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ONTARIO ENERGY BOARD

Request for Proposals

For

Microsoft SharePoint, Exchange and System Operating Monitoring Implementations

Request for Proposal No.: RFPOEBIT2010-0904

Date of RFP Issue: March 19, 2010

KEY PROPONENT INFORMATION

- RFP Acknowledgement Form (Appendix G)
Proponents should fill out and return this form as soon as possible to the contact person listed below.
- Closing Date for Submission:
Date: April 9, 2010 **Time:** 3:00 p.m. **EDT**. Proposals should be submitted in five (5) copies and one electronic (compact disc) copy in Portable Document File (.pdf) format of its proposal in a sealed package to the address below (by hand or courier only) Fax and email submissions are not allowed.
- Ontario Energy Board contact:
Procurement Administrator
2300 Yonge Street, 27th Floor
Toronto, ON M4P1E4
Procurement@oeb.gov.on.ca

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SECTION 1 – INTRODUCTION

1.1 Invitation to Proponents

This Request for Proposal ("RFP") is an invitation to qualified potential suppliers to submit proposals to the Ontario Energy Board (the "Board" or "OEB") for Microsoft SharePoint, Exchange and System Operating Monitoring Implementations as further described in Section 2 - The Deliverables of this RFP.

This RFP is a legally binding tender call process. In submitting your proposal you are bound by all the Terms and Conditions disclosed in the RFP, all its Appendices, and in particular the Form of Agreement attached as Appendix A to this RFP. Review all the documents carefully and completely and ensure that any issues regarding the RFP documents, process and / or the attached Form of Agreement are resolved before the proposal submission deadline as specified in the RFP. No revisions to proposals are permitted after the proposal submission deadline.

1.2 Type of Contract For Deliverables

The selected proponent will be required to enter into an Agreement with the Board for the provision of the Deliverables in the form attached as Appendix A of this RFP. The term of the Agreement is to be for a 1 year term commencing upon the execution of the Agreement with an option in favour of the Board to extend the Agreement on the same terms and conditions for an additional term of 1 year. It is anticipated that the Agreement will be executed on or around **April 16, 2010**.

1.3 No Guarantee of Volume of Work or Exclusivity of Contract

The Board makes no guarantee of the value or volume of work to be assigned to the successful proponent. The Agreement executed with the successful proponent will not be an exclusive contract for the provision of the described Deliverables. The Board may contract with others for the same or similar Deliverables to those described in this RFP or may obtain the same or similar Deliverables internally.

1.4 Agreement on Internal Trade

Suppliers should note that procurements falling within the scope of Chapter 5 of the Agreement on Internal Trade are subject to that chapter but that the rights and obligations of the parties shall be governed by the specific terms of each particular tender call. For further reference please see the Internal Trade Secretariat website at www.intrasec.mb.ca/.

1.5 Definitions

Unless otherwise specified in this RFP, capitalized words and phrases have the meaning set out in the Form of Agreement.

"Conflict of Interest" has the same meaning as defined in the RFP Appendix A – Form of Agreement;

"Days" means calendar days and **"days"** has the same meaning;

"Deliverables" means any goods or services required by the OEB, supplied by the vendor;

Board Contact:

Procurement Administrator

Ontario Energy Board

2300 Yonge Street

27th Floor

Toronto, ON M4P 1E4

Email:

Procurement@oeb.gov.on.ca

[End of Part 1]

SECTION 2 - THE DELIVERABLES

2.1 Description of Deliverables

2.1.1 Background

The OEB IT plan consists of many IT initiatives. This initiative is to install MS SharePoint (MOSS), upgrade our MS Exchange environment and introduce the Microsoft System Centre Operating Manager software into the OEB environment.

The OEB network environment is a mixed one. It recently completed the Microsoft Windows Server 2008 Operating System (OS) project that houses the Active Directory, File, Print, System Centre Configuration Manager (SCCM) 2007, Backup, Human Resource, Oracle Business Intelligence, Uptime monitoring and the Cisco ACS server for VPN. Many other Application Servers like Trim, Pivotal, Mitel, Dynamics, MS Exchange 2003 SP2, Blackberry Enterprise server (BES), etc are still on the Microsoft Windows Server 2003 Operating System.

OEB currently uses MS Office 2003 as its Office Productivity suite and MS XP / Outlook 2003 on its desktops and plans to upgrade to MS Office 2010 / MS Windows 7 / Outlook 2010 in the year 2011 (next year). A lab (sandbox) environment on a separate network was created for the recently completed Windows Server 2008 project that has 2TB of disk space.

Our business applications are configured on the Trim (from HP) and Pivotal (CDC Software) software. Trim and Pivotal are integrated and provide workflow, case management, document management, web publishing and contact management. However, the newer versions of Trim and Pivotal have MS SharePoint (MOSS) integration. As a result, OEB would like to take benefit of this by installing MOSS before upgrading Trim and Pivotal.

Currently, the Internet and Intranet sites are managed (developed) by the OEB Web Master in the Communications business unit. The Internet and Intranet servers and related applications are supported by the I.T. unit. OEB uses Trim Web Content Management for its Internet site and ColdFusion for its web development and Intranet. OEB would like to use MOSS and its numerous features like blogs, wikis, personalize content, polls, etc., to replace ColdFusion for its Intranet development and to make the Intranet more user-friendly.

Some business applications (Trim, Pivotal, Intranet, etc) are also installed on a DEV environment. After UAT sign-off, the application is promoted into production. The DEV environment is also part of the Production network and is usually considered similar in most cases.

Remote users currently use OEB Citrix server to log in and access the Intranet.

OEB currently uses Uptime to monitor its Data Centre. Uptime is easy to install and supports the MS Windows and Sun Solaris environments. However, it is not robust enough to provide details during unexpected system shutdown and in providing reports to meet Service Level Agreements. OEB feels the MS System Centre Operating Manager (SCOM) 2007 might be able to overcome this deficiency.

OEB currently has MS Exchange 2003 SP2 configured as Front end and back-end servers using PST files. The Front end is used for Outlook web access to allow for remote client access. The current MS Exchange 2003 environment also uses MacAfee Groupshield for e-mail virus scan. The intention is to do away with PST files / MacAfee Groupshield and go ahead with the centralized e-mail archiving and Forefront Security available with MS Exchange 2010. OEB currently uses the Mitel voice mail system to carry out Unified messaging. The intention is to review the Unified messaging system available with MS Exchange 2010 and decide whether feasible or not to replace. If so, to implement unified messaging system available with MS Exchange 2010 as part of this project.

