

GUIDE

ON INFORMATICS TECHNOLOGY SERVICES CONTRACTS

OF THE

INFORMATION MANAGEMENT AND TECHNOLOGY BUREAU

Business Management Division
Foreign Affairs and
International Trade

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TABLE OF CONTENTS

1.	Introduction	Page 2
	1.1 Where do I send my IM/IT request?	Page 2
	1.2 What are my responsibilities as a client?	Page 2
	1.3 How long does it take to issue the contract?	Page 3
	1.4 Who can help me?	Page 3
2.	Service Contracting Features	Page 3
	2.1 Bidders' Conference	Page 3
	2.2 Period of Service	Page 4
	2.3 Description of Service Requirements	Page 4
	2.4 Close Co-operation	Page 4
3.	Sourcing/Solicitation	Page 4
	3.1 Competitive Contract	Page 5
	3.2 Non-Competitive Contract	Page 7
4.	Service Contracting Process	Page 9
	4.1 Requirement Definition	Page 9
	4.2 Procurement Planning	Page 11
	4.3 Bid Solicitation	Page 11
	4.4 Bid Evaluation and Contractor Selection	Page 12
	4.5 Contract Negotiation and Award	Page 12
	4.6 Contract Administration	Page 13
5.	Employer-Employee Relationship	Page 14
6.	Payment	Page 16
	6.1 Basis of Payment	Page 16
	6.1.1 Fixed Time Rate	Page 16
	6.1.2 Firm Price	Page 17
	6.2 Method of Payment	Page 20
	6.2.1 Single/Lump Sum Payments Contracts	Page 20
	6.2.2 Progress Payment Contracts	Page 20
	6.2.3 Per Diem Rates Contracts	Page 22
	6.3 Holdback Amounts	Page 23
	6.4 Penalty Payments	Page 23
7.	Federal Contractors Program (FCP) For Employment Equity	Page 23
8.	Legal Requirements	Page 23
9.	International and National Agreements	Page 24
	9.1 International Trade Agreements	Page 24
	9.1.1 North American Free Trade Agreement (NAFTA)	Page 24
	9.1.2 World Trade Organization-Agreement on Government Procurement (WTO-AGP)	Page 26
	9.2 National Agreements	Page 26
	9.2.1 Comprehensive Land Claims Agreements (CLCAs)	Page 26

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9.2.2	Set-Aside Program for Aboriginal Business	Page 28
9.2.3	Agreement on Internal Trade (AIT)	Page 28
10.	Canadian International Trade Tribunal (CITT)	Page 29
11.	Contracts for the Services of Former Public Servants in Receipt of Pension (CSFPS), an Early Retirement Incentive (ERI) or Early Departure Incentive (EDI)	Page 30
12.	Retroactivity	Page 31
13.	Contract Splitting	Page 32
	Glossary	Page 33
	Appendix "A" Sample Statement of Work	Page 42
	Appendix "B" Sample Statement of Work	Page 45
	Appendix "C" Sample Statement of Work	Page 48
	Appendix "D" Bibliography	Page 56

OUR MISSION

is to deliver valued procurement services that enable our clients both at Headquarters and Missions to achieve their objectives.

We strive for excellence by understanding our clients' needs and by responding with solutions that are both creative and flexible.

Our clients are colleagues in the Department. Together, we achieve value for money, preserve fairness and integrity of government administration and support our departmental objectives.

We are sensitive to our public and are committed to the highest standards of public service including accessibility, responsiveness and fairness.

We are a team, working together with mutual respect and cooperation. We communicate openly, encourage personal and professional development and recognize achievements.

Our challenge is to forge lasting relationships with our clients, where we judge our success by their success. Our purpose is to serve the client while ensuring integrity in the procurement process.

1. INTRODUCTION

This guide is designed to give you an overview of some of the key things you need to know about the service contracting process, policies and procedures. It was designed to serve both the Users and the Contracting Officers within DFAIT.

Among others, one of the mandates of the Business Management Division (SXM), is to provide Informatics Technology Procurement for both goods and services.

SXMP contracts for IM/IT services such as facilities management, software licenses, software maintenance, professional services, etc. It also provides functional guidance for their clients throughout the department.

Any comments and or questions concerning this guide are welcome. Please direct them to Michel Sicard (SXM) at 996-8758.

Listed below are general administrative tips which will help our departmental clients:

1.1 Where do I send my IM/IT request?

All IM/IT service requirements should be forwarded to SXMP for contract award, via memorandum, E-Mail, etc.

1.2 What are my responsibilities as a client?

As a departmental client, you should provide SXMP with details of your requirements. Some of those details are but not limited to:

i) Identify the type of service you are buying, i.e. a software license, software maintenance, professional services, facility management, etc.;

ii) Provide period of contract when contracting for a software maintenance, professional services, facility management contract. The beginning and end dates must be provided;

iii) Provide the estimated dollar value for the services sought and the financial coding (including project number if applicable);

iv) Identify the terms of payment, i.e. per diem rates, milestone payments, lump sum payment, etc.;

v) For professional services, prepare a detailed statement of work defining the requirement, tasks and deliverables, etc.

This may also be required for certain facility management contracts. See sub-section 4.1 and Appendices A to C of the guide;

vi) If your requirement is to be competed, SXMP will provide you with the necessary documentation and guidance during the process;

vii) SXMP will prepare the contract document, or send it to PWGSC for contract award if necessary.

1.3 How long does it take to issue the contract?

If your requirement is below the \$25,000 threshold or the services sought are available through a standing offer, then the contract should be awarded to the vendor within 2-3 weeks. However, if the requirement has to be competed and an in-house process is used, then it should take 4-5 weeks (6-8 weeks if processed by PWGSC). There could be delays depending on the complexity of the requirement or how well defined it is.

1.4 Who can help me?

Any contracting authority in SXMP will be pleased to assist you to meet your requirement in the most effective and efficient manner.

2. SERVICE CONTRACTING FEATURES

A contract for services is a contractual arrangement with an individual or a firm, for the provision of a service. It covers the performance of a service provided by the contractor. Neither the contractor nor any of its employees is engaged as an employee or agent of the Crown.

A contract for services may sometimes be more complicated and difficult than a contract for goods, both to describe and to perform. As the contract progresses, services may change to reflect changing requirements. Services may sometimes involve more risk and responsibility for the client and contractor alike.

Some contracting features of services contracts:

2.1 Bidders' Conference

-a bidders' conference may be used during service contracting to provide suppliers with more complete descriptions of requirements or to provide clarifications.

2.2 Period of Service

-a period of service or performance, with milestones for deliveries or stages of progress instead of a delivery date, is often included in a service contract.

2.3 Description of Service Requirements

-description of service requirements may be broad and less precise than for goods, allowing for innovation and flexibility but still requiring precise performance and results. This will be discussed later in this guide in greater detail.

2.4 Close Co-operation

-close co-operation is often required between the client, SXMP and the supplier.

3. SOURCING/SOLICITATION

Whether it be for goods and/or services there are different methods to solicit from vendors for the supply of goods and/or services.

There are a number of factors that will determine whether the requirement should be competed or not. Government and Departmental policies and International Agreements etc, will have a great influence on this decision.

Based on the estimated value of the requirement, and the type of commodity, the contracting authority can determine if the requirement must be competed or not. There are also a number of exceptions in government policies and trade agreements that would exclude certain requirements from competition.

These methods include but are not limited to:

- Telephone bids;
- ACAN (Advanced Contract Award Notice for sole source);
- Request for Quotation (RFQ);
- Request for Proposals (RFP);
- Electronic Bidding Authority - MERX (formely known as the Open Bidding System OBS);
- etc.

3.1 Competitive Contract

A competitive contract is one for which the process used for the solicitation of bids enhances access, competition and fairness and assures that a reasonable and representative number of suppliers are given an opportunity to bid.

The process can be as simple as obtaining faxed or telephone bids for service requirements that do not exceed the **\$25,000.00 threshold including GST** as prescribed by Treasury Board. Requirements under that value are often referred to as low dollar value.

Unlike Supply Arrangements, one cannot solicit bids against Standing Offers as they are non-negotiable agreements. It is important to note that Supply Arrangements are for the purchase of services only not goods.

There is a Departmental Security Policy excluding IT Service Requirements from NAFTA for National Security reasons. Such policy would also exclude requirements under the World Trade Organization Agreement (WTO). As a result, **service requirements over \$25,000.00 but not exceeding \$400,000.00 including GST must be competed.**

In cases of Professional Services such as consultants (Computer Engineers, Computer Programmers, Computer Analysts, LAN Support consultants, etc.), an in-house Request for Proposal (RFP) is prepared by SXMP and the client then sent to the suppliers. For Software Licenses and/or Software Maintenance Service contracts, the normal process to procure such a service is sent to PWGSC due to its special terms and conditions applicable thereto which are generally negotiated by contracting personnel who specialize in that type of service at PWGSC. The only way that you can procure such a service without having to go to PWGSC is; when the requirement is available on a Standing Offer or a Supply Arrangement and that the dollar value is within the prescribed authority delegated and that the dollar limit established in the Standing Offer and/or Supply Arrangement per call-up is also respected.

Over and above the fax and telephone call for bids, there are three methods described below that can be used to solicit the interest of vendors to fulfill a requirement if needed.

a) Request for Information (RFI):

An RFI may be sent to vendors to obtain information pertaining to a requirement to help them formulate the actual RFP discussed below. It's an information gathering process for

future use.

b) Request for Proposal (RFP):

RFPs are often used for the selection of a successful bidder(s) to fulfill a service. SXM has a clone RFP which was developed some years ago and is frequently used for service requirements which are excluded from the Trade Agreements. The total requirement at the time of RFP issue including any options to extend the contract at a later date must not exceed the \$400,000.00 threshold including GST.

