



RETURN BIDS TO:

RETOURNER LES SOUMISSIONS À:

Bid Receiving - PWGSC / Réception des soumissions -
TPSGC

Place du Portage, Phase III
Core 0B2 / Noyau 0B2
11 Laurier St./11, rue Laurier
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
Shared Systems Division (XL)/Division des systèmes
partagés (XL)
Terrasses de la Chaudière
4th Floor, 10 Wellington Street
4th étage, 10, rue Wellington
Gatineau
Québec
K1A 0S5

Title - Sujet National Cybercrime Solution Projec Solution nationale en matière de cybercriminalité	
Solicitation No. - N° de l'invitation M7594-205915/D	Amendment No. - N° modif. 019
Client Reference No. - N° de référence du client M7594-205915	Date 2021-07-08
GETS Reference No. - N° de référence de SEAG PW-\$\$XL-155-39352	
File No. - N° de dossier 164xl.M7594-205915	CCC No./N° CCC - FMS No./N° VME
Solicitation Closes - L'invitation prend fin at - à 02:00 PM Eastern Daylight Saving Time EDT on - le 2021-07-13 Heure Avancée de l'Est HAE	
F.O.B. - F.A.B.	
Plant-Usine: <input type="checkbox"/> Destination: <input type="checkbox"/> Other-Autre: <input type="checkbox"/>	
Address Enquiries to: - Adresser toutes questions à: Kumar, Rajesh	Buyer Id - Id de l'acheteur 164xl
Telephone No. - N° de téléphone (613) 914-7906 ()	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

This Solicitation Amendment #019 is raised to:

- 1. Update Part 7- Resulting Contract Clauses, Section 7.29 - Limitation of Liability**
 - 2. Post Questions and Answers**
-

The Solicitation is amended as follows:

- 1. Part 7- Resulting Contract Clauses, Section 7.29 - Limitation of Liability is hereby DELETED in its entirety and REPLACED by the following:**

Section 7.29 - Limitation of Liability

1. This section applies despite any other provision of the Contract and replaces the section of the general conditions entitled "Liability". Any reference in this section to damages caused by the Contractor also includes damages caused by its employees, as well as its subcontractors, agents, and representatives, and any of their employees. This section applies regardless of whether the claim is based in contract, tort, or another cause of action. The Contractor is not liable to Canada with respect to the performance of or failure to perform the Contract, except as described in this section and in any section of the Contract pre-establishing any liquidated damages. The Contractor is only liable for indirect, special or consequential damages to the extent described in this section, even if it has been made aware of the potential for those damages.
2. First Party Liability:
 - a. The Contractor is fully liable for all damages to Canada, including indirect, special or consequential damages, caused by the Contractor's performance or failure to perform the Contract that relate to:
 - i. any infringement of intellectual property rights to the extent the Contractor breaches the section of the general conditions entitled "Intellectual Property Infringement and Royalties";
 - ii. physical injury, including death.
 - b. The Contractor is liable for all direct damages caused by the Contractor's performance or failure to perform the Contract affecting real or tangible personal property owned, possessed, or occupied by Canada.
 - c. Each of the Parties is liable for all direct damages resulting from its breach of confidentiality under the Contract. Each of the Parties is also liable for all indirect, special or consequential damages in respect of its unauthorized disclosure of the other Party's trade secrets (or trade secrets of a third party provided by one Party to another under the Contract) relating to information technology.

- d. The Contractor is liable for all direct damages relating to any encumbrance or claim relating to any portion of the Work for which Canada has made any payment. This does not apply to encumbrances or claims relating to intellectual property rights, which are addressed under (a) above.
- e. The Contractor is also liable for any other direct damages to Canada caused by the Contractor's performance or failure to perform the Contract that relate to:
 - i. any breach of the warranty obligations under the Contract, up to the total amount paid by Canada (including Applicable Taxes) for the goods and services affected by the breach of warranty; and
 - ii. any other direct damages, including all identifiable direct costs to Canada associated with re-procuring the Work from another party if the Contract is terminated either in whole or in part for default, up to an aggregate maximum for this subparagraph (ii) of the greater of .25 times the total estimated cost (meaning the dollar amount shown on the first page of the Contract in the block titled "Total Estimated Cost" or shown on each call-up, purchase order or other document used to order goods or services under this instrument), or \$1 Million

In any case, the total liability of the Contractor under paragraph (e) will not exceed the total estimated cost (as defined above) for the Contract or \$1 Million, whichever is more.

