 – Any conflicts of interest are disclosed on attached sheets. (Paragraph 2.4.1)
- Page 12 – Attachments properly indicate paragraph number from RFP. (Paragraph 3.12)
- Page 12 – Response to RFP is properly addressed as follows: (Paragraph 3.7)

If sent by the U.S. Postal Service	Reyn Norman Alabama Department of Insurance P.O. Box 303351 Montgomery, Alabama 36130-3351
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- If sent by other delivery service

If sent by other delivery service	Reyn Norman Alabama Department of Insurance 201 Monroe Street, Suite 1700 Montgomery, AL 36104
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- Page 18 – Typewritten original and 3 copies of RFP filed with DOI. (Paragraph 4.2.1)
- Page 19 – Requested information included for Respondent’s Contact Persons. (Paragraph 4.2.2.1)
- Page 20 – Qualifications of personnel identified on attached sheets. (Paragraph 2.1.2)
- Page 20 – Completed pricing form is attached. (Paragraph 4.3)

Failure to comply with all requirements will cause a response to be disqualified.

REQUEST FOR PROPOSALS

Part I. General Information

Introduction. The Alabama Department of Insurance (DOI), an agency of the State of Alabama, issues this Request for Proposal (RFP) to establish a pool of qualified individuals or firms for the services described in this RFP. DOI is soliciting responses from qualified respondents to provide the DOI professional mediator services for the DOI's non-adversarial alternative dispute resolution program.

1.1. Contract Process.

DOI will review and evaluate the proposals as described in this RFP and select a pool of qualified Respondents. DOI will execute Contracts with one or more of the selected individuals or firms.

The basic Contract is attached to this RFP as Exhibit A. The boilerplate contract provisions/terms and conditions are not negotiable. Due to the time constraints in contracting with Respondents, individuals and firms that are unable to agree to the Contract should not submit proposals in response to this RFP. The Contract with each qualified individual or firm will establish a flat rate for each claim submitted to the mediator and not settled prior to the mediation conference, and a flat rate for a mediation conference canceled by either the insurer or the insured within 48 hours of a scheduled mediation time and date. Respondents must commit to pricing through the period ending September 30, 2008. Once a Contract is signed, this RFP is incorporated into the Contract. Please note the attached basic contract is representative only. Respondents are not expected to complete any items within the body of the basic contract but must attach the basic contract to their proposal to evidence the fact the respondent is familiar with the basic contract.

Respondents are cautioned to read the terms and conditions and attached specifications carefully. Awards will be based on Respondent's responses to these specifications. Failure to provide the required information or attach the required attachments with the RFP response will automatically disqualify the response from consideration for award in connection with this transaction.

RFP RESPONSES MUST BE RECEIVED BEFORE THE INDICATED DEADLINE:

Submit Sealed Responses to one of the following:

<u>Mail:</u> Reyn Norman Alabama Department of Insurance P. O. Box 303351 Montgomery, AL 36130-3351	<u>Hand Delivery or Courier to:</u> Reyn Norman Alabama Department of Insurance 201 Monroe Street, Suite 1700 Montgomery, AL 36104
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Respondents must submit an original and three (3) copies of their RFP response. Respondents must sign in ink on page 1 of this RFP in the space entitled "AUTHORIZED SIGNATURE." Failure to manually sign this space on page 1 of the RFP will automatically disqualify the response.

A response to this RFP must include all of the information requested. Any submitted responses and all attachments will be referred to in this RFP as "Proposal," "Response" or "Bid Response."

1.2. General Terms.

1.2.1. Term of Contract. The term of any contract and work orders resulting from this RFP shall be from date the contract is executed by all necessary individuals on behalf of the State of Alabama until September 30, 2008.

1.2.2. Governing Law. The RFP and any resulting contract and work orders shall be governed, construed, and interpreted in accordance with the laws of the State of Alabama (but not rules governing conflicts of law issues).

1.2.3. Disputes. The Contractor's sole remedy for settlement of any and all disputes relating to this RFP and any resulting contract and work order shall be limited to the filing of a claim with the Board of Adjustment for the State of Alabama.

1.2.4. Additional Terms and Conditions. Any terms and conditions attached or submitted with RFP Response will not be considered by DOI unless the Respondent specifically refers to them and requests approval by DOI of such terms and conditions. Such Respondent's terms and conditions may result in the disqualification of the RFP response. See also Sections 3.14 and 3.15 of this RFP.

1.2.5. Amendments. Except as provided in Section 1.2.6 of this RFP, any resulting contract may be amended only upon the written agreement between DOI and Respondent; however, the contract may not be amended so as to conflict with the laws of the State of Alabama.

1.2.6. Additional Language. To the extent the laws of the State of Alabama require DOI to include additional language in its contracts, the Respondent agrees to amend any resulting contract and to cooperate in the execution of any contract amendments necessary to effectuate such state law. During the term of a resulting contract, if any, and any extensions or renewals, DOI reserves the right to request contract amendments or modifications as is determined to be in the best interests of DOI or the State.

1.2.7. Requirements. Respondents agree to comply with all terms and conditions shown below and as made a part of this RFP. In submitting responses, Respondents agree to comply with all requirements of the RFP and any contract, including the provisions of the following Parts of the RFP: General Information, Specifications, DOI Terms and Conditions, and Respondent Response Format. All parts of this RFP are incorporated as part of any resulting contract for all purposes.

1.2.8. Independent Contractor. Respondent shall serve as an independent contractor in providing services under any contract resulting from this RFP. Respondent and Respondent's Employees shall not be employees of DOI.

