



Canadian Tourism  
Commission

Commission canadienne  
du tourisme

## Negotiated Request for Proposal

Name of Competition:	Privacy Consulting Services
Competition Number:	DC-2022-CD-09
Closing Date and Time:	November 23, 2022, 14:00 Pacific Time (PT)
Contracting Authority:	Christine Duguay Procurement Advisor 604-638-8345 <a href="mailto:procurement@destinationcanada.com">procurement@destinationcanada.com</a>

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## SECTION A – INTRODUCTION

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The Canadian Tourism Commission, doing business as Destination Canada (“DC”), is Canada’s national tourism organization and a Crown Corporation of the federal government. DC supports the Canadian tourism industry by:

- sustaining a vibrant and profitable Canadian tourism industry;
- marketing Canada as a desirable tourist destination;
- supporting a cooperative relationship between the private sector and the governments of Canada, the provinces and the territories with respect to Canadian tourism; and
- providing information about Canadian tourism to the private sector and to the governments of Canada, the provinces and the territories.

At Destination Canada we believe in the power of tourism.

Our aspiration is to enhance the wealth and wellbeing of Canadians and enrich the lives of visitors.

Our mission is to influence supply and build demand for the benefit of locals, communities and visitors through leading research, alignment with public and private sectors, and marketing Canada nationally and abroad. In collaboration with our partners, we promote Canada as a premier four-season leisure and business tourism destination around the country and world.

Destination Canada’s approach focuses on markets where Canada’s tourism brand leads and yields the highest return on investment. We use research to drive our evidence-based marketing in ten (10) key geographic leisure source markets: Australia, Canada, China, France, Germany, Japan, Mexico, South Korea, United Kingdom and the United States. In addition, our Business Events team leverage in-depth global market analysis to target international clusters aligned with Canada’s priority economic sectors.

We believe that Canada’s diversity, its greatest asset, is also, what touches travellers’ hearts most deeply. To that end, we are committed to inclusive leadership within our workforce, workplace, and interactions with partners and travellers alike.

For further information, visit <http://www.destinationcanada.com>.

### A.1 Purpose and Intent

The purpose of this Negotiated Request for Proposal (the “NRFP”) is to solicit proposals for privacy consulting services, which include:

- i) privacy impact assessments;
- ii) privacy audits and investigation services;
- iii) privacy policy and governance; and
- iv) any other items related to privacy matters that may require consultation with an expert.

(the “**Consulting Services**”). See Statement of Work (Section C) for detailed requirements.

It is DC’s intent to enter into an agreement with the proponent who can best serve the interests of DC. At the final outcome of the NRFP process, the successful proponent (“**Contractor**”) may be required to collaborate with DC’s other service providers and partners to ensure that public relations and communications services are consistent with DC’s mandate, brand and corporate strategy.

This procurement process is not intended to create and does not create a formal binding bidding process whereby every proponent is deemed to have entered into a “Contract A” with DC. Instead,

the process is intended to enable DC to learn what proponents can offer by way of goods or services in response to DC's Statement of Work. Depending on the number and variety of responses, DC will subsequently negotiate with those proposals that best serve its needs, as determined by DC.

By submitting a proposal, a proponent agrees to this negotiated process and agrees that they will not bring a claim against DC with respect to the award of a contract, failure to award a contract or failure to honour a response to this NRFP.

In summary, this NRFP is issued solely for the purpose of obtaining proposals. Neither the issuance of this NRFP nor the submission of a proposal implies any obligation by DC to enter into any agreement. The intent of this NRFP is to identify those vendors capable of meeting DC's requirements and with whom a final agreement may be negotiated.

## A.2 Contract Term

DC anticipates entering into negotiations with the selected proponent(s) for an agreement with a term that is up to three (3) years, with an option to extend on an annual basis, at DC's sole discretion, for a total period not to exceed another two (2) years. DC does not grant exclusivity, guarantee business or make any guarantee of the value or volume of work that may be assigned to the Contractor.

## SECTION B – NRFP EVALUATION CRITERIA AND INSTRUCTIONS

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### B.1 Mandatory Criteria Evaluation

To qualify for evaluation, proposals will first be checked against the mandatory criteria set out in Section D. Proponents failing to satisfy the mandatory criteria evaluation will be provided an opportunity to rectify any deficiencies ("**Rectification Period**"). Proposals satisfying the mandatory criteria during the Rectification Period will be further evaluated as outlined in Section B.2. All proposals failing to satisfy the mandatory criteria after the Rectification Period will be excluded from further consideration and notified as such. The Rectification Period will begin at the closing of the NRFP, and will end within a time period defined by DC in its sole discretion.

### B.2 Desirable Criteria, Pricing and Presentation Evaluation

Proposals meeting the mandatory criteria will then be evaluated and scored on the desirable criteria set out below. DC's evaluation committee may be comprised of DC employees and consultants to DC who are bound by an agreement of confidentiality with respect to the NRFP process. The evaluation committee will be responsible for reviewing and evaluating proposals and making an award recommendation to DC Senior Executive.

All decisions on the degree to which proposals and presentations meet the stated criteria and the scores assigned during the evaluations, are at the sole discretion of DC.

