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**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**

Information Security and Electronic Warfare Major  
Proj/Division de la sécurité de l'information et de la  
guerre

11 Laurier St. / 11, rue Laurier

8C2, Place du Portage

Gatineau

Québec

K1A 0S5

<b>Title - Sujet</b> Information Technology Infrastructu Infrastructure de technologie de l'information à l'appui du commandement et du c	
<b>Solicitation No. - N° de l'invitation</b> W8474-18IT01/C	<b>Amendment No. - N° modif.</b> 007
<b>Client Reference No. - N° de référence du client</b> W8474-18IT01	<b>Date</b> 2024-02-27
<b>GETS Reference No. - N° de référence de SEAG</b> PW-\$\$QE-061-29203	
<b>File No. - N° de dossier</b> 061qe.W8474-18IT01	<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 2024-03-12</b> Heure Avancée de l'Est HAE	
<b>F.O.B. - F.A.B.</b>	
<b>Plant-Usine:</b> <input checked="" type="checkbox"/> <b>Destination:</b> <input type="checkbox"/> <b>Other-Autre:</b> <input type="checkbox"/>	
<b>Address Enquiries to: - Adresser toutes questions à:</b> Abela, Aaron	<b>Buyer Id - Id de l'acheteur</b> 061qe
<b>Telephone No. - N° de téléphone</b> ( ) - ( )	<b>FAX No. - N° de FAX</b> ( ) -
<b>Destination - of Goods, Services, and Construction:</b> <b>Destination - des biens, services et construction:</b> Specified Herein	

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> Raison sociale et adresse du fournisseur/de l'entrepreneur	
<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>

**ITQ AMENDMENT 007**

**ITQ Amendment No. 007 is being issued to address the following:**

- A) Publish Questions and Answers submitted by Respondents during the ITQ publication.**
- B) Amend PART 3 – Response Preparation Instructions, Section III: Additional Information**
- C) Amend PART 7 – Resulting Contract Clauses, Section 7.1.2 – Task Authorization**
- D) Amend PART 7 – Resulting Contract Clauses, Section 7.4 – Non-Disclosure Requirement**
- E) Amend Annex D – Corporate Non-Disclosure Agreement for Participation in Solicitation Process**
- F) Amend Table of Contents - Annex D – Corporate Non-Disclosure Agreement for Participation in Solicitation Process**
- G) Extend the ITQ Closing Date.**

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**A) Questions and Answers**

Question Number	Question	Answer
032	<p><b>Reference ITQ Amendment No. 003, Question #5</b>, where the response states “DND’s intent is not to pay for subscriptions for as part of a demonstration or proof of concept. Should a need arise for a subscription during the Funded Engagement (FE), it would be determined in the Task Authorization (TA) and would be covered under the Material provision of the Annex B – Basis of Payment.”</p> <p>Question: For any purchased or even no-charge cloud subscriptions there are certain terms and conditions which are unique and specific to cloud usage and consumption. For situations where a subscription is required and is included as part of the TA will DND leverage the existing Government of Canada Cloud Framework agreement or will DND accept the vendors standard cloud trial terms as part of the TA?</p>	<p>DND will leverage the existing Government of Canada (GoC) Cloud Framework agreement where possible, however it is recognized that specific standards may not be available and will be formed through the Task Authorization (TA) Process.</p>
033	<p><b>Reference PART 7, Section 7.1.2, Task Authorization – Task Authorization Process point (b), Item IV</b>, which states “Should any Funded Engagement (FE) Contractor to whom the draft Task Authorization (TA) was sent either fail to respond on time or confirm in writing that it refuses to accept the task, that FE Contractor will not be issued a TA for that scope of work. This does not prevent the FE Contractor from either receiving or being issued future TA work, in accordance with subparagraph 2 above.”</p> <p>Question: Can “on time” be clearly defined in days please.</p>	<p>Reference PART 7, Section 7.1.2, Task Authorization (TA) – Task Authorization Process point (f). ‘On Time’ is defined as ten (10) working days.</p>

<p><b>034</b></p>	<p><b>Reference Annex A – Statement of Work – Funded Engagement, Section 3 – Tasks and Deliverables</b>, where potential tasks and deliverables that the Funded Engagement (FE) Contract will focus on are listed. Some of these activities (ex. Description of Service Offerings, Demonstrations, etc.) are typically viewed by vendors as pre-sales activities and as a result are not billable services.</p> <p>Questions:</p> <p>1) Will DND please confirm that a Task Authorization will not be required for any pre-sales/non-billable work completed by the vendor.</p> <p>2) Furthermore, will DND also confirm that any non-billable work that the vendor deems as pre-sales will not be subject to the terms within section 7.1.2 (b) IX and deemed as unreasonably low?</p>	<p>Some tasks included in Task Authorization (TA) scope of work may be identified by Department of National Defense (DND) as being excluded from billing and not a billable deliverable. These tasks will be clearly marked in each relevant TA.</p> <p>Any non-billable work will not be subject to terms within 7.1.2 (b) IX and deemed as unreasonably low.</p>
<p><b>035</b></p>	<p>The Invitation to Qualify (ITQ) states "All enquiries must be submitted in writing to the Contracting Authority no later than ten (10) calendar days before the ITQ closing date. Enquiries received after that time may not be answered."</p> <p>Question: We request since 10 calendar days prior to the ITQ closing date is on a Sunday, that Q&amp;A be accepted through Monday, January 29.</p>	<p>The Invitation to Qualify (ITQ) solicitation closing date has changed. If the date to submit enquires within 10 calendar days falls on a weekend or holiday, Canada will accept enquiries up to the next business day.</p>
<p><b>036</b></p>	<p>Request to amend PART 7 – Resulting Contract Clauses, Section 7.2.1 – General Conditions, SACC 2035 (2022-12-01) General Conditions – Higher Complexity as follows:</p> <p>(a) 5 (Conduct of Work) is deleted        (b) 8 (Replacement of specific individuals) is deleted        (c) 12 (Time is of the Essence) is deleted        (d) 11 (Inspection and Acceptance of the Work) is hereby amended to delete subsections 2 and 3, and add "Acceptance shall mean that the services supplied and prices charged are in accordance with the Contract."</p>	<p>Deviations from SACC 2035 terms of conditions will remain unchanged.</p>

	<p>(e) 16 (Payment Period) is deleted          (f) 18 (Compliance with applicable laws) is amended to delete the second sentence of subsection 1          (g) 19 (Ownership) is deleted          (h) 20 (Copyright) is deleted          (i) 21 (Translation of documentation) is deleted          (j) 23 (Government Property) is deleted          (k) 24 (Liability) is deleted          (l) 25 (IP Infringement and Royalties) is deleted          (m) 31 (Accounts and Audit) is deleted          (n) 32 (Right of set-off) is deleted</p>	
<b>037</b>	<p>Request to amend PART 7 – Resulting Contract Clauses, Section 7.13 – Priority of Documents to rank accepted Task Authorization (TA) highest in the priority so that there is an opportunity to mutually fine-tune terms and conditions.</p>	<p>The Priority of Documents ranking will remain unchanged and apply to each Funded Engagement (FE) Contract instrument.</p>
<b>038</b>	<p>ANNEX D Intro Paragraph at ANNEX D Intro Paragraph a:</p> <p>This is a broad requirement statement and not all information may be confidential. Please add “such confidential information will be identified and treated in accordance with the terms below” to paragraph a):</p> <p>The participant acknowledges that Canada’s security measures and many other aspects of the ITI in SP of C2 Project are treated as confidential by Canada; <b><u>such confidential information will be identified and treated in accordance with the terms below.</u></b></p>	<p>Proposed change is not accepted.</p>
<b>039</b>	<p>ANNEX D Intro Paragraph b          Please amend paragraph b) as follows so that the Purpose of the Non-Disclosure Agreement (NDA) is limited to the solicitation process only. This is consistent with the title of the NDA.</p> <p><b><u>During the above-noted solicitation process,</u></b> Canada is disclosing the Sensitive Information to participant for the sole and exclusive purpose of enabling participant to participate in the <b><u>above-noted</u></b> ITI in Sp of C2 <b><u>Project solicitation process,</u></b> and, should participant determine it wishes to do so, to prepare and submit an offer to Canada, should Canada seek such offers (the “Purpose”).</p>	<p>Partially accepted changes.</p> <p>Reference Section E) of this Invitation to Qualify (ITQ) amendment below for further information.</p>
<b>040</b>	<p>ANNEX D Section 1.b “Sensitive Information” ANNEX D Section 1.b “Sensitive Information”</p> <p>Please add “solicitation process” to paragraph 1. b).</p> <p>Subject to the terms of this Non-Disclosure Agreement (NDA), the participant shall keep confidential the Sensitive</p>	<p>Partially accepted changes.</p> <p>Reference Section E) of this Invitation to Qualify (ITQ) amendment below for further information.</p>