1.2.9. Qualifications. To be entitled to consideration, Respondents must have available the necessary qualified personnel, skills, organization and facilities to fulfill all the services required under this RFP and any resulting contract. A response received from a Respondent whose services or performance have been documented as unsatisfactory, whose services or performance have documented problems pending resolution at DOI, and/or who have been involved in litigation with any federal, state, or governmental entity may not be considered. Respondent must state below whether during the last three (3) years the Respondent, including its parent company, any subsidiary, and/or office location, has been involved in litigation with any federal, state, or governmental entity. (attach additional sheets if necessary)

1.2.10. Liquidated Damages. The measure of damages in the event of a default by Respondent may be difficult or impossible to calculate, depending on the nature of the default. In the event Respondent fails to perform services or complete deliverables in accordance with the response times required in the contract, DOI may require Respondent to pay DOI \$500.00 per calendar day of delay. For any other failure to perform in accordance with the terms of the contract after having been notified in writing by DOI of the specific deficiency, DOI may require the Respondent to pay DOI the sum of \$500.00 per day until the deficiency is corrected. DOI may, but is not obligated to, recover these liquidated damages in lieu of any other monetary remedies DOI has under the contract or applicable law.

1.3. Respondent Affirmations and Certifications.

1.3.1. Unfair Business Practices. Respondent represents and warrants that he, she, or it has not been the subject of an Unfair Trade Practices Act or any unfair business practice administrative hearing or court suit and that Respondent has not been found to be guilty of such practices in such proceedings. Respondent certifies that it has no officers who have served as officers of other entities who have been the subject of an Unfair Trade Practices Act or any unfair business administrative hearing or court suit and that such officers have not been found to be guilty of such practices in such proceedings.

1.3.2. Immigration. Respondent represents and warrants that he, she, or it will comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under the contract.

1.3.3. Equal Opportunity. Respondent represents and warrants that he, she, or it will comply with the Civil Rights Act in giving equal opportunity without regard to race, color, creed, sex or national origin.

1.3.4. Franchise Taxes; Non Residents; Foreign Corporations. Respondent represents and warrants that he, she, or it is not currently delinquent in the payment of any taxes owed the State of Alabama. In addition, if Respondent is an individual not residing in Alabama or a business entity not incorporated in or whose principal domicile is not in Alabama, Respondent certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate. If a foreign corporation or other business entity, respondent certifies that the business entity has made the appropriate filing with the Alabama Secretary of State to be qualified to do business in this state.

1.3.5. Favors. Respondent represents and warrants that he, she, or it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any public servant or employee in connection with this RFP and any resulting contract.

1.3.6. Antitrust. Respondent represents and warrants that neither Respondent nor any firm, corporation, partnership, or institution represented by Respondent, nor anyone acting for such firm, corporation or institution has violated the antitrust laws of Alabama or the federal antitrust laws, nor communicated directly or indirectly Respondent's response to any competitor or any other person engaged in such business.

1.3.7. No Conflicts. Respondent represents and warrants that Respondent has no actual or potential conflicts of interest in providing the services to DOI under any resulting contract and that Respondent’s provision of services under the contract would not reasonably create an appearance of impropriety.

1.3.8. Financial Interests. Respondent represents and warrants that neither Respondent nor any person or entity that will participate financially in the contract has received compensation from DOI for participation in preparation of the RFP or other specifications for this RFP and any resulting contract. In responding to this RFP, all Respondents must complete the disclosure statement required pursuant to Sections 41-16-80, et seq., Code of Alabama 1975 (Alabama Act 2001-955), which can be accessed from the Attorney General’s web site at the following address:

http://www.ago.state.al.us/ag_items.cfm?Item=70

1.3.9. ADA. Respondent represents and warrants that he, she, or it will comply with the requirements of the Americans with Disabilities Act (ADA).

1.3.10. False Statements; Breach of Representations, etc. By signature to Respondent’s Proposal or Response, Respondent makes all the representations, warranties, guarantees, certifications and affirmations included in this RFP. If Respondent signs the Proposal or Response with a false statement or it is subsequently determined that Respondent has violated any of the representations, warranties, guarantees, certifications or affirmations included in this RFP, Respondent will be in default under the contract.

1.4. Evaluation Criteria; Evaluation Committee. Proposals that are submitted in compliance with this RFP will be evaluated by DOI’s Evaluation Committee according to the criteria set out in the table below: These evaluations will result in the selection of a pool of qualified providers.

Criteria for DOI Evaluation of Proposal Responses:	
(1) <i>Experience & References:</i> Strength of skills, experience and qualifications of the specific individuals who are anticipated to perform the services described in this RFP. References should be clear as to the type of work performed. Quality, reliability and ability to provide the quality services detailed in this RFP.	50 points
(2) <i>Cost:</i> Proposed costs, reasonableness of costs, hourly rates and costs assigned to personnel.	25 points
(3) <i>Clarity of proposal:</i> Clarity and content of respondent’s proposal, including their understanding of the nature of the solicitation, their workplan, and their communication skills.	15 points
TOTAL:	100 points

1.5. Anticipated Timetable. DOI currently anticipates that the selection of a qualified firm and execution of the contract will proceed according to the following approximate timetable. DOI reserves the right, in its sole discretion, to revise all deadlines related to this RFP and post notice of these revisions on the DOI website (www.aldoi.gov).

Issuance of Request for Proposals
Deadline for Written Questions

August 29, 2006
September 19, 2006

Answers to Written Questions Posted on DOI Website	September 22, 2006
Deadline for Proposal Responses	September 29, 2006
Contracts executed	October 20, 2006

1.6. Contact Persons. The following individuals are the DOI contact persons with regard to the acts necessary to be performed in accordance with provisions of this RFP.

