



BID SOLICITATION

You are invited to submit a proposal to the individual specified below for the services detailed herein.

1. Title: Research and Analysis Services – Study on the Cost of Funds and Fundraising Activities of Canadian Lending Institutions

2. Solicitation Reference Number (#): FIN-903141-2013-10-07

3. Solicitation Authority

For the purposes of this solicitation, the Solicitation Authority is:

Nick Plettenberg-Dussault
Senior Procurement and Contracting Officer
Department of Finance Canada
Mail and Messenger Services Unit
P3 West Tower, 300 Laurier Ave. West
Ottawa, ON K1A 0G5
Telephone: 613-943-9182
Fax: 613-995-3050
Email: Nicholas.Plettenberg-Dussault@fin.gc.ca

4. Solicitation Closing Date and Time

To be considered, proposals must be received by the following Closing Date and Time:

October 7, 2013 before 2 :00 p.m. Eastern Daylight Time (EDT)

Proposals received after the Closing Date and Time will be returned to the bidder(s) unopened.

5. Additional Details

- All enquiries regarding this solicitation **must** be submitted in writing to the Solicitation Authority, **no less than ten (10) calendar days prior to the Solicitation Closing Date** to allow sufficient time for the Department of Finance to provide responses. Enquiries received after that date may not be responded to prior to the Proposal Closing Date;
- All answers that provide more information on the requirement will be posted on GETS.



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PART 1 - GENERAL INFORMATION

1. Introduction

The bid solicitation is divided into seven parts plus attachments and annexes, 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;
- 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, and the basis of selection;
- Part 5 Certifications: includes the certifications to be provided;
- Part 6 Non-Disclosure and Confidentiality Agreement
- Part 7 Resulting Contract Clauses: includes the clauses and conditions that will apply to any resulting contract.

The Annexes include the Statement of Work and the Basis of Payment.

2. Summary

The Department of Finance requires a thorough descriptive and quantitative analysis of the cost of funds, and the sources of funds raised by lending and credit-providing institutions in Canada used in the normal course of their retail and commercial lending and credit activities.

The Contractor will present its findings to the Department of Finance in a detailed written report.

The proposed period of the contract is from date of contract award until March 31, 2014.

This requirement is subject to the provisions of the Agreement on Internal Trade (AIT) and the North American Free Trade Agreement (NAFTA).

Further details regarding this requirement are found in Annex A – Statement of Work.

3. Debriefings and Dispute Resolution

- 3.1 Debriefings: After contract award, bidders may request a debriefing on the results of the bid solicitation process. Bidders should make the request to the RFP Authority within 15 working days of receipt of the results of the bid solicitation process. The debriefing may be in writing, by telephone or in person.
- 3.2 Dispute Resolution: The Office of the Procurement Ombudsman (OPO) was established by the Government of Canada to provide an independent avenue for suppliers to raise complaints regarding the award of contracts under \$25,000 for goods and under \$100,000 for services. You have the option of raising issues or concerns regarding the solicitation, or the award resulting from it, with OPO by contacting them by telephone at 1-866-734-5169 or by email at boa.opo@boa.opo.gc.ca. You can also obtain more information on the OPO services available to you at their website at www.opo-boa.gc.ca.



PART 2 - BIDDER INSTRUCTIONS

1. Standard Instructions, Clauses and Conditions

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* (<https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual>) issued by Public Works and Government Services Canada.

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.

The 2003 2011-05-16 Standard Instructions - Goods or Services - Competitive Requirements, are incorporated by reference into and form part of the bid solicitation.

Subsection 5.4 of 2003, Standard Instructions - Goods or Services - Competitive Requirements, is amended as follows:

Delete: sixty (60) days

Insert: ninety (90) days

2. Submission of Bids

Bids must be submitted only to the Department of Finance's Mailroom by the date, time and place indicated on page 1 of the bid solicitation.

3. Enquiries - Bid Solicitation

All enquiries must be submitted in writing to the Solicitation Authority no later than ten (10) calendar days before the bid closing date. Enquiries received after that time may not be answered.

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.

4. Applicable Laws

Any resulting contract must be interpreted and governed, and the relations between the parties determined, by the laws in force in Ontario.

Bidders may, at their discretion, substitute the applicable laws of a Canadian province or territory of their choice without affecting the validity of their bid, by deleting the name of the Canadian province or territory specified and inserting the name of the Canadian province or territory of their choice. If no change is made, it acknowledges that the applicable laws specified are acceptable to the bidders.



PART 3 - BID PREPARATION INSTRUCTIONS

1. Bid Preparation Instructions

Canada requests that bidders provide their bid in accordance with the instructions below. Both the hard copies and electronic copies of the bid must be submitted to the Bid Solicitation Authority's address as listed on page 1 of this document by the closing date and time identified.

Section I: Technical Bid (2 hard copies and 1 electronic copy)
Section II: Financial Bid (1 hard copy and 1 electronic copy)
Section III: Certifications (1 hard copy and 1 electronic copy)

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

Prices must appear in the financial bid only. No prices must be indicated in any other section of the bid.

Canada requests that bidders follow the format instructions described below in the preparation of their bid:

- (a) use 8.5 x 11 inch (216 mm x 279 mm) paper;
- (b) use a numbering system that corresponds to the bid solicitation.

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](http://www.tpsgc-pwgsc.gc.ca/ecologisation-greening/achats-procurement/politique-policy-eng.html) (<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:

- 1) use 8.5 x 11 inch (216 mm x 279 mm) paper containing fibre certified as originating from a sustainably-managed forest and/or containing minimum 30% recycled content; and
- 2) 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.

Section I: Technical Bid

In their technical bid, bidders should demonstrate their understanding of the requirements contained in the bid solicitation and explain how they will meet these requirements. Bidders should demonstrate their capability and describe their approach in a thorough, concise and clear manner for carrying out the work.

The technical bid should 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.



Section II: Financial Bid

- 1.1 Bidders must submit their financial bid in accordance with Annex B, Basis of Payment. The total amount of Goods and Services Tax or Harmonized Sales Tax must be shown separately, if applicable.

Section III: Certifications

Bidders must submit the certifications required under Part 5.



PART 4 - EVALUATION PROCEDURES AND BASIS OF SELECTION

4.1 Evaluation Procedures

Overview

All Bidders' proposals will be evaluated in accordance with the Evaluation and Selection Plan detailed in this Section.

The basis of selection shall be based on **Highest Combined Rating of Technical Merit (70%) and Price (30%)**.

This RFP will utilize a six-phase evaluation process:

- Phase 1: Evaluation of Mandatory Criteria
- Phase 2: Evaluation and Scoring of Point-Rated Criteria
- Phase 3: Verification and scoring adjustment
- Phase 4: Determination of Final Technical Score
- Phase 5: Evaluation of Financial Proposal
- Phase 6: Basis of Selection

Details of the evaluation process follow.

Phase 1: Evaluation of Mandatory Criteria

Proposals will be evaluated in accordance with the mandatory evaluation criteria as detailed herein. Bidders are advised to address each requirement in sufficient depth to permit a complete requisite analysis and assessment by the Evaluation Team. Proposals failing to adequately respond to the mandatory evaluation criteria will be excluded from further consideration. Only proposals found to meet the mandatory evaluation criteria will be evaluated in accordance with the evaluation criteria subject to point rating.

Phase 2: Evaluation and Scoring of Point-Rated Criteria

Proposals will be evaluated and scored in accordance with specific evaluation criteria as detailed herein. It is imperative that these criteria be addressed in sufficient depth in the proposal to fully describe the Bidder's response and to permit the Evaluation Team to rate the proposals. To be considered responsive, a bid must obtain a minimum threshold as specified in the point-rated criteria. Bids that do not obtain the minimum threshold will not be given further consideration.

Phase 3: Verification and Scoring Adjustment

In this phase of the evaluation, the Bid Evaluation Team may subject each responsive Bidder to a verification process to validate the accuracy and reliability of the Bidder's written responses to the Mandatory and Rated Requirements of this RFP.

The Crown will issue a written request to all Bidders for verification of its written response. The verification request will be an opportunity for the Evaluation Team to verify selected written responses provided by all Bidders to the same list of specific requirements. The Bidder shall have three (3) business days in which to submit its response to Canada.

Phase 4: Determination of Final Technical Score

After completion of the evaluation and scoring of the Mandatory and Point-Rated responses, a Final Technical Proposal Score will be computed for each responsive Bidder.



Phase 5: Evaluation of Financial Proposal

Bidders' Financial Proposals will be evaluated as outlined herein.

Phase 6: Basis of Selection

The proposal will be evaluated on the basis of best value using the **Highest Combined Rating of Technical Merit (70%) and Price (30%)**.

The table below illustrates an example where the basis of selection of the Contractor is determined by a 70/30 ratio of the technical merit and price, respectively.

Basis of Selection - Highest Combined Rating of Technical Merit (70%) and Price (30%)			
Bidder	Bidder 1	Bidder 2	Bidder 3
Overall Technical Score	88	82	92
Bid Evaluated Price	C\$60,000	C\$55,000	C\$50,000
Calculations	Technical Merit Points	Price Points	Total Score
Bidder 1	$88 / 100 \times 70 = 61.6$	$50,000^* / 60,000 \times 30 = 25$	86.6
Bidder 2	$82 / 100 \times 70 = 57.4$	$50,000^* / 55,000 \times 30 = 27.27$	84.67
Bidder 3	$92 / 100 \times 70 = 64.4$	$50,000^* / 50,000 \times 30 = 30$	94.40

* represents the lowest evaluated price

The responsive bid with the highest combined rating of technical merit and price will be recommended for award of a contract. In the event two or more responsive bids have the same highest combined rating of technical merit and price, the responsive bid that obtained the highest overall score for all the point rated technical criteria will be recommended for award of a contract.



4.2 Technical Evaluation

4.2.1 Mandatory Financial Criterion

Bidder's Proposals will be reviewed for compliance with the mandatory financial requirement identified below.

If a Bidder's Proposal is fully compliant with the mandatory financial requirement of this solicitation then the Proposal will proceed to the Mandatory Technical Criteria stage of the evaluation process. If a Bidder's Proposal is not fully compliant with the mandatory financial requirement, then the Proposal will be set aside and will not receive any further consideration.

Mandatory Financial Criterion	Requirement	Reference within Proposal (indicate page #)
MF1	The total cost of the bidder's financial proposal cannot exceed \$100,000.00 including GST / HST, and all other related expenses. To be considered compliant for this criterion, the Financial Proposal will be consulted and reviewed by the Solicitation Authority identified on page 1 of this solicitation to ensure compliance.	

4.2.2 Mandatory Technical Criteria

Bidder's Proposals will be reviewed for compliance with the mandatory requirements identified below.

If a Bidder's Proposal is fully compliant with the mandatory requirements of this solicitation then the Proposal will proceed to the Point Rated Technical Criteria stage of the evaluation process. If a Bidder's Proposal is not fully compliant with the mandatory financial requirement, then the Proposal will be set aside and will not receive any further consideration.

