



**Summary of Feedback and Outcomes  
from the  
RFI Process on the  
Polar Epsilon 2 Project  
W8474-14PE02/A**



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## 1. Introduction

Public Works and Government Services Canada (PWGSC) released a Request for Information (RFI) on October 25, 2013 as a first step to inform industry on the possible procurement for the Polar Epsilon 2 Project (PE2), on behalf of the Department of National Defence (DND), and to seek its input in developing the procurement.

PWGSC's release of the RFI represented the first step in the industry engagement process for PE2. Under the RFI, PWGSC sought to:

- inform industry of DND's PE2 requirements;
- obtain industry input for the refinement of the procurement strategy and contractual terms; and,
- obtain industry input for the refinement of the PE2 system requirements.

To focus the industry engagement, the RFI documentation included the PE2 Development Contract Statement of Work (SOW), the System Requirements Specifications (SRS), a draft of the first stage Request for Proposal to Qualify (RFPQ), and specific questions of relevance to PWGSC and DND. The industry engagement process also included the holding of an Industry Day Information Session, and the holding of one-on-one meetings with industry representatives. This document will now report on the outcomes from the industry engagement process for PE2.

## 2. RFI Process

<b>Period of Industry Engagement</b>	Start Date - October 25, 2013 End Date – The date for publication of this “Feedback and Outcomes” document on PWGSC Buy and Sell.
<b>Participants</b>	<ul style="list-style-type: none"> <li>• Thirteen (13) Respondents participated in the RFI process.</li> <li>• Government of Canada PE2 project team members (DND/PWGSC/Industry Canada).</li> <li>• Fairness Monitor (independent third-party observer). The fairness monitor was an independent third party contracted by the Government of Canada for purposes of ensuring that the industry engagement process was conducted in an open, fair and transparent manner.</li> </ul>
<b>Documentation disclosed under the RFI</b>	<ul style="list-style-type: none"> <li>• Draft RFPQ, including first stage evaluation criteria as well as advance notice of select requirements for the second stage solicitation.</li> <li>• Draft SOW and draft SRS, including applicable and reference documents</li> <li>• Draft change requests, industry engagement questions and answers, and the PE2 Industry Day PowerPoint presentation.</li> </ul>
<b>Industry Day Information Session</b>	Twelve (12) Respondents were represented at the Industry Day Information Session. Industry Day was held in Ottawa on November 26, 2013.
<b>One-on-one meetings</b>	Eight (8) “one-on-one meetings” were held with Respondents following the Industry Day Information Session.
<b>Questions and Answers from Industry</b>	114 questions were received from industry for which Canada provided answers and/or clarification.
<b>Responses submitted</b>	<p>The RFI required that written responses be submitted by 03 January 2014. Three (3) firms submitted responses to the RFI. Responses were submitted by Astrium Services (Infoterra GmbH), MDA Systems Ltd., and Orbit Communication Systems Ltd.</p> <p>One response was received after the required date for receipt of responses (03 January 2014), but was not considered.</p>

As part of the Industry Engagement process, the Fairness Monitor engaged by PWGSC participated in the PE2 Industry Day, reviewed updates to the RFI documentation including the publication of Q&As, participated in the PE2-Industry One on One meetings, and as well, participated in the deliberations of the PE2 project team throughout the industry engagement process. Finally, the Fairness Monitor was also provided the opportunity to comment on the findings of this report.

### 3. General Overview of the RFI Process Feedback

This document summarizes the written RFI responses submitted as a result of the industry engagement process. It also summarizes the outcomes for the refinement of the procurement strategy and refinement of the system requirements for PE2. However, this report will not disclose matters or suggestions that have been highlighted by industry as being proprietary. Furthermore, it does not address the questions and answers previously provided during the engagement process. Any requests for the questions and answers previously provided by PWGSC under the PE2 industry engagement process, or the original RFI documentation package may be submitted to the Contracting Authority identified herein.

Overall, Respondents indicated that the draft solicitation documents were relatively mature, but that some key elements required improvement. This input, provided primarily as responses to the specific questions contained in the RFI documentation is detailed in Section 4 below. Furthermore, the outcomes resulting from PWGSC and DND consideration of the input is also detailed in Section 4.

