



**RETURN BIDS TO:**

**RETOURNER LES SOUMISSIONS À:**

Bid Receiving - PWGSC / Réception des soumissions - TPSGC

11 Laurier St. / 11, rue Laurier

Place du Portage, Phase III

Core 0A1 / Noyau 0A1

Gatineau

Quebec

K1A 0S5

Bid Fax: (819) 997-9776

**Revision to a Request for Supply  
Arrangement - Révision à une demande  
pour un arrangement en matière  
d'approvisionnement**

The referenced document is hereby revised; unless otherwise indicated, all other terms and conditions of the Solicitation remain the same.

Ce document est par la présente révisé; sauf indication contraire, les modalités de l'invitation demeurent les mêmes.

**Comments - Commentaires**

**Vendor/Firm Name and Address**

Raison sociale et adresse du  
fournisseur/de l'entrepreneur

**Issuing Office - Bureau de distribution**

Systems Software Procurement Division / Division  
des achats des logiciels d'exploitation

11 Laurier St. / 11 rue, Laurier

4C1, Place du Portage, Phase III

Gatineau

Quebec

K1A 0S5

<b>Title - Sujet</b> RFSA FOR THE PROVISION OF SOFTWARE	
<b>Solicitation No. - N° de l'invitation</b> EN578-100808/D	<b>Date</b> 2013-03-28
<b>Client Reference No. - N° de référence du client</b> EN578-100808	<b>Amendment No. - N° modif.</b> 008
<b>File No. - N° de dossier</b> 015ee.EN578-100808	<b>CCC No./N° CCC - FMS No./N° VME</b>
<b>GETS Reference No. - N° de référence de SEAG</b> PW-\$\$EE-015-22221	
<b>Date of Original Request for Supply Arrangement</b> 2011-01-31 <b>Date de demande pour un arrangement en matière d'app. originale</b>	
<b>Solicitation Closes - L'invitation prend fin at - à 02:00 PM on - le 2014-12-31</b>	
<b>Time Zone Fuseau horaire</b> Eastern Standard Time EST	
<b>Address Enquiries to: - Adresser toutes questions à:</b> Franco (ee div), Emilio	<b>Buyer Id - Id de l'acheteur</b> 015ee
<b>Telephone No. - N° de téléphone</b> (819) 956-1184 ( )	<b>FAX No. - N° de FAX</b> (819) 953-3703
<b>Delivery Required - Livraison exigée</b>	
<b>Destination - of Goods, Services, and Construction:</b> <b>Destination - des biens, services et construction:</b>	
<b>Security - Sécurité</b> This revision does not change the security requirements of the solicitation. Cette révision ne change pas les besoins en matière de sécurité de l'invitation.	

Instructions: See Herein

Instructions: Voir aux présentes

<b>Acknowledgement copy required</b>	<b>Yes - Oui</b>	<b>No - Non</b>
<b>Accusé de réception requis</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>The Offeror hereby acknowledges this revision to its Offer.</b> <b>Le proposant constate, par la présente, cette révision à son offre.</b>		
<b>Signature</b>	<b>Date</b>	
Name and title of person authorized to sign on behalf of offeror. (type or print) Nom et titre de la personne autorisée à signer au nom du proposant. (taper ou écrire en caractères d'imprimerie)		
<b>For the Minister - Pour le Ministre</b>		

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**The purpose of this amendment 008 is to revise the following sections:**

- 6A.17 No Exclusions to Supplier's Obligations,
- 6C.22 Audit,
- 6C. 25 Survival,
- Annex A - Key Terms Software Publisher,
- Form 2 - Software Publisher Certification Form, and
- Form 4 - Open Source Product(s) Certification Form of the RFSA.

