



Procurement Hub, Fredericton Office
301 Bishop Drive
Fredericton, NB
E3C 2M6

July 14, 2014

Subject: Request for Proposal: **F5211-140220**

**Abundance inventory and assessment of area of suitable habitat for Eastern Sand
Darter in six Quebec watercourses**

Dear Sir/Madam:

The Department of Fisheries and Oceans has a requirement for these services to be carried out in accordance with the **Statement of Work** attached hereto as **Appendix "C"**. The services and the final report are required during the period commencing upon contract award and **15 March 2015** as stated in the Statement of Work.

Option to extend the Contract:

The Contractor grants to Canada the irrevocable option to extend the term of the Contract by two (2) additional one (1) year periods under the same conditions. The Contractor agrees that, during the extended period of the Contract, it will be paid in accordance with the applicable provisions as set out in the Basis of Payment. The area covered for the additional periods is from the Lake St. Pierre sector to the Missisquoi Bay of Lake Champlain.

Canada may exercise these options at any time by sending a written notice to the Contractor at least thirty (30) calendar days before the Contract expiry date. These options may only be exercised by the Contracting Authority, and will be evidenced for administrative purposes only, through a contract amendment.

If you are interested in undertaking this project, your electronic proposal clearly indicating the title of the work and addressed to the undersigned will be received up to **2 pm (14:00 Hours) Atlantic Time on 30 July 2014**.

Proposals in response to this Request for Proposals shall be comprised of two (2) volumes (sections) as follows:

- a) **CONTENT: VOLUME 1 – TECHNICAL PROPOSAL (MANDATORY)**
one (1) electronic copy
- b) **CONTENT: VOLUME 2 – FINANCIAL PROPOSAL (MANDATORY)**
one (1) electronic copy

Your proposal is required in sufficient detail to form the basis of a contractual agreement and address the elements enumerated below.

Section I: Technical Proposal (with no reference to price)

PROPOSAL – ANNEX 2

Your proposal must include:

- 1. An indication of an understanding of the requirement and objectives of the project;
- 2. An indication of previous projects of a similar nature successfully completed by the firm; technical information, including a listing and description of these projects with commencement and termination dates and for whom the work was performed;
- 3. A statement of the name under which the firm is legally incorporated and a Statement of the Canadian and/or foreign ownership of the firm, if applicable, and;

Section II: Financial Proposal

- 1. A breakdown of the costs tendered including a breakdown of the Professional Services and Associated Costs, which indicates the per diem rates (inclusive of overhead and profit) and the number of days assigned; associated costs including, but not limited to, travel and accommodation costs, long distance charges, reproduction costs, courier services, etc.

Proposals will be evaluated in accordance with the Evaluation Criteria attached as Appendix "D".

OFFERS WHICH DO NOT CONTAIN THE ABOVE-MENTIONED DOCUMENTATION OR WHICH DEVIATE FROM THE PRESCRIBED COSTING FORMAT WILL BE CONSIDERED INCOMPLETE AND NON-RESPONSIVE AND RISK BEING REJECTED IN THEIR ENTIRETY.

If additional information is required, you are requested to contact me at the telephone number and e-mail address below.

NOTE: BIDDERS SHOULD NOTE THAT ALL QUESTIONS REGARDING THIS REQUEST FOR PROPOSALS MUST BE SUBMITTED IN WRITING, **NO LATER THAN 24 JULY 2014** TO THE CONTRACT AUTHORITY. THE DEPARTMENT WILL BE UNABLE TO RESPOND TO QUESTIONS SUBMITTED AFTER THAT DATE.

The Department will not necessarily accept the lowest or any proposal submitted.

Yours Truly,

Jean-Yves Hamel

Senior Contracting Officer

Procurement Hub - Fredericton Office

Materiel and Procurement Services - Financial and Materiel Management Operations

301 Bishop Drive, Office # 105

Fredericton, NB, E3C 2M6

Fisheries and Oceans Canada

Government of Canada

Telephone: 506-452-4047

Facsimile: 506-452-3676

E-mail: DFOtenders-soumissionsMPO@dfo-mpo.gc.ca

Attach.

APPENDICES

REQUEST FOR PROPOSAL

**Abundance inventory and assessment of area of suitable habitat for Eastern Sand
Darter in six Quebec watercourses**

1. Letter of Invitation
2. Annex 1 Resulting Contract Clauses
3. Appendix "A" General Conditions – Professional Services
4. Appendix "B" Basis of Payment
5. Appendix "C" Statement of Work
6. Appendix "D" Evaluation Criteria
7. Appendix "E" Bidder Instructions
8. Envelope Template

Department of Fisheries and Oceans

Bid Closing Date: 30 July 2014
Time: 2 pm (14:00 Hours) Atlantic Time
Financial Coding: 3B800-36B-17R-4105-9S187-6
RFP File No: F5211-140220

ANNEX 1 – RESULTING CONTRACT CLAUSES

**Abundance inventory and assessment of area of suitable habitat for Eastern Sand
Darter in six Quebec watercourses**

1. PROPOSAL SUBMITTED BY:

(Complete Name and Address)

2. PERFORMANCE OF WORK

The Undersigned (hereinafter referred to as "the Contractor") hereby offers to Her Majesty the Queen in Right of Canada, (hereinafter referred to as "Her Majesty") as represented herein by the Minister of Fisheries and Oceans (hereinafter referred to as "the Minister") to furnish all necessary labour, supplies, superintendence, plant, tools, appliances, equipment, supplies and other accessories, services and facilities necessary to assist in the performance of the following services:

3. CONTRACTUAL DOCUMENTS

The Contractor hereby undertakes to perform and complete the work at the place and in the manner set out in accordance with the following documents which, upon acceptance of the Resulting Contract Clauses Form, will form part of the contract:

1. Annex 1 – Resulting Contract Clauses duly completed and signed;
2. Document marked Appendix "A", Conditions" attached hereto or referenced entitled "General Conditions";
3. Document marked Appendix "B", attached hereto, or referenced entitled "Terms of Payment";
4. Document marked Appendix "C", attached hereto, or referenced entitled "Statement of Work";
5. Annex 2 - Proposal.

4. SECURITY

There is no security requirement applicable to this Contract.

5. DISCREPANCIES

In the event of discrepancies, inconsistencies, or ambiguities of wording of these documents, the wording of the document that first appears on the above list shall prevail over the wording of a document subsequently appearing on the list.

6. CONTRACT PERIOD

The required services and the final report are required during the period commencing upon contract award and **15 March 2015** as detailed in the Statement of Work

OPTION TO EXTEND THE CONTRACT

The Contractor grants to Canada the irrevocable option to extend the term of the Contract by two (2) additional one (1) year periods under the same conditions. The Contractor agrees that, during the extended period of the Contract, it will be paid in accordance with the applicable provisions as set out in the Basis of Payment. The area covered for the additional periods is from the Lake St. Pierre sector to the Missisquoi Bay of Lake Champlain.

Canada may exercise these options at any time by sending a written notice to the Contractor at least thirty (30) calendar days before the Contract expiry date. These options may only be exercised by the Contracting Authority, and will be evidenced for administrative purposes only, through a contract amendment.

7. TENDERED PRICES

PROFESSIONAL SERVICES AND ASSOCIATED COSTS

The contractor will be paid for the preparation of the field phase, assessment of area of suitable habitat (sand banks), assessment of Eastern Sand Darter abundance in suitable habitat, data analysis, and presentation of the results in a report in accordance with the protocol of Annex C.

7.1 Contract Period (Award to 15 July 2015)

For the provision of all professional services, including all associated costs necessary to carry out the required work:

TOTAL ESTIMATED VALUE OF CONTRACT \$ _____ + GST/HST

7.2 Option Year 1 (16 July 2015 to 15 July 2016)

For the provision of all professional services, including all associated costs necessary to carry out the required work:

TOTAL ESTIMATED VALUE OF CONTRACT \$ _____ + GST/HST

7.3 Option Year 2 (16 July 2016 to 15 July 2017)

For the provision of all professional services, including all associated costs necessary to carry out the required work:

TOTAL ESTIMATED VALUE OF CONTRACT \$ _____ + GST/HST

For Financial Evaluation purposes:

Financial proposals evaluation is on firm contract period and both optional periods (Aggregate amount).

8. GOODS AND SERVICES TAX (GST) / HARMONIZED SALES TAX (HST)

8.1 GST/HST is excluded from the prices(s)/rates quoted herein. Any amount to be levied against Her Majesty in respect of the GST/HST as is applicable is to be shown separately on all invoices for goods supplied or services provided and will be paid by the Government of Canada. The Contractor agrees to remit any GST/HST as is applicable, paid or due to Canada Customs and Revenue Agency.

9. SUBMISSION

The Contractor submits herewith the following:

- a) ANNEX 1 Resulting Contract Clauses;
- b) APPENDIX "B" Terms of Payment, completed and signed;
- c) ANNEX 2 Proposals

The Contractor, by completing and signing Annex 1, recognises that the above noted documents form part of the Request for Proposal and that proposals which do not contain the above noted documents will be considered incomplete and risk being rejected.

10. IRREVOCABLE OFFER

10.1 The Contractor submits the Total Estimated Tendered Price listed in Article 7 on the full understanding that this Total Estimated Tendered Price represents an irrevocable offer by the Contractor. Furthermore, the Contractor hereby certifies that the tendered prices are based on the Contractor's most preferred rates.

