



**Request for Proposal: ISED195023**

**SEND BIDS TO:**

Innovation, Science and Economic  
Development Canada  
Contracts & Materiel Management  
235 Queen Street  
Bid Receiving Area,  
Mail Scanning, Room S-143, Level S1  
Ottawa, ON  
K1A 0H5  
Attention: Chantal Lafleur

**REQUEST FOR  
PROPOSAL**

**Proposal to: Innovation, Science  
and Economic Development  
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,  
services, and construction listed herein  
and on any attached sheets at the  
price(s) set out hereof.

**Issuing Office:**

Innovation, Science and Economic  
Development Canada  
Contracts & Materiel Management  
235 Queen Street  
Ottawa, ON  
K1A 0H5

<b>Title</b> Spectrum Auction Infrastructure Services for the 3500 MHz Auction	
<b>Solicitation N°</b> ISED195023	<b>Date</b> February 21, 2020
<b>Solicitation Closes</b> <b>at 02:00 PM</b> <b>on April 1, 2020</b>	<b>Time Zone</b> Eastern Daylight Time (EDT)
<b>F.O.B.</b> Destination	
<b>Address inquiries to:</b> Chantal Lafleur	
<b>Telephone N°</b> 613-608-5865	<b>Email address</b> chantal.lafleur2@canada.ca
<b>Destination – of Goods, Services or Construction</b>  See Herein	

**Instructions: See Herein**

**Comments: This document contains a Security Requirement**

<b>Delivery Required:</b>  See Herein	
<b>Bidder's Name and address</b>	
<b>Name and title of person authorized to sign on behalf of the Bidder (type or print)</b>	
<b>Signature:</b>	<b>Date:</b>



# **Request for Proposal (RFP)**

**For the provision of**

**Spectrum Auction Infrastructure Services for  
the 3500 MHz Auction**

**for**

**Innovation, Science and Economic Development  
Canada**



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## PART 1 - GENERAL INFORMATION

### 1. Introduction

The Request for Proposal (RFP) (also referred to herein as the “bid solicitation”) is divided into seven parts plus attachments and appendices, as follows:

- Part 1 General Information: provides a general description of the requirement;
- Part 2 Bidder Instructions: provides the instructions, clauses and conditions applicable to the bid solicitation;
- Part 3 Bid Preparation Instructions: provides Bidders with instructions on how to prepare their bid;
- Part 4 Evaluation Procedures and Basis of Selection: indicates how the evaluation will be conducted, the evaluation criteria that must be addressed in the bid, and the basis of selection;
- Part 5 Certifications and Additional Information: includes the certifications and additional information to be provided;
- Part 6 Security Requirements: includes specific requirements that must be addressed by Bidders; and
- Part 7 Resulting Contract Clauses: includes the clauses and conditions that will apply to any resulting contract.

The Appendices include the Statement of Work, the Terms of Payment, the Security Requirements Check List, the Security Guide and any other appendices.

The Attachments include the Pricing Schedule, the Evaluation Criteria, the Certifications Required with the Bid, the Attestation Form, ISED General Conditions of a Service Contract, the Confidentiality Agreement, the Security Requirements for Suppliers and any other attachments.

### 2. Summary

Innovation, Science and Economic Development Canada (ISED) is soliciting bids (also referred to as “proposals”) for the services of a Contractor to provide Infrastructure Services for the 3500 MHz Auction as defined in Appendix “A”, Statement of Work (the “Work”), for a period commencing from date of Contract award to June 30, 2021.

The requirement is subject to the provisions of the World Trade Organization Agreement on Government Procurement (WTO-AGP), the North American Free Trade Agreement (NAFTA), the Canada-European Union Comprehensive Economic and Trade Agreement (CETA), and the Canadian Free Trade Agreement (CFTA), Canada-Chile Free Trade Agreement, Canada-Columbia Free Trade Agreement, Comprehensive and Progressive Agreement for Trans-Pacific Partnership, Canada-Honduras Free Trade Agreement, Canada-Korea Free Trade Agreement, Canada-Panama Free Trade Agreement, Canada-Peru Free Trade Agreement, Canada-Ukraine Free Trade Agreement.



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The Federal Contractors Program (FCP) for employment equity applies to this procurement; see Part 5 – Certifications and Additional Information, Part 7 - Resulting Contract Clauses and the attachment titled Federal Contractors Program for Employment Equity - Certification.

#### 3. Security

There is a security requirement associated with this requirement. For additional information, consult Part 6 – Security Requirements, and Part 7 – Resulting Contract Clauses.

#### 4. Legal Capacity

The Bidder must have the legal capacity to contract. If the Bidder is a sole proprietorship, a partnership or a corporate body, the Bidder must provide, if required by the Contracting Authority, a statement and any requested supporting documentation including the laws under which it is registered or incorporated together with the registered or corporate name and place of business. These requirements also apply to bidders submitting a bid as a joint venture.

##### Definition of Bidder

"Bidder" means the person or entity (or, in the case of a joint venture, the persons or entities) submitting a bid to perform the Work. It does not include the parent, subsidiaries or other affiliates of the Bidder, or its subcontractors.

##### Definition of Joint Venture

Association of two or more parties who combine their money, property, knowledge, expertise or other resources in a single joint business enterprise, sometimes referred as a consortium, to bid together on a requirement and to perform the Work.

#### 5. Debriefings

Bidders may request a debriefing on the results of the bid solicitation. Bidders must make the request to the Contracting Authority within fifteen (15) working days of receipt of the results of the bid solicitation. The debriefing may be provided in writing, by telephone or in person.

### PART 2 – INSTRUCTIONS TO BIDDERS

#### 1. Glossary of Terms

TERM	DEFINITION / MEANING
<b>RFP</b>	Request for Proposal
<b>ISED</b>	Innovation, Science and Economic Development Canada or the Department
<b>Mandatory requirements</b>	Whenever the words “shall”, “must”, “will” and “mandatory” appear in this document or any related document forming a part hereof, the item being described is a mandatory requirement. Failure to comply or demonstrate compliance with a mandatory requirement will render the bid non-responsive and the bid will not be considered further.
<b>Should</b>	The word “should” means an action that is preferred but not mandatory.
<b>Minister</b>	The Minister of Innovation, Science and Economic Development.
<b>Canada</b>	“means Her Majesty the Queen in right of Canada as represented by the Minister of ISED and any other person duly authorized to act on behalf of that Minister”.

#### 2. General Conditions



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Attachment 1 to part 7, ISED General Conditions of a Service Contract will form part of and shall be incorporated into the resulting contract.

### 3. Instructions, Clauses and Conditions

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

### 4. Submission of Bids

4.1 Bids must be submitted only to ISED's Bid Receiving Area by the date, time and place indicated on page 1 of the bid solicitation. Bidders are hereby advised that the Bid Receiving Area of ISED is open Monday to Friday inclusive, between the hours of 7:30 am and 4:30 pm, excluding Statutory Holidays.

ELECTRONIC BIDS WILL NOT BE ACCEPTED. Due to the nature of this bid solicitation, bids transmitted by facsimile or electronic mail to ISED will not be accepted.

4.2 Canada requires that each bid, at closing time, be signed by the Bidder or by an authorized representative of the Bidder. In the event of a bid submitted by a contractual joint venture, the bid shall either be signed by all parties of the joint venture or a statement shall be provided to the effect that the signatory has the authority to bind all parties of the joint venture.

4.3 It is the Bidder's responsibility to:

- a. obtain clarification of any terms, conditions or technical requirements contained in the solicitation, if necessary, before submitting a bid;
- b. prepare its bid in accordance with the instructions contained in the bid solicitation;
- c. submit by closing date and time a signed complete bid;
- d. send its bid only to the ISED Bid Receiving Area specified on Page 1 of the bid solicitation or to the address specified in the bid solicitation;
- e. ensure that the Bidder's name, return address, the bid solicitation number, and bid solicitation closing date and time are clearly visible on the envelope(s) or the parcel(s) containing the bid;
- f. provide a comprehensible and sufficiently detailed bid, including all requested pricing details, that will permit a complete evaluation in accordance with the criteria set out in the bid solicitation; and
- g. include the name and telephone number of a representative who may be contacted for clarification or other matters relating to the Bidder's proposal.

4.4 Bids will remain open for acceptance for a period of not less than one-hundred and twenty (120) calendar days from the closing date of the bid solicitation, unless specified otherwise in the bid solicitation. Canada reserves the right to seek an extension of the bid validity period from all responsive bidders in writing, within a minimum of three (3) business days before the end of the bid validity period. If the extension is accepted by all responsive bidders, Canada will continue with the evaluation of the bids. If the extension is not accepted by all responsive bidders, Canada will, at its sole discretion, either continue with the evaluation of the bids of those who have accepted the extension or cancel the solicitation.

4.5 Bid documents and supporting information must only be submitted in either English or French.

4.6 Pricing information must not be included in any section of the proposal other than the Financial Proposal section of the bid.

4.7 Bids received on or before the stipulated bid solicitation closing date and time will become the property of Canada and will not be returned. All bids will be treated as confidential, subject to legal obligations including the provisions of the *Access to Information Act*, R.S. 1985, c.A-1 and the *Privacy Act*, R.S. 1985, c. P-21, international obligations and judicial order.



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- 4.8 Unless specified otherwise in the bid solicitation, Canada will evaluate only the documentation provided with a Bidder's proposal. Canada will not evaluate information such as references to website addresses where additional information can be found, or technical manuals or brochures not submitted with the bid.
- 4.9 Proposals received after the closing time and date shown will not be considered and will be returned unopened to the sender.
- 4.10 The Bidder's signature indicates acceptance of the terms and conditions governing the resulting contract and the Minister reserves the right to reject any proposal including any condition proposed by the Bidder that would not be, in the opinion of the Contracting Authority, in Canada's interest.

### 5. Notice to bidders

The following terms and conditions may apply to this solicitation:

- 5.1 Bidders may be required to provide, prior to contract award, specific information with respect to their legal and financial status, and their technical capability to satisfy the requirement as stipulated in this solicitation.
- 5.2 a) For Canadian-based bidders, prices must be firm (in Canadian funds) with Canadian customs duties and excise taxes as applicable INCLUDED, and Goods and Services Tax (GST) or Harmonized Sales Taxes (HST) as applicable EXCLUDED.
- b) For Foreign-based bidders, prices must be firm (in Canadian funds) and EXCLUDE Canadian customs duties, excise taxes and GST or HST as applicable. CANADIAN CUSTOMS DUTIES AND EXCISE TAXES PAYABLE BY ISED WILL BE ADDED, FOR EVALUATION PURPOSES ONLY, TO THE PRICES SUBMITTED BY FOREIGN-BASED BIDDERS.
- 5.3 The contract term "Employment Equity" and any clause relating to international sanctions, if and when included in this document, apply to Canadian-based bidders only.

### 6. Enquiries - Bid Solicitation Period

- 6.1 To ensure the integrity of the competitive bid process, enquiries and other communications regarding the bid solicitation, from the issue date of the solicitation up to the closing date (the "bid solicitation period"), must be directed ONLY to the Contracting Authority identified in the bid solicitation. Enquiries and other communications are NOT to be directed to any other government official(s). Failure to comply with this request may (for that reason alone) result in the bid being declared non-responsive.
- 6.2 Bidders must reference as accurately as possible the numbered item of the bid solicitation to which the enquiry relates. Care must 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 proprietary in 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 questions or may request that the Bidder do so, so that the proprietary nature of the question is eliminated, and the enquiry can be answered with copies to all bidders.
- 6.3 All enquiries regarding this bid solicitation must be submitted in writing to the Contracting Authority named below as early as possible within the solicitation period to allow sufficient time to provide a response. All enquiries must be submitted in writing no later than seven (7) working days before the bid closing date. Enquiries received after that time may not be answered.

The Contracting Authority is:

Name: Chantal Lafleur



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Title: Senior Contracts and Procurement Advisor  
Email address: chantal.lafleur2@canada.ca  
Telephone Number: 613-608-5865

- 6.4 To ensure consistency and quality of information provided to bidders, the Contracting Authority will simultaneously distribute any information with respect to significant enquiries received and the replies to such enquiries without revealing the sources of the enquiries.
- 6.5 Meetings will not be held with individual bidders prior to the closing date and time of this RFP.
- 6.6 Amendments to the Bidder's proposal will not be accepted after the RFP closing date and time.

### 7. Applicable Laws

Any resulting contract must be interpreted and governed, and the relations between the parties determined, by the laws in force in Ontario.

Bidders may, at their discretion, substitute the applicable laws of a Canadian province or Canadian territory of their choice without affecting the validity of their bid, by deleting the name of the Canadian province or Canadian 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 Bidder.

### 8. Rights of Canada

Canada reserves the right to:

- a. reject any or all bids received in response to the bid solicitation;
- b. enter into negotiations with bidders on any or all aspects of their bids;
- c. accept any bid in whole or in part without negotiations;
- d. cancel the bid solicitation at any time;
- e. reissue the bid solicitation;
- f. if no responsive bids are received and the requirement is not substantially modified, re-tender the requirement by inviting only the bidders who bid to re-submit bids within a period designated by Canada;
- g. negotiate with the sole responsive Bidder to ensure best value to Canada;
- h. accept, or waive, a non-material error of form in a Bidder's proposal or, where practical to do so, request a Bidder to correct a non-material error of form in the Bidder's proposal provided there is no change in the price quoted;
- i. award more than one contract for the requirement if it is determined that no single proposal satisfies the project objectives; and
- j. retain all proposals submitted in response to this bid solicitation.

