



**RETURN BIDS TO:  
RETOURNER LES SOUMISSIONS À:**

**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**  
Land Projects and Communication System Support  
Division/Div des projets terrestres et support de  
systèmes de communication  
11 Laurier St. / 11, rue Laurier  
8C2, Place du Portage, Phase III  
Gatineau  
Québec  
K1A 0S5

<b>Title - Sujet</b> LC4ISR - SoS E&I LC4ISR - System of System Engineering and Integration (SoS E&I)	
<b>Solicitation No. - N° de l'invitation</b> W8486-200731/C	<b>Amendment No. - N° modif.</b> 008
<b>Client Reference No. - N° de référence du client</b> W8486-200731	<b>Date</b> 2022-06-14
<b>GETS Reference No. - N° de référence de SEAG</b> PW-\$\$RA-005-28482	
<b>File No. - N° de dossier</b> 055ra.W8486-200731	<b>CCC No./N° CCC - FMS No./N° VME</b>
<b>Solicitation Closes - L'invitation prend fin</b> <b>at - à 02:00 PM</b> Eastern Daylight Saving Time EDT <b>on - le 2022-07-15</b> Heure Avancée de l'Est HAE	
<b>F.O.B. - F.A.B.</b> Specified Herein - Précisé dans les présentes <b>Plant-Usine:</b> <input type="checkbox"/> <b>Destination:</b> <input type="checkbox"/> <b>Other-Autre:</b> <input checked="" type="checkbox"/>	
<b>Address Enquiries to: - Adresser toutes questions à:</b> Okafo-Eke, Ifeoma Nneka	<b>Buyer Id - Id de l'acheteur</b> 055ra
<b>Telephone No. - N° de téléphone</b> (343) 571-2754 ( )	<b>FAX No. - N° de FAX</b> ( ) -
<b>Destination - of Goods, Services, and Construction:</b> <b>Destination - des biens, services et construction:</b>	

**Instructions: See Herein**

**Instructions: Voir aux présentes**

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

**The purpose of this amendment is to:**

1. Extend the draft RFP closing date.
2. Publish Annex B and Appendix B1.
3. Publish a new Appendix under Annex B.
4. Publish two new Appendices under Annex C to advise bidders of revised Security Clearance Process.
5. Change the Contracting Authority.
6. Modify Part 6 – Section 1.2.
7. Incorporate Limitation of Liability Clause.
8. Incorporate Environmental Impairment Liability Insurance Clause.
9. Publish additional questions for Industry's written feedback.
10. Respond to bidder's questions.

**The following shall form part of the RFP:**

1. The draft RFP closing date is shown on the main page of the draft RFP.

2. Publish the following Annex and Appendix, as attached herewith.

- Annex B – Basis of Payment (BoP)
- Appendix B1 – Price Proposal and Financial Bid Evaluation

3. Under List of Annexes, Annex B – Basis of Payment (BoP)

**INSERT** the following:

Appendix B2 – SoS E&I Facility Delivery and Payment Schedule

4. Under List of Annexes, Annex C – Security Requirement Check List (SRCL)

**INSERT** the following:

Appendix C2 – Contract Security Program's Application for Registration form (PSPC 471)

Appendix C3 – Guidance on completing the Contract Security Program's Application for Registration form (PSPC 471)

5. Under Part 1 – General Information, Section 7 – Industry Feedback and Submission Deadline

**DELETE** Part 1 – Section 7.1 in its entirety.

**INSERT** the following:

- 7.1 Interested Suppliers may submit their feedback to Public Service and Procurement Canada (PSPC) Contracting Authority positional mailbox identified below, and with "W8486-200731/C – SoS E&I for LC4ISR Capability" in subject line to ensure delivery:

[TPSGC.PADivisionQD-APQDDivision.PWGSC@tpsgc-pwgsc.gc.ca](mailto:TPSGC.PADivisionQD-APQDDivision.PWGSC@tpsgc-pwgsc.gc.ca)

Attention:

**Ms. Ifeoma Nneka Okafo-Eke**

Contracting Authority

Defence Communications Major Projects and Sustainment Division

Electronics, Munitions and Tactical Systems Procurement Directorate

Public Services and Procurement Canada

6. Under Part 6 – Security, Financial and Other Requirements, Section 1 – Security Requirements

**DELETE** Part 6 – Section 1.2 in its entirety.

**INSERT** the following:

- 1.2 Bidders are reminded to obtain the required security clearance promptly. **Bidders who do not hold a valid organization security clearance must provide with their bid, a completed Contract Security Program's Application for Registration form (PSPC 471) which can be found in Appendix C2.** 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.

7. Under Part 7A – Resulting Contract Clause, Section 21 – Limitation of Liability

**INSERT** the following:

## **21. Limitation of Liability - Information Management/Information Technology**

- 21.1 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.

- 21.2 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 0.75 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).

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.

- 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.