1.6.1. DOI Contact Person Prior to Award. All requests for information concerning this RFP prior to bid opening must be directed **in writing**, by the date and time indicated above, to Reyn Norman, General Counsel, Alabama Department of Insurance, P.O. Box 303351, Montgomery, Alabama 36130, or by facsimile at (334) 240-7581 or by e-mail to Reyn.Norman@insurance.alabama.gov. Requests for technical information may be directed to the evaluation committee through David Parsons, Deputy Commissioner, by fax at (334) 240-4409 or by e-mail at David.Parsons@insurance.alabama.gov; Terry Raycraft, Manager – Consumer Services Division, Alabama Department of Insurance, P.O. Box 303351, Montgomery, Alabama 36130, or by facsimile at (334) 240-4409 or by e-mail to Terry.Raycraft@insurance.alabama.gov; and Joana Ellis, Associate Counsel, Alabama Department of Insurance, P.O. Box 303351, Montgomery, Alabama 36130, or by facsimile at (334) 240-7581 or by e-mail to Joana.Ellis@insurance.alabama.gov. Please see Section 1.7 of this RFP concerning RFP questions and DOI’s responses. **Prior to award, the Respondent or Respondent's Agent may not contact other DOI employees regarding this RFP.** Following award, DOI will designate a contract administrator to whom requests for information concerning the RFP or awarded contract should be directed.

1.6.2. DOI Contract Person Following Award. The contact person for day-to-day administration of the Contract and any Work Orders will be as set forth in the contract. These individuals may appoint one or more delegates to assist in the day-to-day administration of the Contract and any Work Orders and may notify selected Respondents in writing of those delegates.

1.6.3. DOI Contact Person for Invoices and Payment. The contact person for matters relating to invoicing and payment processing for any resulting contract will be Janice Hamm, Chief Accountant.

1.6.4. The above individuals may be referred to collectively as “DOI Contact Person” in this RFP.

1.7. Written Questions; DOI’s Response. Respondents may submit any questions about the RFP **in writing** to Reyn Norman, General Counsel, no later than the date and time indicated above, via fax or e-mail. Fax questions should be directed to (334) 240-7581. E-mail questions should be directed to Reyn.Norman@insurance.alabama.gov. DOI will respond to these written questions in two ways: (1) DOI will fax or e-mail its response to all potential respondents that submit a fax or e-mail request for such a response; and (2) DOI will post its response on the DOI website as an amendment to the RFP posting. DOI will not mail any responses. DOI will make every reasonable effort to post, e-mail and fax responses by close of business on the date indicated above to written questions received by the deadline indicated above. DOI reserves the right, in its sole discretion, to revise all deadlines related to this RFP and post notice of these revisions on the DOI website (www.aldoi.gov).

Part II. Specifications

2.1. General Requirements. As described in Section 1.1 of this RFP, DOI, is seeking to establish a pool of qualified individuals or firms for the services described in this RFP. DOI is soliciting responses from qualified respondents to provide the DOI professional mediator services for the DOI’s non-adversarial alternative dispute resolution program.

2.1.1. General Qualifications. The DOI requires professional mediation services from experienced individual mediators or mediator firms. It is expected that the individual or firm proposing to provide these services will have one or more of the following qualifications:

2.1.1.1. Minimum of five (5) years experience in civil litigation matters involving insurance coverage and insurance claim evaluation issues, including involvement as counsel for the plaintiff or defendant or as mediator.

2.1.1.2. Minimum of five (5) years experience with one or more insurance-related entities or agencies, including the personal handling of property insurance claims.

2.1.1.3. Registration on the Alabama State Bar Association’s roster of mediators, having met the mediation registration standards and procedures of the Alabama State Bar Association.

2.1.2. In addition to meeting one or more of the general qualifications set forth in Section 2.1.1., it is expected that the individual or firm proposing to provide these services will have all of the following qualifications:

2.1.2.1. Must agree to abide by the Alabama Code of Ethics for Mediators, which was adopted by Order of the Alabama Supreme Court, effective March 1, 1996, and all amendments thereto.

2.1.2.2. Must acknowledge an understanding that the role of a mediator includes, but is not limited to, assisting the parties in identifying issues facilitating communication, focusing the parties on their interests, maximizing the exploration of alternatives and helping the parties reach voluntary agreements.

2.1.2.3. Must have the ability to maintain impartiality while raising questions for the parties to consider concerning the fairness, equity and feasibility of proposed settlement options.

2.1.3. For all individuals to be listed in the Pricing Form described in Section 4.3 of this RFP, please indicate on attached sheet(s) the qualifications of the individuals identified in this section.

2.2. Description of Services. The following represent performance and compliance standards for Respondents providing services pursuant to a Contract awarded as a result of this RFP.

2.2.1. The mediator will be in charge of the mediation conference and will establish and describe the procedures to be followed.

2.2.2. The mediator will conduct the mediation conference in accordance with Alabama Insurance Regulation 135, found in the Alabama Administrative Code, Chapter 482-1-135, along with any and all bulletins issued by the Commissioner pertaining thereto.

2.2.3. The mediator will, to the extent applicable, conduct the mediation conference in accordance with the standards of professional conduct for mediation set forth in the Alabama Code of Ethics for Mediators.

2.2.3. The mediator will prepare a mediator’s status report indicating whether or not the parties reached settlement, to be filed with the DOI within five (5) days of the conclusion of the

mediation conference. If the parties reached a settlement, the mediator shall include a copy of the settlement agreement with the status report.

2.3. Additional Requirements. In addition to the specifications otherwise included in this RFP, Respondent will provide professional services to DOI under a contract in accordance with the terms of this RFP, the bid response, and the following:

2.3.1. Conflicts of Interest. DOI wishes to minimize the potential for conflict of interest. Respondents must submit to DOI a detailed disclosure of any conflicts or potential conflicts of interest of Respondent or any of Respondent's employees who will or might provide services under this RFP. Respondents must include a description of efforts the Respondent will undertake to minimize or eliminate potential conflict of interest. In submitting a response, Respondent certifies that, except as disclosed under the provisions of this section, Respondent possesses the necessary independence for which services might be sought by DOI under this RFP.