### 9. Price Support

In the event that the Bidder's proposal is the sole responsive bid received, the Bidder must provide, on Canada's request, one or more of the following price support if applicable:

- a. a current published price list indicating the percentage discount available to Canada; or
- b. copies of paid invoices for the like quality and quantity of the goods, services or both sold to other customers; or
- c. a price breakdown showing the cost of direct labour, direct materials, purchased items, engineering and plant overheads, general and administrative overhead, transportation, etc., and profit; or
- d. price or rate certifications; or
- e. any other supporting documentation as requested by Canada.

### 10. Bid Costs





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No payment will be made for costs incurred in the preparation and submission of a bid in response to the bid solicitation. Costs associated with preparing and submitting a bid as well as any costs incurred by the Bidder associated with the evaluation of the bid, are the sole responsibility of the Bidder.

### 11. Conduct of Evaluation

In conducting its evaluation of the bids, Canada may, but will have no obligation to, do the following:

- a. seek clarification or verification from bidders regarding any or all information provided by them with respect to the bid solicitation;
- b. contact any or all references supplied by bidders to verify and validate any information submitted by them;
- c. request, before award of any contract, specific information with respect to Bidder's legal status;
- d. conduct a survey of Bidder's facilities and/or examine their technical, managerial, and financial capabilities to determine if they are adequate to meet the requirements of the bid solicitation;
- e. correct any error in the extended pricing of bids by using unit pricing and any error in quantities in bids to reflect the quantities stated in the bid solicitation;
- f. verify any information provided by bidders through independent research, use of any government resources or by contacting third parties;
- g. interview, at the sole costs of bidders, any Bidder and/or any or all of the resources proposed by bidders to fulfil the requirement of the bid solicitation.

Bidders will have the number of days specified in the request by the Contracting Authority to comply with any request related to any of the above items. Failure to comply with the request may result in the bid being declared non-responsive.

### 12. Conflict of Interest – Unfair Advantage

In order to protect the integrity of the procurement process, bidders are advised that Canada may reject a bid in the following circumstances:

- a. if the Bidder, any of its subcontractors, any of their respective employees or former employees was involved in any manner in the preparation of the bid solicitation;
- b. if the Bidder, any of its subcontractors, any of their respective employees or former employees had access to information related to the bid solicitation that was not available to other bidders and that would, in Canada's opinion, give the Bidder an unfair advantage.

The experience acquired by a Bidder who is providing or has previously provided the goods and/or services described in the bid solicitation (or similar goods and/or services) will not, in itself, be considered by Canada as conferring an unfair advantage or creating a conflict of interest. This Bidder remains however subject to the criteria established above.

Where Canada intends to reject a bid under this section, the Contracting Authority will inform the Bidder and provide the Bidder an opportunity to make representations before making a final decision. Bidders who are in doubt about a particular situation should contact the Contracting Authority before bid closing. By submitting a bid, the Bidder represents that it does not consider itself to be in conflict of interest nor to have an unfair advantage. The Bidder acknowledges that it is within Canada's sole discretion to determine whether a conflict of interest or unfair advantage exists.

### 13. Entire Requirement

The bid solicitation documents contain all the requirements relating to the solicitation. Any other information or documentation provided to or obtained by a Bidder from any source are not relevant. Bidders should not assume that practices used under previous contracts will continue, unless they are described in the bid solicitation. Bidders should also not assume that their existing capabilities meet the requirements of the bid solicitation simply because they have met previous requirements.



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**PART 3 – BID PREPARATION INSTRUCTIONS**

**1. Bid Preparation Instructions**

Canada requests that bidders prepare and submit their formal proposal as four (4) separately bound documents as follows:

Section I:	Technical Bid	4 hard copies
Section II:	Financial Bid	2 hard copies
Section III:	Certifications	2 hard copies
Section IV:	Additional Information	2 hard copies

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 hard copy 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 (<https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32573>). 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.

All references to descriptive material, technical manuals and brochures must be included in the bid. Reduction in the size of documents will contribute to ISED’s sustainable development initiatives and reduce waste.

**Section I: Technical Bid**

In their technical bid, bidders must demonstrate their understanding of the requirements contained in the bid solicitation and explain how they will meet these requirements. Bidders must demonstrate their capacity and describe their approach in a thorough, concise and clear manner for carrying out the Work.

The technical bid must address clearly and in sufficient depth the points that are subject to the evaluation criteria, contained in Part IV, against which the bid will be evaluated. Simply repeating the statement contained in the bid solicitation is not sufficient. In order to facilitate the evaluation of the bid, Canada requests that bidders address and present topics in the order of the evaluation criteria, and under the same headings. To avoid duplication, bidders may refer to different sections of their bids by identifying the specific paragraph and page number where the subject topic has already been addressed.

**Resumes for proposed resources:** Unless specified otherwise in the RFP, the technical bid must include resumes for each of the proposed resources identified in the bid solicitation that demonstrate that each proposed individual meets the requirement(s).

**Joint-Venture Experience**

A joint venture or partnership bidder may rely on the experience of its members to meet the technical criterion of this bid solicitation.

Part 4, Section 1 – Evaluation Procedures and Attachment 1 to Part 4, Evaluation Criteria, contain additional instructions that bidders must consider when preparing their technical bid.



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### Section II: Financial Bid

The financial bid must be submitted as a separate package to the technical bid.

Bidders must submit their financial bid in Canadian funds and in accordance with the pricing schedule detailed in Attachment 1 to Part 3.

When the Bidder is required to bid a firm price for the work or any portion of the work, bidders must provide in their financial bid a price breakdown for the firm price quoted.

When preparing their financial bid, bidders must review the Terms of Payment in Appendix B and Stage One and Stage Three in Part 4.

### Electronic Payment of Invoices – Bid

Canada requests that bidders:

1. select option 1 or, as applicable, option 2 below; and
2. include the selected option in Section II of their bid.

Acceptance of Electronic Payment Instruments will not be considered as an evaluation criterion.

#### **Option 1:**

The Bidder accepts to be paid by the following Electronic Payment Instrument(s):

- VISA Acquisition Card
- MasterCard Acquisition Card
- Direct Deposit (Domestic and International)
- Electronic Data Interchange (EDI)
- Wire Transfer (International Only)
- Large Value Transfer System (LVTS) (Over \$25M)

#### **Option 2:**

The Bidder does not accept to be paid by Electronic Payment Instruments.

### Exchange Rate Fluctuation

[C3011T \(2013-11-06\), Exchange Rate Fluctuation](#)

### Section III: Certifications

Bidders must submit the certifications required under Part 5.

### Section IV: Additional Information

In section IV of their bid, bidders must provide the following information:

1. their legal name;
2. their Procurement Business Number (PBN) (for additional information on how to register to obtain a PBN, refer to the following website: <https://buyandsell.gc.ca/for-businesses/selling-to-the-government-of-canada/register-as-a-supplier>);
3. their full mailing address;
4. the name of the contact person (including this person's mailing address, phone number and email address) authorized by the Bidder to enter into communications with Canada with regards to their bid, and any contract that may result from their bid.



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**ATTACHMENT 1 TO PART 3 - PRICING SCHEDULE**

**1.0 Professional Fees**

The Pricing Schedule below identifies the costing components and identifies whether the Bidder must provide per diem rates or fixed cost prices.

The Pricing Schedule is broken down by various requirements/tasks for the Work:

The Bidder must submit a cost breakdown using the Pricing Schedule below and include it in its financial bid.

**1.1** The Contractor shall be bound by the per diem rates and fixed cost prices quoted in its financial bid for the work. No increase in its rates or prices will be accepted during the period of the Contract.

**1.2** The inclusion of volumetric data (level of effort) in the Pricing Schedule is for evaluation purposes only and does not represent a commitment by ISED that ISED's future usage of the services described in the bid solicitation will be consistent with this data.

**CONTRACT PERIOD: From date of contract award to June 30, 2021**

**Pricing Schedule 1: Fixed Cost Prices**

Item Number	Requirement	Fixed Cost Price (\$ CAD)
1	Setup of the primary and warm backup server hardware	
2	Setup of the hardware-based firewalls	
3	Purchase of 4 server hard drives	
4	Cloning of primary and warm backup servers	
5	Shipment of the primary and warm backup server hard drives to ISED in Ottawa, Canada upon ISED's request	
<b>Pricing Schedule 1 Total (TAX excluded):</b>		<b>\$_____CAD</b>

**Pricing Schedule 2: Per Diem Rate**

Item Number	Requirement	Estimated Level of Effort	Monthly Rate (\$ CAD)	Total (\$ CAD)
		<b>A</b>	<b>B</b>	<b>C = A X B</b>
1	Provision of primary and warm backup servers	Minimum of 12 months		
2	Provision of hardware-based firewalls and monitoring	Minimum of 12 months		
<b>Pricing Schedule 2 Total (TAX excluded):</b>				<b>\$_____CAD</b>

**Pricing Schedule 3: Summary Pricing Schedule**



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<b>TOTAL PRICE – Sum of Schedule 1 and 2 (Tax excluded) =</b>	\$_____CAD
<b>BIDDER’S TOTAL EVALUATED PRICE (Tax excluded) =</b>	\$_____CAD
<b>APPLICABLE TAXES</b>	\$_____CAD

**As stated in Attachment 1 to Part 4 – Evaluation Criteria, Mandatory Financial Criteria MF1, the Bidder’s total Evaluated Price must not exceed a budget of \$132,743.00 Canadian dollars, excluding applicable taxes. Proposals costing more will be rejected and will not be evaluated.**



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

#### **1. Evaluation Procedures**

Proposals will be assessed in accordance with the entire requirement of the bid solicitation.

An evaluation team comprised of representatives of ISED will evaluate the bids.

The evaluation team reserves the right but is not obliged to perform any of the following:

- a) seek clarification or verify any or all information provided by the Bidder with respect to this RFP;
- b) Contact any or all of the references supplied and to interview, at the sole costs of the Bidder, the Bidder and/or any or all of the resources proposed by the Bidder to fulfill the requirement, at ISED in Ottawa, Ontario, Canada, on 48 hours' notice, to verify and validate any information or data submitted by the Bidder.

The evaluation and selection process is comprised of three (3) separate stages as follows:

#### **Stage 1: Evaluation of Mandatory Technical and Financial Criteria**

During Stage One, the proposals will be evaluated for compliance with each of the mandatory requirements (technical and financial criteria). Refer to Attachment 1 to Part 4.

At Stage One, proposals that do not meet all of the mandatory requirements will be set aside and not be given any further consideration.

Proposals meeting all mandatory requirements under Stage One will proceed to Stage Two of the evaluation process.

#### **Stage 2: Evaluation of the Point Rated Technical Criteria**

Proposals that satisfy the Stage One mandatory requirements shall be further evaluated against the point rated technical criteria and scored in accordance with the available points for each point rated criteria. The total points available for the point rated requirements is **75** points. Refer to Attachment 1 to Part 4. Point-rated technical criteria not addressed will be given a score of zero.

To be further evaluated, the Bidder's proposal must achieve an overall minimum technical score of **48**.

Any proposal which fails to achieve the overall minimum score requirement of **48** points or which fails to achieve the required minimum score for any rated item will be eliminated from further consideration at the end of Stage Two.

#### **Stage 3: Evaluation of the Financial Proposal**

Proposals that have met all the mandatory requirements (technical and financial criteria), and that have met or exceeded the overall minimum score requirements and the minimum score for each rated item, will be evaluated further.

For bid evaluation and contractor(s) selection purposes only, the evaluated price of a bid will be determined in accordance with the Pricing Schedule detailed in Attachment 1 to Part 3.

#### **2. Basis of Selection - Highest Combined Rating of Technical Merit (80%) and Price (20%)**

**2.1** To be declared responsive, a bid must:

- (a) comply with all the requirements of the bid solicitation;
- (b) meet all the mandatory technical and financial evaluation criteria; and
- (c) obtain the required minimum number of points specified in Attachment 1 to Part 4 for the point rated technical criteria.



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- 2.2 Bids not meeting (a) or (b) or (c) will be declared non-responsive. Neither the responsive bid obtaining the highest number of points nor the one with the lowest evaluated price will necessarily be accepted.
- 2.3 The lowest evaluated price (LP) of all responsive bids will be identified and a pricing score (PS), determined as follows, will be allocated to each responsive bid (i):  $PS_i = LP / P_i \times 20$ .  $P_i$  is the evaluated price (P) of each responsive bid (i).
- 2.4 A technical merit score (TMS), determined as follows, will be allocated to each responsive bid (i):  $TMS_i = OS_i \times 80$ .  $OS_i$  is the overall score (OS) obtained by each responsive bid (i) for the total of all the point rated technical criteria for Stage 2 as specified in Attachment 1 to Part 4, determined as follows: total number of points obtained / maximum number of points available.
- 2.5 The combined rating (CR) of technical merit and price of each responsive bid (i) will be determined as follows:  $CR_i = PS_i + TMS_i$ .
- 2.6 The responsive bid with the highest combined rating of technical merit and price will be recommended for award of a contract. In the event two or more responsive bids have the same highest combined rating of technical merit and price, the responsive bid that obtained the highest overall score for all the point rated technical criteria detailed in Attachment 1 to Part 4 will be recommended for award of a contract.
- 2.7 The table below illustrates an example where the selection of the Contractor is determined by an **80/20** ratio of the technical merit and price, respectively.

