Penobscot Nation
Judicial System
etali-təpəlómətiməк

12 Wabanaki Way
Indian Island, ME 04468
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REVISED

REQUEST FOR PROPOSAL
FOR CONSTITUTION AND CODE DRAFTING SERVICES

I. GENERAL INFORMATION.

A. **Purpose**. This request for proposals (RFP) is to contract for legal drafting services to be provided to the Penobscot Nation, a federally recognized Indian tribe, for the period of December 1, 2016 to September 30, 2017. Services to be provided will include assisting the Penobscot Nation Constitution Committee to draft its Constitution in time to be considered for adoption at the Nation's June 2017 General Meeting (legislative body). Following the drafting of the Constitution, drafting of a code governing the operations of the Penobscot Nation Judicial System, comprised of the trial-level Tribal Court and the Court of Appeals will be undertaken.

B. **Description of Penobscot Nation.** The Penobscot Nation has existed since time immemorial in the State of Maine, particularly in the central and coastal areas. The Nation was federally recognized in 1979, it has approximately 2400 enrolled members, and the seat of its government is located on Indian Island on the Penobscot Nation Reservation. In 1980, the Nation entered into a settlement with U.S. government and the State of Maine to compensate for sales and transfers of land conducted in violation of the federal Non-Intercourse Act of 1780. The resultant Maine Indian Settlement Act ("Act") ratified the illegal transfers, established the terms of the relationship of the Nation to the United States, and authorized the enactment of the State of Maine's Act to Implement the Maine Indian Claims Settlement Act, 30 M.R.S.A. § 6201 et seq. (hereinafter "MIA") which governs the Nation's regulatory and adjudicatory jurisdiction and relationship to the State of Maine. The Nation's reservation consists of 4,841 acres plus more than 200 islands in the main branch of the Penobscot River. In addition, the Nation owns and is responsible for police and managing trust lands totaling 86,378 acres in nine different locations. The Penobscot Nation Judicial System was established by a vote of the General Meeting on September 27, 1979. Other than this general vote, there is no constitutional provision or tribal law formally establishing the system. The Tribal Court has

functioned as a court of general jurisdiction within the parameters of the Act and the MIA. The Adult and Juvenile Healing to Wellness Court programs are divisions of the Tribal Court.

C. **Who May Respond**. Attorneys who are currently licensed to practice law and in good standing in any state, federal and/or tribal jurisdiction, have experience in the field of federal Indian law, and have demonstrated knowledge of the Maine Indian Claims Settlement Act, 25 U.S.C. § 1721 et seq. and the State of Maine Act to Implement the Maine Indian Claims Settlement, 30 M.R.S.A. § 6201 et seq., or law firms including such attorneys, may respond to this RFP.

II. SCOPE OF SERVICES.

The Offeror shall be readily available to perform the following legal drafting services, as requested by the Judicial System Director, Constitution Committee and/or the Penobscot Nation Chief and Tribal Council:

A. Draft constitutional provisions in accordance with the directions of the Constitution Committee.
B. Advise on content and/or structure of the proposed constitution.
C. Research and review other tribal constitutions to ensure the Constitution's comprehensiveness.
D. Draft a tribal law governing the structure and/or function of the Penobscot Nation Judicial System as directed by the Penobscot Nation Justice System Advisory Committee.
E. Attend either in person or by teleconference or video-teleconference, committee meetings, Tribal Council meetings, and tribal educational events and public hearings as necessary.
F. Develop and implement methods to encourage tribe-wide participation in the Constitution's development such as tribal newsletter articles and online surveys.

Offeror shall be prepared to submit detailed billing statements for all services billed at an hourly rate, if any, broken down into time increments of tenths of an hour. It is anticipated that most of the work and meetings can be completed through remote means and therefore Offeror should budget for three (3) in-person meetings of 2 hours each at Indian Island, Maine during the project period.

III. PROPOSAL CONTENTS.

The Offeror, in its proposal, shall, as a minimum, include the following:

A. **Cover Page.** Proposal shall have a cover page, including the Request for Proposal Title, due date, name, address, telephone number, fax number and email address of the submitting attorney/law firm.

B. **Legal Experience**. The Offeror should describe its legislative drafting experience, including the names, addresses, contact persons, and telephone numbers of at least two clients, preferably including clients similar to the Penobscot Nation. Experience should include the following categories:

1. Experience working with principles of federal Indian law
2. Working knowledge of the Settlement Act and the MIA
3. Record of successfully drafting constitutional provisions and/or legislation
4. Experience advising tribal governments.

