

# **TENDER DOCUMENTS**

## **SECTION 2 INSTRUCTIONS TO THE TENDERER**

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## SECTION 2 INSTRUCTIONS TO THE TENDERER

### 2.1 TENDER DOCUMENTS

- 2.1.1 The Tender Documents comprise:
- 2.1.1.1 The document entitled “*Notice to Contractors*” (Section 0);
  - 2.1.1.2 The document entitled “*Notice of Contract Award*” (Section 1);
  - 2.1.1.3 The document entitled “*Instructions to the Tenderer*” (Section 2);
  - 2.1.1.4 The document entitled “*Special Administrative Conditions*” (Section 3);
  - 2.1.1.5 The document entitled “*Special Technical Conditions*” (Section 4);
  - 2.1.1.6 The document entitled “*Standard Administrative Conditions*” (Section 5);
  - 2.1.1.7 The subsections of the *Standard Technical Conditions* applicable to the work and listed in Section 4 *Special Technical Conditions* (Section 6);
  - 2.1.1.8 The document entitled “*Terms of Payment*” (Section 7);
  - 2.1.1.9 The document entitled “*General Conditions*” (Section 8);
  - 2.1.1.10 The document entitled “*Labour Conditions*” (Section 9);
  - 2.1.1.11 The document entitled “*Contract Security Conditions*” (Section 10);
  - 2.1.1.12 The document entitled “*Insurance Conditions*” (Section 11);
  - 2.1.1.13 The documents entitled “*Drawings*”;
  - 2.1.1.14 The document entitled “*Tender Forms*”;
  - 2.1.1.15 Any addenda issued prior to the deadline for receipt of tenders;
  - 2.1.1.16 Any notice or minutes of meetings produced by the **Owner** and conveyed to the Tenderer prior to the deadline for receipt of tenders.
- 2.1.2 The documents mentioned in paragraphs 2.1.1.2 and 2.1.1.3 (Sections 1 and 2) and in paragraphs 2.1.1.6 to 2.1.1.12 (Sections 5 to 11) are reproduced on the website of The Jacques Cartier and Champlain Bridges Incorporated ([www.JacquesCartierChamplain.ca](http://www.JacquesCartierChamplain.ca)), under the tab The Corporation/Calls for Tenders/Tender Documents – Standard Sections. These documents are incorporated by reference in the tender documents, and form an integral part thereof as if they were formally reproduced therein.
- 2.1.3 The submission of a tender constitutes an assertion that the Tenderer has read all tender documents and accepts the conditions set forth therein.

## 2.2 TENDER

- 2.2.1 The Tenderer shall include the following with its tender:
- 2.2.1.1 Tender Forms, including the Price Table;
  - 2.2.1.2 Tender security;
  - 2.2.1.3 List of the subcontractors to whom the Tenderer intends to entrust any part of the work;
    - 2.2.1.3.1 No subcontractor holding a limited licence within the meaning of the *Building Act* (CQLR c. B-1.1) that is listed in the *Register of Enterprises Ineligible for Public Contracts* (“Registre des entreprises non admissibles aux contrats publics, (RENA)”) within the meaning of the *Act respecting Contracting by Public Bodies* (CQLR c. C-65.1) or listed on the Ineligibility and Suspension List in accordance with the *Ineligibility and Suspension Policy* issued by Public Services and Procurement Canada can be included by the Tenderer in its list of subcontractors, failing which the Tenderer shall submit a revised list.
  - 2.2.1.4 Authorization of signature of the tender;
  - 2.2.1.5 “Notice of Compliance with Insurance Conditions” form.
- 2.2.2 The Tenderer shall conform to the requirements of the Tender Documents. However, the **Owner** may choose to overlook any irregularity, defect or default in a tender.
- 2.2.3 The tender shall be based on the drawings, specifications and other Tender Documents.
- 2.2.4 The tender shall be submitted on the Tender Forms provided by the **Owner** or on a clear and legible reproduction thereof, such reproduction to be identical in every respect to the Tender Forms provided by the **Owner**.
- 2.2.5 Any variation from the text printed on the Tender Forms may disqualify the tender.
- 2.2.6 The tender shall correctly provide all information required in the Tender Documents.
- 2.2.7 All parts of the Tender Forms shall be completed. Failure to provide the requested information may disqualify the tender.
- 2.2.8 Amendments, corrections, changes or erasures made to the Tenderer’s entries or figures on the Tender Forms shall be initialled by the signatory of the tender. Initials shall be original. Amendments, corrections, changes or erasures not so initialled will be considered invalid.
- 2.2.9 The tender shall be signed in accordance with the signing procedures stipulated herein, such signatures to be original.
- 2.2.10 Following receipt of the tenders, the Tenderer may be requested to submit to the **Owner**:

- 2.2.10.1 A copy of its contractor's licence showing the categories and subcategories required pursuant to the *Building Act* (CQLR c. B-1.1) or any other licence, permit, registration, attestation, declaration, filing or authorization allowing it to perform the work to which the Call for tenders applies;
- 2.2.10.2 Supporting documentation establishing that it has the financial resources, expertise and experience required to perform the work;
- 2.2.10.3 Without restricting in any way its prerogatives under the *General Conditions*, the **Owner** reserves the right, in asking tenderers to provide proof of competence to perform the work, to reject the tender of any tenderer that fails to provide, within twenty-four (24) hours of such request, evidence deemed satisfactory in terms of both form and provenance;
- 2.2.11 The information provided shall be clear, concise and complete.
- 2.2.12 Unless otherwise specified elsewhere in the Tender Documents, the **Owner** will not consider any alternative proposal, option or optional arrangement.

### **2.3 DOCUMENTS TO BE SUBMITTED WITH THE TENDER**

- 2.3.1 In addition to the documents required in Article 2.2 *Tender*, the Tenderer shall provide, in accordance with Article 2.12.3:
  - 2.3.1.1 when the Tenderer is incorporated: the complete list of names of all individuals who are currently directors of the Tenderer or,
  - 2.3.1.2 when the Tenderer submits a tender as sole proprietorship: the name of the owner.
- 2.3.2 The **Owner** reserves the right to reject any tender that is not accompanied by the documents required under Article 2.2 *Tender*. As for the failure to attach the document described in paragraphs 2.3.1.1 or 2.3.1.2, the Tenderer shall refer to Article 2.12.3.

### **2.4 REFERENCE DOCUMENTS**

- 2.4.1 The Tender Documents, in particular the *Special Administrative Conditions* and the *Special Technical Conditions*, may invite or even require the Tenderer to consult certain reference documents. The Tenderer shall be vigilant in this matter and ensure that it does everything necessary to properly prepare its tender.
- 2.4.2 Where reference documents include drawings, the Tenderer shall note that such drawings have not been checked by the **Owner**. Further, some such drawings exist only on a reduced scale or in copies of poor quality, so that dimensions and other information may be difficult to read.
- 2.4.3 The **Owner** disclaims any liability toward the **Contractor** for reference documents, in particular with respect to their accuracy.

- 2.4.4 The Tenderer shall also note that at any time during the tendering period, it can consult all available construction drawings of the existing infrastructures at the **Owner's** offices, in which case the reserves mentioned in the foregoing paragraphs apply.

## 2.5 ADDENDA

- 2.5.1 During the tendering period, the **Owner** may make changes or additions to any part of the Tender Documents by way of addenda.
- 2.5.2 All addenda issued by the **Owner** will be conveyed to all those who have obtained Sections 0, 3 and 4 of the Tender Documents directly from "Merx" Private Tenders or directly from the **Owner**, as applicable. The Tenderer shall return an acknowledgment of receipt of said addenda by email at [offres@pjcci.ca](mailto:offres@pjcci.ca), or by facsimile at the number indicated in paragraph 2.8.1, to the **Owner's** Procurement Agent. Addenda become an integral part of the Tender Documents.

## 2.6 VERIFICATION OF TENDER DOCUMENTS

- 2.6.1 Upon receipt of the Tender Documents, the Tenderer shall ensure that it has obtained all the documents listed in Article 2.1 *Tender Documents* and that each document contains all the pages listed in the corresponding table of contents. The Tenderer shall also ensure that the drawings received match the list of drawings and advise the Procurement Agent without delay, by facsimile, of any discrepancy.
- 2.6.2 Any tenderer that is uncertain of the exact intent of any part of Tender Documents may seek an explanation by writing to the Procurement Agent. Provided that such queries are received at least three (3) working days before the deadline for receipt of tenders, they will be considered by the **Owner**. If any interpretation becomes necessary, the **Owner** will issue one or more addenda to the Tender Documents.
- 2.6.3 Any tenderer that notices any error, omission or inaccuracy which, in its view, may lead to errors in the drafting of its tender, shall advise the Procurement Agent in writing without delay. Failure to notify the **Owner** of any such error, omission or inaccuracy will not entail in cancellation of the Contract, nor release the **Contractor** from performance and completion of all or any part of the work to the Engineer's satisfaction, in accordance with the Contract documents and for the total agreed and set price, nor exempt the **Contractor** from any of the obligations stipulated in the Contract documents, nor allow the **Contractor** to claim any damages or indemnity other than those specified in the said Contract documents, except for such additional work as may be required for the performance of which written orders shall be given by the Engineer.

## 2.7 KNOWLEDGE OF THE SITE AND LOCAL CONDITIONS

- 2.7.1 Before tendering, the Tenderer shall carefully examine all sites and access to which the Contract applies and shall inform itself on any local conditions that may have a bearing on performance of the work. The tender shall be prepared taking into account all facts, circumstances, states, situations or conditions that may have an impact on the performance or the cost of the work.
- 2.7.2 The Tenderer shall take note of any particularity likely to compromise the progress of the work or affect the safety or health of users and workers.

- 2.7.3 The Tenderer shall study all aspects of the work in order to properly assess, without being limited to, the following:
- 2.7.3.1 The nature and scope of the work to be performed;
  - 2.7.3.2 Difficulties in accessing work areas;
  - 2.7.3.3 Difficulties in performing the work, in particular work to be performed above traffic lanes and waterways, and near bicycle paths, where applicable;
  - 2.7.3.4 Access devices and equipment needed, such as scaffolding, suspended walkways, enclosures, protection structures, devices for illuminating the work area and the inside of enclosures and shelters;
    - 2.7.3.4.1 If the **Contractor** wishes to install its scaffolding, enclosures, platforms and other access devices by waterway, it shall particularly check the resulting difficulties in accessing the work areas. The **Contractor** shall ensure that the water in the river and La Prairie Basin is deep enough for transportation by barge on the waterway. The **Contractor** shall expect fluctuation in the water level. Further, the **Contractor** shall access the work areas without interfering with traffic on the bridge, maritime traffic and vehicle, cycle or pedestrian traffic on the St. Lawrence Seaway dike. The **Contractor** shall contact the Canadian Coast Guard (Fisheries and Oceans Canada) and the St. Lawrence Seaway Management Corporation (SLSMC) during the tender period for any information regarding the authorizations needed to use the waterways.
  - 2.7.3.5 The location of public utilities or other services owned by the **Owner** or third parties (including walkways and manholes for access) and equipment needed to operate the bridge (including existing access devices and platforms), such as surveillance cameras, lane control signals, signs, lamp posts and electrical equipment;
  - 2.7.3.6 Walkways and other access facilities needed to reach the work areas without interfering with traffic (vehicle, cycle and pedestrian);
  - 2.7.3.7 Requirements for signage and traffic control for vehicles, pedestrians and cyclists;
- 2.7.4 All tenderers shall visit the work site. Three (3) types of site visits (Type A, B or C) have been established by the **Owner** for its construction contracts, according to the nature of the work involved, and are described in Appendix 2-I.
- 2.7.4.1 The Tenderer shall refer to the *Notice to Contractors* (Section 0) regarding the type of site visit applicable to this Contract and the date and time of this (these) visit(s).
  - 2.7.4.2 The **Owner** will not provide any information verbally and will not answer any questions during this (these) visit(s). The **Owner** disclaims all liability for any information that could have been conveyed verbally by any person whatsoever, regardless of context or circumstances.

- 2.7.5 If, in the course of inspecting the site and local conditions, facts, circumstances, states, situations or conditions are detected by the Tenderer that are not consistent with the information contained in the Tender Documents, these findings shall be promptly reported in writing to the Procurement Agent, failing which the provisions of paragraph 2.6.3 of Article 2.6 *Verification of Tender Documents* will apply.
- 2.7.6 When the work under the Contract concern the Jacques Cartier Bridge, the Tenderer shall, during the tendering period, check with the relevant authorities of the City of Montreal the requirements and conditions relating to the use of access roads and adjacent land belonging to the City of Montreal, especially with respect to the particularities of access and permissible loads on the roads located on île Sainte-Hélène and île Notre-Dame and on the bridges that connect them, since all heavy traffic requires prior approval from the City of Montreal.
- 2.7.7 When the work under the Contract concern the Jacques Cartier Bridge, the Tenderer shall, during the tendering period, check with the relevant authorities of the City of Montreal the requirements and conditions relating to the safety during the work, especially during the installation and dismantling of enclosures and other access devices on the City of Montreal property, as applicable.
- 2.7.8 Notwithstanding the provisions of Article 6.14.3.3 *Authorized Lane Closures*, when two (2) construction contracts are carried out in the same area, the **Owner** may, under exceptional circumstances, be required to refuse a request by the **Contractor** for lane closure if such closure is incompatible with other work planned on the structure. The **Contractor** will not, however, be entitled to any financial compensation as a result of such refusal.

## 2.8 REQUESTS FOR INFORMATION, NOTICES AND OTHER COMMUNICATIONS

- 2.8.1 Any request for information, notices and other communications concerning the drafting of tenders, tendering procedure or Tender Documents shall be made in writing and directed to the attention of the Procurement Agent at the following address:

*THE JACQUES CARTIER AND CHAMPLAIN BRIDGES INCORPORATED  
1225, St-Charles Street West, Suite 500  
Longueuil (Québec) J4K 0B9  
Attention: Procurement Agent  
Facsimile: 450 651-7605*

For any other information, the Procurement Agent can be reached at 450 651-8771.