#### B.2.1 Desirable Criteria Questionnaire (Section E) 50%

Proposals will be evaluated based on meeting the above desirable criteria. Proposals that achieve a score of 60% of the 50% or higher (the "**Threshold**") will be evaluated further based upon, but not limited to Proposed Pricing and Presentations/Interview.

#### B.2.2 Proposed Pricing (Section F) 40%

Following evaluation of Proposed Pricing, DC may limit further evaluation to a limited number of the top ranked proposals up to a maximum of the three (3) top ranked proposals

(the “**Shortlist**”). Only those proposals on the Shortlist will be further evaluated based upon Presentations.

B.2.3	Presentations/Interviews (Section G)	<u>10%</u>
	TOTAL	100%

### **B.3 Negotiations**

DC intends to conduct concurrent negotiations with the top ranked proponent(s) as defined in Section H.10 Negotiations.

### **B.4 Proposal Submission, Intentions, and Questions Instructions**

#### **B.4.1 Submissions**

Proponents should submit their entire proposal via e-mail to the Contracting Authority by the closing date and time (“**Closing Time**”) of **14:00 hours PT, November 23, 2022**.

Any proposal received after the Closing Time may not be reviewed by DC. The proponent has sole responsibility for the timely submission of their proposal.

Proposals should be in PDF format and should be submitted as per the instructions in B.3.4 below. All proposals received as a result of this NRFP shall become the property of DC. The time stamp of DC’s email system shall be the official time for receipt of the proposal.

#### **B.4.2 Questions**

Proponents may submit questions via e-mail to the Contracting Authority until **14:00 hours PT, November 1, 2022**. Questions submitted after this date and time may not be responded to.

If DC, in its sole discretion, determines that information generated from any question will be of interest to all, a summary of anonymous questions and answers will be made available to all proponents in the form of an amendment. The source of all questions will be kept confidential.

If a proponent believes that disclosure of a question and response would expose a proprietary aspect of its proposal, the proponent may submit the question with an advisory to DC explaining why it should not be included with the posted anonymous questions and answers. If DC concurs with the request, the question will be answered in confidence and will not be posted. If DC does not concur with the request, the proponent will be asked to restate the question, and if this is not possible, the proponent has the option to withdraw the question.

#### **B.4.3 Intentions**

Proponents should indicate if they intend to submit a proposal (“**Intent to Submit**”) via e-mail to the Contracting Authority by **14:00 hours PT, November 17, 2022**.

Please Note: The Intent to Submit is not a mandatory requirement and therefore does not prevent a proponent from submitting by the required closing date and time.

#### **B.4.4 Instructions**

All submissions, intentions, and questions are to be e-mailed to [procurement@destinationcanada.com](mailto:procurement@destinationcanada.com) and should reference “**NRFP DC-2022-CD-09**”

**Privacy Consulting Services - CONFIDENTIAL**” in the e-mail subject line. Include the following with your submission, intentions and questions:

- Company name
- Name and title of contact person
- Phone, mobile phone, fax and e-mail of contact person
- Reference to the corresponding NRFP section(s) if applicable.

There is a maximum of twenty-megabyte (“**MB**”) file size acceptance of any e-mail. Proponents should divide their responses into appropriately sized (smaller than 20 MB) numbered files. In the e-mail the proponent should provide the detail for each section and how many e-mails they will send. Proposals are stored in an electronically secure and restricted environment. Proposals will not be opened until after the Closing Time has passed.

## **B.5 NRFP Form of Response, Format and Depth**

### **B.5.1 NRFP Form of Response**

Proponents must respond to and include in their proposal:

- Appendix 1 – Proponent Information and Acknowledgement Form
- Appendix 2 – Material Circumstances Form
- Appendix 3 – Amendments
- Appendix 4 – Declaration of Sub-Contractor
- Section D – Mandatory Criteria Questionnaire
- Section E – Desirable Criteria Questionnaire
- Section F – Pricing Proposal (must be submitted as a separate file)

### **B.5.2 NRFP Format and Depth**

This Negotiated Request for Proposals sets out DC’s requirements, desired options and additional considerations. Proponents should prepare their proposals providing a straightforward and detailed description of their ability to satisfy the requirements set out in this NRFP. Emphasis in each proposal should be on completeness and clarity of content, and should correspond to the section numbering set out. Proposals that do not clearly address the requested requirements and/or do not reference the applicable section numbers may be refused for evaluation purposes.

References to hyperlinks or links to social media sites (e.g., LinkedIn) may not be considered by DC in the evaluation process and should not be used. Therefore, any information provided for evaluation should be included in your written proposal.

Only material supplied in response to this NRFP, and any presentations or demonstrations (if applicable) will be considered and evaluated. Information, proposals or presentations previously supplied to DC and references to any material, information or presentations not included in your proposal response will not be considered. No assumptions should be made that DC has any previous knowledge of the proponents’ qualifications other than that supplied pursuant to this NRFP.

## **B.6 Contractor Performance Management**

DC is committed to fostering and supporting strong positive relationships with its Contractors to ensure critical services are maintained and the highest value and corporate wide economic benefits are realized. As such, the Contractor’s performance during the term of any agreement may be assessed using key performance measures.