2.3.2. Trained Employees. Respondent shall provide employees, which have the qualifications, education, experience, training and certifications necessary to provide all services as described in this RFP. On any contract with DOI, Respondent shall dedicate a sufficient number of employees to provide all services in the manner required by and within the time requirements of the contract.

2.3.3. Unsatisfactory Performance. Respondent understands that all employees provided to DOI under any contract are subject to removal from DOI's contract by DOI if, in the sole judgment of DOI, the individual is not performing satisfactorily. DOI shall notify the Respondent by written notice of unsatisfactory performance and removal from DOI's contract for any affected employee. This right of removal is in addition to DOI's rights to terminate Respondent's contract under the terms and conditions of this RFP.

2.3.4. Reporting Responsibilities. Respondent shall provide all status and progress reports, oral and written, as directed by the DOI Contact Person and as otherwise required by this RFP. In DOI's sole discretion, DOI will independently document Respondent's compliance with all requirements of DOI's contract and expressly reserves the right to act upon such independent documentation.

2.3.5. Requests for Services. Requests for services placed by DOI employees will not be honored by DOI unless the appropriate DOI Contact Person or his delegate has approved the request. The designated DOI Contact Person or his delegate may be changed by written correspondence from the DOI to Respondent.

2.3.6. No Employment Relationship. In the performance of the work, duties and obligations hereunder, Respondent will not be considered an employee of DOI. Respondent's employees will not be considered employees of DOI. Accordingly, DOI will not have any control, direction or dominion over the Respondent other than under the terms of DOI's contract.

2.5. Contract Cap on Compensation. The contract when executed will include a maximum dollar amount or total dollar cap that DOI determines, in its sole discretion, is the maximum amount that Respondent may invoice to DOI. DOI may, in its sole discretion, increase this maximum by written notification to Respondent. DOI's written notification will be accomplished by DOI's issuance of a contract amendment that will reference this section.

2.6. Invoices. Pursuant to the terms of any resulting contract, on a monthly basis, Respondent will furnish an invoice to DOI, for services rendered and expenses incurred. See Section 3.22 of this RFP for additional invoice and payment information.

2.6.1. Invoices. Each invoice or billing statement shall itemize costs incurred in connection with the particular matter for which services were rendered.

2.6.2. Fee Increases. Unilateral fee increases will not be accepted or approved. All proposed fee increases must be submitted in writing to DOI for approval with justification for the fee increase.

2.6.3. Additional Services. After the termination of the contract and if requested by DOI, the Respondent may be requested to prepare for, give testimony, and produce papers in any litigation or investigation related to its responsibilities under the contract. Respondent may be compensated for such services in a manner agreed upon by both parties.

2.7. Travel and Out of Pocket Expenses. All reasonable actual transportation, meals, lodging or other travel expenses incurred by Respondent for authorized travel are referred to as “Travel Costs.” Under no circumstances will Respondent be compensated for off-duty hours while traveling. Travel expenses are reimbursable when contemplated by or provided in the proposal. All travel expenses must be approved by DOI in advance of incurring any expenses.

2.7.1. Reimbursement Rates. Transportation and per diem in lieu of reimbursement for actual expenses for intrastate travel shall be as set forth in Sections 36-7-20 and 36-7-22, Code of Alabama 1975. Reimbursement for expenses for interstate travel shall be as set forth in Section 36-7-21, Code of Alabama 1975.

2.7.2 Expenses Related to Services. All travel and out-of-pocket expenses for which reimbursement is claimed must be in connection with work performed under this contract. Respondent shall not be reimbursed for travel time or travel expenses not actually incurred in connection with an assignment.

Part III. Terms and Conditions

3.1. Compliance with Requirements. In submitting bids in response to this RFP, all Respondents agree to comply with all requirements of this RFP and any resulting contract, including the following RFP Parts: General Information, Specifications, Terms and Conditions, and Respondent Response Format. All parts of this RFP are incorporated as part of any resulting contract for all purposes.

3.2. Award of Contract. A response to this RFP is an offer to contract with DOI based upon the terms, conditions and specifications contained in this RFP. **Offers and RFP responses do not become part of a contract or agreement with DOI unless and until they are accepted and agreed to by DOI.** DOI reserves the right to make any corrections or include additional requirements in DOI’s contract prior to execution that is necessary for DOI’s compliance, as an agency of the State of Alabama, with all state and federal requirements.

3.3. Rejection of Bids; Open Records; Reissuance. DOI reserves the right to reject, in its sole discretion, any or all RFP responses and all or any part of any response and waive minor technicalities. DOI will award a contract, if any, to serve the best interests of DOI and the State of Alabama. DOI’s waiver of any deviations in any response will not constitute a modification of this RFP and will not preclude DOI from asserting all rights against Respondent for failure to fully comply with all terms and

conditions of this RFP. All RFP responses become the property of DOI and are subject to state open records laws. DOI may reissue another RFP for the services as described in this RFP or similar services at any time.

3.4. Pricing. All pricing must be submitted in accordance with the Pricing Form included in Part IV of this RFP and must comply with these requirements. Responses subject to price increases will not be considered.

3.5. Additional Specifications. Respondents guarantee and warrant that their RFP responses will meet or exceed all specifications of this RFP. No substitutions or cancellations are permitted without prior written approval of the DOI. DOI will not be bound by any oral statements or representations contrary to the written specifications of this RFP.

3.6. Time for Submission. Responses to this RFP must be time stamped by the DOI before the hour and date specified on page 1 of this RFP. Late responses properly identified will be returned to Respondent unopened. Late responses will not be considered under any circumstances. DOI reserves the right to evaluate responses submitted prior to the stated deadline as they are received.

