



Savings | Choice | Service

AUDIO VIDEO CAPTIONING AND TRANSCRIPTION SERVICES

REQUEST FOR PROPOSALS # 2024-464

Request for Proposals Timetable	
Event	Time/Date
OECM's Issue Date of Request for Proposals:	November 5, 2024
Proponent's Information and Ontario Tenders Portal Demonstration Session:	2:00 pm on November 12, 2024
Proponent's Deadline to Submit Questions:	5:00 pm on November 15, 2024
OECM's Deadline for Issuing Answers:	November 20, 2024
Proponent's Deadline to Submit Questions Related to Addenda & Question and Answer Documents:	5:00 pm on November 25, 2024
OECM's Deadline for Issuing Final Documents:	November 29, 2024
Proponent's Intent to Submit a Proposal:	December 3, 2024
Closing Date:	2:00:00 pm on December 9, 2024
Anticipated Master Agreement Start Date:	April 2025
All times specified in this timetable are local times in Toronto, Ontario, Canada	

OECM shall not be obligated in any manner to any Proponent whatsoever until a written Master Agreement has been duly executed with a Supplier.

TABLE OF CONTENTS

PART 1 – INTRODUCTION	5
1.1 Objective of this RFP	5
1.2 Supplier Experience and Qualifications	5
1.3 Project Background	6
1.3.1 Historical Spend	6
1.3.2 Customer Engagement	6
1.4 Award Strategy	6
1.4.1 No Contract until Execution of Written Master Agreement	7
1.4.2 Customer's Usage of Master Agreements	7
1.4.3 No Guarantee of Volume of Work or Exclusivity of Master Agreement	7
1.5 About OECM	8
1.5.1 Use of OECM Master Agreements	9
1.5.2 The Ontario Broader Public Sector Procurement Directive	9
1.5.3 Trade Agreements	10
PART 1A – RULES OF INTERPRETATION AND DEFINITIONS	11
1A.1 Rules of Interpretation	11
1A.2 Definitions	11
PART 2 – THE DELIVERABLES	16
2.1 Category A1 and Category A2 - English and French Captioning and Transcription Services	16
2.1.1 Source Media Content Supported Formats	16
2.1.2 Output Content Formats	17
2.1.3 Service Lead Times	17
2.1.4 Order Changes and/or Cancellation	17
2.2 Category B1 and Category B2 – English and French Audio Description Services	17
2.2.1 Source Media Content Supported Formats	18
2.2.2 Output Content Formats	18
2.2.3 Service Lead Times	18
2.2.4 Order Changes and/or Cancellation	18
2.3 Category C1 and Category C2 – English and French Real Time Captioning Services	18
2.3.1 Resulting Output Format	18
2.3.2 Service Lead Time	19
2.3.3 Order Changes and/or Cancellation	19
2.4 Source Media Content Submission	19
2.5 Output Content Delivery	19
2.6 Third-Party Platform Integration	19
2.7 Data Privacy	20
2.7.1 Data Residency	20
2.7.2 Data Retention and Disposal	20
2.7.3 Data Transmission	20
2.7.4 Privacy Impact Assessment	21
2.8 Order Management	21
2.8.1 Minimum Order	21
2.8.2 Order Acknowledgement	21
2.8.3 Supplier Agreement Survival and Extension of Agreement	21
2.9 Invoicing	21
2.9.1 Payment Terms and Methods	22
2.9.2 Electronic Fund Transfer	22
2.10 Disaster Recovery and Business Continuity	22
2.11 Licences, Permits, Right to Use and Approvals	22
2.12 Environmental, Social, and Governance	22
2.13 Financial Administration Act Section 28	23
2.14 Support to Customers	23
2.15 Rates 24	24
2.15.1 Incentive to Customers	24
2.15.2 OECM Cost Recovery Fee	24
2.15.3 Transition Support	25
2.16 Supplier Management Support to OECM	25
2.16.1 Master Agreement Award and Launch	26

2.16.2	Promoting OECM Master Agreements.....	26
2.16.3	Supplier Performance Management Scorecard.....	27
2.16.4	Rate Refresh.....	27
2.16.5	Process to Add Other Services.....	27
2.16.6	Savings Calculation	28
2.16.7	OECM's Supplier Recognition Program.....	28
2.16.8	Reporting to OECM.....	28
PART 3 – EVALUATION OF PROPOSALS.....		29
3.1	Stages of Proposal Evaluation	29
3.2	Stage I – Review of Qualification Responses (Pass/Fail)	29
3.3	Stage II – Technical Response	29
3.4	Stage III – Commercial Response per Category.....	30
3.5	Stage IV – Cumulative Score.....	32
3.6	Stage V – Tie Break Process.....	33
3.7	Stage VI – Negotiations	33
3.8	Stage VII – Master Agreement Finalization.....	33
PART 4 – TERMS AND CONDITIONS OF THE RFP PROCESS.....		34
4.1	General Information and Instructions	34
4.1.1	RFP Timetable	34
4.1.2	Proponent's Information and OTP Demonstration Session.....	35
4.1.3	Proponent to Follow Instructions.....	35
4.1.4	OECM's Information in RFP Only an Estimate	35
4.1.5	Proponent's Costs	35
4.2	Communication after RFP Issuance	36
4.2.1	Communication with OECM.....	36
4.2.2	Proponent to Review RFP	36
4.2.3	Proponent's Intent to Submit Proposal.....	36
4.2.4	Proponent to Notify	37
4.2.5	All New Information to Proponents by way of Addenda	37
4.3	Proposal Submission Requirements	37
4.3.1	General	37
4.3.2	Proposal in English	38
4.3.3	Proposal Submission Requirements	38
4.3.4	Other Proposal Considerations	38
4.3.5	Proposal Receipt by OECM	38
4.3.6	Withdrawal of Proposal	38
4.3.7	Amendment of Proposal on OTP	39
4.3.8	Completeness of Proposal.....	39
4.3.9	Proposals Retained by OECM	39
4.3.10	Acceptance of RFP	39
4.3.11	Amendments to RFP	39
4.3.12	Proposals will not be Opened Publicly	39
4.3.13	Clarification of Proposals	39
4.3.14	Verification of Information	39
4.3.15	Proposal Acceptance	40
4.3.16	RFP Incorporated into Proposal.....	40
4.3.17	Exclusivity of Contract.....	40
4.3.18	Substantial Compliance	40
4.3.19	No Publicity or Promotion	40
4.4	Negotiations, Timelines, Notification and Debriefing.....	40
4.4.1	Negotiations with Preferred Proponent	40
4.4.2	Failure to Execute a Master Agreement.....	40
4.4.3	Master Agreement	41
4.4.4	Notification to Other Proponents	41
4.4.5	Debriefing	41
4.4.6	Bid Dispute Resolution.....	41
4.5	Prohibited Communications, and Confidential Information	42
4.5.1	Confidential Information of OECM	42
4.5.2	Confidential Information of the Proponent.....	42
4.5.3	Proponent's Submission	42
4.5.4	Personal Information.....	42
4.5.5	Non-Disclosure Agreement.....	42

4.5.6	Freedom of Information and Protection of Privacy Act.....	43
4.5.7	Municipal Freedom of Information and Protection of Privacy Act.....	43
4.5.8	Personal Information Protection and Electronic Documents Act.....	43
4.5.9	Intellectual Property	43
4.6	Reserved Rights and Governing Law of OECM.....	43
4.6.1	General	43
4.6.2	Rights of OECM – Proponent	45
4.6.3	No Liability	45
4.6.4	Assignment.....	46
4.6.5	Entire RFP	46
4.6.6	Priority of Documents.....	46
4.6.7	Disqualification for Misrepresentation	46
4.6.8	References and Past Performance.....	46
4.6.9	Cancellation	46
4.6.10	Competition Act	46
4.6.11	Trade Agreements	46
4.6.12	Governing Law.....	47
	APPENDIX A – FORM OF MASTER AGREEMENT	48
	APPENDIX B – COMMERCIAL RESPONSE.....	49
	APPENDIX C – SUPPLIER REPORTING REQUIREMENTS	50
	APPENDIX D – SUPPLIER PERFORMANCE MANAGEMENT SCORECARD	51
	APPENDIX E – OECM’S SUPPLIER CODE OF CONDUCT	53

PART 1 – INTRODUCTION

This non-binding Request for Proposals (“RFP”) is an invitation to obtain Proposals, per Category, from qualified Proponents for the provision of Audio Video Captioning and Transcription Services (“Services”) for all of Ontario as described in Part 2 – Deliverables and Part 4 – Master Agreement Structure and Management.

Categories of Services include:

- (a) Category A1 – English Captioning and Transcription Services;
- (b) Category A2 – French Captioning and Transcription Services;
- (c) Category B1 – English Audio Description Services;
- (d) Category B2 – French Audio Description Services;
- (e) Category C1 – English Real-Time Captioning Services; and,
- (f) Category C2 – French Real-Time Captioning Services.

A Proponent may submit a Proposal for one (1), some or all Categories. Each Category will be evaluated, scored and awarded independently.

Translation services are out of scope for this RFP.

This RFP is issued by OECM.

1.1 Objective of this RFP

The objective of this RFP is to:

- (a) Provide OECM Customers with the ability to purchase Services from qualified Suppliers to satisfy their requirements;
- (b) Attract and award local qualified Suppliers across the province;
- (c) Provide volume discounts (e.g. subscription, annual budgeting) and predictable Rates.
- (d) Provide Customers with professional and responsive customer support; and,
- (e) Reduce the costs of associated competitive procurement processes on an ongoing basis (i.e., fewer of the same, competitive procurement documents issued by Customers).

1.2 Supplier Experience and Qualifications

The Supplier shall possess appropriate experience, qualifications, and demonstrated knowledge relative to the requirements in this RFP including, but not limited to:

- (a) Possess expertise and experience in providing Services to support Customers in meeting current and future requirements of the Accessibility for Ontarians with Disabilities Act (“AODA”) and Web Content Accessibility Guidelines (“WCAG”) requirements;
- (b) Be capable of providing quality Services in a consistent and timely manner, demonstrating value for money;
- (c) Possess the ability to handle various mechanisms of authentication, including Federated Single Sign –on (“SSO”), for delivery of Services; and,
- (d) Expertise on the requirements of the WCAG 2.0 Level AA as it relates to the proposed Category;
- (e) Capability to ensure Service providing personnel are trained to provide Services that are compliant to WCAG requirements;

(f) Ability to provide AODA and WCAG knowledge transfer to Customers.

Compliance to AODA and WCAG is subject to verification by the Customer during the Term.

1.3 Project Background

This RFP is in collaboration between OECM and eCampusOntario.

eCampusOntario is a not-for-profit corporation and funded by the Government of Ontario to be a centre of excellence in online and technology-enabled learning for all publicly-assisted colleges, universities and Indigenous Institutes in Ontario.

eCampusOntario in its continuing process to advance an educational technology shared services strategy for Ontario public post-secondary institutions conducted a survey in 2024 with its members, asking for input about the retender of Audio Video Captioning and Transcription Services RFP.

The resulting Master Agreement will provide Services for OECM Customers and eCampusOntario members to continue to be WCAG compliant for their online audio and/or video content.

More information about eCampusOntario is available at - <https://www.ecampusontario.ca/>.

1.3.1 Historical Spend

OECM currently has Audio Video Captioning and Transcription Services agreements in place with three (3) Suppliers that expire on July 19, 2025. There are presently four (4) unique Customers (Universities) using these existing OECM agreements:

Approximate purchases through these existing agreements from July 2020 to date is Seven hundred twenty-eight thousand, six hundred forty-nine dollars (\$728,649)

Customers using OECM's current agreement are not, in any way, obligated to participate in any Master Agreement resulting from this RFP.

1.3.2 Customer Engagement

The following Customers were engaged with the development of the Deliverables set out in this RFP:

- (a) Fanshawe College;
- (b) McMaster University;
- (c) Trent University;

The above Customers are not, in any way, committed to participating in the Master Agreement resulting from this RFP.

1.4 Award Strategy

OECM may, through this RFP process, enter into Master Agreements with one (1) or more Suppliers per Category for the provision of the Services.

The Term is intended to be fixed for five (5) years.

Customers participating in the Master Agreements will execute a Customer-Supplier Agreement ("CSA") with a Supplier as attached in Appendix A – Form of Master Agreement. Prior to executing a CSA, the Customer may negotiate their unique requirements and further negotiate with the Supplier and mutually agree to additional terms and conditions (e.g., reporting, Rates specific to the Customer's requirements and volumes) ensuring the additional terms and conditions are not in any way inconsistent with the Master Agreement agreed to by OECM and the Supplier.

The Supplier must provide a copy of every CSA to OECM within thirty (30) days of execution.

1.4.1 No Contract until Execution of Written Master Agreement

This RFP process is intended to identify Proponents for the purpose of negotiation of potential Master Agreements. The negotiation process is further described in Part 3 – Evaluation of Proposals, Section 3.7 of this RFP.

No legal relationship or obligation regarding the procurement of any Services shall be created between the Proponent and OECM by this RFP process until the successful completion of negotiation and execution of a written Master Agreement for the provision of the Services has occurred.

The Master Agreement must be fully executed before the provision of any Deliverables commences.

1.4.2 Customer's Usage of Master Agreements

The establishment and use of the Master Agreement consists of a two (2) part process.

Part One, which is managed by OECM, is the creation of the Master Agreement through the issuance of this RFP, the evaluation of Proposals submitted in response to it and the negotiation and execution of the Master Agreement.

Part Two, the Second Stage Selection Process ("Second Stage") is managed by the Customer or by OECM on the Customer's behalf and is focused on the Customer's specific needs. Depending on the Customer's internal policies, and potential dollar value of the Services a Customer may:

- (a) Select a Supplier, obtain Rates and sign a CSA; or,
- (b) Seek Rates and other relevant Service information specific to a Customer's organization (e.g., by issuing a non-binding request via a Second Stage tool (e.g., Request for Services ("RFS"), or Customer's process (e.g., directly or via an online e-tendering platform)) from the Supplier for their specific Service requirements (e.g., reporting, Rates, Rate refresh process and timing, invoicing). If selected by the Customer, the Supplier shall provide the Services in accordance with the Master Agreement and in the Customer's CSA.

When a Second Stage request is issued, which does not constitute a contract A, contract B situation, it will identify the required Services or it may request the Supplier to propose appropriate Services to fulfill the Customer's requirements and any other applicable information.

The Customer may negotiate their unique requirements (e.g., reporting, Rates, invoicing) with the Supplier and mutually agree to additional terms and conditions ensuring the additional terms and conditions are not in any way inconsistent with the Master Agreement.

