



THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

REQUEST FOR PROPOSAL

RFP LS01-12 - LEGAL SERVICES

JANUARY 2012

**TOWNSHIP OF MALAHIDE
REQUEST FOR PROPOSALS
RFP LS01-12 Legal Services**

INSTRUCTIONS FOR PROPONENTS

1. INTRODUCTION

The Township of Malahide is a lower tier municipality located in the eastern portion of the County of Elgin, surrounding the Town of Aylmer on the north shore of Lake Erie. Malahide is predominantly a rural community with two urban settlement areas, Springfield and Port Bruce. The population is approximately 8,800.

Malahide Township has a seven member Council that typically meets on the first and third Thursday of each month. The Senior Staff consists of a CAO/Clerk, Director of Finance, and Management Team that oversee a permanent staff of approximately 45 and 100 volunteer firefighters.

The Township of Malahide operates the following departments:

- Administration/Clerks
- Finance
- Physical Services, including: Transportation, Water/Wastewater, and Drainage
- Community & Corporate Services, including: Building/By-law Enforcement, Parks and Recreation, Planning and Development, IT/GIS, and Property Maintenance
- Fire and Emergency Services

There are two community halls, each located in Springfield and Lyons, in addition to a number of parks, sports fields, and outdoor recreational facilities.

2. SCOPE OF WORK

The Corporation of the Township of Malahide is seeking qualified legal counsel in various practice areas. The purpose of this Request for Proposal is to secure a list of qualified legal counsel in areas which the Township may retain on a case-by-case basis to perform the following duties from time to time:

- Provide general legal opinion and advice;
- Represent the Corporation for litigation, as required;
- Supply services to draft and negotiate corporate and commercial contracts, agreements, easements, and other documentation; and
- Attend meetings to provide or present information.

The Township of Malahide is seeking legal counsel in order to provide opinion on various legislation relating to the operations of the municipality which include, but are not limited to, the following:

- i. Municipal Law
 - *Municipal Act, 2001*
- ii. Municipal Finance, Taxation and Assessment
 - Assessment hearings
 - Tax appeals
- iii. Planning and Development
 - Development charges
 - Subdivision agreements
 - Interpretation of the *Planning Act*
- iv. General Civil Litigation
 - Prosecuting and defending uninsured claims
 - Drafting claims and defences
 - Appearing on motions and applications
- v. Environmental Law
 - *Environmental Protection Act, 2004*
 - *Fisheries Act*
 - *Ontario Water Resources Act*
 - *The Safe Drinking Water Act*
- vi. Labour and Employment Law
 - *Employment Standards Act*
 - Health and Safety
- vii. Real Estate Law
 - Property acquisitions and disposition
 - Drafting and negotiating agreements of purchase and sale, leases, licence agreements, easements, expropriations, maintenance and operations agreements, road widening, severances, and title Issues
- viii. Municipal Law Enforcement
 - *Provincial Offences Act*
 - Prosecution and defending claims
 - Drafting documents and appearing on Part III offences

Please note that these are general descriptions only and chosen proponents may be required to provide additional services in the practice areas where needed.

Individuals and law firms may submit proposals to provide legal services in one, some or all of the various practice areas listed. The Township reserves the right, in its sole discretion, to establish the optimal number of individuals or firms for any practice area.

In cases where a firm is submitting proposals for more than one practice area, each proponent shall designate one lawyer to be the Designated Counsel to handle all matters and requests made by the Township for each practice area awarded. If a team of legal counsel is proposed to handle requests in a practice area, the Designated Counsel of the successful proponent shall be the main contact and may, upon approval of the Township CAO/Clerk or Department Head, delegate the work requested to the appropriate legal counsel within the team.

Preference will be given to those firms with demonstrated experience in Municipal Law and the ability to address a wide variety of issues. The Township of Malahide reserves the right to engage specific legal counsel on any issue.

Chosen legal counsel may be required to work with Township Staff, and in some instances, may assume carriage of files independently with minimal supervision from Staff, depending on the nature of the work required as determined by the Township. Services are to be provided economically, effectively, and efficiently.

