

## Request for Proposals Illinois Supreme Court Commission on Access to Justice Online Dispute Resolution Program 2020-2021

### Background Information

Online Dispute Resolution (ODR) has the potential to expand the public's access to justice and improve their experience with justice processes. According to the National Center for State Courts' Conference of Chief Justices (NCSC CCJ), navigating civil courts can be daunting, and "those who enter the system confront a maze-like process that costs too much and takes too long."<sup>1</sup> In its 2016 recommendations entitled *Call to Action: Achieving Civil Justice for All*, the NCSC CCJ notes that services should improve in step with changing needs and the development of new technologies but goes on to lament that "courts lack any of the user-friendly support we rely on in other sectors."<sup>2</sup> Recommendation 13 of the NCSC CCJ report implores courts to "take all necessary steps to increase convenience to litigants by simplifying the court-litigant interface and creating on-demand court assistance services."<sup>3</sup> As such, "on-demand court assistance" must go beyond basic informational webpages or online payment portals.

Moreover, the COVID-19 pandemic and its impact on the court system has only further highlighted the need for remote tools that allow court patrons to easily access the courts and resolve their disputes without risking their health and safety or the health and safety of court personnel.

ODR uses technology to facilitate the resolution of disputes, or of issues within disputes, usually between parties who are self-represented. ODR primarily involves negotiation, mediation, arbitration, or a combination of all of these. ODR may be able to resolve a wide range of disputes, including those involving consumers, traffic infractions, marital or familial type relationships, as well as civil disputes more typically seen in small claims and eviction cases.

While ODR is a relatively new concept for courts, it is not a theory or a "bleeding-edge" technology. Nationally, for more than 20 years, ODR has been used effectively to resolve millions of individual-to-individual ecommerce disputes with minimal human involvement by the company and high rates of satisfaction, even from those who lost.

Only in recent years have courts begun to explore the use of ODR. According to the Institute for the Advancement of the American Legal System,<sup>4</sup> ODR has significant potential to improve traditional

---

<sup>1</sup> *Call to Action: Achieving Civil Justice for All* (2016), <https://www.flcourts.org/content/download/218979/1979820/NCSC-CJI-Report-Web.pdf>, 2.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 37.

<sup>4</sup> Greacen, John M., *Eighteen Ways Courts Should Use Technology* (October 2019), [https://iaals.du.edu/sites/default/files/documents/publications/eighteen\\_ways\\_courts\\_should\\_use\\_technology.pdf](https://iaals.du.edu/sites/default/files/documents/publications/eighteen_ways_courts_should_use_technology.pdf), 19.



court processes for many court customers:

- Parties are able to attempt to resolve their dispute on their own terms;
- Parties can resolve their case in the safety and comfort of their homes without having to physically go to court;
- ODR applications are available 24 hours a day, 7 days a week, 365 days a year, and parties can work on their proposals and counterproposals at their convenience;
- ODR programs can be designed to allow users to opt in and out of the process;
- ODR is usually offered at no cost, although involvement of a third party may involve payment of a fee;
- ODR speeds up the resolution both of cases in which it is used and of the remaining cases on the court's docket; and
- Users report high levels of satisfaction with the system.

Early court adopters of ODR now have several years of data. The overwhelming conclusion is that ODR has increased participation, improved access, and freed valuable court resources for the cases that need it. For instance, the Franklin County Municipal Court (Columbus) in Ohio launched an ODR program in October 2016 focusing specifically on small claims cases and expanded the program to all civil cases in 2018. After studying several years of data, Franklin County concluded that their court annexed ODR program resulted in higher participation by parties, reduction of default judgments, and more even distribution of positive case dispositions regardless of socio-economic factors and race.<sup>5</sup>

Likewise, West Valley City, Utah launched its homegrown ODR platform for small claims cases in September 2018 and expanded to two additional courts in August 2019. With more than 20 months of ODR case data to evaluate, tangible benefits are emerging:

- “Spillover” of cases on overscheduled court days has been eliminated;
- The number of hearings per case for those that do end up in court is down 44%;
- Court staff time per case is down 45%; and
- Time to disposition is down 58%.<sup>6</sup>

Currently in Illinois, there is one court sponsored ODR pilot program operating in the 10<sup>th</sup> Judicial Circuit as an enhancement to a mandatory mediation program in domestic relations cases for self-represented parents. Under the guidance and supervision of the Illinois Supreme Court, the Illinois Supreme Court Commission on Access to Justice (“ATJ Commission”) seeks to expand the use of ODR in Illinois and fund the initiation of additional ODR programs, particularly in response to the public health and safety challenges presented by the COVID-19 pandemic.

