

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
Québec
K1A 0S5
Bid Fax: (819) 997-9776

SOLICITATION AMENDMENT MODIFICATION DE L'INVITATION

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
Alternative Service Delivery/Autres modes de prestation
des services
11 Laurier/11 rue Laurier
7C2, Place du Portage Phase III
Gatineau
Québec
K1A 0S5

Title - Sujet Project Support Services	
Solicitation No. - N° de l'invitation W6369-13DE37/A	Amendment No. - N° modif. 001
Client Reference No. - N° de référence du client W6369-13DE37	Date 2012-11-29
GETS Reference No. - N° de référence de SEAG PW-\$PSD-002-23376	
File No. - N° de dossier 002psd.W6369-13DE37	CCC No./N° CCC - FMS No./N° VME
Solicitation Closes - L'invitation prend fin at - à 02:00 PM on - le 2013-01-09	Time Zone Fuseau horaire Eastern Standard Time EST
F.O.B. - F.A.B. Plant-Usine: <input type="checkbox"/> Destination: <input type="checkbox"/> Other-Autre: <input type="checkbox"/>	
Address Enquiries to: - Adresser toutes questions à: Drouin, Chris	Buyer Id - Id de l'acheteur 002psd
Telephone No. - N° de téléphone (613) 944-5190 ()	FAX No. - N° de FAX (613) 943-7944
Destination - of Goods, Services, and Construction: Destination - des biens, services et construction:	

Instructions: See Herein

Instructions: Voir aux présentes

Delivery Required - Livraison exigée	Delivery Offered - Livraison proposée
Vendor/Firm Name and Address Raison sociale et adresse du fournisseur/de l'entrepreneur	
Telephone No. - N° de téléphone Facsimile No. - N° de télécopieur	
Name and title of person authorized to sign on behalf of Vendor/Firm (type or print) Nom et titre de la personne autorisée à signer au nom du fournisseur/ de l'entrepreneur (taper ou écrire en caractères d'imprimerie)	
Signature	Date

Solicitation No. - N° de l'invitation

W6369-13DE37/A

Amd. No. - N° de la modif.

001

Buyer ID - Id de l'acheteur

002psd

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

W6369-13DE37

File No. - N° du dossier

002psdW6369-13DE37

CCC No./N° CCC - FMS No/ N° VME

Amendment 1 is raised to delete pages 2 to 56 in their entirety. A Statement of Work from another project was included by mistake.

All other terms and conditions remain the same.

DELETE: Page 2 to 56

INSERT: page 2 to 33 (attached below)

**BID SOLICITATION
FOR
PROJECT MANAGEMENT & ENGINEERING SUPPORT SERVICES (PMESS)
IN SUPPORT OF THE
DIRECTOR GENERAL INFORMATION MANAGEMENT PROJECT DELIVERY (DGIMPD)**

TABLE OF CONTENTS

PART 1 – GENERAL INFORMATION

- 1.1 Introduction
- 1.2 Summary
- 1.3 Description of Requirement

PART 2 - BIDDER INSTRUCTIONS

- 2.1 Standard Instructions, Clauses and Conditions
- 2.2 Submission of Bids
- 2.3 Applicable Laws
- 2.4 Improvement of Requirement During Solicitation Period
- 2.5 Basis For Canada's Ownership of Intellectual Property
- 2.6 Volumetric Data

PART 3 - BID PREPARATION INSTRUCTIONS

- 3.1 Bid Preparation Instructions
- 3.2 Section I: Technical Bid
- 3.3 Section II: Financial Bid
- 3.4 Section III: Certifications

PART 4 - EVALUATION PROCEDURES AND BASIS OF SELECTION

- 4.1 Evaluation Procedures
- 4.2 Technical Evaluation:
- 4.3 Financial Evaluation
- 4.4 Basis of Selection

PART 5 - CERTIFICATIONS

- 5.1 Federal Contractors Program for Employment Equity - Certification
- 5.2 Status and Availability of Resources
- 5.3 Education and Experience

PART 6 - SECURITY, FINANCIAL AND OTHER REQUIREMENTS

- 6.1 Mandatory at Bid Closing - Security Requirement
- 6.2 Financial Capability
- 6.3 Controlled Goods Requirement

PART 7 - RESULTING CONTRACT CLAUSES

- 7.1 Requirement
- 7.2 Task Authorization ("TA")

-
- 7.3 Standard Clauses and Conditions
 - 7.4 Security Requirement
 - 7.5 Contract Period
 - 7.6 Authorities
 - 7.7 Payment
 - 7.8 Invoicing Instructions
 - 7.9 Certifications
 - 7.10 Applicable Laws
 - 7.11 Priority of Documents
 - 7.12 Defence Contract
 - 7.13 Foreign Nationals (Canadian Contractor)
 - 7.14 Foreign Nationals (Foreign Contractor)
 - 7.15 Insurance Requirements
 - 7.16 Limitation of Liability - Information Management/Information Technology
 - 7.17 Professional Services - General
 - 7.18 Safeguarding Electronic Media
 - 7.19 Representations and Warranties
 - 7.20 Access to Canada's Property and Facilities
 - 7.21 Government Property
 - 7.22 Non-Disclosure Agreement - A9126C (2010-08-16)

List of Annexes

Annex A	Statement of Work
Annex B	Basis of Payment
Annex C	Evaluation Criteria
Annex D	Security Requirements Check List
Annex E	Bid Submission Form
Annex F	Non Disclosure Agreement

PART 1 - GENERAL INFORMATION

1.1 INTRODUCTION

This document states terms and conditions that apply to bid solicitation # W6369-13-DE37. It is divided into seven parts plus annexes and, if applicable, attachments as follows:

Part 1 General Information: provides a general description of the requirement;

Part 2 Bidder Instructions: provides the instructions, clauses and conditions applicable to the bid solicitation and states that the Bidder agrees to be bound by the clauses and conditions contained in all parts of the bid solicitation;

Part 3 Bid Preparation Instructions: provides bidders with instructions on how to prepare their bid;

Part 4 Evaluation Procedures and Basis of Selection: indicates how the evaluation will be conducted, the evaluation criteria that must be addressed in the bid, if applicable, and the basis of selection;

Part 5 Certifications: includes the certifications to be provided;

Part 6 Security, Financial and Other Requirements: includes specific requirements that must be addressed by bidders; and

Part 7 Resulting Contract Clauses: includes the clauses and conditions that will apply to any resulting contract.

The annexes include the Statement of Work, the Basis of Payment and any other annexes.

1.2 SUMMARY

- (a) This bid solicitation is being issued to satisfy the requirement of the Department of National Defence (the "Client") for Task-Based Informatics Professional Services (TBIPS) under the TBIPS Supply Arrangement (SA) method of supply.
- (b) It is intended to result in the award of one contract for an initial contract period of two years, plus three one-year irrevocable options allowing Canada to extend the term of the contract.
- (c) There is a security requirement associated with this requirement. For additional information, see Part 6 - Security, Financial and Other Requirements, and Part 7 - Resulting Contract Clauses. Bidders should consult the "Security Requirements on PWGSC Bid Solicitations - Instructions for Bidders" document on the Departmental Standard Procurement Documents (<http://www.tpsgc-pwgsc.gc.ca/app-acq/lc-pl/lc-pl-eng.html>) Website.

