**Work Spaces Terms and Conditions Manual (WTCM)**

 **for Individual Bid Requirements and Resulting Contracts**

**Version 1**

**PWGSC – Furniture Division**

Reference:Supply Arrangement for Furniture for Workspaces issued by Public Works and Government Services Canada (PWGSC) under the series number E60PQ-140001, PARTS 6B and 6C.

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Note:

The RFB templates are comprised of two sections: 1) the first has solicitation provisions; 2) the second has contract provisions.

When issuing RFB documents, both sections are included and provide the bidders with advanced appreciation of the resulting contract provisions. When issuing the contract, the contract will have a “contract first page” and the completed second section that formed part of the RFB and winning bid.

When conducting verbal solicitations, the second section may be reviewed with the bidders. The winning bidder is not to undertake the contract until a signed and dated copy is returned to the IU.

1. Reference: Part 6B, of the SA

1. **RFB (Bid Solicitation and Resulting Contract) Template**There is one template, it accommodates for General or PSAB procurements, single or multiple Conforming Supplier(s) as well as Manufacturer Product Specific procurements.

The template also accommodates variables for pricing and payment, goods, security, quantities, locations and schedules.

1. **First Page of the RFB Template**The RFB First Page contains general information about the requirement.
2. **Subsequent pages of the RFB Template**

The clauses below, and those in Section 1 of the RFB, apply to and form part of the solicitation.

1. PSAB or GENERAL

**Scenario A** -Set-aside under the Federal Government’s Procurement Strategy for Aboriginal Business (PSAB).
Clauses a, b and c apply only to PSAB procurements. In addition, clauses b and c apply only as listed below.

* 1. "This procurement is set aside under the federal government's Procurement Strategy for Aboriginal Business.”
	2. EMV of $25,200.00 or more: “This procurement is set aside from the international trade agreements under the provision each has for set-asides for small and minority businesses.”
	3. EMV of $25,000.00 or more: “Further to Article 1802 of the Agreement on Internal Trade (AIT), AIT does not apply to this procurement.”

**Scenario B** – GENERAL

Except for procurements conducted under subarticle c, above, the requirement is subject to the provisions of the following Trade Agreement(s) for requirements with the EMVs set out below.

* 1. EMV of $25,000.00 or more: the “Agreement on Internal Trade (AIT)."
	2. EMV of $25,200.00 or more: the “Agreement on Internal Trade (AIT)" and the “North American Free Trade Agreement (NAFTA) and the Canada-Columbia Free Trade Agreement, the Canada-Chili Free Trade Agreement, and the Canada-Peru Free Trade Agreement.
	3. EMV of $200,900.00 or more: the “Agreement on Internal Trade (AIT)" and the “North American Free Trade Agreement (NAFTA)” and the World Trade Organization Agreement on Government Procurement (WTO-AGP) and the Canada-Columbia Free Trade Agreement, the Canada-Chili Free Trade Agreement, and the Canada-Peru Free Trade Agreement.

National Security Exception

If Canada has invoked a National Security Exception provided for in the Trade Agreements, this procurement is excluded from all of the obligations of all the trade agreements.

1. Security Requirement

Scenario A - Unless otherwise indicated in the RFB, there is no security requirement.

Scenario B - For security requirements indicated in the RFB, except for the requirements that can be met by Canada escorting the Contractor, the Supplier must possess the security requirements at the time listed in the RFB.

1. Debriefings

Bidders may request a debriefing on the results of the bid solicitation process. Bidders should make the request to the Contracting Authority within 15 working days of receipt of the results of the bid solicitation process. The debriefing may be in writing, by telephone or in person.
2. Standard Instructions, Clauses and Conditions

All instructions, clauses and conditions identified herein and in the RFB by number, date and title are set out in the [*Standard Acquisition Clauses and Conditions Manual*](https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual) (https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual) issued by Public Works and Government Services Canada.

Bidders who submit a bid agree to be bound by the instructions, clauses and conditions of the bid solicitation and accept the clauses and conditions of the resulting contract.
3. Standard Instructions

Scenario A - The following clause applies to Competitive Requirements.

* + 1. The 2003 (2014-09-25) Standard Instructions - Goods or Services - Competitive Requirements, are incorporated by reference into and form part of the bid solicitation.

Scenario B - The following clause applies to Non-Competitive Requirements.

