



**RETURN BIDS TO:  
RETOURNER LES SOUMISSIONS À:**

Bid Receiving/Réception des soumissions

Procurement Hub | Centre d'approvisionnement  
Fisheries and Oceans Canada | Pêches et Océans Canada  
301 Bishop Drive | 301 promenade Bishop  
Fredericton, NB E3C 2M6

Email - courriel:

[DFOtenders-soumissionsMPO@dfo-mpo.gc.ca](mailto:DFOtenders-soumissionsMPO@dfo-mpo.gc.ca)

**REQUEST FOR PROPOSAL**

**DEMANDE DE PROPOSITION**

Proposal to: Fisheries and Oceans Canada

We hereby offer to sell to Her Majesty the Queen in right of Canada, in accordance with the terms and conditions set out herein, referred to herein or attached hereto, the goods and services listed herein and on any attached sheets at the price(s) set out therefor.

Proposition aux : Pêches et Océans Canada

Nous offrons par la présente de vendre à Sa Majesté la Reine du chef du Canada, aux conditions énoncées ou incluses par référence dans la présente et aux appendices ci-jointes, les biens et les services énumérés ici sur toute feuille ci-annexée, au(x) prix indiqué(s).

Comments: - Commentaries :

<b>Title – Sujet</b> Analysis and Recommendations on the Development of National Aquaculture Siting and Containment Standards		<b>Date</b> July 20, 2018
<b>Solicitation No. – N° de l'invitation</b> F5211-180279		
<b>Client Reference No. - No. de référence du client</b> FP996-180006		
<b>Solicitation Closes – L'invitation prend fin</b> <b>At / à : 2:00pm</b> ADT(Atlantic Daylight Time)/ HNA (heure avancée de l'Atlantique) <b>On / le : Friday August 3, 2018</b>		
<b>F.O.B. – F.A.B</b> Destination	<b>GST – TPS</b> See herein — Voir ci-inclus	<b>Duty – Droits</b> See herein — Voir ci-inclus
<b>Destination of Goods and Services – Destinations des biens et services</b> See herein — Voir ci-inclus		
<b>Instructions</b> See herein — Voir ci-inclus		
<b>Address Inquiries to – Adresser toute demande de renseignements à</b> Morgan Marchand Senior Contracting Officer <b>Email – courriel:</b> <a href="mailto:DFOtenders-soumissionsMPO@dfo-mpo.gc.ca">DFOtenders-soumissionsMPO@dfo-mpo.gc.ca</a>		
<b>Delivery Required – Livraison exigée</b> See herein — Voir ci-inclus	<b>Delivery Offered – Livraison proposée</b>	
<b>Vendor Name, Address and Representative – Nom du vendeur, adresse et représentant du fournisseur/de l'entrepreneur:</b>		
<b>Telephone No. – No. de téléphone</b>	<b>Facsimile No. – No. de télécopieur</b>	
<b>Name and title of person authorized to sign on behalf of Vendor (type or print) – Nom et titre de la personne autorisée à signer au nom du fournisseur (taper ou écrire en caractères d'imprimerie)</b>		
<b>Signature</b>	<b>Date</b>	



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## PART 1 - GENERAL INFORMATION

### 1.1 Security Requirements

There is no security requirement associated with this bid solicitation.

### 1.2 Statement of Work

The Work to be performed is detailed under Article 6.2 of the resulting contract clauses.

### 1.3 Debriefings

Bidders may request a debriefing on the results of the bid solicitation process. Bidders should make the request to the Contracting Authority within 15 working days from receipt of the results of the bid solicitation process. The debriefing may be in writing, by telephone or in person.

### 1.4 Procurement Ombudsman

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 for goods and under \$100,000 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 [opo-boa@opo-boa.gc.ca](mailto:opo-boa@opo-boa.gc.ca). You can also obtain more information on the OPO services available to you at their website at [www.opo-boa.gc.ca](http://www.opo-boa.gc.ca).

## PART 2 - BIDDER INSTRUCTIONS

### 2.1 Standard Instructions, Clauses and Conditions

All instructions, clauses and conditions identified in the bid solicitation by number, date and title are set out in the *Standard Acquisition Clauses and Conditions Manual* (<https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual>) issued by Public Works and Government Services Canada.

Revision to Departmental Name: As this solicitation is issued by Fisheries and Oceans Canada (DFO), any reference to Public Works and Government Services Canada or PWGSC or its Minister contained in any term, condition or clause of this solicitation, including any individual SACC clauses incorporated by reference, will be interpreted as reference to DFO or its Minister.

Bidders who submit a bid agree to be bound by the instructions, clauses and conditions of the bid solicitation and accept the clauses and conditions of the resulting contract.

The 2003 (2018-05-22) Standard Instructions - Goods or Services - Competitive Requirements, are incorporated by reference into and form part of the bid solicitation.

### 2.2 Submission of Bids

Bids must be submitted only to Fisheries and Oceans Canada (DFO) Bid Receiving Unit by the date, time and place indicated on page 1 of the bid solicitation.

Due to the nature of the bid solicitation, bids transmitted by facsimile to DFO will not be accepted.



## 2.3 Enquiries - Bid Solicitation

All enquiries must be submitted in writing to the Contracting Authority no later than **8 calendar days** before the bid closing date. Enquiries received after that time may not be answered.

Bidders should reference as accurately as possible the numbered item of the bid solicitation to which the enquiry relates. Care should be taken by bidders to explain each question in sufficient detail in order to enable Canada to provide an accurate answer. Technical enquiries that are of a proprietary nature must be clearly marked "proprietary" at each relevant item. Items identified as "proprietary" will be treated as such except where Canada determines that the enquiry is not of a proprietary nature. Canada may edit the question(s) or may request that the Bidder do so, so that the proprietary nature of the question(s) is eliminated, and the enquiry can be answered to all bidders. Enquiries not submitted in a form that can be distributed to all bidders may not be answered by Canada.

## 2.4 Applicable Laws

Any resulting contract must be interpreted and governed, and the relations between the parties determined, by the laws in force **in the province or territory where the goods and/or services are to be rendered.**

Bidders may, at their discretion, substitute the applicable laws of a Canadian province or territory of their choice without affecting the validity of their bid, by deleting the name of the Canadian province or territory specified and inserting the name of the Canadian province or territory of their choice. If no change is made, it acknowledges that the applicable laws specified are acceptable to the bidders.

## PART 3 - BID PREPARATION INSTRUCTIONS

### 3.1 Bid Preparation Instructions

Canada requests that bidders provide their bid in separately bound/saved sections as follows:

**Section I:**      **Technical Bid** (one (1) soft copy in PDF format)  
**Section II:**     **Financial Bid** (one (1) soft copy in PDF format)  
**Section III:**    **Certifications** (one (1) soft copy in PDF format)

**The maximum size per email (including attachments) is limited to 10MB. If the limit is exceeded, your email might not be received by DFO. It is suggested that you compress the email size or send multiple emails to ensure delivery. Bidders are responsible to send their proposal and to allow enough time for DFO to receive the proposal by the closing period indicated in the RFP.**

**For bids transmitted by email, DFO will not be responsible for any failure attributable to the transmission or receipt of the email bid. DFO will send a confirmation email to the Bidders when the submission is received.**

If there is a discrepancy between the wording of the soft copy and the hard copy, the wording of the hard copy will have priority over the wording of the soft copy.