Given this project involves MOSS 2007, MS Exchange 2010 and SCOM 2007 which are tightly integrated, it is expected that the vendors bidding on this project have extensive experience working on these 3 applications.

The successful vendor should be ready to start work on 10th May 2010.

2.1.2 Objectives, Scope of Work and Deliverables

The objective of the project is as follows:

1. Design, Install, Configure and Implement the following on Windows Server 2008 R2:
 - MOSS 2007 – Lab, DEV and Production
 - MS Exchange 2010 – Lab, DEV and Production
 - SCOM 2007 – Lab and Production
2. Address the current shortcomings described under Project background
3. To gain knowledge and experience in managing the MS Exchange 2010, SCOM 2007, and MOSS 2007 environments through knowledge transfer to OEB IT staff.

The purpose of Installing Microsoft SharePoint 2007 is to allow the Communication group to develop blogs, wikis, personalize content, polls, etc., to replace ColdFusion for its Intranet development and to make the Intranet more user-friendly.

The purposes of upgrading Microsoft Exchange to version 2010 is to:

1. Resolve existing problems with the current version
2. Continued supportability with Microsoft (Mainstream support for the existing 2003 platform ended on 14th April 2009).

The purpose of Installing Microsoft System Centre Operating Manager 2007 is to resolve existing inadequacies with the current monitoring tool namely, Uptime.

Please see scope under Project Requirements.

[End of Part 2]

SECTION 3 - EVALUATION OF PROPOSALS

3.1 Submission Requirements

To show evidence of the rated criteria, please discuss in your submission the following topics:

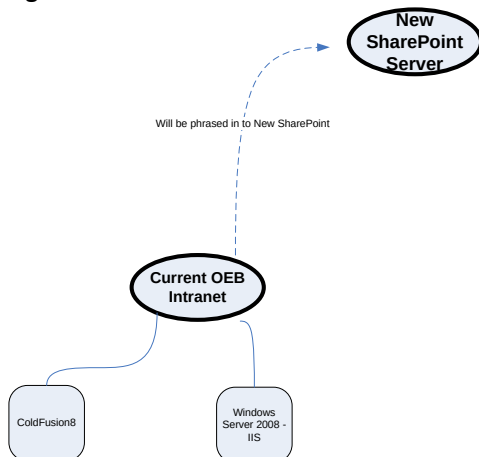
General Requirements / Scope of work:

- Leverage existing OEB virtual infrastructure for deployment
- Make all necessary networks, firewall, VM's, database components, server provisions/changes to accommodate the new design, including updating new Exchange Server related DLL components for Blackberry Enterprise Server.

MOSS 2007 Requirements / Scope of work:

- Plan, design, install, configure and implement in the Lab, DEV and Production environments, the following:
 - a. Windows Server 2008 R2 (Hardware / Software to be provided by OEB)
 - b. MOSS 2007 (Hardware / Software to be provided by OEB) to provide the following:
 - i. Provide service to enable Web Content Management, web portal, collaboration process management, search modules and a document-management platform.
 - ii. Provide service to enable to host defined applications such as wikis and blogs.
 - iii. Provide service to enable intranet user to personalize web content.
 - iv. Provide Bulletin Board.
 - v. Provide service for taking poll or/and survey.
 - vi. Provide e-mail and corporate / staff calendar with Outlook Integration.
 - vii. Provide front end portal interface to Trim / Pivotal applications.
 - viii. Integrate with Active Directory
 - ix. Able to allow for remote access into the Intranet site using Citrix remote
 - x. Search capabilities to include Intranet, e-mail and voice-mail
 - xi. Keeping in mind upcoming MOSS 2010 expected to be release shortly

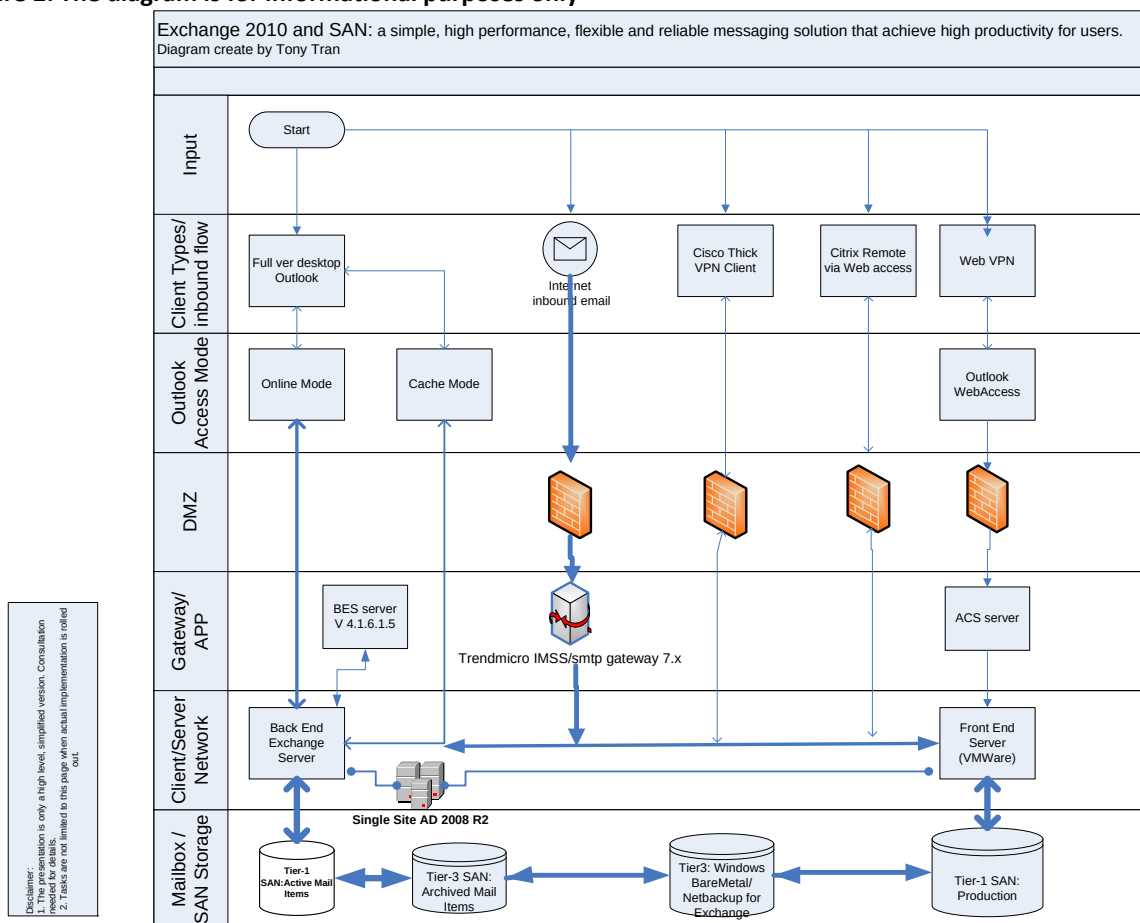
Figure 1: Overview of current Intranet environment



