

## **ADVANCE CONTRACT AWARD NOTICE (ACAN)**

### **1. Advance Contract Award Notice (ACAN)**

An ACAN is a public notice indicating to the supplier community that a department or agency intends to award a contract for goods, services or construction to a pre-identified supplier, thereby allowing other suppliers to signal their interest in bidding, by submitting a statement of capabilities. If no supplier submits a statement of capabilities that meets the requirements set out in the ACAN, on or before the closing date stated in the ACAN, the contracting officer may then proceed with the award to the pre-identified supplier.

### **2. Definition of Requirements**

The department of Natural Resources Canada (NRCan) has a requirement to create benchmarking platforms that will align the U.S. Environmental Protection Agency's (EPA) ENERGY STAR program for industry certification seamlessly across the U.S. and Canada, in the following eight industrial sectors: cement, fertilizer, motor vehicle assembly, motor vehicle engines, motor vehicle transmissions, steel mini-mills, commercial baking, as well as non-integrated paper and paperboard. The Canadian component of the work is to be based on ENERGY STAR benchmarking tools, which were developed under an exclusive work agreement between the U.S. EPA and Duke University. These ENERGY STAR benchmarking tools (reference: plant energy performance indicators or EPI) can help a company to know how efficiently its plant uses energy relative to other plants across the U.S. and Canada, and the top quartile will be recognized as being the best-in-class performers.

### **3. Criteria for Assessment of the Statement of Capabilities**

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

1. A minimum of ten (10) years of experience in building mathematical models that estimate a manufacturing plant's relative energy efficiency in relationship to the rest of its unique industrial sector (minimum 10 years);
2. A minimum of ten (10) years of experience in conversing with industry, in at least ten (10) different industrial manufacturing sectors, on energy impacts with a view to building trust and credibility;
3. Experience in conducting a research project across both the U.S. and Canada (minimum 1 project);
4. Experience in developing and finalizing an ENERGY STAR benchmarking platform (minimum 1 platform);
5. At least ten (10) years of experience in handling and protecting confidential industrial data;
6. Knowledge and understanding of advanced statistical and economic data treatment, including regression analysis and stochastic frontier modelling;
7. Advanced degrees in statistics and economics;
8. Permission from the U.S. EPA to develop ENERGY STAR for industry benchmarking tools;

9. Occupancy of an approved seat at the U.S. Census Bureau's Center for Economic Studies in advance of performing the work;
10. Evidence of an approved research project from the U.S. Census Bureau's Center for Economic Studies; and;
11. Special Sworn Status for each person who will access the non-public microdata at the U.S. Census Bureau's Center for Economic Studies. (This data is protected under Title 13, authorizing title for the Census data and Title 26, authorizing title for the US tax code).

#### **4. Trade Agreements**

This procurement is subject to the following trade agreement(s):  
NAFTA, AIT, Panama, Chile and Columbia Free Trade Agreement;  
North America Free Trade Agreement

#### **5. Set-aside under the Procurement Strategy for Aboriginal Business**

Not Applicable.

#### **6. Comprehensive Land Claims Agreement(s)**

Not Applicable.

#### **7. Justification for the Pre-Identified Supplier**

We intend to deal directly with the supplier mentioned in section 10 below as it is the only known supplier that meets the mandatory criteria set out in section 3 above.

Should Canada receive a statement of capabilities from a supplier that contains sufficient information to indicate that it meets the requirements set forth in this ACAN, a competitive process will be triggered with a technical and financial evaluation methodology of the bids proposed by the potential bidders

#### **8. Exception to the Government Contracts Regulations**

The following exception(s) to the Government Contracts Regulations is (are) invoked for this procurement under subsection

6 (d) – Only one person or firm is capable of performing this contract.

The requirement is for the development of benchmarking analysis that would support the expansion of the US EPA Energy Star Program "Brand" in Canada. The vendor is the only Organization that has the permission from the United States Environmental Protection Agency (U.S. EPA) to develop ENERGY STAR for Industry benchmarking tools.

The identified provider, Duke University, is the only one able to meet all of the criteria identified in paragraph 3 above.

## 9. Exclusions and/or Limited Tendering Reasons

The following exclusion(s) and/or limited tendering reasons are invoked under the:

➤ **NAFTA Article 1016 - Limited Tendering Procedures**

1016.2 (b) - where, for works of art, or for reasons connected with the protection of patents, copyrights or other exclusive rights, or proprietary information or where there is an absence of competition for technical reasons, the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute exists.

Agreement on Internal Trade

➤ **AIT Article 506 – Limited Tendering (Paragraph 12)**

(b) where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists;

Canada-Chile Free Trade Agreement

➤ **CCFTA - Article Kbis-09: Tendering Procedures**

where, for works of art, or for reasons connected with the protection of patents, copyrights or other exclusive rights, or proprietary information or where there is an absence of competition for technical reasons, the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute exists;

Canada-Colombia Free Trade Agreement

➤ **Canada-Colombia FTA - Article 1409: Limited Tendering**

(b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:

- (i) the requirement is for a work of art,
- (ii) the protection of patents, copyrights or other exclusive rights, or
- (iii) due to an absence of competition for technical reasons;

Canada-Panama Free Trade Agreement

➤ **Canada-Panama FTA - Article 16.10: Limited Tendering**

b. the procurement can be carried out only by a particular supplier and a reasonable alternative or substitute does not exist because:

- i. the requirement is for a work of art,
- ii. a good or service being procured is protected by a patent, copyright or another exclusive right, or
- iii. of the absence of competition for technical reasons;

## **10. Ownership of Intellectual Property**

Ownership of any Foreground Intellectual Property arising out of the proposed contract will vest in the Contractor.

## **11. Contract Period**

The contract period will be from Contract Award to March 31, 2018.

## **12. Estimated Cost**

The estimated maximum value of the contract is \$ 109,031.00 USD inclusive.

## **13. Name and Address of the Proposed Contractor**

Duke University  
Office Research Support  
2200 W. Main St., Ste. 710  
Durham, NC 27705

## **14. Suppliers' right to submit a statement of capabilities**

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

## **15. Closing Date**

The closing date for a submission of a Statement of Capabilities is 9 August 2017 at 14:00 Mountain Standard Time.

## **16. Contract Authority**

Kingsley Okosun  
Natural Resources Canada  
5320 122nd Street,  
Edmonton AB. T6H 3S5  
780-435-7208  
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