The Supplier must respond to a Second Stage request, and, at minimum, the response should set out the following:

- (a) Proposed Services;
- (c) Lead times for the Proposed Services and delivery of completed Proposed Services;
- (d) If the Proposed Services will be delivered by Artificial Intelligence (AI) with human oversight (or other combination of AI and Human);
- (e) Whether or not the Proposed Services include revisions, and if so, how many; and,
- (b) Final, net Rates. The Rates should be valid for a period of not less than ninety (90) days, or as requested by the Customer. Limited time offer Rates and/or promotional Rates must be specified by the Supplier, if applicable to the specific Second Stage request.

1.4.3 No Guarantee of Volume of Work or Exclusivity of Master Agreement

The volume information contained in this RFP constitutes an estimate and is supplied solely as a guideline to the Proponent. Such information is not guaranteed, represented, or warranted to be accurate, nor is it necessarily comprehensive or exhaustive.

Nothing in this RFP is intended to relieve the Proponent from forming its own opinions and conclusions with respect to the matters addressed in this RFP. Volumes are an estimate only and may not be relied on by the Proponent.

OECM makes no guarantee of the value or volume of work to be assigned to the Supplier.

The Master Agreement executed with the Supplier may not be an exclusive Master Agreement for the provision of the Deliverables. Customers may contract with others for the same or similar Deliverables to those described in this RFP.

1.5 About OECM

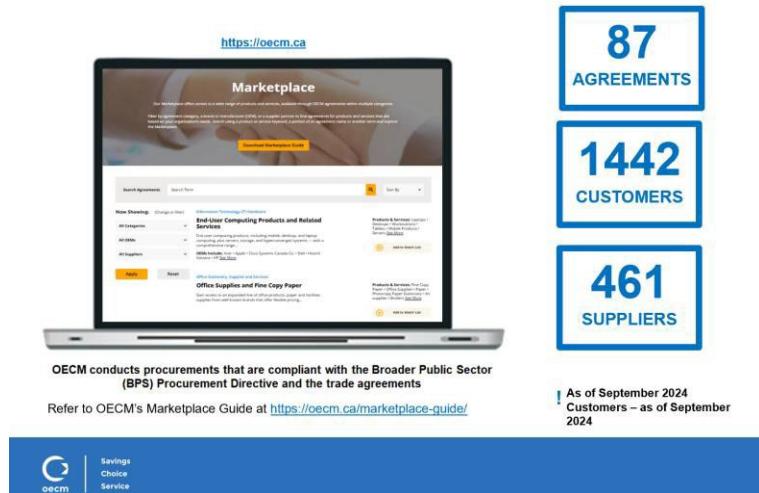
OECM is a trusted not-for-profit partner for Ontario's educational entities (e.g., school boards or authorities, Provincial and Demonstration Schools Branch with the Ontario Ministry of Education, colleges, and universities, and may also include Private Schools and Private Career Colleges), health and social service entities, hydro, Local Housing Corporations, the Legislative Assembly, Municipalities and related Service Organizations, not-for-profit organizations, Ontario Electricity Financial Corporation, Ontario Power Authority, provincially funded organizations ("PFO"), shared service organizations, utilities and local boards, and any other Ontario Broader Public Sector ("BPS") agency, Ontario Public Service ("OPS") ministry, agency, board or commission, Crown corporations, First Nations federal agencies, Indigenous Organizations and Communities, and other provincial, territorial and federal public sector entities/agencies or similar entities not mentioned here.

OECM contracts with innovative, reputable Suppliers to offer a comprehensive choice of collaboratively sourced and competitively priced products and services through its Marketplace, the goal of which is to generate significant value and savings, quality of choice and consistent service for its Customers. In addition to the Marketplace, OECM offers contract management services, procurement advisory services, business analytics, and opportunities for knowledge sharing.

Recognizing the power of collaboration, OECM is committed to fostering strong relationships with both Customers and suppliers by:

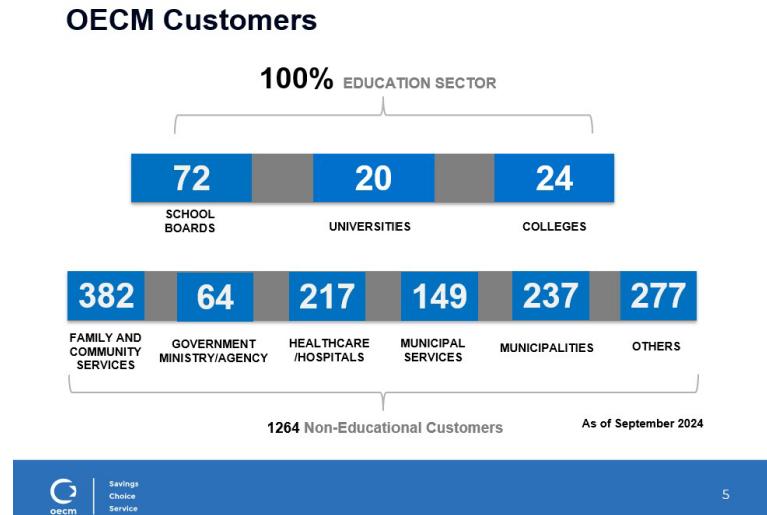
- (a) Actively sourcing products and services in an open, fair, transparent and competitive manner, compliant with BPS Procurement Directive and applicable trade agreements;
- (b) Establishing, promoting and managing product and service agreements used throughout its Customer community;
- (c) Supporting Customers' access and use of OECM agreements through analysis, reporting and the development of tools, guides, and other materials;
- (d) Effectively managing supplier contract performance while harnessing expertise and innovative ideas, to drive continuous improvements through a Supplier Relationship Management program;
- (e) Promoting OECM's Supplier Code of Conduct, based on its core values of collaboration, responsiveness, integrity, innovation, and respect, to ensure that all supplier partners adhere to a set standard when conducting business with OECM and its Customers resulting in continuous, long-term success; and,
- (f) Supporting supplier partners through a Supplier Recognition Program that aims to drive long-term performance by recognizing and motivating Suppliers to deliver continued savings, value, choice, and service to Customers.

A Marketplace of Choice



1.5.1 Use of OECM Master Agreements

As of September 2024, one thousand, four hundred and forty-two (1,442) Customers were using one (1) or more OECM agreements with a cumulative spend of more than four (4) billion dollars over the last ten (10) years.



More information about OECM is available on our website - <https://oecm.ca/>.

1.5.2 The Ontario Broader Public Sector Procurement Directive

OECM, and the BPS Customers they service, follow the Ontario BPS Procurement Directive. The directive sets out rules for designated BPS entities on the purchase of goods and services using public funds.

The Procurement Directive is available below.

[Broader Public Sector Procurement Directive \(ontario.ca\)](https://ontario.ca)

1.5.3 Trade Agreements

OECM procurements are undertaken within the scope of Chapter 5 of the Canadian Free Trade Agreement ("CFTA"), Chapter 19 of the Comprehensive Economic and Trade Agreement ("CETA"), and within the scope of the Trade and Cooperation Agreement between Quebec and Ontario and are subject to such agreements, although the rights and obligations of the parties shall be governed by the specific terms of this RFP. For more information, refer to the Section 4.6.11.

[End of Part 1]

PART 1A – RULES OF INTERPRETATION AND DEFINITIONS

1A.1 Rules of Interpretation

This RFP shall be interpreted according to the following provisions, unless the context requires a different meaning:

- (a) Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine and feminine includes the other gender;
- (b) Words in the RFP shall bear their natural meaning;
- (c) References containing terms such as “includes” and “including”, whether or not used with the words “without limitation” or “but not limited to”, shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean “includes without limitation” and “including without limitation”;
- (d) In construing the RFP, general words introduced or followed by the word “other” or “including” or “in particular” shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words;
- (e) Unless otherwise indicated, time periods will be strictly applied; and,
- (f) The following terminology applies in the RFP:
 - i. The terms “must” and “shall” relate to a requirement the Supplier will be obligated to fulfil. Whenever the terms “must” or “shall” are used in relation to OECM or the Supplier, such terms shall be construed and interpreted as synonymous and shall be construed to read “OECM shall” or the “Supplier shall”, as the case may be;
 - ii. The term “should” relates to a requirement that OECM would like the Supplier to fulfil; and,
 - iii. The term “will” describes a procedure that is intended to be followed.

1A.2 Definitions

Unless otherwise specified in this RFP, capitalized words and phrases have the meaning set out in Appendix A – Form of Master Agreement attached to this RFP.

“Applicable Law” means any common law requirement and all applicable and enforceable statutes, regulations, directives, policies, administrative interpretations, orders, by-laws, rules, guidelines, approvals and other legal requirements of any government and/or regulatory authority in effect from time to time;

“Best and Final Offer” or “BAFO” means: a process during the negotiation stage in which a Preferred Proponent may be invited by OECM to submit a best and final offer on a process or section of the RFP to improve on their original Proposal submission. BAFO cannot be requested by a Proponent;

“Broader Public Sector” or “BPS” means:

- (a) every hospital (i.e., public hospital, private hospital that received public funds in the previous fiscal year of the Government of Ontario, a community health facility within the meaning of the Oversight of Health Facilities and Devices Act that was formerly licensed under the Private Hospitals Act and that received public funds in the previous fiscal year of the Government of Ontario, and the University of Ottawa Heart Institute);
- (b) every school board,
- (c) every university in Ontario;
- (d) every college of applied arts and technology and post-secondary institution;
- (e) every agency designated as a children’s aid society under subsection 34 (1) of Part III of the *Child, Youth and Family Services Act, 2017*;

- (f) every corporation controlled by one (1) or more designated Broader Public Sector organizations that exists solely or primarily for the purpose of purchasing goods or services for the designated Broader Public Sector organizations;
- (g) every publicly funded organization that received public funds of 10 million dollars or more in the previous fiscal year of the Government of Ontario; and,
- (h) every organization that is prescribed for the purposes of this definition;

See <https://www.ontario.ca/page/broader-public-sector-accountability>;

See <https://www.ontario.ca/page/find-school-board-or-school-authority>; and,

See <https://www.ontario.ca/page/go-college-or-university-ontario>;

“Business Day” or **“Day”** means Monday to Friday between the hours of 9:00 a.m. to 5:00 p.m. for OECM, as specified in the Customer’s CSA, or agreed to by the parties in writing, except when such a day is a public holiday, as defined in the *Employment Standards Act* (Ontario);

“Closing Date” means the Proposal submission date and time as set out in OTP and in Section 4.1.1 and may be amended from time to time in accordance with the terms of this RFP;

“Commercial Envelope” means an area in OTP where the Proponent would upload its completed Commercial Response;

“Commercial Response” means the Rates the Proponent uploads to OTP within Appendix B – Commercial Response as part of the Commercial Envelope;

“Confidential Information” means confidential information of OECM and/or any Customer (other than confidential information which is disclosed to the Preferred Proponent in the normal course of the RFP) where the confidential information is relevant to the Deliverables required by the RFP, its pricing or the RFP evaluation process, and includes all information concerning the business or affairs of the party or its directors, governors, trustees, officers or employees that is of a confidential nature, which information if in written or other tangible form, is clearly designated as confidential, or if disclosed orally, is designated as confidential in a written memorandum delivered by the disclosing party promptly following such disclosure. For the purposes of greater certainty, Confidential Information shall:

- (a) Include:(i) all new information derived at any time from any such Confidential Information whether created by OECM, the Customer, the Proponent or any third-party; (ii) all information (including Personal Information) that OECM or the Customer is obliged, or has the discretion, not to disclose under provincial or federal legislation; and, (iii) pricing under this RFP;
- (b) not include information that: (i) is or becomes generally available to the public without fault or breach on the part of the disclosing party of any duty of confidentiality owed by it hereunder; (ii) the disclosing party can demonstrate to have been rightfully obtained it, without any obligation of confidence, from a third-party who had the right to transfer or disclose it to the disclosing party free of any obligation of confidence; (iii) the disclosing party can demonstrate to have been rightfully known to or in the possession of it at the time of disclosure, free of any obligation of confidence when disclosed; or (iv) is independently developed by the disclosing party; but the exclusions in this subparagraph shall in no way limit the meaning of Personal Information or the obligations attaching thereto under the Contract or at law;

“Conflict of Interest” includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the RFP process, the Proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including, but not limited to (i) having or having access to information in the preparation of its Proposal that is confidential to OECM and not available to other respondents; (ii) communicating with any person with a view to influencing preferred treatment in the RFP process; or (iii) engaging in conduct that compromises or could reasonably be seen to compromise the integrity of the open and competitive RFP process and render that process non-competitive and unfair; or,
- (b) in relation to the performance of its contractual obligations in an OECM contract, the Proponent’s other commitments, relationships or financial interests (i) could or could reasonably be seen to exercise an

improper influence over the objective, unbiased and impartial exercise of its independent judgement; or
(ii) could or could reasonably be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations;

“Consortium” means when more than one (1) business entities (i.e., Consortium members) agree to work together and submit one (1) Proposal to satisfy the requirements of the RFP. One (1) of the Consortium members shall identify itself as the Proponent and assume full responsibility and liability for the work and actions of all Consortium members;

“Consultant” means a professional who provides expert advice, guidance, and solutions to individuals, businesses, organizations, in a specific field.