10.2 The Contractor hereby agrees that this Request for Proposal shall remain open for acceptance by the Minister for a period of sixty (60) days from the proposal closing date (hereinafter referred to as the "Acceptance Period"). In the event the Minister deems it necessary to extend the Acceptance Period, he shall, prior to the expiration of such period, notify the Contractor by written notice to that effect, whereupon the Contractor shall have five (5) days from the date of receipt of such written notice to, in writing, either accept the required extension as referred to in the Ministerial notice or withdraw its proposal.

10.3 In the event the Contractor accepts the requested extension, the Acceptance Period shall be extended as referred to in the Ministerial notice. In the event the Contractor does not respond to the Ministerial notice hereinabove referred to, the Contractor shall be conclusively deemed to have accepted the extension of the Acceptance Period to the date referred to in the Ministerial notice.

11. APPROPRIATE LAW

The resulting contract shall be governed by and construed in accordance with the laws in the Province of Quebec.

12. NO EXPRESS COLLABORATION

The Contractor warrants that there has been no express or implied collaboration, action in concert, arrangement, agreement or exchange of preferred information, which would in any way defeat the objectives of the tendering process between the Contractor, its officers, employees or agents and any other person, in respect of the proposal hereby submitted or the preparation of such proposal and the calculations and considerations on which such proposal was prepared and submitted, and the Contractor hereby agrees that, for the purposes of this Article alone, the Contractor shall stand in a fiduciary relationship to Her Majesty.

13. CONTRACT

The Contractor agrees that, in the event of acceptance of this proposal by the Minister, such acceptance shall affect a contract between the Contractor and the Minister and this Resulting Contract Clauses and attachments and the Proposal shall collectively constitute the contract entered into between the Parties.

14. RIGHTS OF THE MINISTER

"Conditional" proposals will not be accepted. Any Contractor submitting alternate bids will be disqualified and proposals so submitted will be rejected. Notwithstanding anything contained in the Request for Proposals, the Minister shall have no obligation to accept the lowest cost proposal or any other proposal and reserves the right to consider matters which, although not set out herein, are, in the opinion of the Minister or his Departmental officials, relevant for their purposes, and the Minister and his officials shall be entitled to exercise discretion in the choice of a suitable contractor.

15. REPLACEMENT OF PERSONNEL

15.1 The Contractor shall provide the services of the persons named in the proposal which is referenced in the Statement of Work and any additional persons necessary to perform the work and provide the services required under this contract, unless the Contractor is unable to do so for reasons beyond the control of the Contractor.

15.2 Should the Contractor, at any time, be unable to provide their services, the Contractor shall be responsible for providing replacements who shall be of similar ability and attainment and who shall be acceptable to the Departmental Representative. In such case, the Contractor shall notify the Departmental Representative in writing and provide:

- 15.2.1 The reason for the removal of the named person from the project;
 - 15.2.2 The name of the proposed replacement;
 - 15.2.3 An outline of the qualifications and experience of the proposed replacement;
 - 15.2.4 An accepted security clearance certificate, if applicable.
- 15.3 The notice shall be sent at least seven (7) days in advance of the date upon which the replacement is to commence work. Any change in the terms and conditions of this contract which result from a replacement of personnel shall be effected by a contract amendment.
- 15.4 Notwithstanding the foregoing, the Contractor is required to perform the work and provide the services in accordance with the terms of this contract.

16. ADDENDUM

The Contractor agrees that the following addenda issued by the Department of Fisheries and Oceans, have been received by them and have been considered in their proposal.

ADDENDUM NO.	DATE
_____	_____
_____	_____
_____	_____

This _____ day of _____, 2014.

Contractor's signature _____

17. CONTRACTOR'S ADDRESS

For purposes of or Incidental to the contract, the Contractor's address shall be that which is indicated in Article 1.

18. AUTHORITIES

a) Contracting Authority:

The Contracting Authority for the contract is:

Jean-Yves Hamel
Senior Contracting Officer
Procurement Hub - Fredericton Office
Materiel and Procurement Services
Financial and Materiel Management Operations
Fisheries and Oceans Canada
301 Bishop Drive, Office # 105
Fredericton, NB, E3C 2M6
Government of Canada
Telephone: 506-452-4047
Facsimile: 506-452-3676
E-mail: jean-yves.hamel@dfo-mpo.gc.ca

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

b) Technical Authority: (Will provided at time of Contract award)

The Technical Authority for the Contract is:

Name: _____
Title: _____
Organization: _____
Address: _____
Telephone: _____
Facsimile: _____
E-mail: _____

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

19. INSPECTION/ACCEPTANCE

19.1 All the work performed under this contract shall be subject to inspection by the Departmental Representative, prior to acceptance. Should the work or any portion of the work not be in accordance with the requirements of the contract, the Departmental Representative shall have the right to reject it or require its correction.

APPENDIX "A"

GENERAL CONDITIONS - PROFESSIONAL SERVICES

1. THE FOLLOWING DEFINITIONS APPLY TO THIS CONTRACT.

- 1.1 "Award Date" means the date of the award of the Contract by the Department to the Contractor.
- 1.2 "Contract" means the written agreement between the parties which incorporates these general conditions and every other document specified or referred to in the Contract, as such may be amended by the parties from time to time.
- 1.3 "Contractor" means the vendor and any other party to the Contract other than Her Majesty.
- 1.4 "General Conditions" means this document as amended from time to time.
- 1.5 "Intellectual Property" means any intellectual property right recognized by the law, including any intellectual property through legislation (such as that governing patents, copyright, industrial design, integrated circuit topography, or plant breeders' rights) or arising from protection of information as a trade secret or as confidential information.
- 1.6 "Invention" means any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement thereof.
- 1.7 "Minister" means the Minister of Fisheries and Oceans and any other person authorized to act on his or her behalf.
- 1.8 "Per Diem" means a period of 7.5 hours of actual work per day. Where actual hours worked are less than 7.5 hours per day, the amount to be paid will be pro rated accordingly.
- 1.9 "Person" includes, without limiting the generality of the foregoing, any individual, partnership, firm, company, corporation, joint venture, syndicate, organization or any other form of entity howsoever designated or constituted, or any group, combination or aggregation of any of them.
- 1.10 "Prototypes" includes models, patterns and samples.
- 1.11 "Technical Documentation" includes designs, reports, photographs, drawings, plans, specifications, computer software, surveys, calculations and other data, information and material collected, computed, drawn or produced, including computer printouts.

- 1.12 “Work”, unless otherwise expressed in the Contract, means everything that is necessary to be done, furnished or delivered by the Contractor to perform the Contractor’s obligations under the Contract.
- 1.13 The headings introducing sections are inserted for convenience of reference only and in no way define, limit, construe or describe the scope or intent of such sections.
- 1.14 A cross reference to a section number is a reference to all its sub-sections.
- 1.15 Words in the singular include the plural and words in the plural include the singular.
- 1.16 Words imparting a gender include any other gender.

2. PRIORITY OF DOCUMENTS

- 2.1 In the event of discrepancies or conflicts between these General Conditions and anything in the other documents that together form the Contract, these General Conditions govern except that if there is a conflict between these General Conditions and the Articles of Agreement, the Offer of Services, or such similar document, then the Articles of Agreement, the Offer of Services, or such similar document, whichever may be the case, shall govern.

3. SUCCESSORS AND ASSIGNS

- 3.1 The Contract shall ensure to the benefit of and be binding upon the parties hereto and their lawful heirs, executors, administrators, successors and permitted assigns.

4. ASSIGNMENT, NOVATION AND SUBCONTRACTING

- 4.1 The Contract shall not be assigned without the prior written consent of the Minister. Any assignment made without that consent is void and of no effect.
- 4.2 No assignment shall relieve the Contractor of any obligation under the Contract or impose any liability upon Her Majesty or the Minister.
- 4.3 Any assignment by the Minister of Her Majesty’s interest in the Contract shall include the novation of the Minister’s assignee as a party to the Contract. The Contractor shall be obliged to accept the novation. The parties shall promptly execute and deliver all documents as are reasonably required to give effect to any novation.
- 4.4 Neither the whole nor any part of the Work may be subcontracted by the Contractor without the prior written consent of the Minister. Every subcontract shall incorporate such terms and conditions of the Contract as may be reasonably applied thereto.

5. TIME OF THE ESSENCE

- 5.1 Time is of the essence of the Contract and every part thereof, except as may be otherwise provided.

6. FORCE MAJEURE

6.1 A delay in the performance by the Contractor of any obligation under the Contract which is caused solely by an event that:

6.1.1 was beyond the reasonable control of the Contractor;

6.1.2 could not have reasonably been foreseen;

6.1.3 could not have reasonably been prevented by means reasonably available to the Contractor; and

6.1.4 occurred without the fault or neglect of the Contractor,

may, subject to subsections 6.2, 6.3 and 6.4 constitute an “excusable delay” provided that the Contractor invokes this subsection by giving notice pursuant to subsection 6.4.

6.2 If any delay in the Contractor’s performance of any obligation under the Contract is caused by delay of a subcontractor, such a delay may constitute an “excusable delay” by the Contractor, only if the delay of the subcontractor meets the criteria for an “excusable delay” by the Contractor pursuant to this section and only to the extent that the Contractor has not contributed to the delay.