Any Contractor who has demonstrated poor performance during either a current or previous agreement with DC may be considered as an unqualified proponent and their proposal may be rejected. DC reserves the right to exercise this option as is deemed proper and/or necessary.

## SECTION C – STATEMENT OF WORK

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### C.1 Objective

As part of DC's ongoing commitment to ensure the privacy of personal information, DC's in-house legal department, comprised of two (2) lawyers, requires the services of a privacy consultant. The objective is to provide DC's legal department with expert advice and support regarding privacy and personal information protection that is in compliance with the laws of Canada and the countries where DC markets to attract visitors to Canada. These markets include: Australia, Canada, China, France, Germany, Japan, Mexico, South Korea, United Kingdom and the United States.

### C.2 Scope of Work

The Contractor will provide consulting services on an as and when required basis, at the sole discretion of DC, which services may include, but are not limited to, advising on the following areas:

- Privacy Impact Assessments (PIAs) preparation and advice with respect to the use of personal information related to data analytics and online marketing activities.
- Policy and technical advice on business processes and practices to minimize privacy risks.
- Comprehensive review and evaluation of privacy risks with recommendations regarding DC's personal information handling practices.
- Compliance with the provisions of the *Privacy Act*<sup>1</sup> and its supporting policies and directives, in particular, the government's *Policy on Privacy Protection*, *Directive on Privacy Impact Assessments*<sup>2</sup> and other related legislation.
- Compliance with the *Access to Information Act*<sup>3</sup> and its supporting policies and directives, in particular, the government's *Policy on Access to Information*, and *Directive on Access to Information Requests*<sup>4</sup>.
- Compliance with the *General Data Protection Regulation* (GDPR) and related legislation;<sup>5</sup>
- Email practises when communicating with the public that are in-line with federal anti-spam legislation (i.e., [Canada's anti-spam legislation](#)).<sup>6</sup>
- Updates when required to DC's internal policies including *Access to Information and Privacy Policy*, *Privacy Breach Protocols* and *Privacy Protocols*, and external policies including *Privacy Policy (External)*.<sup>7</sup>
- Other areas pertaining to privacy matters as determined by DC.

### C.3 Performance Standards and Quality Measurement

DC is committed to fostering and supporting strong positive relationships with its Contractors to ensure critical services are maintained and the highest value and corporate wide economic benefits are realized. As such, the Contractor's performance during the term of any agreement may be assessed using key performance measures.

Where any Contractor has demonstrated poor performance during the execution of projects assigned by DC, DC reserves the right to discontinue use of that Contractor should performance issues not be rectified to DC's satisfaction.

### C.4 DC Responsibilities and Support

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<sup>1</sup> <https://laws-lois.justice.gc.ca/eng/ACTS/P-21/index.html>

<sup>2</sup> <https://www.tbs-sct.canada.ca/pol/index-eng.aspx>

<sup>3</sup> <https://laws-lois.justice.gc.ca/eng/acts/a-1/>

<sup>4</sup> <https://www.tbs-sct.canada.ca/pol/index-eng.aspx>

<sup>5</sup> <https://gdpr-info.eu/>

<sup>6</sup> <https://laws-lois.justice.gc.ca/eng/acts/E-1.6/index.html>

<sup>7</sup> <https://www.destinationcanada.com/en/privacy-policy#:~:text=Limited%20sharing%20and%20retention,which%20it%20was%20first%20collected>

DC will provide the Contractor with all required background, information and documents to complete assigned projects.

## **C.5 Contractor Responsibilities**

### **C.5.1 General**

- a) The requirement for the services is unpredictable and sometimes urgent in nature. Upon receipt of a service request, the Contractor must be able to provide receipt acknowledgement within one (1) business day and must be able to provide services seven (7) days a week in order to meet urgent requirements. The Contractor will work with DC to reach an agreed upon deadline for urgent requests.

### **C.5.2 Personnel, Communications and Reporting**

- a) The Contractor will provide DC with one dedicated, single point of contact (the "Account Manager"). The Account Manager will act as the Contractor's client relationship partner and overall client service partner. The Account Manager will not charge for services/time rendered in managing the relationship with DC.
- b) Upon commencement of each project, the Contractor will appoint a dedicated project manager that will be the contact person for the specific project. The Contractor may be required to interact with various DC employees and third parties in the performance of its services. As a result, DC will identify roles and responsibilities at the commencement of each project.
- c) The Contractor will provide status updates of assigned projects either weekly or as specified by DC. Update requirements could vary by project.
- d) Reports will be required as and when requested by DC.
- e) Meetings will occur as and when requested by DC and may be held in person at DC's Vancouver office or via telephone or web conference.

### **C.5.3 Invoicing**

The Contractor will send one invoice per month on the date specified by DC for month end. The invoice will include a detailed list of all services provided during the month and the itemized cost of each service provided. The Contractor will also assist DC on a timely basis to estimate unbilled work in progress to permit DC to establish financial accruals on a quarterly basis.

### **C.5.4 Contract Start and Termination Arrangements**

The Contractor is responsible for transitioning from the incumbent provider, including transfer of all records, and developing an understanding of DC.