<b>Basis of Selection - Highest Combined Rating of Technical Merit (80%) and Price (20%)</b>			
<b>Bidder</b>	<b>Bidder 1</b>	<b>Bidder 2</b>	<b>Bidder 3</b>
<b>Overall Technical Score</b>	50	60	70
<b>Bid Evaluated Price</b>	CAD\$110,000	CAD\$125,000	CAD\$132,000
<b>Calculations</b>	<b>Technical Merit Points</b>	<b>Price Points</b>	<b>Combined Rating</b>
<b>Bidder 1</b>	$50 / 75 \times 80 = 53.3$	$110,000 / 110,000 \times 20 = 20.0$	73.3
<b>Bidder 2</b>	$60 / 75 \times 80 = 64$	$110,000 / 125,000 \times 20 = 17.6$	81.6
<b>Bidder 3</b>	$70 / 75 \times 80 = 74.7$	$110,000 / 132,000 \times 20 = 16.7$	91.4

**In this example, Bidder 3 would be considered the successful Bidder.**



**ATTACHMENT 1 TO PART 4 - EVALUATION CRITERIA**

There are three stages to the evaluation process:

- Stage 1 – Mandatory Technical Criteria
- Stage 2 – Point Rated Technical Criteria
- Stage 3 – Mandatory Financial Criteria

All requirements must be met in Stage 1 – Mandatory Technical Criteria in order to proceed to Stage 2 – Point Rated Technical Criteria. In Stage 2, the Bidder’s proposal must achieve an overall minimum technical rating of 75 points in order to continue to Stage 3 – Mandatory Financial Criteria.

**1. Stage 1 - Mandatory Technical Criteria**

To be considered responsive, the proposal must meet the mandatory technical criteria specified below. The Bidder must provide the necessary documentation to support compliance with this requirement.

No points are awarded for the mandatory requirements, but each one must be met in order for the Bidder’s proposal to proceed to receive consideration and points for the point-rated technical criteria.

Proposals which fail to meet the mandatory technical criteria will be declared non-responsive. Each mandatory technical criterion must be addressed separately.

ISED will terminate the evaluation upon the first finding of non-compliance of a mandatory requirement.

<b>Mandatory Technical Criteria (MT)</b>			
For the purpose of the mandatory technical criteria specified below, the experience of the Bidder* will be considered.			
* “Bidder” means the person or entity (or, in the case of a joint venture, the persons or entities) submitting a bid to perform the Work. It does not include the parent, subsidiaries or other affiliates of the Bidder, or its subcontractors.			
<b>Number</b>	<b>Mandatory Technical Criteria</b>	<b>MET / NOT MET</b>	<b>Cross Reference to Proposal</b>
<b>MT1</b>	<p>The Bidder must provide a description of the overall approach to complete all aspects of the project in accordance with requirement specification identified in Section 6.1, and provide details for items listed herein below, demonstrating compliance with Section 6.1.</p> <ol style="list-style-type: none"> <li>1) Location of proposed data centre(s);</li> <li>2) Data centre(s) must have a valid DOS from PSPC;</li> <li>3) Physical and software security measures taken at the facilities as well as in server configurations;</li> <li>4) Proposed primary and warm backup server configurations;</li> <li>5) Data centre Network Operations Centre(s);</li> <li>6) Technical support operations including how calls are escalated between the different support levels;</li> <li>7) Customer portal including screen captures;</li> <li>8) Transfer of control procedures to the warm backup server in the event of a failure on the primary server.</li> </ol>		





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<b>MT2</b>	<p>The Bidder must provide a description of two (2) projects, conducted within the past eight (8) years, demonstrating experience in providing infrastructure hosting services. For each project, the bidder must provide the following information:</p> <ul style="list-style-type: none"><li>- Client name;</li><li>- Contact name;</li><li>- Phone number and/or;</li><li>- Email address.</li></ul> <p>ISED may communicate with these references to validate the stated experience.</p>		
<b>MT3</b>	<p>The Bidder must provide a copy of the Service Level Agreement for this infrastructure hosting services project as detailed in section 6.2 of the Statement of Work.</p>		
<b>MT4</b>	<p>The Bidder's data centre used to fulfill the contract must have at a minimum, a Tier 2 designation, as defined by the <a href="#">Uptime Institute</a>.</p>		
<b>MT5</b>	<p>The Bidder must attest that the primary server will be provisioned for the Department within five (5) days of contract award and that the warm backup server will be provisioned for ISED within fifteen (15) days of contract award.</p>		
<b>MT6</b>	<p>The Contractor must agree to be subject to a Threat Risk Assessment (TRA) by ISED on its infrastructure's compliance to applicable Communications Security Establishment Canada (CSEC) ITSG-33 security requirements for Protected B information. These applicable security requirements will be supplied to the contractor during the TRA process.</p>		



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**2. Stage 2 - Point Rated Technical Criteria**

Bidder proposals will be evaluated and scored as specified in the tables inserted below.

In order to qualify for the rating process, proposals should respond to the following point rated technical requirements in the order shown and should include the referenced Section/Page from the Statement of Work (Appendix A) in the Bidder's proposal.

In addition, the Bidder's proposal must achieve an overall minimum technical rating of **48 points**.

Proposals which fail to obtain the required minimum number of points will be declared non-responsive. Each point-rated technical criterion must be addressed separately.

Number	Point Rated Technical Criteria (RT)	Maximum Number of Points	Minimum Number of Points	Cross Reference to Proposal
RT1	<p><b>Bidder years of experience in providing server hosting services as per section MT2 above.</b></p> <p>Each project will be rated on the specific activities conducted in response to the project in terms of services and activities provided in relation of activities identified in Section 6.0.</p> <p>If more than two (2) projects are provided, then only the first two (2) projects listed will be evaluated.</p> <p>(30 points will be allocated to each project to a maximum of 60 points)</p>	60	48	
RT2	<p><b>Data centre designation</b></p> <p>At a minimum, the data centre used by the Bidder to fulfill the contract must be designated Tier 2. If the Bidder's data centre is designated at a higher Tier level, it will be awarded the following points:</p> <p>Tier 3: 5 points Tier 4: 15 points</p>	15	0	
<b>Stage 2 - Total maximum technical points</b>		<b>75</b>	<b>48</b>	

**3. Stage 3 - Mandatory Financial Criteria**

Bids must meet the mandatory financial criteria specified in the table inserted below.

Bids which fail to meet the mandatory financial criteria will be declared non-responsive. Each criterion must be addressed separately.

<b>Mandatory Financial Criteria (MF)</b>		
Number	Mandatory Financial Criteria	Cross Reference to Proposal



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<b>MF1</b>	<p>The total cost of the Bidder's financial proposal must not exceed \$132,743.00 Canadian dollars excluding applicable taxes. The Contractor must provide a full cost breakdown as per Attachment 1 to Part 3 – Pricing Schedule.</p> <p>Proposals exceeding the limits noted above will be rejected and will not be evaluated. No financial information from the financial proposal may appear in the technical proposal.</p>	
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### **PART 5 – CERTIFICATIONS**

Bidders must provide the required certifications and associated information to be awarded a contract. Canada shall declare a proposal non-responsive if the certifications are not submitted or completed as required.

The certifications provided by the Bidder to Canada are subject to verification by Canada at all times. Canada will declare a bid non-responsive, or will declare the Contractor in default in carrying out any of its obligations under the Contract, 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 with any request will also render the bid non-responsive or constitute a default under the Contract.

#### **1. Certifications Required with the Bid**

Bidders must submit the following duly completed certifications as part of their bid.

##### **1.1 Integrity Provisions - Declaration of Convicted Offences**

In accordance with the Integrity Provisions of the Standard Instructions, all bidders must provide with their bid, **if applicable**, the Integrity declaration form available on the [Forms for the Integrity Regime](http://www.tpsgc-pwgsc.gc.ca/ci-if/declaration-eng.html) website (<http://www.tpsgc-pwgsc.gc.ca/ci-if/declaration-eng.html>), to be given further consideration in the procurement process.

#### **2. Certifications Precedent to Contract Award and Additional Information**

The certifications and additional information listed below should be submitted with the bid but may be submitted afterwards. If any of these required certifications or additional information 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 provide the certifications or the additional information listed below within the time frame specified will render the bid non-responsive.

##### **2.1 Integrity Provisions – Required Documentation**

In accordance with the section titled Information to be provided when bidding, contracting or entering into a real property agreement of the [Ineligibility and Suspension Policy](http://www.tpsgc-pwgsc.gc.ca/ci-if/politique-policy-eng.html) (<http://www.tpsgc-pwgsc.gc.ca/ci-if/politique-policy-eng.html>), the Bidder must provide the required documentation, as applicable, to be given further consideration in the procurement process.

##### **2.2 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" list available at the bottom of the page of the [Employment and Social Development Canada \(ESDC\) - Labour's](https://www.canada.ca/en/employment-social-development/programs/employment-equity/federal-contractor-program.html#) website (<https://www.canada.ca/en/employment-social-development/programs/employment-equity/federal-contractor-program.html#>).

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.

##### **2.3 Additional Certifications Precedent to Contract Award**

###### **2.3.1 Status and Availability of Resources**

SACC Manual clause [A3005T](#) (2010-08-16), Status and Availability



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**2.3.2 Education and Experience**

SACC Manual clause [A3010T](#) (2010-08-16), Education and Experience

**3. Conflict of Interest**

In order to provide impartial and objective advice to ISED and to avoid any real or apparent conflict of interest, the Contractor represents and warrants that any proposed individual(s) assigned to perform any work under a Contract shall not be in a situation of conflict of interest that would render it unable to provide impartial assistance or advice to ISED, or affect or otherwise impair its objectivity in performing the work.

The Contractor shall at all times limit access to the hardware in order to comply with the requirements for keeping the information/hardware secure at all times. In addition, in the event that the Contractor or any entity that is affiliated or associated with the a contractor intends to participate in the department's 3500 MHz auction, it must attest that no infrastructure personnel (direct employees, employees of affiliates contractors etc.) fulfilling the work under the Contract will be involved with any aspect of applying to and/or participating in the 3500 MHz auction. Furthermore, the Contractor must demonstrate, to the satisfaction of the department, prior to the 3500 MHz auction, the steps taken to ensure this separation between the Contractor's infrastructure personnel and any person involved with advising, applying for or participating in the 3500 MHz auction.

Should a Contractor subsequently become aware of such a potential conflict, it will notify the Project Authority immediately. By signing below, the Bidder hereby certifies that it has read the solicitation document and is in compliance with the above noted certifications, that all statements made in its proposal are accurate and factual, that it is aware that ISED reserves the right to verify all information provided in this regards, and that untrue statements may result in the proposal being declared non-responsive or in other action being taken which ISED deems appropriate.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_  
(Title of duly authorized representative of business)

Name of Business: \_\_\_\_\_



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**ATTACHMENT 1 TO PART 5 - CERTIFICATIONS REQUIRED WITH THE BID**

**1.0 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 the spending of public funds. In order to comply with Treasury Board policies and directives on contracts awarded to FPSs, bidders must provide the information required below before contract award. If the answer to the questions and, as applicable the information required have not been received by the time the evaluation of bids is completed, Canada will inform the Bidder of a time frame within which to provide the information. Failure to comply with Canada's request and meet the requirement within the prescribed time frame will render the bid non-responsive.

**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 size of 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 Pension 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.

**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 FPSs 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.

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;



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- 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;
- g. number and amount (professional fees) of other contracts subject to the restrictions of a work force adjustment program.

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.

**2.0 Federal Contractors Program for Employment Equity**

I, the Bidder, by submitting the present information to the Contracting Authority, certify that the information provided is true as of the date indicated below. The certifications provided to Canada are subject to verification at all times. I understand that Canada will declare a bid non-responsive, or will declare a contractor in default, if a certification is found to be untrue, whether during the bid evaluation period or during the contract period. Canada will have the right to ask for additional information to verify the Bidder's certifications. Failure to comply with any request or requirement imposed by Canada may render the bid non-responsive or constitute a default under the Contract.

For further information on the Federal Contractors Program for Employment Equity visit [Employment and Social Development Canada \(ESDC\) – Labour's](#) website.

Date : \_\_\_\_\_ (YYYY/MM/DD) (If left blank, the date will be deemed to be the bid solicitation closing date.)

Complete both A and B.

A. Check only one of the following:

- A1. The Bidder certifies having no work force in Canada.
- A2. The Bidder certifies being a public sector employer.
- A3. The Bidder certifies being a [federally regulated employer](#) being subject to the [Employment Equity Act](#).
- A4. The Bidder certifies having a combined work force in Canada of less than 100 permanent full-time and/or permanent part-time employees.
- A5. The Bidder has a combined workforce in Canada of 100 or more employees; and
  - A5.1. The Bidder certifies already having a valid and current [Agreement to Implement Employment Equity](#) (AIEE) in place with ESDC-Labour.

**OR**

- A5.2. The Bidder certifies having submitted the [Agreement to Implement Employment Equity \(LAB1168\)](#) to ESDC-Labour. As this is a condition to contract award, proceed to completing the form Agreement to Implement Employment Equity (LAB1168), duly signing it, and transmit it to ESDC-Labour.

B. Check only one of the following:

- B1. The Bidder is not a Joint Venture.

**OR**

- B2. The Bidder is a Joint venture and each member of the Joint Venture must provide the Contracting Authority with a completed annex Federal Contractors Program for Employment Equity - Certification. (Refer to the Joint Venture section of the Standard Instructions)



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**PART 6 – SECURITY REQUIREMENTS**

**1. Security Requirements**

Before award of a contract, the following conditions must be met:

- a. the Bidder must hold a valid organization security clearance as indicated in Part 7 - Resulting Contract Clauses;
- b. the Bidder's proposed individuals requiring access to classified or protected information, assets or sensitive work sites must meet the security requirement as indicated in Part 7 - Resulting Contract Clauses;
- c. the Bidder must provide the name of all individuals who will require access to classified or protected information, assets or sensitive work sites.

Bidders are reminded to obtain the required security clearance promptly. Any delay in the award of a contract to allow the successful Bidder to obtain the required clearance will be at the entire discretion of the Contracting Authority.

For additional information on security requirements, Bidders should refer to the [Contract Security Program](http://www.tpsgc-pwgsc.gc.ca/esc-src/introduction-eng.html) of Public Works and Government Services Canada (<http://www.tpsgc-pwgsc.gc.ca/esc-src/introduction-eng.html>) website.