## Program Overview

The goal of this program is to support the incubation and implementation of several ODR programs throughout the state to evaluate their effectiveness, benefits, and downsides. We encourage diverse

---

<sup>5</sup> Joint Technology Committee Resource Bulletin, *Case Studies in ODR for Courts* (Jan. 28, 2020), [https://www.ncsc.org/\\_data/assets/pdf\\_file/0020/16517/2020-01-28-odr-case-studies-v2-final.pdf](https://www.ncsc.org/_data/assets/pdf_file/0020/16517/2020-01-28-odr-case-studies-v2-final.pdf), 2; see also Franklin County Municipal Court ODR and Mediation Data Project, <https://sites.google.com/view/fcmcdataport/about> (last visited June 8, 2020).

<sup>6</sup> *Case Studies in ODR for Courts* at 3; see generally Joint Technology Committee Quick Response Bulletin, *Judicial Perspectives on ODR and Other Virtual Court Processes* (May 18, 2020), [https://www.ncsc.org/\\_data/assets/pdf\\_file/0023/34871/2020-05-18-Judicial-Perspectives.pdf](https://www.ncsc.org/_data/assets/pdf_file/0023/34871/2020-05-18-Judicial-Perspectives.pdf), 4-5.

and innovative proposals across all areas of law, technology platforms, and segments of Illinois' population, including but not limited to self-represented litigants.

The ATJ Commission recognizes that launching a successful ODR program requires significant planning, strategizing, and collaborating with local stakeholders. Thus, the grant program will consider two types of proposals:

- (1) **Planning Phase:** Proposals in their infancy, seeking assistance and guidance in creating and designing an ODR program; and
- (2) **Execution Phase:** Proposals seeking assistance and guidance in launching a specific ODR program during the grant period that has already been identified and planned.

The ATJ Commission will provide support and guidance as needed, and grantees will be asked to share the experiences and insights they have gained throughout the grant period, culminating in a final report at the end of the grant cycle.

Please be advised that there is an additional application process through the Administrative Office of the Illinois Courts ("AOIC") that all grantees must complete prior to launching an ODR program to the public. All grant recipients must commit to completing this separate application process and more information will be provided with the grant award decisions. For more information on the AOIC process, please contact Sarah Song, Senior Program Manager, Access to Justice Division, AOIC at [ssong@illinoiscourts.gov](mailto:ssong@illinoiscourts.gov).

### **Expectations for Grant Recipients**

We seek innovative and creative proposals looking to apply the technological advancements made in ODR to expand access to justice. We anticipate project proposals will vary in scope and approach and welcome all interested stakeholders to apply. The criteria listed below are not meant to be exhaustive, and we expect each jurisdiction will have its own unique circumstances to address.

- (1) **Grant Recipients for the Planning Phase will be expected to:**
  - Incorporate local stakeholders, including end users, in the planning process;
  - Make data-driven decisions in forming an ODR program;
  - Define the type of service(s) offered through the ODR program (e.g., negotiation, mediation, arbitration, a combination, etc.);
  - Determine how the court will use ODR (e.g., what types of cases and users, whether ODR will be mandatory or permissive, when ODR will be offered, level of judicial oversight, etc.);
  - Determine how the user will access the ODR program (e.g., mobile device or desktop only, synchronous and/or asynchronous communication, etc.), taking into account how users with disabilities, limited English proficiency, limited tech proficiency, and low literacy will access the program;
  - Consider how costs to parties, if any, can be minimized for all users and waived for users who qualify for a waiver of court fees, costs, and charges under 735 ILCS 5/5-105;
  - Ensure that any proposed ODR program will adhere to the rule of law and procedural fairness;
  - Address confidentiality and security of communications and data collected;

- Explore ways to secure program sustainability at the end of the grant period and/or any renewal period;
- Share insights and lessons learned with other grantees or jurisdictions interested in pursuing ODR; and
- Document planning efforts and decision-making rationale.

**(2) Grant Recipients for the Execution Phase will be expected to:**

- Meet the criteria for Planning Phase grantees;
- Develop the proposed ODR program with an outside vendor or internal developer, including how the ODR platform will interact with case management system(s) and eFiling;
- Conduct user testing with local stakeholders, including end users, and incorporate improvements;
- Develop trainings and educational materials for all stakeholders, including end users;
- Collect and share accurate data of the “status quo” prior to launch and post-launch;
- Secure changes to local rules, orders, or processes to authorize the proposed ODR program and how it will operate;
- Launch the proposed ODR program;
- Create and execute a marketing plan;
- Determine how and when to collect feedback and implement improvements post-launch; and
- Explore ways to secure program sustainability at the end of the grant period and/or any renewal period.