3. PROPOSAL SUBMISSION REQUIREMENTS

Submission packages shall include at least two (2) copies of the complete response.

If a proponent is bidding on more than one practice area, the proponent shall clearly identify this in the proposal.

The proposal shall contain, but not be limited to, the following information:

- (a) The qualifications of the firm or individual to undertake the requested services based on their experience on similar projects in the same subject area.
- (b) Each proposal should include an outline of the fee structure, including hourly rates for senior members, junior members, and all other employees whose services may be billed to the Township. Charges for specific services or disbursements are to be identified. In the description of the fee structure please indicate both in-house (municipal) rates for each staff member and solicitor that may be working on each file, in addition to standard rates for recoverable fees for each member of the firm, where applicable. Fees, rates and costs are to remain fixed for the term of the agreement (3 years).
- (c) In the submission, please identify whether the firm will charge for travel time to the Township Office and if so, provide details of what rates will apply. If you are prepared to defend small claims court matters on behalf of the Township for a fixed fee, please include the proposed rate in the submission.

- (d) A description of the method of accounting for time and expenses as well as a sample of the type of detailed billing documentation which would be provided to the Township.
- (e) Confirmation of the amount of errors and omissions insurance held by the respondent.
- (f) Disclosure and description of any outstanding claim with the Lawyers Professional Indemnity Company (Law Pro) for any of the counsel whom the respondent firm is proposing to provide to the Township, and provide written confirmation that none of these legal counsel have had a Law Pro claim within the last five years that resulted in judgement or settlement in favour of the claimant.
- (g) A minimum of four references, three of which must be from the Ontario municipal sector. References should refer to recent or current projects of a similar type, scope and magnitude as that to be undertaken on behalf of the Township. Each reference should include the name of the organization/municipality, a contact name, address and phone number, and a brief description of the work performed, including the duration of the project. The Township may contact any or all of the references provided in its evaluation of the Proponent's proposal.
- (h) A satisfactory clearance certificate from the Workplace Safety and Insurance Board (WSIB) stating that all assessments or compensation payable to the WSIB have been paid.
- (i) Verification of Professional Liability Insurance in an amount not less than \$2,000,000.00 on a per occurrence basis and General Liability Insurance in an amount not less than \$5,000,000.00 on a per occurrence basis. The successful proponent must ensure that the Township of Malahide be an additional NAMED insured on the General Liability Insurance.
- (j) A description of the process to identify, disclose, and report or deal with conflicts of interest should they arise.

4. EVALUATION CRITERIA

Proposals will be evaluated based on predetermined criteria and weighting as detailed below.

Evaluation criteria may include, but is not limited to, the following:

- a. Qualifications, expertise, past experience and performance of the individuals of each individual or firm who would be acting on the Township's behalf. Experience with other municipalities or other government agencies would be an asset;

- b. Level of support available to legal counsel including other lawyers, student lawyers, law clerks, and administrative staff;
- c. The availability of expertise in specific areas within the firm or individual office;
- d. Ability to respond in a timely manner to requests by the Township;
- e. Cost and convenience of accessibility to the Township;
- f. Value added services that may be provided, including any pro bono educational sessions for Township Staff, etc. that the Proponent offers to provide to the Township;
- g. Familiarity and past experience working on behalf of a municipality;
- h. Fees – cost effectiveness of proposal based on annual and/or long term retainer;
- i. Demonstrated capacity for superior service and innovation;
- j. Information obtained through references; and
- k. The successful firm must have a minimal potential for conflicts of interest with clients involved with the Township of Malahide.

EVALUATION CRITERIA BREAKDOWN		
DESCRIPTION	POINTS BREAKDOWN	SCORE
Fee Structure Proposed	30 Points	
Experience, Knowledge of Local Government Legislation	40 Points	
Reference Checks	15 points	
Number of Services Able to Provide to the Township	10 Points	
Potential for Conflict of Interests	5 points	
TOTAL	100 Points	

Evaluation Team

Responses to this Request for Proposal will be evaluated by an Evaluation Team comprised of members of the Senior Management Team. A short list of proponents may be invited to make a brief presentation or attend an interview with the Evaluation Team and/or members of Council.