Exchange 2010 Requirements / Scope of work:

- Plan, design, install, configure and implement in the lab, DEV and Production environments, the following:
 - Windows Server 2008 R2 (Hardware / Software to be provided by OEB)
 - Exchange 2010 (Hardware / Software to be provided by OEB) with Active Directory Integration to provide the following:
- Exchange Server 2010 Design Document should include architecture design regarding logical and physical layer (front end and back end), as well as architecture flow for active mailbox and archive mail storage. Figure 2 shows a prototype of OEB's view for the Exchange infrastructure logical layer and physical share storage.
- Migrate all data and Exchange server setting, configurations to new Exchange Server
- Outlook 2003 client preference settings should be adjusted to work with the new Exchange server.
- Test and recover individual mailboxes for Disaster Recovery Planning
- Upgrade the DLL on the Blackberry Enterprise server for Exchange 2010
- Test and implement Forefront Security for Exchange 2010 against malware (spam included), and virus.
- Test and implement database automatic recovery at the disk, server level
- To review and test Voicemail with Unified Messaging from Microsoft with one from Mitel and Implement based on feasibility study. Voice mail with Unified messaging should have web-based Exchange Control Panel for user self-service with role access base to manage distribution lists, track messages, and edit personal information—tasks, etc.
- Configure, test and implement Exchange integrated e-mail archiving, with de-duplication and separate central archive storage, retention management policies to automate archiving e-mail for all users, e-Discovery, Single item restore, Multi-Mailbox Search, Role-based access control
- Implement Exchange management and system admin tools
- Migrate and test Meeting Room Calendar (resource type) for read/write and read-only access.
- Migrate and test Email Archiving (in PST's today) to be stored on the SAN central storage
- Migrate and test Proxy Mailbox access with send-as configuration
- In addition to the basic usage of Outlook, here is an example of end state that Outlook functions use and/or might utilize:
 - Extensive /accurate message search
 - Preserve existing Outlook rules for Outlook users
 - Spam control
 - Personal email signature
 - Test setting against junk e-mail and spam
- Test backup/recovery for the new Exchange environment

Figure 2: The diagram is for informational purposes only



SCOM 2007 Requirements / Scope of work:

- Plan, design, install, configure and implement in the lab and Production environments, the following:
 - o Windows Server 2008 R2 (Hardware / Software to be provided by OEB)
 - o SCOM 2007 and related MS SQL 2005 DB (Hardware / Software to be provided by OEB) with Active Directory Integration.
 - o Build approx 15 models to ensure End-to-End service monitoring of business applications
 - o Install and use various management packs to monitor the service and components of approx 45- 50 servers / applications (Windows, vSphere and Solaris system, including Oracle 10g, MS SQL 2005 database, MS Windows Server 2008, SCCM 2007, MS Exchange 2010, IIS, SharePoint 2007, Mitel Intelligent Queue, Mitel Call Centre Management, Mitel Call Recording server, Pivotal and Trim applications).
 - o Create synthetic transactions to allow for End user perspective monitoring
 - o Implement Client monitoring to ensure proactive troubleshooting – using Agentless crash monitoring and Collective health monitoring tools

- o Ensure early e-mail identification / alerts (heartbeat failures only) of actual / potential server (approx 45 - 50 Servers) and network (18 Cisco switches) unavailability or service breaches.
- o Ensure rapid resolution of actual and potential service breaches through the use of automated corrective actions.
- o Implement Daily, Monthly and Annual Service Level Agreement (SLA) reporting related to performance and availability of up-to-date infrastructure (servers, database, and network). Out of box and a few customized ones.
- o Implement ability to prioritize issues based on business impact
- o Implement ability to deep dive network, application and database issues. Implement ability to Backup, restore and perform a Bare Metal Recovery (BMR) for this
- o environment.
- o Implement ability to centralize Windows Event Log Repository

Deliverables for MOSS 2007, MS Exchange 2010 and SCOM 2007:

- Provide Professional Services (consultants) with the requisite skills necessary to properly execute the requirements of the project
- Review and get an understanding of the existing Windows Server 2008 and Lab environment (network topology, domain information and IP mapping), virtualized (Vshpere, VM's) and storage environment.
- Design document
- Test plans
- Implementation plans
- Obtain UAT sign-off
- Fully functional and fully optimized MOSS 2007, Exchange 2010 in the lab, DEV and Production environments and SCOM 2007 in the lab and Production environments
- Validation of data after migration
- Troubleshoot all problematic issues
- Document the new configuration and setup
- Knowledge transfer to OEB system administrators to support the systems.
- Project management (review of progress, issues encountered, perceived Risks, Next Steps)
- 30-day post-implementation tech support
- Project sign-off

Assumptions:

1. This project is a fixed price deliverable based assignment.
2. The work of this project will not affect nor interfere with the functionality of the existing infrastructure or live systems. The new systems will be thoroughly tested, documented and only then, deployed in production.
3. Upon selection of the vendor, OEB will provide access to facilities, computer, systems, various documents and key personnel relevant to this project.
4. Deployment into production / migration work will be carried out after business hours and on weekends

5. The selected vendor will be responsible for managing this project and using PMBOK standards. The vendor will use OEB provided templates.
6. OEB will not award this project based solely on lowest bid but rather lowest qualified bidder which will take into account various criteria.

TIMELINES OF REQUIREMENT:

May – Aug 2010

The Board will conduct the evaluation of proposals in the following four (4) stages: [\[oral interviews optional\]](#)

3.1.1 Stage I

A review to determine if the submitted proposal complies with all the Mandatory requirements. Proposals that do not comply with the Mandatory requirements may, subject to the reserved rights of the Board, be disqualified and not evaluated further.