- (d) The requirement is subject to the provisions of the World Trade Organization Agreement on Government Procurement (WTO-AGP), the North American Free Trade Agreement (NAFTA), and the Agreement on Internal Trade (AIT).
- (e) This procurement is subject to the Controlled Goods Program.

1.3 DESCRIPTION OF REQUIREMENT

The Client's requirement is described in the following documents:

- (a) This Bid Solicitation document and its associated annexes and (if applicable) attachments; and
- (b) The TBIPS Supply Arrangement EN578-055605/D and its associated Annexes.

PART 2 - BIDDER INSTRUCTIONS

2.1 STANDARD INSTRUCTIONS, CLAUSES AND CONDITIONS

- (a) All instructions, clauses and conditions identified in the bid solicitation by number, date and title are set out in the Standard Acquisition Clauses and Conditions Manual (<http://sacc.pwgsc.gc.ca/sacc/index-e.jsp>) issued by Public Works and Government Services Canada (PWGSC).
- (b) Bidders who submit a bid agree to be bound by the instructions, clauses and conditions of the bid solicitation and accept the clauses and conditions of the resulting contract.
- (c) The 2003 (2010-10-07) Standard Instructions - Goods or Services - Competitive Requirements are incorporated by reference into and form part of the bid solicitation. If there is a conflict between the provisions of 2003 and this document, this document prevails.
- (d) Subsection 4.4 of Standard Instructions - Goods or Services - Competitive Requirements 2003 is amended as follows:
 - (i) Delete: sixty (60) days
 - (ii) Insert: 120 days
- (e) In Section 4 of Standard Instructions - Goods or Services - Competitive Requirements 2003, add Subsection 8 as follows:
 - 8. A bid cannot be assigned or transferred in whole or in part.

2.2 SUBMISSION OF BIDS

- (a) Bids must be received by the Contracting Authority identified by the date, time and place indicated on page 1 of that document.
- (b) Due to the nature of the bid solicitation, bids transmitted by facsimile or electronic mail will not be accepted.
- (c) Enquiries - Bid Solicitation
 - (i) All enquiries must be submitted in writing to the Contracting Authority no later than three calendar days before the bid closing date, unless otherwise specified in each RFP. Enquiries received after that time may not be answered.
 - (ii) Bidders should reference as accurately as possible the numbered item of the bid solicitation to which the enquiry relates. Care should be taken by bidders to explain each question in sufficient detail in order to enable Canada to provide an accurate answer. Technical enquiries that are of a "proprietary" nature must be clearly marked "proprietary" at each relevant item. Items identified as proprietary will be treated as such except where Canada determines that the enquiry is not of a proprietary nature. Canada may edit the questions or may request that the Bidder do so, so that the proprietary nature of the question is eliminated, and the enquiry can be answered with copies to all bidders. Enquiries not submitted in a form that can be distributed to all bidders may not be answered by Canada.

2.3 APPLICABLE LAWS

- (a) Any resulting contract must be interpreted and governed, and the relations between the parties determined, by the laws in force in Ontario.
- (b) A bidder may, at its discretion, substitute the applicable laws of a Canadian province or territory of their choice without affecting the validity of its bid, by deleting the name of the Canadian province or territory specified and inserting the name of the Canadian province or territory of its choice. If no change is made, it acknowledges that the applicable laws specified are acceptable to the Bidder.

Note to Bidders: Bidders are requested to indicate the Canadian province or territory they wish to apply to any resulting contract in their Bid Submission Form.

2.4 IMPROVEMENT OF REQUIREMENT DURING SOLICITATION PERIOD

Should bidders consider that the specifications or Statement of Work contained in the bid solicitation could be improved technically or technologically, bidders are invited to make suggestions, in writing, to the Contracting Authority named in the bid solicitation. Bidders must clearly outline the suggested improvement as well as the reasons for the suggestion. Suggestions that do not restrict the level of competition nor favour a particular bidder will be given consideration provided they are submitted to the Contracting Authority in accordance with

Solicitation No. - N° de l'invitation

W6369-13DE37/A

Amd. No. - N° de la modif.

001

Buyer ID - Id de l'acheteur

002psd

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

W6369-13DE37

File No. - N° du dossier

002psdW6369-13DE37

CCC No./N° CCC - FMS No/ N° VME

the article entitled "Enquiries - Bid Solicitation". Canada will have the right to accept or reject any or all suggestions.

2.5 BASIS FOR CANADA'S OWNERSHIP OF INTELLECTUAL PROPERTY

Canada has determined that any intellectual property arising from the performance of the Work under the Contract will belong to Canada, on the grounds of national security.

2.6 VOLUMETRIC DATA

The data described in this Request for Proposal has been provided to Bidders to assist them in preparing their bids. The inclusion of this data in this bid solicitation does not represent a commitment by Canada that Canada's future usage of the services identified in this request for proposal will be consistent with this data. It is provided purely for information purposes.

PART 3 - BID PREPARATION INSTRUCTIONS

3.1 BID PREPARATION INSTRUCTIONS

- (a) Unless the RFP specifies otherwise, Canada requests that bidders provide their bid in separately bound sections as follows:

- (i) Section I: Technical Bid (4 hard copies and 1 soft copy)
- (ii) Section II: Financial Bid (2 hard copies and 1 soft copy)
- (iii) Section III: Certifications (1 hard copies)

If there is a discrepancy between the wording of the soft copy and the hard copy, the wording of the hard copy will have priority over the wording of the soft copy.

Prices must appear in the Financial Bid only. Prices must not be indicated in any other section of the bid.

- (b) Canada requests that bidders follow the format instructions described below in the preparation of their bid:
- (i) use 8.5 x 11 inch (216 mm x 279 mm) paper;
 - (ii) use a numbering system that corresponds to the bid solicitation;
 - (iii) include a title page at the front of each volume of the bid that includes the title, date, bid solicitation number, bidder's name and address and contact information of its representative; and
 - (iv) Include a table of contents.
- (c) Green Procurement: In April 2006, Canada issued a policy directing federal departments and agencies to take the necessary steps to incorporate environmental considerations into the procurement process Policy on Green Procurement which can be found at: <http://www.tpsgc-pwgsc.gc.ca/ecologisation-greening/achats-procurement/politique-policy-eng.html>

To assist Canada in reaching its objectives, bidders are encouraged to:

- (i) use paper containing fibre certified as originating from a sustainably- managed forest and/or containing minimum 30% recycled content; and,
 - (ii) use an environmentally-preferable format including black and white printing instead of colour printing, printing double sided/duplex, using staples or clips instead of cerlox, duotangs or binders.
- (d) Multiple bids from the same bidder are not permitted in response to this bid solicitation. Each bidder must submit only a single bid. If any bidder submits more than one bid, Canada will choose at its discretion which bid to consider.

