

## **MANITOBA GENERAL TERMS AND CONDITIONS**

### **1.0 Definitions**

#### **1.1. General Definitions:**

**“Business Days”** means Monday through Friday, excluding statutory holidays observed in the Province of Manitoba;

**“Canadian Indigenous Business”** means:

- (a) a business
  - i) that is at least 51% owned and controlled by one or more Indigenous persons of Canada; and
  - ii) if it has six or more full-time employees, at least one-third of whose full time employees must be Indigenous persons of Canada

where “business” includes a band, as defined by the Indian Act, a sole proprietorship, a corporation, a cooperative, and a partnership; or

- (b) a not for profit organization whose by-laws require that at least 51% of its board members be Indigenous persons of Canada.

**“Contractor”** means the Vendor, if any, selected by Manitoba to provide the Deliverables that are the subject of the Solicitation;

**“Deliverables”** means the goods, services or both required by Manitoba to be provided;

**“Delivery location”** means the place where the Contractor is to deliver the Deliverables specified;

**“Department”** means the Department of Public Service Delivery, Procurement and Supply Chain;

**“E-procurement System”** means the electronic tendering system used by Manitoba to post procurement opportunities, addenda and contract award information.

**“Indigenous Business”** means Canadian Indigenous Business or Manitoba Indigenous Business or both, whichever is applicable given the context.

**“Indigenous person of Canada”** means:

- (a) a person of First Nation ancestry, including treaty, status or registered Indian, non-status or non-registered Indian, and a Métis person, or
- (b) a person of Inuit ancestry,

who is a Canadian citizen and resides in Canada.

**“Indigenous person of Manitoba”** means:

- (a) a person of First Nation ancestry, including treaty, status or registered Indian, non-status or registered Indian, and a Métis person, or
- (b) a person of Inuit ancestry,

who is a Canadian citizen and resides in Manitoba.

**“Inquiry Deadline”** means business days identified on the title page;

**“Manitoba”** means the Government of Manitoba;

**“Manitoba Indigenous Business”** means:

- (a) a business:
  - i) that is at least 51% owned and controlled by one or more Indigenous persons of Manitoba; and
  - ii) if it has six or more full-time employees, at least one-third of whose full time employees must be Indigenous persons of Manitoba

where “business” includes a band, as defined by the Indian Act, a sole proprietorship, a corporation, a cooperative, or a partnership; or

- (b) a not for profit organization whose by-laws require that at least 51% of its board members be Indigenous persons of Manitoba.

**“must”, “shall”, “requires” or “required”** means something is mandatory. If a Submission does not contain or comply with a mandatory element, the Submission will be rejected and not evaluated further.

**“PST”** means Provincial Sales Taxes also known as the Manitoba Retail Sales Tax;

**“Rectification Period”** means a period of time during a Vendor is invited to correct deficiencies identified in its Submission in accordance with the procedure provided in the Solicitation;

**“should” or “desired”** means something is desirable but not mandatory. If a Submission does not contain or not comply with a desirable element, the Submission will not be rejected and will be evaluated, but the Submission will be given a lower rating because of the omission.

**“Solicitation”** means the Request for Proposals, Request for Quotations, Request for Pre-Qualifications for Buying Group, Request for Pre-Qualifications, Request for Standing Offers for Buying Group, Request for Standing Offers, Request for Pre-Qualifications for Stage 1, and all addenda that may be issued in respect of the Request for Proposals prior to the Submission Deadline;

**“Solicitation Contact”** means the individual designated by Manitoba to administer this Solicitation, as of the date on which this Solicitation is issued;

**“Submission”** means the Vendor’s written response in response to the Solicitation and shall consist of the forms and documents identified in Part 1 section 1.5.3 (both the Technical Submission and the Financial Submission) completed in accordance with the Solicitation;

**“Submission Deadline”** means the date and time set out on the title page of the Solicitation or any amendment to that date and time made by Manitoba by way of addendum prior to that date and time;