“Cost Recovery Fee” or **“CRF”** means a fee, which contributes to the recovery of OECM’s operating costs as a not-for-profit/non share capital corporation, which is based on the before tax amount invoiced by the Supplier to Customers for Deliverables acquired through OECM’s competitively sourced agreements. Once Customer-Supplier Agreements have been executed, this fee is remitted by the Supplier to OECM on a quarterly basis;

“Customer” means an organization such as educational entities (e.g., school boards or authorities, Provincial and Demonstration Schools Branch with the Ontario Ministry of Education, colleges, and universities, and may also include Private Schools and Private Career Colleges), health and social service entities, hydro, Local Housing Corporations, the Legislative Assembly, Municipalities and related Service Organizations, not-for-profit organizations, Ontario Electricity Financial Corporation, Ontario Power Authority, provincially funded organizations (“PFO”), shared service organizations, utilities and local boards, and any other Ontario Broader Public Sector (“BPS”) agency, Ontario Public Service (“OPS”) ministry, agency, board or commission, Crown corporations, First Nations federal agencies, Indigenous Organizations and Communities, and other provincial, territorial and federal public sector entities/agencies or similar entities not mentioned here;

“Customer-Supplier Agreement” or **“CSA”** means a schedule attached to the Master Agreement, which is executed between Customers and a Supplier for the provision of any Deliverables in this RFP specific to their organization;

“Deliverable” means all Services to be provided or performed by the Supplier, under the Master Agreement, and includes everything that is necessary to be supplied, provided or delivered by the Supplier within scope of the resulting Master Agreement;

“Difficult Audio” means source media content with inaudible audio, poor audio quality, difficult accents, and/or specialized vocabulary that require more resources from the Supplier;

“Eligible Proposal” means a Proposal that meets or exceeds the prescribed requirement, proceeding to the next stage of evaluation;

“Local Housing Corporation” means a local housing corporation as defined in the *Housing Services Act, 2011*, S.O. 2011, c. 6, Sched. 1;

“Master Agreement” or **“Agreement”** means the agreement to be made between the Preferred Proponent and OECM based on the template attached as Appendix A – Form of Master Agreement with negotiated changes, together with all schedules and appendices attached thereto and all other documents incorporated by reference therein, as amended from time to time by agreement between OECM and the Supplier;

“Municipalities” means municipalities in Ontario under the *Municipal Act*, the *City of Toronto Act* (for the City of Toronto), *District Municipality of Muskoka Act* (for the District of Muskoka), *Regional Municipalities Act* (for the regional municipalities of Durham, Halton, Niagara, Peel, Waterloo and York), every local board in Ontario as defined in the *Municipal Affairs Act and the Municipal Act* (List of Ontario municipalities | Ontario.ca) and related Service Organizations;

“OECM” means the Ontario Education Collaborative Marketplace;

“OECM’s Deadline for Issuing Final Addenda” means the date and time as set out in Section 4.1.1 of this RFP and may be amended from time to time in accordance with the terms of this RFP;

“Ontario Public Service” or **“OPS”** means Ontario Public Service entities, the ministries and other administrative units of Ontario over which ministers of Ontario preside (including their agencies, boards, commissions, and Crown corporations);

“Ontario Tenders Portal” or **“OTP”** means the electronic tendering platform <https://ontariotenders.app.jaggaer.com/esop/nac-host/public/web/login.html> through which a Proponent’s Proposal must be submitted by the Closing Date;

“Order” means a request from the Customer for, in conjunction with the ordering of Services, the provision of services supplemental to such Services under an agreement ancillary to the Master Agreement and CSA, but contemplated therein as part of the delivery or use of the Services, including, but not limited to, a service request, purchase order, order form, maintenance agreement, service agreement, license agreement, warranty agreement, or a statement of work entered into between the Customer and the Supplier, as the case may be, prior to the expiry of the Master Agreement.

“Personal Information” has the same definition as in subsection 2(1) of FIPPA and in subsection 2(1) of MFIPPA, that is, recorded information about an identifiable individual or that may identify an individual and includes all such information obtained by the Proponent from OECM or the Customer or created by the Proponent pursuant to the RFP;

“PFO” means a provincially funded organization;

“Preferred Proponent” means the Proponent that is invited into negotiations in accordance with the evaluation process set out in this RFP;

“Proponent” means an entity that submits a Proposal in response to this RFP and, as the context suggest, refers to a potential Proponent;

“Proposal” means all documentation and information submitted by a Proponent in response to the RFP;

“Purchasing Card” or **“P-Card”** means the corporate charge cards used by the Customer, as may be changed from time to time;

“Qualification Envelope” means an area in OTP where the Proponent would complete its Qualification Response;

“Qualification Response” means the information the Proponent is required to submit within OTP as part of the Qualification Envelope;

“Rates” means the maximum prices, in Canadian funds, for the Services as set out in the Proponent’s submitted Appendix B - Commercial Response;

“Request for Proposals” or **“RFP”** means this Request for Proposals #2024-464 issued by OECM, including all appendices and addenda thereto;

“Second Stage Selection Process” or **“Second Stage”** means a request from one (1) or more Suppliers via a Second Stage tool (e.g., Request for Services (“RFS”), or Customer’s process (e.g., directly or via an online e-tendering platform) from a Customer or from OECM on behalf of a Customer, seeking Rates and relevant Services specific to a Customer’s organization;

“Service” means all Deliverables to be provided or performed by the Supplier, under the Master Agreement, and includes everything that is necessary to be supplied, provided or delivered by the Supplier;

“Subcontractor” includes the Supplier’s subcontractors or third-party providers or their respective directors, officers, agents, employees or independent contractors, who shall fall within the meaning of Supplier for the purposes of the Master Agreement as mutually agreed upon by the Customer;

“Supplier” means a Preferred Proponent who has fully executed a Master Agreement with OECM and has assumed full liability and responsibility for the provision of Deliverables pursuant to the Master Agreement either as a single Supplier or a lead Supplier engaging other suppliers or Subcontractors;

“Technical Envelope” means an area in OTP where the Proponent would complete its Technical Response;

“Technical Response” means the information, which will be evaluated and scored, the Proponent submits within OTP as part of the Technical Envelope;

“Term” has the meaning set out in Section 1.4 of this RFP; and,

“Unfair Advantage” means any conduct, direct or indirect, by a Proponent that may result in gaining an unfair advantage over other Proponents, including, but not limited to (i) possessing, or having access to, information in the preparation of its Proposal that is confidential to OECM and which is not available to other Proponents, (ii) communicating with any person with a view to influencing, or being conferred preferred treatment in, the RFP process, or (iii) engaging in conduct that compromises or could be seen to compromise the integrity of the RFP process and result in any unfairness.

[End of Part 1A]

PART 2 – THE DELIVERABLES

This Part of the RFP describes the Audio Video Captioning and Transcription Services Deliverables, per Category, which will be incorporated into the final Master Agreement.

OECM requires that the Proponent has a clear and comprehensive understanding of the RFP requirements (i.e., Part 2 – The Deliverables). The Proponent will be required to indicate their agreement accordingly in the Form of Offer in the Qualification Envelope on OTP.

The Supplier shall provide Audio Video Captioning and Transcription Services RFP Deliverables for all OECM Customers across all of Ontario.

Description of Deliverables

The Deliverables in this RFP are in the following Categories:

Category	Category Title	RFP Section Reference
A1	English Captioning and Transcription Services	2.1
A2	French Captioning and Transcription Services	
B1	English Audio Description Services	2.2
B2	French Audio Description Services	
C1	English Real-Time Captioning Services	2.3
C2	French Real-Time Captioning Services	

A Proponent may submit a Proposal for one (1), some or all Categories. Each Category will be evaluated, scored and awarded independently.

Deliverables in Sections 2.4 to 2.16 are applicable to all Categories.

The Supplier shall provide remote Services.

Services provided cannot be only using software assistance or AI (i.e. automatic speech recognition or captioning software). The Supplier may provide Services assisted by software/AI, but shall not replace a skilled individual (e.g. captioner, transcriber, and/or describer), unless Customer requests using only software assistance/AI services

2.1 Category A1 and Category A2 - English and French Captioning and Transcription Services

The Supplier shall provide captioning and/or transcription Services including, but not limited to:

- (a) Open and/or closed captioning Services for source media content in the language of the source media content provided;
- (b) Computerized note taking Services, as required;
- (c) Transcription for source media content in the language of the source media content provided into verbatim text document;
- (d) Time-stamped transcription Services, as required; and,
- (e) Output content shall convey background noise and other sounds in the source content, as required.

2.1.1 Source Media Content Supported Formats

The Supplier shall provide captioning and/or transcription Services for the source media content in various formats including, but not limited to:

File Format	File Extension
MP3	.mp3
MP4	.mp4
QuickTime File Format	.mov
Audio Video Interleave	.avi
Flash Video	.flv

2.1.2 Output Content Formats

The Supplier shall provide the output content in various formats including, but not limited to:

File Format	File Extension
SubRip	.srt
WebVTT	.vtt
Timed Text	.ttml
Plain Text	.txt
Word Document	.docx

2.1.3 Service Lead Times

The Supplier shall complete captioning and transcription Services from the time the Customer orders the Services in the following lead times as requested:

- (a) Same day lead time of within eight (8) hours;
- (b) Rush lead time of within one (1) Business Day;
- (c) Expedited lead time of within two (2) Business Days; and,
- (d) Standard lead time of within four (4) Business Days.

Service lead time for embedded captioning Services shall be one (1) additional Business Day to the above-mentioned Service lead times.

Understanding that there may be extenuating circumstances (e.g. Difficult Audio), which must be communicated immediately to the Customer, alternative lead times may be mutually agree upon between the Customer and Supplier.

2.1.4 Order Changes and/or Cancellation

The Supplier shall accommodate order changes and/or cancellation requested by the Customer, at no additional cost to the Customer, prior to the Supplier's personnel (e.g. a captioner and/or transcriber) has been assigned to fulfill the Service.

2.2 Category B1 and Category B2 – English and French Audio Description Services

The Supplier shall provide the audio description Services including, but not limited to:

- (a) Audio description Services for source media content in the language of the source media content provided;
- (b) Output content to convey non-verbal actions and other sounds in the source media content; and,
- (c) Rendering the source media content to allow pauses for detail audio explanations, as required.

2.2.1 Source Media Content Supported Formats

The Supplier shall provide audio description Services for source media content in various formats including, but not limited to:

File Format	File Extension
MP3	.mp3
MP4	.mp4
QuickTime File Format	.mov
Audio Video Interleave	.avi
Flash Video	.flv

2.2.2 Output Content Formats

The Supplier shall provide output content for source media content in various formats including, but not limited to:

Filename Extension	Description
MP3	.mp3
MP4	.mp4
Waveform Audio File	.wav

2.2.3 Service Lead Times

The Supplier shall provide audio description Services within five (5) Business Days.

Understanding that there may be extenuating circumstances (i.e. Difficult Audio), which must be communicated immediately to the Customer, alternative lead time may be mutually agree upon between the Customer and Supplier.

2.2.4 Order Changes and/or Cancellation

The Supplier shall accommodate order changes and/or cancellation requested by the Customer, at no additional cost to the Customer, prior to the Supplier's personnel (e.g. a transcriber and/or describer) has been assigned to fulfill the Services.

2.3 Category C1 and Category C2 – English and French Real Time Captioning Services

The Supplier shall provide real-time captioning Services including, but not limited to:

- (a) Real-time closed captioning Services and descriptive video Services for real-time source media content in the language of the source media content provided;
- (b) Qualified captioner to provide real-time captioning Service; and,
- (c) Assistance and set up for any required equipment and/or software at Customer's site to receive the Services at no additional cost.

2.3.1 Resulting Output Format

The Supplier shall provide the output content for the real-time captioning Services provided in various formats including, but not limited to:

File Format	Description
SubRip	.srt
WebVTT	.vtt
Timed Text	.ttml
Plain Text	.txt
Word Document	.docx

2.3.2 Service Lead Time

The Supplier shall provide resulting output content for the real-time source media content within one (1) Business Day.

Different Service lead times may be mutually agreed upon between the Customer and Supplier.

2.3.3 Order Changes and/or Cancellation

The Supplier shall take Service orders up to one (1) Business Day prior to when the real-time captioning Service is required. The Supplier shall accommodate order changes and/or cancellation, at no additional cost to the Customer, if the Supplier is notified at least one (1) Business Day prior to the date the Service is required.

2.4 Source Media Content Submission

The Supplier shall accept source media content, from the Customer, in various methods including, but not limited to:

- (a) Upload to the Supplier's online platform;
- (b) Upload to the Supplier's file transfer protocol ("FTP") client/application;
- (c) Link to public uniform resource locator ("URL");
- (d) Link to the Customer's third-party platform; and,
- (e) Email.

2.5 Output Content Delivery

The Supplier shall provide the output content (e.g. caption, transcript, and audio description) to the Customer using various methods including, but not limited to:

- (a) Download from the Supplier's online platform; and,
- (b) Email.

2.6 Third-Party Platform Integration

The Supplier shall possess Application Program Interface ("API") capabilities.

If required, the Supplier should possess the capability to support automation of workflows for Customers, details and cost to be mutually agreed upon between the Supplier and the Customer.

The Supplier should have the capability to integrate with various third-party platforms including, but not limited to:

- (a) Echo360;
- (b) JW Player;
- (c) Kaltura;

- (d) Learning Management Systems;
- (e) Microsoft Teams
- (f) Panopto;
- (g) TechSmith;
- (h) YouTube;
- (i) Vimeo; and,
- (j) Zoom.

2.7 Data Privacy

If requested by the Customer, the Supplier and its personnel completing the Service (e.g. captioners and transcribers) shall sign a confidentiality agreement and/or non-disclosure agreement related to the privacy of the Customer's data.

2.7.1 Data Residency

The Supplier's host servers and backup servers should be located on Canadian soil in a secure data centre.

If the Supplier's data center (including servers and backup servers) is required to be located on Canadian soil for a Customer, and the Supplier cannot meet this requirement immediately, the Supplier must present a plan to the Customer detailing how this requirement will be fulfilled within three (3) to six (6) months following the execution date of the Customer-Supplier Agreement ("CSA"). The Customer reserves the right to determine whether the proposed plan is acceptable.

The Supplier shall provide, at minimum, one (1) Business Day prior notifications to Customers in the event of any planned down time.

2.7.2 Data Retention and Disposal

The Supplier shall purge and dispose of any Customer data from the Supplier's system at the Customer's request. A scheduled periodic purging and disposal of the data should be available at the Customer's request. Upon any purging and disposal of the Customer's data, the Customer shall be provided proof of the purging and disposal in paper or electronic format.

Source media content shall be purged from the Supplier's system, at a minimum, one-hundred eighty (180) days after Service completion.

2.7.3 Data Transmission

The Supplier shall ensure that data is securely stored and transmitted, at a minimum, using the following:

- (a) Secure Sockets Layer ("SSL");
- (b) Transport Layer Security ("TLS"); and,
- (c) Advanced Encryption Standard ("AES") 256.

If the Customer chooses to upload and/or receive data via email as the method of source media content submission and/or output content delivery, the above requirements shall not be applicable.

Data is accessible to the Supplier's personnel only to the extent necessary to perform the required Services. The Supplier's personnel shall no longer have access to the data once Service is completed and shall not copy the data onto their hard drive. The data shall be processed using a web-based interface and sent directly to the Supplier's server where it is stored.

2.7.4 Privacy Impact Assessment

If requested by the Customer, the Supplier shall conduct a Privacy Impact Assessment ("PIA") related to the data use, retention and ownership. Cost to complete the PIA shall be mutually agreed upon between the Supplier and the Customer. Reports resulting from PIAs shall be available for the Customer's review.

2.8 Order Management

The Supplier shall provide a variety of ways for Customers to order Services including, but not limited to the following:

- (a) Email;
- (b) Telephone;
- (c) Toll free phone; and/or,
- (d) Supplier's online ordering process.