3.1.2 Stage II

Will consist of a scoring by the Board of each qualified proposal on the basis of the rated criteria as defined in section 3.3 of this RFP.

3.1.3 Stage III - [\[OPTIONAL\]](#)

Will consist of a scoring of the oral interview process. Proponents should be prepared to discuss their approach to the assignment (as described in their written proposal) as well as present the proposed individuals for the assignment. Oral interview questions will be provided to the successful proponents prior to the scheduled interview dates to allow for preparation.

3.1.4 Stage IV

Will consist of a scoring of the pricing submitted. The evaluation of price/cost shall be undertaken after the evaluation of mandatory requirements and any rated requirements has been completed.

3.1.5 At the Conclusion of Stage IV

There will be a selected proponent chosen based on the rated criteria and price. The selected proponent will be the proponent with the highest score. Subject to satisfactory reference checks and the express and implied reserved rights of the Board, the selected proponent may be invited to enter into an Agreement in accordance with section 4 of this RFP.

3.2 Stage I - Mandatory Requirements

3.2.1 Form of Offer (Appendix B)

Each proposal must include a Form of Offer (Appendix B) completed and signed by the proponent.

(a) Conflict of Interest

In addition to the other information and representations made by each proponent in the Form of Offer, each proponent must declare whether it has an actual or potential Conflict of Interest.

If, at the sole and absolute discretion of the Board, the proponent is found to be in a Conflict of Interest, the Board may, in addition to any other remedies available at law or in equity, disqualify the proposal submitted by the proponent.

The proponent, by submitting the proposal, warrants that to its best knowledge and belief no actual or potential Conflict of Interest exists with respect to the submission of the proposal or performance of the contemplated contract other than those disclosed in the Form of Offer. Where the Board discovers a proponent's failure to disclose all actual or potential Conflicts of Interest, the Board may disqualify the proponent or terminate any contract awarded to that proponent pursuant to this procurement process.

(b) General

The Board, in addition to any other remedies it may have in law or in equity, shall have the right to rescind any Contract awarded to a proponent in the event that the Board, in its sole discretion, determines that the proponent made a misrepresentation or submitted any inaccurate or incomplete information in the Form of Offer.

Other than inserting the information requested and signing the Form of Offer, a proponent may not make any changes to the Form of Offer or qualify in its proposal the acknowledgements contained in the Form of Offer. Proposals containing any such qualifications, whether on the face of the Form of Offer or elsewhere in a proposal, may be disqualified. In instances where the proposal is not disqualified notwithstanding a discrepancy or inconsistency between the Form of Offer and a proponent's proposal, the Form of Offer will prevail.

3.2.2 Rate Bid Form (Appendix C)

Each proponent must include this form completed according to the instructions contained in the form as well as those instructions set out below:

- (a) rates shall be provided in **Canadian Funds**, inclusive of all applicable duties and taxes (with PST, if applicable, also itemized separately) and **excluding** Goods and Services Tax. Where PST is not applicable, indicate N/A;
- (b) rates quoted by the proponent shall be **all inclusive** and shall include all labour and materials, travel and carriage costs, insurance costs and all other overhead including but not limited to any fees or other charges required by law.;

3.2.3 Tax Compliance Declaration Form (Appendix D)

The Board expects all suppliers to pay their provincial taxes on a timely basis. In this regard, proponents are advised that any contract with the Ontario Energy Board will require a declaration from the successful proponent that the proponent's provincial taxes are in good standing.

Each proponent must include a Tax Compliance Declaration Form, completed by the proponent according to the instructions contained in that form.

The Board will forward to the Ministry of Finance a copy of the selected proponent's signed Tax Compliance Declaration Form for verification. By signing this form, the proponent is consenting to the release of such information from the Board to the Ministry of Finance and from the Ministry of Finance to the Board for this purpose.

Proponents may direct enquiries regarding the Tax Compliance Declaration Form to the Board's Contact.

3.2.4 Reference Form (Appendix F)

Each proposal must include a Reference Form completed by the proponent according to the instructions contained in that form. The references should be from persons for whom the proponent has successfully provided similar goods and services to those described under Deliverables within the past three (3) years. The name and telephone number of a contact person for each reference and a brief outline of the nature of the goods and services provided should be included.

The Board, in its sole discretion, may confirm the proponent's experience and/or ability to provide the Deliverables required and described in its proposal by checking the proponent's references.

3.3 Stage II – Evaluation of Rated Criteria

3.3.1 Rated Criteria

The following is an overview of the categories and weighting for the Rated Criteria of the RFP:

I	Proposal – detailed, clear and complete	30 POINTS
II	Past experience of vendor on similar projects/previous projects at OEB	20 POINTS
IV	Past experience of proposed candidates on similar projects (SharePoint 5%, Exchange 10% and SCOM 5%)	20 POINTS
V	Total Price (Including costing rationale of all projected expenses)	30 POINTS
	TOTAL	POINTS

3.4 Stage IV - Evaluation of Pricing

3.4.1 Pricing

Total Points

100 points

Pricing will be scored based on a relative pricing formula.

Each proponent will receive a percentage of the total possible points allocated to price for the particular category it has bid on by dividing that proponent's price for that category into the lowest bid price in that category. For example, if the lowest bid price for a particular category is \$120.00, that proponent receives 100% of the possible points for that category ($120/120 = 100\%$), a proponent who bids \$150.00 receives 80% of the possible points for that category

(120/150 = 80%) and a proponent who bids \$240.00 receives 50% of the possible points for that category (120/240 = 50%).

Lowest rate

----- x
2nd lowest rates

Total available points = Score for proposal with 2nd lowest rate

Lowest rate

----- x
3rd lowest rates

Total available points = Score for proposal with 3rd lowest rate

etc...for each proposal

3.5 Cumulative Score and Selection of Preferred Proponent

There will be a proponent chosen based on the rated criteria and price for that assignment. The selected vendor will be the proponent with the highest score for the assignment. Subject to satisfactory reference checks and the express and implied reserved rights of the Board, the selected proponent may be invited to enter into an Agreement in accordance with section 4 of this RFP.