**“Submission Form”** means the document linked to the Solicitation at [https://www.gov.mb.ca/central/psc/pubs/form/mb\\_solicitation\\_submission\\_form.pdf](https://www.gov.mb.ca/central/psc/pubs/form/mb_solicitation_submission_form.pdf);

**“Supplementary Terms and Conditions”** means a document that may be attached to the Solicitation to complement or amend Manitoba General Terms and Conditions or to incorporate solicitation-specific terms and conditions;

**“Vendor”** means the entity or person who submits a Submission to Manitoba in response to the Solicitation;

**“\$”** and/or any references to monies, rates, payments, reimbursements, monetary amounts, as the context may reasonable require, shall mean Canadian Dollars only.

## 1.2. Request for Proposals Definitions

The following Definitions shall apply to Request for Proposals in addition to the Definitions under Section 1.1:

**“Contract”** means the written agreement to provide the Deliverables that results from Manitoba’s written acceptance of a Submission, and consists of the fully signed Submission Form, the Request for Proposals, including the Contract, Appendices and all addenda, and the Submission selected by Manitoba;

**“Request for Proposals”** means Request for Proposals and all addenda that may be issued in respect of the Request for Proposals prior to the Submission Deadline;

## 1.3. Request for Quotations Definitions

The following Definitions shall apply to Request for Quotation in addition to the Definitions under Section 1.1:

**“Contract”** means the written agreement to provide the Deliverables that results from Manitoba’s written acceptance of a Submission, and consists of the fully signed Submission Form, the Request for Quotations, including the Contract, Appendices and all addenda, and the Submission selected by Manitoba;

**“Request for Quotations”** means Request for Quotations and all addenda that may be issued in respect of the Request for Quotations prior to the Submission Deadline;

## 1.4. Request for Pre-Qualifications for Buying Group Definitions

The following Definitions shall apply to Request for Pre-Qualifications for Buying Group in addition to the Definitions under Section 1.1:

**“Buying Group”** means the public entities collaborating together in this group purchasing initiative. Specifically, means the buying group that has been formed by the list of participating members identified in this Solicitation to combine the purchasing requirements and activities of the members into one joint procurement process. Each participating member of the Buying Group is a **“Buying Group Member”**;

**“Contract”** means the document, agreed to in writing by the Buying Group Member and Qualified Supplier, describing the Deliverables to be provided by the Qualified Supplier, to be prepared in accordance with the Master Agreement, the applicable Buying Group Member’s Participating Addendum, and the applicable invitational second stage solicitation document;

**“Contract Administrator”** means the person designated by the Buying Group Member to administer their Participating Addendum. The details of the Contract Administrator will be identified in the Buying Group Member’s Participating Addendum;

**“Master Agreement”** means the agreement to be entered into by Manitoba on behalf of the Buying Group Members and the successful Vendor(s) (if any), substantially in the form set out in the Appendix C of the Solicitation;

**“Participating Addendum”** means the document to be signed by the Qualified Supplier and a Buying Group Member to confirm their respective contact information, and sets out the additional contractual terms and conditions and Deliverables requirements that are specific to that Buying Group Member. Each Buying Group Member’s form of Participating Addendum is set out in **Appendix D** of the Solicitation;

**“Qualified Supplier”** means a Vendor selected by Manitoba after evaluation as qualified, to enter into a Master Agreement with Manitoba on behalf of the Buying Group, and Participating Addendum, and be eligible to compete in invitational second-stage competitive processes for discrete work assignments involving the provision of the Deliverables;

**“Qualified Supplier Multi-use List”** means a roster or list of Qualified Suppliers that entered into a Master Agreement with Manitoba on behalf of the Buying Group;

**“Request for Pre-Qualifications”** means Request for Pre-Qualifications for Buying Group and all addenda that may be issued in respect of the Request for Pre-Qualifications prior to the Submission Deadline;