Prices must appear in the financial bid only. No prices must be indicated in any other section of the bid.

Canada requests that bidders follow the format instructions described below in the preparation of their bid:



- a) use 8.5 x 11 inch (216 mm x 279 mm) paper;
- b) use a numbering system that corresponds to the bid solicitation.

In April 2006, Canada issued a policy directing federal departments and agencies to take the necessary steps to incorporate environmental considerations into the procurement process [Policy on Green Procurement](http://www.tpsgc-pwgsc.gc.ca/ecologisation-greening/achats-procurement/politique-policy-eng.html) (<http://www.tpsgc-pwgsc.gc.ca/ecologisation-greening/achats-procurement/politique-policy-eng.html>). To assist Canada in reaching its objectives, bidders should:

1. use 8.5 x 11 inch (216 mm x 279 mm) paper containing fibre certified as originating from a sustainably-managed forest and containing minimum 30% recycled content; and
2. use an environmentally-preferable format including black and white printing instead of colour printing, printing double sided/duplex, using staples or clips instead of cerlox, duotangs or binders.

### **Section I: Technical Bid**

In their technical bid, bidders should explain and demonstrate how they propose to meet the requirements and how they will carry out the Work.

### **Section II: Financial Bid**

Bidders must submit their financial bid in accordance with the Basis of Payment. The total amount of Applicable Taxes must be shown separately.

#### **3.1.1 Maximum funding**

The maximum funding available for the Contract resulting from the bid solicitation is **\$100,000.00** (Applicable Taxes included). Bids valued in excess of this amount will be considered non-responsive. This disclosure does not commit Canada to pay the maximum funding available.

### **Section III: Certifications**

Bidders must submit the certifications required under Part 5.

## **PART 4 - EVALUATION PROCEDURES AND BASIS OF SELECTION**

### **4.1 Evaluation Procedures**

- (a) Bids will be assessed in accordance with the entire requirement of the bid solicitation including the technical and financial evaluation criteria.
- (b) An evaluation team composed of representatives of Canada will evaluate the bids.

#### **4.1.1 Technical Evaluation**

##### **4.1.1.1 Mandatory Technical Criteria**

Please see Annex C for details.

##### **4.1.1.2 Point Rated Technical Criteria**

Please see Annex C for details.



#### 4.1.2 Financial Evaluation

SACC Manual Clause [A0222T](#) (2014-06-26), Evaluation of Price –Canadian / Foreign Bidders

#### 4.2 Basis of Selection

##### 4.2.1 Basis of Selection- Highest Combined Rating of Technical Merit and Price

1. To be declared responsive, a bid must:
  - a. comply with all the requirements of the bid solicitation; and
  - b. meet all mandatory criteria; and
  - c. obtain the required minimum of 25 points overall for the technical evaluation criteria which are subject to point rating.  
The rating is performed on a scale of 50 points.
2. Bids not meeting "(a) or (b) or (c)" will be declared non-responsive.
3. The selection will be based on the highest responsive combined rating of technical merit and price. The ratio will be 80% for the technical merit and 20% for the price.
4. To establish the technical merit score, the overall technical score for each responsive bid will be determined as follows: total number of points obtained / maximum number of points available multiplied by the ratio of 80%.
5. To establish the pricing score, each responsive bid will be prorated against the lowest evaluated price and the ratio of 20%.
6. For each responsive bid, the technical merit score and the pricing score will be added to determine its combined rating.
7. Neither the responsive bid obtaining the highest technical score nor the one with the lowest evaluated price will necessarily be accepted. The responsive bid with the highest combined rating of technical merit and price will be recommended for award of a contract.

The table below illustrates an example where all three bids are responsive and the selection of the contractor is determined by a 80/20 ratio of technical merit and price, respectively. The total available points equals 135 and the lowest evaluated price is \$45,000 (45).

<b>Basis of Selection - Highest Combined Rating Technical Merit (80%) and Price (20%)</b>				
		<b>Bidder 1</b>	<b>Bidder 2</b>	<b>Bidder 3</b>
<b>Overall Technical Score</b>		115/135	89/135	92/135
<b>Bid Evaluated Price</b>		\$55,000.00	\$50,000.00	\$45,000.00
<b>Calculations</b>	<b>Technical Merit Score</b>	$115/135 \times 80 = 68.14$	$89/135 \times 80 = 52.74$	$92/135 \times 80 = 54.52$
	<b>Pricing Score</b>	$45/55 \times 20 = 16.36$	$45/50 \times 20 = 18.00$	$45/45 \times 20 = 20.00$
<b>Combined Rating</b>		84.50	70.74	74.51
<b>Overall Rating</b>		1st	3rd	2nd



## PART 5 - CERTIFICATIONS

Bidders must provide the required certifications and additional information to be awarded a contract.

The certifications provided by Bidders to Canada are subject to verification by Canada at all times. Unless specified otherwise, Canada will declare a bid non-responsive, or will declare a contractor in default if any certification made by the Bidder is found to be untrue whether made knowingly or unknowingly, during the bid evaluation period or during the contract period.

The Contracting Authority will have the right to ask for additional information to verify the Bidder's certifications. Failure to comply and to cooperate with any request or requirement imposed by the Contracting Authority will render the bid non-responsive or constitute a default under the Contract.

### 5.1 Certifications Precedent to Contract Award and Certifications Required with the Bid

#### 5.1.1 Certifications Precedent to Contract Award

The certifications listed below should be completed and submitted with the bid, but may be submitted afterwards. If any of these required certifications is not completed and submitted as requested, the Contracting Authority will inform the Bidder of a time frame within which to provide the information. Failure to comply with the request of the Contracting Authority and to provide the certifications within the time frame provided will render the bid non-responsive.

##### 5.1.1.1 Federal Contractors Program for Employment Equity - Bid Certification

By submitting a bid, the Bidder certifies that the Bidder, and any of the Bidder's members if the Bidder is a Joint Venture, is not named on the Federal Contractors Program (FCP) for employment equity "[FCP Limited Eligibility to Bid](http://www.labour.gc.ca/eng/standards_equity/eq/emp/fcp/list/inelig.shtml)" list ([http://www.labour.gc.ca/eng/standards\\_equity/eq/emp/fcp/list/inelig.shtml](http://www.labour.gc.ca/eng/standards_equity/eq/emp/fcp/list/inelig.shtml)) available from [Employment and Social Development Canada \(ESDC\) - Labour's website](#).

Canada will have the right to declare a bid non-responsive if the Bidder, or any member of the Bidder if the Bidder is a Joint Venture, appears on the "[FCP Limited Eligibility to Bid](#)" list at the time of contract award.

#### 5.1.2 Certifications Required with the Bid

Bidders must submit the following duly completed certifications with their bid.