	Information provided to the participant by or on behalf of Canada in connection with the ITI in SP of C2 Project <b>solicitation process.</b>	
<b>041</b>	<p>ANNEX D Section 1.d "Sensitive Information"</p> <p>Please confirm whether Canada will agree to the Contractor's disclosure under the terms of this Non-Disclosure Agreement (NDA) to its corporate affiliates outside Canada. A multinational Cloud Service Provider (CSP) draws on personnel globally, not just personnel employed by the CSPs Canadian entity.</p>	In the event an Funded Engagement (FE) Contractor wants to disclose information to a third party, including a corporate affiliate within or outside of Canada, it must first seek Canada's prior written consent. The decision of whether to approve or decline a request for disclosure will be made by Canada on a case-by-case basis and will be made in Canada's sole and exclusive discretion. Requests for disclosure to third parties who do not meet the requirements set forth in paragraph 1.d of the Non-Disclosure Agreement (NDA), or any other applicable provisions, will not be given consideration.
<b>042</b>	<p>ANNEX D Section 1.d "Sensitive Information"</p> <p>Please provide upfront written consent to the disclosure by the participant to its corporate affiliates outside Canada.</p>	Reference Question #42 above.
<b>043</b>	<p>ANNEX D Section 1.d "Sensitive Information"</p> <p>Please delete "immediately" and amend to add "to promptly (without undue delay) as redlined below:</p> <p>Participant agrees not to disclose, nor permit the disclosure of any Sensitive Information to third parties, including subcontractors or affiliates, or use nor permit the use of, directly or indirectly, the Sensitive Information, except to the extent required in order analyze possible potential designs or solutions as part of the Invitation to Qualify (ITQ), provided the participant has obtained Canada's prior written consent to the disclosure and provided those third parties have the requisite security clearances and have agreed to keep the information confidential on terms and conditions no less stringent than those contained herein. The participant additionally agrees <del>immediately</del> <b>to promptly (without undue delay)</b> provide to Canada, upon request, a list of these third parties and details regarding the Sensitive Information disclosed.</p>	<p>Proposed change accepted.</p> <p>Reference Section E) of this Invitation to Qualify (ITQ) amendment below for further information.</p>

<p><b>044</b></p>	<p>ANNEX D Section 1.e "Sensitive Information "Please insert "delete" here to accommodate deletion of Sensitive Information stored in soft copy on drives, etc.</p> <p>Please amend section 1.e as follows: "All Sensitive Information will remain the property of Canada. If requested by Canada, or upon the completion or termination of the Purpose or any point of the ITI in Sp of C2 Project with respect thereto, the Participant must return, <b><i>delete</i></b>, or destroy, at the option of the Canada, the Sensitive Information together with every copy, draft, working paper and note that contains such information within 30 calendar <i>days</i> <b><i>except for copies as may be necessary to be retained by legal, archival, external accounting standard or regulatory requirements.</i></b> If requested by Canada, the Participant must confirm that the information has been destroyed <b><i>or deleted.</i></b></p>	<p>Proposed change not accepted.</p>
<p><b>045</b></p>	<p>ANNEX D Section 2.a "Controlled Information"  Please add "Canada will identify Controlled Information as such at time of disclosure" to the end of paragraph a).</p> <p>Controlled Information means: (i) any information or materials that are a controlled good as defined in the Schedule (Controlled Goods List) of the Defence Production Act; or (ii) any information that is subject to Canada's Industrial or Contract Security Program, including PROTECTED/CLASSIFIED information or materials; or (iii) information or materials that are both a controlled good as defined in the Defence Production Act and subject to Canada's Industrial or Contract Security Program. <b><i>Canada will identify Controlled Information as such at time of disclosure.</i></b></p>	<p>Proposed change accepted.</p> <p>Reference Section E) of this Invitation to Qualify (ITQ) amendment below for further information.</p>
<p><b>046</b></p>	<p>ANNEX D Section 2.b "Controlled Information"  Please delete "including those Security Requirements as set forth in Annex D (as applicable) to this Agreement" from paragraph as indicated below. This is a circular reference?</p> <p>Participant acknowledges and agrees that any and all use of Controlled Information, including without limitation, all access, copying, distribution, disclosure, transmission, retransmission, export, re-export, transfer, re-transfer, storage and destruction (or prohibitions on destruction) of Controlled Information, shall be on a "need to know" basis solely and exclusively for the Purpose and shall be subject to and in compliance with, as applicable: (i) the Controlled Goods Regulations and the requirements of the Controlled Goods Program (including registration, compliance, or exemption); and (ii) Canada's Industrial or Contract Security Program including any Security Agreement or other requirements of such Program(s) <b><i>including those Security Requirements as set forth in Annex D (as applicable) to this Agreement.</i></b> Nothing</p>	<p>Proposed change is not accepted.</p>

	contained in this Non-Disclosure Agreement (NDA) limits or otherwise derogates from participant's obligations under either of the foregoing Programs.	
047	<p>ANNEX D Section 2.c "Controlled Information"  Please insert "delete", as indicated below, to accommodate deletion of Sensitive Information stored in soft copy on drives, etc.</p> <p>Participant acknowledges that: (i) Canada may disclose Controlled Information during the the ITI in Sp of C2 project to the participant, to the extent that the participant is authorized to receive such Controlled Information; and (ii) participant may not be authorized to receive all Controlled Information otherwise made available by Canada during the ITI in Sp of C2 project. Participant remains solely responsible for maintaining all requisite authorizations and permissions at all times. Without limiting the foregoing, participant shall return, <del>delete</del> or destroy (at Canada's sole and exclusive direction) any Controlled Information. Participant acknowledges that such direction may be provided by Canada in its sole and exclusive discretion, whether or not the Solicitation Process has been completed or terminated or participant has completed the Purpose.</p>	Proposed change is not accepted.
048	<p>ANNEX D Section 3.a "General"  Please delete "or immediate termination of any resulting contract." as described below. Grounds for termination of resulting contract should be handled in the resulting contract, not in an Non-Disclosure Agreement (NDA) during the solicitation process.  "Participant agrees that a breach of this Non-Disclosure Agreement may result in disqualification of the participant from any future related procurement at any time <b>or immediate termination of any resulting contract.</b>"</p>	Proposed change is not accepted.
049	<p>ANNEX D Section 3.b "General"  Please delete "could" and replace with "may" in paragraph b.</p> <p>The participant further acknowledges and agrees that Canada may be irreparably harmed if the participant breaches its confidentiality obligations under this Non-Disclosure Agreement and that such harm <del>could may</del> not be compensated reasonably or adequately in damages. Canada is entitled to take such actions as it deems necessary to enforce this Non-Disclosure Agreement (NDA) including injunctive and any other equitable remedy that it may wish to pursue.</p>	<p>Proposed change accepted.</p> <p>Reference Section E) of this Invitation to Qualify (ITQ) amendment below for further information.</p>