**“Second Stage Invitational Competitive Process”** means second-stage competitive processes for discrete work assignments involving the provision of the Deliverables which may be initiated by way of an invitation to Qualified Supplier(s) on the Qualified Supplier Multi-use List after the execution of a Master Agreement with Manitoba on behalf of the Buying Group and signing of Participating Addendum with a Buying Group Member for the Deliverables;

## **1.5. Request for Pre-Qualifications Definitions**

The following Definitions shall apply to Request for Pre-Qualifications in addition to the Definitions under Section 1.1:

**“Contract”** means the document, agreed to in writing by Manitoba and Qualified Supplier, describing the Deliverables to be provided by the Qualified Supplier, to be prepared in accordance with the Master Agreement and the applicable invitational second stage solicitation document;

**“Contract Administrator”** means the person designated by Manitoba to administer Master Agreement. The details of the Contract Administer will be identified in Master Agreement;

**“Master Agreement”** means the contract to be entered into by Manitoba and the successful Vendor(s) (if any), substantially in the form set out in the Appendix C of the Solicitation;

**“Qualified Supplier”** means a Vendor selected by Manitoba after evaluation as qualified, to enter into a Master Agreement with Manitoba and be eligible to compete in an invitational second stage competitive processes for discrete work assignments involving the provision of the Deliverables;

**“Qualified Supplier Multi-use List”** means a roster or list of Qualified Suppliers that entered into a Master Agreement with Manitoba;

**“Request for Pre-Qualifications”** means Request for Pre-Qualifications and all addenda that may be issued in respect of the Request for Pre-Qualifications prior to the Submission Deadline;

**“Second Stage Invitational Competitive Process”** means second-stage competitive processes for discrete work assignments involving the provision of the Deliverables which may be initiated by way of an invitation to Qualified Supplier(s) on the Qualified Supplier Multi-use list after the execution of a Master Services Agreement with Manitoba for the Deliverables;

## 1.6. Request for Standing Offers for Buying Group Definitions

The following Definitions shall apply to Request for Standing Offers for Buying Group in addition to the Definitions under Section 1.1:

**“Buying Group”** means the public entities collaborating together in this group purchasing initiative. Specifically, means the buying group that has been formed by the list of participating members identified in this Solicitation to combine the purchasing requirements and activities of the members into one joint procurement process. Each participating member of the Buying Group is a **“Buying Group Member”**;

**“Call-up Process”** means the call-up process for the provision of the Deliverables, which may be initiated by way of an invitation to Contract Vendor(s) on the Contract Vendor List after the execution of a Standing Offer Agreement with Manitoba on behalf of the Buying Group and signing of Participating Addendum with a Buying Group Member for the Deliverables;

**“Contract”** means the document, agreed to in writing by the Buying Group Member and Contract Vendor, describing the Deliverables to be provided by the Contract Vendor, to be prepared in accordance with the Standing Offer Agreement, the applicable Buying Group Member’s Participating Addendum, and the applicable Call-up process document;

**“Contract Administrator”** means the person designated by the Buying Group Member to administer their Participating Addendum. The details of the Contract Administer will be identified in the Buying Group Member’s Participating Addendum;

**“Contract Vendor”** means a Vendor selected by Manitoba after evaluation as qualified, to enter into a Standing Offer Agreement with Manitoba on behalf of the Buying Group, and Participating Addendum, and be eligible for the Call-up process for the provision of the Deliverables;

**“Contract Vendor List”** means a roster or list of the Contract Vendors that entered into a Standing Offer Agreement with Manitoba on behalf of the Buying Group; only applicable to agreements with rotational contract vendor list;

**“Standing Offer Agreement”** means the agreement to be entered into by Manitoba on behalf of the Buying Group Members and the successful Vendor(s) (if any), substantially in the form set out in the Appendix C of the Solicitation;

**“Participating Addendum”** means the document to be signed by the Contract Vendor and a Buying Group Member to confirm their respective contact information, and sets out the additional contractual terms and conditions and Deliverables requirements that are specific to that Buying Group Member. Each Buying Group Member’s form of Participating Addendum is set out in **Appendix D** of the Solicitation;