3.7. DOI's Address. Responses should be addressed to Reyn Norman, Alabama Department of Insurance. Responses sent by the U.S. Postal Service should use P.O. Box 303351, Montgomery, Alabama 36130-3351. Responses sent by a delivery service, which require a street address, should use 201 Monroe Street, Suite 1700, Montgomery, AL 36104.

3.8. No Alterations or Withdrawals of Bid after Deadline. Responses cannot be altered or amended after the deadline specified on page 1 of this RFP. Any alterations made before this deadline must be initialed by Respondent or Respondent's authorized agent. No responses can be withdrawn after the deadline without approval by the DOI.

3.9. Facsimile Response. Facsimile responses to this RFP will not be accepted. The State shall not be responsible for failure of electronic equipment or operator error. Responses that are late, illegible, incomplete, or otherwise non-responsive will not be considered.

3.10. Mail Preferred; DOI Not Liable. RFPs are issued to allow sufficient time for receipt of the preferred mail response. DOI is not responsible for responses received late, illegible, incomplete, or otherwise non-responsive due to failure of electronic equipment or operator error.

3.11. Tie Bids. Consistent and continued tie bidding could cause rejection of responses by the DOI and/or investigation of antitrust violations.

3.12. Attachments. DOI will not consider any terms and conditions or other documents attached to a response as part of the RFP Response unless the Respondent specifically and prominently refers to each of them on page 1 of the RFP Response. In addition, see Sections 3.2, 3.13, 3.14, 3.15, and 3.16 of this RFP regarding limitations on terms and conditions or attachments to Respondent's RFP Response. DOI reserves the right, in its sole discretion, to reject any Respondent's terms and conditions or other documents or attachments as part of Respondent's RFP Response.

3.13. Unacceptable Terms in Respondent's Response. Respondent's Response to this RFP, including any attachments thereto, will be incorporated as part of the executed contract to the extent the response does not conflict with this RFP. Any terms submitted by Respondent, regardless of whether such terms conflict with this RFP and/or contract, which conflict with or are in violation of Alabama law, are void regardless of whether DOI accepts such terms or is deemed to have accepted such terms.

Unacceptable terms and conditions included in a Respondent's RFP response may result in disqualification of the response. If an award is made to such a Respondent, such terms and conditions are void and are not part of a contract between Respondent and DOI.

3.14. Incorporation of Entire RFP. This RFP will become part of the terms and conditions of all responses and any contract awarded as a result of this RFP. Any exception to the requirements of this RFP must be specifically noted in writing and explained by Respondent in its RFP response as a condition to becoming part of any subsequent contract. Any exceptions must be expressly agreed to by DOI in writing and by reference to the particular section of this RFP for which an exception is acceptable. Notwithstanding any other agreement or provision of this RFP to the contrary, any exceptions are subject to the limitations described in this RFP.

3.15. Agreement between DOI & Respondent. If DOI makes a contract award as a result of the issuance of this RFP, the entire agreement between DOI and Respondent will consist of the contract executed by DOI and Respondent. This RFP and Respondent's response, subject to the limitations described in this RFP, will be incorporated as part of the executed contract.

3.16. Conflicting Provisions. Unless expressly authorized by the executed contract by reference to this section, in the event of conflicting terms or provisions between this RFP, the contract, and Respondent's response, this RFP and the executed contract will control.

3.17. Authority to Bind DOI; Execute Documents. Unless expressly delegated by the Commissioner of Insurance or unless expressly authorized by this RFP, only the Commissioner of Insurance or his delegate has authority to execute any documents or grant any permissions on behalf of DOI with respect to agreements between Respondent and DOI.

3.18. Specifications; Performance. Respondent will provide the services described in this RFP in the manner and quality described in the requirements of this RFP. Respondent's failure to conform to all requirements of this RFP may, among other things, result in DOI's cancellation of all or part of the contract.

3.19. Respondent's Costs. Respondent will bear all costs and expenses for the provision of services required by this RFP and any resulting contract. All such costs and expenses must be included in the prices detailed in the contract. No other amounts will be paid by DOI.

3.20. No Prepayments. DOI will not prepay for any services provided to DOI by Respondent in its performance under the contract.

3.21. Refunds. Respondent will promptly refund or credit within thirty (30) calendar days any erroneously paid funds that are not expressly authorized by the DOI.

3.22. Invoices. For all services that have been accepted by DOI, Respondent will submit two (2) copies of an invoice to DOI, Attn: Janice Hamm, Chief Accountant. If by hand delivery or courier, deliver to: 201 Monroe Street, Montgomery, AL 36104. If by U.S. Mail, deliver to P.O. Box 303351, Montgomery, AL 36130-3351. Invoices that are received by DOI which are otherwise received in non-conformance with all of the requirements of this RFP or the contract will be returned to Respondent unpaid or will be held by DOI until proper documentation is submitted.

3.23. Termination and Cancellation Circumstances. The contract may be terminated or cancelled in any one of the following circumstances:

3.23.1. Mutual Agreement. Upon the mutual written agreement of DOI and Respondent, the contract may be terminated or cancelled.

3.23.2. Breach of Material Term. Either party may, upon giving thirty (30) days written notice identifying specifically the basis for such notice, terminate the contract for breach of a material term or condition of the contract, provided the breaching party shall not have cured such breach within the thirty (30) day period. In the event of such termination, Respondent shall be paid for all services provided prior to the date of the termination.

3.23.3. Bankruptcy. Upon the filing of a petition for bankruptcy, or upon the judgment of bankruptcy or insolvency by or against the Respondent, DOI may terminate the contract for cause without notice. Such termination will be effective upon the date of such filing or upon the date of such judgment.

