

## Terms and Conditions

### 1.1. Definitions

Throughout this Request for Proposals, the following definitions apply:

“**Agile**” means an iterative software development model favouring short development cycles;

“**Addenda**” means all additional information regarding this RFP including amendments to the RFP and as set forth on the Addenda tab to the RFP;

“**BC Developers’ Exchange**” means the automated system used for Sprint with Us Opportunities and associated Proposal submissions, and maintained by the Province on the BC Developer’s Exchange Website;

“**BC Developers’ Exchange Website**” means the BC Developers’ Exchange website located at <https://bcdevexchange.org>;

“**Business Day**” means a day, other than a Saturday or Sunday, on which provincial government offices are open for normal business in British Columbia;

“**Capabilities**” means the following skills set forth with more particularity in the RFQ consisting of: agile coaching, delivery management, user research, user experience design, front end web development, back end web development, technical architecture, devOps engineering, security engineering and as may be required on the Select Team tab on the RFP for the Opportunity;

“**Closing Location**” means the automated submission function on and accessed through the Review and Submit tab of the RFP;

“**Closing Time**” means the closing time and date for the RFP as set out on the Opportunity Webpage;

“**Contract**” means the written agreement resulting from the RFP executed by the Province and the successful Proponent;

“**Contractor**” means the successful Proponent to the RFP that enters into a Contract with the Province;

“**Full-Time**” or “**F/T**” means the hours of work commitment for a particular required Capability as may be described on the Select Team tab;

“**GitHub**” means a source code repository hosting service;

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**“Government Contact”** means the email address denoted on the Opportunity Webpage as the Province’s contact for the purposes of the RFP and responding to enquiries;

**“Inception”**, or **“Inception Phase”** means the first phase of Product development as further described in the Contract;

**“Implementation”**, or **“Implementation Phase”** means the third phase of Product development as further described in the Contract;

**“Ministry”** means the ministry of the government of British Columbia issuing the RFP;

**“must”**, or **“mandatory”** means a requirement that must be met in order for a Proposal to receive consideration;

**“Opportunity”** means the software development project which is the subject of this RFP;

**“Opportunity Webpage”** means the web page for the Opportunity found on the BC Developers’ Exchange Website which identifies the Opportunity by RFP name and other related information about the RFP;

**“Phase”** means any one of the Inception, Proof of Concept or Implementation Phases, and **“Phases”** means any two or more, as applicable;

**“Phase Window”** means the date range set out in the RFP for the Inception, Proof of Concept and Implementation Phases of an Opportunity;

**“Preferred Technical Skill”** means the preferred technical skills identified on the Select team that are evaluated;

**“Product”** means the digital service as defined on the Opportunity Webpage;

**“Proponent”**, means a natural person or legal entity (excluding its parent, subsidiaries or other affiliates) with the legal capacity to contract, that became a Qualified Supplier under the RFQ and submits a Proposal in response to the RFP;

**“Proposal”** means a response to the RFP that is submitted by a Proponent in accordance with the RFP;

**“Proof of Concept”**, or **“Proof of Concept Phase”** means the second phase of Product development as further described in the Contract;

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**“Province”** means Her Majesty the Queen in Right of the Province of British Columbia and includes the Ministry;

**“Qualified Supplier”** means a supplier that has become a Qualified Supplier under the RFQ;

**“Request for Proposals”**, or **“RFP”** means the solicitation described on the Opportunity Webpage and which includes all associated RFP tabs for submission of a Proposal and any attached or referenced appendices, schedules or exhibits, as may be modified in writing from time to time by the Province by Addenda;

**“Request for Qualifications”** or **“RFQ”** means the process described in RFQ No 003166 as posted on BC Bid with a link on the BC Developers’ Website;

**“Resource”** means an individual identified by a Proponent as part of a Team;

**“Shortlisted Proponents”** has the meaning ascribed to that term in section c, step 3 of the evaluation process described on the Evaluation tab;

**“should”**, **“may”** or **“weighted”** means a requirement having a significant degree of importance to the objectives of the Request for Proposals;

**“Team”** means the team of Resources proposed by the Proponent for the Opportunity pursuant to this RFP;

**“Total Phase Cost”** means the total unqualified fixed cost (exclusive of taxes but including all expenses), for a particular Phase, as provided by the Proponent, and;

**“Total Proponent Cost”** means the total value of all Total Phase Costs, as provided by the Proponent.

### 1.2. Submission of Proposals

#### a) BC Developers’ Exchange

Proposals must be in English and must be submitted by an authorized representative of the Proponent, in accordance with the following:

- (i) Only Proponents who are Qualified Suppliers may submit Proposals.
- (ii) Bidding by a subcontractor is not acceptable.