- 2.8.2 Any request for information shall be received at least three (3) working days before the deadline for receipt of tenders. All additional information will be communicated as addendum to all enterprises that have obtained Sections 0, 3 and 4 of the Tender Documents directly from “Merx” Private Tenders or directly from the **Owner**, as applicable. Addenda will become an integral part of the Tender Documents.
- 2.8.3 The **Owner** does not intend to provide any information verbally. Therefore, the **Owner** disclaims all liability for any information conveyed verbally, regardless of context or circumstances.

## 2.9 SIGNATURE OF TENDER

- 2.9.1 The authorized signatory shall sign on the signature page of the Tender Forms. The signatory's name and title shall be entered in block letters or printed in the appropriate space.
- 2.9.2 The Tenderer shall confirm signing authority by appending to the tender a certified true copy of the resolution naming the authorized signatory, following the model corporate resolution included in the Tender Forms.

## 2.10 TENDER SECURITY REQUIREMENTS

- 2.10.1 The Tenderer shall append to its tender a tender security in the form of either:
- 2.10.1.1 A certified cheque drawn on a member of the Canadian Payments Association or on a local credit union affiliated with a central credit union that is a member of the Canadian Payments Association, made to the order of the **Owner** for an amount not less than ten percent (10%) of the estimated amount of the tender, or \$25,000 plus five percent (5%) of the amount by which the estimated amount of the tender exceeds \$250,000; or
- 2.10.1.2 A bid bond posted by an approved surety, for an amount not less than ten percent (10%) of the estimated amount of the tender.

## 2.11 DELIVERY OF TENDER

- 2.11.1 The Tenderer shall submit its tender (and accompanying documents) in an envelope large enough to hold the original and copies of the tender and append the label provided with the Tender Forms. The Tenderer shall ensure that the envelope is properly sealed and that the Tenderer's name and Call for tenders' number appear on the envelope.
- 2.11.2 The tenders shall reach the **Owner's** offices no later than the time and date indicated in the *Notice to Contractors* at the one and only address indicated in paragraph 2.8.1.
- 2.11.2.1 No tenders received after the date and time set for receipt of tenders will be accepted. The Tenderer shall therefore ensure that it sends its tender with sufficient lead time to reach the Procurement Agent before the deadline set for receipt of tenders.
- 2.11.2.2 The time and date of receipt of a tender shall be deemed to be the date and time indicated by the stamp affixed by the **Owner** on the envelope containing the tender.
- 2.11.2.3 Tenders received earlier than the date and time set for receipt of tenders may be withdrawn or replaced before the date and time set.
- 2.11.2.4 No tenders wholly or partially transmitted by facsimile or other electronic medium will be accepted.

2.11.2.5 The Tenderer shall ensure that all documents have been signed by the persons duly authorized to do so.

## **2.12 INTEGRITY PROVISIONS – TENDER**

### **2.12.1 Definitions**

2.12.1.1 For the purposes of this Article 2.12 relating to integrity, the following definitions apply:

2.12.1.1.1 “Affiliate”:

2.12.1.1.1.1 is a person, including, without however being limited to, parent companies, subsidiaries, whether or not wholly or partially owned, as well as a senior officer;

2.12.1.1.1.2 one person is an affiliate of another person if:

2.12.1.1.1.2.1 one person is controlled by the other person;

2.12.1.1.1.2.2 both persons are controlled by a third person;

2.12.1.1.1.2.3 both persons are under common control; or

2.12.1.1.1.2.4 each person is controlled by a third person and the third person by whom one person is controlled is affiliated with the third person by whom the other person is controlled;

2.12.1.1.1.3 indicia of control, whether direct or indirect, exercised or not, include, but are not limited to, common ownership, common management, identity of interests (often found in members of the same family), shared facilities and equipment or common use of employees;

2.12.1.1.1.4 an affiliate may also exist in instances of an amalgamation or merger. Where at any time two or more corporations (in this provision referred to as the “predecessors”) amalgamate or merge to form a new corporation, the new corporation and any predecessor are deemed to have been affiliated with each other where they would have been affiliated with each other immediately before that time if:

2.12.1.1.1.4.1 the new corporation had existed immediately before that time; and

2.12.1.1.1.4.2 the persons who were the shareholders of the new corporation immediately after that time had been the shareholders of the new corporation immediately before that time.

2.12.1.1.2 “Senior Officer”:

2.12.1.1.2.1 means a representative who plays an important role in the establishment of an organization’s policies or is responsible for managing an important aspect of the organization’s activities and, in the case of a body corporate, includes a director, its chief executive officer and its chief financial officer.

2.12.1.1.3 “Control”:

2.12.1.1.3.1 direct control, such as where:

2.12.1.1.3.1.1 a person controls a body corporate if securities of the body corporate to which are attached more than 50 per cent of the votes that may be cast to elect directors of the body corporate are beneficially owned by the person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;

2.12.1.1.3.1.2 a person controls a corporation that is organized on a cooperative basis if the person and all of the entities controlled by the person have the right to exercise more than 50 per cent of the votes that may be cast at an annual meeting or to elect the majority of the directors of the corporation;

2.12.1.1.3.1.3 a person controls an unincorporated entity, other than a limited partnership, if more than 50 per cent of the ownership interests, however designated, into which the entity is divided are beneficially owned by that person and the person is able to direct the business and affairs of the entity;

2.12.1.1.3.1.4 the general partner of a limited partnership controls the limited partnership;

2.12.1.1.3.1.5 a person controls an entity if the person has any direct or indirect influence that, if exercised, would result in control in fact of the entity.

2.12.1.1.3.2 deemed control, such as where:

2.12.1.1.3.2.1 A person who controls an entity is deemed to control any entity that is controlled, or deemed to be controlled, by the entity.

2.12.1.1.3.3 indirect control, such as where:

2.12.1.1.3.3.1 indirect control, such as where a person is deemed to control, within the meaning of paragraphs 2.12.1.1.3.1 or 2.12.1.1.3.2, an entity where the aggregate of:

- 2.12.1.1.3.3.1.1 any securities of the entity that are beneficially owned by that person;
- 2.12.1.1.3.3.1.2 any securities of the entity that are beneficially owned by any entity controlled by that person,
- is such that, if that person and all of the entities referred to in paragraph 2.12.1.1.3.3.1.2 that beneficially own securities of the entity were one person, that person would control the entity.

2.12.1.1.4 “Person”:

- 2.12.1.1.4.1 includes, but is not limited to, individuals, organizations, bodies corporate, societies, companies, firms, partnerships, and associations of persons.

## 2.12.2 Statement

- 2.12.2.1 The Tenderer shall be eligible to be awarded the Contract pursuant to this Article 2.12 relating to integrity, which is rooted, with some modifications, in the *Ineligibility and Suspension Policy* attached in Appendix 2-II. The Tenderer shall further comply with the excerpts from the *Code of Conduct for Procurement* issued by Public Services and Procurement Canada (hereinafter “PSPC”) and attached in Appendix 2-III. In addition, the Tenderer shall respond to the call for tenders in an honest, fair and comprehensive manner, account for its capacity to satisfy the requirements stipulated in the tender documents and submit a tender only if it is able to fulfill all obligations of the Contract.
- 2.12.2. By submitting a tender, the Tenderer confirms that it understands that, in order to ensure the fairness, openness and transparency in the procurement process, the commission of certain acts or offences and the fact of having pleaded guilty to or having been convicted of certain offences will render it ineligible to be awarded the Contract. The Tenderer further confirms that it is not aware of any determination of ineligibility or suspension rendered by PSPC with respect to itself or one of its affiliates. The **Owner** will declare non-responsive any tender in respect of which the information requested is missing or inaccurate, or if the **Owner** finds that the information in relation to the certifications is found by the **Owner** to be untrue in any respect, at the time of Contract award. If it is determined, after Contract award, that the Tenderer made a false declaration, the **Owner** will have the right to take the work out of the **Contractor’s** hands, for default.

### 2.12.3 List of Names

- 2.12.3.1 The Tenderer that is a corporate entity, including the tenderer tendering as a joint venture, shall provide with its tender a complete list of names of all individuals who are currently directors of the Tenderer. The Tenderer submitting a tender as sole proprietorship, including the tenderer tendering as a joint venture, shall provide with its tender the name of the owner or owners. The Tenderer submitting a tender as a society, firm or association of persons does not need to provide a list of names.
- 2.12.3.2 If the required list has not been provided with the tender, the **Owner** will inform the Tenderer of a time frame within which to provide the information. Failure to provide these names within the time period provided will render the tender non-responsive. Providing the required names is a mandatory requirement for Contract award.
- 2.12.3.3 The Tenderer shall diligently inform the **Owner**, in writing, of any changes in the list of the names of the directors at any time prior to Contract award as well as during the term of the Contract.

### 2.12.4 Request for Additional Information

- 2.12.4.1 By submitting a tender, the Tenderer certifies that it is aware, and that its affiliates are aware, that the **Owner** may request additional information and certifications proving identity or eligibility. The **Owner** may also verify all the information provided by the Tenderer, including the information relating to the convictions for certain offences and to any conditional or absolute discharges specified in this Article 2.12 relating to integrity, through independent research, including by contacting third parties. Failure to provide the requested information within the required timeframe or failure to cooperate during the verification process will result in the tender being rejected.

### 2.12.5 Lobbying Act

- 2.12.5.1 By submitting a tender, the Tenderer certifies that in the three (3) years preceding the submission of the tender, neither the Tenderer nor any of the Tenderer's affiliates have been convicted of or pleaded guilty to an offence pursuant to paragraph 14(1), with respect to sections 5 or 7 of the *Lobbying Act* (R.S.C., 1985, c. 44 (4<sup>th</sup> Supp.)).

### 2.12.6 Canadian Offences Resulting in the Incapacity to enter into a Contract with Her Majesty

- 2.12.6.1 By submitting a tender, the Tenderer certifies:

- 2.12.6.1.1 that neither the Tenderer nor any of the Tenderer's affiliates have been convicted of or pleaded guilty to an offence under any of the following provisions, which would result in a legal incapacity to enter into a contract with Her Majesty as defined by paragraph 750 (3) of the *Criminal Code of Canada* (R.S.C., 1985, c. C-46) and for which they have not received pardon or obtained discharge in accordance with paragraph 2.12.12 *Canadian Pardons and Discharges*:
- 2.12.6.1.1.1 subsection 80(1)d (*False entry, certificate or return*), subsection 80(2) (*Fraud against Her Majesty*) or section 154.01 (*Fraud against Her Majesty*) of the *Financial Administration Act* (R.S.C., 1985, c. F-11); or
- 2.12.6.1.1.2 section 121 (*Frauds on the government and Contractor subscribing to election fund*), section 124 (*Selling or purchasing office*), section 380 (*Fraud*) for fraud committed against Her Majesty or section 418 (*Selling defective stores to Her Majesty*) of the *Criminal Code* (R.S.C., 1985, c. C-46); or
- 2.12.6.1.2 that the Tenderer has not been convicted of or pleaded guilty to an offence under the provisions of paragraph 2.12.6.1.1 and has not directed, influenced, authorized, assented to, acquiesced in or participated in the commission or omission of the acts or offences that would render the Tenderer's affiliate ineligible to be awarded the Contract in accordance with paragraph 2.12.6.1.1.

## 2.12.7 Canadian Offences

2.12.7.1 By submitting a tender, the Tenderer certifies:

- 2.12.7.1.1 that in the three (3) years preceding the submission of the tender, neither the Tenderer nor any of the Tenderer's affiliates have been convicted of or pleaded guilty to an offence under any of the following provisions that would render them ineligible to be awarded the Contract pursuant to this Article 2.12 relating to integrity and for which they have not received pardon or obtained discharge in accordance with paragraph 2.12.12 *Canadian Pardons and Discharges*:
- 2.12.7.1.1.1 section 119 (*Bribery of judicial officers, etc.*), section 120 (*Bribery of officers*), section 346 (*Extortion*), sections 366 to 368 (*Forgery and other offences resembling forgery*), section 382 (*Fraudulent manipulation of stock exchange transactions*), section 382.1 (*Prohibited insider trading*), section 397 (*Falsification of books and documents*), section 422 (*Criminal breach of contract*), section 426 (*Secret commissions*), section 462.31 (*Laundering proceeds of crime*), or sections 467.11 to 467.13 (*Participation in activities of criminal organization*) of the *Criminal Code* (R.S.C., 1985, c. C-46); or
- 2.12.7.1.1.2 section 45 (*Conspiracies, agreements or arrangements between competitors*), section 46 (*Foreign directives*), section 47 (*Bid rigging*), section 49 (*Agreements or arrangements of federal financial institutions*), section 52 (*False or misleading representation*), or section 53 (*Deceptive notice of winning a prize*) of the *Competition Act* (R.S.C., (1985), c. C-34); or

- 2.12.7.1.1.3 section 239 (*False or deceptive statements*) of the *Income Tax Act* (R.S.C., 1985, c. 1 (5<sup>th</sup> Supp.)); or
- 2.12.7.1.1.4 section 327 (*False or deceptive statements*) of the *Excise Tax Act* (R.S.C., 1985, c. E-25); or
- 2.12.7.1.1.5 section 3 (*Bribing a foreign public official*), section 4 (*Accounting*) or section 5 (*Offence committed outside Canada*) of the *Corruption of Foreign Public Officials Act* (S.C., 1998, c. 34); or
- 2.12.7.1.1.6 section 5 (*Trafficking in substance*), section 6 (*Importing and exporting*), or 7 (*Production of substance*) of the *Controlled Drugs and Substance Act* (S.C., 1999, c. 19); or
- 2.12.7.1.2 that the Tenderer has not been convicted of or pleaded guilty to an offence under the provisions of paragraph 2.12.7.1.1 and has not directed, influenced, authorized, assented to, acquiesced in or participated in the commission or omission of the acts or offences that would render the Tenderer's affiliate ineligible to be awarded the Contract in accordance with paragraph 2.12.7.1.1.