##### 5.1.2.1 Status and Availability of Resources

The Bidder certifies that, should it be awarded a contract as a result of the bid solicitation, every individual proposed in its bid will be available to perform the Work as required by Canada's representatives and at the time specified in the bid solicitation or agreed to with Canada's representatives. If for reasons beyond its control, the Bidder is unable to provide the services of an individual named in its bid, the Bidder may propose a substitute with similar qualifications and experience. The Bidder must advise the Contracting Authority of the reason for the substitution and provide the name, qualifications and experience of the proposed replacement. For the purposes of this clause, only the following reasons will be considered as beyond the control of the Bidder: death, sickness, maternity and parental leave, retirement, resignation, dismissal for cause or termination of an agreement for default.



If the Bidder has proposed any individual who is not an employee of the Bidder, the Bidder certifies that it has the permission from that individual to propose his/her services in relation to the Work to be performed and to submit his/her résumé to Canada. The Bidder must, upon request from the Contracting Authority, provide a written confirmation, signed by the individual, of the permission given to the Bidder and of his/her availability.

#### 5.1.2.2 Education and Experience

The Bidder certifies that all the information provided in the résumés and supporting material submitted with its bid, particularly the information pertaining to education, achievements, experience and work history, has been verified by the Bidder to be true and accurate. Furthermore, the Bidder warrants that every individual proposed by the Bidder for the requirement is capable of performing the Work described in the resulting contract.

#### 5.1.2.3 Former Public Servant

Contracts awarded to former public servants (FPS) in receipt of a pension or of a lump sum payment must bear the closest public scrutiny and reflect fairness in spending public funds. In order to comply with Treasury Board policies and directives on contracts with FPS, bidders must provide the information required below before contract award.

#### Definitions

For the purposes of this clause,

"former public servant" is any former member of a department as defined in the [Financial Administration Act](#), R.S., 1985, c. F-11, a former member of the Canadian Armed Forces or a former member of the Royal Canadian Mounted Police. A former public servant may be:

- a) an individual;
- b) an individual who has incorporated;
- c) a partnership made of former public servants; or
- d) a sole proprietorship or entity where the affected individual has a controlling or major interest in the entity.

"lump sum payment period" means the period measured in weeks of salary, for which payment has been made to facilitate the transition to retirement or to other employment as a result of the implementation of various programs to reduce the Public Service. The lump sum payment period does not include the period of severance pay, which is measured in a like manner.

"pension" means a pension or annual allowance paid under the [Public Service Superannuation Act \(PSSA\)](#), R.S., 1985, c. P-36, and any increases paid pursuant to the [Supplementary Retirement Benefits Act](#), R.S., 1985, c. S-24 as it affects the PSSA. It does not include pensions payable pursuant to the [Canadian Forces Superannuation Act](#), R.S., 1985, c. C-17, the [Defence Services Pension Continuation Act](#), 1970, c. D-3, the [Royal Canadian Mounted Police Continuation Act](#), 1970, c. R-10, and the [Royal Canadian Mounted Police Superannuation Act](#), R.S., 1985, c. R-11, the [Members of Parliament Retiring Allowances Act](#), R.S., 1985, c. M-5, and that portion of pension payable to the [Canada Pension Plan Act](#), R.S., 1985, c. C-8.



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### Former Public Servant in Receipt of a Pension

As per the above definitions, is the Bidder a FPS in receipt of a pension?

Yes ( )      No ( )

If so, the Bidder must provide the following information, for all FPS in receipt of a pension, as applicable:

- a) name of former public servant;
- b) date of termination of employment or retirement from the Public Service.

If the answer to the question and, as applicable, the information are not submitted in or with the bid, the Contracting Authority will so inform the Bidder and provide the Bidder with a time frame within which to meet the requirement. Failure to comply with the request of the Contracting Authority and meet the requirement within that time period will render the bid non-responsive.

By providing this information, Bidders agree that the successful Bidder's status, with respect to being a former public servant in receipt of a pension, will be reported on departmental websites as part of the published proactive disclosure reports in accordance with [Contracting Policy Notice: 2012-2](#) and the [Guidelines on the Proactive Disclosure of Contracts](#).

### Work Force Adjustment Directive

Is the Bidder a FPS who received a lump sum payment pursuant to the terms of the Work Force Adjustment Directive

Yes ( )      No ( )

If so, the Bidder must provide the following information:

- a) name of former public servant;
- b) conditions of the lump sum payment incentive;
- c) date of termination of employment;
- d) amount of lump sum payment;
- e) rate of pay on which lump sum payment is based;
- f) period of lump sum payment including start date, end date and number of weeks; and
- g) number and amount (professional fees) of other contracts subject to the restrictions of a work force adjustment program.

If the answer to the question and, as applicable, the information are not submitted in or with the bid, the Contracting Authority will so inform the Bidder and provide the Bidder with a time frame within which to meet the requirement. Failure to comply with the request of the Contracting Authority and meet the requirement within that time period will render the bid non-responsive.

For all contracts awarded during the lump sum payment period, the total amount of fees that may be paid to a FPS who received a lump sum payment is \$5,000, including Applicable Taxes.

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Signature

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Date



**5.1.2.4 Contractor's Representative**

The Contractor's Representative for the Contract is:

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Facsimile: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

**5.1.2.5 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:

- a) 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:  
\_\_\_\_\_
- b) The status of the contractor (individual, unincorporated business, corporation or partnership:  
\_\_\_\_\_
- c) 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:  
\_\_\_\_\_
- d) 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



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## PART 6 - RESULTING CONTRACT CLAUSES

The following clauses and conditions apply to and form part of any contract resulting from the bid solicitation.

### 6.1 Security Requirements

There is no security requirement applicable to the Contract.

### 6.2 Statement of Work

The Contractor must perform the Work in accordance with the Statement of Work at Annex "A".

### 6.3 Standard Clauses and Conditions

All clauses and conditions identified in the Contract by number, date and title are set out in the [Standard Acquisition Clauses and Conditions Manual](https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual) (<https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual>) issued by Public Works and Government Services Canada.

Revision to Departmental Name: As this contract is issued by Fisheries and Oceans Canada (DFO), any reference to Public Works and Government Services Canada or PWGSC or its Minister contained in any term, condition or clause of this contract, including any individual SACC clauses incorporated by reference, will be interpreted as reference to DFO or its Minister.

#### 6.3.1 General Conditions

2010B (2018-06-21), General Conditions - Professional Services (Medium Complexity) apply to and form part of the Contract.

### 6.4 Term of Contract

#### 6.4.1 Period of the Contract

The period of the Contract is from date of Contract to January 31, 2019 inclusive.

### 6.5 Authorities

#### 6.5.1 Contracting Authority

The Contracting Authority for the Contract is:

Name: Morgan Marchand  
Title: Senior Contracting Officer  
Department: Fisheries and Oceans Canada  
Address: 301 Bishop Drive  
Fredericton, NB  
E3C 2M6  
E-mail address: [DFOtenders-soumissionsMPO@dfo-mpo.gc.ca](mailto:DFOtenders-soumissionsMPO@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.



