

Amendment 8 to the IaaS & Native PaaS Prequalification CBS

Solicitation No.	CS-IAAS-2024	Amd: 008
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The purpose of this amendment is to:

- 1- Provide answers to questions received as detailed in section A.
- 2- Modify the Prequalification CBS as detailed in section B.
- 3- Extend the closing date to June 5, 2024, 2:00 p.m. EDT

Section A - Questions and Answers (set 6)

	Question	Answer
93	Considering the Bidder submissions may have been submitted and accepted by the CMVP but may be waiting for CMVP capacity to assign a reviewer, and considering the COORDINATION stage follows the IN REVIEW stage, we request that Canada amend sub-requirements 1a and 2a of requirement R2 to read: “3 points: The Bidder has provided a certificate number demonstrating that the module is FIPS 140-3 validated by the CMVP or has provided a module listed as REVIEW PENDING, IN REVIEW or COORDINATION on the Modules In Process List by the CMVP at the Prequalification CBS closing date.”	<p>This question has been previously addressed in Amendments 005 and 007. The response remains unchanged, and the status of the module will continue to be “In Review” in accordance with the CMVP process.</p> <p><i>Response to question 67 in Amd 005 and to question 85 in Amd 007:</i> <i>Canada has reviewed the evidence requirements for R2 and agrees to use the CMVP Modules in Process List as evidence. However, to be awarded for full points, the status of the module will remain “In Review” as per the CMVP process. The R2 criterion and the Prequalification Submission Form will be amended to reflect this update.</i></p>
95	We understand that Requirement R3 aims to evaluate the bidder’s experience in providing services to large government organizations or	While recognizing the diverse user base within public sector organizations, Canada will adhere to the current evaluation criteria

	<p>large external private corporations, wherein the count of “employees” is seen as a measure of size of the referenced organization. However, some of the public sector organizations have a significantly high population of users comprised of employees, students, contractors etc. who contribute towards the scale and complexity of that organization’s IaaS & PaaS workloads. In other words, users (employees, students, contractors, and more) all have identical technical impact on IT requirements and services levels, and can be treated as a common yardstick to measure bidder’s experience.</p> <p>Considering this, we request SSC to revise the criteria under R3 to include users (employees, students, contractors, and more) using or supported by the IaaS & PaaS services’ and allow the bidders to bring forward all equivalent public sector references.</p>	<p>that measure experience based on employee counts as this provides a consistent evidence across all bidders. Canada will not amend R3 to include other employment tenures or contractors. For validation purposes of the number of employees, Canada will use the link provided by the Treasury Board of Canada Secretariat for Government of Canada clients. Under the glossary of key terms and the “About the data” tab, bidders can find that the data includes employment types encompassing active employees of several tenures (indeterminate, term, casual, and student).</p>
96	<p>In rated requirement R3 - Experience of the Bidder to provide IaaS and Native PaaS services to large organizations – Given the Crown’s answer to Q55c, in order to ensure fairness for all bidders we ask that the Crown clearly stipulate that references may not be Government of Canada organizations as this would give clear competitive advantage to incumbent suppliers who have existing implementations within the GC.</p>	<p>Canada cannot justly exclude any private or public organizations, including Government of Canada entities, from being considered as part of a bidder’s client list. Excluding specific clients may conflict with trade agreement principles regarding non-discrimination and fairness. Canada is committed to ensure equal treatment of suppliers.</p>
97	<p>We request that corporate affiliate references be permitted without a Joint Venture (JV). There is no value to the Government of Canada for a Bidder to enter into a JV with its corporate affiliate in this scenario, especially when the Canadian entity, which will be the Bidder, is a fully operating entity licensed and authorized to deliver that CSP’s global IaaS & PaaS service offering. Rather, requiring a JV between corporate affiliates needlessly introduces a significant complication very close to the deadline for submission (i.e., creating and arranging the CSP’s corporate affairs as a JV). Should the Canadian entity Bidder not enter/not be able to enter into a JV with its corporate affiliate, that would unfairly exclude pertinent references and information that should be of great interest to the GC in assessing the capabilities of the various bidders.</p>	<p>For evaluation purposes only, Canada agrees to accept and consider the experience of the Bidder’s parent company, the references or anything required to demonstrate the Bidder’s compliance to the criteria. See modification in section B. The definition of Bidder remains unchanged.</p>