The Bidder must comply with the provisions of the Security Requirements Check List (SRCL) and security guide attached at [Appendix C](#).

In addition, the Bidder must submit, as part of their bid, the completed and signed Attestation Form (Part I) provided in [Attachment 1 to Part 6](#).

The Bidder must also review the Security Requirements in Section 2 of Part 7 - Resulting Contract Clauses, including [Appendix C](#) – Approved Verifications for the required Criminal Record Background Check, for security requirements related to this requirement which the winning Bidder must meet.





**ATTACHMENT 1 TO PART 6 - ATTESTATION FORM**

**PART I - APPOINTMENT OF CONTRACT SECURITY OFFICER (CSO)**

I, \_\_\_\_\_, \_\_\_\_\_ **of** \_\_\_\_\_  
(Chief Executive Officer or Designated Key Senior Official\*) (Title) (Company/Organization)

**hereby appoint, the following individual, as our Contract Security Officer**

\_\_\_\_\_  
(Full Name of Appointee)

**Dated at** \_\_\_\_\_ **the** \_\_\_\_\_ **day of** \_\_\_\_\_ **20** \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Chief Executive Officer or Designated Key Senior Official)

**PART II - ATTESTATION OF COMPLIANCE BY CSO**

I, \_\_\_\_\_, **appointed as Contract Security Officer,**  
(Full Name of Appointee)

**employee of:** \_\_\_\_\_, **attest that I understand**  
(Full Name of Company / Organization)

**and hereby accept the responsibilities of CSO for contract** \_\_\_\_\_, **as**  
**defined in the attached Guide.** (Contract/Solicitation Number)

\_\_\_\_\_  
(Signature of Contract Security Officer) (E-mail contact)

\* "Designated Key Senior Officials" includes the owners, officers, directors, executives, and partners who occupy positions which would enable them to adversely affect the organization's policies or practices in the performance of the contract.



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### **PART 7 – RESULTING CONTRACT CLAUSES**

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

#### **1. General Conditions**

Attachment 1 of Part 7, Innovation, Science and Economic Development Canada's General Conditions of a Services Contract, apply to and form part of the contract.

#### **2. Security Requirements**

The following security requirements (SRCL, security guide and related clauses) apply and form part of the Contract:

#### **SECURITY REQUIREMENTS FOR SUPPLIER(S)**

#### **ISED RFP # ISED195023 - Spectrum Auction Infrastructure Services for the 3500 MHz Auction**

#### **PROTECTED B, RELIABILITY STATUS**

1. The Contractor/Offeror must, at all times during the performance of the Contract/Standing Offer/Supply Arrangement, hold a valid Designated Organization Screening (DOS), issued by the Canadian Industrial Security Directorate (CISD), Public Works and Government Services Canada (PWGSC).
2. The Contractor/Offeror personnel requiring access to PROTECTED information, assets or sensitive work site(s) must EACH hold a valid RELIABILITY STATUS, granted or approved by CISD/PWGSC.
3. The Contractor MUST NOT utilize its Information Technology systems to electronically process, produce or store PROTECTED information until the CISD/PWGSC has issued written approval. After approval has been granted or approved, these tasks may be performed up to the level of PROTECTED B.
4. Subcontracts which contain security requirements are NOT to be awarded without the prior written permission of CISD/PWGSC.
5. The Contractor/Offeror must comply with the provisions of the:
  - a. Security Requirements Check List and security guide (if applicable), attached at Appendix C;
  - b. Industrial Security Manual (Latest Edition).

#### **3. Statement of Work**

The Contractor must perform the Work in accordance with the Statement of Work in Appendix A.

#### **4. Term of the Contract**

##### **4.1 Period of the Contract**

The Contractor shall, between the date of Contract award and the 30<sup>th</sup> day of June 2021, perform and complete with care, skill, diligence and efficiency the work that is described in the Statement of Work.

#### **5. Authorities**

##### **5.1 Contracting Authority**

The Contracting Authority for the Contract is:

Name: Chantal Lafleur  
Title: Senior Contracts and Procurement Advisor  
Branch: Corporate Finance Systems and Procurement Branch  
Telephone: 613-608-5865  
Email: chantal.lafleur2@canada.ca



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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.

### 5.2 Project Authority

*(to be completed at contract award)*

The Project Authority for the Contract is:

Name:

Title:

Organization:

Telephone:

Email:

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.

### 5.3 Contractor's Representative

*(to be completed at contract award)*

Name:

Title:

Telephone:

Email:

## 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.

## 7. Payment

In consideration of the Contractor satisfactorily completing all of its obligations under the Contract, the Contractor will be paid in accordance with the terms of payment, in Appendix B. Customs duties are included and Applicable Taxes are extra.

Canada will not pay the Contractor for any design changes, modifications or interpretations of the Work, unless they have been authorized, in writing, by the Contracting Authority before their incorporation into the Work.

## 8. Certifications and Additional Information - 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.

## 9. Applicable Laws



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The Contract must be interpreted and governed, and the relations between the parties determined, by the laws in force in (*to be completed at contract award*).

### 10. 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) Attachment 1 to Part 7, Innovation, Science and Economic Development Canada's General Conditions of a Services Contract;
- (c) Appendix A, Statement of Work;
- (d) Appendix B, Terms of Payment;
- (e) Appendix C, Security Requirements Check List (SRCL);
- (f) the Contractor's proposal dated \_\_\_\_\_ (*insert date of bid at contract award*).

### 11. FOREIGN NATIONALS (CANADIAN CONTRACTOR)

SACC Manual clause [A2000C](#) (2006-06-16) Foreign Nationals (Canadian Contractor)

**Note to Bidders:** *Either this clause or the one that follows, whichever applies (based on whether the successful bidder is a Canadian Contractor or Foreign Contractor), will be included in any resulting contract.*

### 11. [APPLIES IF REQUIRED] FOREIGN NATIONALS (FOREIGN CONTRACTOR)

SACC Manual clause [A2001C](#) (2006-06-16) Foreign Nationals (Foreign Contractor)



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**ATTACHMENT 1 TO PART 7  
INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT CANADA GENERAL CONDITIONS OF A  
SERVICE CONTRACT**

Innovation, Science and Economic Development Canada (ISED) General Conditions of a Service Contract, as set out in Attachment 1 to Part 7, forms part of and is incorporated in the Contract.

For the purposes of any confidentiality agreement and Sections GC01, GC18 and GC20, all information provided or supplied to the Contractor by or on behalf of Canada includes all information or data provided or supplied by auction participants, including qualified bidders or potential bidders in the 3500 MHz Auction, participants in mock auctions, and users of the deliverables in connection with the Work, and any information or data generated by their participation or use.

- CG01 Interpretation
- CG02 Standard Clauses and Conditions
- CG03 Powers of Canada
- CG04 Status of the Contractor
- CG05 Conduct of the Work
- CG06 Subcontracts
- CG07 Specifications
- CG08 Replacement of Specific Individuals
- CG09 Time of Essence
- CG10 Excusable Delay
- CG11 Inspection and Acceptance of the Work
- CG12 Invoice Submission
- CG13 Taxes
- CG14 Payment Period
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CG36 International Sanctions  
CG37 Code of Conduct for Procurement  
CG38 Harassment in the Workplace  
CG39 Entire Agreement

### **GC01 Interpretation**

1.1 In the present Contract, unless the context otherwise requires:

1.1.1 "Articles of Agreement" means the clauses and conditions forming part of the body of the Contract not including these general conditions, any supplemental general conditions, schedules, appendices and attachments, the Contractor's bid or any other document;

1.1.2 "Terms of Payment" defines the amounts that the Contractor will be paid for the services or goods acquired, for the duration of the Contract. It must also include other related costs, such as travel and administrative expenses. (as set out in Appendix B of the Contract)

1.1.3 "Canada", "Crown", "Her Majesty" or "the Government" means Her Majesty the Queen in right of Canada as represented by the Minister of Industry and any other person duly authorized to act on behalf of that minister;

1.1.4 "Contract" means the Articles of Agreement, these general conditions, any supplemental general conditions, schedules, appendices and attachments and any other document specified or referred to as forming part of the Contract, all as amended by written agreement of the Parties from time to time;

1.1.5 "Contract Price" means the amount stated in the Contract to be payable to the Contractor for the Work, exclusive of Goods and Services Tax and Harmonized Sales Tax;

1.1.6 "Contracting Authority" means the person designated by that title in the Contract, or by notice to the Contractor, to act as Canada's representative to manage the Contract;

1.1.7 "Contractor" means the person, entity or entities identified in the Articles of Agreement to supply goods, services or both to Canada;

1.1.8 "Government Property" means anything supplied to the Contractor by or on behalf of Canada, including information, assets and rights in Intellectual Property, for the purposes of performing the Contract and anything acquired by the Contractor in any manner in connection with the Work, the cost of which is paid by Canada under the Contract;

1.1.9 "Party" means Canada, the Contractor, or any other signatory to the Contract and "Parties" means all of them;

1.1.10 "Project Authority" means the individual designated in the Contract and delegated by the Contracting Authority to act as administrative liaison between the Contractor and the Contracting Authority; (as set out in Part 7)

1.1.11 "Specifications" means the description of the essential, functional or technical requirements of the Work in the Contract, including the procedures for determining whether the requirements have been met;



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1.1.12 "Work" means all the activities, services, goods, equipment, matters and things required to be done, delivered or performed by the Contractor under the Contract, as required by the Statement of Work.

### **GC02 Standard Clauses and Conditions**

In the event that clauses and conditions identified by number, date and title in the Contract are incorporated by reference, then such clauses and conditions form part of the Contract as though expressly set out in the Contract.

### **GC03 Powers of Canada**

All rights, remedies, powers and discretions granted or acquired by Canada under the Contract or by law are cumulative, not exclusive.

### **GC04 Status of the Contractor**

The Contractor is an independent contractor engaged by Canada to perform the Work. Nothing in the Contract is intended to create a partnership, a joint venture or an agency between Canada and the other Party or Parties. The Contractor must not represent itself as an agent or representative of Canada to anyone. Neither the Contractor nor any of its personnel is engaged as an employee or agent of Canada. The Contractor is responsible for all deductions and remittances required by law in relation to its employees.

### **GC05 Conduct of the Work**

5.1 The Contractor represents and warrants that:

- (a) it is competent to perform the Work;
- (b) it has everything necessary to perform the Work, including the human resources, facilities, labour, technology, equipment, and materials; and
- (c) it has the necessary qualifications, including knowledge, skill, know-how and experience, and the ability to use them effectively to perform the Work.

5.2 The Contractor must:

- (a) perform the Work diligently and efficiently;
- (b) except for Government Property, supply everything necessary to perform the Work;
- (c) select and employ a sufficient number of qualified people;
- (d) perform the Work in accordance with standards of quality acceptable to Canada and in full conformity with the Specifications and any requirements established under the Contract;
- (e) provide effective and efficient supervision to ensure that the quality of workmanship meets the requirements established under the Contract.

5.3 The Work must not be performed by any person who, in the opinion of Canada, is incompetent, unsuitable or has been conducting himself/herself improperly.

5.4 All services rendered under the Contract must be free from defects in workmanship and conform to the requirements of the Contract. If the Contractor is required to correct or replace the Work or any part of the Work, it will be at no cost to Canada.

5.5 Canada's facilities, equipment and personnel are not available to the Contractor to perform the Work unless the Contract specifically provides for it. The Contractor is responsible for advising the Contracting Authority in advance if it requires access to Canada's facilities, equipment or personnel to perform the Work. The Contractor must comply and ensure that its employees and subcontractors comply with all security measures, standing orders, policies or other rules in force at the site where the Work is performed.



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5.6 Unless the Contracting Authority orders the Contractor to suspend the Work or part of the Work pursuant to section 24, the Contractor must not stop or suspend the Work or part of the Work pending the settlement of any dispute between the Parties about the Contract.

5.7 The Contractor must provide all reports that are required by the Contract and any other information that Canada may reasonably require from time to time.

5.8 The Contractor is fully responsible for performing the Work. Canada will not be responsible for any negative consequences or extra costs if the Contractor follows any advice given by Canada unless the Contracting Authority provides the advice to the Contractor in writing and includes a statement specifically relieving the Contractor of any responsibility for negative consequences or extra costs that might result from following the advice.

### GC06 Subcontracts

6.1 Except as provided in subsection 6.2 the Contractor must obtain the Contracting Authority's written consent before subcontracting or permitting the subcontracting of any part of the Work. A subcontract includes a contract entered into by any subcontractor at any tier to perform any part of the Work.

6.2 The Contractor is not required to obtain consent for subcontracts specifically authorized in the Contract. The Contractor may also without the consent of the Contracting Authority:

- (a) purchase "off-the-shelf" items and any standard articles and materials that are ordinarily produced by manufacturers in the normal course of business;
- (b) permit its subcontractors at any tier to make purchases as permitted in paragraph (a).

6.3 In any subcontract other than a purchase referred to in paragraph 6.2 (a) or (b), the Contractor must, unless the Contracting Authority agrees in writing, ensure that the subcontractor is bound by conditions compatible with and, in the opinion of the Contracting Authority, not less favourable to Canada than the conditions of the Contract.

6.4 Even if Canada consents to a subcontract, the Contractor is responsible for performing the Contract and Canada is not responsible to any subcontractor. The Contractor is responsible for any matters or things done or provided by any subcontractor under the Contract and for paying any subcontractors for any part of the Work they perform.

### GC07 Specifications

7.1 All Specifications provided by Canada or on behalf of Canada to the Contractor in connection with the Contract belong to Canada and must be used by the Contractor only for the purpose of performing the Work.

7.2 If the Contract provides that Specifications furnished by the Contractor must be approved by Canada, that approval will not relieve the Contractor of its responsibility to meet all requirements of the Contract.