**SUMMARY OF REVISIONS**

**1. 6A.17 No Exclusions to Supplier's Obligations is deleted and replaced with:**

**6C.15 No Exclusions to Supplier's Obligations**

Any "notwithstanding" provisions and any disclaimers, limitations or exclusions in Annex E - Software Usage and Software Maintenance and Support - Terms and Conditions or Annex F - Program Terms and Conditions do not apply to, or override, the Supplier's obligations or Canada's rights under the terms and conditions of the Resulting Contract as set out in Part 6C - Resulting Contract Clauses with respect to the Licensed Software as a whole. For example, and without limiting the Supplier's obligations, the Supplier's intellectual property right infringement and liability obligations under Part 6C - Resulting Contract Clauses applies to all portions of the Licensed Software as a whole even if the infringement claim is in relation to a third party portion of the Licensed Software provided. The Contractor agrees that its obligations, as clarified by this section, applies to all components of the licensed software as a whole, including components of the Licensed Software that may be licensed to Canada directly by a third party.

All subsequent sections in 6A (6A.18 through 6A.20) and 6C (6C.15 through 6C.23) are renumbered accordingly.

**2. 6C.22 Audit is deleted and replaced with:**

**6C.22 Compliance Review**

**(a) Record Keeping**

The Client shall keep all usual and proper records relating to its reproduction, distribution and use of the Licensed Software to provide verification that the Client's use of the Licensed Software has been and is in compliance with this Contract.

**(b) Right to Request a Compliance Review**

- (i) No more than once per two years during the term of the license, which may survive the term of the Contract, or more frequently if the Contractor has a substantiated belief that the Client is in default of the terms and conditions of the Contract, upon request by the Contractor to the Supply Arrangement Authority, the Client will perform a compliance review to determine whether it has fully complied with, and is not in default of, the terms and conditions of the Contract (including, without limitation, Annex E and Annex F). By invoking the rights and procedures described herein, the Contractor does not waive its rights to enforce its contractual rights in any contract or to protect its intellectual property by any other means permitted by law.

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- (ii) Within 21 days of the Contractor's Notice, a preliminary consultation will be held between the Contractor and the Client to review the contractual license entitlements and to discuss the department's established procedures and method of review and timeframe. The Contracting Authority will be involved as required.
  - (iii) The Client should complete the compliance review within 120 days of the request by the Contractor. Should this timeframe be insufficient to complete the compliance review, Client and Contractor shall negotiate and agree in writing on a reasonable timeframe for the completion of the compliance review.

**(c) Disclosure of Compliance Data**

- (i) The results of the compliance review, including the data, system tool outputs or other reports collected or produced in the course of the compliance review concerning the use of the Licensed Software and the licenses held by Canada authorizing such use, shall be disclosed to the Contractor by the Client and shall be treated as confidential information. The Compliance Authority responsible for the compliance review shall verify that the data and reports disclosed to the Contractor are complete, true and accurate. Upon receipt of the results of the compliance review from the Client, the Contractor will have the option of requesting a meeting with the Compliance Authority for the purpose of reviewing the compliance review results. For greater clarity, the Compliance Authority is the designated responsible senior officer (for example, the CIO, CFO or CTO), as applicable.
- (ii) The Contractor acknowledges and agrees that the materials to be disclosed to the Contractor by Canada will be limited to information pertaining to the reproduction, distribution and use of the Licensed Software and that Canada may refuse to disclose any data or record subject to exclusions to disclosure of information under the Access to Information Act, the Privacy Act or other applicable laws or written policies, including laws or policies governing classified government information or other confidential or personal information.
- (iii) In the event that the Client refuses to disclose any data or record for such a reason, except to the extent prohibited by applicable law or written policy, it shall:
  - (A) identify the data or record being excluded;
  - (B) provide written reasons for the exclusion, including a copy of any policy that Canada relies on; and
  - (C) withhold only that part of the data or record that cannot be disclosed.

**(d) Review Demonstrating Compliance**

- (i) If the compliance review demonstrates compliance with the terms and conditions of the Contract, the Client will provide the Contractor, within the timeframe for completion of the compliance review, a written certification signed by the Compliance Authority certifying that the Client has fully complied with, and is not in default of, the terms and conditions of the Contract.
- (ii) The Contractor's acceptance of the Client's certification is in no way an acknowledgement or agreement by the Contractor that the Client has fully complied with, and is not in default of, the terms and conditions of the Contract except where the Client has obtained a

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written confirmation of contract compliance from an authorized representative of the Contractor.