<p><b>050</b></p>	<p>ANNEX D Section 3.c  Please amend this paragraph to allow “all information” to be limited to only Sensitive Information and Controlled Information disclosed in the ITI in SP of C2 procurement process.</p> <p>Please delete “and the resulting Contract Phase”.</p> <p>This Non-Disclosure Agreement (NDA) remains in force indefinitely and, unless superseded or replaced in writing by Canada, applies to <del>all</del> <b><u>Sensitive Information and Controlled Information</u></b> disclosed at any point in the ITI in SP of C2 procurement process, including, but not limited to, the Request for Information (RFI) Phase, the Invitation to Qualify (ITQ) phase, the Review and Refine Requirements Phase and the Request for Proposal Phase, <del>and the resulting Contract Phase</del>. If the participant wishes to be discharged from its obligations with respect to any records that include the Sensitive Information, the participant may return all the records to an appropriate representative of Canada together with a reference to this Non-Disclosure Agreement (NDA). In that case, all Sensitive Information known to the participant and its personnel (i.e., Sensitive Information that is known, but not committed to writing) would remain subject to this Non-Disclosure Agreement, but there would be no further obligations with respect to the secure storage of the records containing that Sensitive Information (unless the participant created new records containing the Sensitive Information). Canada may require that the participant provide written confirmation that all hard and soft copies of records that include Sensitive Information have been returned to Canada.</p>	<p>Proposed changes partially accepted.</p> <p>Reference Section E) of this Invitation to Qualify (ITQ) amendment below for further information.</p>
<p><b>051</b></p>	<p>ANNEX D Section 3.a “General”  Please add the following language to the end of paragraph a):  <b><u>“Notwithstanding the preceding sentence, Participant will not be liable for any indirect, incidental, special, punitive, or consequential damages, or any loss of profits, revenue, data, or data use arising from breach of this Non-Disclosure Agreement.”</u></b></p>	<p>Proposed change not accepted.</p>
<p><b>052</b></p>	<p>Basis of Payment Part 3.1, Section III Annex B: It is our understanding that participation in the Funded Engagement (FE) is not a mandatory requirement for this ITQ process. A supplier could respond to the ITQ to become a Qualified Supplier without entering into a resulting contract for the Funded Engagement and still participate in the subsequent stages of the procurement process. Not every supplier will be interested in participating in the FE. We understand and appreciate the Crown’s interest in obtaining the Basis of Payment upon submission of a response for any Respondent</p>	<p>Reference Section B) of this Invitation to Qualify (ITQ) amendment below for further information.</p>

	<p>who wishes to enter into a contract for the Funded Engagement.</p> <p>However, can Canada clarify that any Respondent not wishing to be considered for a Funded Engagement does not have to complete Annex B as part of its response to the ITQ?</p>	
<p><b>053</b></p>	<p>Reference - 7.1 - Statement of Work</p> <p>Throughout the Resulting Contract Clauses, there are a number of terms, which are stated to give rise to the ability for DND to terminate the FE Contract for default.</p> <p>Since termination for default is a serious consequence, please add a term into the Resulting Contract Clauses as follows: “#. Any matter in the Resulting Contract Clauses that may give rise to termination for default will be the subject of a reasonable cure period.”</p> <p>We respectfully submit that some of these matters should not necessarily give rise to a termination for default. Instead of seeking to try to downgrade some of the matters, to, for example, a termination for convenience, we suggest that inserting an express opportunity for the Contractor to cure, to avoid a termination for default, will be of greater benefit to DND.</p>	<p>Provisions for a cure period are embedded as part of 2035 (2022-12-01), General Conditions – Higher Complexity – Services, Item 29 – Default by the Contractor, as stated in PART 7, Section 7.2.1 – General Conditions</p>
<p><b>054</b></p>	<p>Reference PART 7, Section 7.4 - Resulting Contract Clauses – Non-Disclosure Requirement.</p> <p>With the assumption that “Contract” means “FE Contract”, please consider making this non-disclosure requirement more granular. We understand from the ITQ that some aspects of the Funded Engagement (FE) could contain sensitive, or information subject to security requirements, however, making the whole FE Contract itself subject to this very strict non-disclosure term, including the existence of the FE Contract, will result in the majority of the Contractor’s existing business, operations and delivery teams being ineligible to support the FE. Furthermore, it is unclear from s. 7.4 what information is “sensitive” therefore, the Contractor must assume all information related to the FE Contract is sensitive. This is administratively costly and burdensome.</p> <p>Downstream, subjecting the entirety of the FE Contract and all TA’s under it to s. 7.4 will require the Contractor to form a special end-to-end operations team (for example, including, but not limited to invoicing team with individuals who meet personnel security clearance requirements) to administer this Contract. This will necessarily increase the prices the Contractor charges Department of National Defence (DND).</p>	<p>Reference Section D) of this Invitation to Qualify (ITQ) amendment below that clarifies the “FE Contract” assumption.</p> <p>For each TA, Canada will endeavor to reduce the administrative burden, if possible, by identifying and categorizing sensitive information that is applicable.</p>

	<p>In summary, will DND please only categorize information that is truly sensitive as such and please introduce a commitment that DND will expressly mark sensitive information or information subject to security requirements so that Contractors are notified in advance and can handle the information accordingly.</p> <p>For example, sensitive information could be segregated into a special Annex to the FE Contract or Task Authorization (TA) so that members of the Contractor team who do not hold applicable security clearances (including those members employed by corporate affiliates of the Contractor outside Canada) could be shielded from the Annex yet they could still service and administer the rest of the FE Contract and TA.</p>	
<b>055</b>	<p>7.9.3 - Methods of Payment          Please amend to add "Acceptance shall mean that the services supplied and prices charged are in accordance with the Contract."</p>	<p>Provisions for acceptance are embedded as part of 2035 (2022-12-01), General Conditions – Higher Complexity – Services, Item 12 – Inspection and Acceptance, as stated in PART 7, Section 7.2.1 – General Conditions</p>
<b>056</b>	<p>7.17 - Controlled Goods          How is the Contractor supposed to identify the controlled goods to Department of National Defence (DND) when it is DND who will be providing them?</p>	<p>The list of controlled goods is maintained by the Controlled Goods Program (CGP). It includes items that fall under the Defence Production Act (DPA) and are subject to specific regulations.</p> <p><a href="https://www.tpsgc-pwgsc.gc.ca/pmc-cgp/index-eng.html">https://www.tpsgc-pwgsc.gc.ca/pmc-cgp/index-eng.html</a></p>
<b>057</b>	<p>7.19 - Canadian Forces Site Regulations &amp; 7.20 - Government Site Regulations</p> <p>For s. 7.19 and s. 7.20, please add the concept that the Canadian Forces Site Regulations and Government Site Regulations will be provided in writing, in advance to the Contractor going onsite, to provide the Contractor an opportunity to review and ask questions or request training from Canada.</p>	<p>No, the current clauses will remain unchanged.</p> <p>No training is required. However, DND will provide advanced notice to Funded Engagement (FE) Contractor(s) to any applicable site regulations and provide sufficient time for follow-up question and answers for clarification, and request training if necessary.</p>
<b>058</b>	<p>Reference - 7.22 - Dispute Resolution</p> <p>Please add a new subsection "(e) The parties agree that nothing in this Section is binding but the parties nevertheless agree to resolve disputes in good faith."</p> <p>It is hard to predict what disputes may arise. The Respondent may want the option of adjudication in court for certain matters, while it may be agreeable to ADR for other types of matters.</p>	<p>No, the current clauses will remain unchanged.</p>