**“Request for Standing Offers for Buying Group”** means Request for Standing Offers for Buying Group and all addenda that may be issued in respect of the Request for Standing Offers prior to the Submission Deadline;

## **1.7. Request for Standing Offers for Definitions**

The following Definitions shall apply to Request for Standing Offers in addition to the Definitions under Section 1.1:

**“Call-up Process”** means the call-up process for the provision of the Deliverables, which may be initiated by way of an invitation to Contract Vendor(s) on the Contract Vendor List after the execution of a Standing Offer Agreement with Manitoba for the Deliverables;

**“Contract”** means the document, agreed to in writing by Manitoba and Contract Vendor, describing the Deliverables to be provided by the Contract Vendor, to be prepared in accordance with the Standing Offer Agreement and the applicable Call-up process document;

**“Contract Administrator”** means the person designated by Manitoba to administer a Standing Offer Agreement. The details of the Contract Administer will be identified in the Standing Offer Agreement;

**“Standing Offer Agreement”** means the agreement to be entered into by Manitoba on behalf of the Buying Group Members and the successful Vendor(s) (if any), substantially in the form set out in the Appendix C of the Solicitation;

**“Participating Addendum”** means the document to be signed by the Contract Vendor and a Public Sector Organization to confirm their respective contact information, and sets out the additional contractual terms and conditions and Deliverables requirements that are specific to that Buying Group Member. Each Buying Group Member’s form of Participating Addendum is set out in **Appendix D** of the Solicitation;

**“Contract Vendor”** means a Vendor selected by Manitoba after evaluation as qualified, to enter into a Standing Offer Agreement and be eligible for the Call-up process for the provision of the Deliverables;

**“Contract Vendor List”** means a roster or list of the Contact Vendors that entered into a Standing Offer Agreement with Manitoba; only applicable to agreements with rotational contract

vendor list;

**“Request for Standing Offers”** means Request for Standing Offers and all addenda that may be issued in respect of the Request for Standing Offers prior to the Submission Deadline;

## **2.0 General Information and Instructions**

### **2.1. Vendors to Follow Instructions**

Vendors should structure their Submissions in accordance with the instructions in the Solicitation. Where information is requested in the Solicitation, any response made in a Submission should reference the applicable section numbers of the Solicitation.

A Vendor who submits conditions, options, variations, or contingent statements, either as part of its Submission or after receiving notice of selection, may be disqualified.

### **2.2. Submissions in English**

All Submissions are to be in English only.

### **2.3. No Incorporation by Reference**

The entire content of the Vendor's Submission should be submitted in a fixed format, and the content of websites or other external documents referred to in the Vendor's Submission, but not attached, will not be considered to form part of its Submission.

### **2.4. Status in Relation to Manitoba and Past Performance**

In the evaluation process, Manitoba may consider the Vendor's status in relation to Manitoba and past performance or conduct on previous contracts with Manitoba or other institutions. Without limiting the generality of the foregoing, the following provisions will apply:

#### **2.4.1. Status in Relation to Manitoba**

If money is owed to Manitoba by a Vendor or proposed subcontractor, or if Manitoba, in its sole discretion, determines that a dispute or pending dispute is of such a nature that, it would be inadvisable for Manitoba to enter into an contract with the Vendor, Manitoba may disqualify a Vendor.

#### **2.4.2. Past Performance**

Manitoba may determine, in its sole discretion that the Vendor's past performance is unsatisfactory based on any of the following factors:

- (a) a Vendor or an entity the Vendor proposes to provide the Deliverables is debarred from participating in the public procurement process of any of the following:
  - (i) a department, branch or division of Manitoba,
  - (ii) a Manitoba Crown Corporation or agency, or