[End of Part 3]

SECTION 4 - TERMS AND CONDITIONS OF THE RFP PROCESS

4.1 General Information and Instructions

4.1.1 Timetable

The following is the schedule for this RFP:

- | | |
|--|----------------|
| • Issue Date of RFP | March 19, 2010 |
| • Proponent's Deadline for Questions | April 2, 2010 |
| • OEB response to Questions from Vendors | April 5, 2010 |
| • Deadline for Issuing Addenda | April 5, 2010 |
| • Proposal Submission Deadline | April 9, 2010 |
| • Vendor Interviews (if required) | [TBD] |

Period for which proposals are irrevocable after proposal submission deadline is 120 days.

At any time prior to the proposal submission deadline, the RFP timetable is tentative only and may be changed by the Board in its sole discretion.

4.1.2 Proponents to Follow Instructions

Proponents should structure their proposals in accordance with the instructions in this RFP. Where information is requested in this RFP, any response made in a proposal should reference the applicable section numbers of the RFP where that request was made.

4.1.3 Proposals in English

All submissions are to be in English only.

4.1.4 Proponents Shall Bear Their Own Costs

The proponent shall bear all costs associated with or incurred in the preparation and presentation of its proposal including, if applicable, costs incurred for interviews or demonstrations.

4.2 COMMUNICATION AFTER ISSUANCE OF RFP

4.2.1 Proponents to Review RFP

Proponents shall promptly examine all of the documents comprising this RFP and

- (a) shall report any errors, omissions or ambiguities; and
- (b) may direct questions or seek additional information

in writing, by email on or before the Deadline for Questions by Proponents, to the OEB Contact listed in Section 4.2.2 of this RFP. No such communications are to be directed to anyone other than OEB Contact. OEB 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 from the OEB Contact on any matter it considers to be unclear. OEB shall not be responsible for any misunderstanding on the part of the Proponent concerning the RFP or its process.

4.2.2 Submission of Questions

Proponents shall direct all submission questions pertaining to this RFP, in writing, by email only, on or before the Deadline for Questions by Proponents set out at Section 4.1.1 of this RFP, to the OEB Contact:

Procurement Coordinator

Email: Procurement@oeb.gov.on.ca

4.2.3 All New Information to Proponents by way of Addenda

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

If OEB, 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. Each addendum shall form an integral part of this RFP.

Such addenda may contain important information including significant changes to this RFP. Proponents are responsible for obtaining all addenda issued by OEB. In the space provided in the Form of Offer, Proponents shall confirm their receipt of all addenda by setting out the number of each addendum in the space provided in the Form of Offer. **(i.e., if three (3) addenda were issued by OEB, the Proponent should insert “Addenda 1, 2, 3” in the space provided in the Form of Offer).**

4.2.4 Post-Deadline Addenda and Extension of Proposal Submission Deadline

If any addendum is issued after the Deadline for Issuing Addenda, OEB may at its discretion extend the Proposal Submission Deadline for a reasonable amount of time.

4.3 Submission of Proposals

4.3.1 Proposals must be submitted in Prescribed Manner

Proposals must be submitted by the following method:

- (a) a proponent must submit one (1) original copy (prominently marked “Original Copy”), **four (4)** copies and one electronic (compact disc) copy in Portable Document File (.pdf) format of its proposal in a sealed package. On the outside of the sealed package, using the Proposal Return Label attached at Appendix E, proposals are to be prominently marked with the RFP title and number (see RFP cover), with the full legal name and return address of the proponent, and with the Proposal Submission Deadline date and time;

- (b) Proposals must be submitted to the following address and to the attention of the following person:

**Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4**

Attention: Procurement Administrator

4.3.2 Proposals Must Be Submitted On Time at Prescribed Location

Proposals must be submitted at the location set out above on or before the Proposal Submission Deadline. Proposals submitted after this point in time will be deemed late, disqualified and returned to the proponent. For the purpose of calculating time, the Board clock at the prescribed location for submission shall govern.

4.3.3 Proposal Irrevocable after Proposal Submission Deadline

Proposals shall remain irrevocable in the form submitted by the proponent for a period of one hundred and twenty (120) days running from the moment that the Proposal Submission Deadline has lapsed.

4.3.4 Board May Seek Clarification and Incorporate Response into Proposal

The Board reserves the right to seek clarification and supplementary information relating to the clarification from proponents after the Proposal Submission Deadline. The response received by the Board from a proponent shall, if accepted by the Board, form an integral part of that proponent's proposal. The Board reserves the right to interview any or all proponents to obtain information about or clarification of their proposals. In the event that the Board receives information at any stage of the evaluation process which results in earlier information provided by the proponent being deemed by the Board to be inaccurate, incomplete or misleading, the Board reserves the right to revisit the proponents compliance with the Mandatory Requirements and/or adjust the scoring of Rated Criteria.

4.3.5 RFP Incorporated into Proposal

All of the provisions of this RFP are deemed to be accepted by each proponent and incorporated into each proponent's proposal.

4.3.6 No Incorporation by Reference by Proponent

The entire content of the proponent's proposal should be submitted in a fixed form and the content of web sites or other external documents referred to in the proponent's proposal will not be considered to form part of its proposal.

4.3.7 Proposal Property of the Board

Except where expressly set out to the contrary in this RFP or in the proponent's proposal, the proposal and any accompanying documentation submitted by a proponent shall become the property of the Board and shall not be returned.

4.4 Execution Of Agreement, Notification And Debriefing

4.4.1 Selection of Proponent

The Board anticipates that the Board will select a proponent within sixty (60) days of the Proposal Submission Deadline. Notice of selection by the Board to the selected proponent will be in writing. The selected proponent shall execute the Agreement in the form attached as Appendix A and satisfy any other applicable conditions of this RFP within five (5) days of notice of selection. This provision is solely to the benefit of the Board and may be waived by the Board at its sole discretion.

4.4.2 Failure to Enter Into Agreement

In addition to all of the Board's other remedies, if a selected proponent(s) fails to execute the Agreement or satisfy any other applicable conditions within five (5) days of notice of selection, the Board may, in its sole and absolute discretion and without incurring any liability, rescind the selection of that proponent and proceed with the selection of another proponent.

4.4.3 Notification to Other Proponents of Outcome of Procurement Process

Once the successful proponent and the Board execute an Agreement, the other proponents will be notified by the Board in writing of the outcome of the procurement process and the award of the Contract to the successful proponent.