<p><b>059</b></p>	<p>Reference - SACC 2035</p> <p>Please delete SACC 2035 (24) Liability and insert a limitation of liability into the Articles of Agreement as follows:</p> <p>“NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE. CONTRACTOR’S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THE CONTRACT FOR THE FUNDED ENGAGEMENT SERVICES, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT OF THE FEES CANADA PAID THE CONTRACTOR FOR THE DEFICIENT SERVICES GIVING RISE TO THE LIABILITY.”</p> <p>We would be prepared to consider an additional supercap on liability (direct damages only) for breach of the confidentiality obligations in the Funded Engagement Contract that is a multiplier of the fees paid under the Task Authorization that gave rise to the liability (e.g. 2x).</p>	<p>Limitation of Liability is not applicable for the Invitation to Qualify (ITQ) as the Funded Engagement (FE) Contracts will be strictly consulting services requirement and not Information Management/Information Technology (IM/IT) related.</p> <p>However, note a Limitation of Liability clause will be under consideration to add to the Draft RFP/RFP stage.</p>
<p><b>060</b></p>	<p>Reference - Funded Engagement</p> <p>Please confirm whether the Contractor’s affiliate’s resources (e.g., employees or contractors of Contractor’s United States affiliate) may perform all or part of the funded engagement services provided the Contractor remains responsible for the performance of its affiliate’s resources.</p>	<p>The Funded Engagement (FE) Contractor’s affiliate may perform all or part of the FE work associated to the extent they are required in order to analyze possible potential designs or solutions, provided the participant has obtained Canada’s prior written consent to the disclosure and provided those third parties have the requisite security clearances and have agreed to keep the information confidential on terms and conditions no less stringent that those contained in the subsequent FE Contract and associated Non-Disclosure Agreement.</p>
<p><b>061</b></p>	<p>Reference - Funded Engagement</p> <p>Please confirm whether the Contractor may subcontract all or some parts of the funded engagement services to a third party subcontractor, provided the Contractor remains responsible for the performance of the subcontractor.</p>	<p>Provisions permitting subcontractors for all or some part of the work are embedded as part of 2035 (2022-12-01), General Conditions – Higher Complexity – Services, Item 6 – Subcontracts, as stated in PART 7, Section 7.2.1 – General Conditions.</p> <p>The Funded Engagement (FE) Contractor remains responsible for the performance and applicable security requirements of the subcontractor.</p>
<p><b>062</b></p>	<p>Due to the complexity of the ITI in Sp of C2 requirements, would Canada please extend the closing date.</p>	<p>Canada remains committed to the current scheduled closing date for the Invitation to Qualify (ITQ).</p>

<p><b>063</b></p>	<p>3.1 - Response Preparation -          The ITQ states: "The response must be gathered per section and separated as follows:          Section I: Technical Response          Section II: Certifications          Section III: Additional Information"</p> <p>Questions</p> <p>1) Please confirm that vendors are to provide 1 file, separated into three Sections, as named above.</p> <p>2) Also, since links are not acceptable for the documentation required with the mandatory requirements, please advise where the file containing the additional documentation should be included in the response.</p>	<p>1) Submissions can be in either one or multiple files that are separated into the three sections as identified.</p> <p>2) File(s) containing additional documentation will be accepted. They can be submitted along with Invitation to Qualify (ITQ) responses for Sections I, II, and III, as a separate file.</p>
<p><b>064</b></p>	<p>Reference Section 7.9.7 – Payment Time Verification – Please clarify the process for verification of time charged and accuracy of recording.</p>	<p>Time charged and the accuracy of the Contractor’s time recording system are subject to verification by Canada.</p> <p>If required, before or after payment is made, the Funded Engagement (FE) Contractor must provide a submission detailing the actual time worked at Canada’s request. This applies to any Task Authorization (TA) issued under the FE Contract.</p>
<p><b>065</b></p>	<p>In several sections within the Invitation to Qualify (ITQ) there is reference to the Controlled Goods Program (SACC clauses, Section 6.3, etc.). In section 7.3.1 of the ITQ it also states “This Contract includes access to Controlled Goods. Prior to access, the Qualified Supplier/FE Contractor must be registered in the Controlled Goods Program of PWGSC.”. However, in reviewing the types of deliverables that are anticipated to be provided by vendors as part of the Funded Engagement, it is unclear which of these would actually require compliance to the Controlled Goods Program.</p> <p>Can you please confirm which of the deliverables listed within the ITQ would fall into the category of Controlled Goods?</p> <p>If there are deliverables that are not listed but may be part of the Funded Engagement and in turn would require compliance to the Controlled Goods Program (CGP), can you please provide an example of what these deliverables may be?</p> <p>It is unclear why vendors would have to register for this program at the Funded Engagement (FE) stage so would appreciate any clarification that you can offer.</p>	<p>The list of controlled goods is maintained by the Controlled Goods Program (CGP). It includes items that fall under the Defence Production Act (DPA) and are subject to specific regulations.</p> <p>Please refer to the Controlled Goods website for examples.</p> <p><a href="https://www.tpsgc-pwgsc.gc.ca/pmc-cgp/index-eng.html">https://www.tpsgc-pwgsc.gc.ca/pmc-cgp/index-eng.html</a></p>

<p><b>066</b></p>	<p>In section 2.4 Enquiries – Invitation to Qualify (ITQ) it states “All enquiries must be submitted in writing to the Contracting Authority no later than ten (10) calendar days before the ITQ closing date. Enquiries received after that time may not be answered.”</p> <p>Questions:</p> <p>1) Will the Crown please confirm when vendors can expect to receive answers to their questions?</p> <p>2) Will the Crown also confirm that vendors who have submitted questions ahead of the published deadline will be given sufficient time to review this new information that comes from the answers along with a reasonable amount of time to adjust their responses and obtain corporate approvals to be bound by the clauses and conditions of the ITQ and to accept the resulting contract clauses even if this requires extending the closing date of the ITQ?</p> <p>3) We request the ITQ deadline be extended by 4 weeks from the day our questions are answered. Please also consider that several rounds of Q&amp;A may be required given the complexity of this ITQ and the Funded Engagement (FE) resulting contract clauses. (For context, past GoC complex procurements typically had multiple rounds of Q&amp;A.)</p>	<p>A response to questions received will be provided in a thorough and comprehensive fashion at the earliest opportunity.</p> <p>The scheduled Invitation to Qualify (ITQ) closing date will account for any anticipated ITQ Amendments and allow industry reasonable time to assimilate responses to any questions or changes to other sections of the ITQ.</p>
<p><b>067</b></p>	<p>Section 7.14 of the Invitation to Qualify (ITQ) references SACC Manual clause A9006C, which pertains to a Defence Contract and provides that title to “all the activities, services, goods, equipment, matters and things required to be done, delivered or performed by the Contractor under the Contract” belongs to Canada. However, current contractual and regulatory terms and conditions for a Defence Contract relate to “defence suppliers” or to “defence projects” – concepts that apply to the production of tangible property such as military equipment and weapons – and none of which have been identified as in scope for either the ITQ, Funded Engagement (FE) or future Request for Proposal (RFP). In this context, the inclusion of SACC A9006C will unnecessarily impact Respondents' ability to participate in the ITQ and subsequent FE.</p>	<p>This procurement falls under the Defence Production Act (DPA). The clause is applicable and will not be removed from the Invitation to Qualify (ITQ).</p>

