REQUEST FOR QUOTATION (RFQ) DCGD-2009-R0046
CHIEF HEARING OFFICER

Dear Prospective Applicant:

The Office of the State Superintendent of Education (OSSE), Government of the District of Columbia is seeking applicants to become the Independent Chief Hearing Officer for the District of Columbia's Special Education Due Process Hearing system.[1] The OSSE is in the process of transforming the District of Columbia Special Education Student Hearing Office into a high functioning office consistent with standard and best practices for special education hearing systems. The position of Independent Chief Hearing Officer is a newly established position to support the transformation of the system and sustain it in a manner that is independent, fair and impartial.

The transformation of the Student Hearing Office and is a key part of special education reform in the District of Columbia. The District is looking for a strong and committed individual able to make an impact by establishing the highest standards for administrative law practice and effectively managing change in the hearing system.

Special education hearings are conducted pursuant to the Individuals with Disabilities Education Act (IDEA: 20 U.S.C. §1400 et. seq. and 34 C.F.R. Part 300, including 20 U.S.C. §1415; 34 C.F.R. §§300.507 – 300.515 and 300.530 – 300.534; and Title 5 D.C. Municipal Regulations (D.C.M.R.), Chapter 30, including §§3030-3033, the "Special Education Student Hearing Office Due Process Hearing Standard Operating Procedures"(SOP) and the "Blackman/Jones Consent Decree.[2]

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[1] This [RFQ] is made in accordance with paragraph 139 of the Blackman Jones Consent Decree which provides, that under the Consent Decree, the District of Columbia "[is] not bound by the D.C. Procurement Practices Act, D.C. Code Section 2-301.01 et seq., any other District or federal law relating to procurement, and any regulations thereunder."

[2] The District of Columbia Public Schools is a defendant in a class action law suit known as Blackman v. District of Columbia, 97-CA-1629. The complaint alleged and DCPS was found liable for failing to provide due process hearings and issue final determinations within the timeframe prescribed by the IDEA and failing to timely implement Hearing Officer determinations and settlement agreements. On June 30, 2006, the parties entered into a Consent Decree known as the "Blackman/Jones Consent Decree." The Blackman/Jones Consent Decree contains certain provisions governing the handling of administrative due process hearings and the establishment of "Standard Operating Procedures" for the conduct of hearings.
Links to referenced laws, regulations, the Consent Decree and policies: IDEA Statute:
www.nichcy.org/reauth/PL108-446.pdf
IDEA Part B Regulations: http://www.nichcy.org/reauth/IDEA2004regulations.pdf
District of Columbia Special Education Hearing Office Due Process Hearing Standard Operating Procedures (SOP):
http://www.seo.dc.gov/seo/frames.asp?doc=/seo/lib/seo/about/seo/pdf/Due_Process_Hearing_Standard_Operating_Procedures.pdf
"Blackman/Jones Consent Decree."
http://www.bazelon.org/pdf/blackman-CD.pdf

Approximately 300 due process hearing complaints are filed every month and the District of Columbia currently has a cadre of 16 Hearing Officers. Impartial special education Hearing Officers are not employees of the OSSE, DC Public Schools, or local educational agency charter schools. They are private attorneys with at least five years of legal experience who have qualified to serve as hearing officers and who have executed a contract with the OSSE for that purpose.

The position of Independent Chief Hearing Officer will be a contractual full-time position at a fixed price of $225,000 per year to be paid on a monthly basis. The functions and responsibilities will include monitoring and supervising the quality of special education hearings; providing continuing education to the Hearing Officers, including technical assistance; evaluating the Hearing Officers; ruling on requests for continuances, as required; the issuance of subpoenas; and serving as a Hearing Officer, as appropriate and if time permits.

I. QUALIFICATIONS

A Candidate for Independent Chief Hearing Officer must meet the qualifications of a D.C. Special Education Hearing Officer, including being a member in good standing of the District of Columbia Bar, or be a current member in good standing of another State Bar and eligible for, and willing to, waive into the District of Columbia Bar. (If a Candidate is selected and is not a member of the District of Columbia Bar, he/she must apply for membership and show proof such application.) In addition, a Chief Hearing Officer must possess experience and expertise consistent with standard and best legal practices in the conduct of pre-hearings, hearings, case management, and how to write a thorough, comprehensive, and clear hearing decision.

If you believe that you meet the qualifications described above, you are encouraged to submit a proposal with the appropriate attachments. You must provide the OSSE with a full disclosure of your professional background and work experience. You may include a resume or curriculum vitae and must include a legal writing sample demonstrating the ability to render and write decisions in accordance with appropriate standard, legal practices. The sample must be an authored decision or legal brief or memorandum on one or more dispositive issues in a contested case.

Failure to include to any of the foregoing components will disqualify the applicant for further consideration.