**(e) Review Demonstrating Non-Compliance**

- (i) If the compliance review reveals that the Client has not fully complied with, or is in default of, the terms and conditions of the Contract, the Client will provide the Contractor, within the timeframe for completion of the compliance review, a written certification signed by the Compliance Authority providing full details of the non-compliance. The Client should remedy the non-compliance within 60 days of the receipt of the certification. Should this timeframe be insufficient to remedy the non-compliance, Client and Contractor shall negotiate and agree in writing on a reasonable timeframe for the remedy.
- (ii) In the event that the Client is found to be under licensed, the Client will acquire the additional licenses for the applicable version of the Licensed Software necessary to remedy the under licensing. For each unlicensed copy of the Licensed Software identified, the "applicable version" will be the version of the Licensed Software installed or run as of the date of the compliance review request. To the extent that the licenses for the applicable version were, or are, available under the Supply Arrangement, the price for such licenses will not exceed the ceiling price set out in the last Supply Arrangement Annex D – Product List and Ceiling Prices in which the license for the applicable version was listed.
- (iii) The Client acknowledges that the compliance review may reveal that the Client has not fully complied with, or is in default of, the terms and conditions of software licenses not contemplated under this contract . In such instances, the Client shall remedy the non-compliance separately from this Contract.
- (iv) To the extent the Client has upgraded any copies of unlicensed software or any licenses to be acquired by the Client to remedy under licensing are in respect of copies installed or used together with copies of the Licensed Software which were or are enrolled in maintenance or support, the Client agrees to pay for, as applicable, maintenance and support for those additional licenses for the lesser of the duration of the unlicensed use or two years.
- (v) The Client shall provide the Contractor with a written certification signed by the Compliance Authority certifying that the Client has fully remedied its non-compliance. This certification shall be provided to the Contractor promptly once the non-compliance has been remedied.
- (vi) To the extent that the non-compliance or default cannot be remedied by the Client acquiring additional licenses, the Contractor shall have the right to pursue whatever remedies may be permitted by law and any failure or delay by the Contractor in exercising any such remedy shall not be construed as a waiver thereof or otherwise prevent the Contractor from seeking or obtaining such remedy in the future.

**(f) Use of Third Parties**

- (i) The Client acknowledges and agrees that the Contractor may include in any meetings, deliberations or discussions undertaken with the Client in connection with Section 6C.22 any third party advisors, consultants or other representatives of the Contractor as the Contractor deems to be appropriate to facilitate the compliance review process, including

the resolution of any identified issues and may share with any such representatives the results of the compliance review.

- (ii) Prior to the sharing of information with a third party, Canada must be notified and Canada may require the third party to enter into a nondisclosure agreement with Canada, prepared by Canada, acting reasonably.

**(g) Crown Terms Prevail**

- (i) These provisions shall apply in place of any provisions contained in the Contract or Annex "E" or "F" in respect of demonstrating compliance and license sufficiency in respect of Canada's use of the Licensed Software.

**3. Insert clause 6C.25 Survival:**

6C.25 Survival

- (a) All the Parties' obligations of confidentiality, representations and warranties set out in the Contract as well as the provisions, which by the nature of the rights or obligations might reasonably be expected to survive, will survive the expiry or termination of the Contract.

**4. Annex A - Key Terms Software Publisher is revised to:**

**DELETE:**

The entity or person who is the owner of the copyright in any Software product included in the arrangement and who has the right to the license and has the right to authorize others to license its software products and any underlying components.

**INSERT:**

The entity or person who has the right to license or to sublicense and full power and authority to grant to Canada all the rights granted under the Contract, for any designated software product included in the arrangement.