### GC08 Replacement of Specific Individuals

8.1 If specific individuals are identified in the bid or otherwise in the Contract to perform the Work, the Contractor must provide the services of those individuals unless the Contractor is unable to do so for reasons beyond its control.

8.2 If the Contractor is unable to provide the services of any specific individual identified in the Contract, it must provide a replacement with similar qualifications and experience. The replacement must meet the criteria used in the selection of the Contractor and be acceptable to Canada. The Contractor must, as soon as possible, give notice to the Contracting Authority of the reason for replacing the individual and provide:





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- (a) the name, qualifications and experience of the proposed replacement; and
- (b) proof that the proposed replacement has the required security clearance granted by Canada, if applicable.

8.3 The Contractor must not, in any event, allow performance of the Work by unauthorized replacement persons. The Contracting Authority may order that a replacement stop performing the Work. In such a case, the Contractor must immediately comply with the order and secure a further replacement in accordance with subsection 2.

8.4 The fact that the Contracting Authority does not order that a replacement stop performing the Work does not relieve the Contractor from its responsibility to meet the requirements of the Contract.

### **GC09 Time of the Essence**

It is essential that the Work be performed within or at the time stated in the Contract.

### **GC10 Excusable Delay**

10.1 A delay in the performance by the Contractor of any obligation under the Contract that is caused by an event that:

- (a) is beyond the reasonable control of the Contractor;
- (b) could not reasonably have been foreseen;
- (c) could not reasonably have been prevented by means reasonably available to the Contractor; and
- (d) occurred without the fault or neglect of the Contractor, will be considered an "Excusable Delay" if the Contractor advises the Project Authority of the occurrence of the delay or of the likelihood of the delay as soon as the Contractor becomes aware of it. The Contractor must also advise the Project Authority, within fifteen (15) working days, of all the circumstances relating to the delay and provide to the Project Authority for approval a plan explaining in detail the steps that the Contractor proposes to take in order to minimize the impact of the event causing the delay.

10.2 Any delivery date or other date that is directly affected by an Excusable Delay will be postponed for a reasonable time that will not exceed the duration of the Excusable Delay.

10.3 However, if an Excusable Delay has continued for thirty (30) days or more, the Contracting Authority may, by giving notice in writing to the Contractor, terminate the Contract. In such a case, the Parties agree that neither will make any claim against the other for damages, costs, expected profits or any other loss arising out of the termination or the event that contributed to the Excusable Delay. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unearned at the date of the termination.

10.4 Unless Canada has caused the delay by failing to meet an obligation under the Contract, Canada will not be responsible for any costs incurred by the Contractor or any of its subcontractors or agents as a result of an Excusable Delay.

10.5 If the Contract is terminated under this Section, the Contracting Authority may require the Contractor to deliver to Canada, in the manner and to the extent directed by the Contracting Authority, any completed parts of the Work not delivered and accepted before the termination and anything that the Contractor has acquired or produced specifically to perform the Contract. Canada will pay the Contractor:

- (a) the value, of all completed parts of the Work delivered to and accepted by Canada, based on the Contract Price, including the proportionate part of the Contractor's profit or fee included in the Contract Price, plus applicable taxes; and
- (b) the Cost to the Contractor that Canada considers reasonable in respect of anything else delivered to and accepted by Canada.



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10.6 The total amount paid by Canada under the Contract to the date of termination and any amounts payable under this Section must not exceed the Terms of Payment.

### GC11 Inspection and Acceptance of the Work

11.1 All the Work is subject to inspection and acceptance by Canada. Inspection and acceptance of the Work by Canada do not relieve the Contractor of its responsibility for defects or other failures to meet the requirements of the Contract. Canada will have the right to reject any Work that is not in accordance with the requirements of the Contract and require its correction or replacement at the Contractor's expense.

11.2 The Contractor must provide representatives of Canada access to all locations where any part of the Work is being performed at any time during working hours. Representatives of Canada may make examinations and such tests of the Work as they may think fit. The Contractor must provide all assistance and facilities, test pieces, samples (including software) and documentation that the representatives of Canada may reasonably require for the carrying out of the inspection. The Contractor must forward or otherwise provide access to, such test pieces and samples (including software) to such person or location as Canada specifies.

11.3 The Contractor must inspect and approve any part of the Work before submitting it for acceptance or delivering it to Canada. The Contractor must keep accurate and complete inspection records that must be made available to Canada on request. Representatives of Canada may make copies and take extracts of the records during the performance of the Contract and for up to three (3) years after the end of the Contract.

### GC12 Invoice Submission

12.1 Invoices must be submitted in the Contractor's name. The Contractor must submit invoices for each delivery, shipment, or otherwise as set out in the Terms of Payment. Invoices must only apply to the Contract.

12.2 Invoices must show:

- (a) the date, the name and address of the Project Authority, item or reference numbers, deliverable and/or description of the Work, contract number, Procurement Business Number (PBN), and financial code(s);
- (b) details of expenditures in accordance with the Terms of Payment, exclusive of Goods and Services Tax (GST) or Harmonized Sales Tax (HST) (such as item, quantity, unit of issue, unit price, fixed time labour rates and level of effort, subcontracts, as applicable);
- (c) deduction for holdback, if applicable;
- (d) the extension of the totals, if applicable; and
- (e) if applicable, the method of shipment together with date, case numbers and part or reference numbers, shipment charges and any other additional charges.

12.3 If applicable, the GST or HST must be specified on all invoices as a separate item. All items that are zero-rated, exempt or to which the GST or HST does not apply, must be identified as such on all invoices.

12.4 By submitting an invoice, the Contractor certifies that the invoice is consistent with the Work performed and is in accordance with the Contract.

### GC13 Taxes

#### 13.1 Applicable Taxes

Federal government departments and agencies are required to pay applicable taxes

##### 13.1.1 Responsibility of Canada and of the Contractor



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(a) applicable taxes will be paid by Canada as provided in the Invoice Submission section. It is the sole responsibility of the Contractor to charge applicable taxes at the correct rate in accordance with applicable legislation. The Contractor agrees to remit to appropriate tax authorities any amounts of applicable taxes paid or due;

(b) the Contractor is not entitled to use Canada's exemptions from any tax, such as provincial sales taxes, unless otherwise specified by law. The Contractor must pay applicable provincial sales tax, ancillary taxes, and any commodity tax, on taxable goods or services used or consumed in the performance of the Contract (in accordance with applicable legislation), including for material incorporated into real property.

### 13.1.2 Changes to Taxes and Duties

In those cases where applicable taxes, customs duties, and excise taxes are included in the Terms of Payment, the Terms of Payment will be adjusted to reflect any increase, or decrease, of such taxes and duties that will have occurred between bid submission and contract award. However, there will be no adjustment for any change to increase the Terms of Payment if public notice of the change was given before bid submission date in sufficient detail to have permitted the Contractor to calculate the effect of the change.

### 13.1.3 Tax Withholding of 15 Percent

Pursuant to the *Income Tax Act*, 1985, c. 1 (5th Supp.) and the *Income Tax Regulations*, Canada must withhold 15 percent of the amount to be paid to the Contractor in respect of services provided in Canada if the Contractor is not a resident of Canada, unless the Contractor obtains a valid waiver from the *Canada Revenue Agency*. The amount withheld will be held on account for the Contractor in respect to any tax liability which may be owed to Canada.

## GC14 Payment Period

14.1 Canada's standard payment period is thirty (30) days. The payment period is measured from the date an invoice in acceptable form and content is received in accordance with the Contract or the date the Work is delivered in acceptable condition as required in the Contract, whichever is later. A payment is considered overdue on the 31st day following that date and interest will be paid automatically in accordance with section 15.

14.2 If the content of the invoice and its substantiating documentation are not in accordance with the Contract or the Work is not in acceptable condition, Canada will notify the Contractor within fifteen (15) days of receipt. The 30-day payment period begins upon receipt of the revised invoice or the replacement or corrected Work. Failure by Canada to notify the Contractor within fifteen (15) days will only result in the date specified in subsection 1 to apply for the sole purpose of calculating interest on overdue accounts.

## GC15 Interest on Overdue Accounts

15.1 For the purpose of this section:

"Average Rate" means the simple arithmetic mean of the Bank Rates in effect at 4:00 p.m. Eastern Time each day during the calendar month immediately before the calendar month in which payment is made;

"Bank Rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association;

"Date of payment" means the date of the negotiable instrument drawn by the Receiver General for Canada to pay any amount under the Contract;

An amount becomes "overdue" when it is unpaid on the first day following the day on which it is due and payable according to the Contract.



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15.2 Canada will pay to the Contractor simple interest at the Average Rate plus 3 percent per year on any amount that is overdue; from the date that amount becomes overdue until the day before the date of payment, inclusive. The Contractor is not required to provide notice to Canada for interest to be payable.

15.3 Canada will pay interest in accordance with this section only if Canada is responsible for the delay in paying the Contractor. Canada will not pay interest on overdue advance payments.

### GC16 Compliance with Applicable Laws

16.1 The Contractor must comply with all laws applicable to the performance of the Contract. The Contractor must provide evidence of compliance with such laws to Canada at such times as Canada may reasonably request.

16.2 The Contractor must obtain and maintain at its own cost all permits, licences, regulatory approvals and certificates required to perform the Work. If requested by the Project Authority, the Contractor must provide a copy of any required permit, licence, regulatory approvals or certificate to Canada.

### GC17 Ownership

17.1 Unless provided otherwise in the Contract, the Work or any part of the Work belongs to Canada after delivery and acceptance by or on behalf of Canada.

17.2 However if any payment is made to the Contractor for or on account of any Work, either by way of progress or milestone payments, that work paid for by Canada belongs to Canada upon such payment being made. This transfer of ownership does not constitute acceptance by Canada of the Work or any part of the Work and does not relieve the Contractor of its obligation to perform the Work in accordance with the Contract.

17.3 Despite any transfer of ownership, the Contractor is responsible for any loss or damage to the Work or any part of the Work until it is delivered to Canada in accordance with the Contract. Even after delivery, the Contractor remains responsible for any loss or damage to any part of the Work caused by the Contractor or any subcontractor.

17.4 Upon transfer of ownership to the Work or any part of the Work to Canada, the Contractor must, if requested by Canada, establish to Canada's satisfaction that the title is free and clear of all claims, liens, attachments, charges or encumbrances. The Contractor must execute any conveyances and other instruments necessary to perfect the title that Canada may require.

### GC18 Confidentiality

18.1 The Contractor must keep confidential all information provided to the Contractor by or on behalf of Canada in connection with the Work, including any information that is confidential or proprietary to third parties, and all information conceived, developed or produced by the Contractor as part of the Work when copyright or any other intellectual property rights in such information belongs to Canada under the Contract. The Contractor must not disclose any such information without the written permission of Canada. The Contractor may disclose to a subcontractor any information necessary to perform the subcontract as long as the subcontractor agrees to keep the information confidential and that it will be used only to perform the subcontract.

18.2 The Contractor agrees to use any information provided to the Contractor by or on behalf of Canada only for the purpose of the Contract. The Contractor acknowledges that all this information remains the property of Canada or the third party, as the case may be. Unless provided otherwise in the Contract, the Contractor must deliver to Canada all such information, together with every copy, draft, working paper and note that contains such information, upon completion or termination of the Contract or at such earlier time as Canada may require.



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18.3 Subject to the *Access to Information Act*, R.S.C. 1985, c. A-1 and to any right of Canada under the Contract to release or disclose, Canada must not release or disclose outside the Government of Canada any information delivered to Canada under the Contract that is proprietary to the Contractor or a subcontractor.

18.4 The obligations of the Parties set out in this section do not apply to any information if the information:

- (a) is publicly available from a source other than the other Party; or
- (b) is or becomes known to a Party from a source other than the other Party, except any source that is known to be under an obligation to the other Party not to disclose the information or that provides the information on behalf of the other Party; or
- (c) is developed by a Party without use of the information provided by or on behalf of the other Party.

18.5 Wherever possible, the Contractor must mark or identify any proprietary information delivered to Canada under the Contract as "Property of (Contractor's name), permitted Government uses defined under ISED Contract No. (fill in Contract Number)". Canada will not be liable for any unauthorized use or disclosure of information that could have been so marked or identified and was not.

18.6 If the Contract, the Work, or any information referred to in subsection 1 is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED by Canada, the Contractor must at all times take all measures reasonably necessary for the safeguarding of the material so identified, including those set out in the PWGSC Industrial Security Manual and its supplements and any other instructions issued by Canada.

18.7 If the Contract, the Work, or any information referred to in subsection 1 is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED, by Canada, representatives of Canada are entitled to inspect the Contractor's premises and the premises of a subcontractor at any tier for security purposes at any time during the term of the Contract. The Contractor must comply with, and ensure that any subcontractor complies with, all written instructions issued by Canada dealing with the material so identified, including any requirement that employees of the Contractor or of any subcontractor execute and deliver declarations relating to reliability screenings, security clearances and other procedures.

### GC19 Liability

The Contractor is liable for any damage caused by the Contractor, its employees, subcontractors, or agents to Canada or any third party. Canada is liable for any damage caused by Canada, its employees or agents to the Contractor or any third party. The Parties agree that no limitation of liability or indemnity provision applies to the Contract unless it is specifically incorporated in full text in the Articles of Agreement. Damage includes any injury to persons (including injury resulting in death) or loss of or damage to property (including real property) caused as a result of or during the performance of the Contract.