3.2 SECTION I: TECHNICAL BID

- (a) In their technical bid, bidders will demonstrate their understanding of the requirements contained in the bid solicitation and explain how they will meet these requirements. Bidders will demonstrate their capability in a thorough, concise and clear manner for carrying out the work. The technical bid must address clearly and in sufficient depth the points that are subject to the evaluation criteria against which the bid will be evaluated. Simply repeating the statement contained in the bid solicitation is not sufficient. In order to facilitate the evaluation of the bid, Canada requests that bidders address and present topics in the order of the evaluation criteria under the same headings. To avoid duplication, bidders may refer to different sections of their bids by identifying the specific paragraph and page number where the subject topic has already been addressed.
- (b) The technical bid consists of the following:
- (i) Bid Submission Form: Bidders are requested to include the Bid Submission Form attached at Annex E of this bid solicitation with their bids. It provides a common form in which bidders can provide information required for evaluation and contract award, such as a contact name, the Bidder's Procurement Business Number, the Bidder's status under the Federal Contractors Program for Employment Equity, etc. Using the form to provide this information is not mandatory, but it is recommended. If Canada determines that the information required by the Bid Submission Form is incomplete or requires correction, Canada will provide the Bidder with an opportunity to do so.
 - (ii) Security, Financial & Other Requirements: As required by Part 6 of the bid solicitation.
 - (iii) Résumés for Proposed Resources: Unless specified otherwise in the RFP, the technical bid must include résumés for the resources identified in the bid solicitation that demonstrate that each proposed individual meets the qualification requirements described (including any educational requirements, work experience requirements, and professional designation or membership requirements). With respect to résumés and resources:
 - (A) No more than one (1) résumé(s) may be submitted per required Category of Personnel.
 - (B) Proposed resources may be employees of the Bidder or employees of a subcontractor, or these individuals may be independent contractors to whom the Bidder would subcontract a portion of the Work. (refer to Part 5, Certifications). For educational requirements for a particular degree, designation or certificate, the Contracting Authority will only consider educational programs that were successfully completed by the resource by the time of bid closing.
 - (C) For requirements relating to professional designation or membership, the resource must have the required designation or membership by the time of bid closing and must continue, where applicable, to be a member in good standing of the profession's governing body throughout the

evaluation and Contract Period.

- (D) For work experience, the Contracting Authority will not consider experience gained as part of an educational programme, except for experience gained through a formal co-operative programme at a post-secondary institution.
- (E) For any requirements that specify a particular time period (e.g., 2 years) of work experience, the Contract Authority will disregard any information about experience if the individual's résumé does not include the relevant dates for the experience claimed (i.e., the start date and end date).
- (F) For work experience to be considered by the Contracting Authority, the résumé must not simply indicate the title of the individual's position, but must demonstrate that the resource has the required work experience by explaining the responsibilities and work performed by the individual while in that position. The Bidder should provide complete details as to where, when, month and year, and how, through which activities/responsibilities, the stated qualifications/experience were obtained. In situations in which a proposed resource worked at the same time on more than one project, only one project will be counted toward any requirements that relate to the individual's length of experience.

3.3 SECTION II: FINANCIAL BID

- (a) Pricing: Bidders must submit their financial bid in accordance with the Basis of Payment provided in Annex "B" of this bid solicitation and Annex "C" to Part A of their Supply Arrangement. The total amount of Goods and Services Tax or Harmonized Sales Tax must be shown separately, if applicable. All prices must be firm prices.
- (b) Variation in Professional Services Resource Rates from Year to Year: The Bidder may propose different rates for Categories of Personnel for multi-year contracts, including per diem rates that are higher than the ceiling rate contained within Annex "C" to Part A of their Supply Arrangement. The Bidder's firm per diem rate must not exceed the established ceiling rate for the first year only of any resulting contract.
- (c) All Costs to be Included: The financial bid must include all costs for the requirement described in the bid solicitation for the entire Contract Period, including any option years. The identification of all necessary equipment, software, peripherals, cabling and components required to meet the requirements of the bid solicitation and the associated costs of these items is the sole responsibility of the Bidder.
- (d) Blank Prices: Bidders are requested to insert "\$0.00" for any item for which it does not intend to charge or for items that are already included in other prices set out in the tables. If the Bidder leaves any price blank, Canada will treat the price as "\$0.00" for evaluation purposes and may request that the Bidder confirm that the price is, in fact, \$0.00. No bidder will be permitted to add or change a price as part of this confirmation.

Solicitation No. - N° de l'invitation

W6369-13DE37/A

Amd. No. - N° de la modif.

001

Buyer ID - Id de l'acheteur

002psd

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

W6369-13DE37

File No. - N° du dossier

002psdW6369-13DE37

CCC No./N° CCC - FMS No/ N° VME

Any bidder who does not confirm that the price for a blank item is \$0.00 will be declared non-responsive.

3.4 SECTION III: CERTIFICATIONS

Bidders must submit the certifications required under Part 5.

PART 4 - EVALUATION PROCEDURES AND BASIS OF SELECTION

4.1 EVALUATION PROCEDURES

- (a) Bids will be assessed in accordance with the entire requirement of the bid solicitation including the technical and financial evaluation criteria. There are several steps in the evaluation process, which are described below. Even though the evaluation and selection will be conducted in steps, the fact that Canada has proceeded to a later step does not mean that Canada has conclusively determined that the Bidder has successfully passed all the previous steps. Canada may conduct steps of the evaluation in parallel.
- (b) An evaluation team composed of representatives of the Client(s) and/or PWGSC will evaluate the bids on behalf of Canada. Canada may hire any independent consultant, or use any Government resources, to evaluate any bid. Not all members of the evaluation team will necessarily participate in all aspects of the evaluation.
- (c) In addition to any other time periods established in the bid solicitation:
 - (i) Requests for Clarifications: If Canada seeks clarification or verification from the Bidder about its bid, the Bidder will have 2 working days (or a longer period if specified in writing by the Contracting Authority) to provide the necessary information to Canada. Failure to meet this deadline will result in the bid being declared non-responsive.
 - (ii) Requests for Interviews: If Canada wishes to interview the Bidder and/or any or all of the resources proposed by the Bidder to fulfill the requirements of the bid solicitation, the Bidder will have 2 working days (or a longer period if specified in writing by the Contracting Authority) following notice by the Contracting Authority to make any necessary arrangements (at the Bidder's sole cost) for the interview to take place at a location specified by Canada.
 - (iii) Extension of Time: If additional time is required by the Bidder, the Contracting Authority may grant an extension in his or her sole discretion.

4.2 TECHNICAL EVALUATION

- (a) **Mandatory Technical Criteria:**
Each bid will be reviewed for compliance with the mandatory requirements of the bid solicitation. All elements of the bid solicitation that are mandatory requirements are identified specifically with the words "must" or "mandatory". Bids that do not comply with each and every mandatory requirement will be considered non-responsive and be disqualified.
- (b) **Point-Rated Technical Criteria:**
Where Point-Rated Technical Criteria are specified in the RFP, each bid will be rated by assigning a score to the rated requirements, which are identified in the bid solicitation by the word "rated" or by reference to a score. Bidders who fail to submit complete bids with all the information requested by this bid solicitation will be rated accordingly. Point-rated evaluation criteria and/or evaluation processes are described in the RFP.

- (c) **Resource Qualifications:** The qualifications and experience of the proposed resource(s) will be assessed against the requirements set out in the bid solicitation. Canada may request proof of successful completion of formal training, as well as reference information. The Contracting Authority reserves the right to request references from a Bidder to conduct a reference check to verify the accuracy of the information provided. For each customer reference, the Bidder should provide the name, telephone number and e-mail address (unless this individual does not have an e-mail address) for a contact person. The title of each person is requested but not required. If the named individual is unavailable when required during the evaluation period, the Bidder may provide the name and contact information of an alternate contact from the same customer.
- (d) **Reference Checks:** If reference checks are conducted by Canada, they will be conducted in writing by e-mail (unless the contact at the reference is only available by telephone). Canada will send all e-mail reference check requests to contacts supplied by all the Bidders on the same day. Canada will not award any points unless the response is received within 5 working days. Wherever information provided by a reference differs from the information supplied by the Bidder, the information supplied by the reference will be the information evaluated. Points will only be allocated if the reference customer is an outside client of the Bidder itself and not that of an affiliate (for example, the outside client cannot be the customer of an affiliate of the Bidder). Points will not be allocated if the outside client is itself an affiliate or other entity that does not deal at arm's length with the Bidder. Crown references will be accepted.
- (e) **Technically Responsive Proposal:** A technically responsive proposal is a proposal that meets each of the mandatory requirements and obtains a minimum score of 65% for the point rated evaluation criteria.