**6.5.2 Project Authority (to be inserted at contract award)**

The Project Authority for the Contract is:

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Organization: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone : \_\_\_\_ \_  
 Facsimile: \_\_\_\_ \_  
 E-mail address: \_\_\_\_\_

The Project 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 Project Authority, however the Project 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.

**6.5.3 Contractor's Representative (to be inserted at contract award)**

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Organization: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone : \_\_\_\_ \_  
 Facsimile: \_\_\_\_ \_  
 E-mail address: \_\_\_\_\_

**6.6 Proactive Disclosure of Contracts with Former Public Servants**

By providing information on its status, with respect to being a former public servant in receipt of a [Public Service Superannuation Act](#) (PSSA) pension, the Contractor has agreed that this information will be reported on departmental websites as part of the published proactive disclosure reports, in accordance with [Contracting Policy Notice: 2012-2](#) of the Treasury Board Secretariat of Canada.

**6.7 Payment**

**6.7.1 Basis of Payment**

6.7.1.1 The Contractor will be paid firm price as detailed in **Annex B – Basis of Payment**, for work performed in accordance with the Contract for an amount not to exceed \$\_\_\_\_\_ (*amount to be inserted at contract award*). Customs duties are included and Applicable Taxes are extra.

6.7.1.2 All prices and amounts of money in the Contract are exclusive of the Goods and Services Tax (GST) or Harmonized Sales Tax (HST), whichever is applicable, unless otherwise indicated. GST or HST, to the extent applicable, will be incorporated into all invoices and progress claims for goods supplied or work performed and will be paid by Her Majesty. The Contractor agrees to remit to Canada Revenue Agency any GST or HST paid or due.

6.7.1.3 Any payment by Her Majesty under this contract is subject to there being an appropriation for the fiscal year in which the payment is to be made.



### 6.7.2 Limitation of Expenditure

1. Canada's total liability to the Contractor under the Contract must not exceed \$ \_\_\_\_\_. Customs duties are excluded and Applicable Taxes are extra.
  
2. No increase in the total liability of Canada or in the price of the Work resulting from any design changes, modifications or interpretations of the Work, will be authorized or paid to the Contractor unless these design changes, modifications or interpretations have been approved, in writing, by the Contracting Authority before their incorporation into the Work. The Contractor must not perform any work or provide any service that would result in Canada's total liability being exceeded before obtaining the written approval of the Contracting Authority. The Contractor must notify the Contracting Authority in writing as to the adequacy of this sum:
  - a. when it is 75 percent committed, or
  - b. four (4) months before the contract expiry date, or
  - c. as soon as the Contractor considers that the contract funds provided are inadequate for the completion of the Work, whichever comes first.
  
3. If the notification is for inadequate contract funds, the Contractor must provide to the Contracting Authority a written estimate for the additional funds required. Provision of such information by the Contractor does not increase Canada's liability.

### 6.7.3 Method of Payment – Milestone Payments

Canada will make milestone payments in accordance with the Schedule of Milestones detailed in the Contract and the payment provisions of the Contract if:

- a. an accurate and complete claim for payment using Claim for Progress Payment, and any other document required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract;
- b. all the certificates appearing have been signed by the respective authorized representatives;
- c. all work associated with the milestone and as applicable any deliverable required has been completed and accepted by Canada.

### 6.7.4 Schedule of Milestones

The schedule of milestones for which payments will be made in accordance with the Contract is as follows:

Milestone No.	Deliverable	Due Date	Percentage Payment
1	A detailed work plan that confirms the objectives, scope, methodology, deliverables and timelines, which would reflect initial discussions with DFO.	Within seven (7) calendar days from the date of signing the contract	10%
2	A mid-term progress report that would reflect the work completed to date, including preliminary analysis. DFO will review the mid-term progress report and provide feedback to ensure project expectations are met.	Within fifty-six (56) calendar days from the date of signing the contract	35%



3	A draft final report for review by DFO.	Within eighty-four (84) calendar days from the date of signing the contract	20%
4	An approved final report that incorporates all review comments.	Within one hundred and nineteen (119) calendar days from the date of signing the contract	35%

## 6.8 Invoicing Instructions

### 6.8.1 Payments will be made provided that:

The Contractor must submit invoices in accordance with the section entitled "Invoice Submission" of the general conditions. Invoices shall not be submitted until the work identified in the invoice is completed and all work identified in the invoice are accepted by the Project Authority.

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

Email: [DFO.invoicing-MPO.facturation@canada.ca](mailto:DFO.invoicing-MPO.facturation@canada.ca)

## 6.9 Certifications

### 6.9.1 Compliance

Unless specified otherwise, the continuous compliance with the certifications provided by the Contractor in its bid or precedent to contract award, and the ongoing cooperation in providing additional information are conditions of the Contract and failure to comply will constitute the Contractor in default. Certifications are subject to verification by Canada during the entire period of the Contract.

### 6.10 Applicable Laws

The Contract must be interpreted and governed, and the relations between the parties determined, by the laws in force in **the province or territory where the goods and/or services are to be rendered.**

### 6.11 Priority of Documents

If there is a discrepancy between the wording of any documents that appear on the list, the wording of the document that first appears on the list has priority over the wording of any document that subsequently appears on the list.

- (a) the Articles of Agreement;
- (b) the general conditions [2010B](#) (2015-09-03), General Conditions - Professional Services (Medium Complexity)
- (c) Annex A, Statement of Work;
- (d) Annex B, Basis of Payment;
- (e) the Contractor's bid dated \_\_\_\_\_ (*insert date of bid*)



## 6.12 Procurement Ombudsman

6.14.1 The Contractor confirms that it has read the Code of Conduct for Procurement and agrees to be bound by its terms.

6.14.2 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 [opo-boa@opo-boa.gc.ca](mailto:opo-boa@opo-boa.gc.ca). You can also obtain more information on OPO services available to you on their website at [www.opo-boa.gc.ca](http://www.opo-boa.gc.ca).

6.14.3 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>

## 6.13 Insurance G1005C (2016-01-28)

The Contractor is responsible for deciding if insurance coverage is necessary to fulfill its obligation under the Contract and to ensure compliance with any applicable law. Any insurance acquired or maintained by the Contractor is at its own expense and for its own benefit and protection. It does not release the Contractor from or reduce its liability under the Contract.



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## ANNEX "A" STATEMENT OF WORK

### 1.0 SCOPE

#### 1.1 Title

Analysis and Recommendations on the Development of National Aquaculture Siting and Containment Standards

#### 1.2 Objective

The objective of the contract is to:

1. complete a targeted review and analysis of federal and provincial/territorial regulations and policies/guidelines that inform finfish and shellfish siting decisions, as well as industry best practices and the siting regimes of other leading temperate aquaculture countries; and
2. use the siting analysis, together with other available, relevant documents on finfish containment management regimes, to make recommendations on the potential development of national standards for aquaculture siting and finfish containment.

The paper should be understandable by a technically proficient audience and include a synthesis that should be understandable to laypersons.

