

1. Advance Contract Award Notice (ACAN)

An ACAN is a public notice indicating to the supplier community that a department or agency intends to award a contract for goods, services or construction to a pre-identified supplier, thereby allowing other suppliers to signal their interest in bidding, by submitting a statement of capabilities. If no supplier submits a statement of capabilities that meets the requirements set out in the ACAN, on or before the closing date stated in the ACAN, the contracting officer may then proceed with the award to the pre-identified supplier.

2. Definition of the requirement

- The Department of Infrastructure has a requirement for an advisor with significant experience in both the public and private sector with a range of hands-on technical, commercial, and executive management expertise on multi-billion dollar transportation infrastructure Public-Private Partnership (P3) projects in order to obtain insights and advice into current market intelligence, commercial and construction management strategies, quality management systems, and negotiation tactics as well as related mitigation and management approaches to enable anticipation of issues in P3 projects in order to remove obstacles to work progress and anticipate claims strategies of the Private Partner(s) to defend against disputes on major projects.
- The work will involve the following:
 - Attending meetings and be available on an as-and-when-needed basis to provide analysis and advice on complex, high-stakes P3 project issues often at very senior levels (DM/Minister/CEO/Chair of Board of Directors)
 - Providing mitigation and management approaches to enable the Department to anticipate complex P3 project issues,
 - Providing first hand, high quality advice and proven techniques to overcome obstacles to work progress and insight into P3 contractor claims
 - Supporting the Department on devising appropriate strategies to address, mitigate, and settle complex, multi-million dollar disputes, including a review and commentary on current or proposed strategies and approaches
 - Providing insight and guidance on current market intelligence, commercial and construction management strategies, and proven mitigation approaches that were successfully deployed on P3 contracts to resolve disputes
 - Balancing the needs and motivations of both the government and the Private Partner(s) based on first-hand experience in both roles
 - Providing reviews and advice on the improvement of Quality Management Systems (QMS) on P3 projects

3. **Criteria for assessment of the Statement of Capabilities (Minimum Essential Requirements)**

Any interested supplier must demonstrate by way of a statement of capabilities that it meets the following requirements:

Experience:

1. At least 20 years of combined experience in P3 project delivery, as both an Owner (representative of the Government) and a Contractor (member of the Private Partner team), of which at least 5 years was in an executive position as Owner.
2. Engineer of Record on at least two (2) P3 highway or bridge infrastructure projects valued at more than \$300M each
3. Owner executive lead on commercial negotiations on at least two (2) P3 highway or bridge infrastructure projects valued at more than \$500M each including the management of claims and disputes
4. Development of Quality Management Systems (QMS) on Contractor side and development of QMS requirements on Owners side for P3 highway or bridge infrastructure projects and associated commercial solutions

Knowledge and understanding of:

1. The development of Quality Management Systems (QMS) and QMS requirements for major P3 highway or bridge infrastructure projects
2. Proven commercial strategies, negotiation techniques, and market intelligence related to dispute management and negotiations on P3 highway or bridge infrastructure projects
3. The perspectives and motivations of both the Owner and the Private Partner on P3 infrastructure projects
4. The first-hand responsibilities and accountabilities of an Engineer of Record on P3 highway or bridge infrastructure projects

Academic qualifications:

- Undergraduate Degree from a recognized university in the field of in Engineering

Professional designation, accreditation, and/or certification:

- Professional Engineer

4. Applicability of the trade agreement(s) to the procurement

This procurement is subject to the following trade agreement(s)

- *Canadian Free Trade Agreement (CFTA)*
- *Revised World Trade Organization - Agreement on Government Procurement (WTO-AGP)*
- *Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)*
- *Canada-Chile Free Trade Agreement (CCFTA)*
- *Canada-Colombia Free Trade Agreement*
- *Canada-Honduras Free Trade Agreement*
- *Canada-Panama Free Trade Agreement*
- *Canada-Peru Free Trade Agreement (CPFTA)*
- *Canada-United Kingdom Trade Continuity Agreement (Canada-UK TCA)*
- *Canada-Ukraine Free Trade Agreement (CUFTA)*