2.8.1 Minimum Order

The Supplier shall not have any minimum purchase value or volume requirements.

2.8.2 Order Acknowledgement

The Supplier shall acknowledge the receipt of a Service order by Customer immediately or within one (1) Business Day. The Supplier will include in this acknowledgement, any Service order that cannot be completed within the requested lead time.

The Customer, at its sole discretion may:

- (a) Cancel some or the entire Service order; and,
- (b) Agree to an alternative lead time based on anticipated Service order.

2.8.3 Supplier Agreement Survival and Extension of Contract

The term of any Order issued or executed prior to the end of the Term of the Contract may continue beyond the Term of the Contract for the term specified in the particular Order. For certainty, if the term of any Order continues beyond the Term of the Contract, the CSA under which the Order was ordered shall be deemed to extend beyond the Term of the Contract but only up to the expiration or termination of the term of such Order. The provisions of the Contract which directly relate to such Order shall survive the expiry of the Term of the Contract for the purposes of the Supplier fulfilling any obligations under any such Orders but only up to the expiration or termination of the term of such Order. Any provision of the Contract that survives the expiry or termination of the Contract shall continue to apply and survive the expiry or termination of each Order.

Notwithstanding the foregoing, the Supplier shall ensure that no Order is issued or executed after the date of the expiration of the Term, and for any Order which is issued or executed prior to the expiration of the Term but continues beyond the expiration of the Term in accordance with the foregoing paragraph, the Supplier shall ensure such Order is not further renewed and/or extended for any additional amount of time beyond that which is set out in the original Order.

2.9 Invoicing

Flexibility in invoicing processes is required. The Customer and Supplier can mutually agree to invoicing details when executing a CSA.

The invoices, in either paper or electronic format, as detailed in the Customer's CSA shall be itemized and contain, at a minimum, the following information:

- (a) Customer name and location;

- (b) Customer purchase order number (if applicable) and order date;
- (c) Description of Services provided;
- (d) Quantities (i.e. minutes);
- (e) Rates; and,
- (f) HST and total cost.

2.9.1 Payment Terms and Methods

The Customer's common payment terms are net thirty (30) days.

The Supplier shall accept payment from Customers by cheque, Purchasing Card, Visa Payables Automation or Electronic Funds Transfer ("EFT") at no additional cost to the Customer.

Different payment terms may be mutually agreed upon between the Customer and the Supplier when executing a CSA.

Note – Customer's payment terms will not be in effect until the Supplier provides an accurate invoice.

2.9.2 Electronic Fund Transfer

The Supplier shall provide the Customer with the necessary banking information to enable EFT, at no additional cost to the Customer, for any related invoice payments including, but not limited to:

- (a) A void cheque;
- (b) Financial institution's name;
- (c) Financial institution's transit number;
- (d) Financial institution's account number; and,
- (e) Email address for notification purposes.

2.10 Disaster Recovery and Business Continuity

The Supplier shall possess and provide to OECM and/or Customers upon request, information about disaster recovery and business continuity programs including processes, policies, and procedures related to safety standards, preparing for recovery or continuation of Service availability critical to Customers.

2.11 Licences, Permits, Right to Use and Approvals

The Supplier shall obtain all licences, permits, right to use and approvals required in connection with the supply of the Services and provide them at Customer and/or OECM request. The Supplier shall be responsible for all costs associated with obtaining the necessary licenses, permits, usage rights, and approvals, and shall bear all expenses related to these requirements.

Where a Supplier is required by Applicable Law to hold or obtain any such licence, permit, right to use and approval to carry on an activity contemplated in its Proposal or in the Master Agreement, neither acceptance of the Proposal nor execution of the Master Agreement by OECM shall be considered an approval by OECM for the Supplier to carry on such activity without the requisite licence, right to use or approval.

2.12 Environmental, Social, and Governance

The Supplier shall possess and provide information, if requested by OECM or the Customer, related to its robust Environmental, Social and Governance ("ESG") business framework.

The Supplier shall collaborate and support the Customer to align with their ESG framework as it relates to currently available ESG processes, technologies and/or sustainable initiatives.

Wherever practical and without compromising quality, Suppliers are to promote:

- (a) Environmental design principles as required by the Customer (e.g., environmental sustainability, data security and privacy);
- (b) Sustainable social design principles as required by the Customer (e.g., social equity and equality; diversity, inclusive, accessibility, economic, and cultural impacts that achieve overarching Customer goals that helps shape healthy, diverse and inclusive environments); and,
- (c) Governance practices to enhance positive impact to the Customer (e.g., corporate oversight, risk management, staff retention and management, and leadership).

The Supplier should keep OECM and Customers informed about social procurement processes.

Throughout the Term of the Master Agreement, OECM and/or the Customer may consult with the Supplier to assess ESG commitments.

2.13 Financial Administration Act Section 28

In accordance with the requirements of the *Financial Administration Act* (“FAA”), notwithstanding anything else in the CSA, or in any other agreement between the Customer and the Supplier executed to carry out the Services provided for herein, the remedies, recourse or rights of the Supplier shall be limited to the Customer and to the right, title and interest owned by the Customer in and to all of its real or personal property, whether now existing or hereinafter arising or acquired from time to time. The Supplier unconditionally and irrevocably waives and releases all other claims, remedies, recourse or rights against the Crown in right of Ontario in respect of the CSA, and agrees that it shall have no remedies, recourse or rights in respect of the CSA against the Crown in right of Ontario, any Ontario Ministry, Minister, agent, agency, servant, employee or representative of the Crown or any director, officer, servant, agent, employee or representative of a Crown agency or a corporation in which the Crown holds a majority of the shares or appoints a majority of the directors or members, other than against the Customer and its assets.

If the Supplier and the Customer agree that a CSA is exempt from the application of subsection 28(1) of the *Financial Administration Act* pursuant to Ontario Regulation 376/18: Section 28 Exemptions – Colleges, the Customer represents and warrants that the CSA (i) complies with all applicable policies of the Customer; (ii) complies with all applicable laws and Ontario government directives applicable to it; and, (iii) relates to activities of the Customer that are permitted under its objects and that are undertaken within Canada. The Supplier represents and warrants that the CSA complies with all Applicable Laws and Ontario government directives applicable to it.

2.14 Support to Customers

The Supplier shall provide effective support to Customers including, but not limited to:

- (a) Providing a responsive account executive (with applicable back-up) assigned to the Customer to support their needs by providing day-to-day and ongoing administrative support, and operational support;
- (b) Managing issue resolution in a timely manner;
- (c) Complying with agreed upon escalation processes to resolve outstanding issues;
- (d) Responding to Customer's inquiries (e.g. to day-to-day activities) within one (1) Business Day;
- (e) Ensuring minimal disruption to the Customer;
- (f) Providing easy access to the Supplier (e.g. online, toll free telephone number, email, voicemail, chat or fax);
- (g) Providing AODA and WCAG training/demonstrations, knowledge transfer, and no-cost educational events (e.g. webinars), if available;
- (h) Establishing an ongoing communications program with the Customer;
- (i) Adhering to the Customer's confidentiality and privacy policies (e.g. related to student's private information);
- (j) Providing written notice to Customers on any scheduled shut down that would impact Services (e.g. website maintenance);

- (k) Provide Customer reporting;
- (l) Attending meetings with Customers, as requested; and,
- (m) Additional Service specific requirements.

2.15 Rates

The proposed Service Rates shall be firm Rates per Category for Customers for the first two (2) years of the Master Agreement and shall be:

- (a) Maximum Rates and minimum percentage discount off of maximum Rates in Canadian funds and shall include all applicable costs, including, but not limited to overhead, materials, fuel, fuel surcharge, duties, tariffs, travel and carriage, delivery, office support, profit, permits, licences, labour, insurance, and Workplace Safety Insurance Board costs and all other overhead, office support, profit, licenses including any fees or other charges required by law; and,
- (b) Exclusive of the HST, or other similar taxes.

The Customer may at any time during the term negotiate pricing with the Supplier based on the Customer's Service needs. However, the Rates for Ontario Customers, shall not exceed the Master Agreement Rates.

Rates for Customers outside of Ontario will be negotiated and mutually agreed upon by the Customer and Supplier.

2.15.1 Incentive to Customers

Where feasible, the Supplier should offer incentives to Customers to promote additional cost savings resulting from better operational efficiencies that may include, but not limited to:

- (a) Early payment discount for Customers;
- (b) Higher volumes; and,
- (c) Overall growth.

In consultation with OECM, the Customer may negotiate specific details related to one (1) or more financial incentives.

The financial incentives the Supplier and Customer agree to shall be incorporated into the CSA and reviewed and adjusted (e.g., annually) as required and reported to OECM as part of the sales reporting.

The financial incentive to Customers can be reviewed and adjusted annually as required.

2.15.2 OECM Cost Recovery Fee

As a not-for-profit/non-share capital corporation, OECM recovers its operating costs from its agreements through a Cost Recovery Fee ("CRF"). CRFs from the resulting Master Agreement from this RFP and other OECM agreements are structured to support OECM's financial model, while providing savings to Customers.

The Supplier shall pay to OECM a maximum CRF of two-point nine five percent (2.95%) on all Services invoiced by the Supplier to the Customers throughout the Term.

CRF will be calculated as follows:

<u>EXAMPLE OF HOW CRF WILL BE CALCULATED WITH A CRF = 2.95%</u>				
Sales per Quarter	Calculation	CRF	HST	Total CRF Payment to OECM
If Supplier has \$100,000 total sales in first quarter	$\$100,000 \times 2.95\% \text{ CRF}$	\$2,950.00	383.50	\$3,333.50
If Supplier has \$200,000 total sales in second quarter	$\$200,000 \times 2.95\% \text{ CRF}$	\$5,900.00	\$767.00	\$6,667.00
If Supplier has \$50,000 total sales in third quarter	$\$50,000 \times 2.95\% \text{ CRF}$	\$1,475.00	\$191.75	\$1,666.75
If Supplier has \$50,000 total sales in fourth quarter	$\$50,000 \times 2.95\% \text{ CRF}$	\$1,475.00	\$191.75	\$1,666.75
Total CRF Payment to OECM for <u>first year of the Master Agreement</u>:				\$13,334.00

The CRF and applicable HST shall be paid to OECM quarterly, via EFT, by May 15, August 15, November 15 and February 15 throughout the Term as follows:

Calendar Quarter	Months	CRF Payment Due Date
1st Quarter	January, February, March	May 15
2nd Quarter	April, May, June	August 15
3rd Quarter	July, August, September	November 15
4th Quarter	October, November, December	February 15

The CRF will be reviewed (e.g., annually) and may, at OECM's sole discretion, be adjusted downwards for remaining Term.

The Supplier shall be responsible for paying interest, as specified in Article 4.09 of the Master Agreement, for late CRF payments.

Upon termination or expiry of the Master Agreement, the Supplier will submit all outstanding CRF payments within thirty (30) days of the Master Agreement termination or expiry date.

2.15.3 Transition Support

The Supplier should, at no additional cost, provide Customers transition support (e.g., setting up a Supplier's account from the Customer's current agreement/purchasing arrangement) with minimal service disruption.

2.16 Supplier Management Support to OECM

OECM will oversee the Master Agreement, and the Supplier shall provide appropriate Master Agreement management support including, but not limited to:

- Assigning to OECM a Supplier Account Executive and team responsible for supporting and overseeing all aspects of the Master Agreement;
- Working and acting in an ethical manner demonstrating integrity, professionalism, accountability, transparency and continuous improvement;

- (c) Promoting the Master Agreement within the Customer community;
- (d) Maintaining OECM's and Customer's confidentiality by not disclosing Confidential Information without the prior written consent of OECM and/or the Customer, as the case may be, as further described in Appendix A – Form of Master Agreement;
- (e) Attending business review meetings with OECM to review such information as:
 - i. CSAs and upcoming opportunities; and,
 - ii. Review and monitor performance management compliance;
- (f) Complying with Appendix E – OECM's Supplier Code of Conduct requirements as described on the OECM website at <https://oecm.ca/suppliers/#code-of-conduct>;
- (g) Managing issue resolution in a timely manner;
- (h) Complying with agreed upon escalation processes to resolve outstanding issues;
- (i) Timely submission of reports as described in Appendix C – Supplier Reporting Requirements; and,
- (j) Complying with Master Agreement close out processes (e.g., ensuring all Master Agreement obligations have been fulfilled, such as submission of final reporting and CRF payments to OECM).

2.16.1 Master Agreement Award and Launch

The Supplier will meet with OECM to discuss an effective launch strategy, and shall provide:

- (a) Supplier's profile and logo;
- (b) Supplier's contact information;
- (c) Customer engagement strategy;
- (d) Access to knowledge sharing materials (e.g., webinars);
- (e) Marketing materials; and,
- (f) Other relevant materials.

2.16.2 Promoting OECM Master Agreements

To support Customers, OECM and the Supplier will work together to encourage the use of the Master Agreement resulting from this RFP.

The Supplier will actively promote the Master Agreement to Customers which may include, but not be limited to:

- (a) Conducting sales and marketing activities directly to onboard Customers;
- (b) Executing CSAs with interested Customers;
- (c) Providing excellent and responsive Customer support;
- (d) Gathering and maintaining Customer and market intelligence, including contact information;
- (e) Identifying Customer savings; and,
- (f) Identifying improvement opportunities (e.g., new Services),

OECM will promote the use of the Master Agreement with Customers which may include, but not be limited to:

- (a) Using online communication tools to inform and educate;
- (b) Holding information sessions and webinars, as required;

- (c) Attending, where appropriate, Customer and Supplier events;
- (d) Facilitating CSA execution, where appropriate;
- (e) Facilitating Second Stage requests, as required;
- (f) Providing effective business relationship management;
- (g) Managing and monitoring Supplier performance;
- (h) Facilitating issue resolution; and,
- (i) Marketing Supplier promotions.

2.16.3 Supplier Performance Management Scorecard

To ensure Master Agreement requirements are met, the Supplier's performance will be measured and tracked by OECM as described in Appendix D – Supplier Performance Management Scorecard.

2.16.4 Rate Refresh

OECM's goal is to keep Rates as low as possible for Customers. However, the Supplier may request a Rate refresh on the second anniversary date (e.g., April 2027) of the Master Agreement and every anniversary thereafter.

The Supplier shall provide a written notice with supporting documentation to OECM at one-hundred-and-twenty (120) days prior to the Master Agreements' anniversary date annually if requesting a Rate refresh.