3.23.4. Availability of State Funds; Legislative Action; Necessity of Performance. The contract is subject to termination or cancellation, without penalty to DOI, either in whole or in part, subject to the availability of state funds. DOI is a state agency whose authority and appropriations are subject to actions of the Alabama Legislature. If DOI becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render the services to be provided by Respondent under the contract impossible or unnecessary, the contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this section, DOI will not be liable to Respondent for any damages that are caused or associated with such termination or cancellation and DOI will not be required to give notice. In the event of such termination, Respondent shall be paid for all services provided prior to the date of the termination.

3.23.5. Reservation of Remedies. DOI expressly reserves any and all legal remedies to which it may be entitled to collect any and all damages directly or indirectly resulting from breach of contract by Respondent or any of its agents, representatives, subcontractors, employees, or any other party acting on behalf of the Respondent. DOI reserves the right to pursue any and all applicable rights and remedies if the contract is terminated for any reason and DOI expressly waives no such rights or remedies.

3.24. Substitute Services. In the event DOI terminates or cancels the contract for Respondent's nonperformance or for cause, DOI may procure, upon such reasonable terms and in such manner as it deems appropriate, substitute services similar to those so terminated or cancelled and Respondent will be liable to DOI for any excess or additional costs incurred by DOI in acquiring such services plus court costs and attorneys' fees. DOI's recovery of costs under this section is in addition to any other remedies available to DOI under the contract or under applicable law.

3.25. Notice of Termination or Cancellation Delivery. Any termination by DOI of the contract that requires notice may be accomplished by DOI's delivery to Respondent of a notice of termination or cancellation specifying that the contract is terminated or cancelled.

3.26. Termination or Cancellation Effectiveness. Unless otherwise specified in this RFP or the contract, any termination or cancellation of the contract will be effective upon the date specified in DOI's notice of termination or cancellation.

3.27. DOI Not Liable Upon Termination. If the contract is terminated for any reason, DOI and the State of Alabama will not be liable to Respondent for any damages, claims, losses or any other amounts arising from or related to any such termination.

3.28. Hours. If requested by DOI, Respondent will provide delivery on-site at DOI five (5) days a week, Monday through Friday, 8:00 AM to 5:00 PM, excluding weekends and State of Alabama holidays.

3.29. Respondent Assignments. Respondent hereby assigns to DOI any and all claims for overcharges associated with this contract that arise under the antitrust laws of the United States 15 U.S. Code §§ 1, et seq., and that arise under the antitrust laws of the State of Alabama.

3.30. DOI's Tax Exemption; Payment of Taxes by Respondent. Respondent will be responsible for payment of all taxes, including, but not limited to, state, federal, foreign, or local taxes, including income tax, withholding tax, social security tax, pension contributions, and any other form of payroll or other taxes, for all Respondent's Employees. At Respondent's sole cost and expense, Respondent will secure and maintain any and all insurance premiums that are required by the contract or are necessary to protect the interests of the State of Alabama and DOI or that Respondent may need or desire for Respondent or Respondent's Employees.

3.31. Warranties. Notwithstanding any disclaimers in any RFP response or other Respondent document and notwithstanding any other provision of this RFP or the contract to the contrary, Respondent warrants and guarantees that all services shall meet all specifications of the executed contract and Work Orders, if any, including but not limited to this RFP.

3.32. Limitation on Authority; No Other Obligations. Respondent will have no authority to act for or on behalf of DOI or the State of Alabama except as expressly provided for in the executed contract; no other authority, power or use is granted or implied. Respondent may not incur any debt, obligation, expenses, or liability of any kind on behalf of DOI or the State of Alabama.

3.33. No Other Benefits. Respondent has no exclusive rights or benefits other than those set forth herein.

3.34. Parties Bound. The contract will be binding upon and inure to the benefit of DOI and Respondent and to their respective heirs, executors, administrators, legal representatives and successors.

3.35. Assignment. Respondent may not assign this RFP and any resulting contract, in whole or in part, and may not assign any right or duty required under the RFP or awarded contract without the prior written consent of DOI. Respondent will have no right to transfer, assign, or pledge as security for a debt all or any part of Respondent's interest in any resulting contract without the prior written consent of DOI. Any attempted assignment in violation of this section shall be void and without effect.

3.36. Time Limits. Time is of the essence in any resulting contract and accordingly all time limits will be strictly construed and rigidly enforced.

3.37. No Waiver. No provision of this RFP and/or contract will constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to DOI as an agency of the State of Alabama or otherwise available to DOI. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities detailed in the contract or otherwise available to DOI by law will not constitute a waiver of said privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. DOI does not waive any privileges, rights, defenses, remedies, or immunities available to DOI as an agency of the State of Alabama or otherwise available to DOI.

3.38. Confidentiality of Information. Respondent will not disclose to anyone, directly or indirectly, any work-papers, data, databases, materials, information or reports in any form that are designated as confidential or that are or could be construed as confidential or subject to restrictions on disclosure under

applicable law (“Confidential Information”) and received from DOI or such Confidential Information to which Respondent has access as a result of or in the course of performing services under this Contract without the prior written consent of DOI. This confidentiality provision does not apply to information required to be disclosed by law, legal process, and applicable professional standards or to information disclosed in connection with litigation relating to the contract or Respondent’s performance. Each party will protect the confidentiality of the Confidential Information in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind. Nothing in this RFP and any resulting contract shall prohibit or limit either party’s use or disclosure of information (including, but not limited to, ideas, concepts, know-how, techniques, and methodologies) (i) previously known to it without obligation of confidence, (ii) independently developed by it, (iii) acquired by it from a third party which is not, to its knowledge, under an obligation of confidence with respect to such information, or (iv) which is or becomes publicly available through no breach of the contract. In the event either party receives a subpoena or other validly issued administrative or judicial process requesting Confidential Information, it shall provide prompt notice to the other of such receipt. The party receiving the subpoena shall thereafter be entitled to comply with such subpoena or other process to the extent permitted by law, provided, however, that the Respondent is acting as DOI’s agent in providing services under the contract and will defer to DOI’s decision as to compliance with and other matters related to such subpoena or other process. Within three (3) days of receipt, Respondent will refer to DOI any third party requests, received directly by Respondent, for information to which the Respondent has access as a result of or in the course of performing services under the contract.