5. RIGHTS RESERVED BY THE TOWNSHIP

a. Limitation of Damages

The Township is not liable for any costs incurred by interested parties in the preparation of their response to this request or interviews. The Township shall not be responsible for any liabilities, costs, expenses, loss or damage incurred, sustained, or suffered by any interested party, prior to, subsequent to, or by reason of the acceptance or non-acceptance of any response by the Township, or by reason of any delay in the acceptance of the response.

b. Irrevocable

All proposals will be irrevocable for a period of ninety (90) days from the closing date of the RFP, or until a contract is signed with the successful proponent(s), whichever comes first.

c. Errors and Omissions

The Township shall not be held liable for any errors or omissions in any part of this RFP. It is understood, acknowledged and agreed that while this Request for Proposal includes specific requirements and specifications, and while the Township has used considerable efforts to ensure an accurate representation of information in this Proposal, the information contained in the RFP is supplied solely as a guideline for respondents. The information is not guaranteed by the Township to be accurate, nor necessarily comprehensive or exhaustive.

Nothing in the Proposal is intended to relieve the proponents from forming their own opinions and conclusions with respect to the matters addressed in the Proposal. There will be no consideration of any claim, after submission of Proposals, that there is a misunderstanding with respect to the conditions imposed by the contract.

d. Inquiries

It shall be the Proponent's responsibility to clarify any points in question with the Township of Malahide prior to submitting the proposal. Responses to inquiries will be forwarded to all Proponents if time permits. Inquiries should be directed to:

Michelle Casavecchia, CAO/Clerk
Township of Malahide
87 John Street South
Aylmer, Ontario N5H 2C3
Phone: (519) 773-5344, ext. 225
Fax: (519) 773-5334
Email: mcasavecchia@malahide.ca

If a proponent discovers any inconsistency, discrepancy, ambiguity, error, or omission in this Request for Proposal, it must notify the Township immediately in writing. Any revision to this Request for Proposal will be issued as an addendum to all proponents.

e. Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

In accordance with MFIPPA, any personal information the Proponent provides is being collected under the authority of the Municipal Act and will be used exclusively in the selection process. All Proposals submitted become the property of the Township. Proponents must indicate clearly within their proposal any information they consider to be confidential. The Township is required to adhere to the Municipal Freedom of Information and Protection of Privacy Act, as amended, and once a proposal is accepted it shall become public information and must be disclosed upon request by any member of the public.

f. Negotiations

The Township may award the RFP on the basis of proposals received without discussion. Each proposal should, therefore, contain the proponent's best terms and complete detailed information.

The Township reserves the right to enter into negotiations with the selected proponent(s). If the Township and the selected proponent cannot negotiate a successful agreement, the Township may terminate the negotiations and begin negotiations with another proponent. This process will continue until an agreement has been executed or all of the proponents have been rejected. No proponent shall have any rights against the Township arising from negotiations. The proponent will assume all costs incurred in providing responses to the RFP and for providing any additional information required by the Township of Malahide to facilitate the evaluation process.

The Township of Malahide reserves the right to discontinue the RFP process at any time and makes no commitments, implied or otherwise, that this process will result in a business transaction with one or more proponents.

g. Award

The Township reserves the right to accept or reject any or all proposals, to negotiate with the successful proponent(s) and to waive irregularities and omissions, if in so doing the best interests of the Township will be served. No liability shall accrue to the Township for its decision in this regard. Any proposal or any part of any proposal will not necessarily be accepted. In accordance with the Township of Malahide Procurement Policy, the lowest bid does not necessarily constitute an award. The Township is not obligated to award a contract to any proponent pursuant to this proposal.

h. Open Files

The Township retains the right to continue working with the existing solicitor on any files which remain open until such time as they have been closed.

The Township requires that one lawyer be assigned to each file and that the lawyer should have the appropriate background and expertise to handle the matter.

i. Accounts

The Township will not honour accounts containing the following items:

- Office related expenses such as charges for faxes, telephone, opening/closing files.
- Routine administrative tasks such as scheduling meetings or attendances, preparations of accounts, file organizations, form letter, etc.
- A current file reassigned by the proponent to a new lawyer.
- Multiple reviews or re-drafting of correspondence or other materials by a number of lawyers.
- Attendances by more than one lawyer at a matter or the use of students unless expressly approved in advance.
- Time related to the orientation of the law firm's staff to the Township or Township staff at the outset of the engagement
- Hourly rates of Legal Counsel in transit, except for mileage charges to be reimbursed as agreed upon in advance.