It is a bid solicitation document used primarily when the estimated value of the requirement exceeds \$25,000.00 including GST; two or more sources are considered capable of supplying the requirement; the requirement is adequately defined in all respects to permit the evaluation of tenders against clearly stated criteria (Evaluation Methodology properly defined).

It is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement.

Depending on the complexity of the requirement, it is a good idea to invite suppliers to propose a solution problem when submitting their bids.

The evaluation criteria in the RFP document must be clearly developed with both mandatory and desirable requirements. Any supplier failing a mandatory requirement would automatically be disqualified from the bidding process. Secondly, as a general rule, the supplier must achieve a minimum passing mark of 70% after meeting all stated mandatories. In addition, the successful bidder(s) is selected based on Best Value to the CROWN for services, known as Lowest Cost Per Point (LCPP).

c) Request for Quotation (RFQ):

An RFQ is not technically an offer to supply (it is an "invitation to treat") and cannot form a contract merely by acceptance. To form a contract, you must issue an official contract with all terms and conditions.

Once a tendering method has been selected, the operational manager and the contracting authority will jointly prepare the tendering document which will include but not limited to:

- Statement of Work (SOW) or Statement of Requirement;
- Specifications or reference to standards if required;

- Standard contracting clauses that will be included in the contract;
- Evaluation criteria for evaluation of submissions;
- A tender number;
- Bid closing time and date;
- etc.

Note that the Crown is not obliged to enter in any contracts with vendors as a result of an RFI, RFP, or RFQ. The benefit realized from RFIs and RFQs is they could be used for future reference to establish source lists and stored in a data base.

3.2 Non-Competitive Contract

Section 6 of the Government Contracts Regulations contains five exceptions that permit the contracting authority to set aside the requirement to solicit bids. These are:

- 1) the need is one of pressing emergency in which delay would be injurious to the public interest;
- 2) the estimated expenditure does not exceed
 - \$25,000,
 - \$100,000, where the contract is for the acquisition of architectural, engineering and other services required in respect of the planning, design, preparation or supervision of the construction, repair, renovation or restoration of a work,

or

 - \$100,000 where the contract is to be entered into by the member of the Queen's Privy Council for Canada responsible for the Canadian International Development Agency and is for the acquisition of architectural, engineering or other services required in respect of the planning, design, preparation or supervision of an international development assistance program or project;
- 3) -the nature of the work is such that it would not be in the public interest to solicit bids;
- 4) -only one person or firm is capable of performing the contract;

or

5) for certain printing and related services when the subsequent contract is with the new owner of the Canada Communication Group.

In exception

1), a pressing emergency is a situation where delay in taking action would be injurious to the public interest. Emergencies are normally unavoidable and require immediate action which would preclude the solicitation of formal bids. An emergency may be an actual or imminent life-threatening situation, a disaster which endangers the quality of life or has resulted in the loss of life, or one that may result in significant loss or damage to Crown property.

Exception

2), sets specific dollar limits below which a contracting authority may set aside the competitive process. However, contracting authorities are expected to call for bids whenever it is cost effective to do so. When the proposed contract is estimated to exceed the dollar limits, the contracting authority is to call for bids.

Exception

3), should normally be reserved for dealing with security considerations or to alleviate some significant socio-economic disparity. For example, the preservation of a certain source of supply may be necessary to ensure that future needs of government can be met. This exception should be invoked only with the approval of senior management as delegated by the contracting authority (the minister).

Exception

4), sets competitive bidding aside when only one person or firm can do the job. This exception is quite definitive and should be invoked only where patent or copyright requirements, or technical compatibility factors and technological expertise suggest that only one contractor exists. This exception should not be invoked simply because a proposed contractor is the only one known to management.

Any use of the five exceptions to the bidding requirement should be fully justified on the contract file or, where

applicable, in submission to the Treasury Board.

Should the contracting authority have to seek the Treasury Board's approval to award such a contract, it should be noted that the Treasury Board cannot approve a directed contract which does not meet at least one of the four exceptions. In such cases, an exception to the Regulations by means of an Order in Council would be required.

4. SERVICE CONTRACTING PROCESS

Government contracting involves a step-by-step process, a series of stages and checkpoints, with clearances at various levels of authority, depending on the value of the requirement. The Contracting Process can be structured into six major areas of activity, as follows:

1. Requirement Definition
2. Procurement Planning
3. Bid Solicitation
4. Bid Evaluation and Supplier Selection
5. Contract Negotiation and Award
6. Contract Administration

The Contracting Process from Requirement Definition to Contract Negotiation and Award should normally not exceed 2-3 weeks (4-6 weeks if processed by PWGSC) for sole source or directed contracts, and 4-5 weeks (6-8 weeks if processed by PWGSC) for competitive requirements. This process can of course be expected in the case of low dollar value or urgent requirements.

4.1 Requirement Definition

The requirement definition function is the exclusive responsibility of the client. The Contracting Officer will however, if necessary, propose changes to ensure a clear and concise requirement definition is provided to bidders. The requirement definition should cover as a minimum the following:

- Background Information (Program Description and Objectives);
- Statement of Work (tasks to be performed, deliverables i.e. software, hardware, etc., delivery schedule);

- Security Requirements;
- Funding;
- Government Furnished Equipment, etc.

A statement of work may include, but is not necessarily confined to the following elements;

- a background statement outlining the situation leading to the requirement;
- the objective describing what is to be achieved;
- the scope - a description of the range, extent and bounds of the work;
- the tasks to be performed - this may include a detailed description of what is to be accomplished, the methodology to be used, the sequence of the work, duration of the project, the manner in which documents must be presented, etc.
- details of any constraints imposed, such as government policies and standards, current and proposed related activities, security, sensitivity to other interest, protection of the environment, conservation of resources and other relevant restrictions;
- details of available client support (information, equipment, tools, facilities, etc.) and client responsibilities;
- availability of relevant existing documents such as reports from previous studies;
- the format for document presentation;
- a time schedule for the completion of each stage of the work shall be performed;
- financial limitations of the project budget within which the work shall be performed;
- details of the control procedures to be applied by the client agency during the performance of the work including progress meetings, acceptance meetings, demonstration, etc.;
- where applicable, information regarding necessary travel that may be required by the selected contractor in order

to perform the work;

- approval and acceptance requirements relating to the conduct of each stage of the work as a whole;

- a statement outlining any project cost shared arrangement between a proposed contractor and the client;

- ownership of intellectual property and related special considerations; and,

- other considerations such as bidder's conference, security levels, pre-award visit of supplier facilities, quality control standards, etc.

4.2 Procurement Planning

In order to substantially reduce the procurement timeframe, it is critical that SXM be contacted as early as possible in the Contracting Process. We should normally be informed of upcoming requirements as soon as the requirement's definition is first established and there is reasonable assurance that the requirement will be contracted out.

By contacting the Contracting Officer early in the Contracting Process, time savings are realized in the formulation of an acceptable requirement definition, in resolving differences in supporting sole source requirements, in obtaining internal advance approval of procurement plans, in drafting Request for Proposal (RFP) document, in developing evaluation criteria and in deciding on contractor selection methods and the terms and conditions applicable to the procurement.

The time lag between the requirement definition and the approval of the requisition can sometimes be considerable. It is therefore critical that SXM be contacted early to ensure an efficient use of the time to carry out some of the planning activities.

Reasonable timelines for the Contracting Process are established in consultation with the Client.

4.3 Bid Solicitation

During the bid solicitation phase, the Contracting Officer will consult the client to develop and finalize the proposed proposal evaluation criteria and to determine the most appropriate contractor selection method to be included in the Request for Proposal (RFP) document.

All evaluation criteria must be clearly identified so that bidders know what information and documentation to provide in their proposals. Evaluation criteria should not unnecessarily restrict bidding opportunities which could result in a no bid situation and consequently wasting time by having to recall bids with less restrictive evaluation criteria.

It is important to remember that once a selection method is identified in the solicitation document, this method must be followed.

4.4 Bid Evaluation and Contractor Selection

A proposal rating guide must be developed by the Proposal Evaluation team, prior to bid closing or soon thereafter, for the evaluation of the proposals.

Copies of the technical and management proposal received (excluding the price proposal) are then sent to the client for evaluation. The price proposal is excluded to avoid any bias in evaluation of the technical proposals. The client's knowledge of pricing information could have a bearing on their objectivity in conducting a technical evaluation.

The client has exclusive responsibility for evaluating the technical proposal in accordance with the evaluation criteria outlined in the RFP. Once the client has completed the evaluation, the Contracting Officer shall review the scores. A consensus evaluation report should be prepared by the client and signed by all members of the Proposal Evaluation Team. The report will provide a detailed rating for each bidder, and the relevant weaknesses and strengths of their proposals.

If the Contracting Officer has any objection pertaining to the evaluation, he/she will return the results to the client with his/her comments for corrective action.

The selection of the contractor is then made in accordance with the selection method outlined in the RFP. Regret letters are sent by the Contracting Officer to the unsuccessful bidders. Upon request, debriefings are provided by the Contracting Officer to the unsuccessful bidders. Clients may be requested to assist the Contracting Officer where unsuccessful bidders challenge the rating and/or evaluation of their respective proposals.

4.5 Contract Negotiation and Award

In this phase, final contract negotiations of the price, contractual terms and conditions are carried out by the Contracting Officer. Contract approval is obtained in

accordance with contract approval authorities.

The Contracting Officer is responsible for negotiating the contract document. The contract is the only administrative tool that governs how the work is to be performed and provides applicable terms and conditions to perform this work. The contract document takes precedence over any other written or verbal arrangements before contract award.

When the clients receive a copy of the contract, they should review it to ensure that the document fully meets their needs and expectations, and to understand their contractual rights and obligations.

4.6 Contract Administration

Throughout the contracting process including contract administration, the client is responsible for the management of the technical aspects of the work. To do so, the client must be in regular communication with the contractor, to ensure the work is progressing satisfactorily. The client must report immediately any performance concerns to the Contracting Officer to determine appropriate corrective measures required to resolve performance problems.