3.39. Personal Injury; Property Damage. Respondent will be liable for any bodily injury or personal injury to any individual caused by any of Respondent’s employees during any assignment under the terms of the contract. In the event of loss, destruction or damage to any DOI or State of Alabama property by Respondent’s employees, Respondent will indemnify DOI or the State of Alabama and pay to DOI or the State of Alabama the full cost of repair, reconstruction or replacement, at DOI’s election. Respondent will reimburse DOI or the State of Alabama for such property damage within thirty (30) calendar days after receipt of DOI’s notice of amount due to Respondent. This provision survives the termination or expiration of any awarded contract.

3.40. Indemnification. Respondent will indemnify, save and hold harmless DOI, its officers, agents, and employees, and the State of Alabama, its officers, agents, and employees from any and all claims, actions, suits, demands, damages, losses, costs, expenses, judgments, or any other amounts, including, but not limited to, attorneys’ fees and court costs, arising from or related to acts, errors, or omissions of Respondent or Respondent’s employees. DOI will not indemnify, save and hold harmless Respondent for any amounts for any purposes. This provision survives the termination or expiration of any awarded contract.

3.41. Patent, Trademark, Copyright Infringement. Respondent will defend and indemnify DOI and the State of Alabama against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringement to the extent arising from DOI’s or Respondent’s use of or acquisition of any services, reports, materials, information, or other items provided to DOI by Respondent or otherwise to which DOI has access as a result of Respondent’s performance under the contract, provided that DOI will notify Respondent of any such claim within a reasonable time of DOI’s receiving notice of any such claim. Respondent will pay all reasonable costs of DOI’s counsel. If Respondent is notified of any claim subject to this section, Respondent will notify DOI of such claim within five (5) working days of such notice. If DOI determines that a conflict exists between its interests and those of Respondent or if DOI is required by applicable law to select separate counsel, DOI will be permitted to select separate counsel and the reasonable costs of such DOI counsel will be paid by Respondent. Respondent will make no settlement of any such claim without DOI’s prior written approval. Respondent will reimburse DOI and

the State of Alabama for any claims, damages, costs, expenses or other amounts, including, but not limited to, attorneys' fees and court costs, arising from any such claim.

3.42. Support Documents; Inspection of Records. Respondent will maintain and retain required records and supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with applicable State of Alabama requirements. These records and supporting fiscal documents will be maintained and retained by Respondent for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Respondent will make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, and supporting documents kept current by Respondent pertaining to any awarded contract for purposes of inspecting, monitoring, auditing, or evaluating by DOI or the State of Alabama.

3.43. Notices. Any written notices required under the contract will be by either hand delivery to Respondent's office or to DOI's office, 201 Monroe Street, Montgomery, AL 36104 or by U.S. Mail, certified, return receipt requested, addressed to P.O. Box 303351, Montgomery, Alabama 36130-3351. Notice will be effective on receipt by the affected party. DOI and Respondent agree that either party may change the designated notice address in this section by written notification to the other party.

3.44. Force Majeure. DOI may grant relief from performance of the contract if Respondent is prevented from compliance and performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of Respondent. The burden of proof for the need of force majeure relief under this section will rest upon Respondent. To obtain release based on force majeure, Respondent must file a written request with DOI.

3.45. Subcontracts. Respondent must certify that all individuals listed in the "Pricing Form" required by Section 4.3 of this RFP are employees, members or partners of the Respondent. None of the services to be provided by the Respondent pursuant to the resultant Agreement (primary contract) shall be subcontracted or delegated to any other organization, subdivision, association, individual, corporation, partnership, limited liability company, group of individuals, or other such entity without the prior written consent of the DOI. Any subcontract to which the DOI has consented shall be in writing attached to the primary Agreement and made a part thereof and shall in no way alter the primary Agreement terms and conditions, to include, but not limited to, providing the same access to books, documents, and records provided for in Section 3.42 of this RFP. No subcontract or delegation shall relieve or discharge the contractor from any obligation, provision or liability under the primary contract. Respondent expressly understands and acknowledges that, in entering into any approved subcontract, the DOI and the State of Alabama is not liable to any subcontractor of Respondent for any amounts. Respondent will retain responsibility for ensuring that the performances rendered under any subcontracts comply with all requirements of this procurement as if such performances were rendered by Respondent.

3.46. Title and Ownership. DOI and the State of Alabama will receive and Respondent will convey to DOI and the State title, ownership and licenses, whichever is applicable to all services under the contract.

3.47. Severability. If any provision of the contract will, for any reason, be held to violate any applicable law, and so much of the contract is held to be unenforceable, then the invalidity of such a specific provision will not be held to invalidate any other provisions; such other provisions will remain in full force and effect unless removal of said invalid provisions destroys the legitimate purpose of the contract, in which event the contract will be canceled.

3.48. Entire Agreement. Except as expressly provided otherwise herein, the contract will represent the entire agreement by and between DOI and Respondent regarding the subject matter of this RFP. This

agreement may not be changed except by DOI's written contract amendment or otherwise by the mutual written agreement of the parties.

3.49. Acceptance of Terms. By submitting a response, acknowledging and accepting the contract, or delivering any services under the contract, Respondent acknowledges, accepts and agrees to all terms of the contract, including, but not limited to, this RFP.