6. ADDITIONAL ITEMS OR SERVICES

Additional items or tasks not included in this package but which are identified and deemed necessary by the proponent to complete the work in an appropriate fashion must be communicated to the Township, with a description of the item(s) prior to close of this Request for Proposal.

Negotiations, if any, must be successfully concluded before a final recommendation is made.

7. CONFLICT OF INTEREST

In addition to complying with the Rules of Professional Responsibility as established by the Law Society of Upper Canada, the proponent shall declare any actual or potential conflict of interest that exists now or may exist in the future with respect to the proponent's participation in this process and, if selected, the performance of the proponent's responsibilities pursuant to the retainer.

The Township reserves the sole right and discretion to determine whether any situation constitutes an actual or potential conflict of interest and may disqualify any Proponent on such basis.

8. INSTRUCTIONS FOR BIDDING AND PROPOSING

a. The RFP Document

This Request for Proposal package includes the Township's standard cover page, the various instructions, terms, scope of work, specifications, etc., in accordance with the Township of Malahide Procurement Policy. Proponents are advised to review the complete RFP document, including the standard instructions as these reflect important considerations that apply to this RFP.

b. Deadline for Proposal Submissions

Submission packages must be received by the undersigned no later than 1:00 p.m. on Tuesday, January 31, 2012.

Proposals received after the final date and time for receipt of Proposals will be considered as "Late Proposals". Late Proposals will not be accepted and will be returned unopened to the sender.

c. Submission Requirements

All copies of the proponent's proposal shall be submitted in a sealed envelope addressed to:

**Michelle Casavecchia, CAO/Clerk
Township of Malahide
87 John Street South
Aylmer, Ontario N5H 2C3**

To receive consideration, all submissions must be date stamped at the Township Office prior to the above noted closing time. Please submit your response in accordance with the RFP document.

The proponent must assume full responsibility for delivery and deposit of the completed proposal. The Township accepts no responsibility for any loss or delay with respect to proposals that are delivered to any location other than that specified. All submissions must be date stamped upon receipt prior to the above noted closing time.

PROPOSALS WHICH ARE NOT SEALED OR ARE SENT BY FACSIMILE OR E-MAIL WILL NOT BE CONSIDERED. LATE PROPOSALS WILL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCES.

**TOWNSHIP OF MALAHIDE
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This bid is submitted by:

Full Legal Name of Firm
("Proponent") _____

Name of Contact _____

Address _____

Street Address

City

Province

Postal Code

Contact Information

Telephone: _____

Fax: _____

Email: _____

I, _____, have authority to make this declaration on behalf of and to bind the proponent to its contents, hereby declare:

1. THAT no person, firm or corporation other than the one that is submitting this bid has any interest in this bid or in the contract offered thereby.
2. THAT I have adequate and sufficient authority to bind the person, firm or corporation that is submitting this bid.
3. THAT this bid is made without any connection, knowledge, comparison of figures or arrangement with any other company, firm or person making a bid for the same work and is in all respects fair and without collusion or fraud.
4. THAT no member of the Township Council, or any officer of The Corporation of the Township of Malahide (the "Township") is, or will become interested directly or indirectly as a contracting party or otherwise, or in the performance of the contract, or in the supplies, work or business to which it relates, or in any portion of the profits thereof, or of any such supplies to be used therein, or any of the monies to be derived there from.
5. THAT the matters stated in the said bid are in all respects true.

By my signature hereunder, it shall be understood that I have read, understood and agree to abide by the instructions, terms, conditions and specifications contained in this Request for Proposal document.

Authorized Signature _____

Name _____

Title _____

(Please Print)

(Failure to sign here may result in rejection of this submission)

Personal information will be used to in the selection process and is pursuant to the
Municipal Freedom of Information and Protection of Privacy Act.