4.3 FINANCIAL EVALUATION

(a) **Calculation of Total Bid Price**

The financial evaluation will be conducted by calculating the Total Bid Price using the pricing tables contained within Annex B – Basis of Payment, that must be completed by the Bidder. The Bidder must provide firm, all inclusive, per diem rates for the Categories of Personnel being proposed in accordance with the bid solicitation, which may include an initial contract period and option periods. . For the first year period of any contract (from date of award) resulting from an RFP against this SA, the applicable firm per diem rates must not exceed those rates specified in Annex "C" - Schedule of Per Diem Rates of the SA Holder's Supply Arrangement for each relevant resource(s). Failure to abide with this condition will result in a proposal being considered non-responsive.

Only the Firm Per Diem Rates of proposals that are technically responsive will be considered.

(b) Formulas in Pricing Tables

If the pricing tables provided to bidders include any formulae, Canada may re-input the prices provided by bidders into a fresh table, if Canada believes that the formulae may no longer be functioning properly in the version submitted by a bidder.

(c) Substantiation of Professional Services Rates

In Canada's experience, bidders will from time to time propose rates at the time of bidding for one or more categories of resources that they later refuse to honour, on the basis that these rates do not allow them to recover their own costs and/or make a profit. When evaluating the rates for professional services bid, Canada may, but will have no obligation to, require price support for any rates proposed (either for all or for specific resource categories). Examples of price support that Canada would consider satisfactory include:

- (i) documentation (such as billing records) that shows that the Bidder has recently provided and invoiced another customer (with whom the Bidder deals at arm's length) for services similar to the services that would be provided by the relevant resource category, where those services were provided for at least one month and the fees charged are equal to or less than the rate offered to Canada (to protect the privacy of the customer, the Bidder may black out the customer's name and personal information on the invoice submitted to Canada);
- (ii) a signed contract between the Bidder and an individual qualified (based on the qualifications described in this bid solicitation) to provide services under the relevant resource category, where the amount payable under that contract by the Bidder to the resource is equal to or less than the rate bid for that resource category;
- (iii) a signed contract with a subcontractor who will perform the work under any resulting contract, which provides that the required services will be provided at a rate that is equal to or less than the rate bid for the relevant resource category (and where the resource meets all the qualifications described in this bid solicitation); or
- (iv) details regarding the salary paid to and benefits provided to the individuals employed by the Bidder qualified (based on the qualifications described in this bid solicitation) to provide services under the relevant resource category, where the amount of compensation, when converted to a per diem or hourly rate (as applicable), is equal to or less than the rate bid for that resource category.

Once Canada requests substantiation of the rates bid for any resource category, it is the sole responsibility of the Bidder to submit information (either the information described in the examples above, or other information that demonstrates that it will be able to recover its own costs based on the rates it has proposed) that will allow Canada to determine whether it can rely, with confidence, on the Bidder's ability to provide the required services at the rates bid, while, at a minimum, recovering its own costs. Where Canada determines that the information provided by the Bidder does not demonstrate the Bidder's ability to recover its own costs in providing the relevant resource, Canada may declare the bid non-compliant, if the rate bid is at least **20%** of or lower than the median price bid by compliant bidders for the first year of the resulting contract for the

relevant resource(s). Only the Firm Per Diem Rates of proposals that are technically responsive will be considered.

4.4 BASIS OF SELECTION

- (a) To be declared responsive, a bid must:
 - (i) comply with all the requirements of the bid solicitation;
 - (ii) meet all mandatory evaluation criteria specified at Annex "C".
 - (iii) obtain a minimum technical score of 65% for the point rated evaluation criteria.
- (b) Bids not meeting (i) or (ii) or (iii) will be declared non-responsive.
- (c) The responsive bid with the lowest cost per point will be recommended for award of contract. This will be determined by dividing the total bid price by the total points achieved in the evaluation of the bidder's proposal.
- (d) Bidders should note that all contract awards are subject to Canada's internal approvals process, which includes a requirement to approve funding in the amount of any proposed contract. Despite the fact that the Bidder may have been recommended for contract award, a contract will only be awarded if internal approval is granted according to Canada's internal policies. If approval is not granted, no contract will be awarded.
- (e) If more than one bidder is ranked first because of identical overall scores, then the bidder with the best financial score will become the top-ranked bidder.
- (f) Notification of Evaluation Results: All invited SA Holders who respond to a TBIPS RFP will be notified in writing regarding the outcome of the RFP process. This notice will include the following information:
 - i. Solicitation Number;
 - ii. Company name of winning bidder;
 - iii. Total points scored of winning bidder (for multiple resource requirements only)
 - iv. Total value of contract awarded;
 - v. Number of responses received by the Contracting Authority;
 - vi. Total points scored per individual bidder (Note: bidders will only receive their own total points scored and not the score of the other bidders)

NOTE: For this requirement, no résumés are requested at time of bid as only non-core resources will be requested. Résumés must be submitted with each proposal for each Task Authorization and must meet all of the qualifications requirements described in this solicitation.

PART 5 - CERTIFICATIONS

Bidders must provide the required certifications to be awarded a contract. Canada will declare a bid non-responsive if the required certifications are not completed and submitted in accordance with the articles below.

Compliance with the certifications bidders provide to Canada is subject to verification by Canada during the bid evaluation period (before award of a contract) and after award of a contract. The Contracting Authority will have the right to ask for additional information to verify bidders' compliance with the certifications before award of a contract. The bid will be declared non-responsive if any certification made by the Bidder is untrue, whether made knowingly or unknowingly. Failure to comply with the certifications or to comply with the request of the Contracting Authority for additional information will also render the bid non-responsive.

Bidders must submit, at bid closing, the duly completed certifications as part of their bid using the Bid Submission Form attached at Annex E.

5.1 Federal Contractors Program for Employment Equity - Certification

- (a) The Federal Contractors Program (FCP) requires that some suppliers, including a supplier who is a member of a joint venture, bidding for federal government contracts, valued at \$200,000 or more (including all applicable taxes), make a formal commitment to implement employment equity. This is a condition precedent to contract award. If the Bidder, or, if the Bidder is a joint venture and if any member of the joint venture, is subject to the FCP, evidence of its commitment must be provided before the award of the Contract.
- (b) Suppliers who have been declared ineligible contractors by Human Resources and Skills Development Canada (HRSDC) are no longer eligible to receive government contracts over the threshold for solicitation of bids as set out in the Government Contract Regulations. Suppliers may be declared ineligible contractors either as a result of a finding of non-compliance by HRSDC, or following their voluntary withdrawal from the FCP for a reason other than the reduction of their workforce to less than 100 employees. Any bids from ineligible contractors, including a bid from a joint venture that has a member who is an ineligible contractor, will be declared non-responsive.
- (c) If the Bidder does not fall within the exceptions enumerated in 3.(a) or (b) below, or does not have a valid certificate number confirming its adherence to the FCP, the Bidder must fax (819-953-8768) a copy of the signed form LAB 1168, Certificate of Commitment to Implement Employment Equity, to the Labour Branch of HRSDC.