6.3 Notwithstanding subsection 6.1 any delay caused by the Contractor’s lack of financial resources or an event that is a ground for termination pursuant to section 9 or any delay by the Contractor in fulfilling an obligation to deliver a bond, guarantee, letter of credit or other security relating to performance or payment of money shall not qualify as an “excusable delay.”

6.4 The Contractor shall not benefit from an “excusable delay” unless the Contractor has:

6.4.1 used its best efforts to minimize the delay and recover lost time;

6.4.2 advised the Minister of the occurrence of the delay, or of the likelihood of a delay occurring, as soon as the Contractor has knowledge of the occurrence of or likelihood of the delay;

6.4.3 within fifteen (15) working days of the beginning of the delay or of the likelihood of a delay coming to the attention of the Contractor, advised the Minister of the full facts or matters giving rise to the delay and provided to the Minister for approval, which shall not be unreasonably withheld, a clear work-around-plan that details the steps the Contractor proposes to take in order to minimize the impact of the event causing the delay or the likely delay. The work-around-plan shall include alternative sources of materials and labour, if the event causing the delay or likely delay involves the supply of them; and

6.4.4 carried out the work-around-plan approved by the Minister.

6.5 In the event of an “excusable delay”, any delivery date or other date that is directly affected shall be postponed for a reasonable time not to exceed the duration of the “excusable delay.” The parties shall amend the Contract, as appropriate, to reflect any such change in the dates.

- 6.6 Notwithstanding subsection 6.7, if an “excusable delay” has continued for fifteen (15) working days or more, the Minister may, in his sole discretion, terminate the Contract. In that event, the parties agree that neither of them 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 gave rise to the “excusable delay.” The Contractor agrees to immediately repay to Her Majesty, the portion of any advance payment that is unliquidated at the date of the termination. Subsections 9.4, 9.5 and 9.6 apply in the event of termination under this subsection.
- 6.7 Except to the extent that Her Majesty is responsible for the delay for reasons of failure to meet an obligation under the Contract, Her Majesty shall not be liable for any costs or charges of any nature incurred by the Contractor or any of its subcontractors or agents as a result of an “excusable delay.”

7. INDEMNIFICATION

- 7.1 The Contractor shall indemnify and save harmless Her Majesty and the Minister from and against all claims, demands, losses, damages, costs, expenses, actions and other proceedings, by whomsoever made, sustained, brought, prosecuted, or threatened to be brought or prosecuted, in any manner based upon, occasioned by or attributable to:
- 7.1.1 any injury to or death of a person or damage to or loss of property arising from any wilful or negligent act, omission or delay on the part of the Contractor, the Contractor’s employees or agents in performing the Work or as a result of the Work;
 - 7.1.2 any lien, attachment, charge, encumbrance or similar claim upon any property vested in Her Majesty under the Contract; and
 - 7.1.3 the use of the invention claimed in a patent, or infringement or alleged infringement of any patent or any registered industrial design or any copyright resulting from the performance of the Contractor’s obligations under the contract, and in respect of the use of or disposal by Her Majesty of anything furnished pursuant to the contract.
- 7.2 The Contractor’s liability to indemnify or reimburse Her Majesty under the Contract shall not affect or prejudice Her Majesty from exercising any of Her Majesty’s other rights.

8. NOTICES

- 8.1** Any notice, request, direction or other communication required to be given under the Contract shall be in writing and is effective if delivered by registered mail, facsimile or other electronic means that provides a paper record of the text of the notice and confirmation of its receipt by the person at the address stipulated in the Contract. Any notice, request, direction or other communication shall be deemed to have been given if by registered mail, on the date upon which the postal receipt is signed by the recipient; if by facsimile or other electronic means, on the date on which it was successfully transmitted, and if in person, on the date of delivery.

9. TERMINATION FOR CONVENIENCE

- 9.1** Notwithstanding anything contained in the Contract, the Minister may, at any time prior to the completion of the Work, by giving notice to the Contractor (termination notice), terminate the Contract as regards all or any part of the Work not completed. Upon a termination notice being given, the Contractor shall cease work in accordance with and to the extent specified in the notice, but shall proceed to complete such part or parts of the Work as are not affected by the termination notice. The Minister may, at any time or from time to time, give one or more additional termination notices with respect to any or all parts of the Work not terminated by any previous termination notice.

- 9.2** In the event of a termination notice being given pursuant to subsection 9.1, the Contractor shall be entitled to be paid, to the extent that costs have been reasonably and properly incurred for purposes of performing the Contract and to the extent that the Contractor has not already been so paid or reimbursed by Canada:

9.2.1 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 and in compliance with the instructions contained in the termination notice;

9.2.2 the Cost to the Contractor plus a fair and reasonable profit thereon, for all work terminated by the termination notice before completion, the Cost to the Contractor being determined in accordance with the terms of the Contract; and

9.2.3 all costs of and incidental to the termination of the Work or part thereof, but not including the cost of severance payments or damages to employees whose services are no longer required by reason of the termination except wages that the Contractor is obligated by statute to pay them and except for reasonable severance payments or damages paid to employees hired to perform the Contract whose hiring was expressly required by the Contract or approved in writing by the Minister for the purpose of the Contract.

- 9.3 The Minister may reduce the payment in respect of any of the Work to the extent that, upon inspection, it is deficient in meeting the requirements of the Contract.
- 9.4 Notwithstanding anything in subsection 9.2, the total of the amounts to which the Contractor is entitled under paragraphs 9.2.1 and 9.2.2, together with any amounts paid or due or becoming due to the Contractor under other provisions of the Contract, shall not exceed the Contract Price or the portion thereof that is applicable to the part of the Work that is terminated.
- 9.5 In the procuring of materials and parts required for the performance of the Contract and in the subcontracting of any of the Work, the Contractor shall, unless otherwise authorized by the Minister, place purchase orders and subcontracts on terms that will enable the Contractor to terminate the same upon terms and conditions similar in effect to those provided in this section, and generally, the Contractor shall co-operate with the Minister and do everything reasonably within its power at all times to minimize the amount of Canada's obligations in the event of a termination under this section.
- 9.6 The Contractor shall have no claim for damages, compensation, loss of profit, allowance or otherwise by reason of, or directly or indirectly arising out of, any action taken or termination notice given by the Minister under this section, except to the extent that this section expressly provides.

10. TERMINATION DUE TO DEFAULT OF CONTRACTOR

- 10.1 The Minister may, by notice to the Contractor, terminate the whole or any part of the Work if:
- 10.1.1 the Contractor becomes bankrupt, or insolvent or a receiving order is made against the Contractor, or an assignment is made for the benefit of creditors, or an order is made or resolution passed for the winding up of the Contractor, or if the Contractor takes the benefit of any statute for the time being in force relating to bankrupt or insolvent debtors; or
- 10.1.2 the Contractor fails to perform any of its obligations under the Contract, or in the Minister's view, so fails to make progress as to endanger performance of the Contract in accordance with its terms.
- 10.2 If the Minister terminates the Work in whole or in part under this section, the Minister may arrange, upon such terms and conditions and in such manner as the Minister deems appropriate, for the Work to be completed that was so terminated, and the Contractor shall be liable to the Minister for any excess costs including additional costs relating to the completion of the Work.
- 10.3 Upon termination of the Work under subsection 10.1 the Minister may require the Contractor to deliver and transfer title to the Minister, in the manner and to the extent directed by the Minister, in any finished Work which has not been delivered and accepted prior to such termination and in any materials or work-in-process which the Contractor has specifically acquired or produced for the fulfilment of the Contract.

The Minister shall pay the Contractor for all such finished Work delivered pursuant to such direction and accepted by the Minister, the cost to the Contractor of such finished Work plus the proportionate part of any fee fixed by the Contract and shall pay or reimburse the Contractor the fair and reasonable cost to the Contractor of all materials or work-in-process delivered to the Minister pursuant to such direction. The Minister may withhold from the amounts due to the Contractor such sums as the Minister determines to be necessary to protect the Minister against excess costs for the completion of the Work.

- 10.4 The Contractor shall not be entitled to be reimbursed any amount which, taken together with any amounts paid or becoming due to the Contractor under the Contract, exceeds the Contract price applicable to the Work or the particular part thereof.
- 10.5 If after the Minister issues a notice of termination under 10.1, it is determined by the Minister that the default of the Contractor is due to causes beyond the control of the Contractor, such notice of termination shall be deemed to have been issued pursuant to 9.1 and the rights and obligations of the parties hereto shall be governed by section 9.

11. RECORDS TO BE KEPT BY CONTRACTOR

- 11.1 The Contractor shall keep accounts, invoices, receipts, vouchers, records and all other documents of the cost of the Work and of all expenditures or commitments in a manner and to the extent sufficient for audit purposes to the satisfaction of the Minister. Such accounts, invoices, receipts, vouchers and all other documents shall be open to audit and inspection by the Minister who may make copies and take extracts there from.
- 11.2 The Contractor shall provide facilities for audit and inspection purposes and shall provide the Minister with such information as requested by the Minister for those purposes.
- 11.3 The Contractor shall not dispose of any such accounts, invoices, receipts, vouchers, records or other documents without the prior written consent of the Minister and shall preserve and keep them available for audit and inspection by the Minister to his satisfaction, for a six (6) year period plus current year, following completion, termination or suspension of the Work.
- 11.4 The awarding of this contract does not include the authority to safeguard sensitive information on the Contractor's premises. Such information shall be retained upon the premises of the Department's facility unless otherwise authorized to be removed.

