

Advanced Contract Award Notice

An Advance Contract Award Notice (ACAN) allows 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 good, 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 Canada Border Services Agency'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.

Background

Canada's *Immigration and Refugee Protection Act* (IRPA) stipulates who is inadmissible to Canada, including for reasons of security, human or international rights violations or organized criminality. Under the *IRPA*, the Canada Border Services Agency (CBSA) has authority to arrest, detain and remove permanent residents and foreign nationals who are found to be inadmissible to Canada. The CBSA also has the statutory obligation to remove individuals as soon as possible. The CBSA is the sole federal accountable immigration detention authority, and as such, is responsible for the care and control of immigration detainees.

Detention can be used at the beginning of the enforcement process when the identity of a non-citizen has yet to be established or if the person is believed to be a danger to the public. It can also be used at the end of the enforcement process when removal is imminent and the person is unlikely to appear for removal.

The CBSA's policy and guidelines are clear; if detention is required for immigration purposes, it should be for the shortest time possible. Several factors must be considered when deciding to detain, including the availability and potential use of alternatives to detention when appropriate; allowing a person to be released under specific terms and conditions, such as deposits and guarantees; and, reporting requirements. When making detention decisions, CBSA officers are guided by the *IRPA* and its regulations, as well as CBSA detention guidelines. Each decision rests on a set of individual circumstances that must be assessed on their own merit. Officers must always consider the impact releasing someone into the community would have on the safety of Canadians.

All individuals subject to detention are entitled to a detention review(s), according to timelines specified within the *IRPA* and its regulations. These detention reviews are conducted and decisions are made by the Immigration and Refugee Board (IRB), an independent quasi-judicial body that makes determinations on immigration-related matters. In addition to detention reviews, most detainees will be subject to immigration hearing procedures that are undertaken to rectify their immigration status within Canada. These hearings are also undertaken by the IRB, independent of the CBSA.

Requirement Definition

The CBSA has a requirement for the immigration detention monitoring services by an impartial and reputable third party organization to ensure that individuals detained pursuant to the *IRPA* in any Canadian facility, CBSA-operated or otherwise, are held and treated in compliance with applicable detention standards and international instruments to which Canada is signatory. The

independent immigration detention monitoring program is critical to supporting the Government of Canada's commitment to respecting human rights while upholding the rule of law.

The scope of work includes:

- Conducting at least 70 visits per year to the Canadian facilities (CBSA-operated immigration holding centres, provincial correctional facilities and other municipal or territorial detention facilities) across Canada to ensure that persons detained pursuant to Section 55 of the *IRPA* are held and treated in accordance with applicable domestic laws and international standards;
- Identifying gaps, problems or failures in the detention system that impact the conditions of detention and the treatment of individuals;
- Providing independent and neutral advice and reports to CBSA management, which are focused on systems and include: facility reports; regional quarterly reports; national annual report; ad-hoc reports in the event of an emerging issue; and, financial reports, upon request; and,
- Making recommendations to the CBSA or other detaining authorities that would lead to improvements in the overall detention environment.

Trade Agreements

This requirement is not subject to Trade Agreements.

Justification for the Pre-Selected Supplier

CBSA has determined that the Canadian Red Cross Society is the only source capable of successfully performing the work on a national scale as they possess the mandate, expertise, experience and network required to carry out neutral monitoring services of CBSA's immigration detention program across the country.

Limited tendering of this requirement is consistent with the provisions of the Government Contracts Regulations (GCRs) Section 6, where only one firm is capable of performing the contract.

Contract Period

The consulting services are required over a period of two (2) years, from the date of contract award (anticipated to be April 2017) with one (1) option to renew the contract for a period of one year. Should the contract be renewed, it would be for the provision of the same services.

Estimated Contract Value

The estimated value of the contract for the initial contract period is \$1,171,142.83; HST extra. The estimated value of the option period is \$598,757.17, HST extra.

Intellectual Property

There is no intellectual property associated with this requirement.

Name and Address of Proposed Contractor

The Canadian Red Cross Society: 170 Metcalfe Street, Ottawa, ON.

Submission of Statement of Capabilities

Suppliers who consider themselves fully qualified and available to meet the specified requirements may submit a statement of capabilities in writing to the Contracting Authority 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 minimum essential requirements.

Minimum Essential Requirements

Any interested supplier must demonstrate by way of a statement of capabilities that it meets the following requirements:

1. The Contractor must have a minimum of five (5) years of experience, with at least three (3) years of that experience being gained in the last five (5) years, in independently monitoring individuals held in immigration detention, pursuant to the *Immigration and Refugee Protection Act (IRPA)* across Canada (e.g. CBSA Immigration Holding Centres, provincial correctional facilities and other detention facilities) to ensure that they are being held and treated in compliance with applicable domestic standards and international instruments to which Canada is signatory.
2. The contractor must have a minimum of five (5) years of experience, with at least three (3) years of that experience being gained in the last five (5) years, in working with federal, provincial and other levels of government at the working and senior levels.
3. The Contractor must have national presence to provide these services across Canada.
4. The Contractor must be able to conduct a minimum of 70 visits per year to the detention facilities across Canada.
5. The Contractor must have a minimum of five (5) years of experience, with at least three (3) years of that experience being gained in the last five (5) years, in all of the following:
 - Gathering, assessing, and reporting on findings of independent monitoring visits on the treatment of immigration detainees and conditions of immigration detention in a neutral, impartial manner and with respect to the human rights, dignity and protection of persons being detained for immigration purposes.
 - Assessing immigration detention practices against domestic and international human rights standards and identifying gaps, problems or failures in the immigration detention system that impact the conditions of detention and the treatment of individuals held pursuant to the *IRPA*.
 - Reporting findings and developing recommendations to improve the immigration detention environment for present and future immigration detainees.
 - Presenting findings to immigration detention facility authorities where immigration detainees are held (i.e. CBSA, provincial, municipal, etc.) and senior level government management.
 - Developing and providing the following reports: facility reports after each visit addressing operational issues to be addressed within facilities; regional quarterly and national annual reports; and, financial reports as required.
6. The Contractor must have in place quality assurance tools and procedures for staff, contracted employees and volunteers delivering the services to ensure that consistent quality of services is being provided across Canada and that the privacy of detainees is protected.

7. The Contractor must have a minimum of five (5) years of experience, with at least three (3) years of that experience being gained in the last five (5) years, working in partnership with other NGOs, intergovernmental organizations and federal government departments in providing services for the protection of the most vulnerable persons worldwide (e.g. integration/resettlement services to refugees and other in need of humanitarian protection in Canada; emergency, disaster relief, health services to those in a crisis situations, etc.)
8. The services must be provided in both English and French.

The closing date and time for accepting statements of capabilities is March 17, 2017 at 2:00 p.m. EDT.

Inquiries and statements of capabilities are to be directed to:

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