- (iii) an academic institution, health authority or other entity providing education, health or social services funded by Manitoba;
- (b) the performance of a Vendor, or the performance of an entity the Vendor proposes to provide the Deliverables, on a project or contract for which a reference was checked by Manitoba, regardless of whether the project or contract was listed in the Vendor's Submission, was unacceptable, deficient, improper, incomplete, or late, according to such reference;
- (c) a Vendor or an entity the Vendor proposes to provide the Deliverables is a party to a legal proceeding that discloses or concerns improper, incomplete or negligent implementation of a project or part of a project or failure to comply with a term or condition of the contract governing the project, and such legal proceeding has been initiated by any of the following:
  - (i) a department, branch or division of Manitoba,
  - (ii) a Manitoba Crown Corporation or agency, or
  - (iii) an academic institution, health authority or other entity providing education, health or social services funded by Manitoba;
- (d) a Vendor or an entity the Vendor proposes to provide the has initiated a legal proceeding against any entity listed in clause (c)(i), (ii) or (iii) above, and Manitoba is of the opinion that its existence is likely to adversely affect working relationships on the project or under the contract.

If Manitoba determines a Vendor's record of past performance is unsatisfactory, Manitoba may in its absolute discretion, disqualify the Vendor and reject its Submission. However, before making a final determination to disqualify the Vendor and reject its Submission, Manitoba shall give the Vendor one opportunity to respond within three (3) business days to such determination of unsatisfactory past performance, and shall consider such response (if one is provided within this period).

## **2.5. Information in Solicitation Only an Estimate**

Manitoba and its advisers make no representation, warranty, or guarantee as to the accuracy of the information contained in the Solicitation or issued by way of addenda. Any quantities shown or data contained in the Solicitation or provided by way of addenda are estimates only and are for the sole purpose of indicating to Vendors the general scale and scope of the Deliverables. It is the Vendor's responsibility to obtain all the information necessary to prepare a Submission in response to the Solicitation.

## **2.6. Vendors to Bear Their Own Costs**

The Vendor will bear all costs associated with or incurred in the preparation and presentation of its Submission, including, if applicable, costs incurred in connection with any and all stages of the evaluation process, such as interviews or demonstrations.

## **2.7. Submission to be Retained by Manitoba**

Manitoba will not return the Submission or any accompanying documentation submitted by a Vendor.

## **2.8. No Guarantee of Volume of Work or Exclusivity of Contract**

Manitoba makes no guarantee of the value or volume of work to be assigned to the selected Vendor(s). The contract to be negotiated with the selected Vendor(s) will not be an exclusive contract for the provision of the described Deliverables. Manitoba may contract with others for goods and services the same as or similar to the Deliverables or may obtain such goods and services internally.

## **2.9. Sustainability**

Manitoba recognizes that the purchasing decisions made by its employees can have an impact on the sustainability of the province's communities and environment. Accordingly, this means that purchases are to be based on:

- (a) careful consideration of the impact of the goods, materials or services on the environment, economy, and human health and well-being;
- (b) consideration of market factors, such as specifications, quality, delivery date, and price of the good, material or service; and
- (c) preference being given to the purchase of environmentally preferable goods and materials whenever they perform satisfactorily and are available at a reasonable price.
- (d) for additional information please refer to *The Climate and Green Plan Act*, C.C.S.M. c. C134 at <https://web2.gov.mb.ca/laws/statutes/ccsm/c134.php?lang=en>.

## **3.0 Communication after Issuance of Solicitation**

### **3.1. Vendors to Review Solicitation**

Vendors should promptly examine all of the documents comprising the Solicitation and report any errors, omissions or ambiguities to the Solicitation Contact. Vendors may direct questions or seek additional information in writing by email to the Solicitation Contact on or before the Deadline for Questions. No such communications are to be directed to anyone other than the Solicitation Contact. Manitoba is under no obligation to provide additional information, and Manitoba is not responsible for any information provided by or obtained from any source other than the Solicitation Contact. Questions and requests for additional information may be published and responded to in an addendum and communicated to all Vendors in accordance with section 3.2. The identity of the Vendor submitting the question or request will not be disclosed. It is the responsibility of the Vendor to seek clarification from the Solicitation Contact on any matter it considers to be unclear. Manitoba is not responsible for any misunderstanding on the part of the Vendor concerning the Solicitation or its process.