The Contractor will upon receipt of notice of termination of the Agreement, or on the end date of the Agreement, make good-faith efforts to provide DC with the required services as described in the Agreement to the end of the Term of the Agreement.

If required by DC, DC may extend the end of a Term, or Renewal Term as the case may be, prior to its expiration for up to an additional one hundred and twenty (120) days on the same terms and conditions then in place, to allow adequate transition time between contractors.



## **C.6 Constraints**

The Contractor must:

- a) Be available during DC's standard operating hours of 9 am to 5 pm Pacific Time Monday to Friday, excluding statutory holidays.
- b) Be able to provide receipt acknowledgement of DC's request for service within one (1) business day.
- c) Where matters are urgent, be able to provide services seven (7) days a week.
- d) Be able to provide services in English. The ability to provide services in French is desirable but not a mandatory requirement.
- e) Maintain an office location in Canada for the duration of the Agreement.
- f) Have a partner in-charge, who will serve as the Account Manager and who is a member in good standing with a Canadian law society in one of the jurisdictions in which the Contractor operates.

## **C.7 Reporting and Communication**

Reporting will occur as and when requested by DC. Meetings will occur as and when requested by DC and may be held in person at DC's Vancouver office or via telephone or web conference.

## **C.8 Personnel Replacement**

The Contractor is required to advise DC's Contract Authority two (2) weeks' in advance of any change to the Account Manager or key personnel. If replacement is required, the Contractor is responsible for providing, in a timely manner, a replacement with equivalent or greater experience.

## **SECTION D – MANDATORY CRITERIA QUESTIONNAIRE**

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Full compliance with mandatory criteria is required in order for proposals to be further evaluated.

### **D.1 Mandatory Criteria**

D.1.1 The proponent must have a partner in-charge who is the Account Manager and who is a member in good standing with a Canadian law society in one of the jurisdictions where the Contractor operates. Are you able to comply with this requirement?

Yes

No

D.1.2 The proponent must have a minimum of five (5) years of extensive experience in providing strategic advice in the field of privacy and the areas described as part of the Consulting Services. Are you able to comply with this requirement?

Yes

No

D.1.3 The proponent must provide an up-to-date curriculum vitae (i.e., resume) for the Account Manager who will service DC's account. Are you able to comply with this requirement?

Yes

No

D.1.4 The proponent has an office in Canada.

Yes

No

## SECTION E – DESIRABLE CRITERIA QUESTIONNAIRE

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Proponents should respond to the questions below clearly and concisely. If the proponent is attaching documents as part of their response to a specific question, the proponent should reference the attachments in their response.

### E.1 For Reference Only (Not for evaluation purposes)

E.1.1 For markets other than Canada, proponents are to specify within which of DC's markets, as specified in Section C.1, they are qualified to provide the Consulting Services. For DC Markets where the proponent does not have an office, please explain how the services will be provided and by whom, either an employee of the proponent or an established firm to which the proponent has a longstanding relationship with. Use the table below to indicate the markets where the services can be provided:

Market	Yes/No
Australia	
China	
France	
Germany	
Japan	
Mexico	
South Korea	
United Kingdom	
United States	

E.1.2 Proponents are to indicate if they have capability to provide services in French and English?

English only

Both English and French

### E.2 Company and Personnel Overview

E.2.1 Company Background and Overview

Provide a brief overview of your organization including the following information:

- a. Company history, ownership, structure and office location(s).
- b. Number of employees. Highlight who will work on the DC's account and their length of time with the company.
- c. Composition, competencies, year of call and practice jurisdictions of the counsel providing legal expertise.
- d. Experience in the travel / tourism / marketing / data and analytics industry.
- e. Copies of applicable anti-fraud prevention policies or guidelines.
- f. Copies of applicable diversity and inclusion policy or guidelines, including a brief explanation of how this policy is applied.
- g. Copy of the registration, certificate of incorporation or other similar document showing your current registration status.
- h. Copies of financial statements for the last three (3) years, 2019, 2020 and 2021.
- i. Confirmation of errors and omissions insurance and limits.

Maximum marks available – 10%

Response should be limited to two (2) pages (excluding organizational chart, financial statements, registration certificate and copies of policies or guidelines).

### **E.3 Business / Technical Requirements**

- E.3.1 Provide the curriculum vitae for the Account Manager with an explanation outlining how they are qualified for the role.

Maximum marks available: 5%

Response should be limited to a maximum of 500 words, excluding the curriculum vitae.

- E.3.2 Indicate your firm's proposed resources and provide a curriculum vitae for each employee who is anticipated to provide the services and include a brief explanation outlining how they are qualified for the role.

Maximum marks available: 20%

Response should be limited to a maximum of 1,000 words, excluding the curricula vitae.

- E.3.3 Provide a detailed overview of your service delivery model including the different levels of service providers (e.g., lawyers, paralegals, assistants, etc.) and their role in the provision of the services.

Maximum marks available: 10%

Response should be limited to a maximum of 500 words.