## 2.12.8 Foreign Offences

2.12.8.1 By submitting a tender, the Tenderer certifies:

- 2.12.8.1.1 that in the three (3) years preceding the submission of the tender, neither the Tenderer nor any of the Tenderer's affiliates has been convicted of or pleaded guilty to an offence or held responsible for an act in a jurisdiction other than Canada that would, in the **Owner's** opinion, be similar to an offence described in paragraphs 2.12.5 *Lobbying Act*, 2.12.6 *Canadian Offences Resulting in the Incapacity to enter into a Contract with Her Majesty* and 2.12.7 *Canadian Offences*, and for which they have not received pardon or obtained discharge in accordance with paragraph 2.12.13 *Canadian Pardons and Discharges* and that:
  - 2.12.8.1.1.1 the court before which the Tenderer or affiliates thereof appeared acted within the court's jurisdiction;
  - 2.12.8.1.1.2 the Tenderer or affiliates thereof appeared during the court's proceedings or submitted to the court's jurisdiction;
  - 2.12.8.1.1.3 the court's decision was not obtained by fraud; and
  - 2.12.8.1.1.4 the Tenderer or affiliates thereof were entitled to present to the court every defence that the Tenderer or Tenderer's affiliates would have been entitled to present had the proceeding been tried in Canada; or

2.12.8.1.2 that the Tenderer has not been convicted of or pleaded guilty to an offence or held responsible for an act listed in the provisions described in paragraph 2.12.8.1.1 and has not directed, influenced, authorized, assented to, acquiesced in or participated in the commission or omission of the acts or offences that would render the Tenderer's affiliate ineligible to be awarded the Contract in accordance with paragraph 2.12.8.1.1.

## **2.12.9 Ineligibility for Contract Award**

2.12.9.1 The Tenderer certifies that it understands that if the Tenderer or any of the Tenderer's affiliates has been convicted of or pleaded guilty to an offence or held responsible for an act as described in paragraphs 2.12.5 *Lobbying Act*, 2.12.6 *Canadian Offences Resulting in the Incapacity to enter into a Contract with Her Majesty*, 2.12.7 *Canadian Offences* or 2.12.8 *Foreign Offences*, the Tenderer will be ineligible to be awarded the Contract, subject to a public interest exception.

2.12.9.2 The Tenderer certifies that it understands that it will also be ineligible to be awarded the Contract if the Tenderer is listed on the Ineligibility and Suspension List in accordance with the *Ineligibility and Suspension Policy* at any time before Contract award.

## **2.12.10 Declaration Form**

2.12.10.1 Where a Tenderer is unable to certify that the Tenderer or one of its affiliates has not been convicted of or pleaded guilty to an offence or held responsible for an act as described in paragraphs 2.12.5 *Lobbying Act*, 2.12.6 *Canadian Offences Resulting in the Incapacity to enter into a Contract with Her Majesty*, 2.12.7 *Canadian Offences* or 2.12.8 *Foreign Offences*, the Tenderer shall complete the *Declaration Form* attached in Appendix 2-IV, which shall be submitted with its tender so that it is not rejected.

2.12.10.2 Where a Tenderer is unable to certify that the Tenderer or one of its affiliates is not the subject of any determination of ineligibility or suspension rendered by PSPC, the Tenderer shall complete the relevant section of the *Declaration Form* attached in Appendix 2-IV, which shall be submitted with its tender so that it is not rejected.

## **2.12.11 Period of Ineligibility**

2.12.11.1 For all offences referenced under paragraph 2.12.6 *Canadian Offences Resulting in the Incapacity to enter into a Contract with Her Majesty* for which the Tenderer or any of the Tenderer's affiliates has pleaded guilty to or has been convicted of, the period of ineligibility to be awarded a contract with the **Owner** is indefinite, subject to paragraph 2.12.12 *Canadian Pardons and Discharges*.

## 2.12.12 Canadian Pardons and Discharges

2.12.12.1 The Tenderer will be eligible to be awarded the Contract, notwithstanding the commission of an act or offence or the fact of having pleaded guilty to or having been convicted of certain offences that give rise or could give rise to an ineligibility to be awarded the Contract under this Article 2.12 relating to integrity if The tenderer or any of the Tenderer's affiliates:

2.12.12.1.1 has been granted an absolute discharge in respect of the offence, or a conditional discharge in respect of the offence and those conditions have been satisfied;

2.12.12.1.2 has been granted a pardon under Her Majesty's royal prerogative of mercy;

2.12.12.1.3 has been granted a pardon under section 748 of the *Criminal Code* (R.S.C., 1985, c. C-46);

2.12.12.1.4 has received a record of suspension ordered under the *Criminal Records Act* (R.S.C., 1985, c. C-47);

2.12.12.1.5 has been granted a pardon under the *Criminal Records Act* (R.S.C., 1985, c. C-47) – as that Act read immediately before the day section 165 of the *Safe Streets and Communities Act* came into force (S.C., 2012, c. 1).

## 2.12.13 Foreign Pardons and Discharges

2.12.13.1 The Tenderer will be eligible to be awarded the Contract, notwithstanding the commission of a foreign act or offence or the fact of having pleaded guilty to or having been convicted of certain foreign offences that give rise or could give rise to an ineligibility to be awarded the Contract, if the Tenderer or any of the Tenderer's affiliates benefited from foreign measures that the **Owner** considers to be similar in nature to the Canadian pardon or to the conditional or absolute discharge, record suspension or restoration of the rights by the Governor in Council.

## 2.12.14 Measures put in Place

2.12.14.1 In cases where the conviction or guilty plea of the Tenderer or any of the Tenderer's affiliates that would have rendered the Tenderer ineligible dates back more than three (3) years, or if the Tenderer has, in the past, been listed on the Ineligibility and Suspension List in accordance with the *Ineligibility and Suspension Policy*, the Tenderer shall also certify, for itself and its affiliates, that measures have been diligently put in place to prevent the recurrence of such convictions or wrongdoing.

## 2.12.15 Subcontractors

2.12.15.1 By submitting a tender, the Tenderer certifies that the contracts entered into with its subcontractors include provisions relating to integrity that are similar to those imposed in this Article 2.12 relating to integrity, and that its subcontractors comply thereto.

## 2.12.16 Public Interest Exception

2.12.16.1 The Tenderer certifies that:

2.12.16.1.1 unless it is ineligible to be awarded the Contract under paragraph 2.12.6 *Canadian Offences Resulting in the Incapacity to enter into a Contract with Her Majesty*, the **Owner** may, in its sole discretion, award the Contract to the Tenderer that has been convicted of or pleaded guilty to an offence or held responsible for an act, or whose affiliate has been convicted of or pleaded guilty to an offence or held responsible for an act, as described in paragraphs 2.12.5 *Lobbying Act*, 2.12.7 *Canadian Offences* and 2.12.8 *Foreign Offences*, if the **Owner** considers that it is necessary to do so in the public interest, for reasons that may include, without limitation:

2.12.16.1.1.1 Emergency;

2.12.16.1.1.2 No one else is capable of performing the Contract;

2.12.16.1.1.3 Economic damage;

2.12.16.1.1.4 National security;

2.12.16.1.1.5 Health or safety.

## 2.13 REJECTION OF TENDER

2.13.1 The **Owner** does not bind itself to accept any tender, even the lowest.

2.13.2 Without limiting the general scope of paragraph 2.13.1, the **Owner** may reject any tender based on an unfavourable assessment of any of the following factors:

2.13.2.1 Adequacy of the tendered price to permit the work to be carried out and, in case of a tender providing unit prices or a combination of lump sums and unit prices, whether each such price reasonably reflects the cost of performing the part of the work to which that price applies;

2.13.2.2 Tenderer's ability to provide the necessary management structure, skilled personnel, experience and equipment needed to perform competently the work under the Contract;

2.13.2.3 Tenderer's performance under other contracts.

2.13.3 In assessing the Tenderer's performance under other contracts pursuant to paragraph 2.13.2.3, the **Owner** may, without being limited to, consider such matters as:

2.13.3.1 Quality of workmanship in performing the work;

2.13.3.2 Timeliness of completion of the work;

- 2.13.3.3 The overall management of the **Contractor's** work and its effects on the level of effort demanded of the **Owner** and / or the **Owner's** representatives.
- 2.13.4 Without limiting the generality of paragraph 2.13.1, the **Owner**, at its discretion, may reject a tender in any of the following cases:
- 2.13.4.1 The Tenderer is bankrupt or, for whatever reason, its activities are rendered inoperable for an extended period;
- 2.13.4.2 Evidence, satisfactory to the **Owner**, of fraud, bribery, fraudulent misrepresentation or failure to comply with any law protecting individuals against any manner of discrimination has been received with respect to the Tenderer, any of its employees or any subcontractor included as part of its tender; or
- 2.13.4.3 Evidence satisfactory to the **Owner** that, based on past conduct or behavior, the Tenderer, a subcontractor or a person designated to perform the work is not suitable or has conducted itself improperly;
- 2.13.4.4 The tendering privileges of the Tenderer are suspended or are in the process of being suspended.
- 2.13.4.5 With respect to current or prior transactions with the **Owner**:
- 2.13.4.5.1 The **Owner** has exercised, or intends to exercise, the contractual remedy of taking the work out of the **Contractor's** hands with respect to a contract with the Tenderer, any of its employees or any subcontractor included as part of its tender; or
- 2.13.4.5.2 The **Owner** determines that the Tenderer's performance under other contracts, including the efficiency and quality of the work performed, and the extent to which the Tenderer complies or has complied with contractual clauses and conditions in performing the work, is or was unsatisfactory.
- 2.13.5 The tender of a tenderer holding a limited licence within the meaning of the *Building Act* (CQLR c. B-1.1) or that is named in the *Register of enterprises ineligible for public contracts* ("Registre des entreprises non admissibles aux contrats publics, (RENA)") within the meaning of the *Act respecting Contracting by Public Bodies* (CQLR c. C-65.1) at any time prior to Contract award will be rejected.
- 2.13.6 The tender of a tenderer that is listed on the Ineligibility and Suspension List in accordance with the *Ineligibility and Suspension Policy* issued by PSPC at any time prior to Contract award will be rejected.
- 2.13.7 Anti-Avoidance Provisions
- 2.13.7.1 Without limiting the generality of paragraph 2.13.1, the **Owner** may, at its discretion, reject the tender of a tenderer that is successor to a company that would be ineligible to be awarded the Contract under Article 2.12 *Integrity Provisions – Tender* if, in the opinion of the **Owner**, the succession occurred for the purpose of avoiding the ineligibility arising from said Article 2.12.

- 2.13.7.1.1 Where, after a corporate entity is convicted of an offence listed in Article 2.12 *Integrity Provisions – Tender* or after the corporate entity is listed on the Ineligibility and Suspension List issued by PSPC, said corporate entity or corporate family to which the corporate entity belongs (including the parent companies, intermediate corporate entities, subsidiaries and affiliates) undergoes a corporate restructuring (including, without limitation, a merger, amalgamation, acquisition, takeover, sell-off, spin-off, divestiture and consolidation) with the purpose, among other things, of avoiding the ineligibility arising from Article 2.12, the **Owner** may, at its discretion, reject the tender of the successor tenderer.

## 2.14 PERIOD OF VALIDITY OF TENDERS

- 2.14.1 Tenders are valid for sixty (60) days from the deadline set for receipt of tenders. However, the **Owner** reserves the right to extend this period up to ninety (90) days. In such a case, the **Owner** will notify the Tenderer of the extension within the first ten (10) days following the tender closing date.

## 2.15 COMPLIANCE WITH APPLICABLE LEGISLATION

- 2.15.1 By submitting a tender, the Tenderer certifies that it has the legal capacity to enter into a contract in accordance with all federal, provincial and municipal legislation that apply to the submission of the tender and, subsequently, to the execution of the Contract.
- 2.15.2 In order to verify compliance with the requirements listed in paragraph 2.15.1, the Tenderer shall, upon request, provide a copy of any valid licence, permit, registration, certificate, declaration, filing or other authorization specified in the request, within the time period provided for submission of these documents.
- 2.15.3 Failure to meet the above requirements may entail rejection of the tender.

## 2.16 APPROVAL OF ALTERNATIVE MATERIALS

- 2.16.1 In cases where materials are specified by a name or trademark or the name of the manufacturer or supplier, the tender shall be based on the use of the designated materials.

## 2.17 PERFORMANCE EVALUATION

- 2.17.1 The Tenderer shall note that the **Owner** will evaluate the performance of the **Contractor** during the execution of the work and at the time of completion. This evaluation will focus on the quality of the work, adherence to deadlines and overall management of the work by the **Contractor** in terms of the level of effort demanded of the **Owner** and its representatives in the administration of the Contract.
- 2.17.2 The “Performance Evaluation for Construction Contracts” form, attached in Appendix 2-V, will be used to evaluate the performance of the **Contractor**.

## 2.18 FREE COMPETITION

- 2.18.1 No tenderer shall contact another tenderer about, or discuss its tender with another tenderer. All tenders shall be submitted without any knowledge of another tenderer's tender and free of any agreement or arrangement with another tenderer.
- 2.18.2 These obligations extend to the Tenderer's employees, agents or representatives. Each tenderer is responsible for ensuring that its conduct and participation in the Call for tenders are characterized by good faith and in the absence of any collusion or fraud.

