

## **CANADIAN EXPERT FOR THE COMMISSION OF EXPERTS OF THE SUPERVISORY AUTHORITY OF THE INTERNATIONAL REGISTRY FOR INTERESTS IN AIRCRAFT EQUIPMENT**

Transport Canada intends to award a sole source contract to Ronald C.C. Cuming Q.C., professor at the University of Saskatchewan College of Law and International Commercial Consultant, 15 Campus Drive, Saskatoon, Saskatchewan, to act as a member of the Commission of Experts established by the International Civil Aviation Organisation (ICAO) in its capacity as Supervisory Authority for the International Registry for recording interests in aircraft equipment. The contract will be for an initial term of one year ending on June 30, 2016, with three consecutive options to renew of one year each, at the discretion of the Director, National Air Services Policy, Transport Canada.

### **ACAN Process**

An Advance Contract Award Notice (ACAN) allows federal departments and agencies to post a notice, for no less than fifteen calendar days, indicating to the supplier community that it intends to award a goods, service or construction contract to a pre-identified contractor. If no other supplier submits, on or before the closing date, a statement of capabilities that meets the requirements set out in the ACAN, the competitive requirements of the government's contracting policy have been met. Following notification to suppliers not successful in demonstrating that their statement of capabilities meets the requirements set out in the ACAN, the contract may then be awarded using the Treasury Board's electronic bidding authorities.

If other potential suppliers submit statements of capabilities during the fifteen calendar day posting period, and meet the requirements set out in the ACAN, the department or agency must proceed to a full tendering process on either the government's electronic tendering service or through traditional means, in order to award the contract.

### **REQUIREMENT**

The purpose of this contract is to provide an internationally recognized Canadian expert to assist, along with a limited number of experts from other countries, the Supervisory Authority for the International Registry for recording legal interests in aircraft equipment instituted by the 2001 Cape Town Convention and Aircraft Equipment Protocol.

### **Introduction**

The *Convention on International Interests in Mobile Equipment* and the *Protocol on International Interests in Aircraft Equipment*, both signed at Cape Town on

16 November 2001 (hereinafter referred to collectively as the “Cape Town Instruments”), provide for the institution of an International Registry. The Registry is established for the registration of international interests (*i.e.* those granted by the chargor under a security agreement, those vested in a person who is the conditional seller under a title reservation agreement, or those vested in a person who is the lessor under a leasing agreement), prospective international interests and certain registrable non-consensual interests; assignments and prospective assignments of international interests; acquisitions of international interests by legal or contractual subrogations under the applicable law; notices of national interests; and subordinations of such interests. The International Registry is under the supervision of the Montreal-based International Civil Aviation Organisation (ICAO). In fulfilling its tasks, that Supervisory Authority is assisted by a Commission of Experts with suitable qualifications and experience. Canada will propose for ICAO’s consideration Professor Ronald C.C. Cuming Q.C. as a Commission expert from Canada.

### **Scope of Work**

The work will include assisting the ICAO in its capacity as the Supervisory Authority in the performance of its functions, which comprise the following:

- (a) Appoint and dismiss the Registrar;
- (b) Ensure that any rights required for the continued effective operation of the International Registry in the event of a change of Registrar will vest in or be assignable to the new Registrar;
- (c) After consultation with the Contracting States, make or approve and ensure the publication of regulations dealing with the operation of the International Registry;
- (d) Establish administrative procedures through which complaints concerning the operation of the International Registry can be made to the Supervisory Authority;
- (e) Supervise the Registrar and the operation of the International Registry;
- (f) At the request of the Registrar, provide such guidance to the Registrar as the Supervisory Authority thinks fit;
- (g) Set and periodically review the structure of fees to be charged for the services and facilities of the International Registry;
- (h) Do all things necessary to ensure that an efficient notice-based electronic registration system exists to implement the objectives of the *Cape Town Convention*; and
- (i) Report periodically to Contracting States concerning the discharge of its obligations under that *Convention*.