Completed applications titled "**CHIEF HEARING OFFICER**" **DCGD-2009-R0046** may be sent to:

Elizabeth D. Kilpatrick
Janet Spevak
Office of Contracting and Procurement
441 4TH Street, NW
Suite 703 South

Washington, DC 20001
(202-535-1757) or (202-481-3829)

Completed applications must be received in by no later than 2:00 pm EST on April 10th, 2009. Incomplete applications or applications received after 2:00 pm will not be considered without exception. To download a copy of this RFQ:
http://app.ocp.dc.gov/RUI/information/scf/SolNumRespond.asp

II. FUNCTIONS AND RESPONSIBILITIES OF THE INDEPENDENT CHIEF HEARING OFFICER

The functions and responsibilities of the Independent Chief Hearing Officer will include the following functions and responsibilities:

1. To protect and ensure the decisional independence of each Hearing Officer;
2. To rule on all continuances on individual cases in excess of one per party or in excess of ten days (Blackman/Jones Section 55 IVD; SOP Section 402(B)(10));
3. To sign and issue any Notice to Appear (SOP Section 800.1(4));
4. To the extent the Chief Hearing Officer, in consultation with the Chief Administrative Officer, deems appropriate to oversee the assignment of Hearing Officers to adjudicated cases and establish internal classifications for case assignment and management on the basis of subject matter, expertise, case complexity, and other appropriate criteria;
5. To establish standard and specialized training programs for Hearing Officers;
6. To provide and coordinate continuing education programs and services for Hearing Officers, both individually and as a group; including research, technical assistance, technical and professional publications, compile and disseminate information, and advise of changes in the law relative to their duties;
7. To develop and implement rules of procedure and practice for cases before the Office and approve the use of forms and documents that will assist in managing cases coming before the Office;
8. To recommend to the OSSE any revisions to District of Columbia law or regulation or procedures necessary or desirable to enhance the operation of the SHO and/or the fairness, impartiality, and independence of the special education hearing system;
9. To monitor and supervise the timeliness and quality of special education hearings and decisions through the provision of training, observation, review of decisions and administrative records, and feedback; provided, that no such review shall require that a ruling or outcome in any case be altered;
10. To develop and implement a code of professional responsibility for Hearing Officers;
11. To serve as a Hearing Officer in any case; and
12. To evaluate the performance of individual Hearing Officers over the period of appointment consistent with established performance criteria and standards and,

when necessary, discipline an individual Hearing Officers who does not meet appropriate standards of conduct and competence in accordance with established policies and procedures. Such evaluation will include the review and consideration of party questionnaires, including the conduct of an investigation as appropriate.

III. QUALIFICATIONS MANDATORY QUALIFICATIONS

A Candidate for Independent Chief Hearing Officer must meet the qualifications of a D.C. Special Education Hearing Officer, including being either be a current member in good standing of the District of Columbia Bar or a current member in good standing of another State Bar and eligible for waiver into the District of Columbia Bar. If a candidate is selected and is not a current member of the District of Columbia Bar[3] , he/she must file a petition to waive into the District of Columbia Bar within 14 days of notice of intent to award and provide proof of submission of application to the Student Hearing Office to demonstrate he/she is awaiting action on a petition to waive into the District of Columbia Bar.

In addition, a Chief Hearing Officer must possess experience and expertise consistent with standard and best legal practices in the conduct of pre-hearing conferences, administrative hearings, case management, and decision writing.

A. PREFERRED QUALIFICATIONS

In addition to the above mandatory qualifications, it is desirable that the Candidate:

1. Possess expertise and experience regarding the management of an administrative hearing system, including monitoring and supervising the quality of administrative hearings; providing continuing education to Hearing Officers, including technical assistance; and evaluating Hearing Officers. (Demonstrated analogous expertise and experience in a judicial system may be substituted.)

2. Possess experience and expertise regarding substantive and procedural special education law and programs.

3. Possess experience and expertise, or knowledge, regarding the conduct of special education pre-hearings and hearings in multiple jurisdictions consistent with standard and best legal practices.

4. Possess experience using electronic docketing or case management systems and/or comfort level with and willingness to master using technology in general.

5. Have experience with change management, institutional reform or otherwise building an administrative hearing office or other operation from the ground up.

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[3]. http://www.dcappeals.gov/dccourts/appeals/coa/index.jsp

IV. EVALUATION CRITERIA

Candidates will be evaluated overall. Priority will be given to Candidates who demonstrate expertise in the mandatory and preferred areas, with extra weight given to Candidates who have demonstrated expertise and experience in preferred qualification number 1 on the management of an administrative hearing system or analogous experience in a judicial system.

V. SELECTION PROCESS

Initial Selection Process. The OSSE shall review all responses received by 2:00 P.M. on April 10th, 2009.

The District may award a contract on the basis of initial offers received, without discussion. Therefore, each initial offer should contain the Chief Hearing Officer's best terms from a standpoint of qualifications, experience and other factors.

Candidate whose application for Independent Chief Hearing Officer does not demonstrate that the Candidate meets the minimum requirements will be rejected. All completed and timely applications will be evaluated on the basis of the Candidate's qualifications, knowledge, skills, and ability. If a Candidate is a current or former District of Columbia Hearing Officer for any previous contract period, due weight will be placed on the performance of the Contractor as a hearing officer during any such contract periods.