4.4.4 Debriefing

Proponents may request a debriefing after receipt of a notification of award. All requests must be in writing to the Board Contact and must be made within thirty (30) 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.

4.5 Prohibited Communications, Confidential Information and FIPPA

4.5.1 Prohibited Proponent Communications

The proponent shall not engage in any Conflict of Interest communications and should take note of the Conflict of Interest declaration requirements in the RFP.

4.5.2 Proponent Not to Communicate With Media

A proponent may not at any time directly or indirectly communicate with the media in relation to this RFP or any contract awarded pursuant to this RFP without first obtaining the written permission of the Board Contact.

4.5.3 Confidential Information of Board

All information provided by or obtained from the Board in any form in connection with this RFP either before and after the issuance of this RFP

- (a) is the sole property of the Board and must be treated as confidential;
- (b) is not to be used for any purpose other than replying to this RFP and the performance of any subsequent Contract;
- (c) must not be disclosed without prior written authorization from the Board; and

- (d) shall be returned by the proponents to the Board immediately upon the request of the Board.

4.5.4 Freedom of Information and Protection of Privacy Act

Information provided by a proponent may be released in accordance with the Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.F.31, as amended. A proponent should identify any information in its proposal or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by the Board. The confidentiality of such information will be maintained by the Board, except where an order by the Information and Privacy Commission or a court requires the Board to do otherwise. Proponents are advised that their proposals will, as necessary, be disclosed on a confidential basis, to the Board's advisers retained for the purpose of evaluating or participating in the evaluation of this proposal.

4.6 Reserved Rights and Governing Law

4.6.1 Reserved Rights of the Board

The Board 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 in relation to the clarification request from any proponent and incorporate a proponent's response to that request for clarification into the proponent's proposal;
- (c) adjust a proponent's scoring or reject a proponent's proposal on the basis of
 - i. a financial analysis determining the actual cost of the proposal when considering factors including quality, service, price and transition costs arising from the replacement of existing goods, services, practices, methodologies and infrastructure (howsoever originally established);
 - ii. information provided by references;
 - iii. the proponent's past performance on previous contracts awarded by the Government of Ontario ;
 - iv. the information provided by a proponent pursuant to the Board exercising its clarification rights under this RFP process ; or
 - v. other relevant information that arises during this RFP process;
- (d) waive formalities and accept proposals which substantially comply with the requirements of this RFP;
- (e) verify with any proponent or with a third party any information set out in a proposal;
- (f) check references other than those provided by any proponent;
- (g) disqualify any proponent whose proposal contains misrepresentations or any other inaccurate or misleading information;
- (h) disqualify any proponent or the proposal of any proponent who has engaged in conduct prohibited by this RFP;

- (i) 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;
- (j) select any proponent other than the proponent whose proposal reflects the lowest cost to the Board or the highest overall score;
- (k) cancel this RFP process at any stage;
- (l) cancel this RFP process at any stage and issue a new RFP for the same or similar deliverables;
- (m) accept any proposal in whole or in part;
- (n) discuss with any proponent different or additional terms to those contemplated in this RFP or in any proponent's proposal;
- (o) if a single proposal is received, reject the proposal of the sole proponent and cancel this RFP process or enter into direct negotiations with the sole proponent; or,
- (p) reject any or all proposals in its absolute discretion;

and these reserved rights are in addition to any other express rights or any other rights which may be implied in the circumstances and the Board 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 the Board exercising any of its express or implied rights under this RFP.

By submitting its proposal, the proponent authorizes the collection by the Board of the information set out under (e) and (f) in the manner contemplated in those subparagraphs.

4.6.2 Governing Law of RFP Process

This RFP process shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

[End of Part 4]

APPENDIX A – Form of Agreement

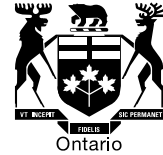
'This template will be shared with the chosen proponent.'

Ontario Energy Board

P.O. Box 2319
2300 Yonge Street
27th. Floor
Toronto ON M4P 1E4
Telephone: (416) 481-1967
Facsimile: (416) 440-7656

Commission de l'Énergie de l'Ontario

C.P. 2319
2300, rue Yonge
27e étage
Toronto ON M4P 1E4
Téléphone: (416) 481-1967
Télécopieur: (416) 440-7656



Contract No.

THIS AGREEMENT made as of the Date: -----

BETWEEN:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

(the "Board")

- and -

(the "Contractor")

(each a "Party" and collectively the "Parties")

1.0 ENGAGEMENT

- 1.1 The Board hereby retains the Contractor and the Contractor hereby agrees to provide the Board with specific Deliverables (the "Deliverables") as set forth in Schedule A in accordance with the terms of this Agreement.
- 1.2 Subject to this and any other parameters outlined in this Agreement, the Contractor is free to determine how, when and in what manner it provides the services.

2.0 AGREEMENT DOCUMENTS

- 2.1 The Agreement consists of: this Agreement, Schedules appended hereto and any other documents incorporated by reference (collectively, the "Agreement"). These documents,

when taken together, form the entire Agreement and no document or agreement shall apply without explicit agreement on the part of the parties to the Agreement.

- 2.2 Written amendments to the Agreement shall take precedence over the documents amended thereby. Appendices and addenda shall be considered part of the documents in which they are referenced.
- 2.3 There are no warranties, conditions, or representations, expressed or implied, and there are no agreements in connection with such subject matter except as specifically set forth or referred to in the Agreement. No reliance may be placed on any warranty, representation, opinion, advice or assertion of fact made either prior to, contemporaneous with, or after entering into the Agreement, or any amendment or supplement thereto, by any party to this Agreement or its directors, officers, employees or agents, to any other party to this Agreement or its directors, officers, employees or agents, except to the extent that the same has been reduced to writing and included as a term of this Agreement, and none of the parties to this Agreement has been induced to enter into the Agreement or any amendment or supplement by reason of any such warranty, representation, opinion, advice or assertion of fact.

3.0 CHANGES TO THE AGREEMENT

The Board may, in writing, request changes to this Agreement, which may include altering, adding to or deleting any of the Deliverables. Any such change request shall not be effective until a written amendment reflecting the change has been executed by the Contractor and the Board signatory to this Agreement (or his or her successor or designate).

4.0 APPLICABLE LAW

The Agreement shall be governed by, and interpreted in accordance with, the laws of the Province of Ontario including the laws of Canada as applicable therein.

