



**British Columbia Ministry of Citizens' Services
Request for proposal**

**BC Developers' Exchange for "Agile" Software Development
Terms and Conditions**

Issue Date: May 1, 2018

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;

“BC Bid” means the BC Bid website located at www.bcbid.ca;

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

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

“Capabilities” means the characteristics of a Team and is one of the mandatory criteria under this RFP;

“claim” means any claim, demand, liability, damage, loss, suit, action, or cause of action and all costs and expenses relating thereto;

“Closing Location” means the automated submission portal, accessible only to Qualified Suppliers on the Opportunity Webpage for submissions of proposals;

“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 who enters into a Contract with the Province;

“Contractor Material” means any material in existence prior to the start of the term of the Contract or developed independently of the Contract, and that is incorporated or embedded in the Contributions by the Contractor or any of its subcontractors;

“Contributions” means the Increments and the Documentation to be provided by the Contractor under the Contract, and includes any Contractor Material;

“Development Team” means the Resources proposed by the Proponent (other than the Scrum Master) who, in the aggregate, possess the full set of Capabilities required by this RFP and who will fulfill the responsibilities described on the Opportunities Webpage;

“Final Acceptance Notice” means the notification the Province issues to the Contractor at the end of an opportunity identifying that all of the Contributions received to the date of the notice have satisfied all the goals and outcomes set out in the Product Roadmap;

“Full Time” means that the Contractor and/or the applicable Resource(s), as specified in the Opportunity Requirements, will be dedicated to the Product on a priority basis and available for work on the Product based on a 35 hour week;

“Government Contact” means the individual named on the Opportunity Webpage as the Province’s contact person for the purposes of the RFP;

“Inception”, or “Inception Phase” means the first phase of Product development at which the Product Team will collaborate on the delivery of the initial Product Backlog for the Prototype Phase;

“Implementation”, or “Implementation Phase” means the third phase of Product development, involving the implementation of the Increments according to delivery of the business goals of the Product Roadmap;

“Increment” means the digital contributions designed, created, developed, configured, customized and integrated to implement a User Story or a number of grouped User Stories;

“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 Requirements” means the specific business, resource, service or other requirements for the Opportunity (including the Phase Window), as described on the Select Team, Team Questions, and Pricing tabs on the Opportunity Web Page;

“Opportunity Webpage” means the web page for the Opportunity found on the BC Developers’ Exchange Website which identifies the Opportunity by RFP name and number and which includes the automated portal for submission of a proposal;

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

“Phase Window” means the date range that the Product Manager has committed for the Inception, Prototype and Implementation Phases of an Opportunity;

“Product” means the digital service provided by the Province, as defined by the Product Roadmap, that is the subject of the RFP and the Opportunity, and for which the Contractor’s services will be required. Products evolve through the completion of work described in the Product Backlog;

“Product Backlog” or **“Backlog”** is an ordered list of everything that is known to be needed in the Product. It is the single source of requirements for any changes to be made to the Product. The Product Manager is responsible for the Product Backlog;

“Product Manager” means the Province individual who will collaborate with and provide direction to the Scrum Master and the Development Team pursuant to the terms of the Contract;

“Product Roadmap” means the plan that matches short-term and long-term business goals for the Product with specific technology solutions to help meet those goals;

“Product Team” means the team who will work on the Product, and which consists of the Product Manager, the Scrum Master and the Development Team;

“Proponent”, means a person or entity (excluding its parent, subsidiaries or other affiliates) with the legal capacity to contract, that submits a proposal in response to the RFP;

“proposal” means a response to the RFP that is submitted by a Proponent through the Opportunity Webpage in accordance with the RFP Process Rules;

“Prototype”, or **“Prototype Phase”** means the second phase of Product development during which the Contractor will collaborate with the Province on the further development of a Product Roadmap, a working alpha release of the Increments, and a Resourcing Plan for the Implementation Phase;

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

“Qualified Supplier” means a Proponent that became a Qualified Supplier as a result of the process employed in the RFQ;

“Request for Proposals”, or **“RFP”** means the solicitation described on the Opportunity Webpage and includes these RFP Process Rules and any attached or referenced appendices, schedules or exhibits and 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 a Scrum Master or as part of the Development Team, each of whom possesses qualifications of at least one of the Capabilities described in the Request for Qualifications;

“Resourcing Plan” means the plan, developed by the Product Team, which identifies the composition and capabilities of the Product Team required in the Prototype and Implementation Phases;

“RFP Process Rules” means these standard terms and conditions which are appended to the Opportunity Webpage within Tab 2;

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

“Scrum Master” means the Resource designated by the Proponent in their proposal as the Scrum Master for the development of the Product, to fulfill the responsibilities set forth in the Contract;

“Sprint” means a fixed two to three week period, during which Contributions for the applicable Product are developed, tested and delivered in accordance with the requirements set out in the Contract;

“Team” means the team of Resources (inclusive of Scrum Master) proposed by the Proponent for the Opportunity pursuant to this RFP.