* + 1. The 2004 (2014-09-25) Standard Instructions – Goods or Services – Non-Competitive Requirements, are incorporated by reference into and form part of the bid solicitation.
	1. The following clauses apply to both 2003 and 2004 (above):

	Subsections 04 and 05 of Section 01 Integrity Provisions - Bid of the Standard Instructions 2003 and 2004incorporated by reference above are deleted in their entirety and replaced with the following:

		1. 04. Bidders who are incorporated or who are a sole proprietorship, including those bidding as a joint venture, have already provided a list of names of all individuals who are directors of the Bidder, or the name of the owner, at the time of submitting an arrangement under the Request for Supply Arrangement (RFSA). These bidders must diligently inform Canada in writing of any changes affecting the list of directors during this procurement process as well as during the contract period.
		2. 05. Canada may, at any time, request that a bidder provide properly completed and Signed Consent Forms (Consent to a Criminal Record Verification form - PWGSC-TPSGC 229) for any or all individuals mentioned above within a specified time frame. Failure to provide such consent forms and associated information within the time frame provided, or failure to cooperate to the verification process, will result in the bid being declared non-responsive*.*
1. Enquiries – Bid Solicitation

Bidders should reference as accurately as possible the numbered item of the bid solicitation to which the enquiry relates. Care should be taken by bidders to explain each question in sufficient detail in order to enable Canada to provide an accurate answer. Technical enquiries that are of a proprietary nature must be clearly marked "proprietary" at each relevant item. Items identified as "proprietary" will be treated as such except where Canada determines that the enquiry is not of a proprietary nature. Canada may edit the questions or may request that the Bidder do so, so that the proprietary nature of the question is eliminated, and the enquiry can be answered to all bidders. Enquiries not submitted in a form that can be distributed to all bidders may not be answered by Canada.
2. Bid Preparation Instructions

Scenario A - For requirements to be sent to a physical location:Unless otherwise stated in the RFB, Canada requests that bidders provide one hard copy of their bid.

If the RFB requests a soft copy in addition to the hard copy and there is a discrepancy between the wording of the soft copy and the hard copy, the wording of the hard copy has priority over the wording of the soft copy. Bidders must submit one soft copy on CD, DVD or USB that must be readable and editable by the IU.

Canada requests that bidders follow the format instructions described below in the preparation of their bid:

* 1. use 8.5 x 11 inch (216 mm x 279 mm) paper;
	2. use a numbering system that corresponds to the RFB.

Scenario B - For requirements to be sent by e-mail:

Bidders must submit one soft copy by email that must be readable and editable by the IU.

1. Financial Bid

Bidders must submit their financial bid in accordance with Annex A of the RFB and article “Mandatory Evaluation Criteria” below.
2. Certifications

Clauses a and b apply to Competitive and Non-Competitive Requirements when the Total Evaluated Bid Price is $50,000.00 or more and the bid is the only responsive bid.

	1. Price Certification – Canadian-based Suppliers (other than Agency and Resale Outlets)

	The Bidder certifies that the price proposed

		1. is not in excess of the lowest price charged anyone else, including the Bidder's most favoured customer, for the like quality and quantity of the goods, services or both;
		2. does not include an element of profit on the sale in excess of that normally obtained by the Bidder on the sale of goods, services or both of like quality and quantity, and
		3. does not include any provision for discounts to selling agents.
	2. Price Certification – Canadian Agency and Resale Outlets

	The Bidder certifies that the price proposed

		1. is not in excess of the lowest price charged anyone else, including the Bidder's most favoured customer, for the like quality and quantity of the goods, services or both; and
		2. does not include an element of profit on the sale in excess of that normally obtained by the Bidder on the sale of goods, services or both of like quality and quantity.
	3. Integrity Provisions - Associated Information

	By submitting a bid, the Bidder certifies that the Bidder and its Affiliates are in compliance with the provisions as stated in Section 01 Integrity Provisions - Bid of Standard Instructions listed above.
3. Evaluation Procedures

Bids will be assessed in accordance with the entire requirement of the RFB including the mandatory evaluation criteria.

Unless otherwise indicated in the RFB, an evaluation team composed of representatives of Canada will evaluate the bids.

Canadian Content: The provisions below apply to RFBs issued for procurements for which AB/P is the Contracting Authority for requirements with an EMV of $25,000.00 or more that are set-aside under PSAB.

