

Request for Proposal

OVERVIEW OF SERVICES REQUIRED

The National Aboriginal Lands Managers Association (NALMA) is requesting proposals from experienced consultants or firms for the development of two dispute resolution models. These models would be for use by First Nations wishing to provide on-reserve spouses and common-law partners with a mechanism to resolve matrimonial real property disputes on separation or survivorship. Additional deliverables include training materials to be used to introduce the models and provide instruction on the use, customization and implementation of the model and a work-book to guide the First Nation technicians or committee tasked with the development, customization and implementation of the dispute resolution process.

BACKGROUND INFORMATION:

The Government of Canada enacted the *Family Homes on Reserves and Matrimonial Interests or Rights Act* (the Act) to address a legislative gap identified when the Supreme Court of Canada ruled in *Paul v. Paul* and *Derrickson v. Derrickson* that provincial or territorial matrimonial real property laws cannot apply to alter individual interests in reserve lands.

As part of Canada's implementation strategy, the National Aboriginal Lands Managers Association (NALMA) was selected to host the Centre of Excellence for Matrimonial Real Property (COEMRP). The COEMRP is a First Nation organization that operates arm's length from the Government of Canada established to, amongst other things: Provide research on dispute resolution mechanisms.

The Act provides for some recognition of agreements made between spouses or common-law partners, Section 2(3) states "For greater certainty, for the purposes of this Act, an agreement between spouses or common-law partners includes an agreement reached through the use of traditional dispute resolution.

In accordance with that mandate, the COEMRP has undertaken research on dispute resolution in the context of the *Family Homes on Reserves and Matrimonial Interests or Rights Act*, including a Toolkit for On-Reserve Dispute Resolution to assist communities to begin their discussion on community dispute resolution or to deepen their conversations on the implementation of their existing dispute resolution processes.

In 2017-2018, INAC conducted a targeted engagement process with First Nations to receive feedback and advice regarding current implementation challenges and new features that can help support the on-going implementation of the Act. Feedback collected through that engagement identified:

- a need to support alternative dispute resolution mechanisms, including bands collaborating to form mediation circles, First Nation tribunals, etc.

- funding to First Nations to establish and maintain traditional dispute resolution mechanisms, mediation and/or arbitration
- alternative dispute resolution tribunal or justice circle that travels and serves a grouping of remote communities
- provide ongoing funding to establish an alternative dispute resolution team that can provide advice and mediation services for matrimonial real property disputes similar to provincial programs (e.g. family circles, justice circles and First Nation courts)
- funding for honorarium for individuals providing dispute resolution services in communities and for mediation services
- introduce a governmental program to fund alternative dispute resolution processes, including unbiased mediation (for example, northern and southern mediators) and discussions with Elders.

In response to the need for dispute resolution processes as an alternative option to family court proceedings, the COEMRP has identified a need for the development of dispute resolution mechanisms.

SCOPE OF WORK:

The scope of work will include, but not be limited to, the following functions:

Primary Objective:

Development of two dispute resolution model processes for use by First Nations wishing to provide on-reserve spouses and common-law partners with a mechanism to resolve matrimonial real property disputes on separation or survivorship.

- The first will be for use where Members hold real property on the reserve in accordance with the Indian Act **OR** a First Nation Land Code enacted in accordance with the Framework Agreement on First Nation land Management.
- The second model will be for use where the First Nation has customary or traditional land holding only.

Both models will include formal and transparent structures, policies and procedures with clear rules and a process with clearly defined steps. The model however, should build in options for customization to reflect the customs and traditions of individual First Nations.

The models may incorporate less formal facilitated discussions, where agreement cannot be reached through discussion, a more formal process in the form of a panel may further assist the parties in reaching a fair agreement.

Models will provide processes for:

- Fairness and Transparency

- Circle and Tribunal Member Qualifications
- Selection of panelists/mediators
 - Eligibility
 - Term of appointment
 - Procedures for reappointment
- Training requirements for panelists/mediators
- Conflict of interest guidelines
- Application process which could include
 - Eligibility requirements
 - Who can make application for dispute resolution process
 - What issues will be heard by dispute resolution mechanism
 - requirements for notice
 - requirements for supporting documentation where appropriate
 - options for process sustainability (fees and honoraria where appropriate)
- Procedures for Hearing Disputes
 - Timeline from Notice to Hearing
 - Procedures and or exceptions where family violence is a factor
 - Role of family, kinship groups and Community
- Requirements on termination of proceedings
- Record keeping and document management

Secondary Objective:

Development of training PowerPoints and interactive exercises for use by the COEMRP to introduce the models and provide instruction on the use, customization and implementation of the model.