Definitions:

Lending Institution is defined as a:

- bank;
- a credit union or caisse populaire;
- a credit card company;
- a savings and loan company;
- a payday loan company;
- a mortgage corporation;
- a financing company; and
- any other institution that normally lends money or extends credit to consumers as a part of its normal business operations.

Fundraising activities are defined as the issuance of debt or equity, the acceptance of deposits and/or the raising of any other form of financial capital.



Mandatory Technical Criteria	Requirement	Reference within Proposal (indicate page #)
MT1	<p>The bidder must provide a resume for the Project Lead and each additional proposed resource (If applicable).</p> <p>The resume(s) must specify educational background and experience, included all completed projects cited in the proposal.</p>	
MT2	<p>The Project Lead must have a minimum of five (5) years experience related to the financial sector, specifically in relation to Canadian lending institutions.</p>	
MT3	<p>The Project Lead or proposed resources must have completed a minimum of five (5) projects that relate to the fundraising activities and cost of funds of Canadian lending institutions, within the last ten (10) years. Please refer to section A.2 of the Statement of Work for further information.</p> <p>A project is defined either as a report or memorandum of more than 10 pages in length presenting the results of an analysis or study on a specific subject; or a contract for providing advisory services on a recurrent basis with duration of a minimum of 8 consecutive weeks.</p> <p>The experience must be clearly identified by providing a summary description of each project along with the roles and responsibilities and name of the organization.</p> <p>Note: Projects utilized for this criterion may also be used for rated criteria RT1 to RT4, if appropriate.</p>	
MT4	<p>The Project Lead must possess either a designation related to accounting or finance (e.g. CA, CMA, CGA, CFA), a law degree or a masters degree in taxation, business, finance or economics.</p>	
MT5	<p>The bidder must include a proposed Work Plan for the contract that clearly demonstrates the following:</p> <ol style="list-style-type: none"> 1. How the Objective and Scope of Work as identified in Annex A – Statement of Work will be achieved, including outlining in general terms the proposed sources of information and methodology, and; 2. How the Deliverables and Associated Schedule will be met, as identified in Annex A – Statement of Work. 	
MT6	<p>The Certifications found in Part 5 of this solicitation must be signed at time of bid closing, which must include an attestation that the Non-</p>	



	Disclosure and Confidentiality Agreement found in Part 6 of this solicitation will be signed upon contract award.	
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4.2.3 Point Rated Technical Criteria

A Bidder’s responses to the rated criteria identified will be reviewed and awarded a score (the “Total Score”) in accordance with the available points identified below.

To be considered compliant, the Bidder must receive a **minimum of 70% (42 of a possible 60 points)**.

If a Bidder’s Proposal is compliant with the point rated requirements of this solicitation then the Proposal will proceed to the Financial Evaluation stage of the process.

**Important Note: Bidders may utilize the same project to address more than one rated criteria. However, in circumstances where more than one proposed resource has worked on the same project, the project will only be scored once. This rule will apply to all rated criteria.*

Point Rated Technical Criteria	Requirement	Scoring	Maximum Points available	Reference within Proposal (indicate page #)
RT1*	Demonstrated experience in the application of corporate finance principles, specifically as it pertains to lending institutions in Canada.	Score 5 points per project for the Project Lead or proposed resources, in which they demonstrated experience in the application of corporate finance principles, specifically as it pertains to lending institutions in Canada. A project is defined either as a report or memorandum of more than 10 pages in length presenting the results of an analysis or study on a specific subject; or a contract for providing advisory services on a recurrent basis with duration of a minimum of 8 consecutive weeks.	15	



		The experience must be clearly identified by providing a summary description of each project along with the roles and responsibilities and name of the organization.		
RT2*	Demonstrated experience in the accounting and international reporting requirements of the fundraising activities and the cost of funds, specifically as it pertains to lending institutions in Canada.	<p>Score 5 points per project for the Project Lead or proposed resources in which they demonstrated experience in the accounting and international reporting requirements of the fundraising activities and the cost of funds, specifically as it pertains to lending institutions in Canada.</p> <p>A project is defined either as a report or memorandum of more than 10 pages in length presenting the results of an analysis or study on a specific subject; or a contract for providing advisory services on a recurrent basis with duration of a minimum of 8 consecutive weeks.</p> <p>The experience must be clearly identified by providing a summary description of each project along with the roles and</p>	15	



		responsibilities and name of the organization.		
RT3*	Demonstrated experience in calculating the cost of corporate fundraising.	<p>Score 5 points per project for the Project Lead or proposed resources in which they demonstrated experience in calculating the cost of corporate fundraising.</p> <p>A project is defined either as a report or memorandum of more than 10 pages in length presenting the results of an analysis or study on a specific subject; or a contract for providing advisory services on a recurrent basis with duration of a minimum of 8 consecutive weeks.</p> <p>The experience must be clearly identified by providing a summary description of each project along with the roles and responsibilities and name of the organization.</p>	15	
RT4*	Demonstrated experience in analyzing the characteristics of equity, debt and complex financial instruments.	Score 5 points per project for the Project Lead or proposed resources in which they demonstrated experience in analyzing the characteristics of equity, debt and complex financial instruments.	15	



		<p>A project is defined either as a report or memorandum of more than 10 pages in length presenting the results of an analysis or study on a specific subject; or a contract for providing advisory services on a recurrent basis with duration of a minimum of 8 consecutive weeks.</p> <p>The experience must be clearly identified by providing a summary description of each project along with the roles and responsibilities and name of the organization.</p>		
Total Points available			60	
Minimum Threshold Requirement (70%)			42	The bidder must achieve the minimum threshold of 42 points.

4.3 Financial Evaluation

4.3.1 Financial Proposal Evaluation Overview

1. A financial evaluation will be performed only on proposals that are technically responsive. A technically responsive proposal is a proposal that meets all mandatory criteria and obtains the required minimum points specified in this solicitation for the criteria that are subject to point rating.
2. For the purposes of bid evaluation, the total evaluated cost will be the “Bidder’s Estimated Total Cost” to perform all of the work and produce all of the deliverables identified in Annex A, Statement of Work, of this RFP document.
3. The proposal will be evaluated on the basis of best value using the Highest Combined Rating of Technical Merit (70%) and Price (30%) selection method.

Price will be evaluated in **Canadian Dollars**. The Pricing Table provided below will be used for the purposes of the financial evaluation.



4.3.2 Financial Proposal Pricing Table

Deliverables	Details	Deadline	Percentage of financial proposal	Total Cost
Kick-off Meeting	A kick-off meeting will be scheduled to discuss the project steps going forward.	Within 7 calendar days of contract award	0%	0
Approval of work plan and methodology	The Contractor must explain its proposed methodology and analysis and present the general outlines of the requirement. The Project Authority must be satisfied that the proposed methodology will enable the Contractor to meet the objectives as set out in the Statement of Work.	Within 30 calendar days of contract award	10%	To be completed by Bidder
Preliminary report	The Contractor must provide a preliminary report, which includes all major headings and a brief overview of each section.	Within 60 calendar days of contract award	20%	To be completed by Bidder
Draft written report	The Contractor must remit a draft report to the Project Authority which presents its complete analysis. The Project Authority will provide comments, if any, to the Contractor so that the final report can be submitted.	Within 110 calendar days of contract award	30%	To be completed by Bidder
Final written report	The Contractor must submit its final written report. The Project Authority must be satisfied that the Contractor has addressed all comments on the draft written report, if applicable.	Within 150 calendar days of contract award	40%	To be completed by Bidder



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 as requested.

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 Solicitation 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 Solicitation Authority for additional information will also render the bid non-responsive.

The Bidder acknowledges that the Crown shall rely on this certification to award the contract. Should verification by the Crown disclose a misrepresentation on the part of the bidder, the Crown shall have the right to treat any contract resulting from this bid as being in default.

Certifications Required with the Bid

Bidders must submit the following duly completed certifications as part of their bid.

CERTIFICATION OF EDUCATION AND EXPERIENCE

“We hereby certify that all statements made with regard to the education and the experience of individuals proposed for completing the subject work are accurate and factual, and we are aware that the Crown reserves the right to verify any information provided in this regard and that untrue statements may result in the proposal being declared non-compliant or in other action which the Minister may consider appropriate.”

Signature of authorized representative

Date

CERTIFICATION OF AVAILABILITY AND STATUS OF PERSONNEL

AVAILABILITY OF PERSONNEL

The Contractor certifies that, should it be authorized to provide services under any Task Authorization resulting from this Task Request, the persons proposed in its bid will be available to commence performance of the work within a reasonable time from Task Authorization date, or within the time specified in the Task Request, and will remain available to perform the work in relation to the fulfillment of the requirement. Any proposed substitution after the proposal has been submitted but before issuance of Task Authorization may result in the re-evaluation of the proposal. Once the Task Authorization is allocated, proposed substitutes must achieve the same rated qualifications score (or greater) as the original resource at a rate no higher than the original resource being replaced and will be subject to approval by the technical authority.

Signature of authorized representative

Date



STATUS OF PERSONNEL

If the Contractor has proposed any person in fulfillment of this requirement who is not an employee of the Contractor, the Contractor hereby certifies that it has written permission from such person (or the employer of such person) to propose the services of such person in relation to the work to be performed in fulfillment of this requirement and to submit such person's resume to the Contracting Authority. As well, the Contractor hereby certifies that the proposed person is aware that overtime may be required and is willing to comply.

During the proposal evaluation, the Contractor must upon the request of the Contracting Authority and/or the Technical Authority provide a copy of such written permission, in relation to any or all non-employees proposed. If the Contractor fails to comply with such a request, its proposal will be considered non-compliant.

Signature of authorized representative

Date



FORMER PUBLIC SERVANTS IN RECEIPT OF A PENSION:

Contracts with former public servants (FPS) in receipt of a pension or of a lump sum payment must bear the closest public scrutiny and reflect fairness in spending public funds. In order to comply with Treasury Board policies and directives on contracts with FPS, bidders must provide the information required below. This information may be disclosed in published proactive disclosure reports.

1.

Is the Bidder a former public servant?

- YES
- NO

2.

- The Bidder is a former public servant in receipt of a pension under the *Public Service Superannuation Act*;
- The Bidder is a former public servant in receipt of a pension who has incorporated;
- The Bidder is in a partnership made up of former public servant(s) in receipt of a pension;
- The Bidder is a former public servant in receipt of a pension who is the sole proprietor or has a major interest in the entity;
- The Bidder is not a former public servant in receipt of a pension.

3. Work Force Reduction Program

Is the Bidder a FPS who received a lump sum payment pursuant to the terms of a work force reduction program?

- YES
- NO

If so, the Bidder must provide the following information:

- a. name of former public servant;
- b. conditions of the lump sum payment incentive;
- c. date of termination of employment;
- d. amount of lump sum payment;
- e. rate of pay on which lump sum payment is based;
- f. period of lump sum payment including start date, end date and number of weeks;
- g. number and amount (professional fees) of other contracts subject to the restrictions of a work force reduction program.

For all contracts awarded during the lump sum payment period, the total amount of fee that may be paid to a FPS who received a lump sum payment is \$5,000, including the Goods and Services Tax or Harmonized Sales Tax.

Certification

The Bidder certifies that the information submitted by the Bidder in response to the above requirements is accurate and complete.

