

Alternative Dispute Resolution Fund FY 2003



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Alternative Dispute Resolution Fund FY 2003

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 has been 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. Due to the limited availability of ADR funds, and until such time as ADR services are available statewide, funding has been restricted to the current fiscal year only.

ADR revenues totaled \$169,975 in fiscal year 2003, with \$118,052 collected in the justice court and \$51,923 collected in superior court. Grants totaled \$161,415.36 for the same period with \$80,403.37 going to the justice courts and \$81,011.99 to superior court. Projects included programs providing mediation, arbitration, settlement conferences and other dispute resolution services to disputants, as well as education and training programs for judges, court staff, and attorneys. An increased emphasis was placed on facilitating education of volunteer mediators statewide in FY 2003 with training being provided locally in Maricopa, Pima, Pinal, Yavapai and Yuma counties through an interagency agreement with the Office of the Attorney General.

Until fiscal year 2004, courts were encouraged to propose programs that are new and innovative, that involve more than one court or a court and another entity working together to facilitate implementation of an alternative approach to dispute resolution. 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 grants would be awarded to allow the ADR Fund to be used for centralized educational and

other statewide programs. A number of influences precipitated this decision: the FY04 State deficit, limited ADR Fund revenues which have not increased in recent years, and the anticipated increased demand for mediation services due to the statewide implementation of ARCP 16(g). Grant applications were not solicited for FY 2004.

County Overviews

Counties typically have applied to use ADR funds for the purpose of expediting civil caseflow and achieving a more mutually satisfying result for litigants. Solutions in each county may be different due to a varying base of volunteers, trained professionals or staff constraints. The implementation of revised Rule 16(g), ARCP, effective December 1, 2001, requiring litigants to meet and confer in every civil case in which a response has been filed may have placed additional strains on these limited resources.

Cochise County

ADR funding was used to contribute to the personnel costs for a court assistant position to provide direct support to the ADR Program Manager who continued the work of overseeing the ADR services of the Superior Court. The additional funds received through the grant proved vital to the overall management of the program during the extended medical leave of the Program Manager.

- Superior Court
 - 156 cases referred - 135 settled - 86.5% settlement rate.
- Justice Court:
 - 347 cases referred - 347 settled - 100% settlement rate.

Two new documents were developed and are now provided to all litigants filing civil or domestic relations actions in either the superior or justice courts.

- Notification to Litigant regarding Rule 16(g), Arizona Rules of Civil Procedure
- Joint Alternative Dispute Resolution Statement to the Court

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

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.

- Superior Court:
 - 30 cases referred - 21.6 settled - 72% settlement rate.

Coconino County systematically considers referral to ADR of all civil cases after a Case Management Conference with the county ADR Director shortly after the first answer is filed.

While the County Board of Supervisors was able to provide 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.

- Superior Court:
 - 50 cases referred - 37 settled - 74% settlement rate.
- Justice Court:
 - 75 cases referred - 51 settled - 68% settlement rate.

Graham County has seen an increased in cases referred to their ADR program in their justice (250%) and superior (138%) courts from last year.

While they were able to convince the Graham County Board of Supervisors to pay the partial salary of the ADR Coordinator previously covered by these grant funds, an adjustment has been made for 2004 from mediating family and civil cases to providing those services for family cases only. Greater case backlog and additional litigation is anticipated.

Greenlee County

Greenlee County has struggled in their efforts to initiate an “in-house” mediation program. The county has less than one percent of the state’s population and frequently lacks the resources that are available in other areas of the state. The county does not at this time have a private provider or mediation service available for the court. The court used the grant funds in accordance with the approved project plan to research and develop a case referral/settlement tracking system.

The lack of grant funding for FY04 will have minimal impact in Greenlee County. The provision of a service provider list is the extent of their current 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 used for personnel costs to calendar, schedule and conduct ADR conferences. Three training sessions for court volunteers were conducted during the period.