## 2.19 CONFLICT OF INTEREST – UNFAIR ADVANTAGE

- 2.19.1 No tenderer shall participate nor have any direct or indirect interest in the tender of any other tenderer.
- 2.19.2 In order to protect the integrity of the procurement process, the Tenderer is advised that the **Owner** may reject a tender in the following circumstances:
- 2.19.2.1 If the Tenderer, any of its subcontractors, any of their respective employees or former employees was involved in any manner in the preparation of the Call for tenders or in any situation of conflict of interest or appearance of conflict of interest;
- 2.19.2.2 If the **Owner** considers that the Tenderer, any of its subcontractors, any of their respective employees or former employees had access to information related to the Call for tenders that was not available to other tenderers and that would, in the **Owner's** opinion, give or appear to give the Tenderer an unfair advantage.
- 2.19.3 The experience acquired by a tenderer who is providing or has provided the goods and services described in the Call for tenders (or similar goods or services) will not, in itself, be considered by the **Owner** as conferring an unfair advantage or creating a conflict of interest. Said tenderer remains however subject to the criteria established above.
- 2.19.4 The Tenderer who is in doubt about a particular situation should contact the **Owner** before the closing date of the Call for tenders. By submitting a tender, the Tenderer certifies that it is not in conflict of interest and does not have an unfair advantage. The Tenderer acknowledges that it is within the **Owner's** sole discretion to determine whether a conflict of interest, unfair advantage or an appearance of conflict of interest or unfair advantage exists.

## 2.20 FALSE OR MISLEADING INFORMATION

- 2.20.1 The **Owner**, at its sole discretion, may check any information provided by a tenderer in its tender or in connection with the Call for tenders.
- 2.20.2 The **Owner** reserves the right to reject the tender of any tenderer who, in its tender or in connection with the Call for tenders, provides false or misleading information.

## **2.21 UNDERSTANDING OF THE CONTRACT**

2.21.1 The Tenderer has sole responsibility for ensuring that it has all the information it needs to prepare and submit a tender. Accordingly, the Tenderer shall ensure that it fully understands the Contract, conditions of its performance and any other matters that may affect the performance of the work, in particular in terms of quality, cost and duration.

## **2.22 TENDERING COSTS**

2.22.1 The Tenderer shall bear all costs, disbursements or expenses which it may incur in connection with the preparation of its tender or during the tender analysis period.

2.22.2 The **Owner** is not liable for such costs, disbursements or expenses nor for reimbursement of any costs incurred, regardless of nature or the circumstances, including, without being limited to, cases of rejection of one or more or all tenders, cancellation of the Call for tenders or cancellation of the project.

## **2.23 CONFIDENTIALITY**

2.23.1 No tenderer may disclose to any person not directly involved in preparing and submitting its tender any information related to the tender without the **Owner's** prior written consent.

## **2.24 OWNERSHIP OF DOCUMENTS AND COPYRIGHT**

2.24.1 All documents or information provided by the **Owner** to the Tenderer in connection with the Call for tenders are and remain the property of the **Owner** and may be used by tenderers only for the purposes of preparing their tenders. At the **Owner's** request, the Tenderer shall return such documents to the **Owner**.

## **2.25 DISCLAIMER**

2.25.1 The **Owner** disclaims all liability for any error or omission in the Tender Documents or resulting from the tendering process.

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**END OF SECTION**

## **APPENDIX 2-I**

### **TYPES OF SITE VISITS (Ref: Article 2.7.4)**

## Types of Site Visits (Ref: Article 2.7.4)

### Type A: Visit accompanied by the **Owner** (Mandatory)

Two (2) mandatory site visits accompanied by a representative of the <b>Owner</b> will be organized.
Any taker of the Tender Documents may attend only one (1) mandatory site visit. In addition, a limit of two (2) representatives per taker of the Tender Documents is set for the mandatory visit accompanied by the representative of the <b>Owner</b> .
The Tenderer shall confirm its presence to one of the mandatory site visits by fax or email, at least twenty-four (24) hours in advance by contacting the Procurement Agent of the <b>Owner</b> at the address and number indicated in paragraph 2.8.1.
The <b>Owner</b> reserves the right to return, unopened, the tender of any tenderer that has not attended one of the mandatory site visits.

### Type B: Visit accompanied by the **Owner** (Optional/Date determined by the **Owner**)

The Tenderer may visit the site independently. However, the Tenderer that visits the site independently is only permitted to visit the areas that are normally accessible to the public. The Tenderer may also visit the site accompanied by a representative of the <b>Owner</b> . Two (2) site visits accompanied by a representative of the <b>Owner</b> will be organized for this purpose.
Any taker of the Tender Documents that wishes to visit the site accompanied by a representative of the <b>Owner</b> may attend only one (1) of the visits. In addition, a limit of two (2) representatives per taker of the Tender Documents is set for the visit accompanied by the representative of the <b>Owner</b> .
The Tenderer that wishes to visit the site accompanied by a representative of the <b>Owner</b> shall confirm its presence to one (1) of the site visits by fax or email, at least twenty-four (24) hours in advance by contacting the Procurement Agent of the <b>Owner</b> at the address and number indicated in paragraph 2.8.1.

### Type C: Visit accompanied by the **Owner** (Optional and by Appointment)

The Tenderer may visit the site independently. However, The Tenderer that visits the site independently is only permitted to visit the areas that are normally accessible to the public. Upon request, the Tenderer may also visit the site accompanied by a representative of the <b>Owner</b> , by appointment with the Procurement Agent of the <b>Owner</b> .
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The Tenderer shall refer to the *Notice to Contractors* (Section 0) regarding the type of site visit applicable to this Contract and the date and time of this (these) visit(s).

**APPENDIX 2-II**

**INELIGIBILITY AND SUSPENSION POLICY**

**(21 PAGES)**



## Ineligibility and Suspension Policy

Effective date: 2016-04-04

### 1. Title

*Ineligibility and Suspension Policy* (hereinafter “the policy”).

### 2. Effective date

This policy is effective as of April 4, 2016.

### 3. Context

- a. Canada has an obligation to protect and safeguard the use and expenditure of public funds, to ensure b stewardship and transparency, and to uphold the public trust in relation to its contracts and real property agreements. Unethical business behaviour by suppliers undermines fair competition, threatens the integrity of markets, is a barrier to economic growth, increases the cost and risk of doing business, and undermines public confidence in government institutions. The Integrity Regime is intended to reduce the instances in which Canada enters into contracts or real property agreements with suppliers that have been convicted of or charged with an offence listed in the policy (a listed offence) linked to unethical business conduct.
- b. The Integrity Regime consists of the policy, any directives issued further to the policy, and any clauses used in instruments relating to contracts or real property agreements that incorporate the policy by reference. Public Works and Government Services Canada (PWGSC) may also issue information bulletins associated with the policy to provide greater clarity for informational purposes only.
- c. The policy sets out, notably, the circumstances in which PWGSC may declare ineligible or suspend a supplier from award of a contract or real property agreement with Canada (herein referred to as being ineligible or suspended). It also sets out the ineligibility and suspension periods, the criteria for invoking the public interest exception, the process for entering into an administrative agreement, the reduction to a period of ineligibility available pursuant to an administrative agreement, and the process by which PWGSC makes determinations on its own initiative or upon request by a supplier.

### 4. Application

- a. Subject to paragraph (b), the policy applies to any procurement, standing offer, supply arrangement, contract, real property transaction, real property agreement or other instrument that incorporates the policy by reference that is issued by a department or agency identified in schedules I, I.1 and II of the *Financial Administration Act*, and any other federal entity that voluntarily adopts the policy.
- b. The policy does not apply to certain specified contracts, real property agreements and other instruments:
  - i. contracts that relate to the fulfillment of obligations by a public body under:
    - A. an international agreement to which Canada is a party and in relation to goods or the carrying out of a work or works or the provision of services necessary for the implementation or exploitation of a project related to that agreement;
    - B. an international agreement relating to the stationing of Canadian troops and in relation to goods or the carrying out of a work or works or the provision of services necessary for the fulfillment of that mission;

- ii. contracts for goods, services and construction, and real property agreements, in relation to the fully carrying out of a work or works or the provision of services on foreign soil, excluding contracts signed in Canada on behalf of Canada other than those for which the non-application of the policy is authorized by the relevant Deputy Head or equivalent;
- iii. inter-governmental agreements and intra-governmental agreements;
- iv. financial contracts;
- v. insurance contracts;
- vi. contracts of employment;
- vii. contracts and real property agreements that are ancillary or incidental to a main contract or real property agreement;
- viii. contracts and real property agreements with federal entities that have investigative powers where application of the policy could compromise criminal investigations, national security or public safety;
- ix. contracts between Canada and Indian Band Councils;
- x. transfer payments (grants, contributions, and other transfer payments);
- xi. contracts under the foreign military sales program;
- xii. any acquisition, regardless of dollar value, made using a Government of Canada acquisition card;
- xiii. licences of occupation for access to federal real property on third-party lands; and licences of occupation or land use permits for access on third-party lands;
- xiv. contracts for legal services, including legal agent appointments, issued by or under the authority of the Minister of Justice and Attorney General of Canada;
- xv. contracts for material and expert witnesses retained in support of litigation conducted by or on behalf of the Crown;
- xvi. contracts and real property agreements issued by or on behalf of Correctional Services Canada in circumstances where applying the policy would conflict with its rehabilitation mandate;
- xvii. transactions concerning an interest of land acquired through the *Expropriation Act*;
- xviii. goods, services and construction contracts, subcontracts and real property agreements with a transaction value below \$10,000; and
- xix. any other contract, class of contract, real property agreement or class of real property agreement excluded by directive issued by PWGSC under the policy.

## 5. Responsibilities

- a. PWGSC is responsible for administering the Integrity Regime on behalf of Canada, making ineligibility and suspension determinations, and entering into administrative agreements.
- b. PWGSC may, when considered appropriate, issue a directive with respect to any aspect of the policy. Directives will be used for such purposes as elaborating on or clarifying aspects of the policy, such as establishing monetary thresholds for, or identifying classes of contracts and real property agreements

excluded from, application of the policy. Directives issued under the policy form a binding part of the policy. These may be found at the [Directives](#) page of the Integrity Regime website.

- c. Where a department or agency has the authority to contract or enter into a real property agreement, the determinations made by PWGSC under the policy may be relied upon by that department or agency when making a decision on whether to enter into a contract or real property agreement with a supplier.
- d. Departments and agencies may make certain decisions under the Integrity Regime, as noted in the policy. The Public Interest Exception, for instance, is an example where the knowledge and expertise of the department or agency is better suited to deciding whether it is in the public interest to contract with an ineligible or suspended supplier. A department or agency may also exercise the right to terminate a contract or real property agreement, where such right is provided for in the contract or real property agreement.
- e. When a department or agency with investigative powers excludes a contract or real property agreement from application of the policy when applying the policy could compromise a criminal investigation, national security or public safety, the department or agency will ensure that the rationale for utilizing the exclusion is recorded on file and aligns with its internal control framework.
- f. When Correctional Service Canada excludes a contract or real property agreement from application of the policy when applying the policy conflicts with its rehabilitation mandate, Correctional Service Canada will ensure that the rationale for utilizing the exclusion is recorded on file and aligns with its internal control framework.

## 6. Circumstances that automatically lead to a determination of ineligibility

Subject to section 8 concerning pardons, PWGSC will determine a supplier to be ineligible in each of the circumstances set out in the table below. The table also sets out the period of ineligibility, as well as the potential reduction to this period that may be obtained pursuant to an administrative agreement.

For the purpose of calculating under sections 6 and 7 whether a supplier has been charged with, or convicted of, an offence in the past three years, the period of time will be calculated by counting backward from, as appropriate,

- i. the day PWGSC issues the supplier a Notice of Intention to Suspend, a Notice of Intention to Declare Ineligible, Notice of Suspension, or a Notice of Ineligibility, whichever is issued first;
- ii. the day PWGSC receives a request from the supplier to determine whether it is ineligible for award of a contract or real property agreement; or
- iii. the day PWGSC receives an offer from the supplier in a procurement process or real property transaction,

whichever occurs first.

Circumstances that automatically lead to a determination of ineligibility	Period of ineligibility	Reduction to the period of ineligibility pursuant to an administrative agreement
a. The supplier has, at any time, been convicted of any of the following offences that results in a loss of capacity to contract with Her Majesty or to receive any benefit under a contract between Her Majesty and any other person, under section 750(3) of the <a href="#">Criminal Code</a> :	As long as the supplier is without capacity to contract pursuant to the <a href="#">Criminal Code</a> , section 750(3).	No reduction in the period of ineligibility is possible.