### 4. Summary of Feedback and Outcomes

#### 4.1 Feasibility of procurement for PE2 Project

<b>TOPIC 1 RFI Questions Q1.1 and Q1.2</b>	Contractor capability (by partnership(s) or sub-contracting) to deliver the PE2 System Requirements for each contractual phase.
<b>Feedback</b>	Participants in the PE2 industry engagement process included potential systems integrators, (prime contractors) as well as those expressing interest at a subsystem (subcontractor) level. All Respondents indicated a necessity for teaming. Two of the three written RFI submissions identified team membership.
<b>Outcome/Action</b>	Input confirmed that there exists industry capability to deliver the entire solution across all proposed resulting contracts. No single vendor possesses all capabilities. No specific action is required.
<b>TOPIC 2 RFI Question Q1.3</b>	Concerns about solution feasibility and recommendation on how to improve the system requirements and/or the requested solution.
<b>Feedback</b>	Overall, Respondents confirmed that a solution for the requirements as stated was possible. Respondents suggested minor improvements. As the work includes the integration of two subsystems being provided as Government Furnished Equipment (GFE) from the RADARSAT Constellation Mission (RCM) project, the need for Canada to be able to provide interface specifications and GFE documentation was highlighted.
<b>Outcome</b>	Suggested improvements have been reviewed and considered by the PE2 project team. Some suggestions, such as a multi mission capability and the incorporation of additional sensors were deemed to be out of scope for the PE2 project. Assumptions stated in the RFI responses were also reviewed for purposes of assessing whether clarification was required within the SOW and SRS. Network demarcation points for the Contractor's delivery of processed AIS data have been defined, wherein the Contractor will be responsible for delivery of the processed data to the PE2 system, irrespective of the location of where the AIS Raw Data is processed.
<b>TOPIC 3 RFI Questions Q1.4 and Q1.5</b>	Project Management Methodology used by Respondents in delivering solutions to a client.
<b>Feedback</b>	Respondents indicated that their management methodology and practises are based on ISO standards. Each Respondent indicated that their corporate project management could be tailored and applied to PE2. Responses submitted indicated that industry does have management systems in place for the management of quality, risk, issue identification, and implementation of corrective actions. No specific project management concerns were identified.
<b>Outcome</b>	The Statement of Work specifies that the Contractor must ensure that it has the proper project management practices in place in order to successfully perform the work. It is not considered necessary to dictate a specific methodology or standard to be followed.

#### 4.2 Desirable Requirements for AIS Processing Service

<b>TOPIC 4 RFI Question Q2.1</b>	Feedback was requested on industry's existing capability to reproduce NMEA messages from Class B AIS transmissions from space based monitoring platforms and expected detection performance from a single sensor (including observation time, ships detected over expected number of ships transmitting).
<b>Feedback</b>	Responses submitted by industry provided information on their estimated detection performance, based on simulation. The responses from Industry corresponded to DND's expectations about the maturity of space-based capabilities for detection and decoding of Class B AIS transmissions.
<b>Outcome</b>	After a review of responses, it was determined that there was no action required.
<b>TOPIC 5 RFI Questions Q2.2 to Q2.5</b>	Feedback was requested on industry's existing capability to: <ol style="list-style-type: none"> <li>1- predict ship location, course and speed based on analysis of RF signal attributes from a space based AIS sensor;</li> <li>2- produce data products as a result of RF signal analysis;</li> <li>3- perform RF signal analysis assuming a high rate (765 MB per downlink, i.e., per processing session) of AIS data;</li> <li>4- identify the level of confidence associated with predicting the location of RF signal transmission, and how it is measured.</li> </ol>
<b>Feedback</b>	Respondents identified their technical capabilities to predict ship location based on RF signal attributes. Data products were identified, and information was provided on how they would be generated. Respondents provided information on how they would determine confidence, but numeric levels of confidence were not provided.
<b>Outcome</b>	The desirable requirements were deemed validated. No changes to the System Requirements Specifications are considered necessary.
<b>TOPIC 6 RFI Question Q2.6</b>	Information was requested on proposed service models for AIS processing for the following elements: <ul style="list-style-type: none"> <li>• Class A signal decollision;</li> <li>• Class B signal decollision; and,</li> <li>• RF signal analysis to verify or estimate ship location, course and speed accuracy in comparison to AIS data.</li> </ul>
<b>Feedback</b>	There was no significant differentiation between Class A and Class B signal decollision, except that Class B vessel detection from a spacecraft with a single sensor presents its own challenges. The service model information provided by Respondents added no significant new information to DND's understanding of the capabilities and service models available from Industry. Estimating ship location by RF signal analysis was distinct from the Class A and B signal decollision. Industry did indicate that the lack of a current definitive AIS data policy presents uncertainty from a work requirements perspective, and in turn, this could impact pricing.
<b>Outcome</b>	Should the implementation of CSA's data policy on AIS be a GoC regulation for which entities receiving and processing AIS data must comply, any resultant contract price will be adjusted to reflect any increase or decrease in the Contractor's cost in performance of the Work, which directly results from the implementation of CSA's data policy on AIS. However, there will be no adjustment to the contract price if public notice on the implementation of the data policy is given before the date of bid submission. This is based on the assumption that any public notice would provide sufficient detail that would permit a Contractor to calculate the cost impact of the implemented data policy.

