

MEDIATION and ARBITRATION ROSTER

History and Introduction

In 1998, Alberta Municipal Affairs requested the assistance of the Rural Municipalities of Alberta (formerly the Alberta Association of Municipal Districts and Counties) and the Alberta Urban Municipalities Association to develop guidelines for a new initiative. The initiative would promote the use of alternative dispute resolution methods, including mediation and arbitration, at the local government level. Alberta Municipal Affairs' Intermunicipal Dispute Resolution Initiative was established with input from the two Associations and with support from the Alberta Arbitration and Mediation Society.

The decision to develop this new initiative was driven by a number of legislative changes. In 1994, changes were made to the *Municipal Government Act* (MGA) to give municipalities "natural persons power". Municipal councils now have the authority to "govern municipalities in whatever way the councils consider appropriate".

This change was made in order to give local governments the ability to develop unique responses to issues within their own jurisdictions.

In 1995, the MGA was amended to include Part 17, which provides a procedure to be followed in the event there is a dispute between two or more municipalities regarding an annexation, a statutory plan, or amendment or a land use bylaw or bylaw amendment. The procedure outlined allows a municipality to file an appeal with the Municipal Government Board (MGB). The MGB then has the authority to hear the cases and render a decision.

In 1999, the MGA was further amended to require that all municipalities negotiate in good faith and attempt mediation before making an appeal to the MGB on issues related to land use planning or annexation. The decision to implement this step formalized mediation as a required activity in the intermunicipal dispute resolution process.

The Intermunicipal Dispute Resolution Initiative is based on the following guiding principles:

- parties strive to reach a settlement that meets their interests acceptably;
- parties have neutral mediators;
- the process is open and transparent;
- parties decide how they wish to proceed; and
- parties are responsible in determining the final outcome.

In 2018, updates to the MGA were made to include mandatory Intermunicipal Collaboration Frameworks (ICFs) and Intermunicipal Development Plans (IDPs) to ensure cooperative planning and services provided to residents. In order to support municipalities in creation and implementation of these agreements, there is support that they can access through mediation and arbitration processes.

Services

The Ministry assists municipalities by providing:

- convening services (convening refers to getting the parties together to discuss the possibility of mediation and/or arbitration);
- financial assistance to offset the cost of hiring mediators; and

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- a roster of mediators
- a roster of arbitrators
- a roster of mediation and arbitration (med/arb) and arbitrator mediation (arb/med) practitioners

The Ministry is committed to establishing and maintaining a roster of experienced professionals who are available to provide services to municipalities.

The roster is not to be seen as a certification of competency of any practitioners. Instead, the Ministry will provide municipalities with a list of mediators and/or arbitrators who have achieved a certain level of training and experience (see criteria below). It should be noted that the Alberta Municipal Affairs does not restrict the selection of mediators to its roster and municipalities are free to select a mediator or arbitrator who is not on the roster. The Ministry will use its roster in responding to requests for recommendations of qualified mediators or arbitrators.

CRITERIA AND FRAMEWORK

Criteria for Selecting a Mediator

To be eligible for inclusion on the roster of mediators, the applicant is **required** to:

- possess verification of membership to a relevant professional association along with a copy of the subscribed code of ethics and conduct the mediator is practicing under;
- provide evidence of completion of the ADR Institute of Alberta (ADRIA) Mediation Certificate for a total of 100 hours of training or its equivalent;
- include a detailed list of relevant courses taken, demonstrate competency in information gathering, effective listening and communication skills, and have a working knowledge of interest-based mediation and negotiation;
- provide documented ability (documented ability may include a written description of one or more relevant cases, including protocols or ground rules);
- document the types and number of disputes you have mediated;
- document your experience with a co-mediation model;
- possess a working knowledge of the *Municipal Government Act* or completion of the Ministry's one day training session on the *Municipal Government Act* and specifically the sections that pertain to mediation;
- documented experience in working with municipalities;
- provide proof of liability insurance as required by the Government of Alberta;
- commitment to a minimum of 20 hours of related educational training each year (note: this can be mediation or municipal training); and
- provide the names and contact information of three references.

To be eligible for inclusion on the roster of mediators, the following would be an **asset**:

- ability to mentor and coach other mediators (documented); and
- experience with multi-party disputes (documented).

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Criteria for Selecting an Arbitrator

To be eligible for inclusion on the roster of arbitrators, the applicant is **required** to:

- possess verification of membership to a relevant professional association along with a copy of the subscribed code of ethics and conduct the arbitrator is practicing under;
- provide evidence of completion of the ADR Institute of Alberta (ADRIA) Arbitration Certificate for a total of 40 hours of training or its equivalent;
- include a detailed list of relevant courses taken, demonstrate competency in information gathering, effective listening and communication skills, and have a working knowledge of arbitration processes and responsibilities;
- provide documented ability (documented ability may include a written description of one or more relevant cases, including past awards);
- document the types and number of disputes you have arbitrated;
- possess a working knowledge of the *Municipal Government Act* or completion of the Ministry's one day training session on the *Municipal Government Act* and specifically the sections that pertain to arbitration;
- documented experience in working with municipalities;
- provide proof of liability insurance as required by the Government of Alberta;
- commitment to a minimum of 20 hours of related educational training each year (note: this can be mediation or municipal training); and
- provide the names and contact information of three references.