- i. subsection 80(1)(d) (False entry, certificate or return), subsection 80(2) (Fraud against Her Majesty), or section 154.01 (Fraud against Her Majesty) of the [Financial Administration Act](#); or
  - ii. section 121 (Frauds on the government and Contractor subscribing to election fund), section 124 (Selling or purchasing office), section 380 (Fraud) for fraud committed against Her Majesty, or section 418 (Selling defective stores to Her Majesty) of the *Criminal Code*;
- b. The supplier has, in the past three years, been convicted of an offence under any of the following provisions:
  - i. section 119 (Bribery of judicial officers, etc.), section 120 (Bribery of officers), section 346 (Extortion), sections 366 to 368 (Forgery and other offences resembling forgery), section 382 (Fraudulent manipulation of stock exchange transactions), section 382.1 (Prohibited insider trading), section 397 (Falsification of books and documents), section 422 (Criminal breach of contract), section 426 (Secret commissions), section 462.31 (Laundering proceeds of crime), or sections 467.11 to 467.13 (Participation in activities of criminal organization) of the [Criminal Code](#);
  - ii. section 45 (Conspiracies, agreements or arrangements between competitors), section 46 (Foreign directives), section 47 (Bid rigging), section 49 (Agreements or arrangements of federal financial institutions), section 52 (False or misleading representation), or section 53 (Deceptive notice of winning a prize) of the [Competition Act](#);
 

10 years from the date of PWGSC's determination	Up to 5 years
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  - iii. section 239 (False or deceptive statements) of the [Income Tax Act](#);
  - iv. section 327 (False or deceptive statements) of the [Excise Tax Act](#);
  - v. section 3 (Bribing a foreign public official), section 4 (Accounting), or section 5 (Offence committed outside Canada) of the [Corruption of Foreign Public Officials Act](#); or
  - vi. section 5 (Trafficking in substance), section 6 (Importing and exporting), or section 7 (Production of substance) of the [Controlled Drugs and Substances Act](#);
- c. The supplier has, in the past three years, been convicted of an offence pursuant to section 14(1), with respect to
 

10 years from the date of PWGSC's	Up to 5 years
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sections 5 or 7, of the [Lobbying Act](#);

determination

- d. The supplier has entered into a subcontract with a first-tier subcontractor (defined in the Subcontractors' section below) to perform work pursuant to a contract or real property agreement with Canada, where the subcontractor,
- i. lacks the capacity to receive any benefit under a contract between Canada and any other person, pursuant to section 750(3) of the [Criminal Code](#); or
  - ii. is ineligible for or suspended from contract award under the policy and for which no written approval to enter such subcontract has been provided by the relevant Deputy Head or equivalent, unless:
    - A. in the case of an ineligible or suspended subcontractor that is an individual, PWGSC failed to identify that subcontractor as ineligible or suspended when the supplier requested an integrity verification from the Registrar of Ineligibility and Suspension pursuant to the subcontractors section below; or
    - B. in the case of an ineligible or suspended subcontractor that is not an individual, that subcontractor's name was not included on the public Ineligibility and Suspension List at the time the supplier entered into that subcontract.
- e. In the opinion of PWGSC, the supplier has provided a false or misleading certification or declaration to PWGSC in relation to the policy.
- |  |   |  |
|--|---|--|
|  | 5 years from the date of PWGSC's determination  | No reduction in the period of ineligibility is possible. |
|  | 10 years from the date of PWGSC's determination | No reduction in the period of ineligibility is possible. |

## 7. Circumstances that may lead to a determination of ineligibility or suspension

Subject to section 8 concerning pardons, PWGSC may, in its discretion, determine a supplier to be ineligible or suspended in the circumstances set out in the table below. The table also sets out the period of ineligibility or suspension, as well as the potential reduction to the period of ineligibility or suspension that may be obtained pursuant to an administrative agreement.

For purposes of determining whether a foreign offence is similar to a listed offence, PWGSC will take into account the following factors:

- i. in the case of a conviction, whether the court acted within its jurisdiction;
- ii. whether the supplier was afforded the right to appear during the court's proceedings or to submit to the court's jurisdiction;
- iii. whether the court's decision was obtained by fraud; or
- iv. whether the supplier was entitled to present to the court every defence that the supplier would have been entitled to present had the proceeding been tried in Canada.

Circumstances that may lead to a determination of ineligibility	Period of ineligibility/suspension	Reduction to the period of ineligibility/suspension pursuant to an administrative agreement
a. The supplier has, in the past three years, been convicted of an offence in a jurisdiction other than Canada that, in PWGSC's opinion, is similar to any of the offences identified in paragraphs 6(a) to (c).	10 years from the date of PWGSC's determination	Up to 5 years
b. The supplier's affiliate was convicted in the past three years of an offence identified in paragraphs 6(a) to (c) or, in PWGSC's opinion, of a similar offence in a jurisdiction other than Canada and, in PWGSC's opinion, the supplier directed, influenced, authorized, assented to, acquiesced in or participated in the commission of the offence.	10 years from the date of PWGSC's determination	Up to 5 years
c. In the opinion of PWGSC, the supplier has breached any term or condition of an administrative agreement entered into with PWGSC pursuant to the policy, in which case PWGSC may lengthen the original period of ineligibility or re-impose a suspension. Where an administrative agreement was entered into in lieu of a suspension, a breach will result in a suspension period being imposed.	The period of ineligibility may be longer than the original period of ineligibility that was reduced by the administrative agreement	Not applicable
d. PWGSC may suspend a supplier from contracting, or entering into a real property agreement, with Canada if the supplier has been charged with, or admits guilt of, any of the offences identified in paragraphs 6(a) to (c), or is charged with, or admits guilt of, in PWGSC's opinion, a similar offence in a jurisdiction other than Canada.	18 months from the date of PWGSC's determination, subject to extension pending final disposition of the charges, at which time PWGSC will make a determination of ineligibility if the supplier is convicted.	Suspension period may be stayed by an administrative agreement with PWGSC
	A period of suspension prior to conviction does not abridge the ineligibility period that may be imposed by PWGSC on a supplier as a result of the conviction.	

## 8. Pardons

- a. **Canadian pardons:** PWGSC will not make a determination of ineligibility in respect of a listed offence if the supplier demonstrates that it has (or its affiliate has, if applicable):
- i. been granted an absolute discharge in respect of the offence, or has been granted a conditional discharge in respect of the offence and those conditions have been satisfied;
  - ii. been granted a pardon under Her Majesty's royal prerogative of mercy;
  - iii. been granted a pardon under section 748 of the Criminal Code;

- iv. received a Record Suspension ordered under the *Criminal Records Act*; or
  - v. been granted or issued a pardon under the *Criminal Records Act*, as that Act read immediately before March 13, 2012.  
(each a “**Canadian pardon**”).
- b. **Foreign pardons:** PWGSC will not make a determination of ineligibility in respect of a foreign offence that PWGSC has determined is similar to a listed offence if the supplier demonstrates that it has (or its Affiliate has, if applicable) at any time benefited from a foreign measure that, in PWGSC’s opinion, is similar to a Canadian Pardon (a “**foreign pardon**”).
  - c. **Existing determinations of ineligibility** will be cancelled: Upon receiving information demonstrating that a supplier or its affiliate (if the supplier’s ineligibility is related to the conviction of the affiliate) has received a Canadian pardon or a foreign pardon, PWGSC will rescind any existing determination of ineligibility based on the conviction for which a pardon was received.

## 9. Process for making determinations of ineligibility

- a. PWGSC makes determinations of supplier ineligibility pursuant to the policy on its own initiative, upon receiving a request from a supplier to conduct a review to determine its ineligibility or upon receiving a request from a department, agency or other federal entity to which the policy applies.
- b. PWGSC does not make determinations of eligibility.
- c. PWGSC may make separate determinations of ineligibility with respect to the same supplier based on different convictions or other circumstances relevant to the policy.
- d. If a supplier requests that PWGSC conduct a review to determine whether it is ineligible, the supplier must provide to PWGSC all relevant information regarding convictions relating to any listed offence and circumstances that may result in ineligibility under the policy. If an affiliate has been convicted of a listed offence or of a foreign offence that PWGSC has determined is similar to a listed offence, the supplier must certify that it did not direct, influence, authorize, assent to, acquiesce in or participate in the commission of the offence(s) of which its affiliate has been convicted.
- e. In making a determination regarding a supplier’s ineligibility and the applicable period of ineligibility, PWGSC may consider any information that, in its judgment, is authentic and relevant. Such information may come from a wide range of sources, including, but not limited to, the supplier, court decisions, law enforcement agencies and the federal government. PWGSC is responsible for coordinating the collection and assembly of relevant information about a supplier, and analyzing the information collected and supplied.
- f. PWGSC may request from a supplier any information that it considers relevant to making a determination of ineligibility. PWGSC may also request that the supplier retain a third party pursuant to section 18 titled Engagement of a third party to validate any or all information provided by the supplier or to provide information with respect to foreign convictions. If the supplier does not submit the requested information or refuses to retain a third party to provide the necessary validation or information, PWGSC may declare the supplier ineligible.
- g. In making a determination, PWGSC may rely on a certification or information from a supplier or third party. PWGSC may make a new determination at any time; for example, if, in its opinion, the certification or information provided by the supplier or third party was false or misleading.
- h. Where PWGSC concludes that circumstances exist that result in the automatic ineligibility of a supplier, PWGSC will proceed directly to sending the supplier a Notice of Ineligibility.
- i. Where PWGSC concludes that there is a reasonable basis for making a determination of ineligibility pursuant to the policy with respect to circumstances that do not lead to automatic ineligibility, before making the determination PWGSC will issue a Notice of Intention to Declare Ineligible to the affected supplier by registered mail or courier setting out:

- i. the full legal name of the supplier;
  - ii. the circumstances that PWGSC considers relevant to making a determination of ineligibility with respect to the supplier; and
  - iii. the time within which the supplier may file evidence and written submissions to PWGSC.
- j. Upon receipt of a Notice of Intention to Declare Ineligible, a supplier may present evidence and written submissions to PWGSC within the time specified by Processed written submissions may include any information the supplier considers relevant to the determination. PWGSC will consider all timely evidence and submissions prior to making its determination. PWGSC may also request that the supplier retain a third party pursuant to section 18 titled Engagement of a third party to provide additional information with respect to the supplier or to validate any or all information provided by the supplier. If the supplier does not make submissions within the time specified by PWGSC, or retain a third party as requested by PWGSC, PWGSC may declare the supplier ineligible.
- k. If a supplier requests that PWGSC make a determination on its ineligibility and PWGSC determines that there is an insufficient basis for making such determination, PWGSC will so advise the supplier in writing. Any such finding can be revisited at any time.
- l. Upon making a determination of ineligibility pursuant to the policy, PWGSC will send a Notice of Ineligibility to the affected supplier by registered mail or courier setting out:
  - i. the full legal name of the supplier;
  - ii. the full legal name of any affiliate, to the extent that the determination of ineligibility is related to an affiliate;
  - iii. the circumstances upon which PWGSC made the determination of ineligibility;
  - iv. the period of ineligibility; and
  - v. if applicable, that the supplier has a right to a limited review pursuant to section 11 titled Limited Review of Determinations of Ineligibility.
- m. Unless a determination is rescinded further to a limited review pursuant to the Limited review of determinations of ineligibility section, below, PWGSC's determination is final and binding on a supplier.
- n. The determination of ineligibility takes effect on the date of the determination.
- o. After receipt of a Notice of Ineligibility, a supplier may at any time request to have the ineligibility period reduced by way of an administrative agreement. To initiate this process, the supplier must submit a request to the Registrar of Ineligibility and Suspension for consideration. In order for the request to be considered, the supplier is required to demonstrate that it cooperated with law enforcement authorities or has undertaken remedial action(s) to address the wrongdoing that led to its ineligibility. The supplier may be required to retain the services of a third party as part of this process.

## **10. General anti-avoidance provisions**

- a. PWGSC may determine that a successor entity to an ineligible or suspended supplier is ineligible or suspended, as the case may be, in circumstances where, in the opinion of PWGSC, the succession (e.g., merger, acquisition, divestiture, etc.) occurred for the purpose of avoiding the ineligibility or suspension, or where the result of the succession would be the avoidance of the ineligibility or suspension.
- b. Where, after a corporate entity is charged with or convicted of a listed offence, or after the occurrence of other circumstance, that will or may support a determination by PWGSC of ineligibility or suspension with respect to the corporate entity, or after such determination, the corporate entity or the corporate family to which the corporate entity belongs, including parent companies, intermediate corporate entities, subsidiaries and affiliates, undergoes a corporate restructuring on the individual entity or family level, respectively, including merger, amalgamation, acquisition, takeover, divestiture,

consolidation, sell-off, spin-off, etc., where the result of the restructuring would be the avoidance of an ineligibility or suspension determination, PWGSC may determine that the corporate entity, a former affiliate and a successor entity is ineligible or suspended, as the case maybe.

- c. In exercising its discretion under this section, PWGSC will consider the objectives of the policy, recognizing that a supplier should not be able to circumvent a determination under the policy and that innocent parties should not be penalized.

#### **11. Limited review of determinations of ineligibility**

- a. A supplier may request a limited review of a determination of ineligibility on the sole basis that it did not direct, influence, authorize, assent to, acquiesce in or participate in the commission of the offence(s) of which its Affiliate has been convicted that resulted in the determination that the supplier is ineligible pursuant to the policy.
- b. To request such limited review of a determination, a supplier must submit a written Request for Limited Review within 30 days from receipt of the Notice of Ineligibility. The supplier may, with the Request for limited review, provide new evidence and written representations to PWGSC for consideration. The Request for limited review does not operate as a stay of the determination of ineligibility.
- c. PWGSC will conduct a review of the determination having regard to the Request for limited review and any new evidence and written submissions. PWGSC may seek further information or clarification from the supplier. At the conclusion of the review, PWGSC will either confirm or rescind the determination. PWGSC will give the supplier written notice of the decision. If the determination of ineligibility is rescinded, PWGSC will immediately remove the supplier from the Integrity Database and the public Ineligibility and Suspension List, if applicable.
- d. If a determination that a supplier is ineligible to enter into a contract or real property agreement is rescinded and PWGSC subsequently becomes aware of information that was not considered at the time the rescission was issued, PWGSC may make a new determination.

#### **12. Process for suspensions**

- a. Where a supplier is charged with or admits guilt to a listed offence or of a similar offence in a foreign jurisdiction, PWGSC may send a Notice of Intention to Suspend to the supplier by registered mail or courier, setting out:
  - i. the full legal name of the supplier;
  - ii. the charge(s) or admission(s) of guilt that PWGSC considers relevant to the suspension; and
  - iii. the time within which the supplier may present evidence and written submissions to PWGSC.
- b. PWGSC may make separate suspension determinations with respect to the same supplier based on different charges or admissions of guilt.
- c. Upon receipt of a Notice of Intention to Suspend, a supplier may present evidence and written submissions to PWGSC as to why it should not be suspended, within the time specified by PWGSC. The evidence and submissions may include any information the supplier considers relevant, including but not limited to any remedial measures undertaken by the supplier to address the cause(s) of the alleged wrongdoing.
- d. In the case of a charge for a foreign offence that, in PWGSC's opinion, may be similar to a listed offence, the supplier may be required by PWGSC to retain the services of an independent third party, pursuant to section 18 titled Engagement of a third party, to provide information on the foreign offence. Additional time may be afforded to the supplier in these situations.