In this final phase, the Contracting Officer in consultation with the client carry out contract administration duties, such as:

1. Monitoring contract delivery deadlines, costs and contractor performance;
2. Verifying milestone progress payment claims to ensure claims are in accordance with the terms of the contract and progress of the work;
3. Following up on contractual problems, mediating contractual disputes and ensuring timely solutions;
4. Processing client changes or supplier deviations from contract terms and conditions, and preparing contract amendments accordingly;
5. Negotiating contract terminations or settlements for those cases where Contractors are in a performance default situation or where government programs are cancelled, etc.

In summary, clients are invited to consider the following factors to simplify and accelerate the Contracting Process, and to ensure value for money is achieved in the contracting of their requirements:

1. Call your Contracting Officer early in the Contracting Process;
2. Think competitive, don't think it takes any longer to invite competitive bid solicitations, that it is more expensive or it does not get you better ideas;
3. Establish bid evaluation and contractor selection procedures that will meet the client's needs and expectations - don't be limited by anything but your imagination and good sense while ensuring integrity in the contracting process;
4. Let the Contracting Officer do the negotiations - don't undermine the negotiations by having pre-negotiations on contractual terms and conditions and pricing arrangements that the Contracting Officer could not support based on government procurement policies;
5. The Contracting Officer is there to help the client manage the contract - don't get into trouble by amending verbally the contract without authorization.

5. EMPLOYER-EMPLOYEE RELATIONSHIP

Special care must be taken to avoid slipping into an employer/employee relationship on contracts for services.

There are significant legal distinctions flowing from the relationship between an owner (or contracting authority) and the contractor as opposed to an employer and its employee. For one, a contractor is liable for its own negligence whereas an employer is generally liable for the negligence of an employee. Another distinction is that it is incumbent on an employer to make numerous pay deductions and provide benefits which do not arise between an owner and its contractor.

It is therefore important for the parties in any work situation to determine which relationship they desire to create. Unfortunately, this can be made difficult because under the common law, whether a person is an employee or a contractor depends exclusively on the facts of the day-to-day work conditions and not the wording of the contract. A worker who was intended to be a contractor and may have signed an agreement explicitly stating this, may be found by a Court to be an employee instead. Notwithstanding intentions or contractual statements, an employer/employee relationship will be found to exist in circumstances where the employer can specify when, where, how and under what conditions work will be performed.

The following common law rules, developed by the courts, should be used as a guide to determine if an employer/employee relationship exist:

- (a) the project authority exercises supervisory control (as distinct from inspection of work) over the contractor;
- (b) the project authority, not the contractor, is responsible for providing the tools or facilities required to perform the work;
- (c) the contractor has no opportunity to subcontract or hire other persons to achieve the objective;
- (d) the work to be performed is an integral part of the work of the organization and is comparable to the work being carried out by public servants.

The significance of this for the Federal Crown is that departments, by virtue of the *Public Service Employment Act*, do not have the authority to enter into contracts creating an employment relationship. In addition to this, it is government policy that no contract may be entered into if the terms of the contract or the actual work situation creates an employer/employee relationship between Her Majesty and the contractor. This rule was laid down by Treasury Board when it became obvious that departments were using service contracts to circumvent the problems created by a shortage of "person years".

Notwithstanding recent Court decisions, the Department of Justice has provided the opinion that, in the absence of any statutory definition of "employment in the Public Service", reliance must be placed on the above common law tests to determine the existence of employer/employee relationships as distinct from the relationship between a contracting authority and an independent contractor.

With a request for a service contract, clients will sometimes use a job description of a former or current government employee. This is easy to recognize as it usually starts with words like "under the supervision of" and ends with "perform all other related duties". The presence of words like "assist", "help", "as required by", "in consultation with" are also good indications that an employer/employee relationship may develop in the performance of the work.

If you are in doubt about a particular contractor's relationship to the Crown, you should request the client to consult Legal Counsel (JUS) and provide you with a legal opinion. From a contractual point of view, the SXM role is to protect the Crown from employer/employee relationships to the extent possible in the contract. However, it is of critical importance that the client,

by its actions with the contractor, not negate the contractual protections and establish a de facto employer/employee relationship on the job. Clients should be so advised.

6. PAYMENT

There are two important factors to be considered under payment of a contract: 1) Basis of Payment and 2) Method of Payment.

6.1 Basis of Payment:

The contract should stipulate the use of either "Fixes Time Rate", or "Firm Price".

There must be a basis of payment included in a Contract for the Contract to be considered legally enforceable.

6.1.1 Fixed Time Rate

A fixed time rate provides for the payment to the Contractor for the actual amount of time spent in performance of the work, as confirmed by government audit, on the basis of a predetermined fixed time rate. The fixed time rate usually includes a direct labour rate, overhead rate(s) and profit.
Use this basis of payment when:

a) it is not possible to estimate in advance the extent or duration of the work, but it is possible to determine within reasonable limits the applicable direct labour and overhead rates during the contract period; and

b) there is provision for adequate controls to ensure that inefficient or wasteful methods are not being used by the Contractor.

Contracts or part of contracts with a fixed time rate basis of payment may also provide for a ceiling price, by which the Contractor is bound to complete the prescribed work without additional payment whether or not the actual costs exceed the ceiling price. If a ceiling price is to be used, there must be full agreement between the parties as to what constitutes the prescribed work.

Before agreeing to the incorporation of a ceiling price in a fixed time rate contract, the contracting officer should consider whether a firm price contract would be more appropriate.

When contracts, or part of contracts, with a fixed time rate basis of payment do not include a ceiling price, a limitation of the Crown's liability should be made a term of the

contract, unless an exception is specifically authorised by the Minister, by including one of the following clauses:

Limitation of Expenditure on Fixed Time Contract - Clause 1

No increase in the total liability of Canada or in the price of the Work or Services resulting from any design changes, modifications or interpretations of the specifications, will be authorised or paid to the Contractor, unless such design changes, modifications or interpretations shall have been approved by the Minister prior to their incorporation in the Work.

OR

Limitation of Expenditure on Fixed Time Contract - Clause 2

Canada's liability to the Contractor under this Contract shall not exceed \$_____, unless otherwise authorised in writing by the Minister. The Contractor shall not be obliged to perform any work or provide any services which would cause the total liability of Canada to exceed the said sum, unless an increase is so authorised. The Contractor shall notify the Minister as to the adequacy of this sum when it is 75 percent committed, or four(4) months prior to the estimated date of completion of the Contract, whichever come first. However, if at any time the Contractor considers that the said sum may be exceeded, the Contractor must promptly notify the Minister.

6.1.2. Firm Price

A firm price basis of payment provides for a price which is not subject to adjustment to reflect actual costs incurred by the Contractor in performance of the contract or part thereof. It gives maximum profit incentive to the Contractor for cost control in that the Contractor assumes full responsibility for all costs under or over the firm price. In addition, it places a minimum administrative burden on both contracting parties.

A firm price basis of payment should be used when:

- a) the Contractor has previously provided the particular service, or similar services and has sufficient experience to permit a realistic statement of work based on firm specifications; and
- b) the statement of work can be costed in terms of quantities of materiel and labour time required; and

c) a realistic estimate of the material prices and labour and overhead rates applicable during the contract period can be made.

The following conditions apply to Firm Price contracts.

The supplier will be obliged to complete all the work and provide all of the deliverables identified in the contract and will be paid the agreed upon, firm price subject to satisfactory completion of the work.

In such cases, it means that both parties must agree prior to the award of the contract, as to the price payable thereunder.

For Firm Price contracts use the following clause:

Expenditure, Limitation of Firm Price

No increase in the total liability of Canada or in the price of supplies resulting from any design changes, modifications or interpretation of specifications, made by the Contractor, will be authorised or paid to the Contractor unless such design changes, modifications or interpretations, have been approved by the Minister prior to their incorporation in the Work.

Limitation Contracts

Limitation of Expenditure should be used whenever the requirement/statement of work is not well defined. Contracts with a fixed time rate basis of payment which do not include a ceiling price, must include a limitation of the Government's liability.

The following conditions shall apply to Limitation of Expenditure contracts. The Contractor shall not:

- be obliged to perform any work or services which would cause the total cost to exceed the limitation set out in the contract, unless an increase is so authorised in writing;

- make any design change, modification or interpretation of the specifications which would cause the total liability of Her Majesty to exceed the Limitation set out in the contract, unless otherwise authorised in writing by the client prior to the work or modifications to the work being done. If at any time the Contractor considers that the cost to Her Majesty under this contract will exceed 75 percent of the said sum, the Contractor shall notify the client to that effect and the Contractor shall

provide a new estimate of the total cost of the work if the amount left is considered inadequate to complete the work.

Upon completion of the contract, the Contractor shall submit to the client the actual amount of time spent in performance of the work, as confirmed by the Technical Authority, on the basis of predetermined fixed time rate, on the same basis as required under Ceiling Price contracts.

For limitation contract, the following clause should be included. The Annex should identify deliverables or milestones against which the progress of the contract can be measured plus, the firm profit element agreed to by both parties.

The Contractor will be paid its costs reasonably and properly incurred in the performance of the Work, and a firm profit, in accordance with Annex "_" attached hereto and forming part of this Contract.

Ceiling Price Contracts

The following conditions shall apply to Ceiling Price contracts.

The price specified for the work is a Ceiling Price. Therefore, the Contractor is obliged to complete all the work and provide all the deliverables identified in the contract for an amount not greater than the Ceiling Price agreed to and no additional funds will be made available beyond that amount. Upon completion of the contract, the Contractor shall submit to the Client, details of the actual time taken (i.e. classification: rates and number of days) in performance of the contract, and this time submission shall be signed and certified by the senior financial officer of the Contractor. The time submission shall identify the number of days expended in the performance of the work, partial days and overtime as well as the agreed upon per diem rates since time charged and the accuracy of the time recording will be verified by government representatives. In such cases, it means that both parties must agree prior to the award of the contract that the price may be subject to downward adjustment only to reflect the actual time worked.