In providing assistance, the Canadian expert will bring to bear in-depth knowledge and experience of the purpose and intent of the Cape Town instruments, the workings of a notice-based electronic registry and the law relating to personal property security and international secured financing.

## **Work Required**

The Canadian expert will participate in the provision of advice and recommendations on such matters as the performance of the Registry and of the Registrar with special emphasis on efficiency and ethics, and also proposals for the modification of the fee schedules. Our expert shall be prepared to assume some leadership in the drafting of regulations and procedures. Work will be performed over the telephone, by e-mail and through the attendance at a limited number of meetings, which will take place mainly at ICAO headquarters in Montreal.

## **Deliverables**

The Canadian expert will bring to bear expertise widely recognized internationally. He will report on his work to Transport Canada and be prepared to participate as required in consultations with federal officials, provincial and territorial personal property security authorities as well as Canadian industry.

The Canadian expert will also provide an annual report to the Director, National Air Services Policy at Transport Canada containing an update on the implementation of the Registry and the work he has performed on the Commission.

## **PERIOD OF THE CONTRACT**

From contract award to June 30, 2016, with three consecutive options to renew of one year each, to be exercised at the discretion of the Director, National Air Services Policy, Transport Canada.

## **SOLE SOURCE JUSTIFICATION**

Professor Ronald C. C. Cuming is the only person known to Transport Canada who has the capacity to meet the specific requirements of the function.

Professor Cuming, who is a Canadian national, has 42 years of professional experience as a professor of commercial law and 25 years experience as an international consultant with expertise in secured financing.

He drafted secured financing law that is now in force in most common law provinces and territories of Canada. In addition, he participated in the design and implementation of several of the registries that function in conjunction with that law.

He has extensive international experience in advising national governments and international organizations in the development of secured financing systems.

As a consultant to the World Bank, the Asian Development Bank and other international agencies, he prepared several reports for States recommending the creation of secured financing systems and accompanying registries.

He has published books and articles on secured transactions law and registries, including articles that were influential in the design of the International Registry.

He was the originator and principal consultant to the International Institute for the Unification of Private Law (UNIDROIT) and later to the Canadian Government in the development of the *Convention on International Interests in Mobile Equipment*, 2001. Indeed, in 1988 he launched at UNIDROIT the project that led to the development of what are now the Cape Town Instruments and was a constant member of the Canadian team that negotiated those instruments advising on matters of personal property security and the operation of international registries. He assumed a very active role in the drafting of the Registry Regulations.

Professor Cuming is known to enjoy the respect and confidence of the ICAO Secretariat, which has sought his expertise on numerous occasions to resolve problems relating to the establishment of the International Registry.

He is well known to and respected by the governments in many provinces as an unparalleled expert in his field. His on-going contact with provincial law will help him in the provision of practical advice to the Supervisory Authority.

Professor Cuming was previously a member of the Commission of Experts.

### **Contractor**

Professor Ronald C.C. Cuming Q.C.  
Professor of Law  
University of Saskatchewan College of Law  
International Commercial Law Consultant  
15 Campus Drive  
Saskatoon, Saskatchewan  
Canada S7N 5A6  
Tel.: 306-966-5883  
Fax: 306-966-5900  
Email: [ronald.cuming@usask.ca](mailto:ronald.cuming@usask.ca)

## **Challenge**

Suppliers who consider themselves fully qualified and available to provide the services/goods described herein, may submit a statement of capabilities in writing to the contact person identified in this Notice on or before the closing date of this Notice. The statement of capabilities must clearly demonstrate how the supplier meets the advertised requirements.

## **Closing Date**

April 1, 2015, at 12:pm (noon) daylight savings time.

## **Contact**

Brenda Borland  
Materiel and Contracting Officer  
Materiel and Contracting Operations  
Transport Canada  
Place de Ville, Tower C  
330 Sparks Street  
Ottawa, Ontario  
K1A 0N5  
**Tel.: (613) 990-3416**  
**Fax.: (613) 991-0854**  
E-mail: [brenda.borland@tc.gc.ca](mailto:brenda.borland@tc.gc.ca)