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Bid Receiving - PWGSC / Réception des soumissions
→ TPSGC
10th Floor, 4900 Yonge Street /
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Toronto
Ontario
M2N 6A6

**SOLICITATION AMENDMENT
MODIFICATION DE L'INVITATION**

The referenced document is hereby revised; unless otherwise indicated, all other terms and conditions of the Solicitation remain the same.

Ce document est par la présente révisé; sauf indication contraire, les modalités de l'invitation demeurent les mêmes.

Comments - Commentaires

**Vendor/Firm Name and Address
Raison sociale et adresse du
fournisseur/de l'entrepreneur**

Issuing Office - Bureau de distribution
Public Works and Government Services Canada
Ontario Region
10th Floor, 4900 Yonge Street
Toronto
Ontario
M2N 6A6

Title - Sujet Kirkfield Liftlock Inspect.&Repairs	
Solicitation No. - N° de l'invitation EQ754-201128/A	Amendment No. - N° modif. 003
Client Reference No. - N° de référence du client R.076951.186	Date 2019-11-28
GETS Reference No. - N° de référence de SEAG PW-\$PWL-041-2501	
File No. - N° de dossier PWL-9-42038 (041)	CCC No./N° CCC - FMS No./N° VME
Solicitation Closes - L'invitation prend fin at - à 02:00 PM on - le 2019-12-16	
Time Zone Fuseau horaire Eastern Standard Time EST	
F.O.B. - F.A.B.	
Plant-Usine: <input type="checkbox"/> Destination: <input type="checkbox"/> Other-Autre: <input type="checkbox"/>	
Address Enquiries to: - Adresser toutes questions à: Chan, Ricky	Buyer Id - Id de l'acheteur pwl041
Telephone No. - N° de téléphone (647) 530-7185 ()	FAX No. - N° de FAX (416) 952-1257
Destination - of Goods, Services, and Construction: Destination - des biens, services et construction: Kirkfield Liftlock	

Instructions: See Herein

Instructions: Voir aux présentes

Delivery Required - Livraison exigée	Delivery Offered - Livraison proposée
Vendor/Firm Name and Address Raison sociale et adresse du fournisseur/de l'entrepreneur	
Telephone No. - N° de téléphone Facsimile No. - N° de télécopieur	
Name and title of person authorized to sign on behalf of Vendor/Firm (type or print) Nom et titre de la personne autorisée à signer au nom du fournisseur/ de l'entrepreneur (taper ou écrire en caractères d'imprimerie)	
Signature	Date

Solicitation Amendment No. 003

This amendment is being raised to 1) incorporate changes to the following sections of the Request for Proposal: General Instructions to Proponents (GI), Appendix E and Appendix F; and 2) provide responses to Requests for Clarification.

1) REVISIONS TO THE RFP

i) Reference: General Instructions to Proponents (GI), GI3 Overview of Selection Procedure, Section 3.1.3 Phase Two Technical Proposal: Technical Presentation and Question Period:

Proponents are hereby instructed to:

Delete: **3. Phase Two Technical Proposal: Technical Presentation and Question Period**

- a. Following the conclusion of Phase One, all Proponents with a rating of 60% or above will be invited for a technical presentation and Question Period. Project understanding and technical capabilities will be evaluated through the presentation and Question Period phase and will be ranked.
- b. The decision to continue participating in the selection procedure in Phase Two is a decision to be made by each eligible Proponent, within a specified time period.
- c. In Phase Two, a Proponent may not substitute or delete any member of the Consultant Team identified in the Phase One technical proposal without the consent of Canada.
- d. The Phase Two technical proposal consists of an oral presentation to be delivered to the Evaluation Board and the submission of the presentation slide deck to the PWGSC Contracting Authority prior to the oral presentation.
- e. The information that Proponents are required to provide in Phase Two is set out in the SRE section of this RFP.