#### 1.3 Background

1. Proper aquaculture facility siting is an important tool to minimize environmental impacts. It can help ensure that the aquatic ecosystems in which aquaculture is practiced remain productive, not just for the cultured species, but also for wild aquatic species. Scientific research and advice related to aquaculture interactions provides the basis to support siting decisions. Proper siting can minimize negative environmental interactions, including disease and parasite transfer between farm sites as well as reducing the amount of organic waste that accumulates beneath cage sites. Proper siting is particularly important for marine finfish facilities.

The appropriate siting of aquaculture facilities is a priority for federal, provincial and territorial governments. Together, they endeavour to ensure aquaculture facilities are sited in areas that are best suited to minimize the risks to fish health and the aquatic ecosystem, consistent with regulatory requirements and a precautionary approach to management, while promoting an economically prosperous and socially sustainable industry. Fisheries and Oceans Canada (DFO) considers: navigation, Indigenous Treaty and/or non-Treaty agreements and the priorities of Aboriginal users of aquatic resources; potential fish, fish habitat, and environmental impacts; potential impacts to existing fishery activities; and fish health and wild-farmed interactions.

2. Preventing the escape of cultured fish is a priority for federal, provincial and territorial governments, the aquaculture industry, commercial and recreational fishers, and environmental advocacy groups. Governments and industry collaborate to put regulatory and operational measures in place to manage escapes through robust containment structure specifications, and biocontainment techniques (e.g., triploidy), as well as improved inspection, training, maintenance, husbandry, recapture, and reporting procedures. The implementation of these escape mitigation measures has contributed to the reduction in the number of annual escape events. However, containment standards vary in scope and effectiveness from region to region across the country. For instance, in Canada, only Newfoundland and Labrador has regulatory requirements related to staff training.



DFO's Aquaculture Management Directorate (AMD) is interested in developing a working paper regarding finfish and shellfish aquaculture siting in Canada, which, in turn, may be used to develop a national standard for the siting of aquaculture facilities. Such a document would need to consider the distinct biophysical differences (e.g., oceanographic conditions) between farming regions on the Atlantic and Pacific coasts. Further, where regulations or codes exist, it is important that gaps or deficiencies be identified and discussed.

In addition, based on a recently completed review and analysis of finfish containment, the Directorate is interested in developing a working paper on finfish containment in Canada, which, in turn, may be used to develop a national standard for finfish aquaculture containment. AMD recently commissioned a review and analysis of finfish aquaculture containment. Based on that analysis,

The requested paper will incorporate the knowledge and experience of regional (federal or provincial/territorial) regulators and administrators, industry, as well as international examples, regarding the siting of finfish and shellfish aquaculture facilities and the containment of cultured finfish.

## **2.0 REQUIREMENTS**

### **2.1 Deliverables, Milestones, and Expectations**

DFO wishes to engage the services of a contractor to:

1. conduct a review, synthesis, and analysis of regulations, policies, and practices regarding the siting of finfish and shellfish aquaculture facilities in Canada, as well as the regimes of other leading temperate aquaculture countries, such as Norway, Scotland, Australia, and New Zealand;
2. based on this analysis, provide recommendations on key issues that a national standard on aquaculture siting management should address;
3. provide recommendations on key issues that a national standard on finfish aquaculture containment management should address, based on relevant documents provided by DFO; and
4. provide recommendations that would help the Federal Government achieve its goal of environmentally sustainable growth of the aquaculture sector in a manner that respects provincial/territorial regimes.

The working paper must address the following questions:

- What are the existing management guidelines, regulations, policies, and practices across Canada regarding the siting of aquaculture operations in aquatic environments?
- How are other international aquaculture producers managing the siting of finfish and shellfish facilities?
- What are the gaps or weaknesses in existing management practices with regard to aquaculture siting in Canada?
- To what extent would national siting and containment standards require elements of regional specification (e.g., East/West Coast and saltwater/freshwater)?
- With respect to overall framework and crucial elements (geographic, environmental, economic, and sociological), what would a national standard for the management of a) siting, and b) containment look like?
- Given that containment and siting management both aim to mitigate negative interactions between aquaculture operations and the aquatic environment, how would potential containment and siting standards integrate with each other?



In undertaking this contract:

- a. The contractor must prepare a work plan describing the technical approach, organizational resources to meet the cost, and performance and schedule requirements for this effort. The plan will detail the products, methods for developing the products, and other resources thought to be necessary to produce the products, and, if necessary, a revised timeline for producing the products. Based on the plan, DFO will provide approval to move forward on activities planned. The contractor shall request prior approval on all activities not included in the plan or any modifications to the plan after approval has been given.
- b. The Contractor must interview designated federal, provincial and territorial authorities in Canada, as well as international authorities, as appropriate;
- c. The Contractor must review legislative and regulatory information from Canadian and international sources, such as acts, regulations, policies, administrative and guidance documents, as well as other relevant information; and,
- d. The Contractor must synthesize the information and present the results in a format acceptable to the Project Management Authority at DFO. The paper should be understandable to a technically proficient audience and include a synthesis that should be understandable to laypersons.

The primary deliverable is a comprehensive report that includes a thorough analysis of the Canadian legislative and regulatory structure that is in place for the overall management of aquaculture, and recommendations with respect to the development of federal aquaculture legislation.

The contract must be completed within a 18-week period (approximately four months) or less in the 2018/19 fiscal year \*.

The Contractor must prepare and submit the following deliverables to the Project Management Authority at DFO, in accordance with the specified timeline:

	<b>Deliverable</b>	<b>Timeline</b>
1	A detailed work plan that confirms the objectives, scope, methodology, deliverables and timelines, which would reflect initial discussions with DFO.	Within fourteen (14) calendar days from the date of signing the contract
2	A mid-term progress report that would reflect the work completed to date, including preliminary analysis. DFO will review the mid-term progress report and provide feedback to ensure project expectations are met.	Within eighty-four (84) calendar days from the date of signing the contract
3	A draft final report for review by DFO.	Within one hundred and twelve (112) calendar days from the date of signing the contract
4	An approved final report that incorporates all review comments.	Within one hundred and twenty-six (126) calendar days from the date of signing the contract

**\* Important Note: The contract must be completed no later than January 31, 2019.**

## 2.2 Quality Assurance

The Project Authority will review, for completeness, preliminary or draft documentation that the Contractor submits, and may return it to the Contractor for correction. Absence of any comments by DFO will not relieve the Contractor of the responsibility for complying with the requirements of this work statement. Final approval and acceptance of documentation required herein will be by



letter of approval and acceptance by the Project Authority.

The Contractor will not construe any letter of acknowledgment of receipt material as a waiver of review, or as an acknowledgment that the material is in conformance with this work statement. Any approval given during preparation of the documentation, or approval for shipment will not guarantee the final acceptance of the completed documentation.

### **2.3 Acceptance Criteria**

The deliverables will be reviewed by the Project Management Authority at DFO and will be deemed successfully completed upon confirmation of all required elements under section 2.1 above.

Regarding the first and second drafts, unless otherwise specified, DFO will have a maximum of five (5) working days from the day the draft is received to review the document, provide comments back to the contractor, and approve or disapprove the deliverable(s).

General quality measures, as set forth below, will be applied to each work product received from the contractor under this Statement of Work.