Signature of authorized representative

Date



PART 6 – NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

NON-DISCLOSURE and CONFIDENTIALITY AGREEMENT

TO: HER MAJESTY THE QUEEN IN RIGHT OF CANADA ("CANADA"), AS REPRESENTED BY THE MINISTER OF FINANCE

WHEREAS Canada is interested in carrying out bid solicitation No FIN-903141-2013-10-07; AND Whereas the description of the bid solicitation No. FIN-903141-2013-10-07 refers to the performance of a contract that may involve information that is confidential or proprietary to Canada or to a third party that is not to be disclosed or used in any way other than as set out below.

AND WHEREAS it is likely that the Contractor and any person or entity (including any employees, agents, or advisers), assisting in carrying out any contract that may result from the bid (hereinafter referred to as "the Contractor") may review and be party to existing confidential and secret information in written, electronic, and oral form, or the creation, compilation, or arrangement of records and information with respect to the subject-matter of any resulting contract, collectively referred to as the **Confidential Information**;

The Contractor agrees:

- (i) not to use, for any purpose, any portion of the Confidential Information, or notes, summaries or other material derived from the Confidential Information (hereinafter referred to as "Notes"), except to undertake any resulting contract;
- (ii) not to disclose to others any portion of the Confidential Information or any Notes;
- (iii) not to make copies or otherwise reproduce the Confidential Information or any part thereof, or remove any of the Confidential Information from the place where it is made available, except:
 - (a) in the form of Notes; or
 - (b) as permitted with the specific consent of Canada;
- (iv) to maintain in a secure place Notes and copies of any part of the Confidential Information in the possession of the Contractor, and to take all steps reasonably necessary to ensure that no one other than the Contractor will have access thereto.
- (v) immediately upon the completion of any resulting contract at closing date, the Contractor shall forthwith, without further notice, deliver to Canada or as the representative of Canada may direct, the Confidential Information and any Notes related thereto, without retaining any copies or extracts therefrom, unless permitted with the specific written consent of Canada.

The Contractor agrees that the provisions of this agreement continue to be in full force and effect during, as well as after, the term of any resulting contract.

If the Contractor is required at any time by law to disclose any portion of the Confidential Information or any Notes, the Contractor shall provide Canada with prompt written notice of such requirement so that Canada may either seek an appropriate court order which would have the effect of relieving the Contractor of the requirement to disclose or else waive the Contractor of compliance with the provisions of this agreement.



If the protective court order or other remedy is not obtained and Canada does not waive compliance, the Contractor agrees to furnish only that portion of the Confidential Information or any Notes which the Contractor is advised by legal counsel is legally required and to use the Contractor's best efforts to ensure that confidential treatment will be accorded to that portion of the Confidential Information or any

Notes. The Contractor will not have any liability to Canada for disclosing Confidential Information or any Notes in accordance with this agreement.

Notwithstanding the foregoing, Confidential Information is not subject to the terms of this agreement if it consists of:

- (i) documents already in the Contractor's possession before being disclosed to the Contractor unless designated as confidential or otherwise protected on their face or in an attachment;
- (ii) documents or information in the public domain at the time of disclosure to the Contractor, or which, after disclosure to the Contractor enter into the public domain through no fault of the Contractor.

The Contractor agrees that Canada shall be entitled to equitable relief, including injunction and specific performance, in the event of any breach of the provisions of this agreement, in addition to all other remedies available to Canada at law or in equity and the Contractor agrees that an award of damages may not be an effective remedy to Canada in the event of a breach of this agreement.

The Contractor agrees to indemnify and hold harmless Canada from any damages, loss, cost or liability (including legal fees and the cost of enforcing this indemnity) arising out of the breach of this agreement by the Contractor.

It is understood and agreed that no failure or delay by Canada in exercising any right, power or privilege under this agreement will operate as waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege under this agreement.

If any provision of this agreement or any part thereof is held to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to that provision or part thereof and the remaining part of that provision and all other provisions hereof shall continue in full force and effect.

This agreement shall be governed by and construed in accordance with applicable laws in force in the Province of Ontario and the laws of Canada applicable thereto.

Name of Contractor.....
Authorized Representative Date.....

Signed by any other person or entity assisting in carrying out any resulting contract.

Name	Signature	Date
.....
.....
.....



PART 7 - RESULTING CONTRACT CLAUSES

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

SECTION I – ARTICLES OF AGREEMENT

<p>1. Title: XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX</p> <p>2. Departmental Representative For the purposes of the contract, the Departmental Representative designated by the Minister is:</p> <p>Name of Departmental Representative Title Division and Branch 140 O'Connor, XX floor, East Tower Ottawa, ON K1A 0G5 Telephone: 613-XXX-XXXX Fax: 613-XXX-XXXX Email: XXXXXXXXXX</p> <p>3. Administrative Authority Name of Administrative Authority Title Contracting and Procurement Division, Corporate Services Branch 140 O'Connor, XX floor, East Tower Ottawa, ON K1A 0G5 Telephone: 613-XXX-XXXX Fax: 613-XXX-XXXX Email: XXXXXXXXXX</p> <p style="text-align: center;">Contract for Services # XXXXXXXX</p> <p>between</p> <p>Her Majesty the Queen in Right of Canada, as represented by the Minister of Finance (referred to herein as "Canada" or the "Minister")</p> <p>And</p> <p>Insert Full Legal Name of the Supplier Address Telephone: 613-XXX-XXXX Fax: 613-XXX-XXXX Email:</p> <p>For: Performance of the Work described in "Section IV", Statement of Work.</p>	<p>4. Security There is no security requirement for the Contractor and its personnel during the performance of the contract.</p> <p>5. Contract Period:</p> <p>6. Funds committed pursuant to Section 32 of the Financial Administration Act under financial coding:</p> <table border="1" style="width:100%; border-collapse: collapse; margin-bottom: 10px;"> <tr> <td style="width:15%;">0060</td> <td style="width:15%;">B120</td> <td style="width:15%;">PA</td> <td style="width:15%;">GL</td> <td style="width:15%;">FC</td> <td style="width:15%;">GSIN</td> </tr> </table> <p>7. Contract Documents</p> <ol style="list-style-type: none"> 1. These Articles of Agreement (Section I) 2. General Conditions (Section II) 3. Intellectual Property (Section III) 4. Statement of Work (Section IV) 5. Proposal from the Supplier entitled/dated XXXX (Section V) <p>In the event of discrepancies, inconsistencies or ambiguities in the wording of these documents, the wording of the document appearing first on the above list shall prevail over the wording of the document subsequently appearing on the list.</p> <p>8. Contract Amount Subject to the terms and conditions of this contract and in consideration for the performance of the Work, Canada shall pay the Contractor up to a maximum or an all inclusive amount not to exceed SXXXXX, as follows:</p> <table border="1" style="width:100%; border-collapse: collapse; margin-bottom: 10px;"> <tr> <td style="width:50%;">Professional Fees</td> <td style="width:50%;"></td> </tr> <tr> <td>Travel</td> <td></td> </tr> <tr> <td>Expenses</td> <td></td> </tr> <tr> <td>Taxes</td> <td></td> </tr> <tr> <td>Total</td> <td></td> </tr> </table> <p><i>All amounts are in Canadian dollars unless specified otherwise.</i></p> <p>9. Invoices One (1) copy of each invoice is to be sent to the Departmental Representative upon completion and acceptance of the Work showing:</p> <ol style="list-style-type: none"> a. The name and address of the Departmental Representative; b. The contract title and number; c. The date; d. A description of the work performed; e. Evidence of actual cost; and f. The amount of any tax (GST/HST) <p><i>Invoices will be paid based (ex: upon completion).</i></p> <p>10. Governing Laws This contract shall be governed by and construed in accordance with the laws in force in Ontario, Canada.</p> <p>11. Intellectual Property The Contractor will own the intellectual property rights as per Section "III".</p>	0060	B120	PA	GL	FC	GSIN	Professional Fees		Travel		Expenses		Taxes		Total	
0060	B120	PA	GL	FC	GSIN												
Professional Fees																	
Travel																	
Expenses																	
Taxes																	
Total																	
<p>12. Commitment Authorization It is understood by the parties that this contract shall not come into force until or unless the certification required by Section 32 of the Financial Administration Act has been made.</p>																	
<p>_____</p> <p>Date</p>	<p>_____</p> <p>Name and Position</p>																
<p>13. Signatures This contract has been executed on behalf of the contractor and on behalf of Her Majesty the Queen in right of Canada by their duly authorized representatives:</p>																	
<p>13.1 Authorized Representative of the Contractor:</p> <p>_____</p> <p>Name and Position</p> <p style="text-align: right;">Date</p>	<p>13.2 Authorized Representative of the Minister:</p> <p>_____</p> <p>Name and Position</p> <p style="text-align: right;">Date</p>																



SECTION II - GENERAL TERMS AND CONDITIONS

GC01 Interpretation

1.1 In the Contract, unless the context otherwise requires:

- 1.1.1 "Articles of Agreement" means the clauses and conditions incorporated in full text or incorporated by reference from the *Standard Acquisition Clauses and Conditions* Manual to form the body of the Contract; it does not include these general conditions, any supplemental general conditions, annexes, the Contractor's bid or any other document;
- 1.1.2 "Canada", "Crown", "Her Majesty" or "the Government" means Her Majesty the Queen in right of Canada as represented by the Minister of Public Works and Government Services and any other person duly authorized to act on behalf of that minister or, if applicable, an appropriate minister to whom the Minister of Public Works and Government Services has delegated his or her powers, duties or functions and any other person duly authorized to act on behalf of that minister;
- 1.1.3 "Contract" means the Articles of Agreement, these general conditions, any supplemental general conditions, annexes and any other document specified or referred to as forming part of the Contract, all as amended by agreement of the Parties from time to time;
- 1.1.4 "Contracting Authority" means the person designated by that title in the Contract, or by notice to the Contractor, to act as Canada's representative to manage the Contract;
- 1.1.5 "Contractor" means the person, entity or entities named in the Contract to supply goods, services or both to Canada;
- 1.1.6 "Contract Price" means the amount stated in the Contract to be payable to the Contractor for the Work, exclusive of Goods and Services Tax and Harmonized Sales Tax;
- 1.1.7 "Cost" means cost determined according to Contract Cost Principles 1031-2 as revised to the date of the bid solicitation or, if there was no bid solicitation, the date of the Contract;
- 1.1.8 "Government Property" means anything supplied to the Contractor by or on behalf of Canada for the purposes of performing the Contract and anything acquired by the contractor in any manner in connection with the Work, the cost of which is paid by Canada under the Contract;
- 1.1.9 "Party" means Canada, the Contractor, or any other signatory to the Contract and "Parties" means all of them;
- 1.1.10 "Specifications" means the description of the essential, functional or technical requirements of the Work in the Contract, including the procedures for determining whether the requirements have been met;
- 1.1.11 "Work" means all the activities, services, goods, equipment, matters and things required to be done, delivered or performed by the Contractor under the Contract.