- e. PWGSC will consider all timely evidence and submissions prior to deciding whether a suspension is warranted in the circumstances. A decision to suspend will be based on whether, in the opinion of PWGSC, doing business with the supplier poses a significant risk to Canada.
- f. As an alternative to a suspension, PWGSC may require a supplier to enter into an administrative agreement, pursuant to the administrative agreement section set out below. An administrative agreement is designed to provide assurances from the supplier that it will conduct business with Canada in an ethical and responsible manner. The existence of an administrative agreement will be made public while the content of the agreement will remain confidential to the extent permitted by law.
- g. If the supplier does not present evidence or written submissions within the prescribed time, fails to retain a third party where requested by PWGSC to do so or if PWGSC determines that a suspension is warranted in the circumstances, PWGSC will issue a Notice of Suspension to the supplier. Following the issuance of the Notice of Suspension, the name of the supplier will be listed on the Integrity Database. The names of all non-individual suppliers will also be listed on the public Ineligibility and Suspension List.
- h. A suspended supplier may request at any time to enter into an administrative agreement for purposes of staying the suspension.
- i. Where a suspension is based on charges that are later withdrawn, the suspension, and any administrative agreement entered into in lieu of or to stay the suspension, will be terminated.

### **13. Effect of Determinations of Ineligibility and Suspension**

Once PWGSC has determined that a supplier is ineligible to enter, or suspended from entering, into a contract or real property agreement:

- a. PWGSC will enter the name of the supplier in its Integrity Database as an ineligible or suspended supplier;
- b. if the supplier is not an individual, PWGSC will also publish the name of the supplier on its public Ineligibility and Suspension List, together with the supplier's address, and the period of ineligibility that applies to the supplier. The [Ineligibility and Suspension List](#) can be found on the Integrity Regime website; it is maintained by PWGSC's Registrar of Ineligibility and Suspension;
- c. subject to the Public Interest Exception being invoked in a particular transaction, an ineligible or suspended supplier that participates in a competitive solicitation that is subject to the policy will be declared non-responsive;
- d. subject to the Public Interest Exception being invoked in a particular transaction, an ineligible or suspended supplier is unable to enter into a contract or real property agreement awarded through a non-competitive process that is subject to the policy;
- e. where a supplier is determined to be ineligible or suspended during performance of a contract or real property agreement subject to the policy, Canada may, following a notice period of no less than two weeks, during which time the supplier may make representations on such matters as maintaining the contract or real property agreement, terminate the contract or real property agreement for default. A termination for default does not restrict Canada's right to exercise any other remedy that may be available against the supplier. The supplier may be required to enter into an administrative agreement with PWGSC as an alternative to termination on such terms and conditions as PWGSC considers necessary to safeguard the integrity of government contracting and real property transactions;

- f. notwithstanding any other term of the policy, at the end of the period of ineligibility, unless the supplier has entered into and satisfied all the conditions of an administrative agreement with PWGSC, the supplier will be required to submit a report from a third party to PWGSC prior to being eligible to enter into any contract or real property agreement with Canada. The report must demonstrate that the supplier has undertaken sufficient actions to address the causes of the conduct that led to its ineligibility. A supplier remains ineligible to contract or enter into a real property agreement with Canada if it fails to provide such report or if the report fails to satisfy PWGSC that the supplier has satisfactorily addressed the causes of the conduct that led to its ineligibility; and
- g. a decision to delay award of a contract or real property agreement while an ineligibility determination is under limited review is at the sole discretion of the contracting authority.

#### 14. Administrative Agreements

- a. Entering into an administrative agreement, and the terms and conditions of an administrative agreement, are within the sole discretion of PWGSC.
- b. An administrative agreement may be required to:
  - i. reduce the period of a supplier's ineligibility pursuant to the policy up to the "Reduction to the period of ineligibility/suspension pursuant to an administrative agreement", set out in the table in sections 6 and 7; or
  - ii. enter into a contract or real property agreement further to a Public Interest Exception where time is not of the essence.  
An administrative agreement may also be required by PWGSC:
  - iii. in lieu of, or to stay, a suspension; or
  - iv. in lieu of terminating an existing contract or real property agreement due to a determination of ineligibility or suspension.
- c. Among other things, PWGSC may require terms and conditions relating to such things as separation of specific employees from management or programs; implementation or extension of compliance programs; employee training and information; outside auditing; access by PWGSC to specific documentation, information and/or records; reporting by a third party as described below; or any other remedial or compliance measure that PWGSC considers to be in the public interest.
- d. If, in the opinion of PWGSC, an ineligible supplier has breached any of the terms or conditions of an administrative agreement, PWGSC may terminate the administrative agreement and lengthen the period of ineligibility by a period to be determined by PWGSC.
- e. If a supplier is suspended as a result of being charged with, or admitting guilt of, a listed offence or a similar foreign offence, PWGSC may stay the suspension as a result of entering into an administrative agreement with the supplier. In these circumstances, if, in the opinion of PWGSC, the supplier breaches any of the terms or conditions of the administrative agreement, PWGSC may terminate the administrative agreement for default and reinstate the suspension pending final disposition of the charges.
- f. Despite any other term of the policy, administrative agreements remain in effect unless they are terminated by a party to the administrative agreement, until all obligations have been fully satisfied by the supplier such that the supplier is no longer ineligible pursuant to the policy (i.e., the original period of ineligibility has expired), on final disposition, or withdrawal of charges or for any other reason consistent with the policy.
- g. Where a supplier chooses to terminate an administrative agreement while ineligible or otherwise suspended, the remaining time of the original period of ineligibility will be reinstated or the remaining time of the original period of suspension will be imposed or re-imposed, as the case may be.

- h. Despite any other term of the policy, except where a Public Interest Exception is invoked, as set out below, the entering into force of an administrative agreement with an ineligible or suspended supplier does not entitle the supplier to participate in any then ongoing solicitation for the award of a contract or real property agreement. Subject to the terms of the administrative agreement, the supplier may participate in all solicitations commenced after the entering into force of the Administrative Agreement.

## 15. Public Interest Exception

Unless the supplier has no capacity to contract with Canada pursuant to subsection 750(3) of the *Criminal Code*, a contracting authority may enter into a contract or real property agreement with an ineligible or suspended supplier if the relevant Deputy Head or equivalent considers that doing so is in the public interest. The reasons for invoking a Public Interest Exception include, but are not limited to:

- a. the need to respond to an emergency where delay would be injurious to the public interest;
- b. the supplier is the only person capable of performing the contract or providing the real property agreement;
- c. the contract is essential to maintain sufficient emergency stocks in order to safeguard against possible shortages; and
- d. not entering into the contract or real property agreement with the supplier would have a significant adverse impact on the health, national security, safety, public security or economic or financial well-being of the people of Canada or the functioning of any portion of the federal public administration.

Unless time is of the essence (e.g., an emergency, unforeseen urgency), a supplier will be required to enter into an administrative agreement before being awarded a contract or real property agreement further to a Public Interest Exception.

## 16. Subcontractors

- a. For purposes of the policy, “first-tier subcontractor” means a subcontractor with whom a supplier has a direct contractual relationship to perform a portion of the work pursuant to a contract or real property agreement between the supplier and Canada (meaning all the activities, services, goods, equipment, matters and things required to be done, delivered or performed by the supplier under the contract or real property agreement), unless the subcontractor merely supplies commercial-off-the-shelf goods to the supplier.
- b. Suppliers are required to verify the status of their prospective first-tier subcontractors prior to bid submission and before entering into a direct contractual relationship. Suppliers can verify the status of a prospective first-tier subcontractor in one of two ways:
  - i. in the case of an individual, make enquiries of the Registrar of Ineligibility and Suspension to ensure that the prospective subcontractor is not ineligible or suspended under the policy. To make this enquiry, the supplier must send a written request to the Registrar of Ineligibility and Suspension, along with a signed consent form from the prospective subcontractor permitting PWGSC to disclose to the supplier information regarding the prospective subcontractor’s status under the policy. The consent form is available online on the Forms page of the Integrity Regime website. The Registrar of Ineligibility and Suspension will, upon receipt of the consent form, provide written confirmation of whether the prospective subcontractor is ineligible or suspended under the policy.
  - ii. in the case of a prospective subcontractor that is not an individual, the supplier is expected to consult the public Ineligibility and Suspension List found on the Integrity Regime website to confirm that the prospective subcontractor is not ineligible or suspended under the policy.
- c. The Registrar of Ineligibility and Suspension can be contacted at the following address:
  - Registrar of Ineligibility and Suspension
  - Departmental Oversight Branch

Public Services and Procurement Canada  
11 Laurier Street  
Place du Portage  
Phase III, Tower A, 10A1 – Room 105  
Gatineau (Quebec)  
Canada K1A 0S5  
**Telephone:** 1-844-705-2084  
**Email:** [PWGSC.O.integrity-TPSGC.O.integrite@pwgsc-tpsgc.gc.ca](mailto:PWGSC.O.integrity-TPSGC.O.integrite@pwgsc-tpsgc.gc.ca)

- d. Subject to obtaining written consent from the relevant Deputy Head or equivalent, discussed below, a supplier cannot subcontract with an ineligible or suspended first-tier subcontractor to perform work under a contract or real property agreement with Canada. A supplier that enters into such contract or real property agreement with an ineligible or suspended first-tier subcontractor without written consent in circumstances where information about that subcontractor's ineligibility or suspension was reasonably available to the supplier by following the process described in paragraph 16(b) will be ineligible to contract, or enter into a real property agreement, with Canada for five years.
- e. If a supplier wishes to propose, or has a contract with Canada and wishes to use, a first-tier subcontractor that is ineligible or suspended under the policy, the supplier must obtain written consent from the relevant Deputy Head or equivalent in advance of the proposal or use. Consent may be sought by request to the contracting authority. Consent cannot be provided with respect to a prospective subcontractor that has lost its capacity to receive any benefit under a contract between Canada and any other person, further to subsection 750(3) of the *Criminal Code*. In the event that the relevant Deputy Head or equivalent provides such consent, the contracting authority must forthwith advise the Registrar of Ineligibility and Suspension.
- f. The Contracting Authority will advise the supplier identified as the top-ranked bidder/offeror according to the evaluation criteria that it is required to verify the status of all proposed first-tier subcontractors before its bid/offer can be accepted for award of a contract or real property agreement. The supplier must advise the Contracting Authority in writing within two working days of the results of the integrity verification. If the verification reveals that a proposed first-tier subcontractor was determined to be ineligible or suspended after bid/offer closing, the supplier may, prior to award of the contract or real property agreement,
  - i. unless prohibited by section 750(3) of the *Criminal Code*, seek written consent from the relevant Deputy Head or equivalent to enter into a subcontract with the ineligible or suspended proposed first-tier subcontractor to perform work under the contract or real property agreement. Consent may be sought by written request to the Contracting Authority. Where consent is provided, the Contracting Authority must forthwith advise the Registrar of Ineligibility and Suspension; or
  - ii. if the consent sought in (i) is not provided, or if preferred, submit to the Contracting Authority a substitute for the ineligible or suspended proposed first-tier subcontractor, and supply all information with respect to the substitute required in the procurement process or real property transaction. The supplier's bid/offer will be re-evaluated using the substitute first-tier subcontractor and the ranking of suppliers will be re-determined. When substituting an ineligible or suspended first-tier subcontractor, the supplier is not permitted to amend its bid/offer price.
- g. The Contracting Authority may specify a time within which the supplier must seek consent under (i) or submit a substitute first-tier subcontractor and supply all necessary information under (ii), which will be no less than 10 working days. If the supplier does not make a written request for consent, or submit a substitute subcontractor and supply all necessary information, within the time specified, Canada may declare the bid/offer non-responsive. Upon request, or on its own initiative, Canada may grant an extension to the time specified.

- h. If a supplier's first-tier subcontractor is determined to be ineligible or suspended during performance of a contract or real property agreement, the supplier may choose to maintain or terminate the subcontract. If a supplier's first-tier subcontractor has lost its capacity to receive any benefit under a contract between Canada and any other person, further to section 750(3) of the *Criminal Code*, the supplier must terminate the subcontract.

## **17. Information to be Provided When Bidding, Contracting or Entering Into a Real Property Agreement**

- a. **List of names:** All suppliers, regardless of their status under the policy, must submit the following information when participating in a procurement process or real property transaction:
  - i. suppliers that are corporate entities, including those bidding as joint ventures, must provide a complete list of the names of all current directors or, for a privately owned corporation, the names of the owners of the corporation;
  - ii. suppliers bidding as sole proprietors, including sole proprietors bidding as joint ventures, must provide a complete list of the names of all owners; or
  - iii. suppliers that are a partnership do not need to provide a list of names.

If the list of names has not been received in a procurement process or real property transaction by the time the evaluation of bids or offers is completed, or has not been received in a procurement process or real property transaction where no bid/offer will be submitted, the contracting authority will inform the supplier of a time within which to provide the information. Providing the required names is a mandatory requirement for award of a contract or real property agreement. Failure to provide the list of names within the time specified will render a bid or offer non-responsive, or the supplier otherwise disqualified for award of a contract or real property agreement.

- b. During the evaluation of bids or offers, a supplier must, within 10 working days, inform the contracting authority in writing of any changes affecting the list of names submitted further to section 17(a).
- c. During performance of a contract or real property agreement, a supplier has a continuing obligation to inform the Registrar of Ineligibility and Suspension in writing, within 10 working days, of:
  - i. any charge, conviction or other circumstance relevant to the policy with respect to itself, its affiliates and its first-tier subcontractors; and
  - ii. any change affecting the list of names submitted further to section 17(a).
- d. Canada may verify information provided by a supplier at any time during the period of a contract or real property agreement or the period during which any other instrument (e.g., standing offer, supply arrangement) is valid. Canada may request additional information, including validations from a third party, consent forms and other evidentiary elements, proving such matters as identity and eligibility to contract or enter into a real property agreement with Canada. The supplier must provide the requested information within the time specified. Failure to do so may render the supplier ineligible to contract or enter into a real property agreement with Canada.
- e. **Provision of additional information:** The supplier must provide any further information relevant to the policy, including certifications and third-party validations, by the time so requested by PWGSC or the contracting authority.