- f. If Canada's records or data are harmed as a result of the Contractor's negligence or willful act, the Contractor's only liability is, at the Contractor's own expense, to restore Canada's records and data using the most recent back-up kept by Canada. Canada is responsible for maintaining an adequate back-up of its records and data.
3. Third Party Claims:
- a. Regardless of whether a third party makes its claim against Canada or the Contractor, each Party agrees that it is liable for any damages that it causes to any third party in connection with the Contract as set out in a settlement agreement or as finally determined by a court of competent jurisdiction, where the court determines that the Parties are jointly and severally liable or that one Party is solely and directly liable to the third party. The amount of the liability will be the amount set out in the settlement agreement or determined by the court to have been the Party's portion of the damages to the third party. No settlement agreement is binding on a Party unless its authorized representative has approved the agreement in writing.
 - b. If Canada is required, as a result of joint and several liability, to pay a third party in respect of damages caused by the Contractor, the Contractor must reimburse Canada by the amount finally determined by a court of competent jurisdiction to be the Contractor's portion of the damages to the third party. However, despite paragraph (a), with respect to special, indirect, and consequential damages of third parties covered by this section, the Contractor

is only liable for reimbursing Canada for the Contractor's portion of those damages that Canada is required by a court to pay to a third party as a result of joint and several liability that relate to the infringement of a third party's intellectual property rights; physical injury of a third party, including death; damages affecting a third party's real or tangible personal property; liens or encumbrances on any portion of the Work; or breach of confidentiality.

- c. The Parties are only liable to one another for damages to third parties to the extent described in this paragraph 3.

2. Questions and Answers:

Question #	Question	Response
165	<p>Amendment 17</p> <p>Amendment 17 turned down a Bidder's request for an extension of one month. Our firm also submitted a request for an extension to August 18 on June 23 and have yet to receive a response.</p> <p>Our team has been working on this proposal since the RFP was released in early April. We are committed to responding to this complex request. We cannot meet the July 13 close date and also need a generous extension to the close date in order to do so. Without such an extension we will be forced to withdraw from the procurement and no bid this RFP.</p> <p>We respectfully request an immediate prioritized response to this request for an extension.</p>	<p>Based on past requests from Industry, Canada has previously extended the closing date. The closing date remains July 13, 2021, as stated in Solicitation Amendment #010.</p>
166	<p>ESRI Integration</p> <p>Can Canada confirm that the 2000 users in Phase 1 that access the dashboards also need to see the embedded ESRI maps inside the dashboards? Or is it a subset of those users?</p>	<p>Phase 1 requires up to three Contractors to develop a Capability and Usability Assessment (CUA) Prototype Solution, supporting up to 100 users, in accordance with Phase 1 of Annex A – Statement of Work.</p> <p>Per Appendix C – NCS Business Capability Model in Annex A – Statement of Work, Canada requires the ability to customize dashboards – providing ESRI map functionality in dashboards for selected user types.</p>
167	<p>Amendment 13 Answer 134</p>	<p>The pricing tables in Annex B will form the basis of</p>