The proposal review panel will consist of individuals appointed by the Superintendent or her designee. Applicants whose applications demonstrate the minimum qualifications may be interviewed. Those interviews are expected to take place during **April 13th – 30th** in the District of Columbia (specific location to be determined), but may be moved at the OSSE's discretion.

At the conclusion of the interview process, the recommendations of the Review Panel will be compiled and the recommended proposals will be presented to the State Superintendent of Schools or designee who will, either (1) approve the proposal in whole or part, (2) disapprove the proposal, or (3) defer action on the proposal for further consideration. The OSSE reserves the right to offer a qualified candidate who is not selected as the Chief Hearing Officer a contract to serve as a part time or full time Hearing Officer.

If not already well-versed in special education law and programs and/or experienced as a Chief Administrative Law Judge/Hearing Officer, a Chief Hearing Officer must receive training on special education laws, regulations, and programs and on conducting special

education due process hearings, and/or engage in required mentoring before he/she assumes all duties as a Chief Hearing Officer.

The OSSE reserves the right to withdraw the RFQ at any point in time without notice.

VI. ADDITIONAL INFORMATION

A. MANDATORY QUALIFICATIONS FOR HEARING OFFICER

As required by the IDEA (34 C.F.R. §300.511) and §600.2 of the SOP, Hearing Officers in a special education due process hearing must be independent and impartial. To ensure impartiality, every Hearing Officer is held to the American Bar Association's Code of Judicial Conduct. Additionally, no Hearing Officer may be employed by any school, agency or organization involved with the care or education of the child in the case, have any other professional or personal interest that would conflict with his or her objectivity in the hearing, or have a prior involvement with the child.

> (A) A Hearing Officer shall not be an employee of the OSSE or the Local Education Agency (LEA) as defined by 34 C.F.R. §300.28 that is involved in the education or care of the child. LEAs include both DCPS and some public charter schools in the District.
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> (B) A Hearing Officer shall not be an employee of Public Charter Schools, or private schools in which a student has been placed or any public or private agency or organization that is involved in the education or care of the student who is or may be the subject of the hearing.
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> (C) A Hearing Officer shall not be a person having a personal or professional interest that conflicts with the person’s objectivity in the hearing.
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> (D) The Contractor/Hearing Officer will be required to sign a conflict of interest statement.

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> (E) A person who otherwise qualifies to conduct a hearing is not an employee of the OSSE solely because he or she is paid by the OSSE to serve as a Hearing Officer.

During the term of his or her contract with the OSSE to serve as a Hearing Officer, a Hearing Officer shall not represent a parent or school, in D.C. or in any other jurisdiction, in any due process hearing or administrative or judicial proceeding regarding a school or educational matter.

The restriction set forth above shall not restrict or prohibit a Hearing Officer from:

(A) Accepting compensation or remuneration from the OSSE pursuant to a contract to serve as a Hearing Officer; or

(B) Accepting compensation or remuneration for serving as a Hearing Officer in a Section 504 hearing, as an investigator for the State Complaint Office, or for acting as a mediator in educational disputes (provided, however, that a Hearing Officer may not serve as a Section 504 Hearing Officer, an investigator with the State Complaint Office, or as a mediator in any case or matter involving a student who has been the subject of a due process hearing over which the Hearing Officer has presided).

In addition to the requirements of independence and impartiality, Candidates must meet the following mandatory qualifications:

(A) Possess judicial temperament;

(B) Be a member in good standing of the District of Columbia Bar; or be a member in good standing of another State Bar and eligible for waiver into the District of Columbia Bar. All Candidates shall provide a certificate of good standing for all bars of which he/she is a member, as well as, proof of length of membership when submitting response. If a candidate is selected and is not a current member of the District of Columbia Bar, he/she must file a petition to waive into the District of Columbia Bar within 14 days of notice of intent to award and provide proof of submission of application to the Student Hearing Office to demonstrate he/she is awaiting action on a petition to waive into the District of Columbia Bar;

(C) Have at least five years of legal experience as an attorney. A minimum of 2 years of practice in the areas of special education, disability law, administrative law, or civil rights and/or experience with court, administrative, or arbitration litigation, including as a Judge, Administrative Law Judge, or Hearing Officer is desirable; and

(D) Demonstrate “Good” or “Excellent” writing skills.

If not already well-versed, Hearing Officers receive training on special education laws, regulations, and programs and on conducting due process hearings, before they begin hearing and adjudicating cases. A Hearing Officer must demonstrate the following, after training, if required:

(A) Knowledge of, and the ability to understand, the provisions of the IDEA, Federal and District of Columbia regulations pertaining to the IDEA and the education of children with disabilities, and legal interpretations of the IDEA by Federal and District of Columbia courts;

(B) Knowledge and ability to conduct pre-hearings and hearings in accordance with appropriate, legal practice; and

(C) Knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

B. CONTRACT FOR CHIEF HEARING OFFICER

The contract for the Chief Hearing Officer will be modeled on the RFQ for Hearing Officer DCGD-2008-R-0014 which is available for viewing at the following link: http://app.ocp.dc.gov/RUI/information/scf/SolNumRespond.asp.