Insert: **3. Phase Two Technical Proposal: Technical Presentation and Question Period**

- a. Following the conclusion of Phase One, all Proponents with a rating of 60% or above will be invited for a technical presentation and Question Period. Project understanding and technical capabilities will be evaluated through the presentation and Question Period phase and will be ranked.
- b. The decision to continue participating in the selection procedure in Phase Two is a decision to be made by each eligible Proponent, within a specified time period.
- c. In Phase Two, a Proponent may not substitute or delete any member of the Consultant Team identified in the Phase One technical proposal without the consent of Canada.
- d. The Phase Two technical proposal consists of an oral presentation to be delivered to the Evaluation Board and the submission of the presentation slide deck to the PWGSC Contracting Authority prior to the oral presentation.
- e. The information that Proponents are required to provide in Phase Two is set out in the SRE section of this RFP.
- f. The Proponent may be provided additional project information in Phase Two and

before they can receive this information, the Proponent and its sub-consultants (if applicable) must sign the Confidentiality Agreement – Stage One – Phase Two in Appendix F.

- ii) Reference: Request for Proposal, Qualification Based Selection (QBS) Process Comprehensive Investigation and Repair of Kirkfield Lift Lock 36

Proponents are hereby instructed to:

Insert: Appendix F – Confidentiality Agreement – Stage One – Phase Two

(Appendix F is included below “2) Requests for Clarification”)

2) REQUESTS FOR CLARIFICATION

- Q1. Page 24 of 41 PD 2.9 Existing Drawings and Documents: when will drawings mentioned in 2. - 5. be made available to proposers?
- R1. At the discretion of Canada, documents numbered 2-4 may be made available to Proponents in Stage One – Phase Two after signing the Confidentiality Agreement in Appendix F. Document number 5 is in hard copy and will only be made available to the Consultant after the Contract is awarded.
- Q2. Please confirm that the Non-disclosure Agreement (Appendix E) is required only from Proponents that reach Phase One- Stage two, i.e. Appendix E is not part of technical proposal to be submitted at Closing Date?
- R2. The Non-disclosure Agreement in Appendix E is not part of the technical proposal to be submitted at the tender Closing Date and is only required by the Highest Ranked Technical Proponent (HRTP) Stage Two: Project Review and Discussion. Please see GI 3.2.1 Terms of Engagement for Stage Two.

ALL OTHER TERMS AND CONDITIONS OF THE REQUEST FOR PROPOSAL REMAIN THE SAME

APPENDIX F

CONFIDENTIALITY AGREEMENT – STAGE ONE – PHASE TWO

THIS AGREEMENT made as of the ____ day of _____, 20____.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
as represented by the Minister of Public Works and Government Services Canada
("PWGSC")

- and -

(INSERT PROPONENT NAME), [a company incorporated under the laws of _____, having its head office at _____] ("**INSERT PROPONENT NAME**")

WHEREAS:

- A. PWGSC has Confidential Information that it is willing to share with the **(INSERT PROPONENT NAME)** for the purposes of preparing a proposal in response to Solicitation No. EQ754-201128/A (hereinafter the "Proposal");
- B. PWGSC wishes to preserve the confidentiality of its Confidential Information; and
- C. The Parties wish to set out in this Agreement their rights and obligations with respect to the disclosure and use of PWGSC's Confidential Information;

NOW THEREFORE IN CONSIDERATION of the mutual terms and conditions, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. PREAMBLE

The preamble forms an integral part of this Agreement.

2. DEFINITIONS

- a) "**Agreement**" means this agreement between PWGSC and **(INSERT PROPONENT NAME)** respecting the Project, as the same may be amended from time to time.
- b) "**Confidential Information**" means the reports numbered 2 to 5, and also, without limitation, all scientific, technical, business, financial, legal, marketing, or strategic information and data
 - i. that is non-public, protected, confidential, privileged or proprietary in nature;
 - ii. that may have actual or potential economic value, in part, from not being known;
 - iii. however fixed, stored, expressed or embodied (and includes, without limitation, samples, prototypes, specimens and derivatives);
 - iv. disclosed during discussions, telephone calls, meetings, tests, demonstrations, correspondence or otherwise;
 - v. that is consistently treated as confidential;

or any part or portion thereof, related to the Project pursuant to this Agreement, whether or not such information is specifically marked confidential or identified as confidential at the time of disclosure.