The Bidder, or, if the Bidder is a joint venture the member of the joint venture, certifies its status with the FCP, as follows:

The Bidder or the member of the joint venture

- (i) () is not subject to the FCP, having a workforce of less than 100 full-time or part-time permanent employees, or temporary employees having worked 12 weeks or more in Canada;
- (ii) () is not subject to the FCP, being a regulated employer under the Employment Equity Act, S.C. 1995, c. 44;
- (iii) () is subject to the requirements of the FCP, having a workforce of 100 or more full-time or part-time permanent employees, or temporary employees having worked 12 weeks or more in Canada, but has not previously obtained a certificate number from HRSDC (having not bid on requirements of \$200,000 or more), in which case a duly signed certificate of commitment is attached;
- (iv) () is subject to the FCP, and has a valid certificate number as follows: _____
(e.g. has not been declared an ineligible contractor by HRSDC.)
Further information on the FCP is available on the HRSDC Web site.

Note to Bidders: Bidders are requested to use the Bid Submission Form to provide information about their status under this program. For a joint venture bidder, this information must be provided for each member of the joint venture.

5.2 Status and Availability of Resources

- (a) By submitting a bid, the Bidder certifies that, should it be awarded a contract as a result of the bid solicitation, every individual proposed in its bid will be available to perform the Work as required by Canada's representatives and at the time specified in the bid solicitation or agreed to with Canada's representatives.
- (b) If the Bidder has proposed any individual who is not an employee of the Bidder, by submitting a bid, the Bidder certifies that it has the permission from that individual or his/her employer to propose his/her services in relation to the Work to be performed and to submit his/her résumé to Canada. The Bidder must, upon request from the Contracting Authority, provide a written confirmation, signed by the individual, of the permission given to the Bidder and of his/her availability. Failure to comply with the request may result in the bid being declared non-responsive..

5.3 Education and Experience

- (a) The Bidder certifies that all the information provided in the résumés and supporting material submitted with its bid, particularly the information pertaining to education, achievements, experience and work history, has been verified by the Bidder to be true and accurate. Furthermore, the Bidder warrants that every individual proposed by the Bidder for the requirement is capable of performing the Work described in the resulting contract.
- (b) All of the resources proposed must meet the minimum experience requirements detailed in the Supply Arrangement for the category of personnel for which they are being

Solicitation No. - N° de l'invitation

W6369-13DE37/A

Amd. No. - N° de la modif.

001

Buyer ID - Id de l'acheteur

002psd

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

W6369-13DE37

File No. - N° du dossier

002psdW6369-13DE37

CCC No./N° CCC - FMS No/ N° VME

proposed. The SA Holder acknowledges that the Department of Public Works and Government Services Canada reserves the right to verify this certification prior to contract award or during contract performance and that untrue statements may result in the proposal being declared non-responsive or any other action which the Minister may consider appropriate.

Part 6 - SECURITY, FINANCIAL AND OTHER REQUIREMENTS

6.1 MANDATORY AT BID CLOSING - SECURITY REQUIREMENTS

- (a) At the date of bid closing, the following conditions must be met:
- (i) The Bidder must hold a valid organization security clearance as indicated in Part 7 - Resulting Contract Clauses;
 - (ii) The Bidder's proposed individuals requiring access to classified or protected information, assets or sensitive work site(s) must each meet the security requirement as indicated in Part 7 - Resulting Contract Clauses; and,
 - (iii) The Bidder must provide the name of all individuals who will require access to classified or protected information, assets or sensitive work as follows:
 - (1) Name of individual as it appears on security clearance application
 - (2) Level of security clearance obtained and expiry date;
 - (3) Security screening Certificate and Briefing Form file number
- (b) For additional information on security requirements, bidders should consult the "Security Requirements for PWGSC Bid Solicitations - Instructions to Bidders" document (<http://www.tpsgc-pwgsc.gc.ca/app-acq/lc-pl/lc-pl-eng.html#a31>) on the Departmental Standard Procurement Documents Website.
- (c) In the case of a joint venture bidder, each member of the joint venture must meet the security requirements.

6.2 FINANCIAL CAPABILITY

- (a) SACC Manual clause A9033T (2010-08-16) Financial Capability applies to this requirement with the following amendment:

subsection 3 is hereby deleted and replaced with the following:

"If the Bidder is a subsidiary of another company, then any financial information required by the Contracting Authority in 1(a) to (f) must be provided by each level of parent company, up to and including the ultimate parent company. The financial information of a parent company does not satisfy the requirement for the provision of the financial information of the Bidder; however, if the Bidder is a subsidiary of a company and, in the normal course of business, the required financial information is not generated separately for the subsidiary; the financial information of the parent company must be provided. If Canada determines that the Bidder is not financially capable but the parent company is, or if Canada is unable to perform a separate assessment of the Bidder's financial capability because its financial information has been combined with its parent's, Canada may, in its sole discretion, award the contract to the Bidder on the condition that the parent company grant a performance guarantee to Canada."

-
- (b) In the case of a joint venture bidder, each member of the joint venture bidder, each member of the joint venture must meet the financial capability requirements.

6.3 CONTROLLED GOODS REQUIREMENT

- (a) SACC Manual clause A9130T (2008-12-12) Controlled Goods Program
- (b) In the case of a joint venture bidder, each member of the joint venture must meet the requirements of the Controlled Goods Program.

PART 7 - RESULTING CONTRACT CLAUSES

The following clauses apply to and form part of any contract resulting from the bid solicitation.

7.1 REQUIREMENT

_____ (the Contractor) agrees to supply to the Client the services described in the Contract, including the Statement of Work, in accordance with and at the prices set out in the Contract. This includes providing professional services, as requested by Canada.

- (a) Client (s): includes any Government Department, Departmental Corporation or Agency, or other Crown entity described in the Financial Administration Act (as amended from time to time), and any other party for which the Department of Public Works and Government Services has been authorized to act from time to time under section 16 of the Department of Public Works and Government Services Act.
- (b) Reorganization of Client: The Contractor's obligation to perform the Work will not be affected by (and no additional fees will be payable as a result of) the renaming, reorganization, reconfiguration, or restructuring of any Client. The reorganization, reconfiguration and restructuring of the Client includes the privatization of the Client, its merger with another entity, or its dissolution, where that dissolution is followed by the creation of another entity or entities with mandates similar to the original Client.
- (c) Defined Terms: Words and expressions defined in the General Conditions or Supplemental General Conditions and used in the Contract have the meanings given to them in the General Conditions or Supplemental General Conditions.
- (d) Location of Services: Services must be delivered as requested to the locations specified in the Contract, which delivery locations must exclude any area subject to one of the Comprehensive Land Claim Agreements (CLCAs).

7.2 TASK AUTHORIZATION (TA)

- (a) Purpose of TA: All Non-Core services are to be provided under the Contract on an "as-and-when-requested basis" will be ordered by Canada using the Task Authorization ("TA") process.
- (b) Process of Issuing a TA: If a requirement for a specific task is identified, a draft "statement of task" will be prepared by the Client and sent to the Contractor. Once it receives the statement of task, the Contractor must submit a response to the Authority identified in the TA detailing the cost and time to complete the task. The Contractor's response must be based on the rates set out in the Contract. The Contractor will not be paid for providing the response or for providing other information required to prepare and issue the TA. The Contractor must provide any information requested by Canada in relation to the preparation of a TA within three working days of the request, unless otherwise specified.