5.0 LAWS, REGULATIONS AND CODES

- 5.1 The Contractor will comply with all federal, provincial and municipal statutes, regulations, bylaws, standards and codes which are applicable to the work and to the Board and its operations.
- 5.2 The Contractor agrees that the relationship with the Board is an independent business relationship and in no way does this Agreement contemplate or create an employment relationship and/or entitle the Contractor to any benefits of employment including, without limitation, membership in health benefits and pension programs provided to employees at the Board. Nor does this agreement create any partnership or joint venture with the Board. As an independent contractor, the Contractor is responsible for any and all payments with respect to his / her / its income and other taxes, insured health benefits coverage, Workplace Safety and Insurance, Canada Pension Plan, Employment Insurance premiums and costs and any other costs that may apply.

- 5.3 The Contractor agrees to indemnify the Board, its officers, directors, employees and agents and save them harmless from any and all liabilities and claims, including payments, fines, penalties, interest and any other financial costs in any way arising out of any actual or alleged failure of the Board to deduct, withhold or contribute any amount in respect of its payments to the Contractor. Without limiting the generality hereof, such liabilities and claims shall include federal and/or provincial income taxes, pension plan contributions, employment insurance premiums, Workplace Safety and Insurance premiums and contributions under any federal or provincial income security program.

6.0 BOARD REPRESENTATIVE

- 6.1 The Board designates ----- its authorized representative to whom all correspondence, reports and documents will be addressed. No acceptance, instruction, approval or statement by the Board's authorized representative or by any other representative of the Board will relieve the Contractor from responsibility for proper performance of the agreed upon work and deliverables.
- 6.2 The signatory to this Agreement (or his or her successor or designate), is the only Board representative authorized to direct, approve or execute any written amendments to this Agreement.

7.0 CONTRACTOR'S MANAGER/STAFF; CONTRACTOR NOT AGENT

- 7.1 The Contractor appoints ----- as Project Manager who will be responsible for the administration and coordination of all phases of the work and completion of deliverables. All staff of the Contractor employed on the project will have the knowledge, abilities, experience and qualifications required for the work and will perform their tasks in a professional manner. The Contractor will provide such additional support as may be required from time to time for the completion of the deliverables and work's proper performance.
- 7.3 Neither party will have the authority to bind the other or to assume or create any obligation or responsibility express or implied on the other's part, or in its name, nor will it represent to anyone that it has such power or authority, except as expressly provided in the Agreement.
- 7.4 Nothing in this Agreement shall constitute or be deemed to create an employment, partnership, joint venture or agency relationship between the Contractor and either the Board or the Crown.
- 7.5 The Contractor agrees that it is liable for the acts and omissions of its directors, officers, employees, agents, partners, affiliates, volunteers and subcontractors. The Contractor shall advise these persons of the Contractor's obligations under this Agreement to the extent required in order to ensure that the Contractor complies with its obligations under this Agreement. This section is in addition to any and all of the Contractor's liabilities under this Agreement and under the general application of law.

8.0 SUB-CONTRACT OR ASSIGNMENT

- 8.1 The Contractor shall not subcontract or assign, transfer or otherwise dispose of the whole or any part of its interest in or obligations under this Agreement without the prior written consent of the Board which consent will not be unreasonably withheld.
- 8.2 No assignment or subcontract shall relieve the Contractor from the obligations under this Agreement or impose any liability upon the Board to any assignee or subcontractor.

10.0 WITHHOLDING TAX

Certain amounts paid or credited to non-residents of Canada are subject to income tax withholding in accordance with rates and conditions set forth in the *Income Tax Act* (Canada) and any tax treaties made applicable thereby. The Board shall withhold any applicable withholding tax from amounts due and owing to the Contractor under this Agreement and shall remit it to the appropriate government in accordance with applicable tax laws.

11.0 CONTRACTOR'S REPRESENTATIONS, WARRANTIES AND COVENANTS

The Contractor represents, warrants and covenants as follows to and in favour of the Board and acknowledges and confirms that the Board is relying on such representations, warranties and covenants without independent inquiry for the purpose of entering into this Agreement:

- (a) if the Contractor is a corporation,
- i) it is a corporation validly existing and in good standing under the laws of the jurisdiction of incorporation and it has all the necessary corporate power to enter into and perform its obligations under this Agreement; and
 - (ii) the execution, delivery and performance of this Agreement by it have been duly and validly authorized by the necessary corporate actions and when executed and delivered by the Contractor this Agreement constitutes a legal, valid and binding obligation of the Contractor enforceable against the Contractor in accordance with its terms;
- (b) the information supplied to the Board in and in support of the Proposal is true and accurate;
- (c) the Contractor has no Conflicts of Interest in relation to the execution of this Agreement and there is no agreement with any other person which would in any way interfere with the rights of the Board under this Agreement;

12.0 AGREEMENT COSTS, RATES, INVOICING AND PAYMENT

12.1 Agreement Costs

Subject to the other provisions of this Agreement, the Board shall make payments to the Contractor for fees, expenses and disbursements provided that the total payments for fees, expenses and disbursements (including, where applicable, disbursements for any

person that is a subcontractor of the Contractor) under this Agreement shall not exceed -
----- Canadian currency (inclusive of P.S.T., when applicable).

- 12.2 Any effort by the Contractor that involves charges, fees, disbursements not set out in the Contractor's Proposal or this Agreement will not be paid by the Board unless the Board has previously authorized the additional charges, fees or disbursements, by way of written amendment to this Agreement and executed by the signatory to this Agreement (or his or her successor or designate).

12.3 Invoicing

Except to the extent that alternate invoicing requirements are identified in Schedule A, the Contractor shall invoice the Board on a time and materials basis subject to the following conditions:

- (a) the Contractor shall provide the Board with a monthly invoice no later than ten business days after the end of each month, and that invoice shall include (i) the reference number assigned to this Agreement by the Board, (ii) a brief description of the Deliverables performed or provided for the relevant month, (iii) the identity of the persons performing or providing those Deliverables and the time expended by each such person during the relevant month, (iv) an itemized breakdown of the charges being included on the invoice, (v) the time period that is being included on the invoice, and (vi) taxes, if payable by the Board, identified as separate items;
- (b) the billing rate used in relation to each person that performed or provided Deliverables during the relevant month shall be no greater than that specified in Schedule B in relation to that person;
- (c) upon request of the Board, the Contractor shall have a responsible officer of the Contractor certify that the invoice submitted to the Board is true, complete and correct; and
- (d) in no event shall the aggregate value of the invoices submitted by the Contractor in relation to this Agreement exceed the amount set out in section 12.1

- 12.5 The Board shall approve or reject an invoice within fifteen business days. In the event that the Board rejects an invoice, it shall promptly so notify the Contractor and the Contractor shall provide additional information as required by the Board to substantiate the invoice. Each invoice must be approved by the Board before any payment is released to the Contractor.

