

Question and Answer version 4

Question: Our organization often conducts advocacy related campaigns on toxic chemicals asking the public for support for bans/restrictions. These activities would not be part of the Health Canada grant and therefore we would not solicit approval for messaging. Does that present a conflict or problem?

Response:

- As a preliminary matter, the intent of this Request for Proposals is to award a “contract” for services as defined in Appendix A of the Treasury Board of Canada Secretariat’s Contracting Policy (<http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=14494>). As such, it will not result in the issuance of a “grant” as defined in Appendix A of the Treasury Board of Canada’s Secretariat’s Transfer Payments Policy (<http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=13525>). Therefore, bidders are advised that the following answer to the question posed is in reference to the issuance of a “contract” and not a “grant”.
- In response to the question itself, Health Canada considers that, based on the information contained in the question about the prospective bidder’s activities, the potential for a conflict of interest does exist between advocacy campaigns asking the public for support for bans/restrictions on chemicals that are being assessed or risk managed under Canada’s Chemicals Management Plan (CMP) and the work described in the Statement of Work. This is especially the case for the tasks, activities set out in section 2.1.1 "Information Out" in the Statement of Work, related to CMP knowledge transfer, sharing and environmental health public outreach which can be summarized as getting program findings out to Canadians. A potential conflict could exist in cases where a contractor’s stated public positions differ from the risk assessment, risk management decision-making or CMP public messaging (e.g. on potential risks and actions Canadians can take to avoid risks).
- Health Canada also refers bidders to clause 15.4 of the General Instructions, which states that: “By submitting a bid, the Bidder represents that it does not consider itself to be in conflict of interest nor to have an unfair advantage.” Therefore, the onus is on the bidder to ensure that no conflict of interest exists at the time of bid submission. Further, the obligation to avoid conflicts of interest is an on-going one for the successful bidder awarded the contract under section 27(4) of the Resulting Contract Clauses – General Conditions, which reads: "If the Contracting Authority is of the opinion that a conflict exists as a result of the Contractor's disclosure or as a result of any other information brought to the Contracting Authority's attention, the Contracting Authority may require the Contractor to take steps to resolve or otherwise deal with the conflict or, at its entire discretion, terminate the Contract for default. Conflict means any matter, circumstance, interest, or activity affecting the Contractor, its personnel or subcontractors,

which may or may appear to impair the ability of the Contractor to perform the Work diligently and independently."

- As noted above, there are steps that the contractor could take to reduce the potential for conflict of interest. For example, see Mandatory Technical Criteria 1 (MT1 on page 8) which outlines the bidder must currently operate and maintain (or develops and maintains) a website or web pages in both of Canada's official languages (English and French) that has or would have the capacity to function as a national or international information reference repository for the environmental health sector within the CMP framework." To avoid any potential conflict, it would be important that a clear public statement be included on the web site explaining "the roles and nature of participation of the contractor and CSOs in the CMP" (page 48) which indicates that the web site created under this contract is independent from the other web sites maintained by the organization that may be used for work outside the scope of this contract. Clear delineation between work being undertaken under the terms of this contract and other work such as advocacy is key.
- Any potential or real conflicts of interest should be identified by bidders in their proposal along with risk mitigation strategies to address them. This information will be used as part of the evaluation process to award the contract (as per section 27.4) above.