- E.3.4 Describe your firm's capabilities and credentials of relevance to DC's requirements as stated in Section C, Statement of Work. Please highlight any previous experience working under Federal Legislation with the Federal Public Service and Crown Corporations and provide sample briefs and/or articles produced by your firm demonstrating that it offers creative, flexible, timely, and strategic transactional skills and excellent drafting skills.

Maximum marks available: 20%

Response should be limited to a maximum of 1,000 words, excluding any sample briefs and/or articles.

- E.3.5 Provide a list of similar services as set out in this NRRFP that your firm has provided to current and former clients. Include a description of the nature of the client's organization and of the work provided to each of these clients.

Maximum marks available: 5%

Response should be limited to a maximum of 1,000 words.

- E.3.6 Describe how your firm differentiates itself from other providers and what your competitive advantage is. In answering, please comment on what makes your firm innovative and what services, approach, tools, technology, resources and/or expertise your firm offers that would provide value to DC and set you apart from other providers.

Maximum marks available: 5%

Response should be limited to a maximum of 1,000 words.

#### E.4 Weighting Table for Reference

The following table is provided as a reference to illustrate how each question is scored and weighted.

<b>Desirable Criteria Question #</b>	<b>Desirable Criteria Question Weighting</b>	<b>Desirable Criteria Question Weighted</b>	<b>Example Proponent Score</b>	<b>Example Proponent Weighted Score</b>
E.2.1	10%	6.67%	5/5	6.67%
E.3.1	5%	3.33%	3/5	2.00%
E.3.2	20%	13.33%	4/5	10.67%
E.3.3	10%	6.67%	3/5	4.00%
E.3.4	20%	13.33%	2/5	5.33%
E.3.5	5%	3.33%	4/5	2.67%
E.3.6	5%	3.33%	5/5	3.33%
<b>Example Total</b>	<b>75%</b>	<b>50%</b>	<b>26/35</b>	<b>34.67%</b>
<b>A score of 60% (i.e., 30% of the 50%) or higher is required to advance to the next stage of evaluations.</b>				

## SECTION F – PRICING

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Proponents should submit their pricing proposal in a separate file from the rest of their response. In the pricing submission, reference the NRFP# and name along with company information.

DC is constrained by a limited budget; therefore proponents are encouraged to present a best value for cost when submitting all pricing requests, while taking into consideration all of the requirements in this NRFP and as demonstrated through their response.

When evaluating proposed pricing, DC may consider the total cost of ownership (TCO) associated with the product or service over its lifetime including, but not limited to, acquisition cost, staffing resources, training, installation, support, maintenance, transportation and logistics, operating costs, and disposal costs. This may also include transition, migration or integration costs which DC would be expected to pay. There should be no hidden costs which DC discovers at the end of the term.

DC does not make a commitment or guarantee of any dollar value or volume of business for any proponent.

### F.1 Proposed Pricing Detail

Please complete the below table outlining the hourly rates for each proposed resource for each Scope of Work the proponent wishes to qualify for. Please insert additional rows as necessary.

All prices are to be quoted in **Canadian** dollars and exclude taxes.

Proposed Resource	Hourly Rate
Account Manager / Partner-in-charge	\$
Other Partners/Associates ( <i>please list each</i> )	\$
Other Articling Students and Paralegals ( <i>please list each</i> )	\$

DC will not pay any overtime rates, with the exception of extenuating circumstances and must be pre-approved by DC.

Fees and expenses incurred during the performance of the services will be reimbursed at cost with no additional mark up: faxes, long distance telephone calls, couriers, corporate searches, government registration/filing, and any agent/consultant/third party fees. All fees and expenses require pre-approval by DC.

Any fees associated with office supplies should be included within the key personnel hourly rates and will not be charged separately to DC.

### F.2 Payment Discounts

DC's standard payment terms are Net 30 days upon receiving an invoice, with the required project and billing information, and after the services have been rendered or goods received. There may be certain times of the year when DC may be able to accelerate payments.

Indicate your payment terms and explain any early payment discounts available to the DC.

### F.3 Pricing Strategies

DC may be open to other pricing strategies, incentives, volume discounts or other offerings (e.g., rebates, volume discounts, etc.) or alternative fee arrangements that would benefit DC. DC, at its sole discretion, may or may not review or consider any such offerings that are proposed.

Please indicate any pricing strategies that your company may be willing to discuss with DC, such as flat rate or fixed rate fees, blended hourly rates and/or discounted rates for Crown Corporations.

## **SECTION G – PRESENTATION / INTERVIEW REQUIREMENTS**

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### **G.1 Presentation/Interview Requirements**

DC will require proponents, who have made the Shortlist, to give a presentation of their experience and capabilities in support of DC's objectives as set out in Section C the Statement of Work and meet key members of DC that they will be communicating with in the provision of the services.

Proponents may be expected to highlight the following:

- Meet the Account Manager;
- Describe the company and explain the team members that will work on DC's account;
- Emphasize what sets your company apart from others in the industry; and
- Answer questions in relation to the services.

Presentations will take place either at DC's head office located at 1045 Howe Street, Suite 800, Vancouver, BC or via videoconference, according to DC's preference.

All costs associated with the presentation/interview will be the responsibility of the proponent.



