



ANISHINABEK POLICE SERVICE

REQUEST FOR PROPOSAL

LEGAL SERVICES

Services to be provided include:

- Legal service including representing the APS in a variety of legal proceedings, and;
- Provide general legal advice and representation to the APS.

Proposals should be clearly marked "*Proposal for Legal Services*" and addressed to:

Jeffery Jacobs, Chairman
Police Governing Authority
Anishinabek Police Service
1436 Hwy 17 East
Garden River, ON
P6A 6Z1
Telephone: (705) 946-2539
Fax: (705) 946-2859

Closing date for proposals is March 29th, at 12:00 p.m. (noon).

Electronic submissions may be sent via email to:

jjacobs@sierrakwe.com

ANISHINABEK POLICE SERVICE

REQUEST FOR PROPOSAL FOR LEGAL SERVICES



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ANISHINABEK POLICE SERVICE

REQUEST FOR PROPOSAL – LEGAL SERVICES

1. BACKGROUND INFORMATION

*"Anishinabek Police Service provides effective, efficient, proud, trustworthy and accountable service to ensure Anishinabek residents and visitors are safe and healthy while respecting traditional cultural values including the protection of inherent rights and freedoms on our traditional territories."*¹

The Anishinabek Police Service was established pursuant to a First Nations Policing Policy introduced by the Government of Canada in 1991. Under its auspices, tripartite agreements between federal, provincial or territorial & First Nations authorities have been negotiated across Canada. The objective is to ***"improve the administration of justice for First Nation through the establishment of First Nation police services that are professional, effective and responsive to the particular needs of the community"***. (First Nations Policing Policy (1996), at p. 2).²

These agreements are meant to afford First Nations communities with professional, well-trained and culturally sensitive police officers with ***"the same responsibilities....as other police officers in Canada...[and] the authority to enforce applicable provincial and federal laws (including the Criminal Code), as well as Band by-laws"*** (*id.*, at p. 4).

In 2014, the Auditor General released a performance audit of the First Nation's Policing Program which is under Public Safety Canada. The audit examined the program's performance as provided under the principles of the FNPP policy. The recommendations identify the need to update the program's objectives and delivery while also working with the Province to address a variety of issues but in particular consultation and infrastructure. This report will no doubt have an impact on tripartite negotiations.

The Anishinabek Police Service Ltd. was originally organized as a for profit entity with share capital under the Business Corporations Act, on November 16, 1994. By February 2010, the organization resolved their corporate structure by applying for a continuation as a non-profit entity effective February 2010.

The services for which Anishinabek Police Service is responsible for is to provide community based policing to sixteen (16) First Nation communities which are located throughout the Province of Ontario.

By way of background, on March 30, 1992, a five (5) year Ontario First Nations Policing Agreement was signed by Grand Council Treaty #3, Nishnawbe-Aski Nation, AIAI, Anishinabek Nation, Six Nations and the Provincial & Federal governments.

¹ Revised APS Mission Statement, approved by PGA in 2016

² Citation: R. v. Decorts, [2005] 1 S.C.R. 133, 2005 SCC9

In 1994, Garden River, Curve Lake, Sagamok and Saugeen First Nations stepped away from the Ontario Provincial Police to form the Anishinabek Police Service. At this time, it was also decided that Garden River would become the home base for Headquarters because it is situated geographically in the center of the Province. Keeping the future in mind and projecting that the police service would expand to incorporate the addition of more First Nations, Garden River was the logical location for the organization's headquarters.

In 1996, a new three (3) year agreement was endorsed to include the addition of thirteen (13) more First Nations under the administration of Anishinabek Police Service. In 1997, two (2) more First Nations joined the service, bringing the total to nineteen (19). Within the last couple a few communities have withdrawn from the administration the organization, reducing the number currently serviced by the APS to sixteen (16). Currently, there are fourteen (14) detachments operating and servicing these communities.

Funding is provided by way of a tripartite agreement with Canada at 52% and the Province of Ontario at 48% contribution levels. The APS is currently operating within a one year agreement which will be renegotiated for a further four (4) year term.

Currently there is an organizational review being conducted of the APS. It is anticipated that this review will be completed by the end of March 2019. The organizational review will assist the service in determining if it is fulfilling its mandate, examine structure and determine whether it has sufficient human and financial resources to operate. In addition, the review will also consider the opportunity for the development of a culturally appropriate dispute resolution process.

Annual Reporting

Our service has produced an annual report during the last four (4) fiscal periods which can be found on our website at www.apscops.org

Governance

The Police Governing Authority (PGA) form the organization's board. Members are appointed by their respective Chiefs & Councils. Their role and responsibilities are identified in policy and tripartite agreement. They meet on a quarterly basis.

The Anishinabek Police Council (APC) is comprised of Chiefs of our member Nations who are the political body that oversee the function of the PGA and advocate, negotiate and represent the collective interests of our members. The APC meets annually and as required. Their roles and responsibilities are also identified in policy and under the tripartite agreement. In some cases, a Chief may also be the PGA representative.

Personnel

The Anishinabek Police Service employs professional staff to manage the affairs of the corporation.

The organization employs approximately sixty-one (61) uniformed members and twenty-one (21) civilian positions, with the administration operating out Headquarters in Garden River and staff operating out of twelve (12) detachments providing coverage to sixteen (16) First Nations.

Collective Bargaining History

In May 2008, the Public Service Alliance of Canada (“PSAC”) was *federally* certified as the exclusive bargaining agent for the police officers at the Anishinabek Police Service Police. In 2012, the Police Governing Authority (PGA) made an application arguing that labour relations at First Nations Police Service properly fell under *provincial* legislation.

