

**POARCH BAND OF CREEK INDIANS
REQUEST FOR PROPOSALS
FOR
ETHICS OFFICER**



Sponsored by:

**Poarch Band of Creek Indians Ethics Board
5811 Jack Springs Road
Atmore, AL 36502
(251) 368-9136**

SECTION 1 – INTRODUCTION

1.1 Position Overview

The Poarch Band of Creek Indians (hereinafter “PBCI”) Tribal Council (“Tribal Council”) and The Poarch Band of Creek Indians Ethics Board (hereinafter “Ethics Board”) is requesting proposals from firms to serve as its Ethics Officer (hereinafter “Counsel”) to assist us as legal counsel in fulfilling our duties and responsibilities under Section 28-1-8 of the Poarch Band of Creek Indians Ethics Code (a copy of which is attached).

1.2 Proposal Deadline

To be considered, a firm must deliver one (1) original and five (5) copies of the documentation called for in Section 4 of this Request for Proposal (hereinafter “RFP”) to the PBCI Legal Department at 5811 Jack Springs Road, Atmore, Alabama 36502, not later than **5:00 PM, Tuesday, March 6, 2018**. The original proposal must be signed by a person able to obligate the firm in the matter at hand.

1.3 Additional Information

It is the responsibility of the firm to inquire about and clarify any aspect of the RFP. Any and all questions related to the RFP should be directed to the PBCI Legal Department at 251-368-9136, ext. 2525.

1.4 Property of PBCI

Any information or materials submitted as a response to this RFP shall become the property of PBCI and will not be returned.

1.5 Acceptance

Submission of proposals, in response to this RFP, constitutes acceptance of all conditions, requirements and limitations described in this document.

SECTION 2 – SCOPE OF SERVICES

Counsel will be expected to perform all the normal duties associated with being legal counsel to the Ethics Board. Pursuant to Ethics Code § 28-1-8, the specific duties include the following:

(a) Duties and Responsibilities

An attorney who shall have no other affiliation with the Ethics Board Advisor, shall be appointed by the Tribal Council to serve as the Ethics

Officer. The Ethics Officer shall have the authority to perform the following:

- (1) To receive, review, and investigate reports of ethics violations and determine whether they warrant the filing of an ethics complaint with the Ethics Board;
- (2) To forward such reports (with the reporting party's identity redacted) to the person accused of the ethics violation and invite their comments or response which shall be taken into account in determining whether the Ethics Officer will file an ethics complaint;
- (3) To provide a written explanation to any person who has filed a report of an ethics violation per §28-1-13 of why no ethics complaint was or will be filed with the Ethics Board upon such report, if that is his or her determination and send copies of such explanation to the person who was accused of the ethics violation, the Ethics Board, and the Tribal Council;
- (4) To receive requests for Ethics Advisory Opinions and refer such requests to the Ethics Board Advisor;
- (5) To file ethics complaints with the Tribal Court Clerk's Office when a determination has been made that a particular report of an ethics violation warrants the filing of an ethics complaint with the Ethics Board; copies of all such complaints shall be served on the Ethics Board Advisor and the respondent;
- (6) To negotiate dispositions with respondents in accordance with §28-1-14;
- (7) To represent the Poarch Band of Creek Indians in ethics complaint hearings;
- (8) To represent the Poarch Band of Creek Indians in any appeals from Ethics Board decisions or the dismissal of ethics complaints;
- (9) To issue cautionary letters to Tribal Officials and key employees regarding the need to endeavor to avoid an appearance of impropriety, with notice also being sent to the immediate supervisor of the key employee or the Tribal Council for a Tribal Official; and

- (10) To keep all files and records respecting Ethics Board complaints and advisory opinions maintained by the Ethics Officer strictly segregated from all other files and held in strict confidence.

SECTION 3 – QUALIFICATIONS OF FIRM

3.1 Qualifications

As of the Proposal Deadline, the firm must be certified and licensed or eligible to be certified or licensed as required by state, federal and/or Tribal law to provide the services as described herein in Section 2.

3.2 Insurance

Within ten (10) business days after notification of the award of the engagement, firm shall provide to PBCI copies of certificates of insurance evidencing that its insurance coverage and limits meet or exceed those required by PBCI. In the event this requirement is not met, PBCI has discretion to disqualify firm and consider awarding the contract to the next qualified firm.

3.3 Assignment

The rights and obligations of the proposed engagement may not be assigned, transferred or conveyed to any entity or individual or another individual in the firm.

SECTION 4 – REQUIREMENTS FOR THE PROPOSAL

Your proposal must contain the following information in approximately the following general format:

- A. The qualifications and experience of your firm to perform the required services. In particular, list and describe to the extent possible any matters in which your firm has
 1. served as ethics counsel,
 2. litigation experience, specifically noting any trial experience, and
 3. investigative experience.
- B. A listing of all attorneys participating in the engagement, the qualifications and experience of the attorneys expected to work on this assignment; specify where each attorney's office is located; identify and describe to the extent possible any matters that demonstrate the qualifications of these individuals relevant to the proposed assignment; indicate in each case the role the individual had in the

assignment and whether or not the individual participated in the assignment on behalf of your firm.

- C. Provide your proposed hourly fee for each attorney or other person to be charged on an hourly basis during the term of this engagement.
- D. Explain your firm's presence within Indian Country and describe how that presence is relevant to the proposed engagement.
- E. List any relationships which might lead to a potential conflict in performing any services for the Ethics Board. Please list specifically any conflicts resulting from material adverse matters, as distinguished from the conduct of business as usual. Please include any relationships with any Tribal Council members, Board members, and Key Employees which might lead to a potential conflict. Indicate what steps would be taken to eliminate any such conflict.
- F. The name, address and telephone number of your firm's contact person for this engagement.
- G. Provide any additional information that you would consider relevant to the selection process.

SECTION 5 – SELECTION PROCESS

The Ethics Board will review all submissions and determine the top firms. The Ethics Board will present its recommendation to the Tribal Council for approval. The top firms may be invited for presentations/interviews with the Ethics Board. The Tribal Council will approve the selected firm.

PBCI may, in its discretion, require certain firms to give additional oral presentations and/or submit written responses to questions from the Ethics Board for the purpose of clarifying or elaborating on the firms' proposals. No comments regarding other firms or proposals are permitted and firms may not attend presentations by their competitors.

Once a firm is chosen, the firm and the PBCI Legal Department will work together to draft an engagement letter outlining all terms and conditions of the engagement.

SECTION 6 – COMPENSATION

6.1 Basis of Compensation

Counsel will be compensated in accordance with the terms of the engagement letter and any guidelines set forth by the PBCI Legal Department. Selection of Counsel will not be based on a competitive bid. PBCI will attempt to negotiate with the top ranked firm to

establish a fair and reasonable fee. If an agreement cannot be reached with the top ranked firm, negotiations will be attempted with the lower ranked firms in order of their rankings.

6.2 Invoicing

The firm shall invoice PBCI on a monthly basis for services rendered. The invoice must identify the number of hours spent by each employee and the nature of the services performed by each individual and apply thereto the appropriate hourly rate established by the final fee negotiation.

6.3 Payment

PBCI shall make its best effort to pay each invoice within thirty (30) days of receipt thereof by PBCI unless the invoice is disputed, in which case PBCI will notify the Counsel of the nature of the dispute within twenty (20) days of receiving the invoice.