#### 4.3 Solution Delivery for PE2 Project

<b>TOPIC 7 RFI Questions Q3.1 to Q3.4</b>	Feedback was requested on: <ol style="list-style-type: none"> <li>1- Delivery of the solution in accordance with the contract milestones for each of the Development and Integration Contracts that were identified in the SOW.</li> <li>2- Earlier delivery of the proposed solution.</li> <li>3- Would there be, and to what extent, a cost associated with such a modification.</li> </ol>
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<b>Feedback</b>	<ol style="list-style-type: none"> <li>1- Respondents confirmed that the proposed solution could be delivered in accordance with the milestone schedules for each of the Development and Integration Contracts, as was presented in the SOW.</li> <li>2- Suggestions for early delivery were provided, some of which were based on how the work could be performed, and some based on Canada altering its project and contract approval processes.</li> <li>3- Areas in which cost savings could result from schedule acceleration were identified. It was noted that the current draft contracts do not provide any incentive mechanism for early delivery. No quantified information was provided on potential savings, or on the cost of schedule reduction incentives.</li> </ol>
<b>Outcome</b>	Throughout the Development and Integration contracts, Canada is required to provide GFE to the Contractor, in order for the Contractor to be able to perform the work. Schedule acceleration by the Contractor will only provide benefit to Canada, if Canada is also able to accelerate delivery of its GFE to the Contractor. Otherwise, there would likely be periods of downtime, where the Contractor would be waiting on Canada to deliver its GFE. As Canada may not be able to accelerate the delivery of its GFE to the Contractor, it was determined that there would be little merit in introducing delivery based incentives within the Basis of Payment for these contracts.
<b>TOPIC 8 RFI Question Q3.5</b>	Feedback was requested on industry's ability to provide a Commercial Off the Shelf solution for rules-based association of SAR and AIS data points for ship detection, including the production of ship detection reports in a customized format.
<b>Feedback</b>	Respondents confirmed their ability to provide customized COTS solutions for the PE2 Association Software requirements. Respondents have also outlined that these "custom solutions" have been used with success under previous projects and can be adapted for the PE2 project.
<b>Outcome</b>	Association Software is currently GFE that is being developed by DND. However, the solicitation document will permit industry to propose its own Association Software solution as an option.
<b>TOPIC 9 RFI Question Q3.6</b>	Feedback was requested on software design/development standards that could be applied in performance of the work.
<b>Feedback</b>	Information was provided by Industry about the software design/development standards used/proposed. It seems that there is no single standard that is being used by Industry.
<b>Outcome</b>	The quality standards identified within the solicitation documentation for software design, development or maintenance of software are being updated to ISO/IEC 90003:2004.