After approximately four years, and going through many procedures, on April 7, 2016, the Supreme Court of Canada agreed with the PGA that labour relations were *provincial*. The result was PSAC should have never been issued a certificate therefore there is no valid collective agreement in place.

APS continued to operate generally using the conditions from the old agreement. While the jurisdictional issues were going through the challenge above (court), on September 4, 2013, PSAC applied to be *provincially* certified as well as *federally*.

In January 2014, the *Provincial* Board stopped the application waiting for the court’s decision. After the PGA won the decision at the Supreme Court in April, 2016, the *Provincial* Labour Board automatically certified PSAC a month later (May 2016) without considering APS’ argument that officers should have to vote whether they still wanted their representation.

PSAC applied to the Provincial Labour Board to force the PGA to bargain even though the challenge to the certificate was underway. The Labour Board appointed a mediator to facilitate the bargaining.

PSAC and the PGA have engaged in collective bargaining to negotiate a collective agreement even though the challenge (approving certification) was supposed to go ahead in September 2017. The PGA took the position that at some point in the future we would require an agreement anyway. Bargaining would be helpful to promote order across the service. The new collective agreement was successfully completed in October 2017 and expired on December 31, 2018.

Currently, the APS officer group are represented by Cst. Charles Laronde and Cst. Chantal Larocque of the Nipissing Detachment.

Civilian members withdrew from the being represented by PSAC in 2012 and solely rely on their expired collective agreement.

Police Services Act Amendment

In the near future, it is expected that amendments to the *Police Services Act* via the *Safer Ontario Act* will be presented to include First Nation officers. This will change the dynamic of external representation and officers will then be compelled to have their own in-house association as the Act precludes representation by a trade union. The opting in/out process has yet to be determined by our Police Governing Authority.

Current Organizational Structure

A copy of the organizational chart can be found within our annual report which will assist with reference purposes and to identify the key positions within the organization along with reporting structure.

Legislative Requirements

The tripartite agreement with Canada and Ontario defines the activities and services provided by Anishinabek Police Service.

The Ontario Pension Board, Worker’s Compensation Act and Employment Standards Act including the Canada Labour Code may have practical impacts on the operations of the organization.

2. CLOSING DATE & TIME

March 29th, 2019 no later than 12:00 p.m. (Noon)

Proposals should be sealed and clearly marked “*Proposal for Legal Services*” and addressed to **Jeffery Jacobs, Chair – Police Governing Authority:**

Anishinabek Police Service
1436 Hwy 17 East
Garden River, ON
P6A 6Z6
Telephone: (705) 946-2539
Fax: (705) 946-2859

Or submitted electronically to: jjacobs@sierrakwe.com

3. TERMS OF ENGAGEMENT

It is the intent of the APS to re-issue this Request for Proposal as required or at least every three years. The successful candidate is not guaranteed any minimum amount of billed hours to the APS. The APS also reserves the right to engage other legal services at its sole discretion.

4. SERVICES TO BE PROVIDED

The APS is seeking a full service law firm to engage with and build a long term professional relationship. It is expected that this firm will have all expertise in house to meet the need of the APS. It is essential that the successful firm have in depth experience with policing environment and preference maybe given to firms with a strong background working with First Nations.

The following are key attributes the successful firm should have;

1. In depth experience in police governance, police discipline and general matters involving the policing profession.
2. In depth understanding of the *Police Services Act* (PSA) and the ability to move the APS into the PSA should this occur in the future.
3. In depth experience with the Ontario Labour Relations Board such as appearing on behalf of policing clients at mediation and conciliation.
4. In depth experience with the Ontario Human Rights Commission.
5. Demonstrated ability to build relationships and mediate resolutions on behalf of the APS.

Presently the APS has a number of outstanding matters. Proposals should provide some considerations as to how the successful candidate will manage these current files.

Oversight and Guidance

The successful firm will be overseen by the Chief of Police and/or the PGA or other designates of the APS.

Guiding Principles;

- I. Our Anishinabek culture, traditions and language as well as our uniqueness as a First Nation Police Service will be respected, upheld and must remain at the core of this and all work;
- II. The health and safety of our citizens and employees is a top priority;
- III. The APS has a desire to foster an environment of collaboration and a professional working relationship across the organization;
- IV. The Service's organizational structure and overall performance must foster the efficient and effective delivery of policing services to member First Nations with a known set standard of service;
- V. The legal services must be provided in a fiscally responsible manner.

5. TIMING OF SERVICES

It is expected that the firm will be selected in April 2019. Once selected the successful proponent will be notified. The new firm will be expected to start with the APS by the end of April 2019.

6. PROPOSAL CONTENT

Proposals will include the following;

Professional Fees

1. A blended cost per hour for services.
2. Travel costs to and from the Garden River Headquarters (Sault Ste. Marie). This will be used as a gauge for anticipated travel costs generally. The firm should expect to appear on behalf of the APS at venues across Ontario.
3. Any ancillary costs the proponent feels appropriate.

Firms History and Background

4. An overview of the firm’s history, structure and experience in this field of law.
5. Full backgrounds of the principle attorney(s) who will be the main contact(s) for APS and backgrounds of any other attorney(s) who will provide any of the essential services detailed above.

Cultural Competency

6. Details as to the firms and principle attorney(s) cultural competency and/or experience in working with First Nations.

8. TIMING OF DECISION

Due to the number of expected applicant firms, the APS may short list the applications and invite a small number of firms to present their proposals in person. These presentations will occur at the Garden River Headquarters on a date to be determined. It is anticipated that the final decision will be made by late April 2019.