The client may review the Contractor's time recording system and travel and living expenses.

For ceiling price contracts, the following clause should be included. The annex should identify deliverables or

milestones against which the progress of the contract can be measured.

The Contractor will be paid its costs reasonably and properly incurred in the performance of the Work to a ceiling price, in accordance with Annex "-" attached hereto and forming part of this Contract.

6.2 Method of Payment:

Request for Proposals (RFP) and contracts should stipulate a Single Payment/Lump Sum Payment or Progress Payment method. It is the policy of the Government to pay following the Single Payment/Lump Sum method unless otherwise specified. When a contract has been awarded without Progress Payment provisions, no amendments will be permitted to introduce such payments.

6.2.1 Single Payment/Lump Sum Payments Contracts should be paid for:

a) thrity (30) days following the date on which all of the work has been delivered at the locations specified in the Contract and all other work required to be performed by the Contractor under the terms of the Contract has been completed;

or

b) thirty (30) days following the date on which an invoice and substantiating documentation are received according to the terms of the contract;

whichever is later.

If Canada has any objection to the form of the invoice of the substantiating documentation, within fifteen (15) days of its receipt, Canada shall notify the Contractor of the nature of the objection. "Form of the invoice" means an invoice which contains or is accompanied by such substantiating documentation as Canada requires. Failure by Canada to act within fifteen (15) days will only result in the date specified in paragraph 1 of the clause to apply for the sole purpose of calculating interest on overdue accounts.

6.2.2 Progress Payment Contracts:

Application of Progress Payment Method

A Progress Payment is defined as a payment under the terms of a contract after the performance of the part of the contract in respect of which the payment is made but before the performance of the whole contract. Progress Payments may be

considered if some of the following conditions are met:

- a) adequate security for the payment is ensured (this would generally apply to multi million dollar contracts, such as; construction contracts, etc.);
- b) the Crown receives value commensurate with the amount of the payment during the fiscal year in which the payment is made.
- c) the Client has adequate funds to provide the financing; and
- d) one of the following criteria is met:
 - (1) economic advantage for the Crown that clearly outweighs the financing cost associated with the progress payment,
 - (2) Contractor could suffer hardship or provide financing only with difficulty or at rates considered to be uneconomic in relation to prevailing chartered bank prime lending rates,
 - (3) the value of the contract is considered to be beyond the assessed financial capabilities of the Contractor,
 - (4) long duration for contract performance,
 - (5) an entrenched tradition or practice of receiving Progress Payments from the purchaser in a particular industry or segment of industry.

Progress Payments may be made based on time or at pre-determined milestones.

A time payment is a method of making Progress Payments which provide for specified payments to become due at the time specified in the contract, subject to certification by the inspection and contracting authorities that progress of the work conforms to schedule. Alternatively, the term refers to the method of making Progress Payments based on physical progress of the work on a monthly basis as determined by the inspection and contracting authorities without any set monthly goals. The time payment method is to be used with caution and only with highly sensitive progress monitoring.

A milestone payment is a method of making Progress Payments which relates to a measurable/defined item or work package for which a price can be assigned with a good probability that such assigned price will turn out to be within reasonable limits of predictive accuracy for the value of the work.

Where possible, the method of milestone payments should be used, thus relating payments to actual progress on the contract that is measurable in nature. Tangible objectives may be technical or other contractual achievement yardsticks which may be used as milestones. The value of each milestone should be negotiated before contract award.

Payment by Canada to the Contractor for the work shall be made as follows:

Progress payments shall be made for the actual time worked, within thirty (30) days following the date of receipt of:

- invoices which are submitted in accordance with the invoicing instructions contained in the contract;

- time sheets which are provided to support time being claimed.

(a) If Canada has any objection to the form of the progress claim, within fifteen (15) days of its receipt, Canada shall notify the Contractor of the nature of the objection. "Form of the claim" means a claim which contains or is accompanied by such substantiating documentation as Canada requires. Failure by Canada to act within fifteen (15) days will only result in the date specified above to apply for the sole purpose of calculating interest on overdue accounts.

Supplier(s) may claim progress payments (Monthly, Milestone) not more frequently than once per month from the Client for tasks or projects of duration in excess of a thirty (30) day period.

When a Contract has been awarded without progress payment provisions, no amendment should be permitted to introduce such payments.

6.2.3 Per Diem Rates Contracts

Per Diem Rates are often used when calculating estimated costs of a specific professional service required of an individual(s) based on the individuals' qualifications/experience required to do the work as described in the statement of work. The degree of difficulty of the work/solution required coupled with the individuals' education and experience will help predetermine what is a reasonable cost to be paid. Past projects involving similar work will help achieve the per diem rate estimated to be fair and justifiable for both parties.

Per diem rates used in contracts should be "all inclusive" excepting only travelling and living expenses and both the Goods and Services Tax (GST) and Provincial Sales Tax (PST) if applicable. All expenses normally incurred in providing the services (i.e. word processing, reports, photocopying, courier and telephone charges, local travel and the like) should be included in the rates and should not be permitted as direct charges under the contract.

6.3 Holdback Amounts

For all contracts where progress payments are provided, holdbacks should normally be retained to avoid overpayments and to act as an incentive for the contractor to complete the job.

For milestone payments, a requirement for a holdback may be included at the discretion of the Contracting Officer.

6.4 Penalty Payments

In some contracts, penalty clauses can be negotiated to encourage timely delivery of the goods or services, and to ensure that costs are maintained within allocated budgets for major programs.

7. FEDERAL CONTRACTORS PROGRAM (FSP) FOR EMPLOYMENT EQUITY

The Federal Contractors Program (FCP) for Employment Equity is intended to foster employment equity in hiring practices, training, promotion and levels of pay for all Canadians, in particular, women, native people, disabled persons and visible minorities. The policy applies to suppliers of goods and services who employ 100 people or more and who want to bid on solicitations valued at \$200,00 or more. Contracting Officers are required to ensure that the contractor has certified commitment to the FCP, or has a valid certificate number.

The Human Resources Development Department is responsible for maintaining listings of contractors certified under the FCP. Contractors who voluntarily withdraw their commitment to the Program are ineligible to bid on government requirements.

8. LEGAL REQUIREMENTS

When preparing tendering documents or contracts, there are certain legal repercussions which could result if proper procedures are not followed and that the Government Contracting Regulations (GCR) and Trade Agreements rules are not adhered to. This could result in

implications with the Canadian International Trade Tribunal (CITT) as a result of a bid challenge by vendors, possible embarrassment to the Department and a delay in the process. In addition, inquiries could be sent to Access to Information Act resulting at times in Ministerial inquiries, again causing a possible delay.

The situations described above normally surface if vendors suspect that rules were circumvented, preferential treatment was given, that prudence and probity was not exercised, which could be costly to the Department.

It is always wise to seek legal counsel if uncertain before a document is released to a vendor, thereby avoiding any of the circumstances described above.

In addition, some contracts should be reviewed by legal services whereas for others legal involvement is suggested and for yet others the legal sector need not, but may, be consulted.

Other reasons for legal services to be involved in the preparation and review of contractual documents, amongst them:

- (a) to identify the changes, if any, in the legal relationship between the Crown and a contractor which may result from changes to DFAIT or Canadian Commercial Corporation (CCC) General or Supplemental General Conditions;
- (b) to point out the consequences in terms of additional financial risk and potential liability being assumed by the Crown;
- (c) to ensure that a contract is legally binding and enforceable; and
- (d) to ensure that the contract reflects precisely the intended relationship between the Crown and the contractor.

9. INTERNATIONAL AND NATIONAL AGREEMENTS

Several international and national agreements have an impact on the procurement process of government requirements.

9.1 International Trade Agreements

There are two major international trade agreements that affect the way we buy goods and services from the private sector.

9.1.1 North American Free Trade Agreement (NAFTA)

NAFTA which came into effect on January 1, 1994, was negotiated with the United States and Mexico by Foreign Affairs and International Trade Canada. Chapter 10 of the

agreement deals with government procurement. Under that chapter, Canada, the United States and Mexico are committed to treating each others' companies the same way they treat their own and to not favouring their own companies for government contracts covered by NAFTA.

Under NAFTA (and in fact, also under WTO-AGP) there are four government bodies that are wholly excluded:

- the Canadian Space Agency;
- the Canadian Security Intelligence Service, or CSIS;
- the House of Commons; and
- the Prime Minister's Office, or PMO.

Requirements for the Canadian International Development Agency (CIDA) tied-aid are not subject to NAFTA or WTO-AGP. NAFTA does not cover purchases at the provincial or municipal level.

For Canada and the United States the goods threshold is U.S. \$25,000. For 1996 and 1997 in Canadian dollars this threshold is \$34,300. For services the threshold is U.S. \$50,000 or Canadian \$70,700 for 1996 and 1997.

Both NAFTA and the WTO-AGP allow us to exclude requirements that deal with protecting:

- national security and defence;
- public morals, order and safety;
- human, animal and plant life and health;
- intellectual property; and
- handicapped persons, philanthropic institutions and prison labour.

Contracts for the following goods and services are all excluded from NAFTA or WTO-AGP:

- any contracts related to the safeguarding of nuclear materials or technology;
- contracts to buy oil for strategic reserves;
- shipbuilding and repair opportunities;

-transportation services that are incidental to a contract;

-opportunities relating to urban rail and urban transportation and to their components: materials, iron, steel and equipment.

Information concerning the application of the NAFTA provisions to government procurement is contained in Chapter 10, Government Procurement of the NAFTA agreement. Annex 1001.1b-2, p. 10-42, Section B provides a list of all the services excluded from NAFTA coverage. All classes of Research and Development are excluded and some Special Studies and Analysis studies not related to R & D are also excluded.

