

Alternative Dispute Resolution Fund FY 2004



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Alternative Dispute Resolution Fund FY 2004

Introduction

The 1989 Commission on the Courts Report recommended the expanded use of alternative dispute resolution (ADR) in the Arizona judicial system. The ADR Fund was created in 1991 to fund local, regional or statewide projects that establish, maintain, improve or enhance ADR programs in the superior court and justice of the peace courts (A.R.S. § 12-135). Since October 1991, a portion of the civil filing fees collected in the superior court and justice courts has been designated for deposit in the ADR Fund. Pursuant to A.R.S. § 12-135 through fiscal year 2003, courts wishing to participate in the alternative dispute resolution program have applied to the supreme court for funding. A court applicant in the past was able to use funds for subcontracts with outside agencies providing ADR services. Under the provisions of A.R.S. § 12-135, fees collected in the superior court and deposited in the ADR fund shall be used to fund ADR programs in the superior court. Fees collected in the justice of the peace courts and deposited in the ADR fund shall be used to fund ADR programs in the justice of the peace courts.

ADR funds may be used for new court programs or for expansion or continuation of existing court ADR programs. However, the funds must be used to supplement, not supplant, local funding that would otherwise be available for ADR programs.

Until fiscal year 2004, courts were encouraged to propose new and innovative programs, that involved more than one court or a court and another entity working together to facilitate implementation of an alternative approach to dispute resolution. Approved programs were to demonstrate local philosophical and financial support for ADR generally and the proposed project in particular. This took the form of an ADR policy, local funding for certain costs associated with project staff or activities related to the project, or letters of support from entities who would be impacted by or involved with the project.

In May 2003, Arizona courts were notified that FY 2003 would be the last year in which individual county grants would be awarded in order to allow the ADR Fund to be used for centralized educational and other statewide programs. A number of influences precipitated this decision: the FY04 Arizona budget deficit, limited ADR Fund revenues which had not increased in recent years, and the anticipated increased demand for mediation services due to the statewide implementation of ARCP 16(g).

ADR revenues totaled \$212,719 in fiscal year 2004, with \$153,262 collected in the justice court and \$59,456 collected in superior court. Grant applications were not solicited for FY04. An increased emphasis was placed on facilitating education of volunteer mediators statewide with training being provided locally in Maricopa, Pima, Pinal, and Yuma counties through an interagency agreement with the Office of the Attorney General. In addition, the AOC hosted a statewide meeting for ADR coordinators in February, 2004. The Court Programs Unit of Court Services also planned and conducted two ADR training sessions,

one at the February, 2004 Domestic Relations Conference and the other at the June, 2004 Judicial Conference in Tucson, Arizona.

County Overviews

Although no grant funds were awarded to the counties for FY04, only one county ADR program suffered a terminal blow. Most courts were able to convince their county boards of supervisors of the importance of their programs and received local support and funding.

Cochise County

The Cochise County Board of Supervisors allocated funds to cover the personnel costs for the court assistant position previously covered by these grant funds, making it a permanent position; however, without an ADR Fund award for FY04, Cochise County was unable to augment training and expand their program as previously planned.

Coconino County

ADR funding was used to contribute to the personnel costs for an ADR coordinator position to continue the work of overseeing the ADR services of the Superior Court. While the Coconino County Board of Supervisors provided the funding necessary to fill the gap between the amount needed to continue the program and the amount collected through their \$200/party/case fee for FY04, there is uncertainty about these funds being available in FY05 and future years.

Graham County

Graham County has ADR programs available in both justice of the peace and superior courts. ADR funding was used for personnel costs to calendar, schedule and conduct ADR conferences. The Graham County Board of Supervisors paid the partial salary of the ADR Coordinator previously covered by these grant funds. Without the ADR Fund award for FY04, mediating civil cases did not take place.

Greenlee County

The lack of grant funding for FY04 had minimal impact in Greenlee County. The provision of a service provider list is the extent of their program. While an in-house ADR program with a part-time mediator on contract was the vision for this program, adequate funding was never realized to bring it to fruition.

Maricopa County

Maricopa County has ADR programs available in both justice of the peace and superior courts. ADR funding was previously used for personnel costs to calendar, schedule and

conduct ADR conferences. To continue to operate and manage the Family Court Mediation and Settlement Conference, Probate Mediation, Justice Court Mediation, Civil Mediation, Settlement Conference and Short Trial Programs in FY04, the Maricopa County Board of Supervisors moved previous ADR grant-funded positions to Maricopa County Caseflow Fund budgets.

Navajo County

Navajo County has not established an ADR program and therefore remains unaffected by the FY04 decision to not award funds.

Pima County

In FY04, Pima County discontinued the training programs for judicial officers, settlement masters and pro bono hearing officers which these ADR Grant funds once supported.

Pinal County

Pinal County had a unique program that utilized the potential sanction of transferring cases involving justice court truancy and gang disputes to a youth mediation program. The court contracted with the Attorney General's Office to provide services through the county school system. Cases were either resolved to the satisfaction of the court or were referred to the juvenile section of the Superior Court in Pinal County. The Youth Mediation Program is no longer available for justice court truancy and gang disputes due to the change in focus for the ADR Fund in FY 2004.

Yavapai

Yavapai County has an established ADR program in the Superior Court. Justice of the peace court and superior court mediators are beginning to function as a single group, attending the same training sessions and peer review meetings. Yavapai County continued their ADR program in FY04. Not receiving ADR Grant Funds had no immediate impact on the program due to Conciliation Court savings from the previous year. However, as volume and costs rise, there is the potential for substantial impact as the need for services increases and they are not able to provide those services without state ADR funds.

Attorney General Trainings

In Fiscal Year 2004, the Interagency Service Agreement with the Office of the Attorney General continued, with the ADR Fund providing financial backing to provide up to six 32-hour and five 8-hour training seminars on basic and specialized mediation techniques for court staff, advocates and volunteers.

Maricopa County has established the requirement that trained volunteers provide a minimum of 16 mediation sessions in exchange for the basic mediation 40-hour training. The attendee's certificate of completion is held until the requirement is met. For volunteers who are committed to the process, this requirement works well. Maricopa is currently discussing ways to improve accountability and keeping the volunteers in the program for a longer period of time.

Date	County	Class	Number of Attendees
November 10, 12, 13, 14, 17, 2003	Maricopa	Basic Mediation Training 32-hour session, plus 8 hour seminar	17
January 26, 27, 28, 29 2004	Pinal	Basic Mediation Training 32-hour session	10
February 9, 10, 11, 12, 13, 2004	Maricopa	Basic Mediation Training 32-hour session, plus 8 hour seminar	23
March 15, 16, 17, 18, 19, 2004	Pima	Basic Mediation Training 32-hour session, plus 8 hour seminar	25
June 7, 8, 9, 10, 11, 2004	Yuma	Basic Mediation Training 32-hour session, plus 8 hour seminar	16
May 17, 18, 19, 20, 21, 2004	Maricopa	Basic Mediation Training 32-hour session, plus 8-hour seminar	14
Total Number of Volunteers receiving training			105