#### 4.4 Basis of Payment (BOP) for PE2 Project

<b>TOPIC 10 RFI Questions Q4.1 to Q4.7</b>	<p>Feedback was requested on:</p> <ol style="list-style-type: none"> <li>1- Concerns about the proposed Basis of Payment for each resulting Contract;</li> <li>2- Price models for AIS processing;</li> <li>3- Estimated costs for performance of the work under the resulting Contracts;</li> <li>4- Models to be applied for estimating future costs for Long Term O&amp;M Contracts if extended for the life of the RCM Satellites; and,</li> <li>5- Alternate Bases of Payment for the long term O&amp;M Contracts.</li> </ol>
<b>Feedback</b>	<p>The only Basis of Payment for which industry expressed a concern was under the proposed ceiling price Basis of Payment for the Development Contract. Industry noted that as the Development Contract includes the supply, installation, integration, and test of the Reception Subsystem which is primarily commercial goods and services, it would be unusual for that part of the work to be subject to a ceiling price and suggested that this be done under a firm price. It was also suggested that the Long Term Maintenance Contract provide for exchange rate fluctuations as well as the inclusion of inflation adjustment on purchased goods and services.</p> <p>Limited information was provided in respect of the pricing models for AIS processing. Data volumes and data sharing were highlighted as considerations in the pricing of AIS data processing.</p> <p>Only one of the RFI written responses included cost data.</p>

	<p>It was suggested that Canada use the task authorization provisions under the Long Term Maintenance Contract to address time-based risks such as obsolescence and technology refresh.</p> <p>Suggestions were made for alternate approaches in the conduct of the work under the Long Term Operations and Maintenance Contracts. The suggestions were considered to be in the solution space, and as such, deemed proprietary.</p>
<b>Outcome</b>	<p>The Basis of Payment under the Development Contract is being amended to provide for the supply, installation, integration, and test of the Reception Subsystem to be done on a firm price basis, in lieu of a ceiling price. Under the Long Term Maintenance Contract, CPI adjustment will now be provided for any non-labour component within the all inclusive monthly maintenance rate.</p> <p>RFI results demonstrate that operations and maintenance costs present financial risk, both long term and under the Integration Contract. Solicitation documentation will require "Not to Exceed" and "Not to Exceed" annual estimates to be provided in order to convey these costs to Treasury Board, for the complete life cycle of PE2. Maximums (mandatory) for "Not to Exceed" estimates will be specified.</p>
<b>TOPIC 11 RFI Questions Q4.8 and Q4.9</b>	<p>Feedback was requested on whether:</p> <ol style="list-style-type: none"> <li>1- Canada's use of processed data would impact pricing.</li> <li>2- the Contractor's use of RAW and/or processed data (for distribution to a third party) would impact pricing for Canada</li> </ol>
<b>Feedback</b>	<p>Respondents indicated that Canada's sharing of data outside of the Government of Canada may impact pricing. However, the responses did not identify any graduated sharing structure, nor did they quantify the impact that sharing data would have on contract pricing.</p> <p>Respondents noted that the draft contracts do not grant the Contractor any rights in respect of the data downloaded from the RCM satellites and processed by the PE2 System. The impact that Canada's granting of data rights to the Contractor would have on contract pricing was also not quantified.</p>
<b>Outcome</b>	<p>The Basis of Payment for the resulting Long Term Operations Contract, as well as under the Integration Contract for the two years of interim In Service Support, detail Canada's proposed level of sharing for the Canadian Recognized Maritime Picture and the data it will contain in respect of processed AIS data. Furthermore, the solicitation documentation will specify Canada's maximum funding amounts (mandatory) for operations and maintenance services, including AIS processing services, under the Integration Contract for the two years of interim In Service Support and the first 3 years of the Long Term Operations and Maintenance Contracts.</p> <p>Provision is made for price adjustment, should the promulgation of Canada's SAR and AIS data policies impact performance of the Work, provided that public notice on the content of the policies is not provided prior to the date of contract award.</p>
<b>TOPIC 12 RFI Questions Q4.10 and 4.11</b>	<p>Feedback was requested on:</p> <ol style="list-style-type: none"> <li>1- how early in the Development Contract can Integration Contract pricing be provided?</li> <li>2- the impact, if any, on the risk allocation by providing pricing earlier.</li> </ol>
<b>Feedback</b>	<p>Respondents indicated that the ability to provide pricing is contingent upon the stability of the Integration Contract SOW and specifications</p>
<b>Outcome</b>	<p>There was no action required following assessment of the responses.</p>

#### 4.5 Procurement Strategy Process for PE2 Project

<b>TOPIC 13 RFI Question Q5.1</b>	<p>Feedback was requested on concerns about the procurement clauses and conditions to be used during the solicitation stage or under any resulting contracts.</p>
<b>Feedback</b>	<p>Suggestions included :</p> <ul style="list-style-type: none"> <li>- earlier notification, should Canada wish to exercise options for the extension of operations and maintenance services under the Integration as well as the Long Term Operations and Maintenance Contracts;</li> <li>- third party representatives of Canada requiring access to the work should meet any</li> </ul>