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- (c) **Approval Process:** If Canada approves the Contractor's task response, Canada (by its authorized representative, as described in this contract) will issue the TA by forwarding a signed copy of the final TA form to the Contractor. Whether or not to approve or issue a TA is entirely within Canada's discretion.
- (d) **Contents of a TA:** A Task Authorization must contain the following information, if applicable:
- (i) a task number;
 - (ii) the details of any financial coding to be used;
 - (iii) the number of resources in each category required;
 - (iv) a statement of work for the task outlining the activities to be performed and identifying any deliverables;
 - (v) the duration of the task is to be carried out (start and end dates);
 - (vi) milestone dates for deliverables and payments (if applicable);
 - (vii) the number of person-days of effort required;
 - (viii) the specific work location;
 - (ix) the price payable to the Contractor for performing the task, with an indication of whether it is a firm price or a maximum TA price (and, for maximum price task authorizations, the TA must indicate how the final amount payable will be determined; where the TA does not indicate how the final amount payable will be determined, the amount payable is the amount, up to the maximum, that the Contractor demonstrates was actually worked on the project, by submitting time sheets filled in at the time of the work by the individual resources to support the charges); and
 - (x) any other constraints that might affect the completion of the task.
- (e) **Charges for Work under a TA:** The Contractor must not charge Canada anything more than the price set out in the Task Authorization unless Canada has issued a TA amendment authorizing the increased expenditure. Canada will not pay the Contractor for any design changes, modifications or interpretations of the Work unless they have been approved, in writing, by the Contracting Authority before being incorporated into the Work.
- (f) **Consolidation of TAs for Administrative Purposes:** The Contract may be amended from time to time to reflect all Task Authorizations issued and approved by the Contracting Authority to date, to document the Work performed under those TAs for administrative purposes.
- (g) **Refusal of Task Authorizations:** Unless specified otherwise in the RFP, the Contractor is required to submit a response in response to every draft statement of task issued by Canada. Canada may immediately, and without further notice, terminate the Contract for default if the Contractor does not submit a response in response to a draft statement of task issued during the Contract Period.

7.3 STANDARD CLAUSES AND CONDITIONS

All clauses and conditions identified in the Contract by number, date and title are set out in the Standard Acquisition Clauses and Conditions Manual (<http://sacc.pwgsc.gc.ca/sacc/index-e.jsp>) issued by Public Works and Government Services Canada.

- (a) General Conditions:
2035 (2010-08-16), General Conditions - Higher Complexity - Services, apply to and form part of the Contract.
- (b) Supplemental General Conditions :
4006 (2010-08-16), Supplemental General Conditions - Contractor to Own Intellectual Property Rights in Foreground Information apply to and form part of the Contract.

7.4 SECURITY REQUIREMENT

The Security Requirement Check List (SRCL and related clausings), as set out under Annex "D" applies.

7.5 CONTRACT PERIOD

- (a) Contract Period: The "Contract Period" is the entire period of time during which the Contractor is obliged to perform the Work, which includes:
 - (i) The "Initial Contract Period", which begins on the date the Contract is awarded and ends on 01 February 2015; and
 - (ii) the period during which the Contract is extended, if Canada chooses to exercise any options set out in the Contract.
- (b) Option to Extend the Contract:
 - (i) The Contractor grants to Canada the irrevocable option to extend the term of the Contract by up to 3 additional one-year period(s) under the same terms and conditions. The Contractor agrees that, during the extended period of the Contract, it will be paid in accordance with the applicable provisions set out in the Basis of Payment.
 - (ii) Canada may exercise this option at any time by sending a written notice to the Contractor at least 10 calendar days before the expiry date of the Contract. The option may only be exercised by the Contracting Authority, and will be evidenced, for administrative purposes only, through a contract amendment.

7.6 AUTHORITIES

(a) Contracting Authority

The Contracting Authority for the Contract is:

Name: Christian Drouin

Title: Supply Team Leader

Address: 2 Constellation Crescent, Ottawa, ON, K1A 0S5

Telephone: 613-944-5190

E-mail address: Chris.Drouin@tpsgc-pwgsc.gc.ca

The Contracting Authority is responsible for the management of the Contract and any changes to the Contract must be authorized in writing by the Contracting Authority. The Contractor must not perform work in excess of or outside the scope of the Contract based on verbal or written requests or instructions from anybody other than the Contracting Authority.

(b) Procurement Authority (To be provided at Contract award)

Title: _____

Organization: _____

Address: _____

Telephone: _____

E-mail address: _____

The Procurement Authority is the representative of the department or agency for who the Work is being carried under the Contract and is responsible for matters concerning the management of Contract cash flow and FAA Section 34 approval and processing all invoices.

(c) Technical Authority (To be provided at time of Contract award)

The Technical Authority for this Contract is:

Title: _____

Organization: _____

Address: _____

Telephone: _____

E-mail address: _____

The Technical Authority is the representative of the department or agency for whom the Work is being carried out under the Contract and is responsible for all matters concerning the technical content of the Work under the Contract. Technical matters may be discussed with the Technical Authority; however, the Technical Authority has no authority to authorize changes to the scope of the Work. Changes to the scope of the Work can only be made through a contract amendment issued by the Contracting Authority.

(d) Contractor's Representative (To be provided at time of Contract award)

7.7 PAYMENT

(a) Basis of Payment

(i) **Non-Core Resources:**

Professional Services provided under a Task Authorization with a Fixed Time Rate to a Maximum Price: For professional services requested by Canada, in accordance with an approved Task Authorization, Canada will pay the Contractor, in arrears, up to the Maximum Price for the TA, for actual time worked and any resulting deliverables in accordance with the firm all-inclusive per diem rates set out in Annex B of this contract, Basis of Payment, GST/HST extra. Partial days will be prorated based on actual hours worked based on a 7.5-hour workday.

Maximum Estimated Cost: \$ _____

(ii) **Pre-Authorized Travel and Living Expenses:**

Canada will reimburse the Contractor for pre-authorized reasonable and proper travel and living expenses incurred to perform the Work, without any allowance for overhead or profit, and these costs will be reimbursed in accordance with the Treasury Board Travel Directive in effect at the time:

http://www.tbs-sct.gc.ca/travel/travel_e.html . All payments are subject to audit by Canada. All travel must be pre-approved by the Technical Authority.

The Contractor will be able to charge for time spent travelling* at the per diem rates set out in the Contract. (*Note: "travelling" is defined as "in-flight time/driving time only" as substantiated through travel receipts).

Time for travel which is more or less than a day shall be prorated based on actual time travelling based on a 7.5 hour workday.

Estimated Cost: \$ _____

(iii) **GST/HST:**

Estimated Cost: \$ _____

(iv) **Competitive Award:** The Contractor acknowledges that the Contract has been awarded as a result of a competitive process. No additional charges will be allowed to compensate for errors, oversights, misconceptions or underestimates made by the Contractor when bidding for the Contract.