- Accuracy – work products shall be accurate in presentation, technical content, and adherence to accepted elements of style.
- Clarity – Work products shall be clear and concise. Any/All diagrams and graphics shall be easy to understand and be relevant to the supporting narrative.
- Consistency to Requirements – All work products must satisfy the requirements of this statement of work.
- File Editing – All text and diagrammatic files will be in a format that will be editable by DFO staff.
- Format – Work products will be submitted in hard copy (where applicable) and in media mutually agreed upon prior to submission.
- Timeliness – Work products shall be submitted on or before the due date specified in this Statement of Work or submitted in accordance with a later scheduled date determined by the Project Authority.

### **2.4 Payment Schedule**

Payment for the contract will be made upon successful completion of each deliverable according to the following schedule: 10% for completion of 1<sup>st</sup> deliverable;  
35% for completion of 2<sup>nd</sup> deliverable;  
20% for completion of 3<sup>rd</sup> deliverable; and  
35% for completion of 4<sup>th</sup> deliverable.

### **2.5 Reporting Requirements**

The detailed work plan and all reports must be prepared in English using Microsoft Word (.docx format) and submitted to the Project Management Authority at DFO as an e-mail attachment. In addition, the Contractor must prepare and submit a total of three reports, in accordance with the timeline under the contract, consisting of a mid-term progress report, draft final report, and approved final report.

The Contractor must submit two (2) versions of the approved final report: an electronic version in Microsoft Word (.docx) format; and two (2) printed and bound hard copies.



## 2.6 Project Management Control Procedures

The contract will be overseen by DFO's Aquaculture Management Directorate in Ottawa, Ontario. The Contractor must consult regularly with the Aquaculture Management Directorate to provide updates and discuss any issues that may arise.

## 2.7 Change Management Procedures

Any changes to the work will be dealt with on a case-by-case basis. The Project Authority will notify the Contractor of any changes and the contract will be amended accordingly by a formal contract amendment issued by the Contracting Authority.

## 2.8 Ownership of Intellectual Property

**The Crown will own the intellectual property.** DFO has determined that any intellectual property rights arising from the performance of the work under the resulting contract will belong to Canada on the following grounds: where the material developed or produced consists of material subject to copyright, with the exception of computer software and all documentation pertaining to that software.

All background reports provided to the contractor by DFO and/or other government representatives shall be treated as confidential documents and shall not be copied, distributed or relayed to any other party without the express written consent of the originating government/department. All reports and/or records created as part of the project shall not be copied, distributed or relayed to any other party without the express written consent of the Project Authority. All electronic and hard copies of reports or records supplied to or created by the contractor as part of the project will be turned over to the Project Authority upon completion of the contract.

## 3.0 OTHER TERMS AND CONDITIONS OF THE STATEMENT OF WORK

### 3.1 Constraints

#### 3.1.1 Travel and Living

No travel plans or living arrangements are planned under this contract.

#### 3.1.2 Language of Work

The working language of all meetings and deliverables under this contract shall be English.

### 3.2 Location of Work

The work must be performed at the Contractor's premises using her/his office facilities and resources, including computer, internet, software, and bibliographic databases.

### 3.3 Support Provided by Canada

DFO will arrange for the Contractor to have access to relevant government legislative and regulatory information related to aquaculture.



**ANNEX "B" BASIS OF PAYMENT**

<b>Milestone No.</b>	<b>Deliverable</b>	<b>Due Date</b>	<b>Percentage Payment</b>	<b>Total Firm Price (in CDN)</b>
<b>1</b>	A detailed work plan that confirms the objectives, scope, methodology, deliverables and timelines, which would reflect initial discussions with DFO.	Within fourteen (14) calendar days from the date of signing the contract	10%	\$ _____
<b>2</b>	A mid-term progress report that would reflect the work completed to date, including preliminary analysis. DFO will review the mid-term progress report and provide feedback to ensure project expectations are met.	Within eighty-four (84) calendar days from the date of signing the contract	35%	
<b>3</b>	A draft final report for review by DFO.	Within one hundred and twelve (112) calendar days from the date of signing the contract	20%	
<b>4</b>	An approved final report that incorporates all review comments.	Within one hundred and twenty-six (126) calendar days from the date of signing the contract	35%	



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## ANNEX "C" EVALUATION CRITERIA

### EVALUATION CRITERIA

Proposals submitted for this requirement must clearly demonstrate how the Bidder meets all of the Mandatory Criteria, as well as evidence of experience for each of the Rated Criteria.

Failure to demonstrate this will result in the proposal being declared NON-COMPLIANT and the proposal will be given no further consideration.

Bidders are advised that only listing experience without providing any supporting data to describe where and how such experience was obtained will not constitute "demonstrated" for the purpose of the evaluation. Supporting data may include résumés and any other documentation necessary to demonstrate the experience and knowledge attained. Simply repeating the statements contained in the Statement of Work or Evaluation Criteria is not sufficient.

**In order to evaluate the number of years of experience attained, the proposal shall, as a minimum, identify the month and year when the experience commenced and the month and year when the experience was completed. Failure to provide this information in response to a Mandatory Requirement, wherein the number of years of experience is required in order to calculate number of years' experience attained, will result in the proposal being declared NON- COMPLIANT.**

For the purpose of calculating the years of experience attained, bidders are advised that the month(s) of experience listed which overlap that of other referenced experience will only be counted once. For example: experience acquired in July 2013 to December 2013; and experience acquired in October 2013 to January 2014; will be summed as seven (7) months (July 2013 – January 2014).

Information to bidders: The compliance grid, by and of itself, DOES NOT constitute demonstrated evidence. As stated in the paragraphs above, the résumés and/or any supporting documentation are required as evidence.

#### A. Mandatory Criteria:

Any bid not meeting any one of the mandatory criteria below will be deemed NON-COMPLIANT and will not be given further consideration.

For the purpose of personnel qualifications, experience gained during formal education shall not be considered work experience. All requirements for work experience shall be obtained in a legitimate work environment as opposed to an educational setting.

For the purpose of evaluation, one (1) year is defined as twelve (12) cumulative months.

**For each project that is cited as experience**, the following information **must** be identified in the bid:

- a) The name of the client organization (to whom the services were provided);
- b) The name and title of the Project Authority;
- c) A brief description of the type and scope of services that meets the identified criteria;
- d) The dates and duration of the project, **indicating the years / months of engagement and the start and end dates of the work.**



Mandatory Requirement			
Mandatory Criteria		Criterion Met (Yes or No)	Cross-Reference (from bid and/or curriculum vitae)
<b>M1</b>	The Bidder <b>must</b> have a minimum of 10 years of experience in managing/executing research and analysis contract projects*.		
<b>M2</b>	At least one individual in the Bidder`s proposed resource team** <b>must</b> have a minimum of 7 years of experience* in conducting research and analysis on regulatory issues and recommending options for the development of government policies.		
<b>M3</b>	At least one individual in the Bidder`s proposed resource team** <b>must</b> have a minimum of 5 years of experience within the past 10 years` executing research and analysis contract projects* pertaining to the management of natural resources (e.g., aquaculture, fisheries, agriculture, forestry, and/or mining).		
<b>M4</b>	At least one individual in the Bidder`s proposed resource team** <b>must</b> be a Professional Engineer***—in discipline relevant to the siting of aquaculture facilities and/or the containment of aquaculture finfish—from a recognized university.		
<b>M5</b>	The Bidder <b>must</b> provide the résumé(s) / curriculum vitae for the individuals in proposed the resource team, whose work experience is used to meet the mandatory criteria.		
<b>M6</b>	The Bidder <b>must</b> provide a preliminary project work plan which demonstrates how they will undertake the work to be performed, detailing as a minimum the following: <ul style="list-style-type: none"> <li>1) Methodology</li> <li>2) Schedule</li> <li>3) Work description.</li> </ul>		

\* A project is defined as any work or undertaking that has specific objectives, deliverables, and timelines for completion.