As part of any review OECM will consider Rate adjustments that reflect changes in operation, adjustments due to new or changed municipal, provincial, or federal regulations, by-laws, and fluctuations in foreign exchange rates as published by the Bank of Canada, tariffs, or ordinances. Any Rate refresh request from a Supplier must be accompanied by supporting documentation (e.g., detailed calculations and individual Customer impact analysis) to support any Rate adjustment. OECM may use a third-party index (e.g., Consumer Price Index) in its Rates review. OECM will not consider any fixed costs or overhead adjustments in its review.

Any requests from a Supplier to increase the Service Rates will not exceed the year-over-year increase in the Consumer Price Index, as provided by Statistics Canada, at the time notice is given." More details can be found here: <https://www150.statcan.gc.ca/n1/daily-quotidien/180223/dq180223a-eng.htm>.

Volumes and Supplier performance (i.e., Supplier Performance Management Scorecard and/or Supplier Recognition Program evaluation results) will be considered when contemplating a Rate refresh.

If a proposed Rate refresh was agreed upon between OECM and the Supplier, the new Rates would only be applicable to Services ordered after the effective date of the new Rates. The effective date of the Rate change must allow Customers a minimum of thirty (30) days' prior notice from OECM. If, however, a proposed Rate increase is not accepted by OECM the Master Agreement may be terminated within one-hundred and twenty (120) days unless the Supplier agrees to withdraw its request for a Rate increase and continue the provision of the Services at the existing agreed upon Rates.

If a Rate refresh is not requested, the existing Rates shall remain in effect until the next Rate refresh opportunity.

Decreases to the Rates shall be accepted at any time during the Term.

Based on above, the Master Agreement will be amended, if needed.

2.16.5 Process to Add Other Services

During the Term, the Supplier may request to add other Services related to the Categories already awarded (e.g., newly available Services as a result of rapidly changing technology) to the Master

Agreement throughout the Term to align with Customer needs. OECM will review and assess the request and may accept or reject based on Services in the current Master Agreement and Customer needs.

The Supplier shall provide written notice to OECM of at least one hundred and twenty (120) days if requesting a Service refresh.

Additional Service requests from the Supplier must be accompanied by appropriate documentation (e.g., Service description, rationale for the addition, proposed Rates).

Volumes and Supplier's performance (i.e., as described in Appendix D – Supplier Performance Management Scorecard and/or Supplier Recognition Program evaluation results) will be considered when contemplating adding Services. In the event the Supplier's performance is poor and/or unacceptable, OECM may not agree to the Supplier's Service refresh request. All other Services shall remain unchanged.

Rates, for newly added Service will be negotiated at the time of the request.

Based on above, the Master Agreement will be amended, if needed.

2.16.6 Savings Calculation

OECM tracks, validates, and reports on savings on all of its agreements. Collaborative procurement processes enables several types of savings including direct and indirect savings (e.g., process improvement, lead time reduction, standardization, economies of scale, cost avoidance).

The Supplier shall report Customer savings Master Agreement Rate versus Rate invoiced to Customer, additional Services at no cost and/or other savings.

2.16.7 OECM's Supplier Recognition Program

OECM's suppliers play a fundamental role in ensuring Customers' needs are met with consistent and exceptional service. As part of OECM's efforts to provide greater value to Customers and support their Supplier selection process across OECM agreements, OECM has a Supplier Recognition Program ("SRP"). Through the SRP, OECM objectively assesses supplier's performance using an open, fair and transparent framework to recognize and reward top-performing Suppliers on an annual basis.

Further details will be provided to the Suppliers.

2.16.8 Reporting to OECM

The Supplier shall be responsible for providing reports as further described in Appendix C – Supplier Reporting Requirements.

Report details will be discussed and established at the Master Agreement finalization stage between OECM and the Preferred Proponent. Other reports may be added, throughout the Term, if mutually agreed upon between OECM and the Supplier, and/or the Customer and Supplier.

[End of Part 2]

PART 3 – EVALUATION OF PROPOSALS

3.1 Stages of Proposal Evaluation

OECM will evaluate, score and award each Category separately, and will conduct the evaluation of Proposals in the following stages:

Stage	Description	Refer to RFP Section	Maximum Points per Category	Minimum Threshold Requirement
Stage I	Qualification Response	3.2	Pass/Fail	Pass
Stage II	Technical Response	3.3	100	60%
Stage III	Commercial Response	3.4	100	Not Applicable
Stage IV	Cumulative Response	3.5	200	Not Applicable
Stage V	Tie Break Process	3.6	Not Applicable	Not Applicable
Stage VI	Negotiations	3.7	Not Applicable	Not Applicable
Stage VII	Master Agreement Finalization	3.8	Not Applicable	Not Applicable

3.2 Stage I – Review of Qualification Responses (Pass/Fail)

Stage I will consist of a review to determine which Proposals comply with all qualification requirements.

The Proponent **must** complete the following forms in (“Ontario’s Tenders Portal (“OTP”) to qualify and proceed to the next stage of evaluation.

Title	OTP Envelope
Qualification Response	Qualification
Appendix B – Commercial Response (in Microsoft Excel format only)	Commercial

If the Proponent fails to insert information contained in the above forms, OECM may provide an opportunity to rectify such deficiency within a period of two (2) Business Days from notification thereof. Only Proponents satisfying the identified deficiencies within allotted time will proceed to Stage II.

Other than inserting the information requested on the qualification submission forms set out above, the Proponent may not make any changes to any of the forms. Any Proposal containing any such changes, whether on the face of the form or elsewhere in the Proposal, may be disqualified.

3.3 Stage II – Technical Response

Stage II will consist of an evaluation and scoring of the Technical Response per Category of each Eligible Proposal.

The Technical Response includes a series of questions the Proponent is required to respond to in order to demonstrate the Proponent’s ability to fulfill the RFP Deliverables. There are Technical Response questions applicable to:

- (a) All Categories; and,
- (b) Specific Category.

If a Proponent is submitting a Proposal for more than one (1) Category, the Technical Response questions applicable to all Categories should be answered only once.

Technical Response questions applicable to a specific Category, should only be answered for the specific Categories being proposed.

For example, if a Proponent is submitting a Proposal for Category B1 and Category C1, the Proponent should answer Technical Response questions applicable to all Categories only once, along with Technical Response questions specific to Category B1 and Category C1.

Only Proposals that meet or exceed the minimum thresholds will receive a pass in this stage and proceed to Stage III of the evaluation process. While the overall threshold for the Technical Response is sixty percent (60%) or sixty points (60), the Technical Response section 1 is the only individual section that has a minimum threshold of forty five (45) points.

Point allocations for the Technical Response sections per Category are as follows:

Technical Response Sections	Available Points per Category	Minimum Threshold
Applicable to All Categories		
1. Service Deliverables	75	45
2. Customer Support and Account Management	15	N/A
Applicable to Each Specific Category		
3. Category Specific Services Deliverables	10	N/A
TOTAL POINTS:		100
		60

Detailed sub-point allocations and minimum threshold requirements are set out in the Technical Response on OTP.

In the case that contradictory information or information that contains conditional statements is provided, OECM will, in its sole and absolute discretion, determine whether the response complies with the requirements, and may seek clarification from the Proponent.

A Proposal that does not respond to a particular question (e.g. is left blank) or contains a response of N/A or not applicable will receive a zero (0) score.

Only information contained within the Technical Response will be evaluated in Stage II.

Stage II resulting scores, per Proposal and Category, will be used when determining the cumulative score as described below in Section 3.5.

3.4 Stage III – Commercial Response per Category

The Proponent **must** complete and upload Appendix C – Commercial Response, for the specific Category being proposed, into the OTP Commercial Envelope for this stage of evaluation.

Upon the completion of Stage II of the evaluation, the Commercial Response will be opened for all Eligible Proposals.

Point allocations for the Commercial Response sections per Category, are as follows:

Commercial Response Sections	Available Points per Category					
	A1	A2	B1	B2	C1	C2
1. Service Rates	60		60		70	
2. Volume Commitment Discounts	30		30		30	
3. Additional Services	10		10		N/A	
TOTAL POINTS:			100			

Detailed sub-point allocations per Category are set out in the Appendix C – Commercial Response on OTP.

Each Rate, for all Categories, will be evaluated based on the relationship of the Proponent's proposed Rate in comparison to other Proponent's proposed Rates on Appendix C - Commercial Response using a relative formula.

Maximum Rate Evaluation per Category

The table below is an example of how points will be calculated for maximum Rates:

EXAMPLE OF COMMERCIAL RESPONSE EVALUATION FOR CATEGORY A1 – ENGLISH CAPTIONING AND TRANSCRIPTION SERVICES 1.0 SERVICE RATES, PART I – CAPTIONING SERVICES, 1.4 MAXIMUM RATE (\$) PER MINUTE FOR STANDARD SERVICE LEAD TIME		
Proposed Maximum Rates	Calculation	Resulting Points
If Proponent 1 proposes the lowest Rate of \$10.00, it would receive 100% of the points allocated.	$\$10 \div \$10 \times 10 \text{ Points}$	10
If Proponent 2 proposes the second lowest Rate of \$20.00, it would receive 50% of the points allocated.	$\$10 \div \$20 \times 10 \text{ Points}$	5
If Proponent 3 proposes the third lowest Rate of \$40.00, it would receive 25% of the points allocated.	$\$10 \div \$40 \times 10 \text{ Points}$	2.5

Where \$0.00 is entered in any Rate cell, it is deemed to mean that the particular Service **will be provided to Customers at no additional cost**. Therefore, when evaluating and scoring the Rates, a Proposal specifying \$0.00 in a Rate cell in the Commercial Response shall receive the maximum point allocation for that particular Product/Service. The remaining Proposals will be evaluated using a relative formula based on the remaining percentage of available points regardless of the Proposals of \$0.00 Rate as per below example.

EXAMPLE – WHERE FIVE (5) PROPOSALS WERE RECEIVED WITH \$0.00 RATE PROPOSED		
Number of Proposals with a proposed Rate of \$0.00 for a particular Service	The number of remaining Proposals	The percentage (%) of the sub-point allocation for the remaining Proposals will be:
1	4	80%
2	3	60%
3	2	40%
4	1	20%

Where N/A or not applicable is entered in a Commercial Response cell or a Commercial Response cell is left blank for the Service, it is deemed to mean that the particular Service **will not be provided** to Customers. Therefore, when evaluating and scoring the Rates, a Proposal specifying N/A or not applicable, or left blank in Appendix C – Commercial Response will receive a zero (0) point allocation for that particular pricing section.

Minimum Percentage Discount Off Rates Evaluation per Category

The table below is an example how points will be calculated for proposed minimum percentage discount off maximum Rate:

**EXAMPLE OF COMMERCIAL RESPONSE EVALUATION FOR
CATEGORY A1 – ENGLISH CAPTIONING AND TRANSCRIPTION SERVICES
2.0 VOLUME COMMITMENT DISCOUNT, 2.1 MINIMUM PERCENTAGE (%) DISCOUNT OFF
OF MAXIMUM RATE FOR VOLUME COMMITMENT OF 30 TO 100 HOURS**

Proposed Minimum Percentage Discount Off of Maximum Rate	Calculation	Resulting Points
If Proponent 1 proposes the highest percentage discount of 50%, that Proponent will receive 100% of the points allocated.	$50\% \div 50\% \times 10 \text{ Points}$	10
If Proponent 2 proposes the second highest percentage discount of 25%, that Proponents will receive 50 % of the points allocated.	$25\% \div 50\% \times 10 \text{ Points}$	5
If Proponent 3 proposes the third highest percentage discount of 12.5 %, that Proponent will receive 25 % of the points allocated.	$12.5\% \div 50\% \times 10 \text{ Points}$	2.5

Where a percentage discount 100% is entered in any Rate cell, it is deemed to mean that the particular Service **will be provided to Customers at no additional cost**. Therefore, when evaluating and scoring the Rates, a Proposal specifying percentage discount 100% in a Rate cell in the Commercial Response shall receive the maximum point allocation for that particular Product/Service. The remaining Proposals will be evaluated using a relative formula based on the remaining percentage of available points regardless of the Proposals of 100% Rate as per below example.

EXAMPLE – WHERE FIVE (5) PROPOSALS WERE RECEIVED WITH 100% DISCOUNT PROPOSED		
Number of Proposals with a proposed Rate of 100% for a particular Service	The number of remaining Proposals	The percentage (%) of the sub-point allocation for the remaining Proposals will be:
1	4	80%
2	3	60%
3	2	40%
4	1	20%

Where N/A or not applicable is entered in a Commercial Response cell or a Commercial Response cell is left blank for the Service, it is deemed to mean that the particular Product and/or Service **will not be provided** to Customers. Therefore, when evaluating and scoring the Rates, a Proposal specifying N/A or not applicable, or left blank in Appendix C – Commercial Response will receive a zero (0) point allocation for that particular Service.

Stage III resulting scores per Proposal by Category will be used when determining the cumulative score as described below in Section 3.5.

3.5 Stage IV – Cumulative Score

At this stage, the scores from Stages II and III will be combined for each Proposal and Category.

Subject to the express and implied rights of OECM; the Proponents with the highest scoring Proposals per Category or all Proponents per Category may become the Preferred Proponents, and be invited to negotiations, as further described below.

Reference checks will be performed to confirm or clarify information provided within the Proposal. The reference checks themselves will not be scored, however, OECM may adjust Technical Response scores related to the information obtained during the reference check.

3.6 Stage V – Tie Break Process

At this stage, where two (2) or more of the highest scoring Proposals achieve a tie score on completion of the Stage IV for a particular Category, OECM may invite all Proponents to negotiations or break the tie by selecting the Proposal with the highest score in Stage III – Commercial Response for that particular Category.

3.7 Stage VI – Negotiations

Concurrent negotiations, with the Preferred Proponents, will be based on the RFP Deliverables, and the Proposals, understanding that OECM is seeking the best overall solution and value for money for Customers.

The negotiations may include:

- (a) Services;
- (b) Master Agreement management (e.g. performance, KPIs, penalties, reporting);
- (c) Master Agreement terms and conditions;
- (d) Additional references, if required;
- (e) Rates; and,
- (f) Best and Final Offer.

OECM may also request supplementary information from a Preferred Proponent to verify, clarify or supplement the information provided in its Proposal or confirm the conclusions reached in the evaluation and may include requests by OECM for improved Rates.

OECM intends to complete negotiations within fifteen (15) calendar days after notification. If, for any reason, OECM and a Preferred Proponent fail to reach an agreement within the aforementioned timeframe, OECM may:

- (a) Request the Preferred Proponent to submit its Best and Final Offer;
- (b) Terminate negotiations with that particular Preferred Proponent;
- (c) Extend the negotiation timeline; or,
- (d) Publish one (1) or some of the Suppliers, who have executed Master Agreements, within our promotional marketing launch.