	1. Canada will evaluate the bids in accordance with the scenario selected in the RFB.

		1. Scenario 1: No Canadian Content requirement.

		Products proposed that are denoted as Canadian Content in the Supplier’s SA for Workspaces will not be given evaluation preference over products without this Canadian Content designation.
		2. Scenario 2: Products proposed should be those denoted in the Supplier’s SA for Workspaces as Canadian Content. The evaluation team will determine first if there are two or more bids that propose products denoted as Canadian Content in each of the Bidders’ SA for Workspaces. In that event, the evaluation will be limited to these bids; otherwise, all bids will be evaluated. If some of the bids with Canadian Content products are declared non-responsive, or are withdrawn, and less than two responsive bids with Canadian Content products remain, the evaluation will continue among those bids with Canadian Content products. If all bids with Canadian Content products are subsequently declared non-responsive, or are withdrawn, then all the other bids received will be evaluated.
4. Mandatory Evaluation Criteria

	1. The bid must be completed in full in accordance with the instructions of the WTCM and the RFB.
	2. The Bidder must bid the firm pricing stipulated by the IU in the RFB template.
	3. The Bidder must bid only the products listed in its SA that conform to the requirement listed in Annex A of the RFB.
	4. Bid prices for the products must not exceed the ceiling unit prices/rates listed in the Bidder’s SA.
	5. For PSAB procurements, the bid must comply with the Canadian Content provision stipulated in article 10 and applied in the RFB.
	6. The total amount of Applicable Taxes must be shown separately.
	7. If delivery is requested, prices must be DDP (Destination) Incoterms®2010. If delivery is not requested, prices must be FCA Incoterms® 2010 basis.
	8. Prices must be in Canadian funds, Canadian customs duties and excise taxes included.
	9. The bid must not request exchange rate fluctuation risk mitigation.
5. Financial Evaluation

The price of the bid will be evaluated in Canadian dollars, Applicable Taxes excluded, Canadian customs duties and excise taxes included.

If delivery is part of the requirement, the price of the bid will be evaluated on a DDP Incoterms®2010 basis.

If delivery is not part of the requirement, prices will be evaluated on a FCA Incoterms® 2010 basis.

1. Basis of Selection

Scenario A – For Competitive Requirements

To be declared responsive, a bid must

* 1. comply with the requirements in
		1. the WTCM;
		2. the RFB; and
	2. meet all mandatory evaluation criteria.

The responsive bid with the lowest evaluated RFB price will be recommended for award of a contract.

Scenario B – For Non-Competitive Requirements

To be declared responsive, a bid must

1. comply with the requirements in
	* 1. the WTCM; and
		2. the RFB.
2. meet all mandatory evaluation criteria.

The responsive bid with the pricing acceptable by the IU will be recommended for award of a contract.

2. Reference: Part 6C of the SA

1. Resulting Contract TemplateIUs will use the RFB template listed above at 1.A. “RFB (Bid Solicitation and Resulting Contract) Template”.
2. Contract First Page

The Contract First Page is to be completed and used as page one with the awarded contract.

The first page of the resulting contract contains the following, as a minimum:

* 1. Contract number;
	2. Contract date;
	3. Consignee code;
	4. A statement “Your Proposal is Accepted”, and
	5. name and signature of person authorized to sign on behalf of the IU.

C. Subsequent pages the Resulting Contract TemplatesThe clauses below, and those in Section 2 of the RFB - Resulting Contract Clauses, apply to and form part of the Contract.

1. Requirement

	1. The Contractor must perform the Work listed in Annex A of the Contract.
2. Security Requirement
	1. If Section 2 of the Contract contains Security Requirements, the Contractor must meet the requirements.
3. Standard Clauses and ConditionsAll clauses and conditions identified in the Contract by number, date and title are set out in the [*Standard Acquisition Clauses and Conditions Manual*](https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual)(https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual) issued by Public Works and Government Services Canada.
4. General Conditions2010A (2014-11-27), General Conditions - Goods (Medium Complexity), apply to and form part of the Contract.

	1. Section 09 - Warranty, is amended as follows:

		1. At Sub-section 1.
			1. Deleted: "The warranty period will be twelve months."
			2. Inserted: "The warranty period will be ten (10) years with the exception of user adjustable components, which will have a warranty of five (5) years.""
		2. At Sub-section 2.
			1. Deleted: In its entirety
			2. Inserted: as follows:
				1. "2. The Contractor must pay the transportation cost associated with returning the Work or any part of the Work to the Contractor's plant for replacement, repair or making good. The Contractor must also pay the transportation cost associated with forwarding the replacement or returning the Work or part of the Work when rectified to the delivery point specified in the Contract or to another location as directed by Canada. If, in the opinion of Canada, it is not expedient to remove the Work from its location, the Contractor must carry out any necessary repair or making good of the Work at that location. In such cases, the Contractor will be responsible for all Costs (including travel and living expenses) incurred in so doing, Canada will not reimburse these Costs."