5. Justification for the Pre-Identified Supplier

Chris Gauer, of Gauer Consulting Ltd possesses a unique combination of skills and experience critical to this requirement that is not available through existing standing offers. Discussions with the various infrastructure advisory and engineering firms which INFC does business with have indicated this combination of experience is difficult to find and very rare. The ACAN is expected to confirm this understanding. Challenges recently uncovered on a certain Project for which INFC is ultimately responsible have indicated an urgency to engage Chris Gauer on an urgent basis to ensure the continued safety and security of the infrastructure being built.

6. Government Contracts Regulations Exception(s)

The following exception(s) to the *Government Contracts Regulations* is (are) invoked for this procurement under subsection 6(d) - "only one person is capable of performing the work").

7. Exclusions and/or Limited Tendering Reasons

The following exclusion(s) and/or limited tendering reasons are invoked under the

- *Canadian Free Trade Agreement (CFTA) – Article 513 b.3*
- *Revised World Trade Organization - Agreement on Government Procurement (WTO-AGP) – Article 1.b.3*

- *Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) – Article(s) 19.12.1.b.3*
- *Canada-Chile Free Trade Agreement (CCFTA) – Article Kbis-09.1.1.b*
- *Canada-Columbia Free Trade Agreement (CCoIFTA) – Article 1409.1.b*
- *Canada-Honduras Free Trade Agreement (CHFTA) – Article 17.11.2.b.3*
- *Canada-Korea Free Trade Agreement (CKFTA) – Article 22.*
- *Canada-Panama Free Trade Agreement (CPanFTA) – Article 16.10.1.b.3*
- *Canada-Peru Free Trade Agreement (CPFTA) – Article 1409.1.b.3*
- *Canada-United Kingdom Trade Continuity Agreement (C-UKTCA) – CETA Article 19.12.b.3*
- *Canada-Ukraine Free Trade Agreement (CUFTA) – Article 10.13.1.b.3*

8. Ownership of Intellectual Property

Not applicable

9. Conflict of Interest

- In order to protect the integrity of the Work to be performed, Canada advises interested suppliers that they cannot be issued a contract for these services if the supplier, any of its subcontractors, and/or any of their representatives is or was part of the Private Partner on the Champlain Bridge Project, and/or the Gordie Howe International Bridge Project, and/or under contract with the Windsor-Detroit Bridge Authority (WDBA).
- Further, suppliers issued a contract for this Work would be ineligible to participate as a member of a bidding team on the High Frequency Rail Project.
- Interested suppliers that are in doubt about a particular situation should contact the Contracting Authority before the ACAN Submission Deadline.
- By submitting a Statement of Capabilities, the interest supplier represents that it does not consider itself to be in conflict of interest. The interested supplier acknowledges that it is within Canada's sole discretion to determine whether a conflict of interest or an appearance of conflict of interest exists.

10. Period of the proposed contract or delivery date

- The proposed contract is for a period of 1 year, from June 30, 2022 to June 30, 2023, *with two additional one year option years*

11. Cost estimate of the proposed contract

The estimated value of the contract, including option(s), is \$546,131.25 including applicable taxes.

12. Name and address of the pre-identified supplier

Gauer Consulting Ltd.
2610 Mclean Ave. SW
Calgary, AB, T3E 1V2

14. Suppliers' right to submit a statement of capabilities

Suppliers who consider themselves fully qualified and available to provide the goods, services or construction services described in the ACAN may submit a statement of capabilities in writing to the contact person identified in this notice on or before the closing date of this notice. The statement of capabilities must clearly demonstrate how the supplier meets the advertised requirements.

15. Closing date for a submission of a statement of capabilities

The closing date and time for accepting statements of capabilities is Friday June 17, 2022 at 12:00 pm .

16. Inquiries and submission of statements of capabilities

Inquiries and statements of capabilities are to be directed to:

INFC Procurement and Contracting

procurement-approvisionnement@infc.gc.ca