	<p>security and regulatory requirements applicable to the work;</p> <ul style="list-style-type: none"> <li>- the Foreground Information ownership provisions relating to software developed under the Long Term Operations Contract are not necessary as no software development is anticipated under that contract; and,</li> <li>- termination provisions governing satellite failure should be removed as Canada could still be receiving partial data.</li> </ul>
<b>Outcome</b>	<p>Procurement clauses have been updated to reflect an earlier option notification provision, as well as having third party representatives meeting security and regulatory requirements.</p> <p>The suggested change concerning software development under the Long Term Operations Contract has not been implemented on account of the possibility for the Contractor to be tasked to implement PE2 System upgrades under the task authorized portion of the Contract.</p> <p>The suggested change concerning the termination provisions have also not been implemented, as the clause does not preclude negotiation of an amended scope of work in the event that data continues to be provided, in the event of a partial RCM failure.</p>
<b>TOPIC 14 RFI Question Q5.2</b>	<p>Feedback was requested on any concerns which Respondents may have regarding the licensing and/or intellectual property (IP) clauses to be used in any of the resulting contracts.</p>
<b>Feedback</b>	<p>Responses submitted were varied. They included proposed changes to intellectual property clauses under the resulting contracts concerning Background Information. It was also indicated that the onus should be on Canada to provide necessary interface specifications and technical documentation on the GFE subsystems being provided to PE2 by RCM project.</p>
<b>Outcome</b>	<p>The resulting contracts require the Contractor to design, build, operate and maintain a solution that will be integrated with GFE being provided by the RCM contractor (MDA Systems Ltd), as part of its work under the RCM project. The RCM contracts provide Canada with limited IP rights, which permit disclosure as follows:</p> <p>RCM B/C Contract      Canada holds IP disclosure rights on RCM Ground Segment Background Information that forms part of the Work performed under the Contract in accordance with PWGSC General Conditions 9624 (2007-05-25) – Research and Development. Furthermore, Canada holds IP disclosure rights on RCM Ground Segment Foreground Information Work in accordance with PWGSC General Conditions 9624 (2007-05-25) – Research and Development. A non-disclosure agreement is required to be in place. Under this Contract, Ground Segment Foreground Information does not extend beyond preliminary design.</p> <p>RCM D/E1 Contract      RCM Space Segment Foreground Information and RCM Space Segment background information owned by MDA Systems Ltd. that forms part of the Work performed under the Contract cannot be disclosed by Canada.</p> <p>RCM D/E1 Contract      Canada also has IP disclosure rights on RCM Ground Segment Foreground Information similar to those specified for B/C. A non-disclosure agreement is required to be in place. RCM Ground Segment Background Information owned by MDA Systems Ltd cannot be disclosed outside of the Government of Canada. RCM Space Segment Foreground Information and RCM Space Segment background information owned by MDA Systems Ltd. that forms part of the Work performed under the Contract cannot be disclosed by Canada.</p> <p>Canada makes no assertion that any documentation that it can provide pursuant to the above rights will be sufficient for any vendor to successfully perform its work under the resulting PE2 contracts. This is particularly significant for the GFE integration work under the resulting PE2 Development and Integration Contracts. At this time, the RCM Ground Segment Critical Design Review (CDR) has not been achieved under the RCM D/E1 Contract. The bid period for PE2 will need to be completed before the RCM Ground Segment CDR is achieved; (estimated for December 2015). Furthermore, when the CDR is achieved, Canada cannot provide any assurance that the documentation which it will have a right to disclose will be sufficient for a contractor to successfully perform the necessary GFE integration work. It is for this reason that the RFPQ provided as part of the industry engagement process included mandatory evaluation terms which required that the Respondent, or a member of its team</p>