C. **Organization, Size, Structure, and Areas of Practice**. If the Offeror is a firm, it should describe its organization, size, structure, areas of practice, and office location(s). Indicate, if appropriate, if the firm is an Indian-owned business.

D. **Attorney Qualifications**. The Offeror must include resumes of attorneys to be assigned to the project and describe their qualifications. Descriptions should include:

1. Professional and educational background of each attorney.
2. Prior experience of the individual attorneys with respect to the required experience listed above, with particular focus on the attorney's experience in legislative drafting, federal Indian law, tribal law and tribal constitutional development and/or reform.

E. **Conflict of Interest.** The Offeror must disclose any potential conflict of interest that might arise if they were to accept an award of a contract with the Penobscot Nation and the Penobscot Nation Judicial System.

F. **Price**. ***New Revision: The proposed price for the total project, including travel costs, must not exceed $60,000 in order to be considered.*** The Offeror's proposed price should include information on the hourly billing rates of each attorney or other legal staff who is expected to work on this project and charges for expenses, if any. Penobscot Nation reserves the right to negotiate with the Offeror on the structure of the billing.

IV. SUBMISSION OF PROPOSALS

1. **Closing Submission Date**. Proposals must be submitted no later than **midnight (12:00 p.m. Eastern Standard Time)** on **November 30, 2016.**

2. **Conditions of Proposal**. All costs incurred in the preparation of a proposal responding to this RFP will be the responsibility of the Offeror and will not be reimbursed by the Penobscot Nation. (hereinafter referred to as "Nation").

3. **Instructions for Submission of Proposal**. An original and two (2) copies of the proposal should be mailed and addressed as follows:

   Jill E. Tompkins
   Director, Penobscot Nation Judicial System
   12 Wabanaki Way
   Indian Island, ME 04468-1254

   It is important that the Offeror's proposal and copies be submitted in a sealed envelope clearly marked in the lower left- hand corner with the following:

   SEALED PROPOSAL FOR LEGAL DRAFTING SERVICES

   Failure to do so may result in premature disclosure of your proposal. It is the responsibility of the Offeror to insure that the proposal is received by the Nation, by the date and time specified above. Late proposals will not be considered.

V. INDIAN-OWNED ECONOMIC ENTERPRISE PREFERENCE.

Preference will be given to American Indian or Alaska Native Offerors and to 51% Indian-owned organizations or Economic Enterprises. An "Indian Owned Enterprise" means any Indian-owned commercial or business activity established or organized for the purpose of profit, provided that such Indian ownership shall constitute not less than 51% of the enterprise and that ownership shall encompass active operation and control of the enterprise. The Nation shall give preference to an individual American Indian or Alaska Native Offeror or to a 51% Indian-owned business so long as the bid by this enterprise does not exceed the lowest bid submitted by more than five percent (5%). All preferences shall be publicly announced at the bid opening. Any Offeror claiming Indian preference shall give evidence to the Nation to support its claim five (5) business days prior to bid opening. The Nation does not have to accept the lowest bid or Indian-owned business' bid when differences exist in Offeror's qualifications, record of past performance, and compliance with public policy.

VI. RIGHT TO REJECT.

The Penobscot Nation reserves the right to reject any and all proposals received in response to this RFP. A contract for the accepted proposal will be drafted based upon the factors described in this RFP and in accordance with the Nation's Procurement Policy. Selection is also dependent on the negotiation of a mutually acceptable contract between the Offeror and the Nation.

VII. NOTIFICATION OF AWARD.

It is expected that a decision selecting the successful Offeror will be made within two (2) weeks of the closing date for the receipt of proposals. Upon conclusion of final negotiations with the successful Offeror, all Offerors submitting proposals in response to this Request for Proposal will be informed, in writing, of the name of the successful Offeror. It is expected that the contract shall be for the period of January 1, 2017 through September 30, 2017 unless commenced earlier or extended by mutual agreement of the parties and the availability of funding.

VIII. INQUIRIES.

Inquiries concerning this Request for Proposals may be made to

Jill E. Tompkins
Director, Penobscot Nation Judicial System
12 Wabanaki Way
Indian Island, ME 04468-1254

Telephone: (207) 817-7328

Email: **Jill.Tompkins@penobscotnation.org**