



RETURN BIDS TO:

RETOURNER LES SOUMISSIONS À:

Bid Receiving - PWGSC / Réception des soumissions -
TPSGC

11 Laurier St. / 11, rue Laurier

Place du Portage, Phase III

Core 0B2 / Noyau 0B2

Gatineau, Québec K1A 0S5

Bid Fax: (819) 997-9776

**SOLICITATION AMENDMENT
MODIFICATION DE L'INVITATION**

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

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

Comments - Commentaires

Vendor/Firm Name and Address

Raison sociale et adresse du
fournisseur/de l'entrepreneur

Issuing Office - Bureau de distribution

Industrial Vehicles & Machinery Products Division

11 Laurier St./11, rue Laurier

7B1, Place du Portage, Phase III

Gatineau

Québec

K1A 0S5

Title - Sujet CHER- RFI	
Solicitation No. - N° de l'invitation W8476-185840/A	Amendment No. - N° modif. 019
Client Reference No. - N° de référence du client W8476-185840	Date 2020-04-24
GETS Reference No. - N° de référence de SEAG PW-\$\$HS-634-74903	
File No. - N° de dossier hs651.W8476-185840	CCC No./N° CCC - FMS No./N° VME
Solicitation Closes - L'invitation prend fin at - à 02:00 PM on - le 2020-06-01	Time Zone Fuseau horaire Eastern Daylight Saving Time EDT
F.O.B. - F.A.B. Specified Herein - Précisé dans les présentes Plant-Usine: <input type="checkbox"/> Destination: <input type="checkbox"/> Other-Autre: <input checked="" type="checkbox"/>	
Address Enquiries to: - Adresser toutes questions à: Veronica Vallejo	Buyer Id - Id de l'acheteur hs651
Telephone No. - N° de téléphone (613) 297-3978 ()	FAX No. - N° de FAX () -
Destination - of Goods, Services, and Construction: Destination - des biens, services et construction:	

Instructions: See Herein

Instructions: Voir aux présentes

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

Amendment 019

This amendment is raised to publish questions and answers related to the Common Heavy Equipment Replacement (CHER) project as follows:

Q1: In Amendment 016, Canada identifies that the “SACC Standard Instructions allows for Joint Ventures if the Bidder chooses to use this type of legal entity for their bid.”

The use of the words “legal entity” potentially imply the requirement to create a new company with the shareholders being those identified in the five scenarios.

We would suggest that a new legal entity would be a “bidder” in its own right and that a Joint Venture can be formed through an agreement (e.g., Teaming Agreement) between parties that defines roles in a pursuit (e.g., who will be the prime contractor and who would be a subcontractor). Could Canada please clarify the expectations of a Joint Venture structure?

A1: Canada has no intention to require the creation of a new legal entity. The term Legal Entity should read Entity. The obligations for a Joint Venture is in SACC 2003 Section 17 below:

17 (2010-01-11) Joint venture

1. A joint venture is an 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. Bidders who bid as a joint venture must indicate clearly that it is a joint venture and provide the following information:

- a. the name of each member of the joint venture;
- b. the Procurement Business Number of each member of the joint venture;
- c. the name of the representative of the joint venture, i.e. the member chosen by the other members to act on their behalf, if applicable;
- d. the name of the joint venture, if applicable.

2. If the information is not clearly provided in the bid, the Bidder must provide the information on request from the Contracting Authority.

3. The bid and any resulting contract must be signed by all the members of the joint venture unless one member has been appointed to act on behalf of all members of the joint venture. The Contracting Authority may, at any time, require each member of the joint venture to confirm that the representative has been appointed with full authority to act as its representative for the purposes of the bid solicitation and any resulting contract. If a contract is awarded to a joint venture, all members of the joint venture will be jointly and severally or solidarily liable for the performance of any resulting contract.

SACC 2003 04 (2007-11-30) 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 a contract for goods, services or both. It does not include the parent, subsidiaries or other affiliates of the Bidder, or its subcontractors.

Q2: In Amendment 016, Canada indicates that “unless the bidder is a joint venture, the essential criteria of a subcontractor cannot be taken into consideration.” It is unclear what is meant by this statement. Could Canada please expand on what gap they perceive in a prime/subcontractor relationship?

A2: The standard procurement policy is the following: "Bidder" means the person or entity (or, in the case of a joint venture, the persons or entities) submitting a bid to perform a contract for goods, services or both. It does not include the parent, subsidiaries or other affiliates of the Bidder, or its subcontractors.

A Subcontractor is not a party to the Contract and cannot be held responsible for contractual performance. Canada cannot bind the subcontractor to the Contract and we have had instances where a dispute between a Prime Contractor and a Subcontractor resulted in the Subcontractor terminating its agreement with the Contractor resulting in contract failure. An arrangement where the Prime Contractor possesses few or none of the aspects which form the essence of the contract creates a risk to Canada for contract and project failure.

Q3: In Amendment 016, Canada has used the word “mandated” in the various scenarios. Is Canada considering that it will literally mandate companies into formal arrangements (i.e., is industry to freely associate or will Canada define who is in the Joint Venture) and, if so, is Canada looking to do this before or after the final RFP is issued?

A3: By policy, the Bidder or entity must be defined as per the Standard Instructions (2003) for each bundle in the program. If the Bidder is unable to satisfy the evaluation criteria solely, then the bidder can adapt as permitted in SACC 2003, for example through a Joint Venture. The term “mandated” was used in the scenario painted in Amendment 016 to ask industry the implications of such an arrangement. You are invited to respond to those scenarios.

This policy can be modified to possibly allow the essential criteria of a subcontractor to be taken into consideration without being in a joint venture should there be a business case which supported Canada assuming this risk. Should you wish to provide information and recommendations into such a business case, you are invited to respond to the Scenarios included in Amendment 016.

The Bidder, the person or entity or, in the case of a joint venture, the persons or entities, must be defined at the time of submitting the bid.

Q4: In Amendment 016, is Canada anticipating doing this for every bundle in the program or is Canada’s intent that this would apply if the procurement combines all 8 bundles together under one contract?

A4: Canada intends to issue a separate Request for Proposal (RFP) for each bundle and bidders will be required to respond to each RFP as a distinct proposal. Canada does not intend to combine all eight bundles together under one contract.

SACC 2003 would apply to all bundles, unless changes are permitted to specific bundles as explained in Answer 3.

All other terms and conditions remain unchanged.