	Please confirm that SACC Manual clause A9006C does not form part of any contract resulting from the ITQ, including any FE Contract, and that Section 7.14 will be removed.	
<b>068</b>	For a Respondent that will be delivering the services for the Funded Engagement (FE) Contract through its Canadian entity, please confirm that the Security Requirement for Canadian Supplier in Section 7.3.1 will apply to the Canadian entity's performance of the services, rather than the Security Requirement for Foreign Supplier.	Correct. A Canadian/Domestic entity will be subject to the Security Requirements for Canadian Supplier identified at Section 7.3.1 rather than the Security Requirements for Foreign Supplier.
<b>069</b>	Prior to entering into any Funded Engagement (FE) Contract(s), will there be opportunities for FE Contractors to engage in discussions with Canada regarding terms and conditions of the FE Contract, including those applicable to the scope and nature of the services?	The terms and conditions in the Funded Engagement (FE) Contract will reflect what is identified in PART 7 – Resulting Contract clauses of the Invitation to Qualify (ITQ). No discussions or changes will be made.
<b>070</b>	<b>Reference Annex G – Evaluation Criteria, Section 2.0, Table 1 – Mandatory Technical Evaluation Criteria M7</b> , states that one (1) example and the Reference/Service Capability Form are required.  Please confirm that vendors can use the example for the Reference/Service Capability form. Resulting in a total of one reference for M7.	Respondents are required to clarify and identify which Reference Service/Capability Information form apply to each specific mandatory technical evaluation criteria requirement, as applicable.
<b>071</b>	Please advise if vendors should include the signed Amendment cover sheets in Annex H with the Response Submission Form.	Annex H – Response Submission Form in the ITQ does not include provision to provide signed Amendment cover sheets.  Instead, please reference 2003 (2023-06-08) Standard Instructions - Goods or Services - Competitive Requirements located in PART 2 – Respondent Instructions, Section 2.1 – Standard Instructions, Clauses and Conditions of the Invitation to Qualify (ITQ). Canada requires that each bid, at solicitation closing date and time or upon request from the Contracting Authority, be signed by the Bidder (Respondent) or by an authorized representative.  Please reference the Standard Instructions for further details.

<b>072</b>	Due to the size of the video file required for M15, is it acceptable if vendors break the video file out into two separate files and submit as two separate CPC conversations (the files will be marked 1 of 2 and 2 of 2)?	The Connect system has a limit of 1GB per single message posted and a limit of 20GB per conversation.  A supplier can open / request 2 or more CPC Connect conversations. The conversations will need to be identified accordingly (1 of 2 and 2 of 2).
<b>073</b>	Section 3.1 states "The response must be gathered per section and separated as follows: Section I: Technical Response, Section II: Certifications, and Section III: Additional Information".  Are vendors to submit all three sections in one document or three separate documents that are zipped?	Zipped documents are acceptable.  Please reference ITQ Amendment No. 007, Question #64 for further information.

**B) At PART 3 – Response Preparation Instructions, Section III: Additional Information**

Delete:

**Annex B – Basis of Payment**

Respondents must submit with their proposals a fully completed copy of Annex B – Basis of Payment that reflects the composition of their Teams. Respondents must identify the Categories of Labour that will be used in the execution of the Work and their associated Hourly Labour Rates in Canadian funds. Qualified Suppliers that are issued a Funded Engagement Contract will be paid for future Work that is specified in authorized Task Authorizations in accordance with the Labour Categories and Hourly Labour Rates listed in Annex B.

Insert:

**Annex B – Basis of Payment**

Respondents interested to become a Qualified Supplier and provided the opportunity to participate in the Funded Engagement Contract phase must submit with their proposals a fully completed copy of Annex B – Basis of Payment that reflects the composition of their Teams. Respondents must identify the Categories of Labour that will be used in the execution of the Work and their associated Hourly Labour Rates in Canadian funds. Qualified Suppliers that are issued a Funded Engagement Contract will be paid for future Work that is specified in authorized Task Authorizations in accordance with the Labour Categories and Hourly Labour Rates listed in Annex B.

Respondents interested to become a Qualified Supplier ONLY, and NOT participate in the Funded Engagement Contract phase but still participate in the subsequent stages of the procurement process, are not required to submit a fully completed copy of Annex B – Basis of Payment.

**C) At PART 7- Resulting Contract Clauses, Section 7.1.2 – Task Authorization**

Delete: in its entirety;

Insert:

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**Task Authorization Process:**

**(a) As-and-when-requested Task Authorizations:** The Work or a portion of the Work to be performed under the Contract will be on an "as and when requested basis" using a Task Authorization (TA). The Work described in the TA must be in accordance with the scope of the FE Contract. The FE Contractor must not commence work until a validly issued TA has been issued by the Contracting Authority and received by the FE Contractor. The FE Contractor acknowledges that any work performed before such issuance and receipt will be done at the FE Contractor's own risk.

**(b) Allocation of Task Authorizations:** If there is only one Qualified Supplier resulting from the ITQ its proposal will be recommended for award of an FE contract. Upon such an award, that contract may be allocated 100% of the funding to be expended. If there is more than one Qualified Supplier resulting from the ITQ, each Qualified Supplier will be recommended for award of an FE contract. Upon award of multiple FE contracts, the anticipated funding to be expended will be divided equally between those contracts. If the expected funding to be expended increases, the increased funding will be divided equally between all Qualified Suppliers holding FE contracts. If one or more of the FE contracts is terminated, then Canada reserves the right to allocate 100% of the funding to the remaining FE Contractors. Task Authorizations issued under this series of contracts will be allocated in accordance with the following:

- I. At the time this series of FE contracts was awarded, each FE Contractor was allocated an equal amount of funding as specified in the Limitation of Expenditure based on the evaluation process described in the ITQ that resulted in the award of this series of FE contracts.
- II. When a TA is issued, the Procurement Authority will issue the same draft TA consisting of the same scope of work to each FE Contractor. This process will be repeated for each subsequent series of Task Authorizations issued by Canada.
- III. Each FE Contractor that is sent a draft TA will have the time set out further below under the sub-paragraph entitled "Contractor's Response to Draft Task Authorization" to respond to the Procurement Authority.
- IV. Should any FE Contractor to whom the draft TA was sent either fail to respond on time or confirm in writing that it refuses to accept the task, that FE Contractor will not be issued a TA for that scope of work. This does not prevent the FE Contractor from either receiving or being issued future TA work, in accordance with subparagraph 2 above.
- V. In the event that Canada determines the proposed resource(s) does/do not meet the minimum experience or other requirements of the categories identified in the draft TA, Canada will request that the FE Contractor propose another resource and the FE Contractor will have the time set out in the subparagraph "Contractor's Response to Draft Task Authorization" to respond. If the FE Contractor fails to respond on time or Canada determines that the proposed resource(s) does/do not meet the minimum experience or other requirements of the categories identified in the draft TA, that FE Contractor will not be issued a TA for that scope of work.
- VI. If the FE Contractor refuses a TA or fails to submit a valid response, the dollar value of the TA may be subtracted from the dollar value of the FE Contractor's FE Contract and may be re-allocated, at the Contracting Authority's sole discretion, in whole or in part, to the other FE Contractors.
- VII. The process of sending out a draft TA will continue until Canada either cancels the requirement for the task for that scope of work, or it has been issued to one or more of the FE Contractors. In the event that the entirety of the FE Contractors are unable or unwilling to respond to a TA requirement, Canada will first conduct further inquiries to determine the basis for the non-response from FE Contractors prior to taking

any further action. Such further action could include investigating whether third parties could take on the Work associated with the TA requirement.

- VIII. Any of the FE Contractors may advise the Procurement Authority and the Contracting Authority in writing that it is unable to carry out additional tasks as a result of previous commitments under one or more TAs issued under, and no draft TA will be sent to that FE Contractor until that FE Contractor has given notice in writing to the Procurement Authority and the Contracting Authority that it is again available to perform additional tasks.
- IX. If a Task Authorization quote from an FE Contractor would result in the FE Contractor exceeding the limit identified in PART 7, Section 7.1.2 paragraph (e) *Limitation of Expenditure – Cumulative Total of all Task Authorizations*, Canada will not issue that specific Task Authorization to the FE Contractor. Canada will offer Task Authorizations only to FE Contractor(s) who, if issued the TA, would not breach this limit. A copy of the Task Authorization(s) will be provided to the FE Contractor(s) who have reached, or will breach the Limitation of Expenditure – Cumulative Total of all Task Authorizations limit, for reference purposes only. Work performed by a Contractor that exceeds the Limitation of Expenditure will not be reimbursed by Canada and will be considered as an investment by the FE Contractor toward the success of the ITI in SP of C2 Project.