GC02 Standard Clauses and Conditions

- 2.1 Pursuant to the *Department of Public Works and Government Services Act*, S.C. 1996, c. 16, the clauses and conditions identified by number, date and title in the Contract are incorporated by reference and form part of the Contract as though expressly set out in the Contract.



GC03 Powers of Canada

3.1 All rights, remedies, powers and discretions granted or acquired by Canada under the Contract or by law are cumulative, not exclusive.

GC04 Status of the Contractor

4.1 The Contractor is an independent contractor engaged by Canada to perform the Work. Nothing in the Contract is intended to create a partnership, a joint venture or an agency between Canada and the other Party or Parties. The Contractor must not represent itself as an agent or representative of Canada to anyone. Neither the Contractor nor any of its personnel is engaged as an employee or agent of Canada. The Contractor is responsible for all deductions and remittances required by law in relation to its employees.

GC05 Conduct of the Work

5.1 The Contractor represents and warrants that:

- (a) it is competent to perform the Work;
- (b) it has everything necessary to perform the Work, including the resources, facilities, labour, technology, equipment, and materials; and
- (c) it has the necessary qualifications, including knowledge, skill, know-how and experience, and the ability to use them effectively to perform the Work.

5.2 The Contractor must:

- (d) perform the Work diligently and efficiently;
- (e) except for Government Property, supply everything necessary to perform the Work;
- (f) use, as a minimum, quality assurance procedures, inspections and controls generally used and recognized by the industry to ensure the degree of quality required by the Contract;
- (g) select and employ a sufficient number of qualified people;
- (h) perform the Work in accordance with standards of quality acceptable to Canada and in full conformity with the Specifications and all the requirements of the Contract;
- (i) provide effective and efficient supervision to ensure that the quality of workmanship meets the requirements of the Contract.

5.3 The Work must not be performed by any person who, in the opinion of Canada, is incompetent, unsuitable or has been conducting himself/herself improperly. All services rendered under the Contract must, at the time of acceptance, be free from defects in workmanship and conform to the requirements of the Contract. If the Contractor is required to correct or replace the Work or any part of the Work, it will be at no cost to Canada.

5.4 Canada's facilities, equipment and personnel are not available to the Contractor to perform the Work unless the Contract specifically provides for it. The Contractor is responsible for advising the Contracting Authority in advance if it requires access to Canada's facilities, equipment or personnel to perform the Work. The Contractor must comply and ensure that its employees and



subcontractors comply with all security measures, standing orders, policies or other rules in force at the site where the Work is performed.

- 5.5 Unless the Contracting Authority orders the Contractor to suspend the Work or part of the Work pursuant to section 24, the Contractor must not stop or suspend the Work or part of the Work pending the settlement of any dispute between the Parties about the Contract.
- 5.6 The Contractor must provide all reports that are required by the Contract and any other information that Canada may reasonably require from time to time.
- 5.7 The Contractor is fully responsible for performing the Work. Canada will not be responsible for any negative consequences or extra costs if the Contractor follows any advice given by Canada unless the Contracting Authority provides the advice to the Contractor in writing and includes a statement specifically relieving the Contractor of any responsibility for negative consequences or extra costs that might result from following the advice.

GC06 Subcontracts

- 6.1 Except as provided in subsection 2, the Contractor must obtain the Contracting Authority's written consent before subcontracting or permitting the subcontracting of any part of the Work. A subcontract includes a contract entered into by any subcontractor at any tier to perform any part of the Work.
- 6.2 The Contractor is not required to obtain consent for subcontracts specifically authorized in the Contract. The Contractor may also without the consent of the Contracting Authority:
 - (a) purchase "off-the-shelf" items and any standard articles and materials that are ordinarily produced by manufacturers in the normal course of business;
 - (b) subcontract any portion of the Work as is customary in the carrying out of similar contracts; and;
 - (c) permit its subcontractors at any tier to make purchases or subcontract as permitted in paragraphs (a) and (b)
- 6.3 In any subcontract other than a subcontract referred to in paragraph 2.(a), the Contractor must, unless the Contracting Authority agrees in writing, ensure that the subcontractor is bound by conditions compatible with and, in the opinion of the Contracting Authority, not less favourable to Canada than the conditions of the Contract.
- 6.4 Even if Canada consents to a subcontract, the Contractor is responsible for performing the Contract and Canada is not responsible to any subcontractor. The Contractor is responsible for any matters or things done or provided by any subcontractor under the Contract and for paying any subcontractors for any part of the Work they perform.

GC07 Specifications

- 7.1 All Specifications provided by Canada or on behalf of Canada to the Contractor in connection with the Contract belong to Canada and must be used by the Contractor only for the purpose of performing the Work.
- 7.2 If the Contract provides that Specifications furnished by the Contractor must be approved by Canada, that approval will not relieve the Contractor of its responsibility to meet all requirements of the Contract.



GC08 Replacement of Specific Individuals

- 8.1 If specific individuals are identified in the Contract to perform the Work, the Contractor must provide the services of those individuals unless the Contractor is unable to do so for reasons beyond its control.
- 8.2 If the Contractor is unable to provide the services of any specific individual identified in the Contract, it must provide a replacement with similar qualifications and experience. The replacement must meet the criteria used in the selection of the Contractor and be acceptable to Canada. The Contractor must, as soon as possible, give notice to the Contracting Authority of the reason for replacing the individual and provide:
- (a) the name, qualifications and experience of the proposed replacement; and
 - (b) proof that the proposed replacement has the required security clearance granted by Canada, if applicable.
- 8.3 The Contractor must not, in any event, allow performance of the Work by unauthorized replacement persons. The Contracting Authority may order that a replacement stop performing the Work. In such a case, the Contractor must immediately comply with the order and secure a further replacement in accordance with subsection 2. The fact that the Contracting Authority does not order that a replacement stop performing the Work does not relieve the Contractor from its responsibility to meet the requirements of the Contract.

GC09 Time of the Essence

- 9.1 It is essential that the Work be performed within or at the time stated in the Contract.

GC10 Excusable Delay

- 10.1 A delay in the performance by the Contractor of any obligation under the Contract that is caused by an event that
- (a) is beyond the reasonable control of the Contractor,
 - (b) could not reasonably have been foreseen,
 - (c) could not reasonably have been prevented by means reasonably available to the Contractor, and
 - (d) occurred without the fault or neglect of the Contractor, will be considered an "Excusable Delay" if the Contractor advises the Contracting Authority of the occurrence of the delay or of the likelihood of the delay as soon as the Contractor becomes aware of it. The Contractor must also advise the Contracting Authority, within fifteen (15) working days, of all the circumstances relating to the delay and provide to the Contracting Authority for approval a clear work around plan explaining in detail the steps that the Contractor proposes to take in order to minimize the impact of the event causing the delay.
- 10.2 Any delivery date or other date that is directly affected by an Excusable Delay will be postponed for a reasonable time that will not exceed the duration of the Excusable Delay.
- 10.3 However, if an Excusable Delay has continued for thirty (30) days or more, the Contracting Authority may, by giving notice in writing to the Contractor, terminate the Contract. In such a case, the Parties agree that neither will make any claim against the other for damages, costs, expected profits or any other loss arising out of the termination or the event that contributed to



the Excusable Delay. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unliquidated at the date of the termination.

- 10.4 Unless Canada has caused the delay by failing to meet an obligation under the Contract, Canada will not be responsible for any costs incurred by the Contractor or any of its subcontractors or agents as a result of an Excusable Delay.
- 10.5 If the Contract is terminated under this section, the Contracting Authority may require the Contractor to deliver to Canada, in the manner and to the extent directed by the Contracting Authority, any completed parts of the Work not delivered and accepted before the termination and anything that the Contractor has acquired or produced specifically to perform the Contract. Canada will pay the Contractor:
- (a) the value, of all completed parts of the Work delivered to and accepted by Canada, based on the Contract Price, including the proportionate part of the Contractor's profit or fee included in the Contract Price; and
 - (b) the Cost to the Contractor that Canada considers reasonable in respect of anything else delivered to and accepted by Canada. The total amount paid by Canada under the Contract to the date of termination and any amounts payable under this subsection must not exceed the Contract Price.

GC11 Inspection and Acceptance of the Work

- 11.1 All the Work is subject to inspection and acceptance by Canada. Inspection and acceptance of the Work by Canada do not relieve the Contractor of its responsibility for defects or other failures to meet the requirements of the Contract. Canada will have the right to reject any Work that is not in accordance with the requirements of the Contract and require its correction or replacement at the Contractor's expense.
- 11.2 The Contractor must provide representatives of Canada access to all locations where any part of the Work is being performed at any time during working hours. Representatives of Canada may make examinations and such tests of the Work as they may think fit. The Contractor must provide all assistance and facilities, test pieces, samples and documentation that the representatives of Canada may reasonably require for the carrying out of the inspection. The Contractor must forward such test pieces and samples to such person or location as Canada specifies.
- 11.3 The Contractor must inspect and approve any part of the Work before submitting it for acceptance or delivering it to Canada. The Contractor must keep accurate and complete inspection records that must be made available to Canada on request. Representatives of Canada may make copies and take extracts of the records during the performance of the Contract and for up to three (3) years after the end of the Contract.

GC12 Invoice Submission

- 12.1 Invoices must be submitted in the Contractor's name. The Contractor must submit invoices for each delivery or shipment; invoices must only apply to the Contract. Each invoice must indicate whether it covers partial or final delivery.
- 12.2 Invoices must show:
- (a) the date, the name and address of the client department, item or reference numbers, deliverable and/or description of the Work, contract number, Client Reference Number (CRN), Procurement Business Number (PBN), and financial code(s);



- (b) details of expenditures in accordance with the Basis of Payment, exclusive of Goods and Services Tax (GST) or Harmonized Sales Tax (HST) (such as item, quantity, unit of issue, unit price, fixed time labour rates and level of effort, subcontracts, as applicable);
- (c) deduction for holdback, if applicable;
- (d) the extension of the totals, if applicable; and
- (e) if applicable, the method of shipment together with date, case numbers and part or reference numbers, shipment charges and any other additional charges.

12.3 If applicable, the GST or HST must be specified on all invoices as a separate item. All items that are zero-rated, exempt or to which the GST or HST does not apply, must be identified as such on all invoices.

12.4 By submitting an invoice, the Contractor certifies that the invoice is consistent with the Work delivered and is in accordance with the Contract.

GC13 Taxes

13.1 Provincial Taxes

- (a) Excluding legislated exceptions, federal government departments and agencies are not required to pay any sales tax payable to the province in which the taxable goods or services are delivered.
- (b) Federal departments must pay the HST in the participating provinces of Newfoundland and Labrador, Nova Scotia, New Brunswick, Ontario and Prince Edward Island.
- (c) The Contractor must pay the PST on taxable goods or services used or consumed in the performance of the Contract (in accordance with applicable provincial legislation), including material incorporated into real property.

13.2 Changes to Taxes and Duties

If there is any change to any tax or duty payable to any level of government in Canada after the bid submission date that affects the costs of the Work to the Contractor, the Contract Price will be adjusted to reflect the increase or decrease in the cost to the Contractor. However, there will be no adjustment for any change that increases the cost of the Work to the Contractor if public notice of the change was given before bid submission date in sufficient detail to have permitted the Contractor to calculate the effect of the change on its cost. There will be no adjustment if the change takes effect after the date required by the Contract for delivery of the Work.