Question #	Question	Response
	<p>States: "This is an open competitive process that allows for various solution delivery options to fulfil Canada's requirements. Accordingly, Bidders have at their discretion the choice of a solution delivery model to meet Canada's requirements and to submit pricing as per the pricing tables in Annex B- Basis of payment. Canada's financial evaluations and basis of selection will be conducted objectively in accordance with the RFP."</p> <p>We agree that Canada has positioned the potential for various solution delivery options. Our solution can run on any cloud or on premise, and therefore we are comparing the infrastructure alternatives on Canada's behalf, since we are indifferent. During this comparison process, we have noticed that the RCMP Cloud Tenant delivery option very likely drives the lowest-cost outcome regardless of Solution because the Pricing tables do not include (add) the RCMP Cloud tenant costs. Therefore Answer 134 appears to either confirm Canada intends for this option to have no infrastructure costs evaluated OR Canada is planning to compare the cost of the RCMP Cloud Tenant infrastructure costs separately from the Bidder's own pricing table submissions at some point after the bid close date.</p> <p>Please confirm that Bidders who have multiple delivery options to fulfil Canada's requirements should align to the RCMP Cloud Tenant option in order to avoid the infrastructure cost evaluation OR that Canada will be adding the cloud infrastructure costs to Bidder solutions that select the RCMP Cloud Tenant option before contract award, and ideally with an outline of the process and timing (such as during the CUA phase).</p>	<p>Canada's financial evaluations and will be used in Canada's basis of contractor selection as per Part 4 of the RFP. No other pricing will be used by Canada in the financial evaluations and in the contractor selection decision.</p>
168	<p>Close date</p> <p>We have a number of questions outstanding and as we come closer to finalizing our solution, expect to have additional questions as well as clarifying questions based on the ongoing Q and A process. Although Amendments are now more regular, there have been delays in obtaining responses to our questions which has slowed down solutioning, and the position Canada has taken on particular SACC manual clauses has been, and continues to be, a challenge in terms of internal legal and business approvals.</p> <p>As COVID restrictions are easing and the peak vacation period is now upon us, resources are very stretched for all. People are anxious to book their more traditional</p>	<p>PSPC have provided answers to all questions received. Let us know of any specific outstanding questions that have not been answered up to amendment 17. Please provide date and detailed information of your email with the outstanding questions and we will address it accordingly.</p> <p>As per Canada's response to Question #68 in Amendment #004, it is the Bidder's responsibility to contact the</p>

Question #	Question	Response
	<p>family vacation time. The impact will affect all Bidders as well as the staff at Canada/RCMP.</p> <p>In addition as per Canada's instructions we have submitted an inquiry with SSC as to which Cloud Providers have SCED connectivity but have received no response.</p> <p>These factors all combine to create challenges. We have assessed our position and find that we will need additional time to finalize and properly price our proposal. We appreciate that Canada has been reasonable with such requests over the course of this procurement, however this is a complex set of requirements and requires time to finalize. We therefore request an extension to the close date to August 18, providing Bidders more time to conclude the Q and A process, react to amendments, finalize and price our solution, obtain all required approvals, and allow staff to take at least a portion of their summer vacations.</p>	<p>Cloud Service Providers identified as being assessed to support Government of Canada Protected B Cloud workloads (https://cloud-broker.canada.ca/s/central-provider-page-v2?language=en_US) and inquire as to their ability to meet the Secure Cloud Enablement and Defence requirement for their cloud platform.</p> <p>Based on past requests from Industry, Canada has previously extended the closing date. The closing date remains July 13, 2021, as stated in Solicitation Amendment #010.</p>
169	<p>Limitation of Liability Clause – Amendment 12 – Q and A 112</p> <p>Your response to the Bidder question number 112 included the statement that the clauses remaining will not be changed “as these are standard terms and conditions acceptable to Canada for the fulfillment of the requirements”.</p> <p>In the case of the Limitation of Liability in Section 7.29, this is not the case. The industry via ITAC (now known as Technation) and the federal government have a long standing agreement that for Information Management/Information Technology (IM/IT) contracts the appropriate version of the Limitation of Liability clause to be used is SACC Manual clause no. N0000C (2013-04-25) found at the link below. This is not the version used in Section 7.29 of this RFP.</p> <p>If a comparison is done to the two versions of the clause, you will find that the correct version (pasted in below) includes Sections 1 and 3, which the Limitation of Liability clause used in Section 7.29 of this RFP does not include.</p> <p>There are numerous legal implications to the use of the version of the Limitation of Liability clause used in the RFP and to the exclusion of these two Sections 1 and 3 which are problematic to Bidders and ultimately affect our ability to bid. Can Canada please revert the RFP to</p>	<p>Canada agrees to update Part 7- Resulting Contract Clauses, Section 7.29 - Limitation of Liability.</p> <p>See amendment.</p>