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- (iii) Proposals must not be submitted through BC Bid. Proposals must be submitted at the Closing Location by an authorized representative of the Proponent by clicking on the “submit” button located thereon.
- (iv) Use of the Proponent’s profile on the BC Developers’ Exchange in connection with this RFP and clicking on the “submit” button is as effective as a signature, and Proponents assume all responsibility for Proposals submitted under their name. The Province will assume that all Proposals submitted using the “submit” button have been authorized and approved by the Proponent and the Province will have no obligation to confirm or verify the authenticity or authorization of any such submission.
- (v) Proposals must be received before the Closing Time to be considered. Proponents are solely responsible for ensuring that the Province receives a complete Proposal, including all attachments or enclosures, if applicable, before the Closing Time, and the Proponent bears all risk associated with delivering its Proposal by electronic submission, including but not limited to delays in transmission between the Proponent’s computer and the BC Developers’ Exchange system. For this reason, the Province strongly encourages Proponents to submit Proposals with sufficient time to complete the Proposal and any activities required by the Proposal before Closing Time.
- (vi) Proponents should refer to the BC Developers’ Exchange Website or contact [bcdevexchange@gov.bc.ca](mailto:bcdevexchange@gov.bc.ca) for more information on the use of the BC Developers’ Exchange Website.

### **1.3. Government Contact**

Enquiries related to this RFP, including any requests for information or clarification, may only be directed electronically to the Government Contact, who will respond if time permits before the Closing Time. Information obtained from any other source is not official and should not be relied upon. Enquiries and any responses providing new information regarding this RFP, and any changes to the RFP, will be communicated on the Addendum tab on the RFP, and, in the sole discretion of the Province, also sent directly from the Government Contact to all Qualified Suppliers. The Province may choose in its sole discretion not to respond, respond in whole or in part, or reformulate questions to be answered.

### **1.4. Proponents’ Meeting**

If the RFP indicates that a Proponents’ meeting will be held, the RFP will describe the details on the Opportunity Webpage. A transcript or minutes of the meeting will be

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posted on the Addendum tab on the RFP. Whether attendance at any Proponents' meeting is optional or mandatory and whether oral questions may be allowed will be explained on the Opportunity Webpage. However, questions of a complex nature, or questions where the Proponent requires anonymity, should be forwarded in writing, prior to the meeting, to the Government Contact. The Province reserves the right to post questions and answers on the Addendum tab on the RFP.

### **1.5. Additional Information**

Proponents should be aware that Addenda become part of the RFP. The Opportunity Webpage will include a "follow" button which will enable the Proponent to receive notification that an Addendum to the RFP has been posted. Proponents are strongly encouraged to select the "follow" button. Even so, as indicated below, Proponents should frequently check the Addendum tab on the RFP.

All Addenda will be posted on the Addendum tab on the RFP. Regardless of whether a Proponent chooses to select the "follow" button, it is the sole responsibility of the Proponent to frequently check for Addenda on the Addendum tab on the RFP.

### **1.6. Late Proposals**

Proposals will be marked with their receipt time when submitted at the Closing Location. Only Proposals received and marked before the Closing Time will be considered to have been received on time. Proposals received late will be marked late and not considered or evaluated. In case of a dispute, the Proposal receipt time, as recorded at the Closing Location will prevail, whether accurate or not.

### **1.7. Proposal Validity**

Proposals will be open for acceptance for at least 45 days after the Closing Time.

### **1.8. Completeness of Proposals**

By submitting a Proposal the Proponent warrants that, if the RFP is to design, create or provide a system or manage a program, all components required to run the system or manage the program have been identified in the Proposal or will be provided by the Contractor at no additional charge.

### **1.9. Changes to Proposals**

By selecting either the "withdraw proposal" (a Proposal will be saved but not submitted) or "delete proposal" buttons on the Review and Submit tab of the RFP, the Proponent may withdraw its Proposal prior to the Closing Time. A Proponent may also amend its Proposal at any time prior to Closing Time by re-inputting data on any of the applicable

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tabs on the RFP, pressing any applicable “save” buttons and pressing the “submit” button. Upon Closing Time, all Proposals become irrevocable. The Proponent will not change any part of its Proposal after the Closing Time unless requested by the Province for purposes of clarification.

### **1.10. Conflict of Interest/No Lobbying**

- a) A Proponent may be disqualified if the Proponent’s current or past corporate or other interests, or those of a proposed subcontractor, may, in the Province’s opinion, give rise to an actual or potential conflict of interest in connection with the services described in the RFP. This includes, but is not limited to, involvement by a Proponent in the preparation of the RFP or a relationship with any employee, contractor or representative of the Province involved in preparation of the RFP, participating on the evaluation committee or in the administration of the Contract. If a Proponent is in doubt as to whether there might be a conflict of interest, the Proponent should consult with the Government Contact prior to submitting a Proposal. By submitting a Proposal, the Proponent represents that it is not aware of any circumstances that would give rise to a conflict of interest that is actual or potential, in respect of the RFP.
- b) A Proponent must not attempt to influence the outcome of the RFP process by engaging in lobbying activities. Any attempt by the Proponent to communicate for this purpose directly or indirectly with any employee, contractor or representative of the Province, including members of the evaluation committee and any elected officials of the Province, or with the media, may result in disqualification of the Proponent.