13.3 GST or HST

The estimated GST or HST, if applicable, is included in the total estimated cost on page 1 of the Contract. The GST or HST is not included in the Contract Price but will be paid by Canada as provided in the Invoice Submission section above. The Contractor agrees to remit to Canada Revenue Agency any amounts of GST and HST paid or due.

13.4 Tax Withholding of 15 Percent

Pursuant to the *Income Tax Act*, 1985, c. 1 (5th Supp.) and the *Income Tax Regulations*, Canada must withhold 15 percent of the amount to be paid to the Contractor in respect of services provided in Canada if the Contractor is a non-resident unless the Contractor obtains a



valid waiver. The amount withheld will be held on account for the Contractor in respect to any tax liability which may be owed to Canada.

GC14 Payment Period

14.1 Canada's standard payment period is thirty (30) days. The payment period is measured from the date an invoice in acceptable form and content is received in accordance with the Contract or the date the Work is delivered in acceptable condition as required in the Contract, whichever

is later. A payment is considered overdue on the 31st day following that date and interest will be paid automatically in accordance with the section 15.

14.2 If the content of the invoice and its substantiating documentation are not in accordance with the Contract or the Work is not in acceptable condition, Canada will notify the Contractor within fifteen (15) days of receipt. The 30-day payment period begins upon receipt of the revised invoice or the replacement or corrected Work. Failure by Canada to notify the Contractor within fifteen (15) days will only result in the date specified in subsection 1 to apply for the sole purpose of calculating interest on overdue accounts.

GC15 Interest on Overdue Accounts

15.1 For the purpose of this section:

"Average Rate" means the simple arithmetic mean of the Bank Rates in effect at 4:00 p.m. Eastern Time each day during the calendar month immediately before the calendar month in which payment is made;

"Bank Rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association;

"date of payment" means the date of the negotiable instrument drawn by the Receiver General for Canada to pay any amount under the Contract;

an amount becomes "overdue" when it is unpaid on the first day following the day on which it is due and payable according to the Contract.

15.2 Canada will pay to the Contractor simple interest at the Average Rate plus 3 percent per year on any amount that is overdue, from the date that amount becomes overdue until the day before the date of payment, inclusive. The Contractor is not required to provide notice to Canada for interest to be payable.

15.3 Canada will pay interest in accordance with this section only if Canada is responsible for the delay in paying the Contractor. Canada will not pay interest on overdue advance payments.

GC16 Compliance with Applicable Laws

16.1 The Contractor must comply with all laws applicable to the performance of the Contract. The Contractor must provide evidence of compliance with such laws to Canada at such times as Canada may reasonably request.

16.2 The Contractor must obtain and maintain at its own cost all permits, licenses, regulatory approvals and certificates required to perform the Work. If requested by the Contracting Authority, the Contractor must provide a copy of any required permit, license, regulatory approvals or certificate to Canada.



GC17 Ownership

- 17.1 Unless provided otherwise in the Contract, the Work or any part of the Work belongs to Canada after delivery and acceptance by or on behalf of Canada.
- 17.2 However if any payment is made to the Contractor for or on account of any Work, either by way of progress or milestone payments, that work paid for by Canada belongs to Canada upon such payment being made. This transfer of ownership does not constitute acceptance by Canada of the Work or any part of the Work and does not relieve the Contractor of its obligation to perform the Work in accordance with the Contract.
- 17.3 Despite any transfer of ownership, the Contractor is responsible for any loss or damage to the Work or any part of the Work until it is delivered to Canada in accordance with the Contract. Even after delivery, the Contractor remains responsible for any loss or damage to any part of the Work caused by the Contractor or any subcontractor.
- 17.4 Upon transfer of ownership to the Work or any part of the Work to Canada, the Contractor must, if requested by Canada, establish to Canada's satisfaction that the title is free and clear of all claims, liens, attachments, charges or encumbrances. The Contractor must execute any conveyances and other instruments necessary to perfect the title that Canada may require.

GC18 Confidentiality

- 18.1 The Contractor must keep confidential all information provided to the Contractor by or on behalf of Canada in connection with the Work, including any information that is confidential or proprietary to third parties, and all information conceived, developed or produced by the Contractor as part of the Work when copyright or any other intellectual property rights in such information belongs to Canada under the Contract. The Contractor must not disclose any such information without the written permission of Canada. The Contractor may disclose to a subcontractor any information necessary to perform the subcontract as long as the subcontractor agrees to keep the information confidential and that it will be used only to perform the subcontract.
- 18.2 The Contractor agrees to use any information provided to the Contractor by or on behalf of Canada only for the purpose of the Contract. The Contractor acknowledges that all this information remains the property of Canada or the third party, as the case may be. Unless provided otherwise in the Contract, the Contractor must deliver to Canada all such information, together with every copy, draft, working paper and note that contains such information, upon completion or termination of the Contract or at such earlier time as Canada may require.
- 18.3 Subject to the *Access to Information Act*, R.S., 1985, c. A-1, and to any right of Canada under the Contract to release or disclose, Canada must not release or disclose outside the Government of Canada any information delivered to Canada under the Contract that is proprietary to the Contractor or a subcontractor.
- 18.4 The obligations of the Parties set out in this section do not apply to any information if the information:
- (a) is publicly available from a source other than the other Party; or
 - (b) is or becomes known to a Party from a source other than the other Party, except any source that is known to be under an obligation to the other Party not to disclose the information; or
 - (c) is developed by a Party without use of the information of the other Party.



18.5 Wherever possible, the Contractor must mark or identify any proprietary information delivered to Canada under the Contract as "Property of (Contractor's name)". Canada will not be liable for any unauthorized use or disclosure of information that could have been so marked or identified and was not.

GC19 Government Property

19.1 All Government Property must be used by the Contractor solely for the purpose of the Contract and remains the property of Canada. The Contractor must maintain adequate accounting records of all Government Property and, whenever feasible, mark it as being the property of Canada.

19.2 The Contractor must take reasonable and proper care of all Government Property while it is in its possession or subject to its control. The Contractor is responsible for any loss or damage resulting from its failure to do so other than loss or damage caused by ordinary wear and tear.

19.3 All Government Property, unless it is installed or incorporated in the Work, must be returned to Canada on demand. All scrap and all waste materials, articles or things that are Government Property must, unless provided otherwise in the Contract, remain the property of Canada and must be disposed of only as directed by Canada.

19.4 At the time of completion of the Contract, and if requested by the Contracting Authority, the Contractor must provide to Canada an inventory of all Government Property relating to the Contract.

GC20 Liability

20.1 The Contractor is liable for any damage caused by the Contractor, its employees, subcontractors, or agents to Canada or any third party. Canada is liable for any damage caused by Canada, its employees or agents to the Contractor or any third party. The Parties agree that no limitation of liability or indemnity provision applies to the Contract unless it is specifically incorporated in full text in the Articles of Agreement. Damage includes any injury to persons (including injury resulting in death) or loss of or damage to property (including real property) caused as a result of or during the performance of the Contract.

GC21 Intellectual Property Infringement and Royalties

21.1 The Contractor represents and warrants that, to the best of its knowledge, neither it nor Canada will infringe any third party's intellectual property rights in performing or using the Work, and that Canada will have no obligation to pay royalties of any kind to anyone in connection with the Work.

21.2 If anyone makes a claim against Canada or the Contractor concerning intellectual property infringement or royalties related to the Work, that Party agrees to notify the other Party in writing immediately. If anyone brings a claim against Canada, according to *Department of Justice Act*, R.S., 1985, c. J-2, the Attorney General of Canada must have the regulation and conduct of all litigation for or against Canada, but the Attorney General may request that the Contractor defend Canada against the claim. In either case, the Contractor agrees to participate fully in the defence and any settlement negotiations and to pay all costs, damages and legal costs incurred or payable as a result of the claim, including the amount of any settlement. Both Parties agree not to settle any claim unless the other Party first approves the settlement in writing.

21.3 The Contractor has no obligation regarding claims that were only made because:

- (a) Canada modified the Work or part of the Work without the Contractor's consent or used the Work or part of the Work without following a requirement of the Contract; or



- (b) Canada used the Work or part of the Work with a product that the Contractor did not supply under the Contract (unless that use is described in the Contract or the manufacturer's specifications); or
- (c) the Contractor used equipment, drawings, specifications or other information supplied to the Contractor by Canada (or by someone authorized by Canada); or
- (d) the Contractor used a specific item of equipment or software that it obtained because of specific instructions from the Contracting Authority; however, this exception only applies if the Contractor has included the following language in its own contract with the supplier of that equipment or software: "[Supplier name] acknowledges that the purchased items will be used by the Government of Canada. If a third party claims that equipment or software supplied under this contract infringes any intellectual property right, [supplier name], if requested to do so by either [Contractor name] or Canada, will defend both [Contractor name] and Canada against that claim at its own expense and will pay all costs, damages and legal fees payable as a result of that infringement." Obtaining this protection from the supplier is the Contractor's responsibility and, if the Contractor does not do so, it will be responsible to Canada for the claim.

21.4 If anyone claims that, as a result of the Work, the Contractor or Canada is infringing its intellectual property rights, the Contractor must immediately do one of the following:

- (a) take whatever steps are necessary to allow Canada to continue to use the allegedly infringing part of the Work; or
- (b) modify or replace the Work to avoid intellectual property infringement, while ensuring that the Work continues to meet all the requirements of the Contract; or
- (c) take back the Work and refund any part of the Contract Price that Canada has already paid.

If the Contractor determines that none of these alternatives can reasonably be achieved, or if the Contractor fails to take any of these steps within a reasonable amount of time, Canada may choose either to require the Contractor to do (c), or to take whatever steps are necessary to acquire the rights to use the allegedly infringing part(s) of the Work itself, in which case the Contractor must reimburse Canada for all the costs it incurs to do so.

GC22 Amendment and Waivers

- 22.1 To be effective, any amendment to the Contract must be done in writing by the Contracting Authority and the authorized representative of the Contractor.
- 22.2 While the Contractor may discuss any proposed modifications to the Work with other representatives of Canada, Canada will not be responsible for the cost of any modification unless it has been incorporated into the Contract in accordance with subsection 1.
- 22.3 A waiver will only be valid, binding or affect the rights of the Parties if it is made in writing by, in the case of a waiver by Canada, the Contracting Authority and, in the case of a waiver by the Contractor, the authorized representative of the Contractor.
- 22.4 The waiver by a Party of a breach of any condition of the Contract will not be treated or interpreted as a waiver of any subsequent breach and therefore will not prevent that Party from enforcing of that term or condition in the case of a subsequent breach.



GC23 Assignment

- 23.1 The Contractor must not assign the Contract without first obtaining the written consent of the Contracting Authority. Any assignment made without that consent is void and will have no effect. The assignment will be effective upon execution of an assignment agreement signed by the Parties and the assignee.
- 23.2 Assignment of the Contract does not relieve the Contractor from any obligation under the Contract and it does not impose any liability upon Canada.