- c) **"Party"** means either PWGSC or **(INSERT PROPONENT NAME)** individually, and **"Parties"** means both PWGSC and **(INSERT PROPONENT NAME)** collectively, and its Permitted Representatives.
- d) **"Permitted Representatives"** means, for PWGSC, government officials, employees and agents from any organization of the federal public administration, including, for greater certainty, departments and central agencies, as well as any contractors, representatives or advisors retained by any portion thereof; and for **(INSERT PROPONENT NAME)**, directors, employees, authorized representatives or advisors.

3. CONFIDENTIALITY

- a) Obligation of Confidentiality – Confidential Information disclosed by PWGSC to **(INSERT PROPONENT NAME)** under this Agreement shall be:
 - i. held in confidence by the **(INSERT PROPONENT NAME)**;
 - ii. used by the **(INSERT PROPONENT NAME)** exclusively for the Proposal;
 - iii. safeguarded by **(INSERT PROPONENT NAME)** taking such action as may be appropriate to prevent the unauthorized access, use or disclosure of the Confidential Information;
 - iv. not be disclosed to third parties, except Permitted Representatives (and each Permitted Representative of **(INSERT PROPONENT NAME)** is required to agree in writing to be bound by the terms of this Agreement) of **(INSERT PROPONENT NAME)** and then only for the Proposal; and
 - v. not disclosed unless required by law.
- b) No Waiver of Privilege – Each Party acknowledges that the Confidential Information of PWGSC is the property of PWGSC or a third party and that neither PWGSC nor the third party intends to, or does, waive any rights, title or privilege it may have in respect of any of the Confidential Information.
- c) Confidential Information may only be reproduced as necessarily required to prepare and submit a Proposal, or with written permission from PWGSC.

4. RECORD AND LOCATION OF CONFIDENTIAL INFORMATION

- a) Secure Location – **(INSERT PROPONENT NAME)** shall keep the Confidential Information in a secure location and ensure that only those with a need to know will be provided with confidential information.
- b) Destruction of Confidential Information – Upon demand from PWGSC, **(INSERT PROPONENT NAME)** shall destroy the Confidential Information disclosed by PWGSC under this Agreement.

5. OWNERSHIP

Confidential Information is Proprietary – The Confidential Information of PWGSC is and shall remain the exclusive property of PWGSC [or third parties, as the case may be] and, apart from the terms of this Agreement, **(INSERT PROPONENT NAME)** is granted no title, interest or ownership in the Confidential Information. **(INSERT PROPONENT NAME)** shall not contest any such title, interest or ownership. **(INSERT PROPONENT NAME)** shall not incorporate the Confidential Information or any resulting product based on or derived from the Confidential Information in any patent or copyright application.

6. EFFECTIVE DATE AND DURATION

This Agreement shall come into force and effect on the date of last signature (the "Effective Date"). The Confidential Information shall be held confidential in perpetuity from the Effective Date of this Agreement, notwithstanding termination of the Agreement.

7. INDEMNIFICATION

(INSERT PROPONENT NAME) shall, at its own cost, indemnify and save harmless PWGSC from and against all claims, demands, losses, damages, costs (including solicitor and own-client costs), actions, suits or other proceedings, all in any manner based upon, arising out of, related to, occasioned by or attributable to, any acts or omissions whatsoever of **(INSERT PROPONENT NAME)** (whether by reason of negligence or otherwise) in the performance or breach by **(INSERT PROPONENT NAME)** of the provisions of the Agreement or any activity undertaken or purported to be undertaken under the authority or pursuant to the terms of this Agreement.