12. CONFLICT OF INTEREST AND POST-EMPLOYMENT CODE

- 12.1 It is a term of this contract that no individual, for whom the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders (1994) or the Values and Ethics Codes for the Public Services (2003) apply, shall derive a direct benefit from this contract unless that individual is in compliance with the applicable post-employment provisions.

- 12.2 It is a term of this contract that during the term of the contract any persons engaged in carrying out this contract shall conduct themselves in compliance with the principles in the Conflict of Interest and Post-Employment Code for Public Office Holders (1994) which are the same as those in the Conflict of Interest and Post-Employment Code for the Public Service (1985), with the addition that decisions shall be made in the public interest and with regard to the merits of each case. Should an interest be acquired during the life of the contract that would cause a conflict of interest or seem to cause a departure from the principles, the Contractor shall declare it immediately to the Minister.
- 12.3 It is a term of this contract that any persons engaged in the course of this contract and subsequent to it shall conduct themselves in manner such that there is not and will not be any conflict arising from competing or opposing interests of other clients of the Contractor. Should an interest be acquired during the life of the contract that would cause a conflict of interest, the Contractor shall declare it immediately to the Minister.

13. CONTRACTOR STATUS

- 13.1 This is a Contract for services and the Contractor is an independent contractor for the sole purpose of providing services under the Contract. Neither the Contractor nor any of its personnel, including but not limited to its officers, agents, employees or sub-contractors is engaged under the Contract as an employee, servant or agent of Her Majesty and entry into the Contract does not result in the appointment or employment of the Contractor or its personnel as an officer, agent or employee of Her Majesty.
- 13.2 The Contractor shall be entitled only to those benefits and payments specified in the Contract.
- 13.3 The Contractor shall comply with all federal, provincial and municipal legislation applicable to the Work.
- 13.4 The Contractor shall be wholly responsible for any payments and/or deductions and the submission of any applications, reports, payments or contributions required by law to be made or deducted by the Contractor, including but not limited to those under the Canada or Quebec Pension Plans, Employment Insurance, Workman's Compensation, Income Tax, Goods and Services Tax, and the Harmonized Sales Tax. The Minister shall not be charged for any costs of the Contractor for the Contractor's doing anything required under this section; such costs having been taken into consideration and included in the Contractor's rates of payment specified in the Contract.

- 13.5 The parties understand that the Procurement Ombudsman appointed pursuant to Subsection 22.1(1) of the *Department of Public Works and Government Services Act* will review a complaint filed by [the supplier or the contractor or the name of the entity awarded this contract] respecting administration of this contract if the requirements of Subsection 22.1(1) of the *Department of Public Works and Government Services Act* and Sections 15 and 16 of the *Procurement Ombudsman Regulations* have been met, and the interpretation and application of the terms and conditions and the scope of work of this contract are not in dispute. The Office of the Procurement Ombudsman may be contacted by telephone at 1-866-734-5169 or by e-mail at boa.opo@boa.opo.gc.ca.

14. WARRANTY BY CONTRACTOR

- 14.1 The Contractor warrants that it is competent to perform the Work and has the required qualifications knowledge, skill and ability to perform the Work.
- 14.2 The Contractor warrants that it shall provide a quality of service at least equal to generally accepted industry standards for a competent contractor in a like situation.

15. MEMBER OF HOUSE OF COMMONS

- 15.1 No member of the House of Commons shall be admitted to any share or part of the Contract or to any benefit to arise there from.

16. AMENDMENTS AND WAIVER

- 16.1 No amendment to the Contract or waiver of any of the terms shall be valid unless effected in writing and signed by all of the parties.
- 16.2 No increase in the total liability of the Minister or in the price of the Work resulting from any change, modification or interpretation of the Contract shall be authorized or paid to the Contractor unless such change, modification or interpretation has received the prior written approval of the Minister.

17. HARASSMENT IN THE WORKPLACE

- 17.1 The Contractor acknowledges the responsibility of the Minister to ensure, for its employees, a healthy work environment, free of harassment. A copy of the Treasury Board policy named "Policy on the Prevention and Resolution of Harassment in the Workplace" is available at the following address:
http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/hw-hmt/hara_e.asp.
- 17.2 The Contractor shall not, either as an individual, or as a corporate or unincorporated entity, through its employees or sub-contractors, harass, abuse, threaten, abuse their authority towards, discriminate against or intimidate any employee, contractor or other individual employed by, or under contract with, the Department of Fisheries and Oceans or appointed by the Minister.

- 17.3 The Contractor accepts, by signing this contract, that every person described in section 17.2 has a right to be treated with respect and dignity and a responsibility to treat others the same way.
- 17.4 The Contractor shall comply with all requests by the Department of Fisheries and Oceans to participate in an internal complaint process, including dispute resolution. If one is initiated to resolve any complaints, informal or formal, arising out of matters described in section 17.2.
- 17.5 The Contractor shall be advised in writing of any complaint referred to in section 17.2 and shall have a right to respond in writing.
- 17.6 Once a complaint is made against a Contractor, the Project Authority shall provide information to the Contractor on the process to be followed by the Department.
- 17.7 If the complaint is found to be well founded against a Contractor as described in section 17.2, this is sufficient to be a default for purposes of termination of the contract in section 9.
- 17.8 If dispute resolution or an investigation is undertaken, the Department may decide to suspend the operation of the contract and reimburse the Contractor, in accordance with section 9.
- 17.9 The Contractor's obligation, as described in section 17.2 is deemed to be part of the performance of the Contractor in carrying out the Statement of Work described in the contract.
- 17.10 The Contractor shall comply with all laws applicable to the performance of the Work, or any part thereof, as described in section 17.2.

18. INTELLECTUAL PROPERTY

- 18.1 Technical Documentation and Prototypes produced by the Contractor in the performance of the work under the Contract shall vest in and remain the property of Her Majesty, and the Contractor shall account fully to the Minister in respect of the foregoing in such manner as the Minister shall direct.
- 18.2 Unless instructed otherwise under the supplementary conditions, all right, title and interest relating to Intellectual Property conceived or developed in performing the work under the Contract shall vest in and remain the property of the Contractor except that if the Contractor independently declares that it has no intention or capability of commercially exploiting the said Intellectual Property, the ownership of such Intellectual Property shall vest in Canada.

18.3 The Contractor hereby grants, to Canada, in relation to all Intellectual Property, referred to in subsection 18.2, a non-exclusive, irrevocable, world-wide, fully paid and royalty-free licence to use, have used, make or have made, copy, translate, practice or produce the said Intellectual Property, for any government purpose except commercial sale in competition with the Contractor. Canada's licence to the use of Intellectual Property includes the right to sub-license the use of that property to any other Contractor engaged by Canada for work under this Contract or in any other Contract subsequent to this one. Any such sub-licence shall authorize use of the Intellectual Property solely for the purpose of performing contracts for Canada and require the other contractor to maintain the confidentiality of the Intellectual Property.

19. PAYMENT BY THE MINISTER

19.1 Applicable when the Terms of Payment specify PROGRESS Payments.

19.1.1 Payment by the Minister to the Contractor for the Work shall be made:

- i) in the case of a progress payment other than the final payment, within thirty (30) calendar days following the date of receipt of a duly completed progress claim, or
- ii) in the case of a final payment, within thirty (30) calendar days following the date of receipt of a duly completed final progress claim, or within thirty (30) calendar days following the date on which the Work is completed,

Whichever is later.

19.1.2 The Minister shall notify the Contractor of any objections to the form of the progress claim within fifteen (15) calendar days of its receipt. "Form of the claim" means a claim that contains or is accompanied by such substantiating documentation as requested by the Minister. Failure by the Minister to notify the Contractor of the objection within the fifteen calendar (15) days period will only result in the date specified in subsection 19.1.1 to apply for the sole purpose of calculating interest on overdue accounts.

19.2 Applicable when the Terms of Payment specify payment on COMPLETION.

19.2.1 Payment by the Minister to the Contractor for the Work shall be made within:

- i) thirty (30) calendar days following the date on which all of the Work has been completed and delivered in accordance with the Contract, or
- ii) thirty (30) calendar days following the date on which an invoice and substantiating documentation are received by the Minister in accordance with the Contract,

Whichever is later.

19.2.2 The Minister shall notify the Contractor of any objections to the form of the invoice within fifteen (15) calendar days of its receipt. "Form of the invoice" means an invoice, which contains or is accompanied by such substantiating documentation as requested by the Minister. Failure by the Minister to notify the Contractor within the fifteen (15) calendar day period will only result in the date specified in subsection 19.2.1 to apply for the sole purpose of calculating interest on overdue accounts.

20. PAYMENT OF INTEREST ON OVERDUE ACCOUNTS

20.1 For the purposes of this Section:

"Average Rate" means the single arithmetic mean of the Bank Rates in effect at 4:00 p.m. (Eastern Standard Time) each day during the calendar month that immediately precedes 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 of Canada and given for payment of an amount due and payable;

"Due and payable" means an amount due and payable in accordance with the Contract; and

"Overdue" means an amount that is unpaid on the first day following the day upon which it is due and payable.