\*\* The resource team may constitute one or more individuals; experience is not cumulative between individuals in the team.

\*\*\* Proof must be demonstrated by a Certificate of Authorization.

\*\*\*\* The list of recognized organizations can be found on the Canadian Information Centre for International Credentials website: <http://www.cicic.ca/2/home.canada>



**B. Point-Rated Experience Criteria**

In order to qualify for the rating process, proposals should respond to the following rated experience requirements in the order shown and should include the referenced section / page in the Bidder's proposal.

The criteria contained in the table below will be used to evaluate each proposal. To the extent possible, Bidders shall respond to these requirements in order, providing sufficient details to allow for a thorough evaluation. Any element not included or not shown will be assigned a score of zero (0) points under the scoring system.

**A bid must obtain a minimum of 25 points** to be considered. The rating is performed on a scale of 50 points. The evaluation to be performed by DFO will be based solely on information contained in the proposal. DFO may request clarification from a Bidder of information provided, but will not ask for or use additional information beyond that provided in the proposal.

For each element, Bidders should include in their proposal the projects on which they worked to obtain the necessary experience, their role, as well as the length of time they worked on the project. **Please note that partial points will not be awarded.** For the purpose of evaluation, one (1) year is defined as twelve (12) cumulative months.

For each project that is cited as experience, the following information must be identified in the bid:

- a) The name of the client organization (to whom the services were provided);
- b) The name and title of the Project Authority (for verification purposes only);
- c) A brief description of the type and scope of services that meets the identified criteria provided by the resource;
- d) The dates and duration of the project, **indicating the years / months of engagement and the start and end dates of the work.**

	Rated Criteria	Breakdown structure	Points Obtained	Maximum Points	Cross-Reference (from bid)
R1	Bidder's cumulative years of experience managing/executing research and analysis contract projects*.	<b>2 points</b> for each additional year of experience beyond the minimum of 10 years, up to a maximum of 16 points		/16	
R2	Cumulative experience in Bidder's proposed <u>resource team</u> ** conducting research and analysis on regulatory issues and recommending options for the development of government policies.	<b>2 points</b> for each additional year of experience beyond the minimum of 7 years, up to a maximum of 16 points		/16	
R3	Cumulative experience in Bidder's proposed <u>resource team</u> ** conducting research and analysis contract projects* pertaining to the management of natural resources (e.g., aquaculture, fisheries, agriculture, forestry, and/or mining).	<b>2 points</b> for each additional year of experience beyond the minimum of 5 years, up to a maximum of 10 points		/10	



<b>R4</b>	Cumulative experience in Bidder's proposed <u>resource team</u> * conducting research and analysis directly related one or more aspects of siting aquaculture facilities.	<b>0.5 points</b> for each year of experience, up <b>to a maximum of 5 points</b>		<b>/5</b>	
<b>R5</b>	Cumulative experience in Bidder's proposed <u>resource team</u> * conducting research and analysis directly related to issues of containment of aquaculture finfish.	<b>0.5 points</b> for each year of experience, up <b>to a maximum of 3 points</b>		<b>/3</b>	
<b>Total points obtained: (minimum 25 point necessary to qualify)</b>				<b>/50</b>	

\* A project is defined as any work or undertaking that has specific objectives, deliverables, and timelines for completion.

\*\* Number of months reported must be based on the cumulative experience of the individual in the resource team with the most experience for this criterion. While the resource team may constitute one or more individuals; experience is not cumulative between individuals in the team.



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## ANNEX "D" - OWNERSHIP OF INTELLECTUAL AND OTHER PROPERTY INCLUDING COPYRIGHT

### I 10 Crown to Own Intellectual Property Rights

#### I 10.0 Canada to Own Intellectual Property Rights in Foreground Information

1. Interpretation
2. Disclosure of Foreground Information
3. Canada to Own Intellectual Property Rights in Foreground Information
4. License to Intellectual Property Rights in Background Information
5. Right to License
6. Access to Information; Exception to Contractor Rights
7. Waiver of Moral Rights

#### I 10.1 *Interpretation*

In the Contract,

- I 10.1.1 "Background Information" means all Technical Information that is not Foreground Information and that is proprietary to or the confidential information of the Contractor, its Subcontractors or any other supplier of the Contractor;
- I 10.1.2 "Firmware" means any computer program stored in integrated circuits, read-only memory or other similar devices;
- I 10.1.3 "Foreground Information" means any Invention first conceived, developed or reduced to practice as part of the Work under the Contract and all other Technical Information conceived, developed or produced as part of the Work under the Contract;
- I 10.1.4 "Intellectual Property Right" means any intellectual property right recognized by the law, including any intellectual property right protected 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;
- I 10.1.5 "Invention" means any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement in any art, process, machine, manufacture or composition of matter, whether or not patentable;
- I 10.1.6 "Software" means any computer program whether in source or object code (including Firmware), any computer program documentation recorded in any form or medium, and any computer database, and includes modifications to any of the foregoing;
- I 10.1.7 "Technical Information" means all information of a scientific, technical or artistic nature relating to the Work, whether oral or recorded in any form or medium and whether or not subject to copyright, including but not limited to any Inventions, designs, methods, processes, techniques, know-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, collections of information, manuals and any other documents, and Software. Technical Information does not include data concerned with the administration of the Contract by Canada or the Contractor, such as internal financial or management information, unless it is a deliverable under the Contract.

#### I 10.2 *Disclosure of Foreground Information*



I 10.2.1 The Contractor shall promptly report and fully disclose to the Minister all Foreground Information that could be Inventions, and shall report and fully disclose to the Minister all other Foreground Information not later than the time of completion of the Work or at such earlier time as the Minister or the Contract may require.

I 10.2.2 Before and after final payment to the Contractor, the Minister shall have the right to examine all records and supporting data of the Contractor which the Minister reasonably deems pertinent to the identification of Foreground Information.

I 10.3 *Canada to Own Intellectual Property Rights in Foreground Information*

I 10.3.1 Without affecting any Intellectual Property Rights or interests therein that have come into being prior to the Contract, all Intellectual Property Rights in the Foreground Information shall immediately, as soon as they come into existence, vest in and remain the property of Canada. The Contractor shall have no right in or to any such Intellectual Property Rights in the Foreground Information except any right that may be granted in writing by Canada.