- Superior Court:
 - 69 probate cases referred - 29 cases settled - 42% settlement rate
 - 1195 family cases referred - 477 full settlement; 176 partial settlement - 55% settlement rate
 - 1136 civil cases referred - 294 full settlement; 105 partial settlement - 35% settlement rate
 - 54 civil short trials resulting in court orders.
- Justice Court:
 - 1125 cases referred - 560 full settlement; 23 partial settlement; 542 no settlement - 51% settlement rate.

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, Maricopa County moved previous ADR grant-funded positions to Maricopa County Caseflow Funds.

Navajo County

Navajo County struggled to hire an attorney/mediator for probate and guardianship/conservatorship cases. Their goal was to improve timeliness in concluding the cases. Unfortunately, they were unable to find a successful candidate. All funds were reverted.

While Navajo County has not established their ADR program, the benefits of using ADR to resolve issues are apparent to the court.

Pima County

Pima County, having not expended the 2003 funds granted by mid-May, requested an extension for use of ADR funds to provide a training session for Family Court Special Masters held September 18, 2003.

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

Pinal County

Pinal County has a unique program that utilizes the potential sanction of transferring cases involving justice court truancy and gang disputes to a youth mediation program. The court contracts with the Attorney General's Office to provide services through the county school system. Cases are either resolved to the satisfaction of the court or are referred to the juvenile section of the Superior Court in Pinal County.

- Superior Court:
 - 1 case referred from justice court mediation program
- Justice Court:
 - processed 78 referrals from the community and the Pinal County School System. The mediation program resulted in favorable results in 77 cases; only one case was referred to juvenile court - 98.7% settlement rate.

The Youth Mediation Program will no longer be available for justice court truancy and gang disputes. Pinal County continues to seek alternate funding to no avail.

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.

- Superior Court:
 - 432 cases referred - 243 settled - 56.2% settlement rate
 - 45 cases were referred as a result of Local Rule 19, approved October 15, 2002
- Justice Court
 - 45 cases referred - 38 settled - 84.4% settlement rate.

Yavapai Court will continue their ADR program in FY04. Not receiving ADR Grant Funds has had no immediate impact on the program due to Conciliation Court savings from last 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.

Grants FY 2003

County	Superior Court	Reverted	Justice Court	Reverted	Total Grants
Cochise			\$10,917.40	\$60.31	\$10,917.40
Coconino	\$2,496.00	\$0.00			\$2,496.00
Graham	\$11,685.49	\$0.00	\$10,149.52	\$0.00	\$21,835.01
Greenlee			\$3,967.60	\$0.00	\$3,967.60
Maricopa	\$21,621.60	\$0.00	\$37,795.68	\$0.00	\$59,417.28
Navajo	\$16,500.64*	\$8,250.32			\$16,500.64
Pima	\$5,000.00	\$2,002.63			\$5,000.00
Pinal	\$12,551.14	\$3,115.93	\$16,085.55	\$8,944.15	\$28,636.69
Yavapai	\$11,157.12	\$0.00	\$1,487.62	\$0.00	\$12,644.74
Total	\$81,011.99	\$13,368.88	\$80,403.37	\$9,004.46	\$161,415.36

* The second disbursement in the amount of \$8,250.32 was not made at the request of the Presiding Judge and the Court Administrator.

Attorney General Training

In Fiscal Year 2003, the Interagency Service Agreement with the Office of the Attorney General continued, providing up to six 32-hour and five 8-hour training seminars on 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 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.

Date	County	Class	Number of Attendees
August 16, 23, 30, and September 6	Yavapai	Basic Mediation Training 32-hour session	24
February 10, 14, 21 and 24	Maricopa	Basic Mediation Training 32-hour session	23
April 3, 4, 7, 8 and 12	Maricopa	Basic Mediation Training 32-hour session, plus 8-hour county-specific training	28
May 12, 13, 15, 16	Pinal	Basic Mediation Training 32-hour session	15
June 2, 3, 4, 5 and 6	Maricopa	Basic Mediation Training 32-hour session, plus 8-hour county-specific training	25
June 13, 14, 16, and 17	Yuma	Basic Mediation Training 32-hour session	8
Total Number of Volunteers receiving training			123