20.2 The Minister shall be liable to pay the Contractor simple interest at the average rate plus 3 per cent per annum on any amount that is overdue from the date that such amount becomes overdue until the day prior to the date of payment, inclusive. Interest on an overdue amount will not be payable or paid if the payment is overdue less than fifteen (15) calendar days unless the Contractor requests payment of interest.

20.3 The Minister shall not be liable to pay interest if the Minister is not responsible for the delay in payment.

20.4 The Minister shall not be liable to pay interest on overdue advance payments.

21. SCHEDULE AND LOCATION OF WORK

21.1 If the Work is performed in the offices of the Department of Fisheries and Oceans (DFO), the Contractor will, for better co-ordination with DFO operational needs, follow the same time schedule as employees of DFO.

21.2 If the Work is performed at locations other than DFO's offices, the time schedule and location of Work shall be in accordance with the Contract.

22. MINISTER'S RESPONSIBILITIES

- 22.1 The Minister will provide support, guidance, direction, instruction, acceptances, decisions and information as required under the Contract.

23. CERTIFICATION - CONTINGENCY FEES

- 23.1 The Contractor certifies that it has not directly or indirectly paid, and covenants that it will not, directly or indirectly pay, a contingency fee for the solicitation, negotiation or obtaining of the Contract to any person other than a person acting in the normal course of the person's duties for which a contingency fee is paid.
- 23.2 All accounts and records pertaining to payments of such contingency fees shall be subject to this section.
- 23.3 If the Contractor's certification under this section is false or otherwise erroneous, or if the Contractor does not comply with its covenants under this section, the Minister may, at his sole option, either terminate the Contract for default in accordance with section 9 or recover the full amount of the contingency fee from the Contractor by way of reduction to the Contract price or otherwise or by set off against any monies owing by Her Majesty to the Contractor under the Contract.
- 23.4 In this section:

23.4.1 "contingency fee" means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in soliciting or obtaining a federal government contract or negotiating the whole or any part of its terms;

23.4.2 "person" includes, but is not limited to an employee, agent or assign of the Contractor, an individual or group of individuals, a corporation, a partnership, an organization or an association and, without restricting the generality of the foregoing, includes any individual who is required to file a return with the registrar pursuant to section 5 of the *Lobbying Act* R.S. 1985 c. 44 (4th Supplement) or as may be amended.

24. PRICE CERTIFICATION

- 24.1 The Contractor certifies that the price/rate shown in the Contract has been computed in accordance with generally accepted accounting principles applicable to all like products/services sold by the Contractor, that such price/rate is not in excess of the lowest price/rate charged anyone else including their most favoured customer for like quality and quantity of the service, and does not include any provision for discounts or commissions to selling agents.

Section 24 is applicable only in sole source contracting situations.

25. LUMP SUM PAYMENT – WORK FORCE REDUCTION PROGRAMS

25.1 It is a term of the Contract that:

25.1.1 The Contractor has declared to the Minister any lump sum payment he received pursuant to any work force reduction program, including but not limited to the Executive Employment Transition Policy, which have been implemented to reduce the public service;

25.1.2 the Contractor has informed the Minister of the terms and conditions of such work force reduction program pursuant to which the Contractor was made a lump sum payment and the rate of pay on which the lump sum payment was based.

26. INTERNATIONAL SANCTIONS

26.1 Persons and companies in Canada are bound by economic sanctions imposed by Canada by regulations passed pursuant to the United Nations Act, R.S.C. 1985, c. U-2, the Special Economic Measures Act, S.C. 1992, c. 17, or the Export and Import Permits Act, R.S.C. 1985, c. E-19. As a result, the Government of Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries subject to economic sanctions. At the time of contract award, the following regulations implement economic sanctions can be found at: <http://www.dfait-maeci.gc.ca/trade/sanctions-en.asp>.

26.2 It is a condition of the Contract that the Contractor shall not supply any goods or services to the Government of Canada that are subject to economic sanctions as described in subsection 26.1.

26.3 If, during the performance of the Contract, the addition of a country to the list of sanctioned countries or the addition of a good or service to the list of sanctioned goods or services cause an impossibility of performance of the Contract by the Contractor, the situation will be treated by the parties as an excusable delay. The Contractor shall forthwith inform the Minister of the situation and the procedures applicable to section 6 shall then apply.

27. OFFICIAL LANGUAGES

27.1 Services and communications provided by the Contractor in performance of the Work shall be provided in both Official Languages as required by Part IV of the Official Languages Act as amended from time to time.

28. ENTIRE AGREEMENT

28.1 This Contract constitutes the entire agreement between the parties respecting the subject matter of the Contract and supersedes all previous negotiations, communications and other agreements relating to it unless they are expressly incorporated by reference into the Contract.

29. ENVIRONMENTAL CONSIDERATIONS

- 29.1 Whenever practical and economically feasible, submissions, contract reports or written communication will be made on recycled, double-sided paper or on disk where appropriate.
- 29.2 Preference will be given to goods and services considered to be environmentally superior within the bounds of established technology and economic capability. Selection of goods and services will be based on their efficient use of energy and natural resources, potential to re-use or recycle, and safe means of disposal.
- 29.3 Every effort should be made to purchase products that bear other environmental certification, or use their best judgment to obtain products with the least harmful impact on the environment.
- 28.4 Contractors performing work under this contract must comply fully with the Canadian Environmental Protection Act, 1999, the Canadian Environmental Assessment Act, the Fisheries Act and regulations such as the Arctic Waters Pollution Prevention Regulations and with all Department of Fisheries and Ocean's Standing Orders, Policies and Procedures relating to environmental protection.
- 29.5 Contractors will be fully aware of their obligations as defined under the Act "Canadian Environment Protection Act, 1999" which requires that "A person must take practicable and reasonable steps to prevent or minimize environmental harm or environmental nuisance caused, or likely to be caused, by their activities".
- 29.6 Anything done or omitted to be done by the Contractor or its employees which compromises the Department of Fisheries and Oceans in relation to environmental legislation may result in immediate termination of the Contract. Any fines, costs or expenses imposed on the Minister as a result of breaches of the "Canadian Environment Protection Act, 1999" caused by the Contractor or his employees will be fully recovered from the Contractor.

30. HEALTH AND SAFETY

- 30.1 The Contractor shall be responsible for the health and safety of all persons involved in the performance of the Work and shall comply with all federal, provincial and municipal legislation, policies and procedures respecting health and safety, whichever may be the more stringent, applicable to the performance of the Work.

31. CONFIDENTIALITY - SECURITY AND PROTECTION OF THE WORK

- 31.1 The Contractor shall 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 where the Intellectual Property in such information (except a license) vests in Canada under the Contract. The Contractor shall not disclose any such information to any person without the written permission of the Minister, except that the Contractor may disclose to a subcontractor authorized in accordance with section 4 information necessary for the performance of the subcontract, on the condition that the subcontractor agrees that it will be used solely for the purposes of such subcontract. Information provided to the Contractor by or on behalf of Canada shall be used solely for the purpose of the Contract and shall remain the property of Canada or the third party, as the case may be. Unless the Contract otherwise expressly provides, the Contractor shall deliver to Canada all such information, together with every copy, draft, working paper and note thereof that contains such information, upon completion or termination of the Contract or at such earlier time as the Minister may require.
- 31.2 Subject to the Access to Information Act, and to any right of Canada under this Contract to release or disclose, Canada shall 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.
- 31.3 The obligations of the Parties set out in this section do not apply to any information where the same 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.
- 31.4 Wherever practical, the Contractor shall mark or identify any proprietary information delivered to Canada under the Contract as "Property of (Contractor's name), permitted Government uses defined under Department of Fisheries and Oceans (DFO) Contract No. **F5211-140220** and Canada shall not be liable for any unauthorized use or disclosure of information that could have been so marked or identified and was not.
- 31.5 When the Contract, the Work, or any information referred to in subsection 31.1 is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED by Canada, the Contractor shall at all times take all measures reasonably necessary for the safeguarding of the material so identified, including those set out in any PWGSC policy respecting security and any other instructions issued by the Minister.

- 31.6 Without limiting the generality of subsections 31.1 and 31.2, when the Contract, the Work, or any information referred to in subsection 1 is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED by Canada, the Minister shall be entitled to inspect the Contractor's premises and the premises of a subcontractor at any tier for security purposes at any time during the term of the Contract, and the Contractor shall comply with, and ensure that any such subcontractor complies with, all written instructions issued by the Minister dealing with the material so identified, including any requirement that employees of the Contractor or of any such subcontractor execute and deliver declarations relating to reliability screenings, security clearances and other procedures.
- 31.7 Any proposed change in the security requirements after the effective date of the Contract that would involve a significant increase in cost to the Contractor shall require an amendment to the Contract under the provisions of section 16.

32. THE CODE OF CONDUCT FOR PROCUREMENT

- 32.1 The Contractor confirms that it has read the Code of Conduct for Procurement and agrees to be bound by its terms.
- 32.2 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 \$25,000.00 for Goods and under \$100,000.00 for Services. You have the option of raising issues or concerns regarding the solicitation, or the award resulting from it, with the OPO by contacting them by telephone at 1-866-734-5169 or by e-mail at boa.opo@boa.opo.gc.ca. You can also obtain more information on OPO services available to you on their website at www.opo-boa.gc.ca.
- 32.3 For further information, the Contractor may refer to the following PWGSC site: <http://www.tpsgc-pwgsc.gc.ca/app-acq/cndt-cndct/contexte-context-eng.html>.