	<p>either own, or have a license for, intellectual property rights to proprietary or confidential RCM Contractor Background Information (under the RCM B/C and RCM D/E1 Contracts), as well as RCM Space Segment Foreground Information (under the RCM B/C and RCM D/E1 Contracts). These criteria were intended to ensure that any contractor performing the PE2 work possess sufficient information and documentation to successfully perform the work, whether that information be provided by Canada pursuant to its rights under the RCM Contracts, or that information be provided by MDA Systems Ltd under a license between it and a team member of the successful bid.</p> <p>During the industry engagement process, PWGSC was asked if it would be providing all necessary information and documentation that a bidder may require in order to incorporate the RCM provided GFE. Otherwise, the licensing requirements could provide an advantage to the RCM Contractor, as a potential bidder. PWGSC has not agreed to this request on the grounds that:</p> <ul style="list-style-type: none"> <li>- it cannot ensure that the information for which it does possess disclosure rights is sufficient for any bidder's purposes;</li> <li>- it does not have the ability to obligate the RCM Contractor to provide information that may be outside of that for which Canada possesses disclosure rights; and,</li> <li>- any rights which Canada would need to acquire in order to provide GFE documentation and information which is outside of Canada's current licenses would not negate any potential advantage of the RCM Contractor in competitive bidding.</li> </ul> <p>Furthermore, PWGSC is of the opinion that any potential competitive advantage that the RCM Contractor may hold in competitive bidding is part of the normal ebb and flow of business. The role of PWGSC is to ensure that the evaluation criteria used in competitive bidding properly reflects only those elements deemed necessary for assuring the successful conduct of the work. Beyond that, it is for bidders to take the necessary steps to assure that criteria be met.</p> <p>PWGSC was also advised by one of the Respondents to the RFI that in the event that the intellectual property rights issue not be resolved, then the competitive procurement would actually be a "disguised sole source".</p> <p>As indicated under Section 2, three responses were received, and of which two addressed the RFI questions in detail. However, there was no indication of licensing amongst industry commensurate with the Intellectual Property evaluation criteria included with the terms of the draft competitive RFPQ. The absence of information indicating that licensing could be achieved indicates that a competitive procurement strategy may be inappropriate. As such, PWGSC is reconsidering the procurement strategy for the project. It is considering seeking the necessary authorities for a non-competitive procurement with the proposed contractor being MDA Systems Ltd.</p>
<p><b>TOPIC 15 RFI Question Q5.3</b></p>	<p>Feedback was requested on concerns or comments about the evaluation criteria, identified under Attachment 2 – Evaluation Criteria, of the RFP(Q).</p>
<p><b>Feedback</b></p>	<p>A number of minor suggestions were submitted, in respect of the evaluation criteria identified in Attachment 2 of the RFPQ. Requested changes included:</p> <ul style="list-style-type: none"> <li>i the evaluation of experience possessed by affiliate organizations;</li> <li>ii Project Manager experience;</li> <li>iii Clarity of experience requirements for the processing of AIS data;</li> <li>iv Scope parameters for the project manager and lead engineer experience</li> <li>v Systems Integration experience; and ,</li> <li>vi the specification of minimum direct IRBs.</li> </ul> <p>It was also suggested that Canada provide to the successful bidder, all interface specification and technical documentation necessary for integration of the two subsystems being provided as GFE by the RCM project to PE2; (the RAS and PGS subsystems). Under this scenario, the Intellectual Property evaluation criteria (Criteria M.4.2, M.4.3, and M.4.4) would not be required, as these criteria place the onus on the Respondent to either own or have a license to intellectual property necessary for the successful integration of the PE2 System with RCM, as well as the successful integration of RCM furnished subsystems into PE2</p> <p>For ease of reference, the text of Evaluation Criteria M.4.2, M.4.3, and M.4.4 are attached at Annex "A".</p>
<p><b>Outcome</b></p>	<p>In the event that the competitive procurement of PE2 is maintained, PWGSC is agreeable to requested changes (i. – v.) above. Furthermore, a minimum level of IRBs will be specified in accordance with the Defence Procurement Strategy recently announced by PWGSC. On</p>

	the matter of intellectual property, PWGSC is of the opinion that under the scenario of competitive procurement, the onus for obtaining intellectual property licenses as detailed under Evaluation Criteria M.4.2, M.4.3, and M.4.4 must remain with the Respondent.
<b>TOPIC 16 RFI Question On IRBs</b>	Feedback was requested on the Industrial and Regional Benefits (IRB) Requirements.
<b>Feedback</b>	Respondents indicated that IRB obligations could be achieved. Estimated direct IRBs were provided for each of the Development and Integration Contracts. It was also indicated that the required 15% participation of small and medium enterprises would be difficult to attain.
<b>Outcome</b>	Based on the announcement on 09 February 2014 by the Minister of PWGSC concerning the Defence Procurement Strategy, the IRB requirements as specified in the draft RFPQ will be evolving. The outcome has not yet been finalized.