Part IV. Respondent Proposal/Response Format

4.1. Respondent Documents. All Respondent's documents that are related to the requested services, this RFP, the Bid Responses or the contract, if any, are collectively referred to in this RFP as "Respondent Documents." Responses must include copies of all Respondent documents. DOI reserves the right to reject all Respondent documents that are not included or submitted with RFP Responses. Respondent documents that are not submitted with Respondent's RFP response will not be accepted or considered part of the response or any resulting contract.

4.2. Mandatory Response Requirements. The RFP response/proposal must be responsive to all requirements set forth in this RFP and prepared according to the form described in this RFP.

4.2.1. Signature; Original & 3 copies. All Bid Responses must be typewritten and legible. All Respondents must sign this RFP in ink in the space provided on page 1 of this RFP. Failure to manually sign the space provided on page 1 of this RFP automatically disqualifies the bid. The person signing Bid Response must show title or authority to bind his or her firm in a contract. Respondents must submit an original bid (with original signature) and three (3) copies. Please note the original and copies will be distributed to each member of the RFP Review Committee, so all copies must be identical to the original, including all required attachments.

4.2.1.1. Sealed Envelope. All proposals must be submitted in a sealed envelope.

4.2.1.2. Transmittal Letter. Proposals must be submitted with a transmittal letter signed by an individual with authority to bind the Respondent in a contract with DOI. Proposals must include the Respondent identification number, which is the Federal Employers taxpayer Identification Number. The letter must also include the following statement:

"The undersigned represents that the only person or persons, companies or parties interested in the Proposal as principals are named in this Proposal. This proposal is made without collusion with any other person, persons, company or parties submitting a proposal. This proposal is in all respects fair and in good faith without collusion or fraud. The undersigned has full authority to bind the Respondent in a contract with DOI. This proposal shall remain firm and be valid through the latest date for completion of services under any contract issued as a result of this RFP. Respondent understands that DOI's boilerplate contract and terms and conditions included in the RFP are not negotiable and will not be revised unless DOI determines, in its sole discretion, that revision would be in the best interests of DOI and the State of Alabama."

4.2.2. Fill in All Blanks and Attachments. Unless otherwise indicated, Respondents must complete all of the blanks in this RFP and include all required attachments in its Response at the time of the initial submission of the RFP Response to DOI.

4.2.2.1. Respondent's Contact Persons. Respondent must list the name, title, phone number and fax number of at least two (2) individuals who will be the contact persons for this RFP and who have the authority to respond to questions from DOI.

Name: _____

Title: _____

Phone Number: _____

Fax Number: _____

Email: _____

Name: _____

Title: _____

Phone Number: _____

Fax Number: _____

Email: _____

4.2.2.2. References. Respondents must provide a separate list of all states, agencies or other entities for which Respondent has provided services similar to those requested in this RFP during calendar years 2002 to 2006. Respondents must include names and telephone numbers of contact persons at each named entity.

(1) Agency or Entity: _____

Name and Telephone Number of Contact: _____

(2) Agency or Entity: _____

Name and Telephone Number of Contact: _____

(3) Agency or Entity: _____

Name and Telephone Number of Contact: _____

4.2.2.3. Cancellations. Respondents must provide a list of all contracts that Respondent executed or accepted for mediation services within the last two (2) years and that were canceled by any state agency or other entity prior to completion. For each canceled contract, include a detailed explanation for the cancellation and final resolution of the matter. Include the names and telephone numbers of each such agency's or entity's contact individual who has knowledge of the cancellation and the reasons for the cancellation. If none, specify none.

4.2.2.4 Pricing Form. Respondents must complete and attach the Pricing Form included in this RFP. The rate must include all costs at all staffing levels Respondent determines might be necessary to deliver mediation services that meet all specifications of this RFP, other than travel costs and related out-of-pocket expenses. Reimbursement of travel cost and related out-of-pockets expenses will be limited as described in Section 2.7 of this RFP.

DOI will pay no costs or expenses of Respondent in submitting a response to this RFP. DOI will pay no amounts to selected Respondents or any other entity under any contract or any other agreement resulting from this RFP. DOI will not authorize payments for any costs incurred prior to or for periods prior to the effective date of DOI's contract, if any, resulting from this RFP.

4.2.2.5. Conflicts or Potential Conflicts of Interest. Respondent must provide a statement of any conflicts or potential conflicts of interest of Respondent or Respondent's employees, who will or may provide services under any contract resulting from this RFP. Failure to disclose all conflicts or potential conflicts of interest may result in Respondent being disqualified from Selected Pool and may result in cancellation of the contract. In submitting a bid response, Respondent certifies that, except as disclosed under the provisions of this section, Respondent possesses the necessary independence in the provision of services sought by DOI under this RFP.

4.2.2.6. Qualifications. Respondent must specifically detail the names, qualifications, education, training, experience and certifications of any Employee who will or may provide services under any contract resulting from this RFP. Respondent must represent and warrant that each Employee, including replacement Employees, if any, will possess the qualifications, education, training, experience and certifications necessary to perform the services under the contract in the manner required by this RFP.

4.2.2.7. Other Information. Respondents may include any information that Respondent considers relevant but not solicited in this RFP.

4.2.3. Respondent Identification. Respondent must provide Federal Employer's Identification Number; sole owner should enter Social Security Number.

4.3. Pricing Form. All proposals must include a completed pricing form. No expenses or other fees for these individuals may be charged under any contract resulting from this RFP. Respondent certifies that all individuals listed below are employees, members or partners of the Respondent. Acceptance by DOI of Respondent's proposal shall constitute approval of the persons initially proposed by Respondent.

Format. Please present a fee schedule as follows, the flat rate for each mediation session actually conducted and the flat rate for each mediation session canceled by either the insurer or the insured with less than 48 hours notice. Please next list the names of all individuals to serve as mediator, employee classification (such as owner, partner, etc.), any professional designations or certifications, and other general qualifications of the individual.

Flat Rates for Mediation Services:

\$_____ for each mediation session actually conducted