Development of a Dispute Resolution Work-Book to guide First Nations through the process of developing and customizing their dispute resolution process to ensure consistency with the community's values, principles and laws.

PROJECT TERMS:

NALMA is requesting fixed price proposals from qualified, experienced consultants and firms. The completion date for this project is February 1st, 2019.

General Requirements:

- Applicant will have experience and knowledge in generally working with First Nation or Inuit governments or Indigenous organizations;
- Applicant has knowledge of alternative dispute resolution in the context of First Nations and Indigenous Peoples;

- Demonstrated knowledge and experience in culturally relevant and responsive dispute resolution approaches;
- Demonstrated ability to work collaboratively and respectfully with Indigenous communities;
- Strong understanding of First Nations culture, history, and contemporary issues affecting First Nations;

Preference will be given to Indigenous Firms.

COMPENSATION

Terms and timelines for payment will be specified in the finalized retainer and contract for services.

PROPOSAL RESPONSE GUIDELINES

To ensure a proposal is considered for evaluation it must include all the information requested and be presented in the order described below:

Cover Letter

The cover letter must:

- Clearly reference the project title of the RFP;
- Be dated and signed by a person authorized to negotiate, make commitments, and provide any clarifications with respect to the proposal on behalf of the bidding contractor;
- Include a statement indicating your understanding of the proposed services and requirements;
- Highlight relevant qualifications experience;
- Indicate the capacity to provide the services.

The Proposal – Qualifications and Experience

The proposal must outline and include the following:

- Applicant has knowledge of matrimonial real property on reserve, including estates and division;
- Demonstrated knowledge and experience in developing culturally relevant and facilitative mediation approaches;
- Demonstrated ability to work collaboratively and respectfully with Indigenous communities;

- Strong understanding of First Nation culture, history, and contemporary issues affecting First Nation peoples;

References

Please supply three relevant references including the name, title, telephone and email address of the contact person.

Innovation

Provide details of any possible innovative ideas, suggestions or opportunities for improvement that would enhance the project, process or required outcomes indicated within this RFP.

Costs and Charges

Provide the hourly rates for the team proposed to conduct the work.

SELECTION PROCESS

Upon closing, all proposals will be reviewed for completeness. Only completed proposals will be brought forward for further consideration and final decision.

Eligible proposals will be evaluated based on the proposal response guidelines as listed above.

PERIOD OF AGREEMENT

The term of any contractual agreement will be from the date of the award to be defined in retainer agreement.

TERMS AND CONDITIONS

The National Aboriginal Lands Managers Association (NALMA) will not be responsible for any costs incurred by a contractor in preparing and submitting proposals and/or attending interviews. The NALMA accepts no liability of any kind to a contractor prior to the signing of a contract.

Submission of a proposal shall not obligate, nor should it be construed as obligating the NALMA to accept any such proposal or to proceed further with the project. The NALMA may, in their sole discretion, elect not to proceed with the project, and may elect not to accept any or all proposals for any reason.

Contractors may amend or withdraw their proposals prior to the closing date and time specified in the RFP by way of written notice.

The contractor must identify any information in its proposal that it considers to be confidential or proprietary.

The contractor will be expected to comply with the NALMA's conflict of interest policy, and must identify any areas of potential conflict in its work with other clients and will be expected to work in the best interests of the National Aboriginal Lands Managers Association.

All proposals and accompanying documentation received under this competition will become the property of the NALMA and will not be returned.

The NALMA reserves the right to accept or reject, in whole or in part, any or all proposals.

The NALMA reserves the right to cancel and/or re-issue this RFP at any time for any reason without penalty.

The contractor's proposal shall form part of the contractual agreement by attachment and will be incorporated by reference.

Proposals will be received by the National Aboriginal Lands Managers Association located at 1024 Mississauga Street, Curve Lake, Ontario K0L 1R0 until **4:30 pm on August 24, 2018**. Proposals can also be **emailed to Leona Irons – Executive Director at liron@nalma.ca** with the subject line **COEMRP Dispute Resolution Proposal**. Proposals received after the closing date will not be considered.

QUERIES AND CLARIFICATIONS:

The RFP Contacts are Kathy McCue, MRP Specialist West– kmccue@coemrp.ca (available now until August 17th) and Chris Angeconeb, MRP Specialist East – cangeconeb@coemrp.ca (available August 17 – August 24).

The proponent is responsible for obtaining any needed clarification. Questions should be directed in writing to the RFP contact.