-Research and Development procurements are defined as follows:

-Procurement of research and development services include the acquisition of specialized expertise for the purposes of increasing knowledge in science; applying increased scientific knowledge or exploiting the potential of scientific discoveries and improvements in technology to advance the state of the art; and, systematically using increases in scientific knowledge and advances in state of art to design, develop, test, or evaluate new products or services.

9.1.2 World Trade Organization - Agreement on Government Procurement (WTO-AGP)

The World Trade Organization Agreement on Government Procurement is a multilateral agreement, that came into effect January 1, 1996, to ensure greater international competition for government procurement. Countries participating include Canada, the European communities, the United States, Japan, Korea, Israel, Norway and Switzerland. The WTO-AGP expands on GATT to include services and construction.

The goods and services threshold is \$259,500 for 1996 and 1997.

9.2 National Agreements

9.2.1 Comprehensive Land Claims Agreements (CLCAs)

The Government of Canada has entered into a number of Comprehensive Land Claims Agreements with various aboriginal peoples to resolve the rights over the territory used by the aboriginal people.

These comprehensive Land Claims Agreements deal with certain economic and social development benefits for aboriginal peoples. Contracting Officers have to examine the applicable land claims agreements for any aboriginal participation requirements for contracting activities that take place in a land settlement area.

Most of the Aboriginal Land Claims Agreements in effect have an impact on procurements where the services are required in areas located in the Northwest Territories, the Yukon, and the James Bay and Northern Quebec area.

Land Claims Agreements contain contracting obligations which, if not met, can result in claims being filed against the Crown. The provisions of the Land Claims Agreements are all different. Contracting Officers have to determine whether a Land Claims Agreement may affect the overall procurement strategy i.e. need to limit tendering to Land Claims Settlement region, sending bid notices to band chiefs, advertising in local newspapers, application of special bid evaluation criteria, etc.

Accordingly, where a contracting authority is engaged in a contract for the procurement of goods, services or construction in a settlement area, these activities are subject to the contracting obligations that are found in the applicable Land Claims Agreement. Procurement activities are to be in conformance with any applicable Land Claims Agreement obligations particularly with respect to project design, bid evaluation criteria, solicitation methods, notices and contract award.

Several CLCAs contain socio-economic evaluation criteria that must be included in the solicitation document, whenever it is practical and consistent with sound procurement management, to provide claimant groups with a fair opportunity for any spin-offs associated with socio-economic development.

The procurement requirements/obligations of the CLCAs must be included in sole source negotiations in order to maximize socio-economic opportunities for claimant group members. Several agreements include, for example, the following socio-economic evaluation criteria:

1. Increase level of participation by claimant groups for business opportunities within the economy of their CLCA;
2. Increase employment opportunities for claimant group members;

3. Increase economic development opportunities through federal contracting processes; and,

4. Undertaking of commitments with respect to on-the-job training or skills development.

9.2.2 Set-aside Program for Aboriginal Business

In December 1995, Cabinet approved a program designed to increase Aboriginal business participation in supplying government procurement requirements. One objective of the program is to increase the number of contracts awarded to Aboriginal Business.

On March 27, 1996 Treasury Board Contracting Policy Notice 1996-2 set out the broad parameters of the Set-aside Program for Aboriginal Business (SPAB), including the requirements for mandatory and voluntary set-asides of procurements for Aboriginal Business.

The SPAB establishes 2 types of set-asides - Mandatory and Voluntary. Mandatory set-asides apply to procurements over \$5,000 for which Aboriginal populations are the primary recipients of the goods, services, or construction to be contracted. Voluntary set-asides apply to all other procurements designated by client departments as reserved for Aboriginal Business.

Treasury Board Contracting Notice 1996-6, September 19, 1996 set out details of departments' responsibilities with respect to establishment of, and reporting on, annual objectives in support of the program, including value and activities, and increased representation of Aboriginal Businesses on departmental source lists.

Requirements subject to SPAB may also be subject to the requirements of Comprehensive Land Claims Agreements (CLCAs). To the extent that the application of a set-aside for Aboriginal business does not interfere with Canada's obligations under the CLCAs, then both the CLCAs and SPAB procedures may be applied, but where the two are in conflict, the requirements of the CLCAs take precedence.

9.2.3 Agreement on Internal Trade (AIT)

The Agreement on Internal Trade (AIT) is a comprehensive agreement in recognition of the need to reduce barriers to trade within Canada. It came into effect on July 1, 1995 and was signed by the federal government and all the provinces and territories.

Chapter 5 of the AIT covers procurement and is intended to establish a framework that will ensure equal access to procurement for all Canadian suppliers. For the federal government the Chapter applies to procurement within Canada by all federal government departments and seven Crown Corporations.

The AIT applies to all procurement of goods \$25,000 and up and procurement of most services \$100,000 and up. The following are not covered:

- services by licensed professionals including doctors, dentists, engineers, land surveyors, architects, chartered accountants, lawyers and notaries;
- hauling aggregate on highway construction projects;
- services for sporting events;
- services of financial analysts or the management of investments;
- health and social services; and
- advertising and public relations services.

AIT covered goods and services are subject to the CITT bid challenge provisions.

10. CANADIAN INTERNATIONAL TRADE TRIBUNAL (CITT)

The Canadian International Trade Tribunal (CITT) has been designated as the bid challenge authority for NAFTA, WTO-AGP and AIT for federal government procurement. The bid challenge process allows any potential supplier to complain to an impartial reviewing authority, at any time throughout the procurement cycle, on how a government procurement is being handled.

The Procurement Review Process, A Descriptive Guide dated January 1996, prepared by the CITT Office, summarizes the basic features of the procurement review process at the Trade Tribunal. CITT case procurement determinations can be viewed on the Internet, under the CITT Determination URL:

"http://www.CITT.GC.CA/procure/Determin/index_e.htm"

If the Tribunal determines that complainant's complaint is valid, the Tribunal has the power to postpone a contract award, investigate complaints and compensate for losses. The CITT can also make recommendations to terminate contracts, hold a new bid solicitation or award a contract to a complainant. The CITT may

recommend any of the following remedies:

1) that the Department terminate the contract and award it to the complainant;

or alternatively, if the contract is not awarded to the complainant, the Tribunal may recommend:

2) that the complainant be awarded its reasonable costs in preparing a response to the bid solicitation and in relation to filing and proceeding with the complaint;

3) that the Department present to the Tribunal a proposal for compensation, developed jointly with the complainant, that recognized that the complainant should have been awarded the contract and would have had the opportunity to profit therefrom; and,

4) if applicable, that the Department not exercise the option to extend the contract for additional year(s) and, instead, should the requirement continue to exist, instruct the Department to reissue a competitive solicitation for the requirement.

Both the bid solicitation document and the evaluation of technical proposals must be based on sound procurement principles. Rigid adherence to these principles is essential given the increasing scrutiny which our procurement processes undergo from CITT, complainants, their technical consultants and lawyers.

11. CONTRACTS FOR THE SERVICES OF FORMER PUBLIC SERVANTS IN RECEIPT OF PENSION (CSFPS), AN EARLY RETIREMENT INCENTIVE (ERI) OR EARLY DEPARTURE INCENTIVE (EDI)

With a non-competitive process for CSFPS, departments can contract for up to \$25,000 including all other expenses and taxes. For non-competitive contracts over \$25,000 Treasury Board approval must be sought.

Contracts for the services of former public servants can be entered into after a competitive process up to \$100,000. For competitive contracts over \$100,000 Treasury Board approval must be sought.

Former public servants in receipt of an ERI or EDI are only permitted to earn up to \$5,000 during the "window period" immediately after leave of employment from the government, whether the former employee undertakes a contract as an individual, as a sole proprietorship corporation, as a partnership, or in cases where that individual has a major interest in the contracting

entity.

Where a former employee goes to work as an employee of, or sub-contractor to, an established firm contracting with the government, these restrictions do not apply. After a former employee's "window period" expires, those receiving pensions under the Public Service Superannuation Act will be subject to the Treasury Board's fee abatement policy on contracts for personal services for a further 12-month period, for non-competitive contracts

12. RETROACTIVITY

Retroactivity is a topic that often arises in government contracting, especially in the context of calendar and fiscal year ends. In essence, retroactive contracting, in itself is a contradiction in terms, involves some sort of back dating of the agreement to a date prior to the date on which consensus of the parties was reached or authority existed.

By way of example, a public servant, without authority, may have instructed a contractor to proceed with certain work prior to any written contract being entered into and in violation of government procurement policies and regulations. During the period that the work is progressing, the administrative approvals are being sought and a written contract will hopefully result. To backdate such a contract to the day work commenced is to reduce to a fiction the statutory and policy restrictions by which procurement personnel are bound and which were not in place on such date.

Retroactivity can also arise with respect to ongoing requirements. For example, one might have a maintenance contract which expires March 1st. Sometimes such a contract is permitted to expire without any effort to renew it although the work is allowed to continue. Later, in April or May, the client requests that the contract be renewed for a further year by amending it as of February 28th. To do so would create a fiction as there was no consensus to amend or renew the contract on February 28th and thus the contract expires, having been terminated by performance.

Effects of Retroactive Contracting

The following administrative violations have occurred where a contractor is allowed to commence work on a government requirement without complying with the formalities of the procurement process.

- a) A request to the appropriate authority to "rubber stamp" a commitment which has already been made abrogates the approving body's authority by presenting a contract which

is, in fact, a fait accompli. There could be possible embarrassment and cost to the Crown in the event that the approval is not given.

- b) In many cases where the supplier starts to perform the work prior to the issuance of a contract, even when such work is performed at his own risk, the possibilities of the contract being issued on a competitive basis are lessened. The Contractor is being placed in a favoured position and this can result in a violation of the Government Contracts Regulations, which requires the contracting authority to invite tenders except under prescribed circumstances.
- c) A further effect is the absence of any government control on the expenditures made by the contractor prior to the issuance of the contract, in the case of cost reimbursable work. This could lead to the Crown paying in excess of an acceptable price for the total work program since the government has no right to check on the work of a proposed contractor before a contract exists.
- d) Finally, if problems should arise while work is being carried out without the work specifications or other written terms of a contract to refer to, embarrassment and expense may result in resolving the issues.