Question #	Question	Response
	<p>the correct version of the limitation of liability in Section 7.29 clause and avoid further issues?</p> <p>For ease of reference, please find below the applicable web link to SACC Manual clause no. N0000C (2013-04-25) and the corresponding clauses as well.</p> <p>https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual/5/N/N0000C/4</p> <p>Legal text for SACC item:</p> <p>1. This section applies despite any other provision of the Contract and replaces the section of the general conditions entitled "Liability". Any reference in this section to damages caused by the Contractor also includes damages caused by its employees, as well as its subcontractors, agents, and representatives, and any of their employees. This section applies regardless of whether the claim is based in contract, tort, or another cause of action. The Contractor is not liable to Canada with respect to the performance of or failure to perform the Contract, except as described in this section and in any section of the Contract pre-establishing any liquidated damages. The Contractor is only liable for indirect, special or consequential damages to the extent described in this section, even if it has been made aware of the potential for those damages.</p> <p>2. First Party Liability:</p> <p>a. The Contractor is fully liable for all damages to Canada, including indirect, special or consequential damages, caused by the Contractor's performance or failure to perform the Contract that relate to:</p> <ul style="list-style-type: none">i. any infringement of intellectual property rights to the extent the Contractor breaches the section of the general conditions entitled "Intellectual Property Infringement and Royalties";ii. physical injury, including death. <p>b. The Contractor is liable for all direct damages caused by the Contractor's performance or failure to perform the Contract affecting real or tangible personal property owned, possessed, or occupied by Canada.</p> <p>c. Each of the Parties is liable for all direct damages resulting from its breach of confidentiality under the Contract. Each of the Parties is also liable for all indirect, special or consequential damages in</p>	

Question #	Question	Response
	<p>respect of its unauthorized disclosure of the other Party's trade secrets (or trade secrets of a third party provided by one Party to another under the Contract) relating to information technology.</p> <p>d. The Contractor is liable for all direct damages relating to any encumbrance or claim relating to any portion of the Work for which Canada has made any payment. This does not apply to encumbrances or claims relating to intellectual property rights, which are addressed under (a) above.</p> <p>e. The Contractor is also liable for any other direct damages to Canada caused by the Contractor's performance or failure to perform the Contract that relate to:</p> <ul style="list-style-type: none"> i. any breach of the warranty obligations under the Contract, up to the total amount paid by Canada (including Applicable Taxes) for the goods and services affected by the breach of warranty; and ii. any other direct damages, including all identifiable direct costs to Canada associated with re-procuring the Work from another party if the Contract is terminated either in whole or in part for default, up to an aggregate maximum for this subparagraph (ii) of the greater of _____ times the total estimated cost (meaning the dollar amount shown on the first page of the Contract in the block titled "Total Estimated Cost" or shown on each call-up, purchase order or other document used to order goods or services under this instrument), or \$_____ . (Insert the amount from the appropriate commodity grouping.) <p>In any case, the total liability of the Contractor under paragraph (e) will not exceed the total estimated cost (as defined above) for the Contract or \$_____ , (insert the dollar amount entered in subparagraph (ii)), whichever is more.</p> <p>f. If Canada's records or data are harmed as a result of the Contractor's negligence or willful act, the Contractor's only liability is, at the Contractor's own expense, to restore Canada's records and data using the most recent back-up kept by Canada. Canada is responsible for maintaining an adequate back-up of its records and data.</p> <p>3.Third Party Claims:</p>	

Question #	Question	Response
	<p>a. Regardless of whether a third party makes its claim against Canada or the Contractor, each Party agrees that it is liable for any damages that it causes to any third party in connection with the Contract as set out in a settlement agreement or as finally determined by a court of competent jurisdiction, where the court determines that the Parties are jointly and severally liable or that one Party is solely and directly liable to the third party. The amount of the liability will be the amount set out in the settlement agreement or determined by the court to have been the Party's portion of the damages to the third party. No settlement agreement is binding on a Party unless its authorized representative has approved the agreement in writing.</p> <p>b. If Canada is required, as a result of joint and several liability, to pay a third party in respect of damages caused by the Contractor, the Contractor must reimburse Canada by the amount finally determined by a court of competent jurisdiction to be the Contractor's portion of the damages to the third party. However, despite paragraph (a), with respect to special, indirect, and consequential damages of third parties covered by this section, the Contractor is only liable for reimbursing Canada for the Contractor's portion of those damages that Canada is required by a court to pay to a third party as a result of joint and several liability that relate to the infringement of a third party's intellectual property rights; physical injury of a third party, including death; damages affecting a third party's real or tangible personal property; liens or encumbrances on any portion of the Work; or breach of confidentiality.</p> <p>c. The Parties are only liable to one another for damages to third parties to the extent described in this paragraph 3.</p>	
170	<p>Amendment 13, Q and As 133 and 138</p> <p>The responses to questions 133 and 138 raise additional questions.</p> <p>a) Can Canada confirm that, as per 7.21 Basis of Payment, item (a) Phase 1 – Prototype Solution, that they require the Bidder selected to deliver Phase 2 to provide warranty, maintenance and support for the Prototype for the entire 3-year initial contract period for 100 licensed users? This is in</p>	<p>a) For Phase 1, the Bidder is required in accordance with Annex A-Statement of Work and Annex B-Basis of Payment to provide the prototype solution, including but not limited to, granting all Solution usage rights, grants and access,</p>