#### 21.3 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.

8. Under Part 7A – Resulting Contract Clause

**INSERT** the following:

**28. Environmental Impairment Liability Insurance**

- 28.1 The Contractor must obtain Pollution Legal Liability - Fixed Site Coverage insurance, and maintain it in force throughout the duration of the Contract, in an amount usual for a contract of this nature, but for not less than \$1,000,000 per accident or occurrence and in the annual aggregate.
- 28.2 If the policy is written on a claims-made basis, coverage must be in place for a period of at least 12 months after the completion or termination of the Contract.
- 28.3 The Pollution Legal Liability - Fixed Site Coverage policy must include the following:
  - a. Additional Insured: Canada is added as an additional insured, but only with respect to liability arising out of the Contractor's performance of the Contract. The interest of Canada as additional insured should read as follows: Canada, represented by Public Works and Government Services Canada.
  - b. Notice of Cancellation: The Contractor will provide the Contracting Authority thirty (30) days prior written notice of policy cancellation or any changes to the insurance policy.
  - c. Separation of Insureds: The policy must apply to each Insured in the same manner and to the same extent as if a separate policy had been issued to each.
  - d. Contractual Liability: The policy must, on a blanket basis or by specific reference to the Contract, extend to assumed liabilities with respect to contractual provisions.
  - e. Incidental Transit Extension: The policy must extend to losses arising from any waste, products or materials transported, shipped, or delivered via any transportation mode to a location beyond the boundaries of a site at which the Contractor or any entity for which the Contractor is legally liable is performing or has performed the operations described in the contract.
  - f. Litigation Rights: Pursuant to subsection 5(d) of the [Department of Justice Act](#), S.C. 1993, c. J-2, s.1, if a suit is instituted for or against Canada which the Insurer would, but for this clause, have the right to pursue or defend on behalf of Canada as an Additional Named Insured under the insurance policy, the Insurer must promptly contact the Attorney General of Canada to

agree on the legal strategies by sending a letter, by registered mail or by courier, with an acknowledgement of receipt.

**For the province of Quebec, send to:**

Director Business Law Directorate,  
Quebec Regional Office (Ottawa),  
Department of Justice,  
284 Wellington Street, Room SAT-6042,  
Ottawa, Ontario, K1A 0H8

**For other provinces and territories, send to:**

Senior General Counsel,  
Civil Litigation Section,  
Department of Justice  
234 Wellington Street, East Tower  
Ottawa, Ontario K1A 0H8

A copy of the letter must be sent to the Contracting Authority. Canada reserves the right to co-defend any action brought against Canada. All expenses incurred by Canada to co-defend such actions will be at Canada's expense. If Canada decides to co-defend any action brought against it, and Canada does not agree to a proposed settlement agreed to by the Contractor's insurer and the plaintiff(s) that would result in the settlement or dismissal of the action against Canada, then Canada will be responsible to the Contractor's insurer for any difference between the proposed settlement amount and the amount finally awarded or paid to the plaintiffs (inclusive of costs and interest) on behalf of Canada.

*Note: The final RFP will have the revised insurance limits and may include supplemental wording. The Final RFP may have supplemental wording and revised insurance limits for the Errors and Omissions Liability Insurance and Commercial General Liability Insurance Clause.*

9. Additional questions for Industry's written feedback are appended herein below in this document.

10. Response to bidder's questions are appended herein below in this document.

***All other terms and conditions of the draft RFP remain unchanged.***

**Bidders are requested to provide written responses to the following Questions by the Draft RFP Closing Date.**

- Q1. Canada is aiming at strengthening relationships with its first nation population. There are a number of known indigenous firms that could provide quality material or subcontracted services. How much would industry be willing to commit to providing work via material or subcontracted services to indigenous firms?
- Q2. Canada is committed to focusing on diversity and inclusion. How would industry propose supporting a diverse and inclusive work force?
- Q3. Canada is committed to its targets of reducing greenhouse gas emission by 40% of that of 2005, by 2030, for infrastructure. How will industry meet or exceed this environmental objective for the System of Systems Engineering and Integration Facility?
- Q4. Does industry see any challenges with the Basis of Payment approach of implementing the DND 626 Task Authorization process understanding the work will be conducted in an agile environment? Please explain.
- Q5. Each of the four (4) functional groupings will have an element of core work costs. What does industry estimate the total cost per year (including Option Periods) based on the Statement of Works that have been released? Please explain. To note, a value can be provided for one or more of the functional groupings.
- Q6. If Canada considers implementing holdbacks on any of the contracts what would be industry's recommendation(s) for it to be released?
- Q7. DND's intent is to build its own SoS E&I Facility eventually. If this happens before the end of this SOS E&I Contract, Canada will move into its own Facility any time after the Firm Period of the contract is over. Canada will give a two-year advance notice to the contractor to this effect.
- a. *Bidders must provide their rationale to justify their response for both scenarios i.e., they "Support or Do Not Support" Canada's approach.*
  - b. *Additionally, will this impact bidders' interest in submitting a bid?*

**Note: Bidders may choose to ignore any question/s that do not apply to this RFP.**

### **Bidder's Questions as of 14 June 2022**

Q1. **Reference:** Annex F – Compliance Matrix and Technical Bid Evaluation Criteria – MT1, 1.1, iii.

**Question:** Technical Bid Evaluation Criteria MT1 requires Bidders to identify three (3) separate projects that demonstrate proven experience necessary to provide the services specified in the SOW for the provision of Applications Sustainment Services. Sub-requirement 1.1, iii requires that At least one (1) of the three (3) referenced projects must have at a minimum of (5) years duration.

Canada is requested to confirm that contracts with a period of performance duration of five (5) years that are ongoing at the time of RFP release qualify as proven experience candidates against the MT1, 1.1, iii requirement.

A1. Yes, a contract with a performance period of five (5) years that is still on-going at the time of RFP publishing date will qualify for the Mandatory Proven Experience. As a matter of fact, all three referenced projects **can be ongoing at the time of RFP publishing date** in accordance with MT1,1.1 ii. Basically, all three referenced projects may have different performance period but at least one must be of a minimum five-year period.