(v) **Professional Services Rates:** In Canada's experience, bidders from time to time propose rates at the time of bidding for one or more categories of resources that they later refuse to honour, on the basis that these rates do not allow them to recover their own costs and/or make a profit. This denies Canada of the benefit of the awarded contract. If the Contractor refuses, or is unable, to provide an individual with the qualifications described in the Contract within the time described in the Contract (or proposes instead to provide someone from an alternate category at a different rate), whether or not Canada terminates the Contract as a whole, Canada may impose sanctions or take other measures in

accordance with the PWGSC Vendor Performance Policy (or equivalent) then in effect, which may include prohibiting the Contractor from bidding on future requirements that include any professional services, or rejecting the Contractor's other bids for professional services requirements on the basis that the Contractor's performance on this or other contracts is sufficiently poor to jeopardize the successful completion of other requirements.

- (vi) **Purpose of Estimates:** All estimated costs contained in the Contract are included solely for the administrative purposes of Canada and do not represent a commitment on the part of Canada to purchase services in these amounts. Any commitment to purchase specific amounts or values of services are described elsewhere in the Contract.

(b) Limitation of Expenditure

- (i) Canada's total liability to the Contractor under the Contract, inclusive of any revisions, must not exceed the sum indicated on page one (1) of the Contract, Customs duties are excluded and the Goods and Services Tax or Harmonized Sales Tax is extra, if applicable.
- (ii) No increase in the total liability of Canada will be authorized or paid to the Contractor unless an increase has been approved, in writing, by the Contracting Authority.
- (iii) The Contractor must notify the Contracting Authority in writing as to the adequacy of this sum:
- (a) it is 75 percent committed, or
 - (b) 4 months before the Contract expiry date, or
 - (c) as soon as the Contractor considers that the sum is inadequate for the completion of the Work required, inclusive of any revisions,
- whichever comes first.
- (iv) If the notification is for inadequate contract funds, the Contractor must provide to the Contracting Authority, a written estimate for the additional funds required. Provision of such information by the Contractor does not increase Canada's liability.

(c) Method of Payment - Monthly

Canada will pay the Contractor on a monthly basis for work performed during the month covered by invoices in accordance with the payment provisions of the Contract if:

- (i) accurate and complete invoices and any other documents required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract;

- (ii) all such documents have been verified by Canada; and,
- (iii) the Work performed has been accepted by Canada.

(d) Time Verification

Time charged and the accuracy of the Contractor's time recording system are subject to verification by Canada, before or after payment is made to the Contractor. If verification is done after payment, the Contract must repay any overpayment, at Canada's request.

(e) No Responsibility to Pay for Work not performed due to Closure of Government Offices:

Where the Contractor, its employees, subcontractors, or agents are providing services on government premises under the Contract and those premises are inaccessible because of the evacuation or closure of government offices, and as a result no work is performed, Canada is not responsible for paying the Contractor for work that otherwise would have been performed if there had been no evacuation or closure.

If, as a result of any strike or lock-out, the Contractor or its employees, subcontractors or agents cannot obtain access to government premises and, as a result, no work is performed, Canada is not responsible for paying the Contractor for work that otherwise would have been performed if the Contractor had been able to gain access to the premises.

7.8 INVOICING INSTRUCTIONS

- (a) Invoices are to be provided to Canada in accordance with the Method of Payment as follows:
 - (i) Non-Core Resources: separate invoices are to be created for each active Task Authorization.
- (b) The Contractor must submit invoices in accordance with the information required in the General Conditions.
- (c) The Contractor's invoice must include a separate line item for each subparagraph in the Basis of Payment provision.
- (d) By submitting invoices, the Contractor is certifying that the services have been delivered and that all charges are in accordance with the Basis of Payment provision of the Contract, including any charges for work performed by subcontractors.
- (e) The Contractor must provide the original of each invoice to the Procurement Authority, and a copy to the Contracting Authority.

7.9 CERTIFICATIONS

Compliance with the certifications provided by the Contractor in its bid is a condition of the Contract and subject to verification by Canada during the entire Contract Period. If the Contractor does not comply with any certification or it is determined that any certification made by the Contractor in its bid is untrue, whether made knowingly or unknowingly, Canada has the right, under the default provision of the Contract, to terminate the Contract for default.

7.10 APPLICABLE LAWS

The Contract must be interpreted and governed, and the relations between the parties determined, by the laws in force in Ontario.

7.11 PRIORITY OF DOCUMENTS

If there is a discrepancy between the wording of any documents that appear on the following list, the wording of the document that first appears on the list has priority over the wording of any document that appears later on the list:

- (a) these Articles of Agreement, including any individual SACC clauses incorporated by reference in these Articles of Agreement;
- (b) Supplemental General Conditions 4007 (2010-08-16) - Canada to Own Intellectual Property Rights in Foreground Information;
- (c) General Conditions 2035 (2010-08-16);
- (d) Annex A -Statement of Work;
- (e) Annex B - Basis of Payment;
- (f) Annex C - Evaluation Criteria
- (g) Annex D - SRCL
- (h) the signed Task Authorizations;
- (i) Supply Arrangement Number EN578-055605/D/EL (the "Supply Arrangement")
- (j) The Contractor's bid dated _____ not including any provisions in the bid with respect to limitations on liability, and not including any terms and conditions incorporated by reference (including by way of a web link) in the bid.

7.12 DEFENCE CONTRACT

- (a) SACC Manual Clause A9006C (2008-05-12) Defence Contract
- (b) SACC Manual Clause C2801C (2010-01-11) Priority Rating - Canadian

Contractors

7.13 FOREIGN NATIONALS (CANADIAN CONTRACTOR)

- (a) SACC Manual clause A2000C (2006-06-16) Foreign Nationals (Canadian Contractor)

7.14 FOREIGN NATIONALS (FOREIGN CONTRACTOR)

- (a) SACC Manual clause A2001C (2006-06-16) Foreign Nationals (Foreign Contractor)

7.15 INSURANCE REQUIREMENTS

The Contractor is responsible for deciding if insurance coverage is necessary to fulfill its obligation under the Contract and to ensure compliance with any applicable law. Any insurance acquired or maintained by the Contractor is at its own expense and for its own benefit and protection. It does not release the Contractor from or reduce its liability under the Contract.

7.16 LIMITATION OF LIABILITY – INFORMATION MANAGEMENT/INFORMATION TECHNOLOGY

1. This section applies despite any other provision of the Contract and replaces the section of the general conditions entitled "Liability". Any reference in this section to damages caused by the Contractor also includes damages caused by its employees, as well as its subcontractors, agents, and representatives, and any of their employees. This section applies regardless of whether the claim is based in contract, tort, or another cause of action. The Contractor is not liable to Canada with respect to the performance of or failure to perform the Contract, except as described in this section and in any section of the Contract pre-establishing any liquidated damages. The Contractor is only liable for indirect, special or consequential damages to the extent described in this section, even if it has been made aware of the potential for those damages.

2. First Party Liability:

- (a) The Contractor is fully liable for all damages to Canada, including indirect, special or consequential damages, caused by the Contractor's performance or failure to perform the Contract that relate to:
- (i) any infringement of intellectual property rights to the extent the Contractor breaches the section of the general conditions entitled "Intellectual Property Infringement and Royalties";
 - (ii) physical injury, including death.
- (b) The Contractor is liable for all direct damages caused by the Contractor's performance or failure to perform the Contract affecting real or tangible personal property owned, possessed, or occupied by Canada.