## SECTION H – NRFP PROCESS AND TERMS

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### H.1 NRFP Process Schedule

The schedule for the proponent selection process is as follows:

Deadline for Questions	November 1, 2022, 14:00 hours PT
Intent to Submit (*)	November 17, 2022, 14:00 hours PT
<b>Closing Date and Time</b>	<b>November 23, 2022, 14:00 hours PT</b>
Presentations of Shortlisted Proponents	week of November 14, 2022.
DC will endeavour to notify all proponents of its selection by:	January 31, 2023
Timeframe for Negotiations	Up to 30 days following notification by DC

Note: The schedule is subject to change at DC's sole discretion.

**(\* Please note the intent to submit is not a disqualifying criterion. If you miss the above date, you can still submit your proposal within the closing date.**

### H.2 Interpretation of the NRFP

If a proponent is in doubt as to the intended meaning of any part of this NRFP or finds errors, omissions, discrepancies or ambiguities, questions may be submitted and, if deemed necessary by DC, an amendment to the NRFP may be issued.

It is the proponent's responsibility to understand all aspects of the NRFP requirements. Should any details necessary for a clear and comprehensive understanding be required, it is the proponent's responsibility to obtain clarification before submitting a proposal.

### H.3 Inquiries and Communication

No individual other than the designated Contracting Authority identified on the NRFP cover is authorized by DC to comment on any portion of this NRFP or the requirements described in this NRFP. DC will not be bound by, and the proponent agrees not to rely upon, any information given or statements made by persons other than the designated DC Contracting Authority.

Making inquiries to an unauthorized person or any attempt to influence the outcome of this process by contacting DC employees (other than the Contracting Authority), the Board of Directors or government officials will result in immediate disqualification and may result in exclusion from future competitions.

### H.4 Accuracy of Information

While the information set out, or referred to, in this NRFP has been prepared and included in good faith, DC does not give any representation or warranty whatsoever that it is all-inclusive or that it is free of error. Some items may change at any time due to business circumstances.

### H.5 Amendments

Information, instructions, modifications, and/or questions and answers may be incorporated by DC in an amendment to the NRFP. If this NRFP was posted on the Government of Canada CanadaBuys.gc.ca website ("CanadaBuys"), DC may post amendments to CanadaBuys, provide to all proponents who received an invitation, or provide to all proponents who submitted an Intent to Submit a proposal.

It is the proponent's responsibility to regularly review [www.CanadaBuys.gc.ca](http://www.CanadaBuys.gc.ca) for amendments to the NRFP that DC in its discretion may post prior to Closing Time. Such amendments may contain important information, including significant changes to this NRFP. Proponents are responsible for reviewing all amendments and confirm that all amendments issued have been read and included in the Proponent's response (see Appendix 3).

#### **H.6 Modification and Withdrawal**

Modifications to, or withdrawals of, a submitted NRFP will be accepted by DC by e-mail notice provided that such e-mail is received by DC before the Closing Time. Modifications or additional information received after the Closing Time will not be accepted except upon invitation and request from the Contracting Authority.

#### **H.7 Period of Validity**

Proposals must remain open for acceptance for a period of not less than one hundred and twenty (120) days from the Closing Time.

#### **H.8 Proposal Expenses**

All costs, including travel, incurred by the proponent in the preparation of its proposal, participation in this NRFP, presentations, demonstrations, or the negotiation of any resulting contract, will be the sole responsibility of the proponent and will not be reimbursed by DC, unless otherwise indicated. All such costs are taken at the sole risk of the proponent. By participating in this NRFP, the proponent agrees to absolve DC of any responsibility for the same.

#### **H.9 Language**

Proposals may be submitted in either French or English. The working language for the NRFP process will be the preferred language of the proponent.

#### **H.10 Negotiations**

DC reserves the right to negotiate contract scope and terms with the top-ranked proponent(s) whose expertise, experience, vision and reputation are judged to best serve the interests of DC, hereafter the "Preferred Proponent(s)". Proponents are cautioned not to assume that the lowest priced proposal will result in a contract award.

DC will enter into discussions and negotiations with the Preferred Proponent(s) to reach agreement on the final terms of the Agreement. Negotiations may include requests by DC for supplementary information from the proponent to verify, clarify or supplement the information provided in its proposal or confirm the conclusions reached in the evaluation and may include requests by DC for improved pricing from the proponent.

Concurrent Negotiations: The Preferred Proponent(s), as established under the evaluation, will be invited to enter into contract negotiations with DC. DC intends to conduct negotiations within the Timeframe for Concurrent Negotiations.

At any point in the Timeframe for Concurrent Negotiations, DC may elect to unilaterally terminate one or more negotiation(s). Final selection of one or more Preferred Proponents will be determined following DC's receipt of best and final offers (BAFO). Final selection will be based upon best overall value to DC. There will be no legally binding relationship created with any proponent prior to the execution of a written agreement.

#### **H.11 Contract Award**

If a contract is subsequently negotiated and awarded to a proponent as a result of this NRFP process, the contract;

- i. should be negotiated within the Timeframe for Contract Negotiations;
- ii. may include, but not be limited to, the general contract terms contained in Appendix 5; and

- iii. will commence upon signature by the duly authorized representatives of DC and the successful proponent.