Other Master Agreements, if successfully negotiated with other Preferred Proponents would be added to OECM's website at a later date.

Upon successful negotiations, the Preferred Proponent will be invited to execute a Master Agreement.

3.8 Stage VII – Master Agreement Finalization

The Preferred Proponent will be given five (5) Business Days to execute the Master Agreement, unless otherwise specified by OECM. Once the Master Agreement has been executed, Customers may execute a CSA.

OECM shall at all times be entitled to exercise its rights under Section 4.6.

[End of Part 3]

PART 4 – TERMS AND CONDITIONS OF THE RFP PROCESS

4.1 General Information and Instructions

Procurement Process Non-Binding

This RFP process is non-binding, and it does not intend to create, and shall not create, a formal legally binding procurement process, and shall not give rise to the legal rights or duties applied to a formal legally binding procurement process. This procurement process shall instead be governed by the law applicable to direct commercial negotiations. For greater certainty and without limitation:

- (a) This RFP shall not give rise to any contract A – based tendering law duties or any other legal obligations arising out of any process contract or collateral contract; and,
- (b) Neither the Proponent nor OECM shall have the right to make any breach of contract, tort or other claims against the other with respect to the award of a Master Agreement, failure to award a Master Agreement or failure to honour a response to this RFP.

Non-Binding Rates

While the Proposal Rates will be non-binding prior to the execution of a written Master Agreement, such information will be assessed during the evaluation and ranking of the Proposals, as further described in Part 3 – Evaluation of Proposals. Any inaccurate, misleading, or incomplete information, including withdrawn or altered Rates, could adversely impact any such evaluation, ranking, or Master Agreement award.

4.1.1 RFP Timetable

The following is a summary of the key dates for this RFP process:

Request for Proposals Timetable	
Event	Time/Date
OECM's Issue Date of Request for Proposals:	November 5, 2024
Proponent's Information and Ontario Tenders Portal Demonstration Session:	2:00 pm on November 12, 2024
Proponent's Deadline to Submit Questions:	5:00 pm on November 15, 2024
OECM's Deadline for Issuing Answers:	November 20, 2024
Proponent's Deadline to Submit Questions Related to Addenda & Question and Answer Documents:	5:00 pm on November 25, 2024
OECM's Deadline for Issuing Final Documents:	November 29, 2024
Proponent's Intent to Submit a Proposal:	December 3, 2024
Closing Date:	2:00:00 pm on December 9, 2024
Anticipated Master Agreement Start Date:	April 2025
All times specified in this timetable are local times in Toronto, Ontario, Canada	

Note – all times specified in this RFP timetable are local times in Toronto, Ontario, Canada.

OECM may amend any timeline, including the Closing Date, without liability, cost, or penalty, and within its sole discretion.

In the event of any change in the Closing Date, the Proponent may thereafter be subject to the extended timeline.

4.1.2 Proponent's Information and OTP Demonstration Session

The Proponent should participate in the Proponent's Information and OTP Demonstration Session, which will take place at the time set out in Section 4.1.1.

Prior to the Proponent's Information and OTP Demonstration Session, OECM will send a **Message** via OTP with the teleconference and webinar information to the Proponents who expressed interest on OTP.

The Proponent's Information and OTP Demonstration Session is an opportunity for the Proponent to enhance its understanding of the RFP process and to learn how to use OTP to submit its Proposal.

Any changes to the Proponent's Information and OTP Demonstration Session meeting date will be issued in an addendum on OTP.

Information provided during this session will be posted on OTP.

In the event of a conflict or inconsistency between the Proponent's Information and OTP Demonstration Session and the RFP, the RFP shall prevail.

The Proponent can contact OTP technical support directly for further assistance, using the contact details set out in Section 4.3.1.

4.1.3 Proponent to Follow Instructions

The Proponent should structure its Proposal in accordance with the instructions in this RFP. Where information is requested in this RFP, any response made in the Proposal should reference the applicable section numbers of this RFP where that request was made.

4.1.4 OECM's Information in RFP Only an Estimate

OECM makes no representation, warranty or guarantee as to the accuracy of the information contained in this RFP or issued by way of addenda. Any data contained in this RFP or provided by way of addenda are estimates only and are for the sole purpose of indicating to Proponents the general size of the work.

It is the Proponent's responsibility to avail itself of all the necessary information to prepare a Proposal in response to this RFP.

4.1.5 Proponent's Costs

The Proponent will bear all costs and expenses incurred relating to any aspect of its participation in this RFP process, including all costs and expenses relating to the Proponent's participation in:

- (a) The preparation, presentation and submission of its Proposal;
- (b) The Proponent's attendance at any meeting in relation to the RFP process, including any presentation and/or interview;
- (c) The conduct of any due diligence on its part, including any information gathering activity;
- (d) The preparation of the Proponent's own questions; and,
- (e) Any discussion and/or finalization, if any, in respect of the Form of Master Agreement.

4.2 Communication after RFP Issuance

4.2.1 Communication with OECM

All communications regarding any aspect of this RFP must be sent to OECM as a **Message** in OTP.

If the Proponent fails to comply with the requirement to direct all communications to OECM through OTP, it may be disqualified from this RFP process. Without limiting the generality of this provision, Proponents shall not communicate with or attempt to communicate with the following as it relates to this RFP:

- (a) Any employee or agent of OECM;
- (b) Any project advisor;
- (c) Any member of OECM's governing body (such as Board of Directors, or advisors);
- (d) Any employee, consultant or agent of OECM's Customers; and,
- (e) Any elected official of any level of government, including any advisor to any elected official.

4.2.2 Proponent to Review RFP

The Proponent shall promptly examine this RFP and all Appendices, including the Form of Master Agreement and:

- (a) Shall report any errors, omissions or ambiguities; and,
- (b) May direct questions or seek additional information on or before the Proponent's Deadline to Submit Questions to OECM.

All questions submitted by Proponents shall be deemed to be received once the **Message** has entered into OECM's OTP inbox.

In answering a Proponent's questions, OECM will set out the question, without identifying the Proponent that submitted the question and OECM may, in its sole discretion:

- (a) Edit the question for clarity;
- (b) Exclude questions that are either unclear or inappropriate; and,
- (c) Answer similar questions from various Proponents only once.

Where an answer results in any change to the RFP, such answer will be formally evidenced through the issue of a separate addendum for this purpose.

To ensure the Proponent clearly understand issued addenda, OECM allows Proponents to ask questions related to addenda, and question and answer documents. Refer to Section 4.1.1 for timelines.

OECM is under no obligation to provide additional information but may do so at its sole discretion.

It is the responsibility of the Proponent to seek clarification, by submitting questions to OECM through OTP, on any matter it considers to be unclear. OECM shall not be responsible for any misunderstanding on the part of the Proponent concerning this RFP or its process.

4.2.3 Proponent's Intent to Submit Proposal

The Proponent should inform OECM, via OTP **Message**, by the date specified in the RFP Timetable noted in Section 4.1.1 of the RFP, if it intends to submit a Proposal in response to this RFP.

4.2.4 Proponent to Notify

In the event the Proponent has any reason to believe that an error, omission, uncertainty or ambiguity, as set out in Section 4.2.2 exists, the Proponent must notify OECM through OTP prior to submitting a Proposal.

If appropriate, OECM will then clarify the matter for the benefit of all Proponents.

The Proponent shall not:

- (a) After submission of a Proposal, claim that there was any misunderstanding or that any of the circumstances set out in Section 4.2.2 were present with respect to the RFP; and,
- (b) Claim that OECM is responsible for any of the circumstances listed in Section 4.2.2 of this RFP.

4.2.5 All New Information to Proponents by way of Addenda

This RFP may only be amended by an addendum in accordance with this Section.

If OECM, for any reason, determines that it is necessary to provide additional information relating to this RFP, such information will be communicated to all Proponents by addenda on OTP. Each addendum shall form an integral part of this RFP.

Any amendment or supplement to this RFP made in any other manner will not be binding on OECM.

Such addenda may contain important information including significant changes to this RFP. The Proponent is responsible for obtaining all addenda issued by OECM.

The Proponent who intends to respond to this RFP is requested not to cancel the receipt of addenda or amendments option provided by OTP, since it must obtain all information and documents that are issued on OTP.

In the event that a Proponent chooses to cancel the receipt of addenda or amendments, its Proposal may be rejected.

4.3 Proposal Submission Requirements

4.3.1 General

The Proponent shall submit its Proposal through OTP at <https://ontariotenders.app.jaggaer.com/esop/nac-host/public/web/login.html>.

The Proponent should contact OTP technical support if it experiences technical difficulties or to seek support about the use of OTP via:

- (a) Email at etenderhelp_CA@jaggaer.com
- (b) By phone at 866-722-7390
- (c) Accessing website information at https://ontariotenders.app.jaggaer.com/esop/nac-host/public/attach/eTendering_responding_to_tender_guide.pdf

To be considered in the RFP process, a Proposal must be submitted and received **before** the Closing Date as set out in Section 4.1.1 and on OTP.

The Proponent is strongly encouraged to become familiar with the use of OTP well in advance of the Closing Date.

The Proponent will not be able to submit a Proposal after the Closing Date, as OTP will close the access to the RFP on the Closing Date.

A Proposal sent by, email, facsimile, mail and/or any other means other than stated in this RFP shall **not** be considered. Notwithstanding anything to the contrary contained in any applicable statute relating to electronic documents transactions, including the *Electronic Commerce Act, 2000*, S.O. 2000, c. 17, any notice, submission, statement, or other instrument provided in respect of the RFP may not be validly delivered by way of electronic communication, unless otherwise provided for in this RFP.

4.3.2 Proposal in English

All Proposal submissions are to be in English only. Any Proposal received by OECM that is not entirely in the English language may be disqualified.

4.3.3 Proposal Submission Requirements

The Proponent is solely responsible for submitting its Proposal on OTP prior to the Closing Date.

The Proposal should be submitted in accordance with the instructions set out on OTP and in this RFP as set out below.

Description	OTP Envelope	Complete within OTP	Complete and Upload to OTP
Qualification Response	Qualification	✓	
Technical Response	Technical	✓	
Appendix B – Commercial Response (in Microsoft Excel format only)	Commercial		✓

4.3.4 Other Proposal Considerations

In preparing its Proposal, the Proponent should adhere to the following:

- (a) Information contained in any embedded link will not be considered part of a Proposal, and will not be evaluated or scored;
- (b) Completely address, on a point-by-point basis, each Technical Response question in Technical Response. Technical Responses left blank and/or unanswered will receive a score of zero (0). Refer to Section 3.3;
- (c) Information attached as part of the Commercial Envelope in OTP will not be considered as part of the evaluation of Stage II - Technical Response. Refer to Section 3.3; and,
- (d) The Proposal should be complete in all respects. Proposal evaluation and scoring applies only to the information contained in the Proposal, or accepted clarifications as set out in Section 4.3.13 Clarification of Proposals.

4.3.5 Proposal Receipt by OECM

Every Proposal received will be date/time stamped by OTP.

A Proponent should allow sufficient time in the preparation of its Proposal to ensure its Proposal is received on or before the Closing Date.

4.3.6 Withdrawal of Proposal

A Proponent may withdraw its Proposal by deleting its submission on OTP **before** the Closing Date or at any time throughout the RFP process until the execution of a Master Agreement. To withdraw a Proposal after the Closing Date, the Proponent should send a **Message** to OECM through OTP.

4.3.7 Amendment of Proposal on OTP

A Proponent may amend its Proposal after submission through OTP, but only if the Proposal is amended and resubmitted before the Closing Date.

4.3.8 Completeness of Proposal

By submitting a Proposal, the Proponent confirms that all components required to use and/or manage the Services have been identified in its Proposal or will be provided to OECM or its Customers at no additional cost. Any requirement that may be identified by the Proponent after the Closing Date or subsequent to signing the Master Agreement shall be provided at the Proponent's expense.

4.3.9 Proposals Retained by OECM

All Proposals submitted by the Closing Date shall become the property of OECM and will not be returned to the Proponent.

4.3.10 Acceptance of RFP

By submitting a Proposal, a Proponent agrees to accept the terms and conditions contained in this RFP, and all representations, terms, and conditions contained in its Proposal.

4.3.11 Amendments to RFP

Subject to Section 4.1.1 and Section 4.2.4, OECM shall have the right to amend or supplement this RFP in writing prior to the Closing Date. No other statement, whether written or oral, shall amend this RFP. The Proponent is responsible to ensure it has received all addenda.

4.3.12 Proposals will not be Opened Publicly

The Proponent is advised that there will not be a public opening of this RFP. OECM will open Proposals at a time subsequent to the Closing Date.

4.3.13 Clarification of Proposals

OECM shall have the right at any time after the Closing Date to seek clarification from any Proponent in respect of the Proposal, without contacting any other Proponent.

OECM will exercise this right in a similar manner for all Proponents.

Any clarification sought shall not be an opportunity for the Proponent to either correct errors or to change its Proposal in any substantive manner. Subject to the qualification in this provision, any written information received by OECM from a Proponent in response to a request for clarification from OECM may be considered, if accepted, to form an integral part of the Proposal.

OECM shall not be obliged to seek clarification of any aspect of any Proposal.

4.3.14 Verification of Information

OECM shall have the right, in its sole discretion, to:

- (a) Verify any Proponent's statement or claim made in its Proposal or made subsequently in a clarification by whatever means OECM may deem appropriate, including contacting persons in addition to those offered as references, and to reject any Proponent statement or claim, if such statement or claim or its Proposal is patently unwarranted or is questionable, which may result in changes to the scores for the Proponent's Technical Response; and,
- (b) Access the Proponent's premises where any part of the work is to be carried out to confirm Proposal information, quality of processes, and to obtain assurances of viability, provided that, prior to providing such access, the Proponent and OECM shall have agreed on access terms including pre-notification, extent of access, security and confidentiality. OECM and the Proponent shall each bear its own costs in connection with access to each other's premises.

The Proponent shall co-operate in the verification of information and is deemed to consent to OECM verifying such information, including references.

4.3.15 Proposal Acceptance

The lowest price Proposal or any Proposal shall not necessarily be accepted. While price is an evaluation criterion, other evaluation criteria as set out in Part 3 will form a part of the evaluation process.

4.3.16 RFP Incorporated into Proposal

All provisions of this RFP are deemed to be accepted by each Proponent and incorporated into each Proposal.

4.3.17 Exclusivity of Contract

The Master Agreement, if any, with the Preferred Proponent will not be an exclusive agreement for the provision of the described Deliverables.

4.3.18 Substantial Compliance

OECM shall be required to reject Proposals, which are not substantially compliant with this RFP.