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- (c) Each of the Parties is liable for all direct damages resulting from its breach of confidentiality under the Contract. Each of the Parties is also liable for all indirect, special or consequential damages in respect of its unauthorized disclosure of the other Party's trade secrets (or trade secrets of a third party provided by one Party to another under the Contract) relating to information technology.
- (d) The Contractor is liable for all direct damages relating to any encumbrance or claim relating to any portion of the Work for which Canada has made any payment. This does not apply to encumbrances or claims relating to intellectual property rights, which are addressed under (a) above.
- (e) The Contractor is also liable for any other direct damages to Canada caused by the Contractor's performance or failure to perform the Contract that relates to:
- (i) any breach of the warranty obligations under the Contract, up to the total amount paid by Canada (including any applicable taxes) for the goods and services affected by the breach of warranty; and
 - (ii) any other direct damages, including all identifiable direct costs to Canada associated with re-procuring the Work from another party if the Contract is terminated by Canada either in whole or in part for default, up to an aggregate maximum for this subparagraph (ii) of the greater of .75 times the total estimated cost (meaning the dollar amount shown on the first page of the Contract in the block titled "Total Estimated Cost" or shown on each call-up, purchase order or other document used to order goods or services under this instrument), or \$1,000,000.00.

In any case, the total liability of the Contractor under paragraph (e) will not exceed the total estimated cost (as defined above) for the Contract or \$ 1,000,000.00, whichever is more. (Note: the Limitation of Liability amounts indicated in this Article are based on a Model 1 Risk Assessment in accordance with Treasury Board's Policy on Decision Making in Limiting Contractor Liability in Crown Procurement Contracts. The Limitation of Liability amounts may change should a different risk assessment model be required)(see the following website for more information:
<http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12038§ion=text#appB>).

- (f) If Canada's records or data are harmed as a result of the Contractor's negligence or willful act, the Contractor's only liability is, at the Contractor's own expense, to restore Canada's records and data using the most recent back-up kept by Canada. Canada is responsible for maintaining an adequate back-up of its records and data.

3. Third Party Claims:

- (a) Regardless of whether a third party makes its claim against Canada or the Contractor, each Party agrees that it is liable for any damages that it causes to any third party in

connection with the Contract as set out in a settlement agreement or as finally determined by a court of competent jurisdiction, where the court determines that the Parties are jointly and severally liable or that one Party is solely and directly liable to the third party. The amount of the liability will be the amount set out in the settlement agreement or determined by the court to have been the Party's portion of the damages to the third party. No settlement agreement is binding on a Party unless its authorized representative has approved the agreement in writing.

- (b) If Canada is required, as a result of joint and several liability, to pay a third party in respect of damages caused by the Contractor, the Contractor must reimburse Canada by the amount finally determined by a court of competent jurisdiction to be the Contractor's portion of the damages to the third party. However, despite paragraph (a), with respect to special, indirect, and consequential damages of third parties covered by this section, the Contractor is only liable for reimbursing Canada for the Contractor's portion of those damages that Canada is required by a court to pay to a third party as a result of joint and several liability that relate to the infringement of a third party's intellectual property rights; physical injury of a third party, including death; damages affecting a third party's real or tangible personal property; liens or encumbrances on any portion of the Work; or breach of confidentiality.
- (c) The Parties are only liable to one another for damages to third parties to the extent described in this paragraph 3.

7.17 PROFESSIONAL SERVICES - GENERAL

- (a) The Contractor must provide professional services on request as specified in this contract. Where in the Contract a specific individual is identified as required to perform the Work, the Contractor must make such person available to perform the work within 10 working days of the issuance of the Contract or the TA (whichever first contains instructions from Canada for that individual to report to the Work site). Where such a specific individual is unavailable to perform the Work, Canada may elect to either (i) exercise its rights or remedies under the Contract or at law (including terminating the Contract for default), or (ii) Canada may require the Contractor to propose the replacement of the specific individual in accordance with the Article titled, "Replacement of Specific Individuals" in the General Conditions 2035. This obligation applies despite any changes that Canada may have made to any hardware, software or any other aspect of the Client's operating environment.
- (b) If there must be a change in a resource performing work under the Contract (which must in any case comply with the requirements in the section of the General Conditions entitled "Replacement of Specific Individuals"), the Contractor must make the replacement available for work within 10 working days of the departure of the existing resource (or, if Canada has requested the replacement, within 15 working days of Canada's notice of the requirement for a replacement). A statutory declaration may be requested by the Contracting Authority regarding the reason for replacement.

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- (c) All resources provided by the Contractor must meet the qualifications described in the Contract (including those relating to previous experience, professional designation, education, and language proficiency) and must be competent to provide the required services by any delivery dates described in the Contract. The resource must be approved by Canada prior to the replacement at the Work site.
 - (d) The Contractor must monitor its employees to ensure satisfactory performance and that progress of the Work is maintained to Canada's satisfaction. A Contractor representative will meet with the Project and/or Technical Authority on a regular basis (as specified by Canada) to discuss the performance of its resources and to resolve any issues at hand.
 - (e) If the Contractor fails to meet any of its obligations under this Article, or fails to deliver any deliverable or complete any task described in the Contract on time, in addition to any other rights or remedies available to Canada under the Contract or the law, Canada may notify the Contractor of the deficiency, in which case the Contractor must submit a written plan to the Technical Authority within 10 working days detailing the actions that the Contractor will undertake to remedy the deficiency. The Contractor must prepare and implement the plan at its own expense.

7.18 SAFEGUARDING ELECTRONIC MEDIA

- (a) Before using them on Canada's equipment or sending them to Canada, the Contractor must use a regularly updated product to scan electronically all electronic media used to perform the Work for computer viruses and other coding intended to cause malfunctions. The Contractor must notify Canada if any electronic media used for the Work are found to contain computer viruses or other coding intended to cause malfunctions.
- (b) If magnetically recorded information or documentation is damaged or lost while in the Contractor's care or at any time before it is delivered to Canada in accordance with the Contract, including accidental erasure, the Contractor must immediately replace it at its own expense.

7.19 REPRESENTATIONS AND WARRANTIES

The Contractor made statements regarding its and its proposed resources experience and expertise in its bid that resulted in the award of the Contract. The Contractor represents and warrants that all those statements are true and acknowledges that Canada relied on those statements in awarding the Contract. The Contractor also represents and warrants that it has, and all its resources and subcontractors that perform the Work have, and at all times during the Contract Period they will have, the skills, qualifications, expertise and experience necessary to perform and manage the Work in accordance with the Contract, and that the Contractor (and any resources or subcontractors it uses) has previously performed similar services for other customers.

7.20 ACCESS TO CANADA'S PROPERTY AND FACILITIES

Canada's property, facilities, equipment, documentation, and personnel are not automatically available to the Contractor. If the Contractor would like access to any of these, it is responsible for making a request to the Technical Authority. Unless expressly stated in the Contract, Canada has no obligation to provide any of these to the Contractor. If Canada chooses, in its discretion, to make its property, facilities, equipment, documentation or personnel available to the Contractor to perform the Work, Canada may require an adjustment to the Basis of Payment and additional security requirements may apply.

7.21 GOVERNMENT PROPERTY

Canada agrees to make computerized workstations (the "Government Property") available to the contractor. The section of the General Conditions entitled "Government Property" also applies to the use of the Government Property by the Contractor.

7.22 NON DISCLOSURE AGREEMENT –A9126C(2010-08-16)

The Contractor must obtain from its employee(s) or subcontractor(s) the completed and signed non-disclosure agreement, attached at Annex "F", and provide it to the Contracting Authority before they are given access to information by or on behalf of Canada in connection with the Work.