APPENDIX “B” TERMS OF PAYMENT

1. DEFINITION

- 1.1 Progress payment is a payment made by or on behalf of Her Majesty after the performance of the part of the Contract in respect of which payment is made but before the performance of the whole contract.

2. BASIS OF PAYMENT

- 2.1 In consideration of the Contractor meeting all obligations under the terms and conditions of this Contract, the Contractor shall receive payment in accordance with Article 7 of the Resulting Contract Clauses.

3. METHOD OF PAYMENT

- 3.1 Preliminary deliverables can be submitted with a partial invoice for 70 % of the total awarded amount. Payment of the invoice will be made when DFO accepts the received deliverables. The final payment will be made after receipt and acceptance of the final deliverables.
- 3.2 Neither a progress report nor a payment by Her Majesty shall be construed as evidence that the work or any part thereof is complete, is satisfactory or is in accordance with the Contract.
- 3.3 Delay by Her Majesty in making payment when it becomes due or payable pursuant to the Contract or Terms of Payment shall be deemed not to be a breach of the Contract.
- 3.4 In the event that the Contract is terminated pursuant to General Condition 9 of the General Conditions, the Contractor shall have no claim against Her Majesty except to be paid for services performed up to the date of the said termination, less any sums previously paid on account. In the event of termination, Her Majesty will as soon as practicable under the circumstances, pay to the Contractor the amount, if any, payable to the Contractor.

4. INVOICE ADDRESS

Except if otherwise specified in the Terms of Payment or in any other document that is part of this contract, payment will be made on presentation of one or more detailed invoice, depending on circumstances, after acceptance of the works by the Project Authority.

The invoice(s) shall be emailed to DFO Accounts Payable, at the email address indicated in below:

Email: DFOinvoicing-MPOfacturation@DFO-MPO.GC.CA

Please indicate if you wish to be paid by cheque or MasterCard.

5. LIMITATION OF EXPENDITURE

A maximum of \$100,000 before taxes is allocated to cover the proposed objectives in their entirety. At the discretion of Fisheries and Oceans Canada, the budget may be increased before or during the contract should the addition of objectives prove necessary.

6. PROVINCIAL SALES TAX

The Contractor shall not invoice or collect any ad valorem sales tax levied by the province in which the goods or taxable services are delivered to federal government departments and agencies under authority of the following provincial sales tax licenses:

Prince Edward Island	OP-10000-250
Manitoba	390516-0

The Contractor is not relieved of any obligation to pay provincial sales taxes on goods or taxable services used or consumed in the performance of this Contract.

It should be noted that the exemption license number should be quoted for only those provinces where the goods or services are being purchased/delivered.

Quebec Sales Tax (QST)

“This is to certify that the property and/or services ordered/purchased hereby are for the use of, and are being purchased by the Department of Fisheries and Oceans with Crown funds, and are therefore not subject to Quebec Sales Tax.”

Signature of Contracting Authority

The Contractor is not relieved of any obligation to pay Quebec Sales Tax on taxable goods or services used or consumed in the performance of this Contract.

7. SUPPLEMENTARY CONTRACTOR INFORMATION

Pursuant to paragraph 221 (1)(d) of the Income Tax Act, payments made by departments and agencies under applicable services contracts (including contracts involving a mix of goods and services) must be reported on a T4-A supplementary slip.

To enable the Department of Fisheries and Oceans to comply with this requirement, the Contractor hereby agrees to provide the following information which it certifies to be correct, complete, and fully discloses the identification of this Contractor:

- 7.1 The legal name of the entity or individual, as applicable (the name associated with the Social Insurance Number (SIN) or Business Number (BN), as well as the address and the postal code:

- 7.2 The status of the contractor (individual, unincorporated business, corporation or partnership:

- 7.3 For individuals and unincorporated businesses, the contractor's SIN and, if applicable, the BN, or if applicable, the Goods and Services Tax (GST)/Harmonized Sales Tax (HST) number:

- 7.4 For corporations, the BN, or if this is not available, the GST/HST number. If there is no BN or GST/HST number, the T2 Corporation Tax number must be shown:

The following certification signed by the contractor or an authorized officer:

"I certify that I have examined the information provided above and that it is correct and complete"

Signature

Print Name of Signatory

APPENDIX “C”**STATEMENT OF WORK****PROJECT TITLE**

Abundance inventory and assessment of area of suitable habitat for Eastern Sand Darter in six Quebec watercourses.

BACKGROUND

The Eastern Sand Darter has been designated Threatened by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and was listed as a species protected under the *Species at Risk Act* in 2003. In 2009, COSEWIC confirmed the “Threatened” status and divided Canadian Eastern Sand Darter populations into two designatable units: Quebec populations and Ontario populations. Under the *Species at Risk Act*, a recovery strategy was published in the Species at Risk Public Registry for Quebec populations (DFO 2014).

The short-term (i.e. five-year) objective of this recovery strategy is to maintain Eastern Sand Darter populations throughout the species’ distribution in Quebec and to prevent their decline. Viable populations should cover the entire current and historical distribution if possible. This recovery strategy has also identified Eastern Sand Darter critical habitat in three areas: the L’Assomption and Ouareau rivers, the Richelieu River, and Rivière aux Saumons. Currently identified areas are insufficient to achieve the population and distribution objectives for the species. The final objective is to obtain 13 viable populations in various Quebec watercourses.

Recent sampling (presence/absence) has confirmed the presence of Eastern Sand Darter in a few Quebec watercourses. However, abundance data and an assessment of the area of suitable habitat are essential in order to meet the requirements in the recovery strategy. The purpose of this project is therefore to acquire these data for certain rivers frequented by Eastern Sand Darter. These rivers are:

1. Nicolet
2. Southwest Nicolet
3. Yamachiche
4. du Loup
5. Gentilly
6. aux Orignaux

PROJECT OBJECTIVES

1. To estimate the area of suitable habitat, at least from the river mouth to the farthest upstream known presence of Eastern Sand Darter (but not limited to this, based on available suitable habitat), in the following rivers:
 1. Nicolet
 2. Southwest Nicolet
 3. Yamachiche
 4. du Loup
 5. Gentilly
 6. aux Orignaux

2. To estimate Eastern Sand Darter abundance in suitable habitat at least from the river mouth the farthest upstream known presence of Eastern Sand Darter (but not limited to this, based on available suitable habitat), using a catch-per-unit-effort index.

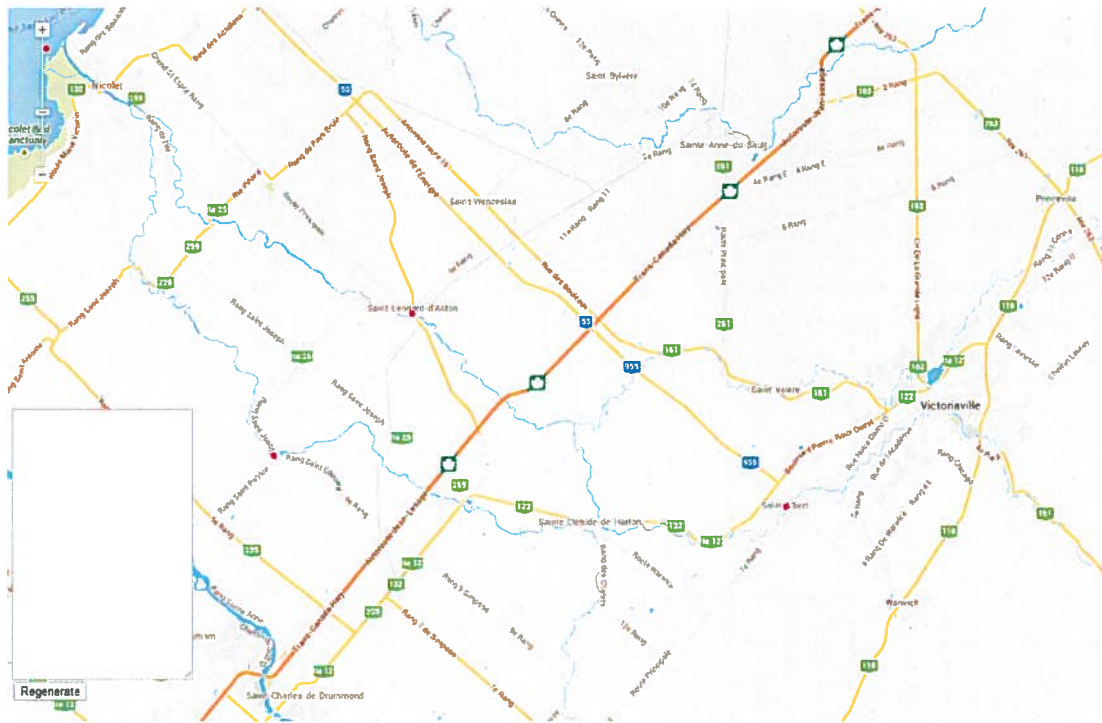
This knowledge acquisition aimed at implementing the Eastern Sand Darter recovery strategy may require up to two optional years. The same basic objectives would apply, but in different Quebec rivers in the Eastern Sand Darter's range. The budget and specific objectives for each optional year will be similar to those in these specifications but will have to be developed on an annual basis.