GC24 Suspension of the Work

- 24.1 The Contracting Authority may at any time, by written notice, order the Contractor to suspend or stop the Work or part of the Work under the Contract for a period of up to one hundred eighty (180) days. The Contractor must immediately comply with any such order in a way that minimizes the cost of doing so. While such an order is in effect, the Contractor must not remove any part of the Work from any premises without first obtaining the written consent of the Contracting Authority. Within these one hundred eighty (180) days, the Contracting Authority must either cancel the order or terminate the Contract, in whole or in part, under section 25 or section 26.
- 24.2 When an order is made under subsection 1, unless the Contracting Authority terminates the Contract by reason of default by the Contractor or the Contractor abandons the Contract, the Contractor will be entitled to be paid its additional costs incurred as a result of the suspension plus a fair and reasonable profit.
- 24.3 When an order made under subsection 1 is cancelled, the Contractor must resume work in accordance with the Contract as soon as practicable. If the suspension has affected the Contractor's ability to meet any delivery date under the Contract, the date for performing the part of the Work affected by the suspension will be extended for a period equal to the period of suspension plus a period, if any, that in the opinion of the Contracting Authority, following consultation with the Contractor, is necessary for the Contractor to resume the Work. Any equitable adjustments will be made as necessary to any affected conditions of the Contract.

GC25 Default by the Contractor

- 25.1 If the Contractor is in default in carrying out any of its obligations under the Contract, the Contracting Authority may, by giving written notice to the Contractor, terminate for default the Contract or part of the Contract. The termination will take effect immediately or at the expiration of a cure period specified in the notice, if the Contractor has not cured the default to the satisfaction of the Contracting Authority within that cure period.
- 25.2 If the Contractor becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or if a receiver is appointed under a debt instrument or a receiving order is made against the Contractor, or an order is made or a resolution passed for the winding down of the Contractor, the Contracting Authority may, to the extent permitted by the laws of Canada, by giving written notice to the Contractor, immediately terminate for default the Contract or part of the Contract.
- 25.3 If Canada gives notice under subsection 1 or 2, the Contractor will have no claim for further payment except as provided in this section. The Contractor will be liable to Canada for all losses and damages suffered by Canada because of the default or occurrence upon which the notice was based, including any increase in the cost incurred by Canada in procuring the Work from another source. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unliquidated at the date of the termination.



- 25.4 Upon termination of the Contract under this section, the Contracting Authority may require the Contractor to deliver to Canada, in the manner and to the extent directed by the Contracting Authority, any completed parts of the Work, not delivered and accepted before the termination and anything the Contractor has acquired or produced specifically to perform the Contract. In such a case, subject to the deduction of any claim that Canada may have against the Contractor arising under the Contract or out of the termination, Canada will pay or credit to the Contractor:
- (a) the value, of all completed parts of the Work delivered to and accepted by Canada, based on the Contract Price, including the proportionate part of the Contractor's profit or fee included in the Contract Price; and
 - (b) the cost to the Contractor that Canada considers reasonable in respect of anything else delivered to and accepted by Canada. The total amount paid by Canada under the Contract to the date of the termination and any amount payable under this subsection must not exceed the Contract Price.
- 25.5 Title to everything for which payment is made to the Contractor will, once payment is made, pass to Canada unless it already belongs to Canada under any other provision of the Contract.
- 25.6 If the Contract is terminated for default under subsection 1, but it is later determined that grounds did not exist for a termination for default, the notice will be considered a notice of termination for convenience issued under subsection 1 of section 26.

GC26 Termination for Convenience

- 26.1 At any time before the completion of the Work, the Contracting Authority may, by giving notice in writing to the Contractor, terminate for convenience the Contract or part of the Contract. Once such a notice of termination for convenience is given, the Contractor must comply with the requirements of the termination notice. If the Contract is terminated in part only, the Contractor must proceed to complete any part of the Work that is not affected by the termination notice. The termination will take effect immediately or, as the case may be, at the time specified in the termination notice.
- 26.2 If a termination notice is given pursuant to subsection 1, the Contractor will be entitled to be paid, for costs that have been reasonably and properly incurred to perform the Contract to the extent that the Contractor has not already been paid or reimbursed by Canada. The Contractor will be paid:
- (a) on the basis of the Contract Price, for all completed work that is inspected and accepted in accordance with the Contract, whether completed before, or after the termination in accordance with the instructions contained in the termination notice;
 - (b) the Cost to the Contractor plus a fair and reasonable profit for all work terminated by the termination notice before completion; and
 - (c) all costs incidental to the termination of the Work incurred by the Contractor but not including the cost of severance payments or damages to employees whose services are no longer required, except wages that the Contractor is obligated by statute to pay.
- 26.3 Canada may reduce the payment in respect of any part of the Work, if upon inspection, it does not meet the requirements of the Contract.
- 26.4 The total of the amounts, to which the Contractor is entitled to be paid under this section, together with any amounts paid, due or becoming due to the Contractor must not exceed the Contract Price. The Contractor will have no claim for damages, compensation, loss of profit,



allowance arising out of any termination notice given by Canada under this section except to the extent that this section expressly provides. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unliquidated at the date of the termination.

GC27 Accounts and Audit

- 27.1 The Contractor must keep proper accounts and records of the cost of performing the Work and of all expenditures or commitments made by the Contractor in connection with the Work, including all invoices, receipts and vouchers. The Contractor must retain records, including bills of lading and other evidence of transportation or delivery, for all deliveries made under the Contract.
- 27.2 If the Contract includes payment for time spent by the Contractor, its employees, representatives, agents or subcontractors performing the Work, the Contractor must keep a record of the actual time spent each day by each individual performing any part of the Work.
- 27.3 Unless Canada has consented in writing to its disposal, the Contractor must retain all the information described in this section for six (6) years after it receives the final payment under the Contract, or until the settlement of all outstanding claims and disputes, whichever is later. During this time, the Contractor must make this information available for audit, inspection and examination by the representatives of Canada, who may make copies and take extracts. The Contractor must provide all reasonably required facilities for any audit and inspection and must furnish all the information as the representatives of Canada may from time to time require to perform a complete audit of the Contract.
- 27.4 The amount claimed under the contract, calculated in accordance with the Basis of Payment provision in the Articles of Agreement, is subject to government audit both before and after payment is made. If an audit is performed after payment, the Contractor agrees to repay any overpayment immediately on demand by Canada. Canada may hold back, deduct and set off any credits owing and unpaid under this section from any money that Canada owes to the Contractor at any time (including under other contracts). If Canada does not choose to exercise this right at any given time, Canada does not lose this right.

GC28 Notice

- 28.1 Any notice under the Contract must be in writing and may be delivered by hand, courier, mail, facsimile or other electronic method that provides a paper record of the text of the notice. It must be sent to the Party for whom it is intended at the address stated in the Contract. Any notice will be effective on the day it is received at that address. Any notice to Canada must be delivered to the Contracting Authority.

GC29 Conflict of Interest and Values and Ethics Codes for the Public Service

- 29.1 The Contractor acknowledges that individuals who are subject to the provisions of the *Conflict of Interest Act*, 2006, c. 9, s. 2, the Conflict of Interest Code for Members of the House of Commons, the Values and Ethics Code for the Public Service or all other codes of values and ethics applicable within specific organizations cannot derive any direct benefit resulting from the Contract.

GC30 No Bribe or Conflict

- 30.1 The Contractor declares that no bribe, gift, benefit, or other inducement has been or will be paid, given, promised or offered directly or indirectly to any official or employee of Canada or to a member of the family of such a person, with a view to influencing the entry into the Contract or the administration of the Contract.
- 30.2 The Contractor must not influence, seek to influence or otherwise take part in a decision of Canada knowing that the decision might further its private interest. The Contractor must have



no financial interest in the business of a third party that causes or would appear to cause a conflict of interest in connection with the performance of its obligations under the Contract. If such a financial interest is acquired during the period of the Contract, the Contractor must immediately declare it to the Contracting Authority.

- 30.3 The Contractor warrants that, to the best of its knowledge after making diligent inquiry, no conflict exists or is likely to arise in the performance of the Contract. In the event the Contractor becomes aware of any matter that causes or is likely to cause a conflict in relation to the Contractor's performance under the Contract, the Contractor must immediately disclose such matter to the Contracting Authority in writing.
- 30.4 If the Contracting Authority is of the opinion that a conflict exists as a result of the Contractor's disclosure or as a result of any other information brought to the Contracting Authority's attention, the Contracting Authority may require the Contractor to take steps to resolve or otherwise deal with the conflict or, at its entire discretion, terminate the Contract for default. Conflict means any matter, circumstance, interest, or activity affecting the Contractor, its personnel or subcontractors, which may or may appear to impair the ability of the Contractor to perform the Work diligently and independently.

GC31 International Sanctions

- 31.1 Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the Government of Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries or persons subject to [economic sanctions](#).
- 31.2 The Contractor must not supply to the Government of Canada any goods or services which are subject to economic sanctions.
- 31.3 The Contractor must comply with changes to the regulations imposed during the period of the Contract. The Contractor must immediately advise Canada if it is unable to perform the Work as a result of the imposition of economic sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services. If the Parties cannot agree on a work around plan, the Contract will be terminated for the convenience of Canada in accordance with section 26.

GC32 Code of Conduct for Procurement

The Contractor certifies that it has read the [Code of Conduct for Procurement](#) and agrees to be bound by its terms.

GC33 Harassment in the Workplace

- 33.1 The Contractor acknowledges the responsibility of Canada to ensure, for its employees, a healthy work environment, free of harassment. A copy of the [Policy on the Prevention and Resolution of Harassment in the Workplace](#), which is also applicable to the Contractor, is available on the Treasury Board Web site.
- 33.2 The Contractor must not, either as an individual, or as a corporate or unincorporated entity, through its employees or subcontractors, harass, abuse, threaten, discriminate against or intimidate any employee, contractor or other individual employed by, or under contract with Canada. The Contractor will be advised in writing of any complaint and will have the right to respond in writing. Upon receipt of the Contractor's response, the Contracting Authority will, at its entire discretion, determine if the complaint is founded and decide on any action to be taken.

GC34 Entire Agreement

- 34.1 The Contract constitutes the entire and only agreement between the Parties and supersedes all previous negotiations, communications and other agreements, whether written or oral, unless



they are incorporated by reference in the Contract. There are no terms, covenants, representations, statements or conditions binding on the Parties other than those contained in the Contract.