Canada may, in its sole discretion, choose to increase the Limitation of Expenditure – Cumulative Total of all Task Authorizations limit of the FE Contract(s) at any time during the contract Period

- X. Only Qualified Suppliers who hold the appropriate security requirement clearances will be issued an FE Contract. The process of distributing draft Task Authorizations (TA) for quotes and issuing TAs will begin immediately. Qualified Suppliers who do not hold the appropriate security requirement clearances will not be issued an FE Contract, and will not be permitted to receive and begin TA work until the required clearances are obtained. Once obtained, and an FE Contract is awarded, the affected Qualified Supplier(s) will be given the option to participate in previously issued TA's, however this is dependent upon the FE Contract being awarded within 6 months of TA number 1 (one) being issued to existing FE Contractors. Conversely, only future TA work that is not dependent on any previous TA will be offered

Quote's submitted by Qualified Supplier(s) who obtain the appropriate security requirement clearances after initial FE Contracts are awarded, and choose to participate in previously issued TA's, will be assessed against the average quoted TA price from when the TA was initially issued for the purposes of determining whether the quote is unreasonably high or low.

- XI **Unreasonably High and Low Quotes:** For each specific TA, upon receipt of all TA responses, Canada will determine an average quoted TA price by dividing the sum of all TA responses by the number of responses received. For the purposes of the FE Contracts, FE Contractors will be considered to offer an unreasonably **low** quote in response to a request for Task Authorization if the quote offered by the FE Contractor, that is otherwise compliant, is found to be more than 20% below the average quoted price, that price will be considered unreasonably low and excluded from the unreasonably high quote calculation. The average quoted price shall be recalculated with the exclusion of the unreasonably low price. FE Contractors who provide an unreasonably low quote for a TA (scope of work) will still be eligible to receive an individual TA.

Consider the following example where 5 responses were received:

Responses	Quoted Price
Response 1	\$50

Response 2	\$100
Response 3	\$105
Response 4	\$120
Response 5	<u>\$150</u>
TOTAL	\$525
Average Price (Total/ # of Responses Received)	\$525/5 = \$105

In order to calculate which quotes are more than 20% lower than the average quoted price, the following formula will be used:  $[(\text{Quoted Price} - \text{Average Price}) / \text{Average Price}]$

Therefore, the % difference between the quoted prices that are below the average price are calculated as follows:

**Response 1:**  $[(\$50 - \$105) / \$105] = -52\%$

Response 2:  $[(\$100 - \$103) / \$103] = -5\%$

Response 1 is considered an unreasonably **low** quote and will be removed to recalculate the average price for determining an unreasonably **high** quote.

Therefore, the average price would be recalculated to the following:  $[(\$100 + \$105 + \$120 + \$150) / 4] = \mathbf{\$118.75}$ .

For the purposes of this FE, FE Contractor's will be considered to offer an unreasonably **high** quote in response to a request for Task Authorization if the quote offered by the FE Contractor is more than 20% higher than the average quoted price. In the event that a FE Contractor submits an unreasonably high quote that is otherwise compliant, that FE Contractor will be offered a TA with a limitation of expenditure that is not greater than the unreasonably high quote benchmark of 20% above the average quoted price. As this will be considered the limitation of expenditure for the TA, FE Contractor's will not be reimbursed for any costs beyond this limit. FE Contractors will be permitted to continue performing work identified in the TA, however all costs incurred by the FE Contractor in excess of the limitation of expenditure will not be reimbursed by Canada as it will be considered an investment by the FE Contractor toward the success of the ITI in Sp of C2 requirement.

Continuing with the example above, an unreasonably **high** quote is one that is 20% higher than the average quoted price, which was recalculated above to be **\$118.75**. In order to calculate which quotes are more than 20% higher than the average quoted price, the following formula must be used:  $[(\text{Quoted Price} - \text{Average Price}) / \text{Average Price}]$ .

Therefore, the % difference between the quoted prices that are above the average price are calculated as follows:

Response 4:  $[(\$120 - \$118.75) / \$118.75] = 3\%$

**Response 5:**  $[(\$150 - \$118.75) / \$118.75] = 26\%$

The quoted price from Response 5 is 26% higher, therefore the FE Contractor will be reimbursed at a price that is equal to the average price of \$118.75 plus 20%, which is \$142.50 ( $\$118.75 \times 1.20$ ). Therefore, the difference of \$7.50 is in excess of the limitation of expenditure and will not be reimbursed by Canada as it is considered an investment by the FE Contractor.

FE Contractor's may be told about the scope of each TA to be issued in advance of the first TA being approved or soon afterward.

Canada reserves the right to increase the limitation of expenditure of the FE Contract(s) at any time during the contract period.

### **(c) Task Authorization Limit**

The Procurement Authority may authorize individual task authorizations up to a limit of \$250,000.00 CAD Applicable Taxes included, inclusive of any revisions.

Any task authorization to be issued in excess of that limit must be authorized by the Procurement Authority and Contracting Authority before issuance.

### **(d) Minimum Work Guarantee – All the Work – Task Authorizations**

In this clause,

"Maximum Contract Value" means the amount specified in the "Limitation of Expenditure" clause set out in the Contract; and

"Minimum Contract Value" means 10%

Canada's obligation under the Contract is to request Work in the amount of the Minimum Contract Value or, at Canada's option, to pay the Contractor at the end of the Contract in accordance with paragraph 3. In consideration of such obligation, the Contractor agrees to stand in readiness throughout the Contract period to perform the Work described in the Contract. Canada's maximum liability for work performed under the Contract must not exceed the Maximum Contract Value, unless an increase is authorized in writing by the Contracting Authority.

In the event that Canada does not request work in the amount of the Minimum Contract Value during the period of the Contract, Canada must pay the Contractor the difference between the Minimum Contract Value and the total cost of the Work requested.

Canada will have no obligation to the Contractor under this clause if Canada terminates the Contract in whole or in part for default.

### **(e) Limitation of Expenditure – Cumulative Total of all Task Authorizations**

1. Canada's total liability to the Contractor under the FE Contract for all authorized TAs, inclusive of any revisions, must not exceed the sum of **\$ TBD at Contract Award** \_\_\_\_\_. Customs duties are included and Applicable Taxes are extra.
2. No increase in the total liability of Canada will be authorized or paid to the FE Contractor unless an increase has been approved, in writing, by the Contracting Authority.
3. The FE Contractor must notify the Contracting Authority in writing as to the adequacy of this sum:
  - (a) when it is 75 percent committed, or
  - (b) four (4) months before the contract expiry date, or
  - (c) as soon as the FE Contractor considers that the sum is inadequate for the completion of the Work required in all authorized TAs, inclusive of any revisions, whichever comes first.

4. If the notification is for inadequate contract funds, the FE Contractor must provide to the Contracting Authority, a written estimate for the additional funds required. Provision of such information by the FE Contractor does not increase Canada's liability.