<p>98</p>	<p>Regarding answers to Q&A Q41 and Q50 in Amendment 7... Could Canada please: a) amend the RFP to clarify that the experience of a corporate affiliate may be relied upon without the corporate affiliate having to be part of a joint venture; or b) if Canada will not amend this requirement, could Canada please: i. explain why a corporate affiliate must be a member of a joint venture; ii. identify which requirements a corporate affiliate must meet even though they may provide no goods or services under any resulting contract; and iii. extend the Prequalification Closing Date and Time so that bidders are afforded a reasonable period of time to assess the impact of this new material requirement and modify their bids accordingly.</p>	<p>See answer to question 97 of this amendment. Canada agrees to amend the Solicitation.</p>
<p>99</p>	<p><u>Regarding Response to Q74 in Amendment 7:</u> Thank you for confirming that bidders do not have to accept the RESULTING CONTRACT CLAUSES (Section 6), including the Annex A – Cloud General Terms and Conditions for Phase 4. However, this does not fully address the question as to whether the RESULTING CONTRACT CLAUSES (Section 6), including the Annex A – Cloud General Terms and Conditions are to be <i>amended through the procurement process</i> (i.e., at Stage 5 or later) or whether Canada is simply deferring mandatory acceptance until stage 7 (Posting of Bid Closing) and bidders will be presented with the exact same clause and be required to accept them, without modification, at Stage 7. The amendments to section 2.3 did not remove the requirement that the terms “must not contradict” and must be “the same or better terms” than the RESULTING CONTRACT CLAUSES (Section 6), including the Annex A – Cloud General Terms and Conditions. As such, if bidders are required to submit additional bidder terms at Stage 5 that meet this requirement, but the RESULTING CONTRACT CLAUSES (Section 6), including the Annex A – Cloud General Terms and Conditions might be amended before Stage 7, bidders cannot possibly anticipate how to respond to this requirement.</p>	<p>1 - Will the RESULTING CONTRACT CLAUSES (Section 6), including the Annex A – Cloud General Terms and Conditions be amended through the procurement process? Possibly, but not necessarily. The RESULTING CONTRACT CLAUSES (Section 6) will be discussed with prequalified Bidders during an ITR of Stage 5. The discussion may or may not result in adjustments to the Terms and conditions. The current version of the RESULTING CONTRACT CLAUSES (Section 6) is provided to enable Bidders to familiarize themselves with the resulting contract structure. At the prequalification stage, Bidders are not required to accept them and are not expected to submit additional terms and conditions. 2.3 is amended for greater clarity.</p> <p>2 - The Prequalification Closing Date is extended as stated in section B.</p>

<p>Despite section 2.3 requiring that “Bidders with concerns regarding the Contract terms and conditions should raise those concerns in accordance with the clause entitled Enquiries – Solicitation of the CBS.)”, Canada has indicated that it will not in fact respond to bidder questions. The current amended provisions of section 2.3 and Canada’s refusal to respond to bidder questions creates a scenario where bidders:</p> <ul style="list-style-type: none"> • are required to submit additional cloud service terms at Stage 5, for which there are restrictions and possible disqualification, without knowing whether the RESULTING CONTRACT CLAUSES (Section 6), including the Annex A – Cloud General Terms and Conditions provided in the RFP may be amended in future; and • are unable to “obtain clarification of the requirements ... before submitting a bid” and to “prepare [a] bid in accordance with the instructions contained in the bid solicitation” prepare a responsive bid, as is required by Standard Instructions - Goods or Services - Competitive Requirements 2003, 05 (2018-05-22) Submission of bids. <p>Could Canada please:</p> <ol style="list-style-type: none"> 1. Explain whether the RESULTING CONTRACT CLAUSES (Section 6), including the Annex A – Cloud General Terms and Conditions will remain in the form as currently presented in Section 6 without modification or whether these terms and conditions will be addressed between Canada and prequalified bidders in Stage 5 and beyond; and 2. Extend the Prequalification Closing Date and Time so that Canada may respond to questions with regard to the RESULTING CONTRACT CLAUSES (Section 6), including the Annex A – Cloud General Terms and Conditions so that bidders may properly analyze the responses and prepare their bids. 	
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Section B – Modifications to the Solicitation

1- In section 2.3 Terms and conditions of the CBS under Bidder’s Additional Cloud Services Terms

Delete: Paragraph a) in its entirety

Replace by:

a) At the Prequalification Bid closing date, after Stage 4 (current stage): Bidders are not required to submit any Additional Cloud Service Terms.

At bid closing date (after Stage 8): Bidders may submit Additional Cloud Service Terms not addressed by SECTION 6 – RESULTING CONTRACT CLAUSES including Annex A – Cloud General Terms and Conditions, for the Services being offered by the Bidder, i.e., terms that describe how cloud services are provisioned and how they may be ordered, deployed and used.

Proposed supplemental terms must not contradict any term included in SECTION 6 – RESULTING CONTRACT CLAUSES and Annex A – Cloud General Terms and Conditions, and must reflect the same or better terms and conditions currently offered to the Bidder’s commercial customers for the offered services.

2-In Section 4 – Evaluation Procedures and Basis of Selection, Article 4.1 Evaluation Procedures, sub-Article 4.1.1 Basis of Selection for Prequalification:

Insert the following paragraph c):

c) For evaluation purposes only, Canada will accept and consider the experience of the Bidder’s parent company, the references or anything required to demonstrate the Bidder’s compliance to the criteria.

3- In Attachment 1—Prequalification Evaluation Grid

In Part A – Mandatory Criteria

In M1

Delete all reference to “hyperlink,” “hyperlink publicly available” and **replace with** “URL currently available to the public”

Delete: “The Bidder should provide a hyperlink that allows Canada to easily access to the relevant evidence.

Canada may, but have no obligation, contact the Bidder to arrange a meeting to facilitate a session where the Bidder will show Canada where the information is within hyperlink that was provided at bid closing. Information located in hyperlink other than the one provided as part of the bid will not be considered.”

Replace with: “The Bidder must provide a URL currently available to the public which must present direct evidence of the requirement. Please note that Canada will not move past that provided URL in any way.”

4- In the Prequalification Documents

In the Delete: Bid Document 1—Prequalification Bidding Form V1.3, in its entirety;

Replace by: New version of the Prequalification Bidding Form V1.4.

All other terms and conditions remain unchanged.