4.3.19 No Publicity or Promotion

No Proponent, including the Preferred Proponent, shall make any public announcement or distribute any literature regarding this RFP or otherwise promote itself in connection with this RFP or any arrangement entered into under this RFP without the prior written approval of OECM.

In the event that a Proponent, including the Preferred Proponent, makes a public statement either in the media or otherwise in breach of this requirement, in addition to any other legal remedy it may have in law, in equity or within the context of this RFP, OECM shall be entitled to take all reasonable steps as may be deemed necessary by OECM, including disclosing any information about a Proposal, to provide accurate information and/or to rectify any false impression which may have been created.

4.4 Negotiations, Timelines, Notification and Debriefing

4.4.1 Negotiations with Preferred Proponent

OECM reserves the right to accept or reject any Proposals in whole or in part; to waive irregularities and omissions, if doing so is in the best interests of OECM and its Customers.

The Preferred Proponent shall execute the Master Agreement in the form attached to this RFP with negotiated changes, if any, and satisfy any other applicable conditions of this RFP within twenty (20) days of invitation to enter into negotiations. This provision is solely to the benefit of OECM and may be waived by OECM at its sole discretion.

If the Preferred Proponent and OECM cannot execute the Master Agreement within the allotted twenty (20) days, OECM will, as described in Section 3.7 and 3.8, be at liberty to extend the timeline, request the Preferred Proponent to submit its Best and Final Offer, terminate discussions/negotiations with the Preferred Proponent, or publish one (1) or some of the Suppliers, who have executed Master Agreements within OECM's promotional marketing launch. Other Master Agreements, if successfully negotiated with other Preferred Proponents would be added to OECM's website at a later date.

4.4.2 Failure to Execute a Master Agreement

When the Preferred Proponent successfully reaches an agreement with OECM at the end of the negotiation process in accordance with the evaluation set out in this RFP, the Preferred Proponent will be allotted five (5) Business Days to execute the Master Agreement unless otherwise specified by OECM.

If the Preferred Proponent cannot execute the Master Agreement within the allotted timeframe, OECM may rescind the invitation to execute a Master Agreement or publish one (1) or some of the Suppliers, who have executed Master Agreements within OECM's promotional marketing launch. Other Master Agreements, if successfully negotiated with other Preferred Proponents would be added to OECM's website at a later date.

In accordance with the process rules in this Part 4 – Terms and Conditions of the RFP Process, there will be no legally binding relationship created with any Proponent prior to the execution of a written agreement.

4.4.3 Master Agreement

If a Master Agreement is subsequently negotiated and awarded to a Preferred Proponent as a result of this RFP process:

- (a) Any such Master Agreement will commence upon signature by the duly authorized representatives of OECM and the Preferred Proponent; and,
- (b) May include, but not be limited to, the general Master Agreement terms contained in Appendix A – Form of Master Agreement.

4.4.4 Notification to Other Proponents

Once the Master Agreement is executed, other Proponents will be notified directly in writing and shall be notified by public posting in the same manner that the RFP was originally posted of the outcome of the procurement process and the award of the contract.

4.4.5 Debriefing

Any Proponent may request a debriefing after receipt of a notification of award. All requests must be in writing to OECM and should be made within sixty (60) days of notification of award. The intent of the debriefing information session is to aid the Proponent in presenting a better proposal in subsequent procurement opportunities. Any debriefing provided is not for the purpose of providing an opportunity to challenge the procurement process.

4.4.6 Bid Dispute Resolution

In the event that the Proponent wishes to review the decision of OECM in respect of any material aspect of the RFP process, and subject to having attended a debriefing, the Proponent shall submit a protest in writing to OECM within ten (10) days from such a debriefing.

Any request that is not timely received will not be considered and the Proponent will be notified in writing.

A protest in writing should include the following:

- (a) A specific identification of the provision and/or procurement procedure that is alleged to have been breached;
- (b) A specific description of each act alleged to have breached the procurement process;
- (c) A precise statement of the relevant facts;
- (d) An identification of the issues to be resolved;
- (e) The Proponent's arguments and supporting documentation; and,
- (f) The Proponent's requested remedy.

For the purpose of a protest, OECM will review and address any protest in a timely and appropriate manner. OECM will engage an independent and impartial third party should the need arise.

4.5 Prohibited Communications, and Confidential Information

4.5.1 Confidential Information of OECM

All correspondence, documentation, and information of any kind provided to any Proponent in connection with or arising out of this RFP or the acceptance of any Proposal:

- (a) Remains the property of OECM and shall be removed from OECM's premises only with the prior written consent of OECM;
- (b) Must be treated as confidential and shall not be disclosed except with the prior written consent of OECM;
- (c) Must not be used for any purpose other than for replying to this RFP and for the fulfillment of any related subsequent agreement; and,
- (d) Must be returned to OECM upon request.

4.5.2 Confidential Information of the Proponent

Except as provided for otherwise in this RFP, or as may be required by Applicable Laws, OECM shall treat the Proposal and any information gathered in any related process as confidential, provided that such obligation shall not include any information that is or becomes generally available to the public other than as a result of disclosure by OECM.

During any part of this RFP process, OECM or any of its representatives or agents shall be under no obligation to execute a confidentiality agreement.

In the event that a Proponent refuses to participate in any required stage of the RFP because OECM has refused to execute any such confidentiality agreement, the Proponent shall receive no points for that particular stage of the evaluation process.

4.5.3 Proponent's Submission

All correspondence, documentation, and information provided in response to or because of this RFP may be reproduced for the purposes of evaluating the Proposal.

If a portion of a Proposal is to be held confidential, such provisions must be clearly identified in the Proposal.

4.5.4 Personal Information

Personal Information shall be treated as follows:

- (a) Submission of information – The Proponent should not submit as part of its Proposal any information related to the qualifications or experience of persons who will be assigned to provide Services unless specifically requested. OECM shall maintain the information for a period of seven (7) years from the time of collection. Should OECM request such information, OECM will treat this information in accordance with the provisions of this Section;
- (b) Use – Any personal information as defined in the *Personal Information Protection and Electronic Documents Act, S.C. 2005, c.5* that is requested from a Proponent by OECM shall only be used to select the qualified individuals to undertake the Services and to confirm that the work performed is consistent with these qualifications; and,
- (c) Consent – It is the responsibility of the Proponent to obtain the consent of such individuals prior to providing the information to OECM. OECM will consider that the appropriate consents have been obtained for the disclosure to and use by OECM of the requested information for the purposes described.

4.5.5 Non-Disclosure Agreement

OECM reserves the right to require any Proponent to enter into a non-disclosure agreement satisfactory to OECM.

4.5.6 Freedom of Information and Protection of Privacy Act

The *Freedom of Information and Protection of Privacy Act (Ontario)*, applies to information provided by the Proponent. A Proponent should identify any information in its Proposal, or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by OECM and its Customers. The confidentiality of such information will be maintained by OECM, except as otherwise required by law or by order of a court, tribunal, or the Ontario Privacy Commissioner.

By submitting a Proposal, including any Personal Information requested in this RFP, the Proponent agrees to the use of such information for the evaluation process, for any audit of this procurement process, and for contract management purposes.

4.5.7 Municipal Freedom of Information and Protection of Privacy Act

The the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56 applies to information provided by the Proponent. A Proponent should identify any information in its Proposal, or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by OECM and its Customers. The confidentiality of such information will be maintained by OECM, except as otherwise required by law or by order of a court, tribunal, or the Ontario Privacy Commissioner.

By submitting a Proposal, including any Personal Information requested in this RFP, the Proponent agrees to the use of such information for the evaluation process, for any audit of this procurement process, and for contract management purposes.

4.5.8 Personal Information Protection and Electronic Documents Act

The *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5 applies to information provided by the Proponent. A Proponent should identify any information in its Proposal, or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by OECM and its Customers. The confidentiality of such information will be maintained by OECM, except as otherwise required by law or by order of a court, tribunal, or the Ontario Privacy Commissioner.

By submitting a Proposal, including any Personal Information requested in this RFP, the Proponent agrees to the use of such information for the evaluation process, for any audit of this procurement process, and for contract management purposes.

4.5.9 Intellectual Property

The Proponent shall not use any intellectual property of OECM or Customers including, but not limited to, logos, registered trademarks, or trade names of OECM or Customers, at any time without the prior written approval of OECM and the respective Customer.

4.6 Reserved Rights and Governing Law of OECM

4.6.1 General

In addition to any other express rights or any other rights, which may be, implied in the circumstances, OECM reserves the right to:

- (a) Make public the names of any or all Proponents;
- (b) Request written clarification or the submission of supplementary written information from any Proponent and incorporate such clarification or supplementary written information, if accepted, into the Proposal, at OECM's discretion, provided that any clarification or submission of supplementary written information shall not be an opportunity for the Proponent to correct errors in its Proposal or to change or enhance the Proposal in any material manner;
- (c) Waive formalities and accept Proposals that substantially comply with the requirements of this RFP;
- (d) Verify with any Proponent or with a third party any information set out in a Proposal;

- (e) Check references other than those provided by Proponents;
- (f) With supporting evidence, disqualify any Proponent on grounds such as:
 - i. Bankruptcy or insolvency;
 - ii. False declarations;
 - iii. Significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior agreement or agreements;
 - iv. Final judgments in respect of serious crimes or other serious offence; or,
 - v. Professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the Proponent;
- (g) Disqualify any Proponent whose Proposal contains misrepresentations or any other inaccurate or misleading information;
- (h) Disqualify any Proponent whose Proposal is determined by OECM to be non-compliant with the requirements of this RFP;
- (i) Disqualify a Proposal based upon the past performance or on inappropriate conduct in a prior procurement process, or where the Proponent has or the principals of a Proponent have previously breached an agreement with OECM, or has otherwise failed to perform such agreement to the reasonable satisfaction of OECM (i.e., has not submitted required reporting and/or Cost Recovery Fees to OECM);
- (j) Disqualify any Proponent, who, in relation to this RFP or the evaluation and selection process, has engaged directly or indirectly in any form of political or other lobbying whatsoever to influence the selection of the Supplier.
- (k) Disqualify the Proponent who has been charged or convicted of an offence in respect of an agreement with OECM, or who has, in the opinion of OECM, engaged in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud, coercion or collusion, unethical conduct, including lobbying as described above or other forms of deceitfulness, or other inappropriate communications offering gifts to any employees, officers, agents, elected or appointed officials or other representatives of OECM, or where the Proponent reveals a Conflict of Interest or Unfair Advantage in its Proposal or a Conflict of Interest or evidence of any Unfair Advantage is brought to the attention of OECM;
- (l) Disqualify any Proposal of any Proponent who has breached any Applicable Laws or who has engaged in conduct prohibited by this RFP, including where there is any evidence that the Proponent or any of its employees or agents colluded with any other Proponent, its employees or agents in the preparation of the Proposal;
- (m) Make changes, including substantial changes, to this RFP provided that those changes are issued by way of addenda in the manner set out in this RFP;
- (n) Accept or reject a Proposal if only one (1) Proposal is submitted;
- (o) Reject a Subcontractor proposed by a Proponent within a Consortium;
- (p) Select any Proponent other than the Proponent whose Proposal reflects the lowest cost to OECM;
- (q) Cancel this RFP process at any stage and issue a new RFP for the same or similar requirements, including where:
 - i. OECM determines it would be in the best interest of OECM not to award a Master Agreement,
 - ii. the Proposal prices exceed the bid prices received by OECM for Services acquired of a similar nature and previously done work,
 - iii. the Proposal prices exceed the costs OECM or its Customers would incur by doing the work, or most of the work, with its own resources,

- iv. the Proposal prices exceed the funds available for the Services, or,
- v. the funding for the acquisition of the proposed Services has been revoked, modified, or has not been approved,

and where OECM cancels this RFP, OECM may do so without providing reasons, and OECM may thereafter issue a new request for proposals, request for qualifications, sole source, or do nothing;

- (r) Discuss with any Proponent different or additional terms to those contained in this RFP or in any Proposal;
- (s) Accept any Proposal in whole or in part;
- (t) If OECM receives a Proposal from a Proponent with Rates that are abnormally lower than the Rates in other Proposals, OECM may verify with the Proponent that the Proponent satisfies the conditions for participation and is capable of fulfilling the Master Agreement; or,
- (u) Reject any or all Proposals in its absolute discretion, including where a Proponent has launched legal proceedings against OECM and/or its Customers or is otherwise engaged in a dispute with OECM and/or its Customers;

and these reserved rights are in addition to any other express rights or any other rights which may be implied in the circumstances and OECM shall not be liable for any expenses, costs, losses or any direct or indirect damages incurred or suffered by any Proponent or any third party resulting from OECM exercising any of its express or implied rights under this RFP.

By submitting a Proposal, the Proponent authorizes the collection by OECM of the information set out under (d) and (e) in the manner contemplated in those subparagraphs.

4.6.2 Rights of OECM – Proponent

In the event that the Preferred Proponent fails or refuses to execute the Master Agreement within allotted time from being notified, OECM may, in its sole discretion:

- (a) Extend the period for concluding the Master Agreement, provided that if substantial progress towards executing the Master Agreement is not achieved within a reasonable period of time from such extension, OECM may, in its sole discretion, terminate the discussions;
- (b) Exclude the Preferred Proponent from further consideration and begin discussions with the next highest scoring Proponent without becoming obligated to offer to negotiate with all Proponents; or,
- (c) Exercise any other applicable right set out in this RFP including, but not limited to, cancelling the RFP and issuing a new RFP for the same or similar Services.

OECM may also cancel this RFP in the event the Preferred Proponent fails to obtain any of the permits, licences, and approvals required pursuant to this RFP.

4.6.3 No Liability

The Proponent agrees that:

- (a) Any action or proceeding relating to this RFP process shall be brought in any court of competent jurisdiction in the Province of Ontario and for that purpose the Proponent irrevocably and unconditionally attorns and submits to the jurisdiction of that Ontario court;
- (b) It irrevocably waives any right to and shall not oppose any Ontario action or proceeding relating to this RFP process on any jurisdictional basis; and,
- (c) It shall not oppose the enforcement against it, in any other jurisdiction, of any judgement or order duly obtained from an Ontario court as contemplated by this RFP.

The Proponent further agrees that if OECM commits a material breach of OECM's obligations pursuant to this RFP, OECM's liability to the Proponent, and the aggregate amount of damages

recoverable against OECM for any matter relating to or arising from that material breach, whether based upon an action or claim in contract, warranty, equity, negligence, intended conduct, or otherwise, including any action or claim arising from the acts or omissions, negligent or otherwise, of OECM, shall be no greater than the Proposal preparation costs that the Proponent seeking damages from OECM can demonstrate. In no event shall OECM be liable to the Proponent for any breach of OECM's obligations pursuant to this RFP, which does not constitute a material breach thereof. The Proponent acknowledges and agrees that the provisions of the *Broader Public Sector Accountability Act, 2010* shall apply notwithstanding anything contained herein.