SECTION III - INTELLECTUAL PROPERTY (IP)

<p>Interpretation</p> <p>1. In the Contract, unless the context otherwise requires:</p> <p>"Background Information" means all Intellectual Property that is not Foreground Information that is incorporated into the Work or necessary for the performance of the Work and that is proprietary to or the confidential information of the Contractor, its subcontractors or any other third party;</p> <p>"Firmware" means computer programs that are stored in integrated circuits, read-only memory or other similar devices within the hardware or other equipment;</p> <p>"Foreground Information" means all Intellectual Property first conceived, developed, produced or reduced to practice as part of the Work under the Contract;</p> <p>"General Conditions" means the general conditions that form part of the Contract;</p> <p>"Intellectual Property" means any information or knowledge of an industrial, scientific, technical, commercial, literary, dramatic, artistic or otherwise creative nature relating to the Work, whether oral or recorded in any form or medium and whether or not subject to copyright; this includes but is not limited to any inventions, designs, methods, processes, techniques, know-how, show-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, manuals and any other documents, Software, and Firmware;</p> <p>"Intellectual Property Right" means any intellectual property right recognized by law, including any intellectual property right protected by legislation such as patents, copyright, industrial design, integrated circuit topography, and plant breeders' rights, or subject to protection under the law as trade secrets and confidential information.</p> <p>"Software" means any computer program whether in source or object code (including Firmware), any computer program documentation recorded in any form or upon any medium, and any computer database, including any modification.</p> <p>2. Canada's primary objective in entering into the Contract is to receive the deliverables contracted for, to be able to use those deliverables, and any Intellectual Property arising by virtue of the for Canada's activities, including future contracts, procurements and to protect or advance the broader public interest. These supplemental general conditions do not affect any existing Intellectual Property Rights in any information belonging to Canada, the Contractor or a third party.</p>	<p>3. For greater certainty, Canada's licenses include, but are not limited to:</p> <p>(a) the right to disclose the Foreground and Background Information to third parties bidding on or negotiating contracts with Canada and to sublicense or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such contracts. Canada will require these third parties and contractors not to use or disclose that information except as may be necessary to bid on, negotiate or carry out those contracts;</p> <p>(b) the right to disclose the Foreground and Background Information to other governments for information purposes;</p> <p>(c) the right to reproduce, modify, improve, develop or translate the Foreground and Background Information or have it done by a person hired by Canada. Canada, or a person designated by Canada, will own the Intellectual Property Rights associated with the reproduction, modification, improvement, development or translation;</p> <p>(d) without restricting the scope of any license or other right in the Background Information that Canada may otherwise hold, the right, in relation to any custom-designed or custom-manufactured part of the Work, to exercise such of the Intellectual Property Rights in the Background Information as may be required for the following purposes:</p> <p>(i) for the use, operation, maintenance, repair or overhaul of the custom-designed or custom-manufactured parts of the Work;</p> <p>(ii) in the manufacturing of spare parts for maintenance, repair or overhaul of any custom-designed or custom-manufactured part of the Work by Canada, if those parts are not available on reasonable commercial terms to enable timely maintenance, repair or overhaul;</p> <p>(e) for Software that is custom designed for Canada, the right to use any source code the Contractor must deliver to Canada under the Contract.</p> <p>4. The Contractor agrees to make the Background Information, including in the case of Software, the source code promptly available to Canada for any purpose mentioned above. The license does not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the Contract. Furthermore, in the case of commercial off-the-shelf software, the Contractor's obligation to make the source code promptly available to Canada applies only to source code that is within the control of or can be obtained by the Contractor or any subcontractor.</p>
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3. Words and expressions defined in the General Conditions and used in these supplemental general conditions have the meanings given to them in the General Conditions. In the event of any inconsistency between the General Conditions and these supplemental general conditions the applicable provisions of these supplemental general conditions will prevail. If the General Conditions include a section on "Copyright", they are amended by deleting the section in its entirety.

4. If supplemental general conditions 4001, 4003 and 4004 are also incorporated in the Contract, the provisions of those supplemental general conditions concerning the ownership of Intellectual Property will prevail in relation to the subject matter of those supplemental general conditions.

5. References in these supplemental general conditions to the Contractor owning the Foreground Information or any rights in it refer to the Contractor, its subcontractors, its suppliers, its agents, its representatives or any of their employees owning such information or rights, as applicable.

Records and disclosure of Foreground Information

1. During and after the performance of the Contract, the Contractor must keep detailed records of the Foreground Information, including details of its creation, ownership and about any sale or transfer of any right in the Foreground Information. The Contractor must report and fully disclose to Canada all Foreground Information as required the Contract. If the Contract does not specifically state when and how the Contractor must do so, the Contractor must provide this information when requested by the Contracting Authority or a representative of the department or agency for which the Contract is performed, whether before or after the completion of the Contract.

2. Before and after final payment to the Contractor, the Contractor must provide Canada with access to all records and supporting data that Canada considers pertinent to the identification of Foreground Information.

3. For any Intellectual Property that was developed or created in relation to the Work, Canada will be entitled to assume that it was developed or created by Canada, if the Contractor's records do not list that Intellectual Property or do not indicate that it was created by the Contractor, or by someone on behalf of the Contractor, other than Canada.

Ownership of Intellectual Property Rights in Foreground Information

1. All Intellectual Property Rights in the Foreground Information belong to the Contractor as soon as they come into existence.

2. Despite the Contractor's ownership of all the Intellectual Property Rights in the Foreground Information, Canada has unrestricted ownership rights in any prototype, model, custom or customized system or equipment that is a deliverable under the Contract,

Contractor's Right to Grant Licenses

The Contractor represents and warrants that it has the right to grant to Canada the licenses and any other rights to use the Foreground and Background Information. If the Intellectual Property Rights in any Foreground or Background Information are or will be owned by a subcontractor or any other third party, the Contractor must have or obtain promptly a license from that subcontractor or third party that permits compliance with section 4 or arrange, without delay, for the subcontractor or third party to grant promptly any required license directly to Canada.

Waiver of Moral Rights

If requested by Canada, during and after the Contract, the Contractor must provide a written permanent waiver of moral rights, as defined in the Copyright Act, R.S., 1985, c. C-42, from every author that contributes to any Foreground Information subject to copyright protection that is a deliverable to Canada under the Contract. If the Contractor is an author of the Foreground Information, the Contractor permanently waives the Contractor's moral rights in that Foreground Information.

License to Intellectual Property Rights to Canada's Information

1. Any information supplied by Canada to the Contractor for the performance of the Work remains the property of Canada. The Contractor must use Canada's Information only to perform the Contract.

2. If the Contractor wants to use any information owned by Canada for the commercial exploitation or further development of the Foreground Information, the Contractor must obtain a license from the department or agency for which the Contract is performed. In its request for a license to that department or agency, the Contractor must explain why the license is required and how the Contractor intends to use the information. If the department or agency agrees to grant a license, conditions will be negotiated between the Contractor and that department or agency and may include the payment of a compensation to Canada.

Transfer or License of Contractor's Rights

1. During the Contract, the Contractor must not sell, transfer, assign or license the Foreground Information without first obtaining the Contracting Authority's written permission.

2. After the Contract, if the Contractor transfer ownership in the Foreground Information, the Contractor is not required to obtain Canada's permission, but must notify the department or agency for whom the Contract is performed in writing of the transfer by referring to the serial number of the Contract and its date and by providing details about the transferee, including the conditions of the transfer. The Contractor must ensure that the transfer requires the transferee to notify the Canada of any future transfer. Any transfer must be subject to all Canada's rights to use the



including manuals and other operating and maintenance documents.

This includes the right to make them available for public use, whether for a fee or otherwise, sell them or otherwise transfer ownership in them.

3. Any personal information, as defined in the Privacy Act, R.S., 1985, c. P-21, collected by the Contractor in the execution of the Work under the Contract becomes the property of Canada immediately upon collection and must be used only for the performance of the Work. The Contractor has no right in any such personal information.

4. If the Work under the Contract involves the preparation of a database or other compilation using information or data supplied by Canada and any personal information referred to above, the Intellectual Property Rights in the database or compilation such information will belong to Canada. The Contractor's Intellectual Property Rights in the Foreground Information are restricted to those capable of being exploited without the use of the information or data supplied by Canada and the personal information.

5. The Contractor must maintain the confidentiality of the information or data supplied by Canada and the personal information as required in the General Conditions. The Contractor must return all the information belonging to Canada on request or on completion or termination of the Contract. This includes returning all hard copies and electronic copies as well as any paper or electronic record that contains any part of the information or information derived from it.

Licenses to Intellectual Property Rights in Foreground and Background Information

1. As Canada has contributed to the cost of developing the Foreground Information, the Contractor grants to Canada a license to exercise all Intellectual Property Rights in the Foreground Information for Canada's activities. Subject to any exception described in the Contract, this license allows Canada to do anything that it would be able to do if it were the owner of the Foreground Information, other than exploit it commercially and transfer or assign ownership of it. The Contractor also grants to Canada a license to use the Background Information to the extent that it is reasonably necessary for Canada to exercise fully all its rights in the deliverables and in the Foreground Information.

2. These licenses are non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free. Neither license can be restricted in any way by the Contractor providing any form of notice to the contrary, including the wording on any shrink-wrap or click-wrap license or any other kind of packaging, attached to any deliverable.

Foreground Information.

3. After the Contract, if the Contractor grants a license or any other right (other than a transfer of ownership) to a third party to use the Foreground Information, the Contractor is not required to notify Canada, but the license or right granted must not affect Canada's rights in any way.

4. If the Contractor at any time transfers ownership of or grants rights in the Foreground Information that interfere in any way with Canada's rights to use the Foreground Information, the Contractor must, if requested by Canada, immediately take all steps necessary to restore Canada's rights. If the Contractor is not successful in doing so, within the time reasonably required by Canada, the Contractor must immediately reimburse Canada for all costs Canada incurs to do so itself.

Transfer of Intellectual Property Rights upon Termination of the Contract for Default

1. If Canada terminates the Contract in whole or in part for default, Canada may, by giving notice to the Contractor, require the Contractor to transfer to Canada all the Intellectual Property Rights in the Foreground Information, including the rights owned by subcontractors. In the case of Intellectual Property Rights in the Foreground Information that have been sold or assigned to a third party, the Contractor must pay to Canada on demand, at Canada's discretion, the fair market value of the Intellectual Property Rights in the Foreground Information or an amount equal to the payment received by the Contractor from the sale or assignment of the Intellectual Property Rights in the Foreground Information.

2. In the event of the issuance of a notice under subsection 1, the Contractor must, at its own expense and without delay, execute such documents relating to ownership of the Intellectual Property Rights as Canada may require. The Contractor must, at Canada's expense, provide all reasonable assistance in the preparation of applications and in the prosecution of any applications for registration of any Intellectual Property Rights in any jurisdiction, including the assistance of the inventor in the case of an invention.

Products created using the Foreground Information

If the Contractor uses the Foreground Information to develop any new product or any improvement in any existing product, the Contractor agrees that, if Canada wishes to purchase such new or improved product, the Contractor must sell them to Canada at a discount off the lowest price for which it has sold those products to other customers, to recognize Canada's financial contribution to the development of those products.



SECTION IV - STATEMENT OF WORK (SOW)

Please refer to Annex A of this solicitation.



SECTION V - PROPOSAL FROM THE FIRM

As per the attached proposal dated or entitled XXX.



ANNEX A - STATEMENT OF WORK

RESEARCH & ANALYSIS SERVICES: STUDY ON THE COST OF FUNDS AND FUNDRAISING ACTIVITIES OF CANADIAN LENDING INSTITUTIONS

A.1 OBJECTIVE

To provide the Tax Policy Branch of the Department of Finance with a thorough descriptive and quantitative analysis of the cost of funds, and the sources of funds raised by lending and credit-providing institutions in Canada used in the normal course of their retail and commercial lending and credit activities.