Each grant will be for a one-year period from August 1, 2020–July 31, 2020, and grantees may seek renewal at the end of the grant period. However, each recipient will be expected to take steps towards developing a sustainable path forward. The maximum grant award for any jurisdiction is \$15,000, but we are anticipating grant awards to range from \$2,000 to \$8,000. The final amounts will be based on demonstrated need outlined in the Budget Narrative. Grants can cover expenses related to creating and/or implementing an ODR program. For proposals significantly outside of this range, please contact Sarah Song, Senior Program Manager, Access to Justice Division, AOIC at [ssong@illinoiscourts.gov](mailto:ssong@illinoiscourts.gov).<sup>7</sup>

## Decision Process

Applications are due by **July 15, 2020**. All award decisions will be made by a selection committee of the ATJ Commission. The selection committee will review all grant applications and make awards based on several criteria including ability to reduce barriers to accessing the courts—particularly for underserved populations, willingness to innovate and think creatively, and capacity to operate independently in the long run. The selection committee anticipates announcing grant recipients on July 31, 2020.

---

<sup>7</sup> Please be advised that proposals to support the creation and/or execution of ODR programs may be submitted for the Self-Represented Litigant Coordinator Grant RFP that is issued concurrently with this RFP. You may seek funds to develop an ODR program under either grant program but not both. In other words, the same jurisdiction cannot receive SRL Coordinator Grant funds and ODR Program funds for the same ODR program.

## Grant Proposal Requirements

Each proposal for grant funds must include the following three components:

- Section I      Application Form (see below)
- Section II     Program Narrative (1,5000 word maximum)
- Section III    Budget Narrative (500 word maximum)

More information on each section is provided below.

**Completed grant applications must be submitted before 5:00 pm on July 15, 2020** by email to Sarah Song, Senior Program Manager, Access to Justice Division, AOIC at [ssong@illinoiscourts.gov](mailto:ssong@illinoiscourts.gov).

## Section I – Application Form for Online Dispute Resolution Program 2020-2021

### Applicant Information

County (if multiple counties, please list each one)	
Judicial Circuit	
Chief Judge	
Presiding Judge (if applicable)	
Circuit Clerk	
Request	<input type="checkbox"/> Grant for Planning Phase <input type="checkbox"/> Grant for Execution Phase
Certification (please check the box to certify you understand the following)	<input type="checkbox"/> I understand that by submitting this application for grant funds, I am completing the first step in the process to create and/or execute an ODR program. By checking this box, I am agreeing to complete the requisite AOIC application process and comply with all other relevant requirements prior to launching an ODR program.

### Primary Contact Person

Name	
Job Title	
Address Line 1	
Address Line 2	
City, State, Zip Code	
Phone	
Email	

## Section II - Program Narrative (1,500 word maximum)

The program narrative should answer the following questions:

### For Planning Phase Applicants:

- a) **What are your goals for an ODR program?** Please describe the specific needs of both litigants and court staff you hope an ODR program will address. Also, explain why you are interested in pursuing an ODR program.
- b) **What steps will you take to create an ODR program and what do you expect to achieve by the end of the grant period?** Please provide a detailed description of the proposed planning activities, including a timeline, and the anticipated deliverable at the end of the grant period.
- c) **Who are the stakeholders you will work with to create an ODR program?** Please describe any partnerships (both court-based and external) you have and/or plan to pursue and how these partners will be part of the planning process. Explain how you will incorporate end users in designing an ODR program.
- d) **What current resources are available, if any, to create an ODR program and how will you use grant funds to increase or enhance these resources?** Please list any currently available resources or expertise that will be devoted to creating an ODR program and how the grant will increase this capacity or add to it.
- e) **What challenges or roadblocks do you anticipate in your jurisdiction to implementing a successful ODR program?** Please describe these challenges and how you hope to address them during the planning phase.

### For Execution Phase Applicants:

- a) **What is your proposed ODR program?** Please describe the ODR program for which you are requesting grant funds. Include the type of case, type of user, whether or not it will be mandatory or voluntary, what type of service(s) will be offered, and when ODR will be offered.
- b) **How did you choose this ODR program?** Please explain how you decided to implement the proposed ODR program, including any planning activities, data analysis, and stakeholder support you obtained.
- c) **What are the goals for the ODR program?** Please list specific objectives you hope to accomplish with the ODR program. Describe the specific needs of both litigants and court staff you believe the ODR program will address.
- d) **Who are the stakeholders you will work with to implement the ODR program?** Please describe any partnerships (both court-based and external) you have and/or plan to pursue and how these partners will assist in launching the ODR program. Explain how you will incorporate end users in implementing the ODR program.

- e) **How will you evaluate the effectiveness of the proposed program?** Please include how you will collect and analyze data both before and after launching the ODR program. Please also explain how you will seek feedback and incorporate improvements.
- f) **What challenges or roadblocks do you anticipate in your jurisdiction to implementing a successful ODR program?** Please describe these challenges and how you plan to address them during the execution phase.

### **Section III – Budget Narrative (500 word maximum)**

Please provide a budget narrative explaining (1) how much grant money the applicant is requesting and (2) how the grant money will be spent, including any quotes received from ODR technology providers.