One solution to the problem, where there is an ongoing requirement, is to date the new contract as of the date of the consensus reached by the client and the contractor and deal with the services provided prior to such date by inserting the following clause in the contract;

"With respect to the services provided during the period commencing (date work commenced) and ending on (date of contract) the contractor will be paid (specify amount). With respect to the services provided after (date of contract) the contractor will be paid according to the basis of payment herein".

13. CONTRACT SPLITTING

Contracting authorities should not split contracts or contract amendments in order to avoid obtaining either the approval required by statute, the Treasury Board Contracts Directive or appropriate management approval with the department.

GLOSSARY

- Agent:** a person authorized to act on behalf of another (the "principal"). The act of an agent, done within the scope of his authority, binds the principal.
- Appropriation:** any authority of Parliament to pay money out of the Consolidated Revenue Fund. Appropriation authority may be granted on an annual basis with the authority lapsing at the end of the relevant fiscal year (annual appropriations normally provided by appropriation acts), or the authority may be granted on a continuing basis (statutory appropriations normally provided by statutes other than appropriation acts).
- Arbitration:** the reference of a dispute to an impartial third person or body other than a court for its decision (award).
- Articles of Incorporation:** instrument filed with the appropriate provincial or federal government agency on the incorporation of a company; resulting in the issuance of a "certificate of incorporation".
- Assignment of Crown Debt:** refers to a sum of money owed by the Crown under a contract or otherwise. Assignment of this debt is the transfer from one person to another of the right to be paid. Assignments must be carried out pursuant to Part VII of the Financial Administration Act and the Assignment of Crown Debt Regulations.
- Bargain:** a mutual undertaking, contract, or agreement between two parties for the sale of goods, the agreement of one to sell and the other to buy.
- Bidder:** one who offers to pay a specified price for an article offered for sale at a public auction or to perform a certain contract for a specified price. Within government contracting, it refers to the respondent to a bid solicitation package such as a request for proposal (RFP).

Breach
(of contract): failure, without legal excuse, to perform any promise which forms the whole or part of a contract.

Contractual capacity: possessing the legal requirements to contract.

Caveat emptor: (let the buyer beware). A latin maxim stating that the buyer must be cautious as he bears the risk of a bad bargain and not the seller.

Common service agency: in government parlance, an agency whose activities are directed mainly towards providing the departments and agencies of the Government with services in support of the programs of those departments and agencies.

Company: a business entity which may refer to an incorporated body, a partnership, or a sole proprietorship.

Conditions precedent and subsequent: a "condition precedent" is one which must be satisfied before the other contractual provisions become operative. A "condition subsequent" is a term that operates to suspend the functioning of the remaining contractual provisions or to dissolve the contract if a certain occurrence takes place.

Consideration: the inducement to contract. The cause, motive, price, or impelling influence which induces a contracting party to enter into a contract. The reason or material cause of a contract. Some right, interest, profit or benefit accruing to one party, or some forbearance, detriment, loss, or responsibility, given, suffered, or undertaken by the other.

Contract: a legally enforceable agreement between two or more parties. Under common law jurisdictions including Ontario, this requires that certain fundamental elements be present.

Contracting Authority: the government official with the delegated authority to enter into a contract on behalf of the Crown and administer the contract.

Contractual provision: a term or article of a contract.

Contract under seal: is characterized by the phrase "Signed, Sealed and Delivered" and requires the placing of a seal on the document. A contract under seal is contrasted with a simple contract and is binding without the need for consideration.

Corporation: a legal entity created under a statute and having the status of a legal "person", separate from the individuals who compose it. As such, a corporation is capable of entering into a contract on its own behalf.

Damages: The financial compensation that a court will award to a person who has suffered a breach of contract. Typically, damages seek to place the party complaining in the position he would have been in had the breach not occurred.

Defamation: the general term for words spoken (slander) or written (libel) which injure a person's reputation.

Deliverable: the subject matter of a contract that is to be delivered.

Disposition: the parting with, alienation of, or giving up of property.

Duress: if a party entered into a contract under threat of violence or suffering, the contract may be ended at the election of the party who was compelled to enter into it.

Encumbrance: a claim, lien, charge, or liability attaching to and binding upon real or personal property.

Entity: something that has a real and separate legal existence. Legal Entity refers to an entity that has the capacity to contract.

Estoppel: where a party has, by word or conduct, made a promise or assurance which was intended to affect existing legal relations between the parties and the other party relies on this to his detriment, the one who gave the promise or assurance will be bound by it.

Excusable delay: Typically an act of God or other circumstance or event beyond the control of the contractor.

Executory: that which is yet to be executed or performed, incomplete.

Fettered: to be legally shackled or bound; restrained.

Forbearance: the act of tolerating or excusing another party's contractual default.

Free on Board: (F.O.B.) a term often inserted in contracts for sale of goods to be shipped. It signifies that the cost of shipping, i.e. putting on board at port of place of shipment, is to be paid by the vendor.

Frustration: if performance of a contract becomes impossible due to an intervening event beyond the control of one or both parties, such as changes in the law rendering performance illegal, further performance is excused by law.

Illegality: that which contravenes legislation (statute or regulation). A court will not enforce an illegal contract.

Implied Terms: terms which the law deems to be included in a contract even if not expressly contained therein.

Indemnify: to agree to reimburse a person in the event of loss or damage suffered by that person.

Indemnity: a collateral (second) contract or assurance, by which one person engages to compensate another against a contingent loss or prevent him from being damaged by the legal consequences of some act or forbearance.

Independent Contractor: an independent contractor is one who is his/her own master, exercising discretion as to the mode and time of doing the work. The contractor is bound by its contract, not by the orders of the party for whom the contract is being performed. The position of an independent contractor is distinguished from that of an employee.

Indictable: subject to being indicted (i.e. charge with a serious criminal offence).

Individuals: when contracting with an individual, one must be certain that the individual is of the age of majority and is not otherwise legally incapacitated. That age varies from province to province but is customarily 18.

Indoor management rule: states that an organization cannot claim that a contract or any dealing it had with the public is invalid simply because an internal rule of the organization was breached.

Infringe: to violate a law, regulation, contract, or right. Primarily refers to infringement of intellectual property rights.

Injunction: a court order forbidding a specified act, often granted pending final resolution of a legal dispute.

Intellectual Property: broad term generally used to describe intangible proprietary knowledge, protected by law, usually having commercial value. Intellectual property relates to patents, copyrights, trade marks, industrial design and knowhow, industrial processes, etc.

Joint and several liability: where two or more persons are responsible together and individually. The party who has been harmed can recover his loss from any one or all of the wrongdoers. He may not, however, receive double compensation.

Joint Venture: a legal entity in the nature of a partnership engaged in the joint pursuit of a particular transaction for mutual profit.

Lapse: the termination or loss of a right or privilege through neglect to exercise it within a specific time or through the failure of some contingency.

Letter of intent: letter intended merely to comfort the other party without being bound to a contract.

Liability: any kind of debt or obligation arising from a contract.

Lien: a charge, security or encumbrance upon property.

Liquidated damages: the sum which a party to a contract agrees to pay for breach of contract and, which to be enforceable must be a reasonable estimate of the actual loss resulting from the breach.

Litigation: a general term referring to legal proceedings.

Misrepresentation: any manifestation by words or other conduct of one person to another, that amounts to an assertion not in accordance with the facts; it may be fraudulent or innocent.

Mistake: exists as a defence in law suits relating to contracts where there exists a mutual mistake of fact so fundamental as to preclude the meeting of minds essential for the formation of a contract.

Order-in-Council: Order approved by a special committee of Cabinet and signed by the Governor General of Canada. It is usually a statutory requirement for certain legal events to be accomplished.

Partnerships: a partnership does not have the status of a legal person. Partners are agents of one another so that a contract signed by one partner and relating to the business of the partnership will bind all partners personally.

Party: one of the persons concerned or taking part in any affair, matter, contract, transaction, or proceeding.

Patent: a grant of privilege, property, or authority, made by the government or sovereign of a country to one or more individuals. A patent for an invention gives the inventor the exclusive right to make, use and sell the invention.

Performance guarantee: a security instrument whereby a third party offers to assume, perform and satisfy all of the outstanding obligations of the contractor should the contractor default.

Privity of contract: the legal connection or relationship which exists between two or more contracting parties and which excludes non-parties.

Quantum meruit: (as much as he has earned). Where one person has expressly or impliedly requested another to render him a service without specifying any remuneration, but the circumstances of the request imply that the service is to be paid for, there is implied a promise to pay quantum meruit; i.e. so much as the party doing the service deserves.

Quid pro quo: an expression used in law to signify the giving of one valuable thing for another. The mutual consideration which passes between the parties to a contract, and which renders it valid and binding.

Regulation: a rule having the force of law issued under the authority of a statute. Regulations are usually approved by Cabinet.

Repudiation: declared refusal of a party to a contract to be further bound by the contract.

Set-off: a deduction; a contrary claim or demand by which a given claim may be lessened or cancelled.

Statute law: that body of law created by acts of a provincial legislature or Parliament in contrast to law generated by judicial opinions and administrative bodies.

Statutory requirement: anything required by the provisions of a statute.

Technical Authority: includes Scientific Authority and means the person designated in the Contract, or by notice to the Contractor, to act as the representative of the minister for whose department or agency the Work is being carried out in matters concerning the scientific and technological content or the technical aspects of the Work

Tender: the act by which one produces and offers to a person asserting a claim or demand, money or any other thing which the person offering considers to be due, in full satisfaction of such claim or demand, without any stipulation or condition; in contracting terms, it may also be defined as a proposal, bid or offer that is submitted in response to an invitation from a contracting authority.