### GC20 Contractor to Own Intellectual Property Rights in the Foreground Information

#### 20.1 Interpretation

20.1.1 In the Contract, unless the context otherwise requires:

"Background Information" means all Intellectual Property that is not Foreground Information that is incorporated into the Work or necessary for the performance of the Work and that is proprietary to or the confidential information of the Contractor, its subcontractors or any other third party (other than auction participants, including qualified bidders or potential bidders in the 3500 MHz auction, participants in mock auctions, and users of deliverables in connection with the Work);

"Firmware" means computer programs that are stored in integrated circuits, read-only memory or other similar devices within the hardware or other equipment;



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"Foreground Information" means all Intellectual Property first conceived, developed, produced or reduced to practice as part of the Work under the Contract;

"Intellectual Property" means any information or knowledge of an industrial, scientific, technical, commercial, literary, dramatic, artistic or otherwise creative nature relating to the Work, whether oral or recorded in any form or medium and whether or not subject to copyright; this includes but is not limited to any inventions, designs, methods, processes, techniques, know-how, show-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, manuals and any other documents, Software, and Firmware;

"Intellectual Property Right" means any intellectual property right recognized by law, including any intellectual property right protected by legislation such as patents, copyright, industrial design, integrated circuit topography, and plant breeders' rights, or subject to protection under the law as trade secrets;

"Software" means any computer program whether in source or object code (including Firmware), any computer program documentation recorded in any form or upon any medium, and any computer database, including any modification.

20.1.2 Canada's primary objective in entering into the Contract is performance of the Work, including receipt of the deliverables contracted for, to be able to use those deliverables, and any Intellectual Property arising by virtue of the Contract for Canada's activities, including future contracts, procurements and to protect or advance the broader public interest. GC20 does not affect ownership of any existing Intellectual Property Rights belonging to Canada, the Contractor or a third party.

20.1.3 References in these conditions to the Contractor owning rights in the Foreground Information refer to the Contractor, its subcontractors, its suppliers, its agents, its representatives or any of their employees owning such information or rights, as applicable.

### **20.2 Records and disclosure of Foreground Information**

20.2.1 During and after the performance of the Contract, the Contractor must keep detailed records of the Foreground Information, including details of its creation, ownership and about any sale or transfer of any right in the Foreground Information. The Contractor must report and fully disclose to Canada all Foreground Information as required by the Contract. If the Contract does not specifically state when and how the Contractor must do so, the Contractor must provide this information when requested by the Contracting Authority or a representative of the department or agency for which the Contract is performed, whether before or after the completion of the Contract.

20.2.2 Before and after final payment to the Contractor, the Contractor must provide Canada with access to all records and supporting data that Canada considers pertinent to the identification of Foreground Information.

20.2.3 For any Intellectual Property that was developed or created in relation to the Work, Canada will be entitled to assume that it was developed or created by Canada, if the Contractor's records do not list that Intellectual Property or do not indicate that it was created by the Contractor, or by someone on behalf of the Contractor, other than Canada.

### **20.3 Ownership of Intellectual Property Rights in Foreground Information**

20.3.1 All Intellectual Property Rights in the Foreground Information belong to the Contractor as soon as they come into existence.

20.3.2 Despite the Contractor's ownership of all the Intellectual Property Rights in the Foreground Information, Canada has unrestricted ownership rights in any prototype, model, custom or customized system or equipment that is a deliverable under the Contract, including manuals and other operating and



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maintenance documents. This includes the right to make them available for public use, whether for a fee or otherwise sell them or otherwise transfer ownership in them.

20.3.3 Any personal information, as defined in the *Privacy Act*, R.S., 1985, c. P-21, collected by the Contractor in the execution of the Work under the Contract becomes the property of Canada immediately upon collection and must be used only for the performance of the Work. The Contractor has no right in any such personal information.

20.3.4 If the Work involves the preparation of a database or other compilation using information or data supplied by or on behalf of Canada and any personal information referred to above, the Intellectual Property Rights in the database or compilation containing such information will belong to Canada. The Contractor's Intellectual Property Rights in the Foreground Information are restricted to those capable of being exploited without the use of the information or data supplied by or on behalf of Canada and the personal information.

20.3.5 The Contractor must maintain the confidentiality of the information or data supplied by or on behalf of Canada and the personal information as required in the Contract. The Contractor must return all the information provided by or on behalf of Canada to Canada on request or on completion or termination of the Contract. This includes returning all hard copies and electronic copies as well as any paper or electronic record that contains any part of the information or information derived from it.

### 20.4 Licences to Intellectual Property Rights in Foreground and Background Information

20.4.1 As Canada has contributed to the cost of developing the Foreground Information, the Contractor grants to Canada a licence to exercise all Intellectual Property Rights in the Foreground Information for Canada's activities. Subject to any exception described in the Contract, this licence allows Canada to do anything that it would be able to do if it were the owner of the Foreground Information, other than exploit the Intellectual Property Rights commercially and transfer or assign ownership of them. The Contractor also grants to Canada a licence to use the Background Information to the extent that it is reasonably necessary for Canada to achieve its objectives in entering into the Contract and to exercise fully all its rights in the deliverables and in the Foreground Information.

20.4.2 These licences are non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free. Neither licence can be restricted in any way by the Contractor providing any form of notice to the contrary, including the wording on any shrink-wrap or click-wrap licence or any other kind of packaging, attached to any deliverable.

20.4.3 For greater certainty, Canada's licences include, but are not limited to:

- (a) the right to disclose the Foreground and Background Information to auction participants, including qualified bidders or potential bidders in the 3500 MHz auction, participants in mock auctions, and users of deliverables in connection with the Work, to third parties bidding on or negotiating contracts with Canada and to sublicense or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such contracts. Canada will require these third parties and contractors not to use or disclose that information except as may be necessary to bid on, negotiate or carry out those contracts;
- (b) the right to disclose the Foreground and Background Information to other governments for information purposes;
- (c) the right to reproduce, modify, improve, develop or translate the Foreground and Background Information or have it done by a person hired by Canada. Canada, or a person designated by Canada, will own the Intellectual Property Rights associated with the reproduction, modification, improvement, development or translation;
- (d) without restricting the scope of any licence or other right in the Background Information that Canada may otherwise hold, the right, in relation to any custom-designed or custom-manufactured part of the Work, to exercise such of the Intellectual Property Rights in the Background Information as may be required for the following purposes:



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- (i) for the use, operation, maintenance, repair or overhaul of the custom-designed or custom-manufactured parts of the Work;
- (ii) in the manufacturing of spare parts for maintenance, repair or overhaul of any custom-designed or custom-manufactured part of the Work by Canada, if those parts are not available on reasonable commercial terms to enable timely maintenance, repair or overhaul;
- (e) for Software that is custom designed or adapted for Canada, the right to use any source code the Contractor must deliver to Canada under the Contract.

20.4.4 The Contractor agrees to make the Background Information, including in the case of Software, the source code promptly available to Canada for any purpose mentioned above. This does not apply to any Software that is subject to detailed licence conditions that are set out elsewhere in the Contract. Furthermore, in the case of commercial off-the-shelf software, the Contractor's obligation to make the source code promptly available to Canada applies only to source code that is within the control of or can be obtained by the Contractor or any subcontractor.

### 20.5 Contractor's Right to Grant Licences

The Contractor represents and warrants that it has the right to grant to Canada the licences and any other rights to use the Foreground and Background Information. If the Intellectual Property Rights in any Foreground or Background Information are or will be owned by a subcontractor or any other third party, the Contractor must have or obtain promptly a licence from that subcontractor or third party that permits compliance with subsection 20.4 or arrange, without delay, for the subcontractor or third party to grant promptly any required licence directly to Canada.

### 20.6 Waiver of Moral Rights

If requested by Canada, during and after the Contract, the Contractor must provide a written permanent waiver of moral rights, as defined in the *Copyright Act*, R.S., 1985, c. C-42, from every author or performer that contributes to any Foreground Information subject to copyright protection that is a deliverable to Canada under the Contract. If the Contractor is an author or performer of the Foreground Information, the Contractor permanently waives the Contractor's moral rights in that Foreground Information.

### 20.7 Licence to Intellectual Property Rights to Canada's Information

20.7.1 Any information supplied by or on behalf of Canada to the Contractor for the performance of the Work remains the property of Canada. The Contractor must use this information only to perform the Contract.

20.7.2 If the Contractor wants to use any information supplied by or on behalf of Canada for the commercial exploitation or further development of the Foreground Information, the Contractor must obtain a licence from Canada.

### 20.8 Transfer or Licence of Contractor's Rights

20.8.1 During the Contract, the Contractor must not sell, transfer, assign or exclusively licence Intellectual Property Rights in Foreground Information without first obtaining the Contracting Authority's written permission.

20.8.2 After the Contract, if the Contractor transfers ownership of Intellectual Property Rights in the Foreground Information, the Contractor is not required to obtain Canada's permission, but must notify the department or agency for whom the Contract is performed in writing of the transfer by referring to the serial number of the Contract and its date and by providing details about the transferee, including the conditions of the transfer. The Contractor must ensure that the transfer requires the transferee to notify Canada of any future transfer. Any transfer must be subject to all Canada's rights to use the Foreground Information and Canada's licence to exercise all Intellectual Property Rights in the Foreground Information.





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20.8.3 After the Contract, if the Contractor grants a licence or any other right (other than a transfer of ownership) to a third party to use Intellectual Property Rights in the Foreground Information, the Contractor is not required to notify Canada, but the licence or right granted must not affect Canada's rights in any way.

20.8.4 If the Contractor at any time transfers or grants rights in its Intellectual Property Rights in the Foreground Information that interferes in any way with Canada's rights to use the Foreground Information or Canada's licence to exercise all Intellectual Property Rights in the Foreground Information, the Contractor must, if requested by Canada, immediately take all steps necessary to restore Canada's rights. If the Contractor is not successful in doing so, within the time reasonably required by Canada, the Contractor must immediately reimburse Canada for all costs Canada incurs to do so itself.

### **20.9 Transfer of Intellectual Property Rights upon Termination of the Contract for Default**

20.9.1 If Canada terminates the Contract in whole or in part for default, Canada may, by giving notice to the Contractor, require the Contractor to transfer to Canada all the Intellectual Property Rights in the Foreground Information, including the rights owned by subcontractors. In the case of Intellectual Property Rights in the Foreground Information that have been sold or assigned to a third party, the Contractor must pay to Canada on demand, at Canada's discretion, the fair market value of the Intellectual Property Rights in the Foreground Information or an amount equal to the payment received by the Contractor from the sale or assignment of the Intellectual Property Rights in the Foreground Information.

20.9.2 In the event of the issuance of a notice under subsection 20.9.1, the Contractor must, at its own expense and without delay, execute such documents relating to ownership of the Intellectual Property Rights as Canada may require. The Contractor must, at Canada's expense, provide all reasonable assistance in the preparation of applications and in the prosecution of any applications for registration of any Intellectual Property Rights in any jurisdiction, including the assistance of the inventor in the case of an invention.

### **20.10 Products created using the Foreground Information**

If the Contractor uses the Foreground Information to develop any new product or any improvement in any existing product, the Contractor agrees that, if Canada wishes to purchase such new or improved product, the Contractor must sell them to Canada at a discount off the lowest price for which it has sold those products to other customers, to recognize Canada's financial contribution to the development of those products.

### **GC21 Intellectual Property Infringement and Royalties**

21.1 The Contractor represents and warrants that, to the best of its knowledge, neither it nor Canada will infringe any third party's intellectual property rights in performing or using the Work, and that Canada will have no obligation to pay royalties of any kind to anyone in connection with the Work.

21.2 If anyone makes a claim against Canada or the Contractor concerning Intellectual property rights infringement or royalties related to the Work, that Party agrees to notify the other Party in writing immediately. If anyone brings a claim against Canada, according to Canada's *Department of Justice Act*, R.S., 1985, c. J-2, the Attorney General of Canada must have the regulation and conduct of all litigation for or against Canada, but the Attorney General may request that the Contractor defend Canada against the claim. In either case, the Contractor agrees to participate fully in the defence and any settlement negotiations and to pay all costs, damages and legal costs incurred or payable as a result of the claim, including the amount of any settlement. Both Parties agree not to settle any claim unless the other Party first approves the settlement in writing.

21.3 The Contractor has no obligation regarding claims that were only made because:

(a) Canada modified the Work or part of the Work without the Contractor's consent or used the Work or part of the Work without following a requirement of the Contract; or



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- (b) Canada used the Work or part of the Work with a product that the Contractor did not supply under the Contract (unless that use is described in the Contract or the manufacturer's specifications); or
- (c) the Contractor used equipment, drawings, specifications or other information supplied to the Contractor by Canada (or by someone authorized by Canada); or
- (d) the Contractor used a specific item of equipment or software that it obtained because of specific instructions from the Contracting Authority; however, this exception only applies if the Contractor has included the following language in its own contract with the supplier of that equipment or software:

"[Supplier named herein] acknowledges that the purchased items will be used by the Government of Canada. If a third party claims that equipment or software supplied under this contract infringes any intellectual property right, [supplier name], if requested to do so by either [Contractor named herein] or Canada, will defend both [Contractor name] and Canada against that claim at its own expense and will pay all costs, damages and legal fees payable as a result of that infringement." Obtaining this protection from the supplier is the Contractor's responsibility and, if the Contractor does not do so, it will be responsible to Canada for the claim.

21.4 If anyone claims that, as a result of the Work, the Contractor or Canada is infringing its intellectual property rights, the Contractor must immediately do one of the following:

- (a) take whatever steps are necessary to allow Canada to continue to use the allegedly infringing part of the Work; or
- (b) modify or replace the Work to avoid intellectual property rights infringement, while ensuring that the Work continues to meet all the requirements of the Contract; or
- (c) take back the Work and refund any part of the Contract Price plus applicable taxes that Canada has already paid.

If the Contractor determines that none of these alternatives can reasonably be achieved, or if the Contractor fails to take any of these steps within a reasonable amount of time, Canada may choose either to require the Contractor to do (c), or to take whatever steps are necessary to acquire the rights to use the allegedly infringing part(s) of the Work itself, in which case the Contractor must reimburse Canada for all the costs it incurs to do so.