LOCATION

The area to be covered for each river starts from its mouth at the St. Lawrence River and must include, but not be limited to, Eastern Sand Darter site of capture farthest upstream. Suitable habitat and Eastern Sand Darter abundance assessments can then be extended beyond the capture site farthest upstream, if there seems to be good habitat potential.

The following maps present a summary of Eastern Sand Darter catches in each river. Exact geographic coordinates will be provided to the successful bidder.

Nicolet and Southwest Nicolet rivers



Yamachiche River



Given that suitable habitat is influenced by flow, it must be characterized when the flow is moderate (i.e. outside of severe low-water periods and floods).

Table 1. Biophysical functions, features and characteristics of habitat for all life stages combined for the Eastern Sand Darter, Quebec populations.

Function	feature	Biophysical characteristic
<ul style="list-style-type: none"> • Spawning • Rearing • Feeding and growth (juveniles) • Feeding and growth (adults) • Migration 	<ul style="list-style-type: none"> • Sand bank in lotic environment 	<ul style="list-style-type: none"> • Lotic environment with a generally very low to moderate flow velocity that may be higher during floods. • Shoals or along the banks of watercourses whose depth is less than 2 m. • Substrate that is mainly sandy, with or without gravel. • Aquatic vegetation cover: None or, where present, little or sparse. • Turbidity: generally low.

Assessment of Eastern Sand Darter abundance

The sampling plan shall be prepared in keeping with the sampling protocol (Couillard et al 2011) developed by the Ministère des Forêts, de la Faune et des Parcs du Québec (MFFP) for the survey of small fish at risk. Given the type of habitat to be inventoried (i.e. sand banks), the catch method to use for this survey is shoreline seining (bag seining). Survey stations must be set up in suitable habitats located and characterized beforehand. Ensuring that habitats at the catch site have been characterized is essential assessing habitat surface area. Abundance surveys are not required in all located suitable habitats, but coverage must be well distributed spatially. When Eastern Sand Darter is caught, a finer characterization at the catch site must be carried out, as stated in the MFFP protocol. The sampling must be conducted outside the May–July spawning period.

In order to focus sampling efforts on Eastern Sand Darter catches, the other species do not have to be identified. However, special attention should be paid to identifying other species on the List of Species at Risk (i.e. the Channel Darter and the Cutlip Minnow).

Before undertaking this portion of the work, the firm shall procure the required permits for catching species at risk: a licence issued by DFO under the *Species at Risk Act* and the licence issued by MFFP for catching wild animals for scientific, educational or wildlife management purposes (SEG permit). The bidder shall prove its competency in identifying Quebec freshwater fish, specifically species at risk.

DELIVERABLES, SCHEDULE AND MONITORING

The field activity shall be conducted prior to the end of September 2014. The project report shall include the following:

- Summary
- Introduction
- Detailed methodology
- Results and their interpretation (including maps presenting sampled sites, catch sites and suitable habitats)
- Discussion on the representativeness of the data collected, difficulties encountered, and recommendations

The raw database (e.g., Excel file), the photos taken in the field and the shapefiles for reproducing the maps must also be provided as a deliverable. All deliverables shall be provided in electronic format. An 8.5" x 11" hard copy of the report must also be sent by mail.

The deadline for submission of **preliminary deliverables** is December 1, 2014. They must be complete and will be subject to comments from Fisheries and Oceans Canada. The bidder will have 30 working days after receiving these comments to send the **pre-final version of the deliverables** for review and approval by DFO. Further modifications may be required. Receipt and acceptance of **the final deliverables** will have to be done prior to March 15, 2015.

ESTIMATED BUDGET

A maximum of \$100,000 before taxes is allocated to cover the proposed objectives in their entirety. At the discretion of Fisheries and Oceans Canada, the budget may be increased before or during the contract should the addition of objectives prove necessary.

INTELLECTUAL PROPERTY (IP)

IP will not be generated from the result of this requirement.

BIBLIOGRAPHIC REFERENCES

Couillard, M-A., J. Boucher and S. Garceau. 2011. Protocole d'échantillonnage du fouille-roche gris (*Percina copelandi*), du dard de sable (*Ammocrypta pellucida*) et du méné d'herbe (*Notropis bifrenatus*) au Québec. Ministère des Ressources naturelles et de la Faune du Québec, Faune Québec. 28 pages + 2 appendices.

Fisheries and Oceans Canada. 2014. Recovery Strategy for the Eastern Sand Darter (*Ammocrypta pellucida*) in Canada: Quebec Populations. Species at Risk Act Recovery Strategy Series. Fisheries and Oceans Canada, Ottawa, vii + 50 p.

APPENDIX “D”

EVALUATION CRITERIA

The Evaluation Committee will use specific criteria to determine the organization or firm chosen for the project. Your project proposal will be evaluated and will receive a weighted point rating based on the evaluation criteria listed hereof. We suggest you pay attention to these criteria when preparing your bid.

1. To be deemed responsive, a bid must:
 - a. meet all the requirements in the Request for Proposals;
 - b. meet all of the mandatory criteria; and
 - c. obtain a minimum score of 50% for each technical evaluation criterion section rated (i.e. Firm’s experience, management, and sampling plan and protocol). The technical proposal rating scale totals 85 points. The minimum passing score is 60%, or 51 points for this technical section.
2. Bids that do not meet the requirements in a), b) or c) will be declared non-responsive.
3. In order to determine the price score, each responsive bid will be evaluated in proportion to the lowest evaluated price and based on a ratio of 15%.
4. For each responsive bid, the technical merit rating and price rating will be combined to determine the total score. The total number of points that can be awarded is 100.
5. The responsive bid with the most points or the lowest evaluated price will not necessarily be selected. The responsive bid with the highest combined score for technical merit and price will be recommended for awarding of the contract.

The table below provides an example of three responsive bids from which a contractor was selected based on an 85/15 ratio for technical merit and price respectively. The total number of points that can be awarded is 100 and the lowest evaluated price is \$90,000.00 (90).

Selection method - Highest combined score based on technical merit (85%) and price (15%)

	Bidder 1	Bidder 2	Bidder 3
Total technical score	64/85	81/85	80/85
Evaluated bid price	\$90,000.00	\$94,000.00	\$98,000.00
Calculations			
Technical merit score	$64/85 \times 85 = 64$	$81/85 \times 85 = 81$	$80/85 \times 85 = 80$
Price score	$90/90 \times 15 = 15$	$90/94 \times 15 = 14.36$	$90/98 \times 15 = 13.77$
Combined score	79	95.36	93.77
Overall evaluation	3rd	1st	2nd

Evaluation criteria for the Eastern Sand Darter

Technical Proposal Evaluation			
Criteria	Description	Meaning	Reference page in proposal
<u>Firm's experience (20 pts.)</u>			
Competence	10 or more years of experience = 10 pts. 4 to 9 years of experience = 5 pts. 1 to 3 years of experience = 0 pts.	Firm's years of experience in freshwater inventories. The number of years must be determined by analyzing the bid, not knowledge of the firm.	
Physical resources	Unlimited physical resources available = 5 pts. Limited physical resources available = 2.5 pts. Physical resources unavailable = 0 pts.	The available physical resources consist of the firm's human and material resources. These elements must be listed to be awarded points.	
Surplus resources	Unlimited surplus resources = 5 pts. Limited surplus resources = 2.5 pts. Surplus resources unavailable = 0 pts.	Surplus resources include all resources that may be required, e.g. material or human resources supplied by the municipality, networks of contacts for the material resources required for successful operation of activities. These elements must be listed to be awarded points.	
Firm's Experience Total			/20 pts.
<u>Management (10 pts.)</u>			
Team organization	Ratio of 1 project manager/3 or more technicians or biologists = 2.5 pts. Ratio of 1 project manager/2 technicians or biologists = 1.5 pts. Ratio of 1 project manager/1 technician or biologist = 1 pt. Only technicians or biologists (2 or more) = 0.5 pts. 1 technician = 0 pts.	The project manager is not the supervisor or manager, rather, the biologist in charge of the project who will supervise the field work.	
Project manager ¹	7 or more years of experience = 2.5 pts. 4 to 6 years of experience = 1 pt. 1 to 3 years of experience = 0 pts.	Project manager's years of experience in freshwater surveys. The number of years must be determined by analyzing the bid, not knowledge of the person.	
Field staff ¹	5 or more years of experience = 2.5 pts. 3 to 4 years of experience = 1 pt. 1 to 3 years of experience = 0 pts.	Personnel's years of experience in freshwater surveys. The number of years must be determined by analyzing the bid, not	

¹ Each experience submitted as a reference must include references for validation by DFO.