## 5. Conclusion

Overall, Industry feedback contributed to the improvement of the procurement documentation. However, the input received from RFI responses submitted in respect of the intellectual property evaluation criteria prompted a re-examination by PWGSC and DND of the current competitive process for the procurement of PE2. The conclusion drawn from that re-examination is that in the absence of intellectual property licensing within industry to facilitate the successful integration of the PE2 System with RCM, as well as the successful integration of RCM furnished subsystems into PE2, only MDA Systems Ltd. is considered capable of performing the work.

As this represents a significant change in the procurement strategy for PE2, industry is being provided the opportunity to present additional information on the matter of intellectual property licensing. In particular, information is being sought which may demonstrate that licensing amongst industry members of RCM Background Information and RCM Space Segment Foreground Information can be achieved. This licensing is required to facilitate the successful integration of the PE2 System with RCM, as well as the successful integration of RCM furnished subsystems into PE2.

As stated at the outset of the report, the Fairness Monitor was provided the opportunity to review the findings of this report. In that regard, the Fairness Monitor advised that the report was consistent with the notes and observations of the Fairness Monitor and the Fairness Monitor had no additional fairness observations which might prevent the publication of the report and the initiation of the actions indicated in the report.

## 6. Next steps

Any firm wishing to submit additional information which demonstrates that licensing of RCM Background Information and RCM Space Segment Foreground Information can be achieved amongst industry members to facilitate the successful integration of the PE2 System with RCM, as well as the successful integration of RCM furnished subsystems into PE2, must do so prior to 25 July 2014. Any additional information must be submitted to the Contracting Authority identified below.

It should also be noted that this invitation for the submission of additional information is limited to the intellectual property licensing provisions only, and that PWGSC is not seeking new or additional RFI responses.

The PE2 Project team members wish to thank Industry for taking part in this Industry Engagement Process.

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**Annex "A"**  
**Draft RFPQ (25 October 2013) Evaluation Criteria (Intellectual Property Ownership or Licensing)**

**M.4.2 Intellectual Property**

The following Applicable and Reference Documents form part of the documents listed in Section 2 of **Annex "A-1"** - PE2 System Requirements Specifications:

- B. RCM System Concept of Operations (CONOPS) Version 4.0
- Q. RADARSAT Constellation Mission Ground Segment Requirements Prescribed by the Remote Sensing Space Systems Act & Regulations draft 2 (Government of Canada internal use only document 24 January 2012
- AG. RCM-SP-53-0419, RCM Image Product format Definition, Issue 1/2, January 30 2012
- AH. RCM-DD-52-8796, RCM Ground Segment Design Document, Issue 1.4, March 30 2012
- AM. CSA-RC-RD-0002 Canadian Space Agency RADARSAT Constellation Mission Requirements Document (MRD) Revision F February 2013;

and may each contain Background Information<sup>\*1</sup> which is proprietary to, or the confidential information of the RCM Contractor, (MDA Systems Ltd, Richmond, BC), its subcontractors, or any other third party, and for which Canada does not possess disclosure rights. Furthermore, Background Information<sup>\*1</sup> which is proprietary to, or the confidential information of the RCM Contractor may be required to perform the Work under each resulting PE2 contract detailed herein. As such, the Respondent must provide a signed certification that it, or a member of its team, possesses Intellectual Property Rights<sup>\*2</sup> in Background Information<sup>\*1</sup> which is proprietary to, or the confidential information of the RCM Contractor for the purposes of performing the Work under each resulting PE2 contract detailed herein. The Respondent must provide the certification detailed in Attachment 3, Clause 1.8.

It is also anticipated that RCM Space Segment Foreground Information<sup>\*4</sup> developed by the RCM Contractor under the RCM Project "Phase D and E1" contract between Canada and the RCM Contractor will be required for performance of the Work under each resulting PE2 contract detailed herein. Canada does not currently possess rights for disclosure of this Foreground Information to industry. As such, the Respondent must provide a signed certification that it, or a member of its team, possesses Intellectual Property Rights<sup>\*2</sup> in RCM Space Segment Foreground Information developed by the RCM Contractor under the RCM Project "Phase D and E1" contract between Canada and the RCM Contractor.