All other provisions of the warranty section remain in effect.

* 1. Section 16 - Interest on Overdue Accounts

	This provision will not apply to payments made by credit card at point of sale. This provision does not apply to Suppliers whose SAs do not include the provision for payment by credit card.
1. Term of ContractPerformance of the Work

All the Work listed in Annex A of the Contract must be received in accordance with the schedule detailed the same Annex.
2. Optional QuantitiesThe clause below applies when the RFB included optional quantities of goods and/or services and they are included in Section 2, Annex A of the Contract.

	1. The Contractor grants to Canada the irrevocable option to acquire the goods, services or both described in the Contract under the same terms and conditions and at the prices and/or rates stated in the Contract. The option may only be exercised by the Contracting Authority and will be evidenced, for administrative purposes only, through a contract amendment.
	2. The Contracting Authority may exercise the option at any time before the expiry of the Contract by sending a written notice to the Contractor.
3. Payment
	1. Basis of PaymentIn consideration of the Contractor satisfactorily completing all of its obligations under the Contract, the Contractor will be paid the firm unit/lot/rate prices specified in Annex A of the Contract for the total cost specified at “Total Estimated Contract Amount”. Customs duties are included and Applicable Tax(es) are extra.
	2. Canada will not pay the Contractor for any design changes, modifications or interpretations of the Work, unless they have been approved, in writing, by the Contracting Authority before their incorporation into the Work.
	3. Method of PaymentScenario A - Single Payment

	Canada will pay the Contractor upon completion and delivery of the Work in accordance with the payment provisions of the Contract if:
		1. an accurate and complete invoice and any other documents required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract;
		2. all such documents have been verified by Canada;
		3. the Work delivered has been accepted by Canada.

Scenario B - Multiple Payment

Canada will pay the Contractor upon completion and delivery of units in accordance with the payment provisions of the Contract if:

1. an accurate and complete invoice and any other documents required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract;
2. all such documents have been verified by Canada;
3. the Work delivered has been accepted by Canada.
4. Payment of Invoices by Credit CardCanada may pay invoices by credit card if the Contractor’s SA indicates acceptance of such payment.
5. Invoicing InstructionsThe Contractor must submit invoices in accordance with the section entitled "Invoice Submission" of the general conditions. Invoices cannot be submitted until all work identified in the invoice is completed.

Invoices must be distributed as follows:

	* 1. Unless otherwise stated in the “Invoicing Instructions” of the Contract, the original and one (1) copy must be forwarded to the Contracting Authority, listed in the Contract under the section titled “Authorities”, for certification and payment.

1. Discretionary Audit – Commercial Goods and/or ServicesThe clauses below apply when the Contractor’s bid includes a Price Certification.

The Contractor's certification that the price or rate is not in excess of the lowest price or rate charged anyone else, including the Contractor's most favoured customer, for the like quality and quantity of the goods, services or both, is subject to verification by government audit, at the discretion of Canada, before or after payment is made to the Contractor.

If the audit demonstrates that the certification is in error after payment is made to the Contractor, the Contractor must, at the discretion of Canada, make repayment to Canada in the amount found to be in excess of the lowest price or rate or authorize the retention by Canada of that amount by way of deduction from any sum of money that may be due or payable to the Contractor pursuant to the Contract.

If the audit demonstrates that the certification is in error before payment is made, the Contractor agrees that any pending invoice will be adjusted by Canada in accordance with the results of the audit. It is further agreed that if the Contract is still in effect at the time of the verification, the price or rate will be lowered in accordance with the results of the audit.
2. Certifications

Compliance

The continuous compliance with the certifications provided by the Contractor in its bid and the ongoing cooperation in providing associated information are conditions of the Contract. Certifications are subject to verification by Canada during the entire period of the Contract. If the Contractor does not comply with any certification, fails to provide the associated information, or if it is determined that any certification made by the Contractor in its bid is untrue, whether made knowingly or unknowingly, Canada has the right, pursuant to the default provision of the Contract, to terminate the Contract for default.
3. Federal Contractors Program for Employment Equity - Default by the ContractorThe following clause applies for Contracts with an Estimated Total Contract Amount of $1,000,000.00 or more.