### GC22 Amendment and Waivers

22.1 To be effective, any amendment to the Contract must be done in writing by the Contracting Authority and the authorized representative of the Contractor.

22.2 While the Contractor may discuss any proposed modifications to the Work with other representatives of Canada, Canada will not be responsible for the cost of any modification unless it has been incorporated into the Contract in accordance with subsection 22.1.

22.3 A waiver will only be valid, binding or affect the rights of the Parties if it is made in writing by, in the case of a waiver by Canada, the Contracting Authority and, in the case of a waiver by the Contractor, the authorized representative of the Contractor.

22.4 The waiver by a Party of a breach of any condition of the Contract will not be treated or interpreted as a waiver of any subsequent breach and therefore will not prevent that Party from enforcing that term or condition in the case of a subsequent breach.

### GC23 Assignment

23.1 The Contractor must not assign the Contract without first obtaining the written consent of the Contracting Authority. Any assignment made without that consent is void and will have no effect. The assignment will be effective upon execution of an assignment agreement signed by the Parties and the assignee.



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23.2 Assignment of the Contract does not relieve the Contractor from any obligation under the Contract and it does not impose any liability upon Canada.

### **GC24 Suspension of the Work**

24.1 The Project Authority may at any time, by written notice, order the Contractor to suspend or stop the Work or part of the Work under the Contract for a period of up to seven hundred and thirty (730) days. The Contractor must immediately comply with any such order in a way that minimizes the cost of doing so. While such an order is in effect, the Contractor must not remove any part of the Work from any premises without first obtaining the written consent of the Project Authority. Within these seven hundred and thirty (730) days, the Contracting Authority may either cancel the order or terminate the Contract, in whole or in part, under section 24 or section 25.

24.2 When an order is made under subsection 24.1, unless the Contracting Authority terminates the Contract by reason of default by the Contractor or the Contractor abandons the Contract, the Contractor will be entitled to be paid its additional costs incurred as a result of the suspension plus a fair and reasonable profit.

24.3 When an order made under subsection 24.1 is cancelled, the Contractor must resume work in accordance with the Contract as soon as practicable. If the suspension has affected the Contractor's ability to meet any delivery date under the Contract, the date for performing the part of the Work affected by the suspension will be extended for a period equal to the period of suspension plus a period, if any, that in the opinion of the Project Authority, following consultation with the Contractor, is necessary for the Contractor to resume the Work. Any equitable adjustments will be made as necessary to any affected conditions of the Contract.

### **GC25 Default by the Contractor**

25.1 If the Contractor is in default in carrying out any of its obligations under the Contract, the Contracting Authority may, by giving written notice to the Contractor, terminate for default the Contract or part of the Contract. The termination will take effect immediately or at the expiration of a cure period specified in the notice, if the Contractor has not cured the default to the satisfaction of the Contracting Authority within that cure period.

25.2 If the Contractor becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or if a receiver is appointed under a debt instrument or a receiving order is made against the Contractor, or an order is made or a resolution passed for the winding down of the Contractor, the Contracting Authority may, to the extent permitted by the laws of Canada, by giving written notice to the Contractor, immediately terminate for default the Contract or part of the Contract.

25.3 If Canada gives notice under subsection 25.1 or 25.2, the Contractor will have no claim for further payment except as provided in this section. The Contractor will be liable to Canada for all losses and damages suffered by Canada because of the default or occurrence upon which the notice was based, including any increase in the cost incurred by Canada in procuring the Work from another source. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unearned at the date of the termination.

25.4 Upon termination of the Contract under this section, the Contracting Authority may require the Contractor to deliver to Canada, in the manner and to the extent directed by the Contracting Authority, any completed parts of the Work, not delivered and accepted before the termination and anything the Contractor has acquired or produced specifically to perform the Contract. In such a case, subject to the deduction of any claim that Canada may have against the Contractor arising under the Contract or out of the termination, Canada will pay or credit to the Contractor:



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- (a) the value, of all completed parts of the Work delivered to and accepted by Canada, based on the Contract Price plus applicable taxes, including the proportionate part of the Contractor's profit or fee included in the Contract Price plus applicable taxes; and
- (b) the cost to the Contractor that Canada considers reasonable in respect of anything else delivered to and accepted by Canada.

The total amount paid by Canada under the Contract to the date of the termination and any amount payable under this subsection must not exceed the Terms of Payment.

25.5 Title to everything for which payment is made to the Contractor will, once payment is made, pass to Canada unless it already belongs to Canada under any other provision of the Contract.

25.6 If the Contract is terminated for default under subsection 25.1, but it is later determined that grounds did not exist for a termination for default, the notice will be considered a notice of termination for convenience issued under subsection 26.1.

### GC26 Termination for Convenience

26.1 At any time before the completion of the Work, the Contracting Authority may, by giving notice in writing to the Contractor, terminate for convenience the Contract or part of the Contract. Once such a notice of termination for convenience is given, the Contractor must comply with the requirements of the termination notice. If the Contract is terminated in part only, the Contractor must proceed to complete any part of the Work that is not affected by the termination notice. The termination will take effect immediately or, as the case may be, at the time specified in the termination notice.

26.2 If a termination notice is given pursuant to subsection 26.1, the Contractor will be entitled to be paid, for costs that have been reasonably and properly incurred to perform the Contract to the extent that the Contractor has not already been paid or reimbursed by Canada. The Contractor will be paid:

- (a) on the basis of the Contract Price, for all completed work that is inspected and accepted in accordance with the Contract, whether completed before, or after the termination in accordance with the instructions contained in the termination notice;
- (b) the cost to the Contractor plus a fair and reasonable profit for all work terminated by the termination notice before completion; and
- (c) all costs incidental to the termination of the Work incurred by the Contractor but not including the cost of severance payments or damages to employees whose services are no longer required, except wages that the Contractor is obligated by statute to pay.

26.3 Canada may reduce the payment in respect of any part of the Work, if upon inspection; it does not meet the requirements of the Contract.

26.4 The total of the amounts, to which the Contractor is entitled to be paid under this section, together with any amounts paid, due or becoming due to the Contractor must not exceed the Terms of Payment. The Contractor will have no claim for damages, compensation, loss of profit, allowance arising out of any termination notice given by Canada under this section except to the extent that this section expressly provides. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unearned at the date of the termination.

### GC27 Accounts and Audit

27.1 The Contractor must keep proper accounts and records of the cost of performing the Work and of all expenditures or commitments made by the Contractor in connection with the Work, including all invoices, receipts and vouchers. The Contractor must retain records, including bills of lading and other evidence of transportation or delivery, for all deliveries made under the Contract.



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27.2 If the Contract includes payment for time spent by the Contractor, its employees, representatives, agents or subcontractors performing the Work, the Contractor must keep a record of the actual time spent each day by each individual performing any part of the Work.

27.3 Unless Canada has consented in writing to its disposal, the Contractor must retain all the information described in this section **for six (6) years** after it receives the final payment under the Contract, or until the settlement of all outstanding claims and disputes, whichever is later. During this time, the Contractor must make this information available for audit, inspection and examination by the representatives of Canada, who may make copies and take extracts. The Contractor must provide all reasonably required facilities for any audit and inspection and must furnish all the information as the representatives of Canada may from time to time require to perform a complete audit of the Contract.

27.4 The amount claimed under the contract, calculated in accordance with the Terms of Payment, is subject to government audit both before and after payment is made. If an audit is performed after payment, the Contractor agrees to repay any overpayment immediately on demand by Canada. Canada may hold back, deduct and set off any credits owing and unpaid under this section from any money that Canada owes to the Contractor at any time (including under other contracts). If Canada does not choose to exercise this right at any given time, Canada does not lose this right.

### **GC28 Right of Set-off**

Without restricting any right of set-off given by law, Canada may set-off against any amount payable to the Contractor under the Contract, any amount payable to Canada by the Contractor under the Contract or under any other current contract. Canada may, when making a payment pursuant to the Contract, deduct from the amount payable to the Contractor any such amount payable to Canada by the Contractor which, by virtue of the right of set-off, may be retained by Canada.

### **GC29 Notice**

Any notice under the Contract must be in writing and may be delivered by hand, courier, mail, facsimile or other electronic method that provides a paper record of the text of the notice. It must be sent to the Party for whom it is intended at the address stated in the Contract. Any notice will be effective on the day it is received at that address. Any notice to Canada must be delivered to the Contracting Authority.

### **GC30 Conflict of Interest and Values and Ethics Codes for the Public Service**

The Contractor acknowledges that individuals who are subject to the provisions of the *Conflict of Interest Act*, 2006, c. 9, s. 2, the Conflict of Interest Code for Members of the House of Commons, the Values and Ethics Code for the Public Service or all other codes of values and ethics applicable within specific organizations cannot derive any direct benefit resulting from the Contract.

### **GC31 No Bribe or Conflict**

31.1 The Contractor declares that no bribe, gift, benefit, or other inducement has been or will be paid, given, promised or offered directly or indirectly to any official or employee of Canada or to a member of the family of such a person, with a view to influencing the entry into the Contract or the administration of the Contract.

31.2 The Contractor must not influence, seek to influence or otherwise take part in a decision of Canada knowing that the decision might further its private interest. The Contractor must have no financial interest in the business of a third party that causes or would appear to cause a conflict of interest in connection with the performance of its obligations under the Contract. If such a financial interest is acquired during the period of the Contract, the Contractor must immediately declare it to the Contracting Authority.

31.3 The Contractor warrants that, to the best of its knowledge after making diligent inquiry, no conflict exists or is likely to arise in the performance of the Contract. In the event the Contractor becomes aware of any



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matter that causes or is likely to cause a conflict in relation to the Contractor's performance under the Contract, the Contractor must immediately disclose such matter to the Contracting Authority in writing.

31.4 If the Contracting Authority is of the opinion that a conflict exists as a result of the Contractor's disclosure or as a result of any other information brought to the Contracting Authority's attention, the Contracting Authority may require the Contractor to take steps to resolve or otherwise deal with the conflict or, at its entire discretion, terminate the Contract for default. Conflict means any matter, circumstance, interest, or activity affecting the Contractor, its personnel or subcontractors, which may or may appear to impair the ability of the Contractor to perform the Work diligently and independently.

### GC32 Survival

All the Parties' obligations of confidentiality, representations and warranties set out in the Contract as well as the provisions, which by the nature of the rights or obligations might reasonably be expected to survive, will survive the expiry or termination of the Contract.

### GC33 Severability

If any provision of the Contract is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, that provision will be removed from the Contract without affecting any other provision of the Contract.

### GC34 Successors and Assigns

The Contract is to the benefit of and binds the successors and permitted assignees of Canada and of the Contractor.

### GC35 Contingency Fees

The Contractor certifies that it has not directly or indirectly, paid or agreed to pay and agrees that it will not, directly or indirectly, pay a contingency fee for the solicitation, negotiation or obtaining of the Contract to any person, other than an employee of the Contractor acting in the normal course of the employee's duties. In this section, "contingency fee" means any payment or other compensation that depends or is calculated based on a degree of success in soliciting, negotiating or obtaining the Contract and "person" includes any individual who is required to file a return with the registrar pursuant to section 5 of the *Lobbying Act*, 1985, c. 44 (4th Supplement).

### GC36 International Sanctions

36.1 Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the Government of Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries or persons subject to economic sanctions.

Details on existing sanctions can be found at:

<http://www.international.gc.ca/sanctions/index.aspx?lang=eng>

36.2 The Contractor must not supply to the Government of Canada any goods or services which are subject to economic sanctions.

36.3 The Contractor must comply with changes to the regulations imposed during the period of the Contract. The Contractor must immediately advise Canada if it is unable to perform the Work as a result of the imposition of economic sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services. If the Parties cannot agree on a work around plan, the Contract will be terminated for the convenience of Canada in accordance with section 26.



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**GC37 Code of Conduct for Procurement**

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

**GC38 Harassment in the Workplace**

38.1 The Contractor acknowledges the responsibility of Canada to ensure, for its employees, a healthy work environment, free of harassment. A copy of the Treasury Board policy, the Policy on the Prevention and Resolution of Harassment in the Workplace which is also applicable to the Contractor, is available on the Treasury Board Web site. <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=26041>

38.2 The Contractor must not, either as an individual, or as a corporate or unincorporated entity, through its employees or subcontractors, harass abuse, threaten, discriminate against or intimidate any employee, contractor or other individual employed by, or under contract with Canada. The Contractor will be advised in writing of any complaint and will have the right to respond in writing. Upon receipt of the Contractor's response, the Contracting Authority will, at its entire discretion, determine if the complaint is founded and decide on any action to be taken.

**GC39 Entire Agreement**

The Contract constitutes the entire and only agreement for the Work between the Parties and supersedes all previous negotiations, communications and other agreements for the Work, whether written or oral, unless they are incorporated by reference in the Contract. There are no terms, covenants, representations, statements or conditions related to the Work that are binding on the Parties other than those contained in the Contract.



## APPENDIX A - STATEMENT OF WORK

### 1.0 Title of Project

Infrastructure Hosting Services for the 3500 MHz Auction

### 2.0 Purpose

Innovation, Science and Economic Development Canada (ISED) or the Department requires a Contractor with facilities located in Canada to provide primary and warm backup infrastructure hosting services for the conduct of the 3500 MHz auction.

### 3.0 Background

Radio frequency spectrum is a finite public resource. Both private users and wireless communications service providers require spectrum for a diverse range of uses. ISED, through the [Department of Industry Act](#), the [Radiocommunication Act](#) and the [Radiocommunication Regulations](#), with due regard to the objectives of the [Telecommunications Act](#) is responsible for spectrum management in Canada. The Spectrum Management Program operates under the guidance of the [Spectrum Policy Framework for Canada](#), which provides a single policy objective and a set of guidelines to guide ISED's management of this resource.