### **3.2. All New Information to Vendors by Way of Addenda**

The Solicitation may be amended only by addendum in accordance with this section. If Manitoba, for any reason, determines that it is necessary to provide additional information relating to the Solicitation, such information will be communicated to all Vendors by addendum posted in the E-procurement System. Each addendum forms an integral part of the Solicitation and may contain important information, including significant changes to the Solicitation. Vendors are responsible for obtaining all addenda issued by Manitoba.

### **3.3. Post-Deadline Addenda and Extension of Submission Deadline**

If Manitoba determines that it is necessary to issue an addendum after the Deadline for Issuing Addenda, Manitoba may extend the Submission Deadline for a reasonable period of time.

### **3.4. Verify, Clarify, and Supplement**

When evaluating Submissions, Manitoba may request further information from the Vendor or third parties in order to verify, clarify, or supplement the information provided in the Vendor's Submission. Manitoba may revisit, re-evaluate, and rescore the Vendor's response or ranking on the basis of any such information.

## **4.0 Notification and Debriefing**

### **4.1. Notification to Other Vendors**

Once a contract is executed by Manitoba and the selected Vendor(s), the other Vendors may be notified directly in writing and will be notified by public posting of the outcome of the procurement process.

### **4.2. Debriefing**

Vendors may request a debriefing after receipt of a notification of the outcome of the procurement process. All requests must be in writing to the Solicitation Contact and should be made within fifteen (15) days of such notification. Debriefings may occur in person at Manitoba's location or by way of conference call or other remote meeting format as prescribed by Manitoba.

## **5.0 Conflict of Interest and Prohibited Conduct**

### **5.1. Conflict of Interest**

For the purposes of the Solicitation, the term "Conflict of Interest" includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the Solicitation process, the Vendor has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including, but not limited to:
  - (i) having or having access to confidential information of Manitoba in the preparation of its Submission that is not available to other Vendors;
  - (ii) having been involved in the development of the Solicitation, including having provided advice or assistance in the development of the Solicitation;
  - (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the Solicitation;
  - (iv) communicating with any person with a view to influencing preferred treatment in the Solicitation process (including, but not limited to, the lobbying of decision-makers involved in the Solicitation process); or

- (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive Solicitation process or render that process non-competitive or unfair; or
- (b) in relation to the performance of its contractual obligations under a contract for the Deliverables, the Vendor's other commitments, relationships, or financial interests:
  - (i) could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or
  - (ii) could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

## **5.2. Disqualification for Conflict of Interest**

Manitoba may disqualify a Vendor for any conduct, situation, or circumstances, determined by Manitoba, in its sole and absolute discretion, to constitute a Conflict of Interest as defined above.

An existing supplier of Manitoba may be precluded from participating in the Solicitation process in instances where Manitoba has determined that the supplier has a competitive advantage that cannot be adequately addressed to mitigate against unfair advantage. This may include, without limitation, situations in which an existing supplier is in a position to create unnecessary barriers to competition through the manner in which it performs its existing contracts, or situations where the incumbent fails to provide the information within its control or otherwise engages in conduct obstructive to a fair competitive process.

## **5.3. Disqualification for Prohibited Conduct**

Manitoba may disqualify a Vendor, rescind an invitation to negotiate, or terminate a contract subsequently entered into if Manitoba determines that the Vendor has engaged in any conduct prohibited by the Solicitation.

## **5.4. Prohibited Vendor Communications**

Vendors must not engage in any communications that could constitute a Conflict of Interest and should take note of the Conflict of Interest declaration set out in the Submission Form.

## **5.5. Vendor Not to Communicate with Media**

Vendors must not, at any time directly or indirectly, communicate with the media in relation to the Solicitation or any contract entered into pursuant to the Solicitation without first obtaining the written permission of the Solicitation Contact.