Termination for convenience: occurs when the Crown wishes, for whatever reason, to end the contract. The contractor is not in default and may have incurred some expense or suffered some loss as a result of the contract termination for which compensation must be paid.

Termination for default: is invoked where a Contractor fails to perform its obligations under the Contract. (When deciding whether to terminate a contract for default, the Crown must consider whether the Contract has a valid defence to a Crown claim for loss or damages).

Tort: a private or civil wrong or injury, other than breach of contract, for which the court will compensate in the form of damages.

Treat: an invitation to the public to make an offer.

Ultra vires: an act in excess of the authority conferred by law and therefore invalid. May refer to a legislative act. No longer applicable to corporation.

Unconscionable: a contract or clause so one-sided and inequitable in its terms as to raise a presumption of oppression or fraud for which a court will provide relief.

Unincorporated Associations: Unincorporated bodies are not capable of contracting in their own right because they are not recognized under the law. They are not legal entities even though they give the appearance of and behave like a corporate body. These groups have no legal existence separate and apart from their members and accordingly each member is required to sign the contract on his own behalf and not in any representative capacity. Consequently,

the individual members who sign the contract are personally liable.

Unsolicited material:

material proffered by a party but not requested by the party receiving it. A condition that silence shall constitute acceptance cannot be imposed by the offeror.

Vicarious liability:

in general a person is responsible only for his own act, but there are exceptional cases in which the law imposes on him legal responsibility for the acts of others, however blameless himself. The most important and far-reaching instance of this is the responsibility of a master for his servant.

Waiver:

intentional forbearance, indulgence or neglect by one party to a contract in exercising its rights under the contract.

Warranty:

a promise that certain facts are truly as they are represented to be and that they will remain so, subject to any specified limitations.

Work:

means the whole of the activities, services, materials, equipment, Software, matters and things required to be done, delivered or performed by the Contractor in accordance with the terms of the Contract.

Appendix "A"

Sample Statement of Work

Quality Control Test Centre Coordinator

BACKGROUND

The Management Support Division (STA) from the Department of Foreign Affairs and International Trade (DFAIT) has been tasked to organize and configure a Quality Control Test Centre to perform testing activities for all products to be installed on the Secure Integrated Global Network (SIGNET).

This centre will include a variety of equipment for each of the architecture used on SIGNET (SIGNET Classis, Small Missions and Micro Missions) and will have to be controlled by rigorous policies and procedures in order to provide SIGNET products a secure and safe acceptance test environment.

OBJECTIVE

To coordinate all activities in the Quality Control Test Centre.

SCOPE OF WORK

In collaboration with the members of the Quality Control Test Centre, the Contractor shall:

- review, analyze and evaluate current operational policies and procedures being developed
- implement operational policies and procedures
- develop and maintain a request tracking system using Access 2.0
- prepare schedules and coordinate activities of the QC Test Centre using Microsoft Project software
- submit regular reports and statistics on all activities performed in the QC Test Centre
- develop and maintain a problem tracking system using Remedy software
- liaise with QC Test Centre clients to establish working schedules; review information and documentation requirements, identifying and providing information and documentation required
- develop and maintain a technical library
- perform duplication of media
- develop test plans, performing tests, evaluating results and preparing test reports
- configure, install, troubleshoot and maintain testing equipment.

OUTPUT

The Contractor shall submit reports of analysis, policies, procedures and reports to the Project Authority.

All work must be submitted in hard copy and electronic format using WordPerfect 5.2 for Windows, where applicable, as per the SIGNET standard presentation.

Original documents must be delivered in English.

DELIVERABLES

- 1) Planning meeting. **Responsible:** Contractor and DFAIT.
Completion date: October 10, 19XX.
- 2) Define requirements and provide preliminary design of Request Tracking System. Define requirements and provide preliminary design of Problem Tracking System. **Responsible:** Contractor.
Completion date: October 31, 19XX.
- 3) Review requirements and preliminary design (step 2). **Responsible:** DFAIT. **Completion date:** November 3, 19XX.
- 4) Provide detailed design of Request Tracking System. **Responsible:** Contractor. **Completion date:** November 10, 19XX.
- 5) Review and comment detailed design (step 4). **Responsible:** DFAIT. **Completion date:** November 14, 19XX.
- 6) Review, analyze and evaluate operational policies and procedures. **Responsible:** Contractor. **Completion date:** November 15, 19XX.
- 7) Submit report on evaluation of operational policies and procedures. **Responsible:** Contractor. **Completion date:** November 17, 19XX.
- 8) Review and comment report (step 7). **Responsible:** DFAIT. **Completion date:** November 21, 19XX.
- 9) Develop, implement and maintain Request Tracking System. **Responsible:** Contractor. **Completion date:** On going.
- 10) Provide detailed design of Problem Tracking System. **Responsible:** Contractor. **Completion date:** November 22, 19XX.
- 11) Review and comment detailed design (step 10). **Responsible:** DFAIT. **Completion date:** November 24, 19XX.

- 12) Develop, implement and maintain Problem Tracking System.
Responsible: Contractor. **Completion date:** On going.
- 13) Implement approved operational policies and procedures.
Responsible: Contractor. **Completion date:** December 8, 19XX.

LINGUISTIC PROFILE

Fluently bilingual, English and French.

SECURITY REQUIREMENT

Secret

PROJECT AUTHORITY

Helene Tremblay
Manager, Quality Assurance and Documentation
Management Support Division (STA)
Telephone: (613) 900-0000
Fax: (613) 900-0001

Annex "B"

Sample Statement of Work

Major Project Leadership Course

BACKGROUND

The Contract and Project Management Division of the Treasury Board Secretariat (TBS) has mandated the Materiel and Project Management Program of Training and Development Canada (TDC) to develop and pilot a 2-day training course for senior level managers who are or will be responsible for the direction of major projects or major crown projects. This course will also be used to train departmental representatives on senior project advisory committees (SPAC). TBS and departments have identified the need for such a course in order to better equip senior managers, who must provide strategic direction to major projects.

TDC has developed a Course Training Plan (CTP), in conjunction with TBS and departmental representatives, in view of delivering a 2-day pilot course.

OBJECTIVES

The objective of this project is to develop and pilot a 2-day course on Major Project Leadership for senior level managers who are relatively new to major projects and must provide strategic direction to major projects undertaken in the federal government.

SCOPE OF WORK

As part of the contractor's contribution to this project, the contractor will fulfil the following main tasks, as per the project schedule described below:

- 1) Interface with TDC representatives will be required throughout the project to ascertain mutual understanding of the work to be carried out, the orientations to be pursued, to finalize and deliver the deliverables.
- 2) Research and gather the literature, reference documentation and case materials necessary to develop the training material for the course.
- 3) Demonstrate their ability to deliver a participative course.
- 4) Develop the content for the instructor and participant manuals.

- 5) Submit drafts of the training documentation and diskettes for TDC review and approval and implement the required modifications.
- 6) Finalize training documentation for TDC approval.
- 7) Prepare for and deliver a pilot course to a group of up to 20 participants representing the target population for the course.
- 8) Implement the modifications provided by the project manager following the pilot course and finalize the training package.

DELIVERABLES AND PROJECT SCHEDULE

1. All deliverables must be submitted, in English, to the Project Management Authority.

Phase 1

- a) Based on the CTP, provide the draft version of pre-course reading, session 1 (content and exercises) and background information and outline of all case study exercises, including evaluation exercise and content of training. **Completion date:** December 1, 19XX.
- b) The Project Manager will provide comments concerning deliverable (a). **Completion date:** December 8, 19XX.
- c) Project Manager will approve the modifications required from deliverable (b). **Completion date:** December 15, 19XX.

Phase 2

- a) Presenting the first session in English in a classroom setting in front of a panel of TDC managers and instructors for the evaluation of the contractor's teaching methodology. **Completion date:** January 15, 19XX.
- b) Coaching session schedule is to be determined between the specialist and the contractor's instructor, but must occur before the pilot course. **Completion date:** January 30, 19XX.

Phase 3

- a) Teaching the first pilot course to a group of 20 participants. **Completion date:** February 10, 19XX.
- b) Revisions to the training course material as a result of the pilot course as per discussions with the Project Manager. **Completion date:** February 21, 19XX.

c) Final approval and acceptance of the course package by the Project Manager. Completion date: March 2, 19XX.

PROJECT AUTHORITY:

Ms. Alexina Booremma
Training Development Canada
113 Rougin Street
Toronto, Ontario
K3M 7G5

Tel: (416) 754-9900
Fax: (416) 754-9901

Appendix "C"

Sample Statement of Work

1.0 INTRODUCTION

1.1 Objective

The Department of ----- has requirement(s) for the provision of Informatics Professional Services to implement the PeopleSoft HR System within the Department.

1.2 Background

The Department has decided to replace its existing human resources information system (HRIS) with a commercial product called PeopleSoft HRMS.

PeopleSoft HRMS has been endorsed by Treasury Board as a system that federal government departments may use for the purposes of managing their human resources. A contract has been awarded by Treasury Board to PeopleSoft to permit licensing for federal government departments. Approximately fifteen departments have signed MOUs with Treasury Board stating their commitment to the product. The intention is to develop a common shared core system that will be used by all participating departments while at the same time giving the departments certain flexibilities to customize to their own departments' needs around that core. The first release of this version, Government of Canada Version Release 1 (GC1), is currently undergoing user acceptance testing by participating departments. The issue of support and maintenance of this core system is now being addressed by the Cluster Group - one option is the use of a third party Service Provider.

From the perspective of the Department, an evaluation was conducted in the spring of 1994 to determine the technical architecture best suited for implementing PeopleSoft HRMS and the implications of this architecture. The study recommended a central data base approach with users accessing the database via workstations and LANs across the country. Information on the proposed architecture is contained in Section 1.4.