ISED will be conducting an auction of 3500 MHz spectrum licences. ISED awarded a contract to Power Auctions LLC (PA) of Washington DC to provide consulting services on auction design as well as the provision of an auction software solution for this auction.

### 4.0 Objective

ISED is seeking a Contractor to provide month-to-month infrastructure hosting for the PA Internet-based auction software. The Contractor will be required to provide primary and warm backup servers within their data centre(s) located in Canada.

Bid data submitted using the PA software during the live auctions is designated Protected B. As such, the Contractor must hold a valid Designated Organization Screening (DOS) for their data centre(s) issued by Public Services and Procurement Canada (PSPC) at the time of contract award.

Once the servers have been provisioned by the Contractor, sole administrative control will be handed over to ISED/PA for configuration of the auction software.

### 5.0 Scope of Work

The Contractor will provide Internet-based primary and warm backup servers to ISED in order to support PA's auction software. These servers must be located in a Canadian-based facility, accredited by PSPC to handle Protected B data and have a 24/7 staffed Network Operation Centre including live technical support. Additionally, the contractor will ensure the servers are adequately firewalled and that the firewalls are monitored. Complete details including server specifications can be found in section 6.1.

### 6.0 Project Details

#### 6.1 Requirements

The Contractor must provide primary and warm backup servers located in a secured Canadian-based facility. The facility must have a valid DOS certification from PSPC at the time of contract award. The primary and warm backup servers must have the same configuration.

Details on the servers and services required are:





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- A primary server located in a secured Canadian-based facility that has received a valid DOS certification from PSPC. The server must meet the following minimum specifications:
  - Dual Xeon E5-2686 v4 processors (16 cores in total)
  - 64 GB of memory
  - RAID 1 configuration with two SSDs, each at least 300 GB
  - Red Hat Enterprise Linux 7 operating system

The server must be accessible via the Internet and hardware firewalled (ISED to supply and manage firewalls). ISED will initiate a full system backup of the primary server at the end of each day of the auction. All backup data must reside in a secure Protected B designated area. Backups must be unmetered.

- A warm backup server having the same configuration as the primary server. The secondary server must be accessible via SSH and SCP in order to transfer auction data from the primary server. It is preferable to have the secondary server in a separate data centre. However, if the Contractor only has one DOS certified data centre, the warm backup server may reside in the same data centre as the primary server
- Both the primary and secondary servers must have 100 Mbps connectivity to the network and support 150 Mbps aggregate and 10,000 concurrent connections
- 1000 GB of data transfer per month
- 4 IP addresses per server
- 24x7 staffed Network Operations Centre
- 24x7 live technical support in the event of server hardware or network issues
- At the request of ISED, be subjected to Threat and Risk Assessment to be carried out by ISED on their infrastructure's compliance to applicable Communications Security Establishment Canada (CSEC) ITSG-33 security requirements for Protected B information.
- At the request of ISED, scheduling and running of Vulnerability Scans (performed by ISED) at mutually agreed upon times must be permitted.
- Access to customer portal for each server in order to view bandwidth usage, backup reports etc.
- Port monitoring for each server for up to 8 ports each (PING, TCP 80, FTP SSH etc.)
- All server hard drives will be the property of ISED at the conclusion of the 3500 MHz auction.
- At the request of ISED, copies of system backups will be provided by the Contractor on mutually agreed upon media supplied by ISED. At the conclusion of the 3500 MHz auction, the Contractor will erase all auction related data from their backup solution and provide written confirmation to the department when completed.
- Access to daily performance reports including bandwidth usage and server activity.
- Minimum of 4 hour Hardware replacement guarantee in the event of a hardware failure on either server.
- In the event of a failure on the primary server, transfer of primary control to the warm backup server within 30 minutes.



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The Contractor must ensure the servers are adequately protected with hardware-based firewalls. The firewalls must be monitored on a 24/7 basis. The Contractor will work with ISED to develop the rules that will control access to the auction servers. Once the rules have been approved, the Contractor will deploy them to the firewalls. ISED will be responsible for testing the servers to ensure the rules are working as expected. Should there be any issues, ISED will work with the Contractor to remedy the issue(s).

Note: The Contractor must be the one fulfilling the requirements of this RFP. Subcontracting any requirement of this RFP is not permitted.

### 6.2 Service Level Agreement

The Contractor must provide a draft SLA with the proposal capturing all the requirements listed in section 6.1. Additionally, the SLA should clearly define the following:

- roles and responsibilities between the Contractor and ISED;
- network uptime guarantee (minimum Tier 2);
- infrastructure guarantee including heating, ventilation and air conditioning (HVAC) and power (uninterruptible power supplies, power distribution units, and cabling); and
- hardware replacement guarantee.

### 6.3 Deliverables

The deliverables and required time lines for the project are as follows:

- The contractor should be prepared to participate in an initial meeting with ISED staff within two business days of awarding the contract. All meetings will take place via teleconference or face-to-face.
- Service level agreement.
- A primary and warm backup server.
- 2 hardware-based firewalls.
- A document outlining the necessary steps to transition from the primary to the backup server and vice versa in the event of a server failure.

### 7.0 Management of the Project

This project will be managed by the Spectrum Licensing Policy Branch of the Spectrum and Telecommunications (STS) Sector of ISED. The name of the Project Authority will be provided at contract award.

### 8.0 Official Languages

The communication with ISED is required in English.

### 9.0 Intellectual Property

No intellectual property applies to this contract.

### 10.0 Constraints

All auction data stored on the hard drives provisioned by the Contractor is the property of the Government of Canada.

The hard drives used for primary and warm backup servers are the property of ISED and will be delivered to ISED upon its request.



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**ATTACHMENT 1 TO APPENDIX A - CONFIDENTIALITY AGREEMENT**

For the purposes of this confidentiality agreement all information provided or supplied to the Contractor by or on behalf of Canada includes all information or data provided or supplied by auction participants, including qualified bidders or potential bidders in the 3500 MHz auction, participants in mock auctions, and users of the deliverables in connection with the Work, and any information or data generated by their participation or use.

1. The Contractor must keep confidential all information provided to the Contractor by or on behalf of Canada in connection with the Work, including any information that is confidential or proprietary to third parties, and all information conceived, developed or produced by the Contractor as part of the Work when copyright or any other intellectual property rights in such information belongs to Canada under the Contract. The Contractor must not disclose any such information without the written permission of Canada. The Contractor may disclose to a subcontractor any information necessary to perform the subcontract as long as the subcontractor agrees to keep the information confidential and that it will be used only to perform the subcontract.
2. The Contractor agrees to use any information provided to the Contractor by or on behalf of Canada only for the purpose of the Contract. The Contractor acknowledges that all this information remains the property of Canada or the third party, as the case may be. Unless provided otherwise in the Contract, the Contractor must deliver to Canada all such information, together with every copy, draft, working paper and note that contains such information, upon completion or termination of the Contract or at such earlier time as Canada may require.
3. Subject to the legal obligations including *Access to Information Act*, R.S.C. 1985, c. A-1, the *Privacy Act* R.S. 1985, c. P-21, Canada's international obligations and judicial orders, and to any right of Canada under the Contract to release or disclose, Canada will not release or disclose outside the Government of Canada any information delivered to Canada under the Contract that is proprietary to the Contractor or a subcontractor.
4. The obligations of the Parties set out in this section do not apply to any information if the information:
  - (a) is publicly available from a source other than the other Party; or
  - (b) is or becomes known to a Party from a source other than the other Party, except any source that is known to be under an obligation to the other Party not to disclose the information or that provides the information on behalf of the other Party; or
  - (c) is developed by a Party without use of the information provided by or on behalf of the other Party.
5. Wherever possible, the Contractor must mark or identify any proprietary information delivered to Canada under the Contract as "Property of (Contractor's name), permitted Government uses defined under Innovation, Science and Economic Development Canada (ISED) Contract No. (fill in Contract Number)". Canada will not be liable for any unauthorized use or disclosure of information that could have been so marked or identified and was not.
6. If the Contract, the Work, or any information referred to in subsection 1 is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED by Canada, the Contractor must at all times take all measures reasonably necessary for the safeguarding of the material so identified, including those set out in the PWGSC Industrial Security Manual and its supplements and any other instructions issued by Canada.



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7. If the Contract, the Work, or any information referred to in subsection 1 is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED, by Canada, representatives of Canada are entitled to inspect the Contractor's premises and the premises of a subcontractor at any tier for security purposes at any time during the term of the Contract. The Contractor must comply with, and ensure that any subcontractor complies with, all written instructions issued by Canada dealing with the material so identified, including any requirement that employees of the Contractor or of any subcontractor execute and deliver declarations relating to reliability screenings, security clearances and other procedures.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_  
(Title of duly authorized representative of business)

Name of Business: \_\_\_\_\_



## APPENDIX B - TERMS OF PAYMENT

### 1.0 BASIS OF PAYMENT

Her Majesty the Queen in right of Canada agrees to pay the Contractor a sum not to exceed \$ *(will be completed at contract award)*, plus applicable taxes, for the work performed in accordance to the Statement of Work.

#### 1.1 Pre-Authorized Travel and Living Expenses:

Canada will not pay any travel or living expenses associated with performing the Work.

#### 1.2 Initial Contract Period: *(will be completed at contract award)*

##### a. Fixed Cost:

1. Setup of the primary and warm backup server hardware

Fixed Cost Price: \$

2. Setup of the hardware-based firewalls

Fixed Cost Price: \$

3. Purchase of 4 server hard drives

Fixed Cost Price: \$

4. Cloning of primary and warm backup servers

Fixed Cost Price: \$

5. Shipment of the primary and warm backup server hard drives to ISED in Ottawa, Canada upon ISED's request

Fixed Cost Price: \$

##### b. Monthly Cost:

1. Provision of primary, warm backup servers

Monthly Rate: \$

2. Provision of hardware-based firewalls and monitoring

Monthly Rate: \$

**Total Estimated Cost - Contract Period (excluding applicable taxes): \$ *(will be completed at contract award)***

### 2.0 LIMITATION OF EXPENDITURES

No increase in the total liability of Her Majesty or in the price of the Work resulting from any design changes, modifications or interpretations of the specifications, will be authorized or paid to the Contractor unless such design changes, modifications or interpretations have been approved, in writing, by the Contracting Authority prior to their incorporation into the Work. The Contractor shall not be obliged to perform any work or provide



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any service that would cause the total liability of Her Majesty to be exceeded without the prior written approval of the Contracting Authority.

### 3.0 METHOD OF PAYMENT – MONTHLY PAYMENT

Canada will pay the Contractor on a monthly basis for work performed during the month covered by the invoice in accordance with the payment provisions of the Contract if:

- a. an accurate and complete invoice and any other documents required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract;
- b. all such documents have been verified by Canada;
- c. the Work performed has been accepted by Canada.

### 3.1 Electronic Payment of Invoices – Contract *(will be completed at contract award)*

The Contractor accepts to be paid using any of the following Electronic Payment Instrument(s):

- a. Visa Acquisition Card;
- b. MasterCard Acquisition Card;
- c. Direct Deposit (Domestic and International);
- d. Electronic Data Interchange (EDI);
- e. Wire Transfer (International Only);
- f. Large Value Transfer System (LVTS) (Over \$25M).

### 4.0 INVOICING INSTRUCTIONS

The invoices shall be sent to address indicated below. Each invoice should include the contract number, the Contractor's name, address, tax registration number(s) (if applicable), and a description of the work performed, including the number of days worked when the per diem rates are applicable, during the period covered by the invoice. The applicable tax(es) shall be submitted as a separate amount(s) on the invoice.

All of the above will be to the satisfaction of the Project Authority.



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**APPENDIX C - SECURITY REQUIREMENTS CHECK LIST (SRCL),  
SECURITY GUIDE AND RELATED CLAUSES**

See attached PDF document - SRCL



**ATTACHMENT 1 TO APPENDIX C - SECURITY REQUIREMENTS FOR SUPPLIER(S)  
3500 MHz Infrastructure Hosting Services RFP**

**PROTECTED B, RELIABILITY STATUS**

The recipient **Contractor** must perform a security screening of all its personnel who will need access to Canadian restricted sites **and/or CANADA PROTECTED B** information/assets:

**a) Identity Check:**

- i. Copies of two of valid original pieces of government issued identity documentation, one of which must include a photo
- ii. Surname (last name)
- iii. Full given names (first name) – underline or circle usual name used
- iv. Family name at birth
- v. All other names used (aliases)
- vi. Name changes
  1. Must include the name they changed from and the name they changed to, the place of change and the institution changed through
- vii. Sex
- viii. Date of birth
- ix. Place of birth (city, province/state/region, and country)
- x. Citizenship(s)
- xi. Marital status/common-law partnership
  1. Current status (married, common-law, separated, widowed, divorced, single)
  2. All current spouses (if applicable)
    - a. Surname (last name)
    - b. Full given names (first name) – underline or circle usual name used
    - c. Date and duration of marriage/common-law partnership
    - d. Date of birth
    - e. Family name at birth
    - f. Place of birth (city, province/state/region, and country)
    - g. Citizenship(s)

**b) Residency Check:**

- i. The last five (5) years of residency history starting from most recent with no gaps in time. Indicate if the person has resided in another country within the last five (5) years.
  1. Apartment number, street number, street name, city, province or state, postal code or zip code, country, from-to dates.

**c) Educational check:**

- i. The educational establishments attended and the corresponding dates.

**d) Employment History Check:**

- i. The last five (5) years of employment history starting from most recent with no gaps in time.

**e) Criminal Record Check:**

- i. Proof of criminal record check report, using fingerprint verification with favourable results for each country the person has resided in during the last five (5) years.

**f) Credit check:**

- i. Credit check report conducted as part of employment screenings.