Past performance ¹	7 or more documents = 2.5 pts. 4 to 6 documents = 1 pt. 1 to 3 documents = 0 pts.	knowledge of the person. "Overall" past performance refers to the number of freshwater survey documents produced by the firm or its employees. The number of documents must be determined by analyzing the bid, not through knowledge of the firm or its employees.	
Management Total			/10 pts.
<u>Sampling plan and protocol (55 pts.)</u>			
Methodology quality and relevance	Methodology compliant with MRNF 2011 and detailed sampling plan/protocol = 15 pts. Methodology compliant with MRNF 2011 and little to no detail in sampling plan/protocol = 5 pts. Methodology non-compliant with MRNF 2011 or inadequate = 0 pts.	The total number of points is awarded when the proposed sampling plan and protocol are relevant to DFO needs and sufficiently detailed to allow DFO to evaluate the bidder's capacity to perform the work required. Moreover, the methodology must be detailed, consistent and clear, and mention the use of the MRNF protocol.	
Spatial coverage (catch area)	100% of catch area = 10 pts. 50% of catch area = 5 pts. Less than 50% of catch area = 0 pts.	The total number of points is awarded when 100% of the catch area has been covered.	
Percentage of rivers surveyed	100% of rivers covered = 10 pts. 50% of rivers covered = 5 pts. 0% of rivers covered = 0 pts.	The total number of points is awarded when 100% of the rivers are surveyed.	
Knowledge of Quebec rivers potentially frequented by the Eastern Sand Darter	5 or more projects = 7.5 pts. 3 to 4 projects = 2.5 pts. 1 to 3 projects = 0 pts.	The projects must have been carried out in rivers potentially frequented by the Eastern Sand Darter. The rivers are listed in the Recovery Strategy. ²	
Relevance of stations chosen	Prior and relevant station choice = 5 pts. Choice of relevant sectors (stations not specified) = 1 pt. No station choice = 0 pts.	To obtain the total points, advance work (e.g. orthophotos, satellite maps) must be done by the firm. In addition, station relevance is evaluated based on the textual description of potential stations (in terms of suitable habitat) provided by the bidder.	
Relevance of dates and strategy	Compliance with the restriction period and before the fall flooding = 5 pts. Suboptimal dates = 2.5 pts. Off-season dates = 0 pts.	Sampling dates outside of the spawning period and prior to fall flooding earn the maximum number of points. These elements must	

¹ Each experience submitted as a reference must include references for validation by DFO.

² Fisheries and Oceans Canada. 2014. Recovery Strategy for the Eastern Sand Darter (*Ammocrypta pellucida*) in Canada, Quebec Populations. Species at Risk Act Recovery Strategy Series, Fisheries and Oceans Canada, Ottawa, vii + 47 pp.

Activity calendar	Clear, logical activity calendar = 2.5 pts. Calendar with minor insufficiencies = 1 pt. Obsolete calendar of different phases = 0 pts.	be clearly indicated. A detailed calendar of all project phases (text or table format) must be included in the bid to obtain the maximum number of points.	
Problem-solving	List of problems and innovative solutions = 2.5 pts. List of problems = 1 pt. No mention = 0 pts.	To obtain the total points, potential problems and their solutions must be indicated. E.g., submission of a plan B or options based on field constraints (lack of access due to water level, etc.)	
Sampling plan and protocol Total			/55 pts.
Total Technical Proposal Evaluation			/85 pts.

<u>Financial Proposal Evaluation</u>			
<u>Cost (15 pts.)</u>			
Financial bid	\$\$\$ /15 pts.		
Total Financial Proposal Evaluation			/15 pts.

TOTAL WEIGHTED MARK			/100 pts.
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APPENDIX "E"

BIDDER INSTRUCTIONS

1. DEFINITIONS

In the Request for Proposal

- 1.1. The terms Proposal, tender and proposal may be used interchangeably.
- 1.2. "Minister" includes a person acting for, or if the office is vacant, in place of the Minister of Fisheries and Oceans and the Minister's successors in the office, and the Minister's or their representatives appointed for the purpose of the Request for Proposal.
- 1.3. "Tender Closing Time" refers to the hour and minute expressed in the local time of the Tendering Office, after which no further tenders will be accepted.

2. TENDER CLOSING

- 2.1. Sealed tenders will be received at the Tendering Office until the Tender Closing Time stipulated in the Request for Proposal. Tenders received after Closing Time will not be considered and will be returned unopened.
- 2.2. Notwithstanding the foregoing, the Department of Fisheries and Oceans reserves the right to postpone tender closing, at which time all tenderers will be advised formally of the new date and time.
- 2.3. A template of a return envelope is being provided. The tenderer has to supply his own envelope.

3. TENDER OPENING

In the case of a Public Tender Opening

- 3.1. Tenders are opened in public at a location specified in the Request for Proposal as soon as possible after closing time unless specific instructions to the contrary regarding tender opening are included in the Request for Proposal.
- 3.2. Where only one tender is received, the Department reserves the right not to disclose the amount of the tender at the public opening. The amount of the tender will be made public if a contract is awarded.

4. OFFICIAL TENDER FORMAT

- 4.1. Tenders must be submitted in the format provided and must be properly executed and submitted as instructed. Tenders not submitted in the format provided will not be considered.

5. REVISION OF TENDERS

- 5.1. Tenders may be revised by letter or printed telecommunication provided that revisions are received before the Tender Closing Time. Any change resulting in an increase in the tender price must be supported by a suitable increase in the tender security, if applicable.

6. TENDER SECURITY

- 6.1. If specified in the Request for Proposal, the tenderer will provide tender security, at the tenderer's own cost, in accordance with the document entitled Tender Security Requirements.
- 6.2. All tender securities will be returned except that of the successful tenderer, which will be retained until the successful tenderer has provided contract security in accordance with Article 8 below.

7. CONTRACT SECURITY

- 7.1. If specified in the Request for Proposal, the successful tenderer will provide contract security, at the tenderer's own cost, within fourteen (14) days of contract award in accordance with the Document entitled Contract Security Requirements.
- 7.2. Where contract security is a requirement, all tenders must be accompanied by evidence from a bank, financial institution or a surety company that the required contract security will be provided upon notification of contract award to the successful tenderer.

8. INSURANCE

- 8.1. If specified in the Request for Proposal, the successful tenderer will be required to provide contract insurance, at the tenderer's own cost, within fourteen (14) days of contract award in accordance with the document entitled Insurance Conditions.
- 8.2. Where insurance is a requirement, all tenders must be accompanied by confirmation from the tenderer's insurance company that the required insurance will be available upon contract award.

9. FEDERAL CONTRACTORS PROGRAM FOR EMPLOYMENT EQUITY

- 9.1. The Federal Contractors Program for Employment Equity applies to contracts for the provision of all goods and services, but not to the purchase or lease of real property or to construction contracts. Where a tender for the provision of goods or services is valued at \$200,000 or more and the tenderer's organization employs 100 or more permanent full-time or permanent part-time employees, it is mandatory that the requirements contained in the attached documentation on the Federal Contractors Program for Employment Equity be met or the tender will not be considered.

10. TENDER VALIDITY PERIOD

- 10.1. Unless otherwise specified in the Request for Proposal, tenders are to remain firm and in effect for a period of sixty (60) days following the Tender Closing Time.
- 10.2. Notwithstanding Article 10.1, in the event the Minister deems it necessary to extend the sixty (60) day period for acceptance of tenders for a further sixty (60) day period, the Minister shall, prior to the expiration of such period, notify the tenderer by written notice to that effect, whereupon the tenderer shall have fifteen (15) days from the date of receipt of such written notice to, in writing, either accept the requested extension as referred to in the Ministerial notice or withdraw its tender.
- 10.3. In the event tender security was provided and in the event of withdrawal of tender as herein provided, the Tender Security Deposit shall be reimbursed or returned without penalty or interest. In the event the tenderer accepts the requested extension, the acceptance period shall be extended as referred to in the Ministerial notice. In the event the tenderer does not respond to the Ministerial notice hereinabove referred to, the tenderer shall be conclusively deemed to have accepted the extension referred to in the Ministerial notice.

11. INCOMPLETE TENDERS

- 11.1. Incomplete or conditional tenders will be rejected.
- 11.2. Tenders that omit any mandatory requirements specified in the Request for Proposal will be rejected.
- 11.3. In the event that tender security is required and is not provided with the tender, the tender will be rejected.

12. REFERENCES

- 12.1. The Department of Fisheries and Oceans reserves the right, before awarding the contract, to require the successful tenderer to submit such evidence of qualifications as it may deem necessary, and will consider evidence concerning the financial, technical and other qualifications and abilities of the tenderer.

13. LOWEST TENDER NOT NECESSARILY ACCEPTED

13.1 The lowest or any tender will not necessarily be accepted

14. RIGHTS OF CANADA

14.1. Canada reserves the right to:

- a) Reject any or all bids received in response to the bid solicitation;
- b) Enter into negotiations with bidders on any or all aspects of their bids;
- c) Accept any bid in whole or in part without negotiations;
- d) Cancel the bid solicitation at any time;
- e) Reissue the bid solicitation;
- f) If no responsive bids are received and the requirement is not substantially modified, reissue the bid solicitation by inviting only the bidders who bid to resubmit bids within a period designated by Canada; and,
- g) Negotiate with the sole responsive Bidder to ensure best value to Canada.

ENVELOPE TEMPLATE

The name and address of your firm

Request for Proposal Number F5211-140220

**Abundance inventory and assessment of area of suitable habitat for Eastern Sand
Darter in six Quebec watercourses**

**Bid Closing Date and Time: 30 July 2014
2 pm (14:00 Hours) Atlantic Time**

BID/PROPOSAL

Bid Reception

Procurement Hub - Fredericton Office

Materiel and Procurement Services - Financial and Materiel Management Operations

301 Bishop Drive

Fredericton, NB, E3C 2M6

Fisheries and Oceans Canada

Facsimile : 506-452-3676

E-mail : DFOtenders-soumissionsMPO@dfo-mpo.gc.ca

Attn: Jean-Yves Hamel