## **18. Engagement of a Third Party**

- a. PWGSC may require a supplier to retain a third party in the following circumstances:

- i. in connection with a determination of ineligibility, if PWGSC requires,
  - A. validation of a certification or declaration,
  - B. validation of information provided by a supplier with respect to whether it directed, influenced, authorized, assented to, acquiesced in or participated in the commission of a listed offence by an affiliate, or
  - C. information with respect to foreign charges and convictions;
- ii. where information pertaining to the supplier is required by PWGSC for purposes of determining whether a reduction is warranted to the period of the supplier's ineligibility through an administrative agreement;
- iii. pursuant to an administrative agreement, in which case the terms and conditions of appointment of the third party will be described in the administrative agreement. The third party will be required to provide periodic reporting to PWGSC, as provided for in the administrative agreement; and
- iv. prior to submitting a bid/offer after the supplier's period of ineligibility has expired, if the supplier did not enter into an administrative agreement with PWGSC or if PWGSC determined that the supplier breached the administrative agreement. In this case, the third party will be required to provide a report confirming that measures have been put in place in order to avoid the re-occurrence of the types of wrongdoing that led to the ineligibility. Failure to provide the third-party report will result in any bid or offer being declared non-responsive.

Where required by PWGSC, the supplier must identify and propose a third party within the time specified. It is within the sole discretion of PWGSC to determine whether the proposed third party has sufficient expertise, experience and independence to provide the services required. Suppliers must seek PWGSC's written approval prior to retaining a particular third party.

In each case, the supplier will be responsible for retaining and remunerating the third party, and may be required to provide a copy of the terms of engagement to PWGSC.

## **ANNEX: DEFINITIONS**

For the purposes of the policy, the following definitions apply:

### **"acquisition card"**

is a charge card issued under a contract between a card issuer and Canada for the procurement and payment of goods and services for authorized official government business.

### **"administrative agreement"**

is a negotiated agreement between a supplier and PWGSC.

### **"affiliate"**

means

- a. is a person, including, but not limited to, parent companies, subsidiaries, whether or not wholly or partially owned, as well as a senior officer;
- b. one person is an affiliate of another person if,
  - i. one person is controlled by the other person;
  - ii. both persons are controlled by a third person;
  - iii. both persons are under common control; or

- iv. each person is controlled by a third person and the third person by whom one person is controlled is affiliated with the third person by whom the other person is controlled;
- c. indicia of control, whether direct or indirect, exercised or not, include, but are not limited to, common ownership, common management, identity of interests (often found in members of the same family), shared facilities and equipment or common use of employees;
- d. an affiliate may also exist in instances of an amalgamation or merger. Where at any time two or more corporations (in this provision referred to as the "predecessors") amalgamate or merge to form a new corporation, the new corporation and any predecessor are deemed to have been affiliated with each other where they would have been affiliated with each other immediately before that time if,
  - i. the new corporation had existed immediately before that time; and
  - ii. the persons who were the shareholders of the new corporation immediately after that time had been the shareholders of the new corporation immediately before that time.

**"contracting authority"**

includes real property authority.

**"control"**

means

- a. direct control, such as where:
  - i. a person controls a body corporate if securities of the body corporate to which are attached more than 50 per cent of the votes that may be cast to elect directors of the body corporate are beneficially owned by the person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;
  - ii. a person controls a corporation that is organized on a cooperative basis if the person and all of the entities controlled by the person have the right to exercise more than 50 per cent of the votes that may be cast at an annual meeting or to elect the majority of the directors of the corporation;
  - iii. a person controls an unincorporated entity, other than a limited partnership, if more than 50 per cent of the ownership interests, however designated, into which the entity is divided are beneficially owned by that person and the person is able to direct the business and affairs of the entity;
  - iv. the general partner of a limited partnership controls the limited partnership; and
  - v. a person controls an entity if the person has any direct or indirect influence that, if exercised, would result in control in fact of the entity.
- b. deemed control, such as where:
  - i. A person who controls an entity is deemed to control any entity that is controlled, or deemed to be controlled, by the entity
- c. indirect control, such as where a person is deemed to control, within the meaning of paragraph (a) or (b), an entity where the aggregate of
  - i. any securities of the entity that are beneficially owned by that person, and
  - ii. any securities of the entity that are beneficially owned by any entity controlled by that person
 is such that, if that person and all of the entities referred to in paragraph (c)(ii) that beneficially own securities of the entity were one person, that person would control the entity.

**"derivatives agreement"**

means a financial agreement whose obligations are derived from, referenced to, or based on, one or more underlying reference items such as interest rates, indices, currencies, commodities, securities or other ownership interests, credit or guarantee obligations, debt securities, climatic variables, bandwidth, freight rates, emission rights, real property indices and inflation or other macroeconomic data and includes

- i. a contract for differences or a swap, including a total return swap, price return swap, default swap or basis swap;
- ii. a futures agreement;
- iii. a cap, collar, floor or spread;
- iv. an option; and
- v. a spot or forward.

**"federal immovable"**

means an immovable belonging to Canada, and includes an immovable of which Canada has the power to dispose.

**"federal real property"**

means any real property belonging to Canada, and includes any real property of which Canada has the power to dispose.

**"financial contract"**

includes

- a. a derivatives agreement, whether settled by payment or delivery, that
  - i. trades on a futures or options exchange or board, or other regulated market, or
  - ii. is the subject of recurrent dealings in the derivatives markets or in the over-the-counter securities or commodities markets;
- b. an agreement to
  - i. borrow or lend securities or commodities, including an agreement to transfer securities or commodities under which the borrower may repay the loan with other securities or commodities, cash or cash equivalents,
  - ii. clear or settle securities, futures, options or derivatives transactions, or
  - iii. act as a depository for securities;
- c. a repurchase, reverse repurchase or buy-sell back agreement with respect to securities or commodities;
- d. a margin loan in so far as it is in respect of a securities account or futures account maintained by a financial intermediary;
- e. any combination of agreements referred to in any of paragraphs (a) to (d);
- f. a master agreement in so far as it is in respect of an agreement referred to in any of paragraphs (a) to (e);
- g. a master agreement in so far as it is in respect of a master agreement referred to in paragraph (f);
- h. a guarantee of, or an indemnity or reimbursement obligation with respect to, the liabilities under an agreement referred to in any of paragraphs (a) to (g); and
- i. an agreement relating to financial collateral, including any form of security or security interest in collateral and a title transfer credit support agreement, with respect to an agreement referred to in any of paragraphs (a) to (h).

**"immovable"**

means

- i. in the Province of Quebec, an immovable within the meaning of the civil law of the Province of Quebec, and includes the rights of a lessee in respect of such an immovable, and
- ii. in jurisdictions outside Canada, any property that is an immovable within the meaning of the civil law of the Province of Quebec, and includes the rights of a lessee in respect of any such property.

**"Ineligibility and Suspension List"**

is a public list of companies that have been determined to be ineligible or suspended by PWGSC under the policy.

**"Integrity Database"**

is a list to be maintained by PWGSC that records all determinations of ineligibility and suspension, including companies and individuals, and the period of ineligibility that applies to that supplier.

**"insurance contract"**

means

- a. a policy or contract of insurance (other than a warranty in respect of the quality, fitness or performance of tangible property, where the warranty is supplied to a person who acquires the property otherwise than for resale) that is issued by an insurer, including
  - i. a policy of reinsurance issued by an insurer,
  - ii. an annuity contract issued by an insurer, or a contract issued by an insurer that would be an annuity contract except that the payments under the contract
    - A. are payable on a periodic basis at intervals that are longer or shorter than one year, or
    - B. vary in amount depending on the value of a specific group of assets or on changes in interest rates, and
  - iii. a contract issued by an insurer for all or part of the insurer's reserves which vary in amount depending on the value of a specified group of assets, and
- b. a policy or contract in the nature of accident and sickness insurance, whether the policy is issued, or the contract is entered into, by an insurer.

**"intra-governmental agreement"**

means an agreement that involves or is made between different departments, agencies or other federal entities of the Government of Canada.

**"inter-governmental agreement"**

means an agreement that involves or is made between Canada and one or more governments, including but not limited to foreign states, provincial, territorial and municipal governments or provincial or municipal crown corporations, or an agreement between one or more governments to which Canada has declared itself to be bound.

**"licence"**

means any right to use or occupy real property or an immovable, other than

- a. a real right within the meaning of the civil law of the Province of Quebec and the rights of a lessee under a lease of an immovable, and
- b. an interest in land;

**"Notice of Ineligibility and Notice of Suspension"**

is a record of an administrative decision by PWGSC to declare ineligible or suspended, respectively, a supplier from award of a contract or real property agreement for a specific period of time.

**"Notice of Intention to Declare Ineligible and Notice of Intention to Suspend"**

is a Notice sent by PWGSC informing a supplier that it is being reviewed for a potential determination of ineligibility or suspension, respectively.

**"person"**

includes, but is not limited to individuals, organizations, bodies corporate, societies, companies, firms, partnerships, and associations of persons;

**"procurement process"**

including solicitation, invitation to tender, request for proposals, request for quotations and invitation to offer, means:

- a. as it relates to goods and services, a series of public actions or steps taken by PWGSC, or any other government department, agency or other federal entity, and which are directed at acquiring goods or services, either through a competitive public process or a sole source process, where permissible, and which result in binding obligations on a supplier or suppliers of goods or services, but does not include activities occurring after an award has been made, such as contract administration or contract management;
- b. as it relates real property agreements or transactions, a series of public actions or steps taken by PWGSC, or any other government department, agency or other federal entity, and which are directed at concluding: (i) a disposition or lease of federal real property or federal immovables; (ii) a grant or concessions of federal real property or federal immovables; (iii) an acquisition or lease of real property or immovables; (iv) a licence or transfer in relation to any licence acquired or given by Her Majesty in respect of federal real property or federal immovables. The term does not include any transaction or solicitation occurring after an award decision has been made such as administration or management; and
- c. as it relates to "construction contract", means a series of public actions or steps taken by PWGSC, or any other government department, agency or other federal entity, and which are directed at concluding a contract entered into for the construction, repair, renovation or restoration of any work except a vessel and includes (i) a contract for the supply and erection of a prefabricated structure, (ii) a contract for dredging, (iii) a contract for demolition, or (iv) a contract for the hire of equipment to be used in or incidentally to the execution of any contract referred to in this definition.

**"real property"**

means land in any province other than Quebec, and land outside Canada, including mines and minerals, and buildings, structures, improvements and other fixtures on, above or below the surface of the land, and includes an interest therein. The term is to be given the meaning ascribed to it in the *Federal Real Property and Federal Immovables Act*.

**"real property agreement"**

includes offer to purchase, offer to sale, agreement of purchase and sale, leases and licences.

**"representative"**

in respect of an organization, means a director, partner, employee, member, agent or contractor of the organization.

**"senior officer"**

means a representative who plays an important role in the establishment of an organization's policies or is responsible for managing an important aspect of the organization's activities and, in the case of a body corporate, includes a director, its chief executive officer and its chief financial officer.

**"service contract"**

means a contract for the provision of a service but does not include an agreement whereby a person is employed as an officer, clerk or employee of Canada.

**"subcontract"**

includes a subtenancy and sublease.

**"subcontractor"**

includes a subtenant and sublessee.

**"supplier"**

means any person that:

- a. submits a bid/offer for, or is awarded, or reasonably may be expected to submit a bid/offer for or be awarded, a contract or real property agreement with Canada;
  - b. conducts or wishes to conduct business with Canada as a vendor, lessor, option or, licensor, purchaser, tenant or contractor; or
  - c. conducts business with Canada as an agent or representative of another supplier,
- where the policy applies.

**"supply contract"**

means a contract for the purchase of articles, commodities, equipment, goods, materials or supplies and includes

- a. a contract for printing or for the reproduction of printed matter, and
- b. a contract for the construction or repair of a vessel.

**"transaction value"**

is the actual value of a contract, subcontract or real property agreement or, when unestablished, the maximum potential value of a contract, subcontract or real property agreement or of all contracts to be issued under a standing offer or supply arrangement, as estimated by Canada. Transaction value is stated in Canadian currency, or the equivalent value of the currency of a country other than Canada, and includes all options and applicable taxes. Transaction value is used for purposes only of determining application of the policy and does not imply that monies will be spent beyond a firm contractual commitment or that any option will be exercised. Where a Financial Limitation clause is used, the transaction value is that value.

**"transfer payment"**

is a monetary payment, or a transfer of goods, services or assets made, on the basis of an appropriation, to a third party, including a Crown corporation, that does not result in the acquisition by Canada of any goods, services or assets. Transfer payments do not include investments, loans or guarantees. Transfer payments are categorized as:

- i. grants, which are transfer payments subject to pre-established eligibility and other entitlement criteria. A grant is not subject to being accounted for by a recipient nor normally subject to audit by the department. The recipient may be required to report on results achieved;
- ii. contributions, which are transfer payments subject to performance conditions in a funding agreement. A funding agreement is a written agreement or instrument constituting an agreement between Canada and an applicant or a recipient setting out the obligations or understandings of both with respect to one or more transfer payments; or
- iii. other transfer payments, which are transfer payments, other than a grant or contribution, based on legislation or other arrangement, which may be determined by a formula.

**APPENDIX 2-III**

**EXCERPTS FROM THE  
CODE OF CONDUCT FOR PROCUREMENT**

**(4 PAGES)**

# EXCERPTS FROM THE CODE OF CONDUCT FOR PROCUREMENT

## Context and Purpose of the Code

(...)