The Contractor understands and agrees that, when an Agreement to Implement Employment Equity (AIEE) exists between the Contractor and Employment and Social Development Canada (ESDC)-Labour, the AIEE must remain valid during the entire period of the Contract. If the AIEE becomes invalid, the name of the Contractor will be added to the "[FCP Limited Eligibility to Bid"](http://www.hrsdc.gc.ca/eng/labour/index.shtml) list. The imposition of such a sanction by ESDC will constitute the Contractor in default as per the terms of the Contract.
4. Applicable LawsAs set out in the article “Applicable Laws” in Part 6A of the SA.
5. Priority of DocumentsIf there is a discrepancy between the wording of any documents that appear on the list, the wording of the document that first appears on the list has priority over the wording of any document that subsequently appears on the list.
	1. the Articles of Agreement;
	2. the general conditions 2010A (2014-11-27) “General Conditions - Goods (Medium Complexity)”;
	3. Annex A, Requirement and Basis of Payment;
	4. Annex B, Security Requirements and Security Requirements Check List (*if applicable*);and
	5. the Contractor's bid as dated in the bid and as may have been clarified or amended on the dates in the clarifications and amendments.
6. Excess GoodsThe quantity of goods to be delivered by the Contractor is specified in the Contract. The Contractor remains liable for any shipment in excess of that quantity whether the excess quantity is shipped voluntarily or as a result of an error by the Contractor. Canada will not make any payment to the Contractor for goods shipped in excess of the specified quantity. Canada will not return the said goods to the Contractor unless the Contractor agrees to pay for all the costs related to the return, including but not limited to administrative, shipping and handling costs. Canada will have the right to deduct such costs from any invoice submitted by the Contractor.
7. Access to Facilities and EquipmentCanada's facilities, equipment, documentation and personnel are not automatically at the disposal of the Contractor. If access to government premises, computer systems (micro computer network), working space, telephones, terminals, documentation and personnel for consultation is required by the Contractor to perform the Work, the Contractor must advise the Contracting Authority of the need for such access in a timely fashion. If the Contractor's request for access is approved by Canada and arrangements are made to provide access to the Contractor, the Contractor, its subcontractors, agents and employees must comply with all the conditions applicable at the Work site. The Contractor must further ensure that the facilities and equipment are used solely for the performance of the Contract.
8. InsuranceThe Contractor is responsible for deciding if insurance coverage is necessary to fulfill its obligation under the Contract and to ensure compliance with any applicable law. Any insurance acquired or maintained by the Contractor is at its own expense and for its own benefit and protection. It does not release the Contractor from or reduce its liability under the Contract.
9. Site Regulations

	1. The clause below applies when the Contract is issued by or on behalf of all departments, agencies and Crown corporations who are authorized IUs, except the Canadian Forces of the Department of National Defence.

	The Contractor must comply with all regulations, instructions and directives in force on the site where the Work is performed.
	2. The clause below applies when the Contract is issued by or on behalf of the Canadian Forces of the Department of National Defence

	The Contractor must comply with all standing orders or other regulations, instructions and directives in force on the site where the Work is performed.
10. Defence ContractThe following clauses apply if Section 2 of the Contract indicates that the Contract is a Defence Contract as defined in the *Defence Production Act.*
	1. The Contract is a defence contract within the meaning of the [Defence Production Act](http://laws-lois.justice.gc.ca/eng/acts/d-1/), R.S.C. 1985, c. D-1, and must be governed accordingly.
	2. Title to the Work or to any materials, parts, work-in-process or finished work must belong to Canada free and clear of all claims, liens, attachments, charges or encumbrances. Canada is entitled, at any time, to remove, sell or dispose of the Work or any part of the Work in accordance with section 20 of the [Defence Production Act](http://laws-lois.justice.gc.ca/eng/acts/d-1/).
11. Shipping Instructions

Scenario A – If delivery is required: Goods must be delivered DDP (Destination as specified in contract) Incoterms®2010 rules, Applicable Taxes extra.

In addition to the above, the contractor is to unload and move the goods to the delivery location(s) specified in the contract.

Scenario B – If delivery is not required: Goods must be delivered FCA (seller’s premises) Incoterms® 2010 rules, Applicable Taxes extra.