“Total Phase Cost” means the total cost, 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. Acceptance of Terms and Conditions

Submission of a proposal by the Proponent indicates acceptance of all the terms and conditions set out in the RFP, including those that are included on the Opportunity Webpage, in these RFP Process Rules and those that included, in all appendices, and

any Addenda. Without limitation to the foregoing, each Proponent, by submitting a proposal, agrees that:

- a) the Province will not be liable to any Proponent for any Claims, whether for costs or damages incurred by the Proponent in preparing its proposal, loss of anticipated profit in connection with any final Contract, or any other matter whatsoever. Without limitation to the foregoing, in the event any or all proposals are rejected, or this RFP is modified, suspended or cancelled for any reason, neither the Province nor any of its employees, advisors or representatives will be liable, under any circumstances, for any Claim or to reimburse or compensate the Proponent in any manner whatsoever, including but not limited to costs of preparation of the proposal, loss of anticipated profits, loss of opportunity or for any other matter;
- b) the Proponent waives any and all Claims whatsoever, including Claims for loss of profits or loss of opportunity, in the event that the Proponent is rejected or is not successful in this RFP or for any other reason;
- c) with respect to any circumstances not listed in the foregoing sub-sections a) and b), the Proponent will not make any Claim against the Province or its employees, advisors or representatives in excess of the amount equivalent to the reasonable costs of preparation of its proposal for any matter relating to this RFP process; and
- d) the Province will have no obligations or liability of any kind or nature with respect to any Resource.

1.3. 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.
- (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 for more information on the use of the BC Developers’ Exchange website.

1.4. 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 Opportunity Webpage, and, in the sole discretion of the Province, also sent directly from the Government Contact to all Qualified Suppliers. The cut-off for submitting any questions related to this RFP to the Government Contact will be 5 days before the Closing Time. Questions received after this time may not be answered. The Province may choose in its sole discretion not to respond, respond in whole or in part, or reformulate questions. The Province may, in its sole discretion choose whether to communicate such reformulated questions and responses to the Opportunity Webpage, and also whether to send such reformulated questions directly from the Government Contact to all Qualified Suppliers.

1.5. Proponents’ Meeting

If the Opportunity indicates that a Proponents’ meeting will be held, details will be sent to all Qualified Suppliers. A transcript or minutes of the meeting will be posted on the Opportunity Webpage. Attendance at any Proponents’ meeting will be optional and

oral questions may be allowed. 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, while vetting all sensitive or proprietary information, on the Opportunity Webpage.

1.6. Additional Information

All Addenda will be posted on the Opportunity Webpage. It is the sole responsibility of the Proponent to check for Addenda on the Opportunity Webpage.

The Opportunity Webpage will include a “follow” button which will enable the Proponent to receive automatic notices of any Addenda. Proponents are strongly encouraged to select the “follow” button.

1.7. Late Proposals

Proposals will be marked with their receipt time when submitted at the Closing Location. Only complete 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.

1.8. Proposal Validity

Proposals will be open for acceptance for at least 30 days after the Closing Time.

1.9. Completeness of Proposals

By submitting a proposal, the Proponent warrants that its proposal, and all related information including proposed Resources for the Development Team as well as the Scrum Master, is accurate, complete and sufficient to meet the requirements of the Opportunity. The Proponent must calculate its own pricing, price estimates and work estimates on the Resources it proposes for the Opportunity and accepts all risk associated with any errors made with respect to such calculations and, for greater clarity, a Proponent may not add additional Resources, or subtract Resources from a Team, to compensate for any such errors in time or pricing estimates.

1.10. Changes to Proposals

Notwithstanding section 1.9, above, by submitting a clear and detailed written notice, the Proponent may withdraw its proposal prior to the Closing Time through the Review and Submit tab by selecting “Delete proposal”. A Proponent may also amend its proposal at any time prior to Closing Time by re-inputting data on any of the applicable

tabs on the Opportunity Webpage 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.

A Contractor may substitute a Resource on a Team, add a Resource to a Team, or subtract a Resource from a Team, only if and as permitted pursuant to the terms of the Contract.

1.11. 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.

1.12. 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 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.

1.13. 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, available on the Terms tab, 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.

1.14. Contract Finalization Delay

If a written Contract cannot be finalized with provisions satisfactory to the Province within 30 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.

1.15. Debriefing

At the conclusion of the RFP process, all Proponents will be notified. Proponents may request a debriefing meeting with the Province within 15 days of award notification.

1.16. Proponent's Expenses

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.

1.17. Liability for Errors

While the Province has used reasonable 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. The Province reserves the right to cancel the RFP at any time for any reason and contract for the Opportunity, in whole or in part, in any other manner (including by another procurement process) at the Province's sole discretion.

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;

- 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, all of a Proponent's subcontractors who are natural persons, and all Resources proposed by the Proponent, 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;

- 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.

1.23. Copyright

This 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 that if shortlisted after the Closing Time, 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 each of those employees, personnel and Resources before forwarding such personal information to the Province. Such written consents should

specify that the personal information may be 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. 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.