<sup>\*1</sup> For the purposes of this criterion, Background Information means any and all Intellectual Property<sup>\*3</sup> as may be contained or referenced in the above listed documentation, and which existed prior to:

- a) 09 January 2013, for documents identified as having been produced under the RCM Project "Phase D and E1" contract between Canada and the RCM Contractor; and,
- b) 14 November 2008, for documents identified as having been produced under the RCM Project "Phase B/C" contract between Canada and the RCM Contractor;

and which is proprietary to, or the confidential information of the RCM Contractor or any of its subcontractors or any other party.

<sup>\*2</sup> For purposes of this criterion, "Intellectual Property Rights" has the same meaning as provided in Supplemental General Conditions 4006 (2010-08-16) - Contractor to Own Intellectual Property Rights in Foreground Information, as modified herein.

<sup>\*3</sup> For the purposes of this criterion, "Intellectual Property" means any information or knowledge of an industrial, scientific, technical, commercial, literary, dramatic, artistic or otherwise creative nature relating to the RCM Project "Phase B/C" or "Phase D and E1" contract work, whether or not subject to copyright; and 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.

<sup>\*4</sup> For the purposes of this criterion, "RCM Space Segment Foreground Information" has the same meaning as provided in Part 1 of this RFPQ.

**Annex "A"**  
**RFPQ Evaluation Criteria (Intellectual Property Ownership or Licensing)**

**M.4.3 Evidence of Intellectual Property Ownership or License**

The Respondent must identify the basis on which it, or a member of its team, possesses:

1. Intellectual Property Rights<sup>2</sup> to proprietary or confidential RCM Contractor Background Information<sup>1</sup>; and,
2. RCM Space Segment Foreground Information<sup>4</sup> developed by the RCM Contractor under the RCM Project "Phase D and E1" contract between Canada and the RCM Contractor.

The Respondent Team Members which possess Intellectual Property Rights<sup>2</sup> to proprietary or confidential RCM Contractor Background Information<sup>1</sup> are:

*(Respondent to identify team member(s) possessing above Intellectual Property Rights<sup>2</sup>)*

The basis for the above team member(s)' Intellectual Property Rights<sup>2</sup> to:

1. Intellectual Property Rights<sup>2</sup> to proprietary or confidential RCM Contractor Background Information<sup>1</sup>; and,
2. RCM Space Segment Foreground Information<sup>4</sup> developed by the RCM Contractor under the RCM Project "Phase D and E1" contract between Canada and the RCM Contractor;

is as indicated below: (The Respondent is to mark the appropriate box with an "X".)

- Ownership  
 License (s)

Where the Respondent has indicated that the basis for its Intellectual Property Rights<sup>2</sup> to the above Background and Foreground Information have been established by license, the Respondent must, at the closing date and time specified on Page 1, provide a copy of the applicable license agreement signed by the RCM Contractor and the Respondent.

**M.4.4 Terms of Intellectual Property License**

Where the Respondent has indicated under Evaluation Criterion M.4.3 that the basis for its Intellectual Property Rights<sup>2</sup> to:

1. Proprietary or confidential RCM Contractor Background Information<sup>1</sup>; and,
2. RCM Space Segment Foreground Information<sup>4</sup> developed by the RCM Contractor under the RCM Project "Phase D and E1" contract between Canada and the RCM Contractor.

have been established by license, the license provided must, as a minimum, include all of the following terms:

- The license(s) must be valid for at least the complete period of each and all resulting PE2 contracts, and any extension thereto;
- The license(s) must grant to the Respondent and its team, the right to use the Background Information for the purpose of carrying out each and all resulting PE2 contracts; and,
- The license(s) must grant to the Respondent, the right to disclose to, and sublicense or otherwise authorize the use of the Background Information by any of its team members, or any other contractor engaged by the Respondent for the purpose of carrying out each and all resulting PE2 contracts.

For the purposes of this evaluation criterion, "each and all resulting PE2 contracts" refers to the resulting Development Contract, the resulting Integration Contract, the resulting PE2 Long Term Operations Contract, and the resulting Long Term PE2 Maintenance Contract, all as described in this RFP(Q).