**(f) Form and Content of Draft Task Authorization:**

- I. The Procurement Authority will provide the FE Contractor with a description of the task in a draft format using the "Task Authorization Form" specified in Annex E.
- II. The draft TA will contain the details of the activities to be performed, a description of the deliverables and a schedule indicating completion dates for the major activities or submission dates for the deliverables. The draft TA will also include the applicable basis (bases) and method (methods) of payment as specified in the FE Contract.
- III. A draft Task Authorization must also contain the following information, if applicable:
  - a) the contract number;
  - b) the task number;
  - c) The date by which the FE Contractor's response must be received (which will appear in the draft Task Authorization, but not the issued Task Authorization);
  - d) the categories of resources and the number required;
  - e) a description of the work for the task outlining the activities to be performed and identifying any deliverables (such as reports);
  - f) the start and completion dates;
  - g) any option(s) to extend initial end date (if applicable);
  - h) milestone dates for deliverables and payments (if applicable);
  - i) the number of person-hours of effort required;
  - j) whether the work requires on-site activities and the location;
  - k) the language profile of the resources required;
  - l) the level of security clearance required of resources;
  - m) the price payable to the FE Contractor for performing the task, with an indication of whether it is a firm price or a maximum TA price (and, for maximum price task authorizations, the TA must indicate how the final amount payable will be determined; where the TA does not indicate how the final amount payable will be determined, the amount payable is the amount, up to the maximum, that the FE Contractor demonstrates was actually worked on the project, by submitting time sheets filled in at the time of the work by the individual resources to support the charges);
  - n) the method of Payment requested;
  - o) the PSPC file number and contract serial number, as shown on page 1 of this contract; and,
  - p) any other constraints that might affect the completion of the task.

**(g) FE Contractor's Response to Draft Task Authorization:**

The FE Contractor must provide to the Procurement Authority, within ten (10) working days of receiving the draft Task Authorization, a quotation with the proposed total price for performing the task and a breakdown of that cost, established in accordance with Annex B - Basis of Payment specified in the Contract, as well as its corresponding proposed resource(s). The FE Contractor's quotation must be based on the rates set out in the Contract. The FE Contractor will not be paid for preparing or providing its response or for providing other information required to prepare and validly issue the TA.

**(h) Task Authorization Limit and Authorities for Validly Issuing Task Authorizations:**

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To be validly issued, a TA must include the following signatures:

- i. for any TA with a value, the TA must be signed by:
  - A. the Procurement Authority; and
  - B. the FE Contractor; and
  - C. the Contracting Authority.

Any TA that does not bear the appropriate signatures is not validly issued by Canada. Any work performed by the FE Contractor without receiving a validly issued TA is done at the FE Contractor's own risk. If the FE Contractor receives a TA that is not appropriately signed, the FE Contractor must notify the Contracting Authority.

**(i) Administration of Task Authorization Process for DND:**

The administration of the Task Authorization process will be carried out by DES Proc 6.

**(j) Pre-Cleared Resources:**

The FE Contractor must:

- i. ensure that the list of resources for work under this Contract or acceptable alternatives remain available in appropriate quantities for work under the Task Authorizations to be issued in accordance with this FE Contract, and must also ensure that these individuals maintain any professional qualifications and security levels associated with the corresponding resource categories of the ITQ response for which they are available; and
- ii. avoid delays associated with the Contract's security requirements by initiating the assessment and security clearance of additional resources by Canada within fifteen (15) business days of Contract award and on an ongoing basis during the Contract Period, in the quantities specified for each resource category stated in Annex B – Basis of Payment. Each such resource must meet the minimum qualifications applicable to the resource category for which they are available, as well as the security requirements identified in the Contract. If accepted by Canada, the FE Contract will be amended to list each such resource by name.

There is no limit to the number of resources that the FE Contractor may submit for consideration and assessment on an ongoing basis; however, the submission of alternatives does not relieve the FE Contractor from its obligation to provide, for a given task, specific individuals to be provided to Canada in a validly issued TA or elsewhere as required by the terms of this FE Contract.

**(k) Consolidation of TAs for Administrative Purposes:** The Contract may be amended from time to time to reflect all validly issued Task Authorizations to date, to document the Work performed under those TAs for administrative purposes.

**7.1.2.1 Periodic Usage Reports - Contracts with Task Authorizations**

The FE Contractor must compile and maintain records on its provision of services to the federal government under authorized Task Authorizations issued under the Contract.

The FE Contractor must provide this data in accordance with the reporting requirements detailed below. If some data is not available, the reason must be indicated. If services are not provided during a given period, the FE Contractor must still provide a "nil" report.

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The data must be submitted on a quarterly basis to the Contracting Authority.

The quarterly periods are defined as follows:

- 1st quarter: April 1 to June 30;
- 2nd quarter: July 1 to September 30;
- 3rd quarter: October 1 to December 31; and
- 4th quarter: January 1 to March 31.

The data must be submitted to the Contracting Authority no later than 10 calendar days after the end of the reporting period.

#### **Reporting Requirement – Details**

A detailed and current record of all authorized tasks must be kept for each contract with a task authorization process. This record must contain:

##### **For each authorized task:**

- i. the authorized task number or task revision number(s);
- ii. a title or a brief description of each authorized task;
- iii. the total estimated cost specified in the authorized TA of each task, exclusive of Applicable Taxes;
- iv. the total amount, exclusive of Applicable Taxes, expended to date against each authorized task;
- v. the start and completion date for each authorized task; and
- vi. the active status of each authorized task, as applicable.

##### **For all authorized tasks:**

- i. the amount (exclusive of Applicable Taxes) specified in the FE contract (as last amended, as applicable) as Canada's total liability to the FE Contractor for all authorized TAs; and
- ii. the total amount, exclusive of Applicable Taxes, expended to date against all authorized TAs.

#### **D) At PART 7 – Resulting Contract Clauses, Section 7.4 – Non-Disclosure Requirement**

Delete in its entirety;

Insert:

The FE Contractor acknowledges and understands the FE Contract contains information that is sensitive and must be held in confidence without disclosure, except to those individuals who have a need-to-know solely for the purpose of performing the FE Contract. By accepting the FE Contract, the FE Contractor certifies that it will not communicate in any way the existence of this FE Contract, any of its contents or any related information to anyone, internal or external to the Government of Canada, other than the designated Government of Canada Contracting, Technical or Procurement Authority representatives, its employees who need-to-know, or persons who have agreed in writing to be bound by the same restrictions of use and disclosure as stated in this FE Contract and who are also in possession of any required Canadian and Industrial Security Directorate (CISD) security clearance or any required Controlled Goods Program registration. The FE Contractor further certifies that it has put in place and will maintain all necessary and appropriate measures, including those set out in any written or oral instructions issued by Canada, to protect such information. A breach of this non-disclosure requirement is a default under the General Conditions. Such breach may also be subject to action pursuant to Canada's *Vendor Performance Corrective Measures Policy*, the *Code of Conduct for Procurement*, or other applicable policies.

Solicitation No. - N° de l'invitation  
W8474-18IT01/C (ITQ)  
Client Ref. No. - N° de réf. du client  
W8474-18IT01

Amd. No. - N° de la modif.  
007  
File No. - N° du dossier  
W8474-18IT01

Buyer ID - Id de l'acheteur  
061QE  
CCC No./N° CCC - FMS No./N° VME

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In addition to the above, the FE Contractor has or will execute and enforce the Non-Disclosure Agreements which are specified in Annex D – Non-Disclosure Agreement.

**E) At Annex D – Corporate Non-Disclosure Agreement for Participation in Solicitation Process**

Delete in its entirety;

Insert: See attached below

**F) At Table of Contents - Annex D – Corporate Non-Disclosure Agreement for Participation in Solicitation Process**

Delete:

Annex D – Corporate Non-Disclosure Agreement for Participation in Solicitation Process

Insert:

Annex D – Corporate Non-Disclosure Agreement for Participation in Invitation to Qualify and Funded Engagement Process.

**G) This amendment is being raised to extend the Invitation to Qualify (ITQ) closing date**

**REFER: Solicitation Closing Date on Page 1 of the ITQ**

**DELETE: in its entirety;**

**INSERT: Solicitation Closes at 2:00PM EDT on 2024-03-12**

\*\*\*\*\*

**ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED**

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**ANNEX D**

**CORPORATE**

**NON-DISCLOSURE AGREEMENT FOR PARTICIPATION IN INVITATION TO QUALIFY AND FUNDED ENGAGEMENT PROCESS**

**PWGSC FILE # W8474-18IT01/C – ITI in Sp of C2**

**(To be signed by the commercial entities)**

By participating in the Invitation to Qualify (ITQ), the Funded Engagement process, or both, and in consideration of the opportunity to participate in defining Canada's ITI in SP of C2 requirement, for being given access to information that is confidential, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Participant agrees to the terms of the following non-disclosure agreement (the "Non-Disclosure Agreement"):

- a) The Participant acknowledges that Canada's security measures and many other aspects of the ITI in SP of C2 Project are treated as confidential by Canada.
- b) During the ITQ and Funded Engagement process, Canada may disclose Sensitive Information or Controlled Information, to the Participant for the sole and exclusive purpose of enabling the Participant to participate in the ITI in Sp of C2 Project (the "Purpose").