Criteria for Selecting a Med/Arb Practitioner

To be eligible for inclusion on the med/arb roster, the applicant is required to:

- possess verification of membership to a relevant professional association along with a copy of the subscribed code of ethics and conduct the mediator/arbitrator is practicing under;
- provide evidence of completion of the ADR Institute of Alberta (ADRIA) Arbitration and Mediation Certificate for a total of 120 hours of training or its equivalent;
- include a detailed list of relevant courses taken, demonstrate competency in information gathering, effective listening and communication skills, and have a working knowledge of both mediation and arbitration processes and responsibilities;
- provide documented ability and the types and number of disputes you have used a combination of mediation and arbitration processes;
- possess a working knowledge of the *Municipal Government Act* or completion of the Ministry's one day training session on the *Municipal Government Act* and specifically the sections that pertain to arbitration;
- documented experience in working with municipalities;

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- provide proof of liability insurance as required by the Government of Alberta;
- commitment to a minimum of 20 hours of related educational training each year (note: this can be mediation or municipal training); and
- provide the names and contact information of three references.

Review of Applications

The Intermunicipal Dispute Resolution Initiative Advisory Committee (Advisory Committee) will be responsible for reviewing all applications to ensure applicants meet criteria requirements.

Applicants who meet the criteria will be invited to submit a two-page resume detailing training and relevant experience that will be used in the referral process.

The Advisory Committee consists of representatives from the:

- Alberta Urban Municipalities Association (AUMA);
- Alberta Rural Municipalities (RMA)
- Local Government Administrators Association (LGAA);
- Alberta Rural Municipalities Administration Association (ARMAA);
- Society of Local Government Managers (SLGM);
- Association of Summer Villages of Alberta (ASVA);
- ADR Institute of Alberta (ADRIA);
- Canadian Bar Association Alberta – Municipal Law Subsection; and
- Alberta Municipal Affairs.

Completion of Application

All applicants are to complete the standard attached template entitled “Request for Inclusion on the Roster Intermunicipal Dispute Resolution”. A standard template provides the Advisory Committee with consistent information that is used in the selection of mediators for the roster. Applicants chosen for the roster will have their resume posted on Alberta Municipal Affairs website at <http://municipalaffairs.alberta.ca/1495>.

Grandfathering

Provisions may be made to vary the **required** criteria for an applicant who possesses extensive mediation and or arbitration experience, or who has demonstrated the ability to assist local governments in resolving disputes.

Mentoring

As part of our commitment to encourage the use of mediation, arbitration and development of roster members, the Intermunicipal Dispute Resolution Initiative will seek to provide mentoring opportunities for applicants who possess the minimum training requirements but do not possess municipal experience. With the parties’ approval, and in consultation with the chosen roster member(s), the less experienced member (mentoree) will be paired with a mediator with

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municipal experience (mentor). Members placed on the roster must agree to serve as a mentor, on a voluntary basis, for mentorees entering the program.

Maintenance of Roster

In consultation with the Advisory Committee, the Ministry will update the roster on a regular basis.

Training/Orientation

Successful applicants may be required to attend an orientation session which will include an overview of the *Municipal Government Act* and information on the AUMA and RMA. The Ministry will also provide other skill based training opportunities for roster members.

Non-working Mediators and/or Arbitrators

At the discretion of the Advisory Committee, a roster member who has not conducted a mediation or arbitration in the past two years may be required to provide information on their interest in maintaining their position on the roster and resubmit a “Request for Inclusion on the Mediation Arbitration Roster” application form.

Availability of Roster

The roster will be made available to any person on request.

Upon receiving a request from a municipality for a mediator or arbitrator referral, Alberta Municipal Affairs will provide a list of all mediators.

The current roster is made available to the public via Municipal Dispute Resolution Services website at <http://municipalaffairs.alberta.ca/1495.cfm>.

Role of Alberta Municipal Affairs

The role of Alberta Municipal Affairs with respect to the parties’ use of mediation, arbitration and the program roster will be to:

- provide ongoing support to maintain an up-to-date roster;
- engage parties in a review of their process options;
- undertake the initial case building and ensure that the parties have been identified and contacted;
- support the parties in selecting a mediator and/or arbitrator;
- in the event that municipalities are not able to select an arbitrator the Minister will appoint an arbitrator;
- brief the mediators on the circumstances of the dispute; and
- maintain an ongoing system of evaluating the mediation process.

Final Roster

The mediator and arbitrator roster will be published within forty-five days of the closing date for applications.