The Government of Canada spends billions of dollars every year on the procurement of goods and services. The government has a responsibility to maintain the confidence of the vendor community and the Canadian public in the procurement system; in this sense, it must carry out its procurement activities in an accountable, ethical and transparent manner.

The *Code of Conduct for Procurement* provides all those involved in the procurement process – public servants and vendors alike – with a clear statement of mutual expectations to ensure a common basic understanding among all participants in procurement.

The *Code* reflects the policy of the Government of Canada and is framed by the principles set out in the *Financial Administration Act* and the *Federal Accountability Act*. It consolidates the federal government's conflict of interest and anti-corruption measures as well as other legislative and policy requirements relating specifically to procurement. This *Code* summarizes the existing law; it changes neither the law nor interpretation thereof.

By providing a single point of reference to key responsibilities and obligations, the government is making the measures easier to find and understand in light of an overall commitment to the highest standards of ethical conduct. The *Code* will be reviewed as necessary to ensure it continues to meet this objective.

The government expects that all those involved in the procurement process will abide by the provisions of this *Code*.

## The Procurement Process: Openness, Fairness and Transparency

(...)

In addition to the legal provisions, the tenets of fairness, openness and transparency are further assured by Treasury Board policies, Public Works and Government Services Canada (PWGSC) procurement policies and the internal procedures adopted by individual government departments and agencies.

(...)

## Responsibilities

Public servants and vendors each have responsibilities in the contracting process.

## Responsibilities of Public Servants

Public servants serve the Canadian public by acquiring goods and services, including construction services, required to achieve the objectives approved by the government. In performing these activities, including defining requirements and evaluating bids/offers/arrangements, they adhere to the laws, regulations and policies established by the government. As public servants, they commit to uphold the democratic, professional, ethical and people values of the *Values and Ethics Code for the Public Sector*. At the time of signing and accepting their offer of employment, public servants acknowledge that compliance with the *Values and Ethics Code for the Public Sector* is a condition of employment.

Public servants connected with the collection, management or disbursement of public money are required, under the *Financial Administration Act*, to report in writing to a superior officer any knowledge or information related to 1) the contravention of, or 2) fraud committed by any person against Her Majesty, under the *Financial Administration Act* or regulations or any revenue law.

Public servants must perform their duties and arrange their private affairs so that public confidence and trust in the integrity, objectivity and impartiality of government are maintained and enhanced. Public servants must comply with the requirements of the *Values and Ethics Code for the Public Sector* and of the Policy on Conflict of Interest and Post-Employment and with any additional departmental guidelines. The following elements of the *Values and Ethics Code for the Public Sector* and of the Policy on Conflict of Interest and Post-Employment are of particular relevance in procurement.

### Conflict of Interest Measures

(Please refer to Appendix B of the Policy on Conflict of Interest and Post-Employment and to the *Values and Ethics Code for the Public Sector*)

A public servant maintains public confidence in the objectivity of the public service by preventing and avoiding situations that could give the appearance of a conflict of interest, result in a potential for a conflict of interest or result in an actual conflict of interest.

Public servants:

- are required to evaluate their assets and liabilities, taking into consideration the nature of their official duties and the characteristics of their assets. If there is any real, apparent or potential conflict of interest between the carrying out of their official duties and their assets and liabilities, they are to report this matter to their deputy head in a timely manner;
- may engage in employment outside the public service and take part in outside activities unless the employment or activities are likely to give rise to a real, apparent or potential conflict of interest or to undermine the impartiality of the public service or the objectivity of the public servant;
- considering involvement in political activity should seek the advice of their manager, a designated departmental official, the Public Service Commission (PSC) or a human resources advisor before acting;

- are not to accept any gifts, hospitality or other benefits that may have a real, apparent or potential influence on their objectivity in carrying out their official duties or that may place them under obligation to the donor. This includes activities such as free or discounted admission to sporting and cultural events, travel or conferences;
- may not solicit gifts, hospitality, other benefits or transfers of economic value from a person, group or organization in the private sector who has dealings with the government (with the exception of fundraising for charitable organizations such as the Government of Canada Workplace Charitable Campaign [GCWCC]). When fundraising for charitable organizations, public servants must ensure that they have prior written authorization from their deputy head in order to solicit donations, prizes or contributions in kind from external organizations or individuals;
- are responsible for demonstrating objectivity and impartiality in the exercise of their duties and in their decision-making, whether related to staffing, financial awards or penalties to external parties, transfer payments, program operations or any other exercise of responsibility.

### **Post-employment Measures**

(Please refer to Appendix B of the Policy on Conflict of Interest and Post-Employment and to the *Values and Ethics Code for the Public Sector*)

After leaving the public service, former public servants undertake to minimize the possibility of real, apparent or potential conflicts of interest between their new employment and their most recent responsibilities. Former public servants in executive positions or equivalent and two levels below, and others where specified, for a period of one year after leaving office, shall not:

- accept appointment to a board of directors of, or employment with, entities with which they had significant official dealings during the period of one year immediately prior to the termination of their service;
- make representations on behalf of persons to any department or organization with which they had significant official dealings during the period of one year immediately prior to the termination of their service; or
- give advice to their clients using information that is not available to the public concerning the programs or policies of the departments or organizations with which they were employed or with which they had a direct and substantial relationship.

### **Responsibilities of Vendors**

Vendors must respond to the government's solicitations in an honest, fair and comprehensive manner, accurately reflect their capacity to satisfy the requirements stipulated in the bid/offer/arrangement or contract documents, and submit bids/offers/arrangements and enter into contracts only if they will fulfill all obligations of the contract.

Vendors are obliged to alert the contracting authority to any factual errors that they discover in bid solicitations.

(...)

### **Respect for Responsibilities of Public Servants**

To help ensure that the entire procurement process conforms to the highest standards of ethical conduct, vendors should avoid any action that would jeopardize current or former public servants' ability to respect their obligations under the *Values and Ethics Code for the Public Sector* and of the Policy on Conflict of Interest and Post-Employment.

Vendors will not offer or give public servants gifts, hospitality or other benefits that may have a real or apparent influence on their objectivity in carrying out their official duties or that may place them under obligation to the donor. This includes free or discounted admission to sporting and cultural events arising out of an actual or potential business relationship directly related to the public servants' official duties.

Vendors will not employ public servants in activities that might subject public servants to demands incompatible with their official duties or cast doubt on their ability to perform their duties objectively.

Vendors may not hire directly, or through a third party, former public servants during their one-year cooling-off period where this would constitute a violation of post-employment measures under the Policy on Conflict of Interest and Post-Employment and the *Values and Ethics Code for the Public Sector*.

(...)

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#### *References:*

- *Financial Administration Act R.S.C., 1985, c. F-11*
- *Federal Accountability Act S.C., 2006, c. 9*

**APPENDIX 2-IV**

**DECLARATION FORM**

**(4 PAGES)**

## Declaration Form

(Article 2.12.10 *Declaration Form* of Section 2 – *Instructions to the Tenderer*)

### 1. Tenderer Information

Where applicable, please complete the form, place it in a **sealed envelope marked “Confidential”**, to the attention of The Jacques Cartier and Champlain Bridges Incorporated, 1225 St. Charles Street West, Suite 500, Longueuil, Québec Canada, J4K 0B9 and include the sealed envelope with your tender.

<b>Full corporate name of Tenderer:</b>	
<b>Address of Tenderer:</b>	
<b>Contract Number:</b>	
<b>Tender date: (YYYY-MM-DD)</b>	

### 2. Canadian or Foreign Offences

Where the Tenderer is unable to certify that the Tenderer or one of its affiliates has not been convicted of or pleaded guilty to an offence or held responsible for an act as described in paragraphs 2.12.5 *Lobbying Act*, 2.12.6 *Canadian Offences Resulting in the Incapacity to enter into a Contract with Her Majesty*, 2.12.7 *Canadian Offences* or 2.12.8 *Foreign Offences* of Article 2.12 *Integrity Provisions – Tender*, for which they have not received pardon or obtained discharge, the Tenderer shall complete this declaration form and submit it with its tender so that the latter is not rejected from the procurement process. By checking the box corresponding to an offence, the Tenderer acknowledges that the named party, whether the Tenderer or one of its affiliates, has been found guilty of or pleaded guilty to such offence. In the “Comments” box, the Tenderer shall specify how the checked offence thereto applies.

	Tenderer/Affiliate	Comments
<p><b>Financial Administration Act (S.R.C., 1985, c. F-11)</b>            80(1) (d): False entry, certificate or return            80(2): Fraud against Her Majesty            154.01: Fraud against Her Majesty</p>	<input type="checkbox"/> <input type="checkbox"/>	
<p><b>Criminal Code (S.R.C., 1985, c. C-46)</b>            121: Frauds on the government and Contractor subscribing to election fund            124: Selling or purchasing office            380: Fraud against Her Majesty            418: Selling defective stores to Her Majesty</p>	<input type="checkbox"/> <input type="checkbox"/>	

	Tenderer / Affiliate	Comments
<p><b><i>Criminal Code (S.R.C., 1985, c. C-46)</i></b>            119: Bribery of judicial officers            120: Bribery of officers            346: Extortion            366 to 368: Forgery and other offences resembling forgery            382: Fraudulent manipulation of stock exchange transactions            382.1: Prohibited insider trading            397: Falsification of books and documents            422: Criminal breach of contract            426: Secret commissions            462.31: Laundering proceeds of crime            467.11 to 467.13: Participation in activities of criminal organization</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b><i>Competition Act (S.R.C., 1985, c. C-34)</i></b>            45: Conspiracies, agreements or arrangements between competitors            46: Foreign directives            47: Bid rigging            49: Agreements or arrangements of federal financial institutions            52: False or misleading representation            53: Deceptive notice of winning a prize</p>	<p><input type="checkbox"/> <input type="checkbox"/></p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b><i>Income Tax Act (S.R.C., 1985, c. 1 (5<sup>th</sup> supp.))</i></b>            239: False or deceptive statements</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b><i>Excise Tax Act (S.R.C., 1985, c. E-25)</i></b>            327: False or deceptive statements</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b><i>Corruption of Foreign Public Officials Act (S.C. 1998, c.34)</i></b>            3: Bribing a foreign public official            4: Accounting            5: Offence committed outside Canada</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b><i>Controlled Drugs and Substance Act (S.C. 1999, c. 19)</i></b>            5: Trafficking in substance            6: Importing and exporting            7: Production of substance</p>	<p><input type="checkbox"/> <input type="checkbox"/></p>	

	Tenderer / Affiliate	Comments
<b>Lobbying Act (S.R.C., 1985, c. 44 (4th supp.))</b> 5: Consultant lobbyists 7: In-house lobbyists (corporations and organizations)		

Other comments (optional)

**3. Inability to certify as to a determination of ineligibility or suspension**

<p>If the Tenderer is unable to certify that there is no determination of ineligibility or suspension rendered by Public Services and Procurement Canada with respect to the Tenderer or any of its affiliates, the Tenderer must explain the reasons why in the space below.</p>

#### 4. Declarations

I, (name)\_\_\_\_\_, (position)\_\_\_\_\_of (name of tenderer)\_\_\_\_\_ authorizes The Jacques Cartier and Champlain Bridges Incorporated (JCCBI) to collect and use the information provided in this form as well as any other information that it may require to determine the eligibility of the Tenderer to be awarded the Contract, and, where applicable, to make the Tenderer's ineligibility under the provisions of Article 2.12 *Integrity Provisions – Tender public*.

I, (name)\_\_\_\_\_, (position)\_\_\_\_\_of (name of tenderer)\_\_\_\_\_certify that the information provided in this form is, to the best of my knowledge, true and complete. I further acknowledge that if the information is found to be erroneous or missing, JCCBI may reject the tender.

\_\_\_\_\_  
Name:

Duly authorized representative as he so declares

**APPENDIX 2-V**

**“PERFORMANCE EVALUATION  
FOR CONSTRUCTION CONTRACTS” FORM**

**(2 PAGES)**

## PERFORMANCE EVALUATION FOR CONSTRUCTION CONTRACTS

<b>1 IDENTIFICATION OF THE CONTRACTOR</b>			<b>2 IDENTIFICATION OF THE CONTRACT</b>				
Firm:			Project N°:				
Phone number:			Description:				
			Project Manager:				
<b>4 EVALUATION GRID</b>			1- Not acceptable	2- Poor	3- Satisfactory	4- Exceeds expectations	5- Outstanding
Criteria	Evaluation					Comments	
	1	2	3	4	5		
<b>1. Quality of Work</b>							
• Content and monitoring of the quality plan							
• Compliance of materials							
• Compliance of equipment							
• Correction of deficiencies							
• Appropriate working methods							
• Quality of work							
<b>2. Completion of Work</b>							
• Compliance with deadlines							
<b>3. Project Management</b>							
• Development and monitoring of an effective schedule							
• Monitoring of technical documents							
• Management of traffic disruption							
• Coordination and collaboration with stakeholders							
<b>4. Skills and Experience of Personnel</b>							
• Monitoring of administrative documents							
• Monitoring of quantities and billing							
• Handling of additional work - Rider							
• Control and understanding of the work							

5. Health/ Safety/Environment						
• Content and monitoring of the Prevention/Environmental Program						
• Frequency and severity of incidents/accidents						
• Keeping of the worksite/Compliance during CSST interventions						
• Compliance with applicable federal and provincial laws, regulations and legislation/OHS and Environmental						
6. Quality/Contract Price Ratio						
• Overall Appreciation/ Quality of work in relation to expectations						
5 OVERALL APPRECIATION						
Strengths:						
Weaknesses:						
6 COMMENTS FROM THE SUPERVISOR:						
7 COMMENTS FROM THE OWNER:						
8 SIGNATURES						
The Jacques Cartier and Champlain Bridges Incorporated				Supervisor		
_____				_____		
Date				Date		