**1. Sensitive Information**

- a) For the purpose of this Non-Disclosure Agreement "Sensitive Information" means any documents, instructions, guidelines, data, material, advice or any other information, other than Controlled Information (as defined below), relating to or regarding the ITI in SP of C2 Project whether received orally, in printed form or otherwise that is identified by Canada as classified, protected, proprietary or sensitive either verbally in the case of oral communications or in writing in all other cases. Sensitive Information does not include any information that:
  - i) was already known to the Participant before receiving it from Canada;
  - ii) becomes rightfully known to the Participant from a third party not under any confidentiality obligation to Canada;
  - iii) is or becomes publicly available through no fault of or failure to act by the Participant that would be a breach of this Non-Disclosure Agreement; or
  - iv) is required to be disclosed by law or regulation, including for a judicial proceeding.
- b) Subject to the terms of this Non-Disclosure Agreement, the Participant shall keep confidential the Sensitive Information provided to the Participant by or on behalf of Canada in connection with the ITI in SP of C2 Project, including but not limited to the ITQ and Funded Engagement process.
- c) Any disclosure of Sensitive Information shall be on a "need to know" basis solely to Participant's employees, provided the employees have agreed in writing to keep all Sensitive Information confidential on terms and conditions no less stringent than those contained herein.
- d) Participant agrees not to disclose, nor permit the disclosure of any Sensitive Information to third parties, including subcontractors or affiliates, or use nor permit the use of, directly or indirectly, the

Sensitive Information, except to the extent required in order analyze possible potential designs or solutions as part of the ITQ or Funded Engagement process, provided the Participant has obtained Canada's prior written consent to the disclosure and provided those third parties have the requisite security clearances and have agreed to keep the information confidential on terms and conditions no less stringent than those contained herein. The Participant additionally agrees to promptly (without undue delay) provide to Canada, upon request, a list of these third parties and details regarding the Sensitive Information disclosed.

- e) All Sensitive Information will remain the property of Canada. If requested by Canada, or upon the completion or termination of the Purpose, or any point of the ITI in Sp of C2 Project with respect thereto, the Participant must return or destroy, at the option of the Canada, the Sensitive Information together with every copy, draft, working paper and note that contains such information within 30 calendar days. If requested by Canada, the Participant must confirm that the information has been destroyed.
- f) Participant shall not make or permit any public disclosure or release whatsoever of the Purpose or the Sensitive Information, in whole or in part.
- g) Participant shall not alter, remove or obstruct any confidentiality or other notices provided on or in the Sensitive Information, and shall reproduce, in full, all such notices and markings in or on any copies, extracts or other documentation which may contain any Sensitive Information.

## 2. Controlled Information

- a) Controlled Information means: (i) any information or materials that are a controlled good as defined in the Schedule (Controlled Goods List) of the *Defence Production Act*; or (ii) any information that is subject to Canada's Industrial or Contract Security Program, including PROTECTED/CLASSIFIED information or materials; or (iii) information or materials that are both a controlled good as defined in the *Defence Production Act* and subject to Canada's Industrial or Contract Security Program. Canada will identify Controlled Information at time of disclosure.
- b) Participant acknowledges and agrees that any and all use of Controlled Information, including without limitation, all access, copying, distribution, disclosure, transmission, retransmission, export, re-export, transfer, re-transfer, storage and destruction (or prohibitions on destruction) of Controlled Information, shall be on a "need to know" basis solely and exclusively for the Purpose and shall be subject to and in compliance with, as applicable: (i) the *Controlled Goods Regulations* and the requirements of the Controlled Goods Program (including registration, compliance, or exemption); and (ii) Canada's Industrial or Contract Security Program including any Security Agreement or other requirements of such Program(s), including those Security Requirements as set forth in Annex D (as applicable) to this Non-Disclosure Agreement. Nothing contained in this Non-Disclosure Agreement limits or otherwise derogates from Participant's obligations under either of the foregoing Programs.
- c) Participant acknowledges that: (i) Canada may disclose Controlled Information during the ITI in Sp of C2 Project to the Participant, to the extent that the Participant is authorized to receive such Controlled Information; and (ii) Participant may not be authorized to receive all Controlled Information otherwise made available by Canada during the ITI in Sp of C2 Project. Participant remains solely responsible for maintaining all requisite authorizations and permissions at all times. Without limiting the foregoing, Participant shall return or destroy (at Canada's sole and exclusive direction) any Controlled Information. Participant acknowledges that such direction may be provided by Canada in its sole and exclusive discretion, whether or not the ITQ and Funded Engagement process has been completed or terminated or Participant has completed the Purpose.

### 3. General

- a) Participant agrees that a breach of this Non-Disclosure Agreement may result in disqualification of the Participant from any future related procurement at any time, or immediate termination of any resulting contract. The Participant also acknowledges that a breach of this Non-Disclosure Agreement may result in a review of the Participant's security clearance and/or a review of the Participant's status as an eligible bidder for other requirements.
- b) The Participant further acknowledges and agrees that Canada may be irreparably harmed if the Participant breaches its confidentiality obligations under this Non-Disclosure Agreement and that such harm may not be compensated reasonably or adequately in damages. Canada is entitled to take such actions as it deems necessary to enforce this Non-Disclosure Agreement including injunctive and any other equitable remedy that it may wish to pursue.
- c) This Non-Disclosure Agreement remains in force indefinitely and, unless superseded or replaced in writing by Canada, applies to all Sensitive Information and Controlled Information disclosed at any point in the ITI in SP of C2 ITQ phase or Funded Engagement process. If the Participant wishes to be discharged from its obligations with respect to any records that include Sensitive Information, the Participant may return all the records to an appropriate representative of Canada together with a reference to this Non-Disclosure Agreement. In that case, all Sensitive Information known to the Participant and its personnel (i.e., Sensitive Information that is known, but not committed to writing) would remain subject to this Non-Disclosure Agreement, but there would be no further obligations with respect to the secure storage of the records containing that Sensitive Information (unless the Participant created new records containing the Sensitive Information). Canada may require that the Participant provide written confirmation that all hard and soft copies of records that include Sensitive Information have been returned to Canada.
- d) This Non-disclosure Agreement constitutes the entire agreement between the Participant and Canada pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Participant and Canada pertaining to the subject matter.
- e) If any provision of this Non-Disclosure Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, such provision will be deemed deleted from this Non-Disclosure Agreement and replaced by a valid and enforceable provision which so far as possible achieves the intent in agreeing to the original provision. The remaining provisions of this Non-Disclosure Agreement will continue in full force and effect.
- f) A failure to insist upon strict compliance with any of the terms of this Non-Disclosure Agreement in any instance must not be construed as a waiver of such terms in the future.
- g) This Non-Disclosure Agreement is governed by the laws in force in the Province of Ontario, including the federal laws applicable therein without regard to any choice of law rules. The courts of the Province of Ontario will have exclusive jurisdiction over all matters arising in relation to this Non-Disclosure Agreement and the Participant hereby Submits to the jurisdiction of the courts of the province of Ontario.

**Executed this \_\_\_ day of \_\_\_ [insert year] by**

**[Supplier-Commercial Entity, please insert legal name here], by its Authorized Signatory**

**Signature:**

**Title:**

**Print Name:**