### **1.11. Subcontractors**

- a) Unless the RFP states otherwise, the Province will accept Proposals where more than one organization or individual is proposed to deliver the services described in the RFP, so long as the Proposal identifies the lead entity that will be the Proponent and that will have sole responsibility to deliver the services under the Contract. The Province will enter into a Contract with the Proponent only. The evaluation of the Proponent will include evaluation of the Resources and experience of proposed subcontractors.
- b) All subcontractors, including affiliates of the Proponent, should be clearly identified in the Proposal.
- c) A Proponent may not subcontract to a firm or individual whose current or past corporate or other interests, may, in the Province’s opinion, give rise to an actual or potential conflict of interest in connection with the services described in the RFP. This includes, but is not limited to, involvement by the firm or

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individual in the preparation of the RFP or a relationship with any employee, contractor or representative of the Province involved in preparation of the RFP, participating on the evaluation committee or in the administration of the Contract. Proponents are expected to conduct their own due diligence with respect to conflicts of interest in connection with Resources. If a Proponent is in doubt as to whether a proposed subcontractor or Resource might be in a conflict of interest, the Proponent should consult with the Government Contact prior to submitting a Proposal. By submitting a Proposal, the Proponent represents that it is not aware of any circumstances that would give rise to a conflict of interest that is actual or potential, in respect of the RFP.

- d) Where applicable, the names of approved subcontractors listed in the Proposal will be included in the Contract and may only be changed or added to in accordance with the terms of the Contract.

### **1.12. Contract**

- a) By submitting a Proposal, the Proponent agrees that, should its Proposal be successful, the Proponent will enter into a Contract with the Province on substantially the same terms and conditions as the Contract set out on the Opportunity Webpage and such other terms and conditions to be finalized to the satisfaction of the Province, as applicable.
- b) Written notice to a Proponent that it has been identified as the successful Proponent and the subsequent full execution of a written Contract will constitute a Contract for the goods or services, and no Proponent will acquire any legal or equitable rights or privileges relative to the goods or services until the occurrence of both such events.

### **1.13. Contract Finalization Delay**

If a written Contract cannot be finalized with provisions satisfactory to the Province within 15 days of notification of the successful Proponent, the Province may, at its sole discretion at any time thereafter, terminate discussions with that Proponent and either commence finalization of a Contract with the next qualified Proponent or choose to terminate the RFP process and not enter into a Contract with any of the Proponents.

### **1.14. Debriefing**

At the conclusion of the RFP process, all Proponents will be notified. Proponents may request a debriefing meeting with the Province.

### **1.15. Proponent's Expenses**

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Proponents are solely responsible for their own expenses in participating in the RFP process, including costs in preparing a Proposal and for subsequent finalizations with the Province, if any. The Province will not be liable to any Proponent for any claims, whether for costs, expenses, damages or losses incurred by the Proponent in preparing its Proposal, loss of anticipated profit in connection with any final Contract, or any other matter whatsoever.

### **1.16. Limitation of Damages**

By submitting a Proposal, the Proponent agrees that it will not claim damages, for whatever reason, relating to the Contract or in respect of the competitive process, in excess of an amount equivalent to the reasonable costs incurred by the Proponent in preparing its Proposal and the Proponent, by submitting a Proposal waives any claim for loss of profits if no Contract is made with the Proponent.

### **1.17. Liability for Errors**

While the Province has used considerable efforts to ensure information in the RFP is accurate, the information contained in the RFP is supplied solely as a guideline for Proponents. The information is not guaranteed or warranted to be accurate by the Province, nor is it necessarily comprehensive or exhaustive. Nothing in the RFP is intended to relieve Proponents from forming their own opinions and conclusions with respect to the matters addressed in the RFP.

### **1.18. No Commitment to Award**

The RFP should not be construed as an agreement to purchase goods or services. The lowest priced Proposal or any Proposal will not necessarily be accepted. The RFP does not commit the Province in any way to award a Contract.

### **1.19. No Implied Approvals**

Neither acceptance of a Proposal nor execution of a Contract will constitute approval of any activity or development contemplated in any Proposal that requires any approval, permit or license pursuant to any federal, provincial, regional district or municipal statute, regulation or by-law.