**5. Form 2 - Software Publisher Certification Form is revised to replace:**

The Supplier certifies that it is the software publisher of all the following software products and components and that it has all the rights necessary to license them in accordance with the terms and conditions of the SA (and any non-proprietary sub-components incorporated into the software) on a royalty-free basis to Canada:

With

The Supplier certifies that it is the Software Publisher of all the following software products and that it has all the rights necessary to license them in accordance with the terms and conditions of the SA to Canada:

**DELETE:**

Form 2 - Software Publisher Certification Form in its entirety.

**INSERT:**

Form 2 - Software Publisher Certification Form; attached.

**6. Form 4 - Open Source Product(s) Certification Form is revised to replace:**

Solicitation No. - N° de l'invitation

EN578-100808/D

Amd. No. - N° de la modif.

008

Buyer ID - Id de l'acheteur

015ee

Client Ref. No. - N° de réf. du client

EN578-100808

File No. - N° du dossier

015eeEN578-100808

CCC No./N° CCC - FMS No/ N° VME

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The Supplier certifies that all the following software products and components are non-proprietary software (Open Source Software Products) and that it has all the rights necessary to license them (and any non-proprietary sub-components incorporated into the software) to Canada in accordance with the terms and conditions set out in the SA:

With

The Supplier certifies that all the following software products are non-proprietary software (Open Source Software Products) and that the licenses there from allow for the redistribution of the software under the terms and conditions of the resulting Contract under the Supply Arrangement.

**DELETE:**

Form 4 - Open Source Product(s) Certification Form in its entirety.

**INSERT:**

Form 4 - Open Source Product(s) Certification Form; attached.

**7. All previous revisions as indicated in Solicitation EN578-100808 Amendments 001, 002, 003, 004, 005, 006, 007.**

Solicitation No. - N° de l'invitation

EN578-100808/D

Amd. No. - N° de la modif.

008

Buyer ID - Id de l'acheteur

015ee

Client Ref. No. - N° de réf. du client

EN578-100808

File No. - N° du dossier

015eeEN578-100808

CCC No./N° CCC - FMS No/ N° VME

## Form 2

### Software Publisher Certification Form

(to be used where the Supplier itself is the Software Publisher)

The Supplier certifies that it is the Software Publisher of all the following software products and that it has all the rights necessary to license them in accordance with the terms and conditions of the SA to Canada:

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*[Suppliers should add or remove lines as needed, or attach the product list as an appendix]*

Name of Software Publisher (SP) \_\_\_\_\_

Signature of authorized signatory of SP \_\_\_\_\_

Print Name of authorized signatory of SP \_\_\_\_\_

Print Title of authorized signatory of SP \_\_\_\_\_

Address for authorized signatory of SP \_\_\_\_\_

Telephone no. for authorized signatory of SP \_\_\_\_\_

Email for authorized signatory of SP \_\_\_\_\_

Date signed \_\_\_\_\_

RFSA Number \_\_\_\_\_

Solicitation No. - N° de l'invitation

EN578-100808/D

Amd. No. - N° de la modif.

008

Buyer ID - Id de l'acheteur

015ee

Client Ref. No. - N° de réf. du client

EN578-100808

File No. - N° du dossier

015eeEN578-100808

CCC No./N° CCC - FMS No/ N° VME

## Form 4

### Open Source Product(s) Certification Form

The Supplier certifies that all the following software products are non-proprietary software (Open Source Software Products) and that the licenses there from allow for the redistribution of the software under the terms and conditions of the resulting Contract under the Supply Arrangement.

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*(Suppliers should add or remove lines as needed, or attach the product list as an appendix)*

Name of Supplier \_\_\_\_\_

Signature of authorized signatory of Supplier \_\_\_\_\_

Print Name of authorized signatory of Supplier \_\_\_\_\_

Print Title of authorized signatory of Supplier \_\_\_\_\_

Address for authorized signatory of Supplier \_\_\_\_\_

Email for authorized signatory of Supplier \_\_\_\_\_

Date signed \_\_\_\_\_

RFSA Number \_\_\_\_\_