8. TERMINATION AND EQUITABLE REMEDIES

- a) Upon expiration of this Agreement, or at the request of PWGSC, all Confidential Information in any form, including without limitation, any hard or electronic copies shall be promptly destroyed by **(INSERT PROPONENT NAME)** and **(INSERT PROPONENT NAME)** shall have no right whatsoever to continue the use of or disclosure of the destroyed Confidential Information in any way whatsoever.
- b) Notwithstanding the expiration of this Agreement, all obligations of **(INSERT PROPONENT NAME)**, which expressly or by their nature survive termination or expiration, shall continue in full force and effect subsequent to and notwithstanding such termination or expiration, until they are satisfied or by their nature expire, including without limitation, Confidentiality (Article 3) and Indemnification (Article 7).
- c) Should **(INSERT PROPONENT NAME)** breach the provisions of this Agreement, PWGSC shall be entitled to equitable relief, in addition to all other remedies available to PWGSC at law or in equity. The Parties agree that an award of damages may not be an effective remedy in the event of a breach of this Agreement.

9. MISCELLANEOUS

- a) Entire Agreement – This Agreement constitutes the entire agreement between the Parties pertaining to the subject-matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties pertaining to such subject-matter. There are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof, except those specifically set out herein. The execution of this Agreement has not been induced by, nor do any of the Parties rely upon or regard as material, any representations not included in this Agreement.
- b) Amendment – No amendment to this Agreement shall be effective unless reduced to writing and signed by the authorized representatives of the Parties.
- c) Waiver – No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

- d) Successors – This Agreement shall enure to the benefit of, and be binding upon, the Parties and their respective heirs, executors, administrators and permitted successors and assigns.
- e) Relationship – The Parties expressly disclaim any intention to create a partnership, joint venture or joint enterprise. [This Agreement shall in no way be interpreted as granting a license to technology to which the Confidential Information is a part.]
- f) Forum Conveniens and Applicable Laws – This Agreement shall be governed by and interpreted under the laws in force in the Province of Ontario, without regard to any choice of law rules. The courts of the Province of Ontario shall have exclusive jurisdiction over all matters arising in relation to this Agreement and each Party hereby submits to the jurisdiction of the courts of the Province of Ontario.
- g) Assignment – This Agreement is personal to the Parties and cannot be assigned by a Party, in whole or in part, or any interest, right or obligations hereunder.

10. NOTICES

- a) Contact Individuals, Addresses and Numbers - unless otherwise notified, the representative of the Parties for the purpose of the Agreement shall be:

For PWGSC: [Insert name, address]
 Telephone: [Insert telephone number]
 Email: [Insert email address]

For **(INSERT PROPONENT NAME)**: [Insert name, address]

Telephone: [Insert telephone number]
 Email: [Insert email address]

- b) Mode of Service - Any notices or other communications required or permitted under this Agreement shall be in writing and shall be either
- i. personally delivered;
 - ii. sent by courier;
 - iii. sent by registered mail, postage prepaid; or
 - iv. sent by email;

to the addresses and persons cited above. Any Party may change the names of the intended recipient and addresses by written notice.

- c) Confirmation of Service - Any notice or communication
- i. given by personal delivery shall be deemed to have been received on the date of delivery;
 - ii. given by courier or registered mail shall be deemed to have been received on the date of signature on the delivery slip;
 - iii. given by email shall be deemed to have been received when the Internet "postmaster" states receipt of the electronic message.
- d) This Agreement may be executed in counterpart.

Solicitation No. - N° de l'invitation

EQ754-201128/A

Client Ref. No. - N° de réf. du client

R.076951.186

Amd. No. - N° de la modif.

003

File No. - N° du dossier

PWL-9-42038

Buyer ID - Id de l'acheteur

pwl041

CCC No./N° CCC - FMS No/ N° VME

11. EXECUTION / SIGNATURES

IN WITNESS WHEREOF this Agreement has been executed by duly authorized representatives of the Parties.

HER MAJESTY THE QUEEN

IN RIGHT OF CANADA, as represented by

the Minister of Public Works and Government Services Canada

By: _____

[Name of official]

[Title]

Date

FOR (INSERT PROPONENT NAME):

By: _____

[Name of official]

[Title]

I have authority to bind the [corporation, etc.]

Date