## **5.6. No Lobbying**

Vendors must not, in relation to the Solicitation or the evaluation and selection process, engage directly or indirectly in any form of political or other lobbying whatsoever to influence the selection of the selected Vendor(s).

## **5.7. Illegal or Unethical Conduct**

Vendors must not engage in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud, coercion, or collusion. Vendors must not engage in any unethical conduct, including lobbying, as described above, or other inappropriate communications; offering gifts to any employees, officers, agents, elected or appointed officials, or other representatives of Manitoba; deceitfulness; submitting Submissions containing misrepresentations or other misleading or inaccurate information; or any other conduct that compromises or may be seen to compromise the competitive process provided for in the Solicitation.

## **5.8. Prohibited Supplier Participation**

Manitoba may prohibit a supplier from participating in its procurement processes for prescribed time periods based on past performance or based on inappropriate conduct, including, but not limited to, the following:

- (a) illegal or unethical conduct as described above;
- (b) the refusal of the supplier to honour its submitted pricing or other commitments;
- (c) any conduct, situation, or circumstance determined by Manitoba, in its sole and absolute discretion, to have constituted an undisclosed Conflict of Interest.

## **6.0 Procurement Process Non-Binding**

### **6.1. No Contract A and No Claims**

The procurement process is not intended to create and will not create a formal, legally binding bidding process and will instead be governed by the law applicable to direct commercial negotiations. For greater certainty, and without limitation:

- (a) the Solicitation will not give rise to any Contract-A-based tendering law duties or any other legal obligations arising out of any process contract or collateral contract; and
- (b) neither the Vendor nor Manitoba will have the right to make any claims (in contract, tort, or otherwise) against the other with respect to the award of a contract, failure to award a contract, or failure to honour a Submission submitted in response to the Solicitation.

### **6.2. No Contract until Execution of Written Contract**

The Solicitation process is intended to identify prospective suppliers for the purposes of negotiating potential contracts. No legal relationship or obligation regarding the procurement of any good or service will be created between the Vendor and Manitoba by the Solicitation process until the successful negotiation and execution of a written contract for the acquisition of such goods and/or services.

### **6.3. Non-Binding Price Estimates**

While the pricing information provided in Submissions will be non-binding prior to the execution of a written contract, such information will be assessed during the evaluation of the Submissions and the ranking of the Vendors. Any inaccurate, misleading or incomplete information, including withdrawn

or altered pricing, could adversely impact any such evaluation or ranking or the decision of Manitoba to enter into an contract for the Deliverables.

#### **6.4. Cancellation**

Manitoba may cancel or amend the Solicitation process without liability at any time.

### **7.0 Trade Agreements**

Manitoba is dedicated to open, fair and transparent business conduct. Vendors should note that the procurement may be subject to the following trade agreements: New West Partnership Trade Agreement (Article 14); Canadian Free Trade Agreement (Chapter 5); World Trade Organization Agreement on Government Procurement; Canada – European Union Comprehensive Economic and Trade Agreement (Chapter 19); Agreement on Trade Continuity between the United Kingdom of Great Britain and Northern Ireland and Canada (Chapter 19); and Comprehensive and Progressive Agreement for Trans-Pacific Partnership (Chapter 15).

### **8.0 Non Participation**

Manitoba is interested in understanding what led to a vendor's decision to not to participate in the Solicitation. Vendors who chose to not participate are invited to provide comments using the following link: <https://forms.microsoft.com/r/UvGz0V3Kqu>

### **9.0 Governing Law and Interpretation**

These Terms and Conditions of the Solicitation Process:

- (a) are intended to be interpreted broadly and independently (with no particular provision intended to limit the scope of any other provision);
- (b) are non-exhaustive and will not be construed as intending to limit the pre-existing rights of the parties to engage in pre-contractual discussions in accordance with the common law governing direct commercial negotiations; and
- (c) are to be governed by and construed in accordance with the laws of the province of Manitoba and the federal laws of Canada applicable therein.