#### **H.12 Debriefing**

Upon request, and at DC's sole discretion, DC will only provide a debriefing to proponents who met or exceeded the minimum Threshold or Shortlist. All requests must be in writing to DC Contracting Authority and should be made within thirty (30) days of notification of award. The intent of the debriefing information session is to aid the proponent in presenting a stronger proposal in subsequent procurement opportunities. Any debriefing provided is not for the purpose of providing an opportunity to challenge the procurement process.

#### **H.13 Material Circumstances**

A material circumstance means any circumstance or relationship which may lead to an unfair advantage including but not limited to: being associated to or related to a DC employee or Board member of DC; having access to information not available to other proponents; communicating with any unauthorized person with respect to the NRFP process; engaging in any action which constrains or limits the ability of another proponent to submit a proposal for the goods or services herein; providing a gift or benefit to a DC employee or Board member; or engaging in conduct that compromises or could be seen to compromise the integrity of the NRFP process (each a "**Material Circumstance**").

DC may consider any Material Circumstance (as defined above) as disclosed in a proposal or otherwise, and DC may eliminate a proposal from consideration on the ground that a Material Circumstance gives rise to a conflict of interest that DC considers in its opinion would give rise to unfair advantage in the NRFP process, or would otherwise prejudice the integrity of the NRFP process.

#### **H.14 Proponents Not to Promote Their Interest**

Proponents must not make any public comment, respond to questions in a public forum or carry out any activities to publicly promote or advertise their interest in this opportunity.

#### **H.15 Confidentiality**

DC recognizes the proprietary nature of information that may be contained in response to this NRFP. Proponents must clearly mark and identify those areas of their proposals which contain confidential information. DC will not use or disclose such confidential information, except for the purposes of evaluating the proposals submitted under this NRFP or as may be required by law, including but not limited to the *Access to Information Act* and the *Privacy Act*.

Proponents shall keep confidential all information received from DC and other information developed for DC in connection with this competition. Proponents shall not use DC's confidential information except as required to develop a proposal and presentation in response to this NRFP.

Except as required by law, DC will not disclose or publish the identity of proponents, nor reveal in any way the substantive information and financial terms contained in any proposal. Only the name of the Contractor will be revealed at the conclusion of the process and only after an agreement has been fully executed by the contracting parties.

#### **H.16 Publicity**

Proponents must not refer, expressly or by implication, to DC, or to this competition, in any advertising or other publicity release unless otherwise approved in advance and in writing by the Contracting Authority.

#### **H.17 No Collusion**

By submitting a proposal, the proponent represents that its proposal has been prepared without collusion or fraud and in fair competition with proposals from other proponents.

**H.18 Law**

This NRFP process and any subsequent agreement will be governed by the laws of the Province of British Columbia and any dispute will be subject to the jurisdiction of the courts of British Columbia and all applicable federal laws.

**H.19 Indemnities**

The proponent shall be responsible for and shall indemnify DC from all claims, loss and damages that relate to or arise out of errors, omissions or negligent acts of the proponent, its employees or agents associated with this NRFP process and all costs associated with those claims, loss and damages.

**H.20 Rights of Destination Canada**

In addition, DC reserves the right, in its sole and absolute discretion, to:

- H.20.1 accept any proposal in whole or in part, with the exception of proposals that fail to comply with mandatory criteria, whether or not it is the lowest priced proposal and without prior negotiation;
- H.20.2 reject any, all or part of any proposal that:
  - i. is incomplete, obscure, irregular or unrealistic;
  - ii. fails to meet the objective of the NRFP;
  - iii. fails or omits any mandatory information; or
  - iv. is non-compliant with any requirement of this request;
- H.20.3 not accept any deviations from the stated terms and conditions;
- H.20.4 terminate the process at any time and/or re-issue this NRFP at any time;
- H.20.5 obtain information from the proponents to seek clarification or to verify any or all information provided by the proponent at any time throughout this NRFP process;
- H.20.6 contact references;
- H.20.7 enter into negotiations with any proponent who has submitted a compliant proposal, with the goal to establish an agreement acceptable to DC;
- H.20.8 incorporate all, or any portion of the Statement of Work, the NRFP, and the successful proponent's proposal into a resulting contract document;
- H.20.9 to make an award in whole or in part, including the right to select and contract with more than one proponent to meet the requirements of the NRFP;
- H.20.10 not enter into any contract at all with any proponents responding to this NRFP.

## **SECTION I: LIST OF APPENDICES**

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Proponents must complete appendices one (1) through four (4).

<b>APPENDIX</b>	<b>FILE NAME</b>
1	Proponent Information and Acknowledgement Form
2	Material Circumstances Disclosure Form
3	Amendments
4	Declaration of Sub-Contractors
5	General Contract Terms

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## APPENDIX 1: PROPONENT INFORMATION AND ACKNOWLEDGMENT FORM

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### 1) PROPONENT INFORMATION

- a) Company Information - For identification and information purposes only, provide the following information about your company:

Complete legal company name and address:	
Primary business and length of time business established:	
Number of direct employees:	
Nature of company (i.e., sole proprietorship, corporation, partnership, joint venture):	
Primary contact for the NRFP (name, title, phone number and e-mail):	

- b) References - List three customers with similar requirements to those described in this NRFP who we may contact as references. For each reference include the name of the organization, key contact information (name, title, address, phone, e-mail), and a brief description of the service provided/performed. Proponent agrees that DC may contact any of these references. It is requested that proponents refrain from using DC as a reference in their proposal.