Question #	Question	Response
	<p>addition to any warranty, maintenance and support of the Solution in the Development, Test and Production environments – resulting in four environments to be maintained and supported.</p> <p>b) Are we correct to assume that each option year must also provide for the ongoing maintenance and support for this Prototype environment for 100 licensed users, and therefore the costs to maintain and support that environment must be included in the pricing tables 3 and 6.?</p> <p>c) Finally, is it correct for Bidders to assume that once the winning Bidder has been awarded the Phase 2 option, the other Bidders can deprovision their prototype environment and there are no further obligations for these Bidders for their Prototype.</p> <p>Note that the Bidder must deploy the Prototype to a non-Protected B Contractor Cloud tenant as per 2.5 Prototype on Platform (POP) Test item (a). It may make it clearer both from a response perspective, and a legal perspective, to separate the SOW into two different and separate contracts as has been done for other similar Canada procurements. That is, one SOW for Phase 1 and the optional POP, and a separate SOW for Phase 2.</p>	<p>Software Documentation, Warranty, Maintenance and Support (excluding Training), waivers, non-disclosure agreements and any other releases to Canada for purposes of conducting the CUA and PoP Test, if applicable for test validation, for up to 100 users during the initial contract period. The Bidder will not be required to support the prototype solution beyond the initial contract period.</p> <p>b) No. The option years must not include costs for the ongoing maintenance and support of the prototype solution. Pricing tables 3 and 6 will apply to Phase 2- Full solution as and when Canada exercises its rights for the deployment of the full solution.</p> <p>c) Yes. Annex A- Statement of work is sectioned in phases with each phase of the scope describing the requirements for the prototype, including the PoPTest and the Full solution. Work on Phase 2- Full Solution will only be exercised by Canada in accordance with the contract.</p>
171	<p>Part 3 Bid Preparation Instructions includes 3.4 Section 1:</p> <p>Technical Bid, subsection (b) (ix) states “Sandbox Solution: The Bidder should provide a sandbox Solution, as applicable, in accordance with Annex J – Technical Evaluation.”</p> <p>We assume that in our Bid Response, Canada is requesting Bidders to describe how the Sandbox</p>	<p>Canada confirms that Bidders are to describe how the technical requirements related to Cybercrime Toolbox and Sandbox, as stated in Annex J – Technical Evaluation, will be met by the Solution.</p>

Solicitation No. - N° de l'invitation
M7594-205915/D
Client Ref. No. - N° de réf. du client
M7594-205915

Amd. No. - N° de la modif.
019
File No. - N° du dossier
164xl.M7594-205915

Buyer ID - Id de l'acheteur
164XL
CCC No./N° CCC - FMS No./N° VME

Question #	Question	Response
	requirements described in Annex J – Technical Evaluation will be met by the software forensic analysis tools that Bidders are including in the Cybercrime Toolbox / Sandbox. Can Canada please confirm?	
172	<p>You are aware as per our emails that we are waiting for responses to our outstanding question and require a one month extension in order to respond. There was no amendment released overnight. Will we see one released during the day today and can we expect an extension? If so we will monitor Buy and Sell throughout the day.</p> <p>We wish to be very transparent with both PWGSC and the RCMP that there is no possibility we can submit a proposal by July 13 and that our request to extend by one month is necessary in order for us to proceed. Anything less is unrealistic and we assume you want this procurement to result in multiple compliant responses from Bidders.</p>	Based on past requests from Industry, Canada has previously extended the closing date. The closing date remains July 13, 2021, as stated in Solicitation Amendment #010.

**ALL OTHER TERMS AND CONDITIONS OF THE BID SOLICITATION REMAIN
UNCHANGED.**