The department has completed the identification of functional HR requirements. In addition to this, work is underway to determine the "gap" that exists between these requirements and the functionality available with the PeopleSoft GC1 version. This will form the basis, along with other departments' "gap" analyses, for the requirements analysis of the next release of the Government of Canada version. This "gap" will also be used by the Department to determine the extent of departmental customization that will be

needed prior to implementing in the department (a key objective of the project is to keep this to a minimum).

An implementation plan has also been developed and a departmental team is now in place. Work is now well under way on the Technical Infrastructure and Technical Shakedown Segments. Work has also begun on Conversion Preparation and Design.

To briefly summarize this plan, the first phase of implementation is planned to take place in the summer of 1996 and will probably consist of providing most current HRIS users (approximately 250) with access to PeopleSoft HRMS. Prior to the actual implementation, there is a significant amount of work to be done: the Technical Shakedown is scheduled to take place during June and July 1995 followed by a pilot in the fall; detailed functional analysis and design, customization and testing, conversion activities, training, site preparation and installation all have to be completed prior to implementation.

1.3 Scope

Due to the varied nature of the services required for this project and the flexibility to specify the detailed tasks and deliverables on an as when requested basis, a Task Authorization (copy attached as Appendix "C") will be prepared by the Project Authority when there is a task to be completed. It is not possible, at this time, to specify exact dates and deliverables.

The vendor will provide a team of informatics professionals who will be involved in all, or a subset of the following segments:

- Change Management Segment (Organizational Analysis and Alignment)
- Technical Shakedown Segment
- Conversion Preparation Segment
- Design Segment
- Pilot Segment
- System Testing Segment
- System Configuration and Customization Segment

The set of activities, deliverables, time frames and levels of personnel will be determined on an as and when requested basis and will vary with the stage of implementation.

All copyrights will remain the property of the Crown.

1.4 EDP Environment

1.4.1 Software

PeopleSoft HRMS is a commercial software product that offers a broad range of human resource functions to the HR specialist, manager and employee. It runs in a client/server environment with a GUI front end and a variety of RDBMS and server platforms. The Department has chosen a centralized database approach with the application running locally on individual LANs and PCs. The DBMS to be used is ORACLE version 7.

PeopleSoft HRMS makes use of a variety of third party products and tools for reporting and downloading of data (e.g., Crystal Report Writer, MS Excel, MS Word). For development/customization, a proprietary PeopleSoft tool called PeopleTools is used.

1.4.2 Workstations

PeopleSoft HRMS will be accessed through MS Windows using a PC. The recommended minimum specifications were identified as part of the technical evaluation.

1.4.3 Local Area Networks

The majority of PeopleSoft users will be using the system through any one of over 50 Local Area Networks in place across the country. The majority are Pathworks LANs with VAX/VMS servers. There are also several Novell LANs installed in various locations across the country. There may be a small percentage of potential users that will not have direct access to a LAN.

A recent study in the department has recommended a move to NT for all sites in the department. In all likelihood, this will occur over the period of proposed contract(s).

1.4.4 Data Base Server

The database will reside on a DEC Alpha station 1000 running OpenVMS.

1.4.5 Wide Area Network

For the most part, the network (Net) architecture is based on high-speed leased digital circuits connected to multi-protocol routers. For those locations where the cost of a router has not yet been justified, access is still provided via a private X.25 packet switching network.

Over the next three years, the department will likely upgrade to a Frame Relay configuration.

1.4.6 Standards

All systems development must adhere to project standards which can be referenced upon request.

2.0 Requirements

The Department has requirement(s) to establish one or two contract(s) per category with vendor(s) to supply resource(s) under the following specific categories on an as and when requested basis. A Task Authorization will be prepared when a task is required. The vendor(s) would supply a team to provide professional informatics and management consulting services for the implementation of the PeopleSoft HR system within the department. The resource(s) must be available within 3 weeks of the request from the Project Authority or authorized replacement.

The Project team requires support in the following areas:

***A PeopleSoft HRMS Functional Analyst** will work with the implementation team to ensure that the business aspects of the PeopleSoft applications are in place (e.g. providing specifications for modifications and/or development based on requirements defined by the project team's HR analyst(s).

The Functional Analyst will be responsible for ensuring that the capabilities of the PeopleSoft application are understood by the project team. They will also ensure that the business requirements to be met by the application are correctly analyzed and documented (e.g. design specifications) with respect to the application software capability. They will review and assist in setting up package configuration information for the pilot and for the final system implementation.

NOTE: Depending on the skills of resources available, the PS Technical and Functional Analysts may be the same person.

***A PeopleSoft HRMS Technical Analyst** will provide PeopleSoft specific technical expertise during the implementation of the product. This will include the provision of technical advice and hands-on assistance during technical testing, conversion preparation, design, system configuration and package customization. There may also be a requirement for some assistance during the actual conversion and roll-out of the system.

NOTE: Depending on the skills of the resources available, the PS Technical and Functional Analysts may be the same person.

***An Organizational Impact Specialist** will provide advice on the most efficient way to make use of the PeopleSoft functionality in the department and the least disruptive way to align the

organization to the new ways of conducting HR business using PeopleSoft.

*The Organizational Impact Specialist will participate in building a business case in order to get buy-in to these new ways of conducting HR business and in developing a strategy for determining the impact of PeopleSoft on the organization. Finally, the Organizational Impact Specialist may be called upon to help the responsible AAFC team member in carrying out the strategy.

*A PeopleSoft HRMS Software Developer will be part of the project team in developing functionality required by the department that is not provided by the product as delivered to departments.

*A System Test Leader will be required to plan, organize and lead the testing activities after the customization of the system. The focus of this will be user acceptance testing.

2.1 Tasks

It is not possible, at this time, to firmly identify detailed tasks to be performed. With each Task Authorization vendor(s) will be given a specific set of tasks and deliverables. Some of the tasks to be performed, based on current detailed segment work plans, include but are not necessarily limited to the following:

Change Management (Organizational Analysis and Alignment)

(Organizational Impact Specialist: Approx. 50 days)

The Organizational Impact specialist will be involved in the following activities:

Organizational Impact Analysis

- Review current and planned business processes
- Conduct impact assessment
- Define change management approach

Organizational Alignment

- Organizational design
- Address HR issues
- Job redesign/alignment
- Finalize organizational structure changes

Technical Shakedown Segment

(PS Technical Analyst: Approx. 5 days)

- Review test plans for Technical Shakedown
- Review environments set up for technical testing
- Testing of technical infrastructure components

Conversion Preparation Segment

(PS Technical Analysts: Approx. 5 days)

- Review project team's conversion approach/strategy

Design Segment

(PS Technical Analyst: Approx. 20 days)
(PS Functional Analyst: Approx. 20 days)

- Design of functionality that is required by AAFC beyond the functionality that is contained in the Government of Canada version. This is expected to be minimal and estimates of time are based on this assumption.

Pilot Segment

(PS Functional Analyst: Approx. 5 days)

- Review package configuration design (security, code table values and tree structure) in design plan and help tailor for pilot.
- Entering package configuration information (operator and object security, installation tables, code table values, tree structures) for pilot sites.

System Testing Segment

(System Test Leader: Approx. 50 days)

The System Test Leader will participate in the following activities:

Define testing approach

- Review current test environment
- Define testing approach for new system
- Define testing tool requirements
- Estimate testing requirements

Test Preparation

- Prepare test cases
- Develop test scripts
- Create UAT test environment
- Prepare common test data

Conduct User Acceptance Tests

- Execute test cases
- Evaluate test results
- Log and prioritize all issues
- Resolve issues

Execute Volume Testing

- Execute volume testing scripts
- Monitor results
- Tune system to meet performance criteria

Obtain approvals

- Technical approval
- Functional approval
- QA reviews

System Configuration and Customization Segment

(PS Technical Analyst: Approx. 20 days)

(PS Functional Analyst: Approx. 5 days)

(PS Software Developer: Approx. 20 days)

These resources will participate in the following activities:

Application Interfaces

- Perform design walk through

OA Interfaces

- Install and set up OA interfaces
- Prepare OA test plans and test data
- Test OA interfaces
- Review results and revise SW decision if required

Package Configuration

- Setup/Enter tree structure

Customize PeopleSoft HRMS for Department

- Code new functions
- Test new functions

2.2 Constraints

2.2.1 Qualifications

The successful bidder (s) must demonstrate certification as a PeopleSoft HRMS Implementation Partner, verifiable by PeopleSoft Inc.

2.2.2 Subcontracting

Indicate whether it is proposed that any parts of this assignment will be subcontracted out to other individuals and/or organizations. If so, provide details of each such individual or organization, and the components of the project which will be assigned to each.

2.2.3 Fomat of Deliverables

Four (4) hard-copies of all deliverables (drafts and final versions) such as reports, manuals and documentation are required. In addition, one (1) copy on 3 1/2 inch diskette prepared using Wordperfect version 5.2 is required for all final versions.

2.2.4 Language

All reports must be available in English. The Organizational Impact Analyst may be required to conduct interviews in both English and French.

2.3 Responsibilities

2.3.1 Work Facilities and Support

Depending on the nature of the work specified in the task authorization the department may provide workspace, a PC and access to relevant software for personnel. If not, this will be the responsibility of the vendor.

The vendor will also be responsible for office supplies and administrative support (word processing, photocopying, FAX, etc.).

2.3.2 Training

Any training required by contracted personnel will be the responsibility of the vendor who will assume all associated costs. Time spent on such training will not be billed to the department.

3.0 Security Requirements

All micro computing software entering the department must be scanned for viruses (using AAFC's standard virus scanning software) prior to installation. All systems activity must adhere to the "Departmental Informatics Security Policy". These may be referenced upon request.

Appendix "D"

Bibliography

1. Treasury Board Contracting Manual
2. Treasury Board Contracting Notices
3. Training and Development Canada Guide
4. PWGSC Legal Requirements of Contracting Manual

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