#### Reference #1:

Client Organization:	
Contact Person:	
Street Address:	
Telephone #:	
Email Address:	
Description of Services:	

#### Reference #2:

Client Organization:	
Contact Person:	
Street Address:	
Telephone #:	
Email Address:	
Description of Services:	

**Reference #3:**

Client Organization:	
Contact Person:	
Street Address:	
Telephone #:	
Email Address:	
Description of Services:	

2) PROPONENT ACKNOWLEDGEMENT

The proponent agrees that the information provided in their proposal is accurate and declares that he/she is a duly authorized signing authority with the capacity to commit his/her firm/company to the provisions contained herein. By signing below, the proponent specifically acknowledges that it has read, understood and agrees to the terms of this NRFP.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2022

Authorized Signature:

\_\_\_\_\_

Printed Name:

\_\_\_\_\_

Title/Position:

\_\_\_\_\_

Company Name:

\_\_\_\_\_

City:

\_\_\_\_\_

Address:

\_\_\_\_\_

Phone Number:

\_\_\_\_\_

E-mail Address:

\_\_\_\_\_

## **APPENDIX 2: MATERIAL CIRCUMSTANCES DISCLOSURE FORM**

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### MATERIAL CIRCUMSTANCE:

DC requires proponents to disclose all Material Circumstances (as defined in H.13) as an attachment to their proposal.

Check ONE:

No, there are no Material Circumstances to disclose;

OR

Yes, there is/are one or more Material Circumstance(s) to disclose and a disclosure statement is attached.



**APPENDIX 3: AMENDMENTS**

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Please confirm that any amendments or addenda to this NRFP issued have been read and included in proponent response. List the amendments and/or addenda included in the response (if applicable).

Amendment/Addendum No.:	Dated:	# of Pages:
Amendment/Addendum No.:	Dated:	# of Pages:
Amendment/Addendum No.:	Dated:	# of Pages:
Amendment/Addendum No.:	Dated:	# of Pages:

## APPENDIX 4: DECLARATION OF SUB-CONTRACTORS

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If applicable, the proponent should submit a list of sub-contractors it intends to use in providing the services described in this NRFP by completing the Declaration of Sub-Contractors, for approval by DC. DC reserves the right to withhold approval of such sub-contractors.

The proponent is responsible for supervising and coordinating all projects and/or services that they may delegate to the sub-contractors to ensure the services are provided to DC in a seamless manner.

Indicate the quality control measures and contract resolution processes you have in place for sub-contractors.

- The goods and or services in this proposal will be provided solely by the company named in Appendix 1 – Proponent Information and Acknowledgement.
- Sub-contractors will be used to provide the goods and/ or services described in this proposal.

Companies called on as Sub-Contractors to collaborate in the execution of the proposed services.

Name:

Contact Person:

Title:

Phone Number:

E-mail Address:

Address:

City:

Province:

Postal Code:

Description of services provided:

% of services the Sub-Contractor will be providing: \_\_\_\_\_%

## **APPENDIX 5: GENERAL CONTRACT TERMS**

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The following general terms may be required by DC in order to be awarded the Work under this NRFP. Specific language for each of these terms will be negotiated between the parties:

1. Non-exclusive contract;
2. Contract term as provided in the NRFP;
3. The Contractor will designate key personnel assigned to DC file who cannot be changed without the approval of DC;
4. Dedicated time commitments (full time equivalent basis) on a monthly or annual basis to DC work, if applicable;
5. Service levels for typical work (e.g. commitments for timing from planning stages to campaign launch);
6. All intellectual property created by the Contractor will be the property of DC. Contractor will certify that the intellectual property is delivered free from encumbrances and in compliance with all applicable laws;
7. Contractor will undertake to ensure that all campaigns and other activities conducted on behalf of DC in the Contractor's market are done in compliance with applicable laws;
8. Contractor, including their sub-contractors, indemnifies DC for any breach of the contract, in particular claims relating to breach of privacy, third party intellectual property claims, compliance with laws, etc.;
9. Contractor to maintain the appropriate insurance;
10. Fees to be paid on the basis of work delivered;
11. All expenses incurred by the Contractor to be passed through to DC without markup, including media placements;
12. Confidentiality clauses to be included;
13. DC shall be entitled to terminate for convenience upon 30 days written notice and upon payment for any work completed or committed to the date of termination. If DC terminates the contract or a particular work order for breach, then DC is not required to pay for the work;
14. DC approval required prior to Contractor sub-contracting all or part of the work or assigning the contract;
15. Contract to be governed by British Columbia law; and
16. Dispute resolution: senior management intervention followed by binding arbitration to be held in Vancouver, BC in accordance with the rules of the British Columbia International Commercial Arbitration Centre.