The final analysis will be presented in a detailed written report.

A.2 BACKGROUND

The application of the GST/HST to financial institutions is a complex policy area and it is important to ensure that rules remain fair and effective. Financial institutions have evolved considerably since the introduction of the GST in 1991 in terms of their transactions, business structures and the funds they acquire and employ in the course of their operations.

The Tax Policy Branch of the Department of Finance wants to obtain a better understanding of how funds are obtained, costed and used by lending and credit-providing institutions in Canada in the normal course of their retail and commercial lending and credit activities.

For the purposes of this RFP:

Fundraising activities by lending institutions generally includes the raising of funds through the acceptance of deposits, the borrowing of funds, the issuance of debt and share capital, as well as the use of internal sources of funding such as retained earnings. See Section A.3.2 for a more specific description of the different funding sources.

Lending institution categories are:

- banks;
- credit unions and caisses populaires;
- credit card companies;
- savings and loan companies;
- payday loan companies;
- mortgage corporations;
- finance and leasing companies and;
- any other institutions that normally lend money or extend credit as a part of their normal business operations.

A.3 SCOPE OF WORK

The Contractor will be tasked with providing a detailed analysis of the cost of obtaining funds and fundraising activities of each lending institution category referenced in Section A.2.



The focus of the report is on the funds used by lending institutions in their retail and commercial lending and credit-providing operations. The Contractor will be expected to provide information on linkages, wherever applicable, between the funds raised and the lending activities and credit services provided by lending institutions. As such, the contractor will be expected to differentiate, if possible, funds typically raised for lending activities and funds raised specifically for non-lending activities (e.g., the issuance of debt instruments solely to finance the acquisition of real property).

The Contractor will be expected to prepare a written report that provides qualitative and quantitative analysis. The report will be comprised of three parts.

A.3.1 Overview of Fundraising

For the first part, the Contractor will be tasked with providing an overview of how lending institutions obtain funds and how they report these activities for accounting and regulatory purposes. The Contractor will be expected to:

- Provide a brief overview of the fundraising process typically employed by each lending institution category, including how the funding needs of the institutions are typically determined, and briefly explain how this process has evolved over the past 20 years. As part of this overview, the Contractor would also be expected to specifically address the following:
 - How corporate structures have evolved to address the fundraising needs of lending institutions and how the role of funds sourced from closely related businesses differs from that of funds sourced from arm's length businesses.
 - Whether new sources of funding have emerged.
 - How the globalization of capital markets has affected the fundraising process and how the fundraising process may differ for funds raised domestically versus funds raised outside Canada.
 - How complex financial instruments and techniques such as derivatives and short-selling are typically used in the fundraising process.
 - How the use of funds ties into the overall fundraising process, including how and when specific funding needs are identified and whether funding needs are typically matched to a specific source of funds.
- Provide a brief overview of the accounting and reporting requirements under the relevant accounting guidelines (e.g., International Financial Reporting Standards or Canadian Generally Accepted Accounting Principles), as well as under federal and provincial requirements/regulations, and briefly describe how these reporting requirements have evolved over the past 20 years.

A.3.2 Cost of Funds

For the second part of the report, the Contractor will be required to prepare a descriptive analysis on the cost of funds specific to each lending institution category referenced in Section A.1 of this Statement of Work.



In circumstances where approaches are similar across the different types of institutions, the Contractor may indicate as such in the report and present a single common approach.

For this part of the report, the Contractor will be expected to:

- Explain the various sources and relative importance of each of the different types of funds and financing for each lending institution category. The Contractor is expected to distinguish, where applicable, funds raised from businesses versus consumers (e.g., deposits) and funds raised from closely related versus arm's length companies. The funding sources under examination will include, but are not necessarily limited to:
 - Deposits
 - Demand deposits
 - Term deposits
 - GICs
 - Borrowing
 - Inter-bank borrowing
 - Syndicated borrowing
 - Other types of borrowing (i.e., repurchase agreements)
 - Debt
 - Bonds
 - Debentures
 - Other fixed income securities
 - Share capital
 - Common shares
 - Preferred shares
 - Warrants
 - Rights
 - Retained earnings
 - Securitization
- Provide an overview and descriptive analysis of the different approaches that may be employed by each lending institution category to calculate the cost of funds used in its lending and credit services, taking into account the above-mentioned funding sources.
- Indicate, if applicable, whether/how specific types of raised funds are specifically earmarked for the provision of loans and credit.
- Explain how fees, commissions, flotation costs and offering price support strategies are typically treated in the derivation of the cost of funds for each lending institution category.
- Indicate, if applicable, whether and what types of funds are raised for regulatory purposes. Explain how such "regulatory capital" affects the overall cost of funds.
- Discuss the relevant risk premiums that apply on each of the lending institution categories' funding sources, explain how those premiums are determined, and discuss any differences across each type of lending institution.



- More generally, analyse the relationship between fluctuations in benchmark interest rates (e.g., Government of Canada long term bond rate, London Interbank Offer Rate) and the cost of funds.
- If applicable, identify any other pertinent factors not mentioned in this section.

A.3.3 Empirical and Quantitative Analysis

For the third part of the report, the contractor will undertake and present the results of a quantitative analysis on the cost of funds, using available data sources and seeking to supplement the data as needed. For this part, the contractor will be expected to estimate the relative weight of each funding source (i.e., debt, equity and other funding sources) and the cost of funds, both on an aggregate basis and for the individual funding sources, as applicable, for each lending institution category¹. Using the most recently available data sources and any supplemental data, as required, the contractor will be specifically tasked with the following:

- For each lending institution category, estimate the average weight of each funding source.
- For each lending institution category, estimate the aggregate weighted average cost of funds (e.g., the weighted average capital cost (WACC)). This includes:
 - Providing estimates and analysis of the aggregate weighted average cost of funds.
 - Estimating the sensitivity of changes in the aggregate weighted average cost of funds to changes in an appropriate benchmark interest rate to provide a sense of how interest rate volatility affects the cost of funds.
 - Estimating the institution's risk premium, and assessing whether the difference in the aggregate weighted average cost of funds and the benchmark interest rate is an appropriate indicator.
 - Providing an assessment of the estimates of the aggregate weighted average cost of funds, and explaining any limitations of the approach.
- For each lending institution category, estimate the cost of equity. This includes
 - Explaining the methodology used for the estimates and explaining any assumptions regarding different parameters used in the calculation.
 - Providing an assessment of the estimates of the cost of equity, and explaining any limitations of the approach.
- For each lending institution category, estimate the cost of debt and preferred shares using the most recent available data. This includes:
 - Explaining the methodology used for the estimates (e.g., assumptions about interest rates, tax treatment of debt).

¹ The Contractor would be expected to provide a detailed description of the methodology used in the development of the cost of funds calculations and the source of information. An overall assessment of the data quality would also be expected.



- Providing an assessment of the estimates of the cost of debt and borrowing, and explaining any limitations of the approach.
- For each lending institution category, estimate the cost of funds for other funding sources (e.g., deposits, retained earnings). This includes:
 - Explaining the methodology used in the estimates.
 - Providing an assessment of the estimates of the cost of other sources of funds, and explaining any limitations of the approach.

A4 PROJECT AUTHORITY

The name of the Project Authority will be released upon contract award.

A5 CLIENT SUPPORT

Finance Canada responsibilities

The Project Authority will:

- 1) Provide comments and feedback on the deliverables;
- 2) Be the main point of contact for the Contractor throughout the duration of the contract;
- 3) Coordinate the relations and communications between the Tax Policy Branch and the Contractor.

The Tax Policy Branch will not provide any document or data to the Contractor in order to complete the Project.

Contractor responsibilities

The Contractor will:

- 1) Assign the Project Lead to be the contact point between the Tax Policy Branch and the Contractor;
- 2) Undertake the Project as per the approved work plan, and deliver the deliverables as per the associated schedule detailed below in Section A.7 of this SOW;
- 3) Communicate promptly with the Project Authority regarding any issue or obstacle that may hinder the Contractor's ability to deliver the deliverables as per the associated schedule.

A6 CONTRACT PERIOD

The contract period shall be from date of contract award to March 31, 2014.



A.7 DELIVERABLES AND ASSOCIATED SCHEDULE

The Contractor must submit the following deliverables no later than the date indicated in the schedule below. The Project Authority will exercise the right to accept or reject each deliverable. The final written report and executive summary, including all associated charts, tables, illustrations and graphs must be provided in both hard-copy and electronic format.

Deliverables	Details	Deadline
Kick-off Meeting	A kick-off meeting will be scheduled to discuss the Project steps going forward.	Within 7 calendar days of contract award
Approval of work plan and methodology	The Contractor must explain its proposed methodology and analysis and present the general outlines of the Project. The Project Authority must be satisfied that the proposed methodology will enable the Contractor to meet the objectives as set out in the Statement of Work.	Within 30 calendar days of contract award
Preliminary report	The Contractor must provide a preliminary report, which includes all major headings and a brief overview of each section	Within 60 calendar days of contract award
Draft written report	The Contractor must remit a draft report to the Project Authority which presents its complete analysis, as detailed in Part 4 "Statement of Work". The Project Authority will provide comments, if any, to the Contractor so that the final report can be submitted	Within 110 calendar days of contract award
Final written report	The Contractor must submit its final written report. The Project Authority must be satisfied that the Contractor has addressed all comments on the draft written report, if applicable	Within 150 calendar days of contract award

A.8 WORK LOCATION

The work will be performed at the Contractor's place of business.

A.9 TRAVEL

No travel is required in the course of the contract and no compensation will be awarded to the Contractor for any travel cost incurred.

A.10 SECURITY REQUIREMENT

There is no security requirement for the Contractor in relation to this contract.



ANNEX B - BASIS OF PAYMENT

The Contractor will be paid in accordance with the following milestone payment schedule.

The Project Authority will exercise the right to accept or reject each deliverable. Invoices will be submitted only after the specified deliverable has been accepted and completed to the satisfaction of the Project Authority.

All written deliverables must be provided in English and in electronic Word format.

Deliverables	Details	Deadline	Percentage of financial proposal	Total Cost
Kick-off Meeting	A kick-off meeting will be scheduled to discuss the project steps going forward.	Within 7 calendar days of contract award	0%	0
Approval of work plan and methodology	The Contractor must explain its proposed methodology and analysis and present the general outlines of the requirement. The Project Authority must be satisfied that the proposed methodology will enable the Contractor to meet the objectives as set out in the Statement of Work.	Within 30 calendar days of contract award	10%	TBD
Preliminary report	The Contractor must provide a preliminary report, which includes all major headings and a brief overview of each section.	Within 60 calendar days of contract award	20%	TBD
Draft written report	The Contractor must remit a draft report to the Project Authority which presents its complete analysis. The Project Authority will provide comments, if any, to the Contractor so that the final report can be submitted.	Within 110 calendar days of contract award	30%	TBD
Final written report	The Contractor must submit its final written report. The Project Authority must be satisfied that the Contractor has addressed all comments on the draft written report, if applicable.	Within 150 calendar days of contract award	40%	TBD