4.6.4 Assignment

The Proponent shall not assign any of its rights or obligations hereunder during this RFP process without the prior written consent of OECM. Any act in derogation of the foregoing shall be null and void.

4.6.5 Entire RFP

This RFP and all Appendices form an integral part of this RFP.

4.6.6 Priority of Documents

In the event of any inconsistencies between the terms, conditions, and provisions of the main part of the RFP and the Appendices, the RFP shall prevail over the Appendices during this RFP process.

4.6.7 Disqualification for Misrepresentation

OECM may disqualify the Proponent or rescind a Master Agreement subsequently entered if the Proponent's Proposal contains misrepresentations or any other inaccurate, misleading or incomplete information.

4.6.8 References and Past Performance

The evaluation may include information provided by the Proponent's references and may also consider the Proponent's past performance with OECM and/or its Customers.

4.6.9 Cancellation

OECM may cancel or amend the RFP process without liability at any time.

4.6.10 Competition Act

Under Canadian law, a Proposal must be prepared without conspiracy, collusion, or fraud. For more information, refer to the Competition Bureau website at <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/home>, and in particular, part VI of the *Competition Act*, R.S.C. 1985, c. C-34.

4.6.11 Trade Agreements

The Proponent should note that procurements coming within the scope of either Chapter 5 of the Canadian Free Trade Agreement, Chapter 19 of the Comprehensive Economic and Trade Agreement ("CETA") or within the scope of the Trade and Cooperation Agreement between Quebec and Ontario are subject to such agreements, although the rights and obligations of the parties shall be governed by the specific terms of this RFP.

For more information, refer to the following:

- (a) Canadian Free Trade Agreement website at <https://www.cfta-alec.ca/>;
- (b) Trade and Cooperation Agreement between Quebec and Ontario at <https://www.cfta-alec.ca/agreement/trade-and-cooperation-agreement-between-quebec-and-ontario>; and,
- (c) Comprehensive Economic and Trade Agreement at <http://www.international.gc.ca/gac-amc/campaign-campagne/ceta-aecg/index.aspx?lang=eng>.

4.6.12 Governing Law

The terms and conditions in this Part 4:

- (a) Are included for greater certainty and are intended to be interpreted broadly and separately (with no particular provision intended to limit the scope of any other provision);
- (b) Are non-exhaustive (and shall not be construed as intending to limit the pre-existing rights of the parties to engage in pre-contractual discussions in accordance with the common law governing direct commercial negotiations); and,
- (c) Are to be governed by and construed in accordance with the laws of the province or territory within which the Customer is located and the federal laws of Canada applicable therein.

[End of Part 4]

APPENDIX A – FORM OF MASTER AGREEMENT

This Appendix is posted as a separate PDF document.

APPENDIX B – COMMERCIAL RESPONSE

The Proponent must complete this Appendix, posted as a separate Microsoft Excel document, and upload it into OTP.

The Proponent may not make any changes to any of the RFP forms, including Appendix B – Commercial Response. Any Proposal containing any such changes, whether on the face of the form or elsewhere in the Proposal, may be disqualified.

APPENDIX C – SUPPLIER REPORTING REQUIREMENTS

Once CSAs have been executed, the Supplier must provide the following reports to OECM for the Term. Reports shall be submitted via email in Microsoft Excel format according to the frequency set out below.

Supplier Reporting Requirements				
Sales Reporting	Frequency	Due Date		
Sales Reporting including, but not limited to: <ul style="list-style-type: none"> (a) Customer's name; (b) Invoice number and date; (c) Service provided (or Service Category provided); (d) Quantity invoiced; (e) Rate and total Rate; and, (f) Cost Recovery Fee. 	Monthly	8th Business Day of each Calendar month		
Performance Reporting	Frequency	Due Date		
<ul style="list-style-type: none"> (a) Key Performance Indicators ("KPIs") Report - As set out in Appendix D – Supplier Performance Management Scorecard. (b) Performance results specific to Customer's KPIs. 	Quarterly (calendar)	8th Business Day following each Calendar Quarter		
CSA Reporting	Due Date			
(a) Provide a copy of each fully executed CSA	Within thirty (30) days of CSA execution			
Other Reporting				
May include: <ul style="list-style-type: none"> (a) Sales Forecasting Reports; <ul style="list-style-type: none"> i. By November 15 – for the next calendar year; ii. By March 15 – for April to December, if the forecast in (a) above has changed; and, iii. By July 15 – for August to December, if the forecast in (b) above has changed. (b) Specific Customer Reports, as requested (e.g., purchase orders and invoices) (c) OECM Ad Hoc Reports - As requested and mutually agreed upon 				

Final reporting requirements will be determined during negotiations.

APPENDIX D – SUPPLIER PERFORMANCE MANAGEMENT SCORECARD

Master Agreement performance means the Supplier aligns with OECM's three (3) pillars of Savings, Choice and Service, supporting the growth of the Master Agreement among Customers, and providing quality products and services at competitive Rates.

Supplier performance means the Supplier meets or exceeds the performance requirements described below and adheres to all the other contractual requirements.

As part of OECM's efforts to provide greater value to Customers, OECM has implemented a Supplier Recognition Program ("SRP"). Through the SRP, OECM will objectively assess Supplier's performance using an open, fair and transparent framework to recognize and reward top-performing suppliers on an annual basis.

To ensure Master Agreement requirements are met, the Supplier's performance will be measured and tracked by OECM to ensure:

- (a) On time delivery of high-quality Resources at the Master Agreement Rates or lower;
- (b) Customer satisfaction;
- (c) On-time Master Agreement activity reporting to OECM;
- (d) On-time Cost Recovery Fee remittance; and,
- (e) Continuous improvement.

Reporting, as described in Appendix C – Supplier's Reporting Requirements is mandatory for the Supplier to submit as they provide evidence and justification of adherence to the Master Agreement. Through consolidation of reporting information, OECM provides Customers a thorough understanding of the Supplier's performance aiding the adoption of the Master Agreement.

By providing the reports, OECM is able to analyze and maintain the integrity of the Supplier's performance.

Failure, by the Supplier, to provide accurate reports by the due dates set out in Appendix C – Supplier Reporting Requirements may be deemed poor performance and will reflect on the Supplier's Performance Management Scorecard and SRP results.

During the Term of the Master Agreement, the Supplier shall collect and report the agreed upon results of the performance measures as requested by OECM. The Performance Management Scorecard and other performance indicators will be used to measure the Supplier's performance throughout the Term of the Master Agreement, ensuring Customers receive appropriate Services on time. The Supplier's performance score will be considered when OECM contemplates Master Agreement decisions such as:

- (a) The approval or rejection, in whole or in part, of the Supplier's Rate refresh requests;
- (b) The approval or rejection of the Supplier's request to add other related Resources to the Master Agreement;
- (c) Master Agreement extensions; and,
- (d) Master Agreement termination.

The Supplier shall maintain accurate records to facilitate the required performance management reporting requirements related to OECM and Customer KPIs.

During the business review, OECM will review the KPIs with the Supplier. The KPIs include but are not limited to the following:

Supplier Provided Customer Performance Measures		
Key Performance Indicator	Performance Measurement	Performance Goal
Customer Issues – Number of Customer Complaints	Total Customer complaints annually out of total Customer Requests	Less than 2% of total annual Customer requests
Response Time to Customer Inquiries	One (1) Business Day	98% of the time
Accuracy of Invoicing	Number of invoicing errors annually	Less than 2% annually
Resource Lead Time	Resource Provided within the customer indicated lead time	98% of the time
Optional Second Stage Response Rate	Response rate to Optional Second Stage Requests	98% of the time

OECM Evaluation of Supplier's Performances		
Key Performance Indicator	Performance Measurement	Performance Goal
On time executed CSA submissions	Within 30 days of execution	98% of the time
On time and completed KPI Report submissions	8th Business Day following each Calendar Quarter	98% of the time
On time and completed Sales Report submissions	8th Business Day following each Month	98% of the time
On time CRF Remittance	Within 30 days of invoice, due on May 15, August 15, November 15, February 15	98% of the time
Response Time to OECM Inquiries	One (1) Business Day	98% of the time

Other KPIs, as mutually agreed upon between the Supplier and OECM, may be added during the Term of the Master Agreement.

Customer may, when executing a Customer-Supplier Agreement, seek other KPIs.

APPENDIX E – OECM'S SUPPLIER CODE OF CONDUCT

The Supplier will take every measure to comply with OECM's Supplier Code of Conduct ("SCC") principles set out below and to adopt behaviours and practices that are in alignment with these principles or those of OECM's Customers as mutually agreed upon between the Customer and Supplier. OECM's core values of collaboration, responsiveness, integrity, innovation and respect are in alignment with and entrenched within the key principles of the SCC. The SCC applies to the Supplier's owners, employees, agents, partners and subcontractors who provide Services to OECM and/or Customers.

The Supplier will manage their operations according to the most stringent standards of ethical business, integrity and equity. The Supplier must therefore:

- (a) Refrain from engaging in any form of non-competitive or corrupt practice, including collusion, unethical bidding practices, extortion, bribery and fraud;
- (b) Ensure that responsible business practices are used, including ensuring that business continuity and disaster recovery plans are developed, maintained and tested in accordance with applicable regulatory, contractual and service level requirements, and that healthy and safe workplaces that comply with relevant health and safety laws are provided;
- (c) Ensure the protection of the confidential and personal information they receive from OECM, and only use this information as part of their business relations with OECM;
- (d) Comply with intellectual property rights relating to the Services provided to OECM and its Customers;
- (e) Never place an OECM employee in a situation that could compromise his/her ethical behaviour or integrity or create a conflict of interest;
- (f) Divulge all actual and potential conflicts of interest to OECM; and,
- (g) Disclose to OECM any behaviour deemed unethical on the part of an OECM employee.

Also, the Supplier shall:

- (a) Comply with all foreign and domestic applicable federal/provincial/municipal laws and regulations including, but not limited to the environment, health and safety, labour and employment, human rights and product safety and anti-corruption laws, trade agreements, conventions, standards, and guidelines, where the products or services are provided to OECM Customers. Fair competition is to be practised in accordance with applicable laws. All business activities and commercial decisions that restrict competition or may be deemed to be uncompetitive are to be avoided;
- (b) Not try to gain improper advantage or engage in preferential treatment with OECM employees and Customers. The Supplier must avoid situations that may adversely influence their business relationship with OECM or can be directly or indirectly perceived as a conflict of interest and interfere with the provision of the Services to OECM or its Customers. The Supplier must disclose any actual or potential conflicts of interest promptly to OECM;
- (c) Never offer to OECM staff bribes, payments, gifts of entertainment or any type of transactions, inducements, services, discounts and/or benefits that may compromise or appear to compromise an OECM's employees' ability to make business decisions in the best interest of OECM and its Customers. If a Supplier is unsure whether a gift or entertainment offer to an OECM employee complies with OECM's SCC, the Supplier should consult with the intended recipient's manager;
- (d) Not engage in any improper conduct to gain influence or competitive advantage especially that which would put OECM or its Customers at risk of violating anti-bribery and/or anti-corruption laws. The Supplier must ensure that the requirements of all these applicable laws are met, and not engage in any form of corrupt practices including extortion, fraud or bribery;
- (e) Ensure that any outsourcing and/or subcontracting used to fulfill Services are identified and approved by the Customer and monitored to ensure compliancy with contractual obligations and adherence to OECM's SCC. Supplier's employees, subcontractors and other service providers must adhere to the requirements of the SCC, which must be made available as necessary. The Supplier must also ensure that its subcontractors and other

service providers are paid properly and promptly to avoid any disruption in the provision of Services by the Supplier to OECM or its Customers;

- (f) Maintain workplace professionalism and respect for the dignity of all employees, Customers, and individuals. The Supplier must never exercise, tolerate or condone harassment, discrimination, violence, retaliation and any other inappropriate behaviour;
- (g) Abide by applicable employment standards, labour, non-discrimination and human rights legislation. Where laws do not prohibit discrimination, or where they allow for differential treatment, the expectation of the Supplier is to be committed to non-discrimination principles and not to operate in an unfair manner. The Supplier must be able to demonstrate that their workplaces operate under the following principles:
 - i. Child labour is not accepted;
 - ii. Discrimination and harassment are prohibited, including discrimination or harassment based on any characteristic protected by law;
 - iii. Employees are free to raise concerns and speak up without fear of reprisal;
 - iv. Appropriate and reasonable background screenings, including investigations for prior criminal activity, have been completed to ensure integrity and character of the Supplier's employees; and,
 - v. Clear and uniformly applied employment standards are used that meet or exceed legal and regulatory requirements;
- (h) Provide healthy and safe workplaces for their employees. These workplaces must comply with applicable health and safety laws, statutes and regulations to ensure a safe and healthy work environment. Employers must also ensure that their employees are properly trained and that they have easy access to information and instructions pertaining to health and safety practices; and,
- (i) Give high priority to environmental issues and implement initiatives to foster sound environmental management through practices that prevent pollution and preserve resources. The Supplier must conduct business in an environmentally responsible and sustainable manner. The Supplier must comply with all applicable environmental laws, statutes and regulations, including, but not limited to, waste disposal (proper handling of toxic and hazardous waste), air emissions and pollution, to ensure that they meet all legal requirements and strive to prevent or mitigate adverse effects on the environment with a long-term objective of continual improvement.

The Supplier is expected to:

- (a) Abide by OECM's SCC;
- (b) Report violations of the SCC or identify any Customer requests that might constitute violations; and,
- (c) Cooperate and collaborate with OECM and bring about the resolution of SCC compliance issues.

Compliance with SCC principles is a criterion that is taken into consideration in OECM's supplier selection process and ongoing performance and relationship management.

The practices adopted by the Supplier must be verifiable. Such verification may be conducted by way of a Supplier's self-evaluation and/or an audit completed by OECM at its discretion. The Supplier must provide, upon request, OECM with documents attesting to their compliance with the SCC.

In addition, OECM may elect to visit the Suppliers' facilities if OECM so chooses. Appropriate notice will be provided to the Supplier. Whenever a situation of non-compliance is identified, OECM will endeavor to work with the Supplier in order to develop a corrective plan to resolve the non-compliant issues in a timely manner.

Failure to comply with OECM's SCC may result in termination of this Master Agreement.

For more information, visit OECM's website at <https://oecm.ca/suppliers/#code-of-conduct>.