I 10.3.2 The Contractor shall incorporate the copyright symbol and either of the following copyright notices, as appropriate, into all Foreground Information that is subject to copyright, regardless of the form in or medium upon which it is recorded:

© HER MAJESTY THE QUEEN IN RIGHT OF CANADA (year)

or

© SA MAJESTÉ LA REINE DU CHEF DU CANADA (année)

I 10.3.3 (i) For greater certainty, the Contractor agrees that where the Work under the Contract involves the preparation of a database or other compilation using information or data supplied by Canada or personal information referred to in paragraph (ii), then the Contractor shall not use or disclose any such information or data or personal information for any purpose other than completing the Work under the Contract. The Contractor shall not dispose of such information or data or personal information except by returning it to Canada. The Contractor shall comply with the General Conditions of the Contract in regard to maintaining the confidentiality of such information, data, or personal information. Unless the Contract otherwise expressly provides, the Contractor shall deliver to Canada all such information, data, or personal information, together with every copy, draft, working paper and note thereof that contains such information, data, or personal information upon completion or termination of the Contract or at such earlier time as the Minister may require.

(ii) For greater certainty and without limiting sub-section I 10.3.1, if the Work under the Contract involves the collection of personal information as that term is defined in the *Privacy Act* (R.S.C., c. P-21), then all Intellectual Property Rights in and title to that personal information shall, immediately upon the collection of it by the Contractor, vest in Canada, and the Contractor shall have no right or interest in it.

I 10.3.4 The Contractor shall execute such conveyances or other documents relating to the Intellectual Property Rights in the Foreground Information as the minister for whose department or agency the Work is being or was carried out may require, and the Contractor shall, at Canada's expense, afford that minister all reasonable assistance in the preparation of applications and in the prosecution of any applications for registration of any Intellectual Property Right in any jurisdiction, including without limitation the assistance of the inventor in the case of Inventions.



#### I 10.4 *License to Intellectual Property Rights in Contractor's Background Information*

I 10.4.1 Without restricting the scope of any licence to exercise the Intellectual Property Rights in the Background Information that Canada may otherwise hold, the Contractor hereby grants to Canada a non-exclusive, perpetual, irrevocable, world-wide, fully-paid and royalty-free license to exercise such of the Intellectual Property Rights in any Background Information incorporated into the Work or necessary for the performance of the Work as may be required for the following purposes:

- (a) for the use, operation, maintenance, repair or overhaul of the Work;
- (b) in the manufacturing of spare parts for maintenance, repair or overhaul of any custom part of the Work by Canada if those parts are not reasonably available to enable timely maintenance, repair or overhaul;
- (a) for disclosure to any contractor engaged by Canada (or bidder for such a contract) to be used solely for a purpose set out in paragraph (a) or (b), but only if the Contractor is unable or unwilling to carry out the maintenance, repair or overhaul or provide the spare parts on reasonable commercial terms and within reasonable delivery times;

and the Contractor agrees to make any such Background Information (including, in the case of Software, source code) promptly available to Canada for any such purpose.

I 10.4.2 Without restricting the scope of any license to exercise the Intellectual Property Rights in the Background Information that Canada may otherwise hold, the Contractor hereby further grants to Canada a non-exclusive, perpetual, irrevocable, world-wide, fully-paid and royalty-free license to exercise such of the Intellectual Property Rights in the Background Information incorporated into the Work or necessary for the performance of the Work as are necessary in order for Canada to modify, improve or further develop the Foreground Information. Canada's rights under this subsection GC10.4.2 shall not include the right to reproduce the whole or part of any deliverable under the Contract that does not incorporate Foreground Information, save that Canada may reproduce any drawings, plans, designs, or other Background Information that are subject to copyright or industrial design protection, for purposes of modification, improvement or further development of the Foreground Information by or for Canada. The Contractor agrees to make any such Background Information (including, in the case of Software, source code) promptly available to Canada for any such purpose.

I 10.4.3 Notwithstanding subsections I 10.4.1 and I 10.4.2, the license set out therein shall not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the Contract.

I 10.4.4 The Contractor acknowledges that, subject to paragraph (c) of subsection I 10.4.1, Canada may wish to award contracts for any of the purposes contemplated in subsections I 10.4.1 and I 10.4.2 and that such contract awards may follow a competitive process. The Contractor agrees that Canada's license in relation to the Intellectual Property Rights in Background Information includes the right to disclose the Background Information to bidders for such contracts and to sub-license or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such a contract. Canada shall require bidders and the contractor not to use or disclose any Background Information except as may be necessary to bid for or to carry out that contract.

I 10.4.5 Where the Intellectual Property Rights in any Background Information are owned by a Subcontractor at any tier, the Contractor shall either obtain a license from that Subcontractor that permits compliance with subsections I 10.4.1 and I 10.4.2 or arrange for



the Subcontractor to convey directly to Canada the same rights by execution of the form provided for that purpose by the Minister, in which case the Contractor shall deliver that form to the Minister, duly completed and executed by the Subcontractor, no later than the time of disclosure to Canada of that Background Information.

#### I 10.5 *Right to License*

I 10.5.1 The Contractor represents and warrants that the Contractor has, or the Contractor undertakes to obtain, the right to grant to Canada the license to exercise the Intellectual Property Rights in the Background Information as required by the Contract.

#### I 10.6 *Access to Information; Exception to Contractor Rights*

I 10.6.1 Subject to the Access to Information Act, R.S.C., c. A-1 and to any right of Canada under the Contract, Canada shall not release or disclose outside the Government of Canada any Background Information delivered to Canada under the Contract that is confidential information or a trade secret of the Contractor or a Subcontractor.

I 10.6.2 Nothing in these terms and conditions shall be construed as limiting Canada's right to exercise the Intellectual Property Rights in any Background Information, or to disclose any Background Information, to the extent that such information:

- (a) is or becomes in the public domain, or to the extent that the Contractor does not benefit from or ceases to benefit from any intellectual property rights protection for such information under legislation or at law (other than under the terms of the Contract), for any reason including as a result of Canada's use or disclosure of deliverables under the Contract for any purpose whatever that is not expressly excluded under the Contract;
- (b) is or becomes known to Canada from a source other than the Contractor, except from any source that is known to Canada to be under an obligation to the Contractor not to disclose the information;
- (c) is independently developed by or for Canada; or
- (d) is disclosed under compulsion of a legislative requirement or any order of a court or other tribunal having jurisdiction.

#### I 10.7 *Waiver of Moral Rights*

I 10.7.1 The Contractor shall provide to Canada, at the completion of the Work or at such other time as the Minister may require, a written permanent waiver of moral rights (as that term is defined in the *Copyright Act*, R.S.C., c. C-42), in a form acceptable to the Minister, from every author that contributed to any Foreground Information which is subject to copyright protection and which is deliverable to Canada under the terms of the Contract.

I 10.7.2 If the Contractor is an author of the Foreground Information referred to in subsection I 10.7.1, the Contractor hereby permanently waives the Contractor's moral rights in that Foreground Information.