### **1.20. Legal Entities**

The Province reserves the right in its sole discretion to:

- a) disqualify a Proposal if the Province is not satisfied that the Proponent is clearly identified;



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- b) prior to entering into a Contract with a Proponent, request that the Proponent provide confirmation of the Proponent's legal status (or in the case of a sole proprietorship, the Proponent's legal name and identification) and certification in a form satisfactory to the Province that the Proponent has the power and capacity to enter into the Contract;
- c) not to enter into a Contract with a Proponent if the Proponent cannot satisfy the Province that it is the same legal entity that submitted the Proponent's Proposal; and
- d) require security screenings for a Proponent who is a natural person, subcontractors, and key personnel (including any Resources) before entering into a Contract and the Province may elect not to enter into a Contract with a Proponent or to approve a subcontractor or Resource that fails to pass the security screenings to the Province's satisfaction. In this regard, Proponents should note that a criminal history check obtained through the applicable local policing agency will be required for all Resources involved in the delivery of services under the Contract, and that criminal history checks must be repeated as necessary in accordance with the Contract to ensure that at all times the most recent criminal history check for a particular Resource was completed within the previous five years.

### **1.21. Reservation of Rights**

In addition to any other reservation of rights set out in the RFP, the Province reserves the right, in its sole discretion:

- a) to modify the terms of the RFP at any time prior to the Closing Time, including the right to cancel the RFP at any time prior to entering into a Contract with a Proponent;
- b) in accordance with the terms of the RFP, to accept the Proposal or Proposals that it deems most advantageous to itself;
- c) to waive any non-material irregularity, defect or deficiency in a Proposal;
- d) to request clarifications from a Proponent with respect to its Proposal, including clarifications as to provisions in its Proposal that are conditional or that may be inconsistent with the terms and conditions of the RFP, without any obligation to make such a request to all Proponents, and consider such clarifications in evaluating the Proposal;

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- e) to reject any Proposal due to unsatisfactory references or unsatisfactory past performance under contracts with the Province, or any material error, omission or misrepresentation in the Proposal;
- f) at any time, to reject any or all Proposals; and
- g) at any time, to terminate the competition without award and obtain the goods and services described in the RFP by other means or do nothing.

### **1.22. Ownership of Proposals**

All Proposals and other records submitted to the Province in relation to the RFP become the property of the Province and, subject to the provisions of the *Freedom of Information and Protection of Privacy Act*, British Columbia, and the RFP, will be held in confidence. For more information on the application of the Act, go to [http://www.cio.gov.bc.ca/cio/priv\\_leg/index.page](http://www.cio.gov.bc.ca/cio/priv_leg/index.page).

### **1.23. Copyright**

The RFP is subject to copyright and may be used, reproduced, modified and distributed to the extent necessary for the Proponent to prepare and submit a Proposal.

### **1.24. Confidentiality Agreement**

The Proponent acknowledges that prior to the Closing Time it may be required to enter into a confidentiality agreement with the Province in order to obtain access to confidential materials relevant to preparing a Proposal.

In addition, the Proponent acknowledges and agrees that after the Closing Time, if requested, the Proponent must execute and deliver to the Province any non-disclosure agreement required by the Province to participate in any demonstrations, interviews or skills assessments that may be required as part of this RFP.

### **1.25. Collection and Use of Personal Information**

Proponents are solely responsible for familiarizing themselves, and ensuring that they comply, with the laws applicable to the collection and dissemination of information, including resumes and other personal information concerning Proponent employees, personnel and the employees or personnel of any subcontractors, including, without limitation, with respect to Resources. If the RFP requires Proponents to provide the Province with personal information of Proponent employees or personnel including, without limitation, any Resources, Proponents will ensure that they have obtained written consent from such parties before forwarding such personal information to the Province. Such written consents should specify that the personal information may be

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forwarded to the Province for the purposes of responding to the RFP and used by the Province for the purposes set out in the RFP. The Province may, at any time, request the original consents or copies of the original consents from Proponents, and upon such request being made, Proponents will immediately supply such originals or copies to the Province.

### **1.26. Evaluation**

- a) Proposals will be assessed in accordance with the evaluation criteria. The Province will be under no obligation to receive further information, whether written or oral, from any Proponent. The Province is under no obligation to perform any investigations or to otherwise verify any statements or representations made in a Proposal.
- b) Proposals from not-for-profit entities will be evaluated against the same criteria as those received from any other Proponents.
- c) The Province may consider and evaluate any proposals from other jurisdictions on the same basis that the government purchasing authorities in those jurisdictions would treat a similar proposal from a British Columbia supplier.

### **1.27. Trade Agreements**

This RFP is covered by trade agreements between the Province and other jurisdictions, including the following:

- a) Trade, Investment and Labour Mobility Agreement;
- b) New West Partnership Trade Agreement;
- c) Canadian Free Trade Agreement;
- d) World Trade Organization Agreement on Government Procurement; and
- e) The Canada-European Union Comprehensive Economic and Trade Agreement.