

TERMS OF REFERENCE

Overview

The City of Yellowknife is inviting Proposals in order to retain legal counsel (the “Law Firm”) who will oversee an official inquiry into 2014 allegations of workplace misconduct within the Municipal Enforcement Division (MED) to specifically:

- provide legal advice to the City, and
- identify and retain an investigator.

Proposals are to be provided to the Senior Administrative Officer (SAO) for initial consideration prior to selection by Mayor and Council.

Goal

Mayor and Council for the City of Yellowknife are seeking to determine if appropriate actions were taken to address 2014 allegations of workplace misconduct and identify any enhancement and improvements that can be made to workplace policies and practices to in order to seek to eliminate opportunities for workplace misconduct in the future.

Context

Issues of concern have been raised with the City of Yellowknife in relation to 2014 allegations of workplace misconduct in the MED. Questions have been raised with respect to the work environment for this (approximately) 14 person division specifically related to a 2014 Investigation into a complaint about bullying and harassment. As a result of these questions and concerns, the Mayor and Council of the City of Yellowknife have committed to launching an official inquiry. An independent investigator, retained through external legal counsel will conduct the investigation part of the official inquiry.

On January 22, 2018, Council approved the following Motion:

That Council and SAO pursue an official inquiry conducted by an independent third party, reporting to Council and SAO, into the allegations of workplace misconduct within the municipal enforcement division that have been brought to Council’s attention as well as how those allegations were investigated, and other details surrounding those events.

And Further, that Council direct the SAO to implement a plan of action that reaffirms and upholds a positive corporate culture within the City, incorporating as appropriate any applicable findings from the inquiry.

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Official Inquiry Mandate

Proposals shall include a methodology for the official inquiry into the 2014 allegations of workplace misconduct in MED including the 2014 Investigation. Specifically:

- (i) To review the protocols and processes involved and/or followed
- (ii) To review the process(es) for how other concerns related to workplace misconduct in MED in 2014 were addressed.
- (iii) To review the manner in which the concerns were addressed and/or implemented.
- (iv) To review the manner in which the results of the 2014 Investigation Report were communicated to the complainant, senior management, as well as to Mayor and Council.
- (v) To provide recommendations with respect to handling of employee complaints.
- (vi) To review the relevant policies currently in place and make recommendations on appropriate enhancements.

Qualifications

The City of Yellowknife is seeking a Law Firm that is eligible to practice in the NWT, has demonstrated expertise in employment law, municipal law and administrative justice. Legal Counsel shall confirm it has no conflict of interest.

The City of Yellowknife requires the Law Firm to secure an Investigator that has demonstrated expertise and experience in employment law, privacy and administrative justice.

Cooperation and Process

The City of Yellowknife will ensure that all relevant documentation is available for review by the Law Firm and the Investigator.

In addition, the City of Yellowknife, where necessary, will facilitate interviews of employees by the Investigator. Interviews may be undertaken via distance (telephone/conference call) to maximize efficiency and as appropriate.

Reporting Requirements

The Investigator will report to the Law Firm retained by the City. The Law Firm will report to Mayor and Council through the SAO.

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Outcome/Deliverables

The Investigator will provide to the Law Firm a report detailing the findings from the review of the 2014 Investigation. The report will include, but not be limited to, the following:

- (i) Findings relating to the processes and protocols involved and/or followed in the 2014 Investigation;
- (ii) The manner in which the 2014 Investigation Report was addressed and/or implemented;
- (iii) Issues with the processes and outcomes of any other concerns related to workplace misconduct in MED in 2014.
- (iv) The manner in which the results of the 2014 Investigation were communicated to the Complainant, senior management, as well as to Mayor and Council; and

The Law Firm will provide advice to the City, including but not limited to:

- (i) Legal advice and commentary regarding the outcome of the Investigator's Final Report; and
- (ii) Recommendations on the terms of the City's Anti-Harassment and respectful Workplace Policy, Employee Code of Conduct and Discipline Policies, as well as any other relevant City Policies.
- (iii) Recommendations for handling of employee complaints.

Timeframe

Upon awarding of the contract and provision of all relevant documentation, it is preferred that the official inquiry/investigation process take a maximum of 6 weeks.

Confidentiality

The Investigator will sign a Confidentiality Agreement and at all times during and after the Inquiry maintain such confidentiality, except where otherwise required by law.

Evaluation Criteria

25% - Methodology and Demonstrated Understanding of Inquiry Intent and Investigation

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Proponents must demonstrate in their proposal that they have a clear understanding of this project. Proponents need to articulate their proposals, intentions and expectations, indicating how they will fulfill the requirements of the Terms of Reference and what services they will provide.

35% - Relevant Expertise and Experience

Experience of the Law Firm and proposed Investigator with similar types of inquiries and investigations, including experience with municipal governance.

20% - Project Team

Profile of all team members including their qualifications for and role in this project. Appropriate expertise should be provided by the project team members in their proposed roles.

20% - Timelines/Proposed Fee Structure

A work plan, detailing suggested steps in the process with an estimate of time and personnel required to complete each step should be provided. Availability and commitment of proposed project team members during the required time frame and information on backup personnel at appropriate organizational levels to be provided. Fee structure is to include all travel and disbursements.