



**MINISTRY OF THE ATTORNEY GENERAL
INDIGENOUS JUSTICE DIVISION**

&

JUSTICE CANADA

**PROSECUTION PILOT PROGRAM GUIDELINES
2024-2025**

PROSECUTION PILOT FUNDING GUIDELINES

BACKGROUND

In December 2022, the Ontario Ministry of the Attorney General (MAG) and Justice Canada jointly launched a Prosecution Pilot, which provided one-time funding to interested First Nations to support their retention of private legal counsel to review their laws and prosecute infractions, where appropriate.

The Prosecution Pilot has now been extended to **March 31, 2025**.

The extended Prosecution Pilot is intended to provide opportunity for additional First Nations to identify laws they are seeking to enforce based on community needs and priorities. It will also enable participating First Nations to undertake a legal review of these laws to support more effective enforcement and prosecution.

The Prosecution Pilot is application-based and open to all First Nations within Ontario, subject to the availability of funding. Applications will be accepted by the Indigenous Justice Division (IJD) of MAG and Justice Canada until **December 31st, 2024**.

To promote the early identification and resolution of potential operational challenges on the ground, IJD and Justice Canada are offering to facilitate one or more meetings with the relevant local justice system partners (e.g., by-law officers where applicable, police services, court services, Crown Attorney).

FUNDING AMOUNTS

Successful applicants will each receive up to \$35,000 to retain private counsel to support the review and prosecution of the First Nation laws identified in the application.

The amount of funding available for an individual First Nation is capped at \$35,000. If/when a First Nation is approved for this funding, it will be flowed to the community by IJD on behalf of Ontario and Canada through a Transfer Payment Agreement. Funding must be spent in full by **March 31, 2025**.

ELIGIBILITY

Funding is available to First Nation communities in Ontario that:

- have one or more duly enacted First Nation laws. These laws may be enacted pursuant to jurisdiction recognized in federal statute (e.g., Indian Act by-laws, land code laws), and/or pursuant to the First Nation's inherent jurisdiction; and,
 - are seeking to undertake a legal review of those laws to support enforceability; and/or
 - are seeking to prosecute offences under those laws at the Ontario Court of Justice by way of summary conviction procedure or divert or refer

matters related to offences under those laws to a community/restorative justice process.

Individual First Nations in Ontario are eligible to apply for funding as well as First Nation organizations applying on behalf of one or more First Nations in Ontario (i.e., Tribal Councils, Provincial-Territorial Organizations). An organization applying on behalf of one or more First Nations must provide a Band Council Resolution in support of the application from each community represented on the application.

Note: First Nations that received funding through the Prosecution Pilot in a previous year are eligible to re-apply in 2024-2025, however, priority will be given to new applicants.

ELIGIBLE PROJECT ACTIVITIES AND COSTS

Prosecution Pilot funding may be used to support the review of laws duly enacted by a First Nation pursuant to jurisdiction recognized by federal statute and/or the First Nation's inherent jurisdiction, and which include at least one offence the First Nation is seeking to enforce and prosecute.

Prosecution Pilot funding may also be used to support prosecutions where proceedings are commenced by way of summary conviction procedure at the Ontario Court of Justice. First Nations may also use Pilot funding to divert or resolve the matter through a restorative justice program or prosecute the matter in the community's own court (e.g., the Akwesasne Court).

Eligible activities and project costs:

- Retaining legal counsel to:
 - Undertake a legal review of a First Nation's existing law(s);
 - Prosecute offences under a First Nation's existing law(s) at the Ontario Court of Justice by way of summary conviction procedure; and/or
 - Divert or refer offences under a First Nation's existing law(s) to a community/restorative justice process.

Activities and project costs that are not eligible for funding:

- Development/enactment of new** First Nation laws.
- Administrative costs exceeding 10% of the overall project costs.
- Project components already completed or fully funded through other sources.

** Note: Funding for the development of new First Nation laws may be available through Indigenous Services Canada's [Professional and Institutional Development Program](#).

APPLICATION PROCESS AND TIMELINES

- Applications will be accepted until **December 31, 2024**.
- The receipt of applications will be acknowledged electronically. Although IJD and Justice Canada will endeavour review applications expeditiously, applications may take approximately four weeks to process.

First Nations applying for funding under the Prosecution Pilot must include the following information in their application:

- A copy of any duly enacted First Nation law(s) the First Nation is seeking to include in the Pilot.
- The proposed enforcement service or mechanism to enforce the First Nation law(s) included in the Pilot (e.g., by-law officers, local police service).
- A description of the activities to be undertaken with funding under the Pilot.
- A budget proposal.

Before submitting your application, please ensure that you :

- Review the Prosecution Pilot Funding Guidelines in its entirety;
- Complete the entire application form and submit the required supporting information where applicable.

RECIPIENT OBLIGATIONS

Successful applicants will be required to:

- Sign a Transfer Payment Agreement with Ontario (Ministry of the Attorney General, Indigenous Justice Division) outlining the terms and conditions for receiving funds;
- Carry at least \$2 million commercial general liability insurance coverage, and add “His Majesty the King in Right of Ontario as represented by the Attorney General” as a co-insured on this coverage before the Transfer Payment Agreement can be executed;
- Report back to IJD within the specified timeframes as outlined in the Transfer Payment Agreement in the form specified by the ministry;
- Allow IJD to verify and/or audit the information submitted (at the discretion of the ministry) to ensure that the information is complete and accurate, and that the funds were used for the intended purpose(s);
- Agree that if the funds were not or will not be used for the intended purpose(s), because specified activities were not completed, that IJD has the right at a future date to recover the funds that were transferred to the recipient;
- Advise IJD of any additional First Nation laws to be included in the Pilot after funding has been approved; and
- Obtain IJD’s prior approval for any proposed change to the project after funding has been approved.

DISCLAIMER

The provision of funding under the Prosecution Pilot is not an acknowledgement by the Government of Ontario of the validity or enforceability of any First Nation law or recognition of an inherent law, inherent right or an Aboriginal or treaty right pursuant to s. 35 of the *Constitution Act, 1982*. For greater certainty, the Government of Ontario respects the authority of the Ontario Court of Justice to determine which matters it can adjudicate.

Funding is dependent on the availability of funds. IJD and Justice Canada reserve the right, at their discretion, to fund or not fund any particular project for which an application has been submitted. Applicants should be aware that meeting the eligibility criteria as outlined above does not guarantee funding or a particular funding amount. Funds received may only be spent on eligible activities carried out during the funding year specified in the budget that will be attached to the Agreement.

COLLECTION AND SHARING OF INFORMATION

IJD is subject to the *Freedom of Information and Protection of Privacy Act* (FIPPA). Personal information related to the Prosecution Pilot is collected by IJD for the proper administration of the program and will only be used for those purposes including evaluation of the application, administration of agreements, funding and reporting.

In accordance with subsection 38(2) of FIPPA, this collection of personal information is necessary to the proper administration of a lawfully authorized activity.

Information about Prosecution Pilot (including the names of First Nations approved for funding and the description of the work they are undertaking) may be made public by the Government of Ontario through public announcements.

Applicants should be aware that any information provided to IJD in connection with their application may be subject to disclosure in accordance with FIPPA requirements.

GET IN TOUCH

Questions about the Prosecution Pilot and application process as well as the collection, use and disclosure of information may be directed to:

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