- 12.6 In the event an overpayment is discovered by audit or otherwise, the amount of the overpayment shall be immediately repaid to the Board. This provision shall survive for a period of three (3) years after the expiry or termination of this Agreement.

12.7 Withholding Payment

If at any time during the performance of the work there are deficiencies in the work or the Deliverables, including non-delivery of an acceptable final report or deliverable, or the implementation of any of the Deliverables, the Board will have the right to withhold from payment in respect of any of the Contractor's invoices, an amount that, in the Board's reasonable opinion, takes into account the above-noted deficiencies. Any amount

withheld shall be paid 30 days after receipt of the Contractor's invoice submitted after the Board's approval of the correction of deficiencies, or as soon thereafter as is practicable given the circumstances.

13.0 TAXES

13.1 The Board certifies that the Deliverables performed and provided under this Agreement are required for the use of the Board and are therefore not subject to the federal Goods and Services Tax.

13.2 Except as otherwise stated in this Agreement, the Contractor shall pay all applicable taxes incurred by or on the Contractor's behalf with respect to this Agreement.

14.0 DURATION AND COMPLETION OF THE PROJECT; EXPIRY OR EXTENSION OF THE TERM

14.1 The Contractor shall perform and provide all of the Deliverables by Date: ----- and in accordance with the timelines specified in Schedule A.

14.2 Completion

The Contractor will diligently endeavour to complete the work and deliverables required under the Agreement in accordance with the schedule set forth in the Agreement and, if necessary, will increase the level of effort/resources necessary to ensure the schedule is maintained. Any price or funding limitations will not be exceeded without the Board's written authorization, notwithstanding any extra efforts required to maintain schedule.

14.3 Extension

The Board shall have the option of extending this Agreement for one further term of a duration of up to the duration of the original Term, such extension to be upon the same terms (including as to Agreement Costs in section 12), conditions and covenants contained in this Agreement. This option shall be exercisable by the Board upon thirty calendar days' prior written notice to the Contractor, setting forth the precise duration of the extension. Where this Agreement is so extended, the Term shall be deemed to include such extension.

15. PROGRESS REPORTS

The Contractor will forward to the Board representative a progress report in accordance with Schedule 'A' of this Agreement.

16. INSPECTION AND WARRANTY

The Board's authorized representative will have the right to inspect the work and the deliverables at all times and may reject any part thereof which is found to be inappropriate or otherwise not in accordance with specifications and statements set out in the Agreement or otherwise required by law, within reasonable professional standards. The Contractor, at no additional cost to the Board, will promptly redo any of

the work so rejected. This will include, but is not limited to, all reports, policy manuals, implementation plans and written work (howsoever recorded, that is, whether written or on digital media) and data prepared by the Contractor under the Agreement which are found, within a period of one year from date of transmittal to the Board, to be incomplete or inaccurate due to a failure to comply with the Agreement or with said specifications and standards.

17. ACCOUNTS AND RIGHT TO AUDIT

The Contractor will keep proper accounts and records of the work in form and detail satisfactory to the Board. Such accounts and records, including invoices, receipts, time cards and vouchers will be open to audit, inspection and copying by the Board with 48 hours advance notice. Accounts and records will be preserved and kept available for audit until the expiration of two years from the date of completion or termination of the work.

18. TERMINATION

- 18.1 Unless otherwise agreed in the Agreement, either party may terminate the work or any portion of the work under the Agreement for any reason upon 30 days written notice.
- 18.2 Unless otherwise agreed between the Contractor and the Board, upon termination the Board will be obligated to pay the Contractor only for work effort expended (based on the Deliverables or parts thereof provided by the Contractor to the Board which meet the specifications of the Agreement) and expenses incurred prior to the expiry of the notice period, provided that such expenses were previously approved by the Board as per section 12 ("Agreement Costs"). The Contractor will not undertake any further commitment after receipt of notice of termination.
- 18.3 Either party may terminate the Agreement in the event that the other party breaches the Agreement and such breach is not cured to the reasonable satisfaction of the non-breaching party within 15 days of written notice of such breach. However, in the case of a material breach, the Agreement is deemed terminated immediately upon breach. In the case of the Board's breach, the Contractor has no further obligation to provide services. In the case of the Contractor's breach, the Board has no further monetary obligations.
- 18.5 Termination of this Agreement for any reason shall not relieve the Contractor of its warranties and other responsibilities relating to any Deliverables provided or performed or to any money paid prior to the date of termination. In addition to its other rights of hold back or set off, the Board may hold back payment or set off against payment owed if the Contractor fails to comply with its obligations on termination as set out in this Article.
- 18.6 The rights of termination under this section are in addition to all other rights of termination available at law or events of termination by operation of law, and are in addition to and shall in no way limit any rights or remedies of the Board under this Agreement, at law or in equity.

18.7 Sections 18.5 and 18.6 and this section shall survive the termination of this Agreement.

19. COMPLIANCE WITH PRIVACY LAWS

In this section, "Personal Information" means any information about an identifiable individual, which before or after the date of the Agreement, is exchanged, disclosed, transferred, stored, warehoused, accessed, processed, handled or in any way made available to the Contractor. "Privacy Laws" includes the Personal Information Protection and Electronic Documents Act (Canada), Freedom of Information and Protection of Privacy, Ontario (FIPPA), and the provisions of any other applicable municipal, provincial or federal or other laws, regulations, decisions, orders, judgments and rulings or regulatory requirements applicable to either party to the Agreement from time to time that address the collection, use, transfer or disclosure of Personal Information. The Contractor agrees to comply with all Privacy Laws applicable to either it or the Board in relation to Personal Information and shall refrain from taking any action that could cause the Board to be in noncompliance with any such Privacy Laws. The Contractor agrees to name a person (or persons) to be responsible for ensuring compliance with the obligations of this section and shall advise the Board of the name of such individual and any replacement(s). The Contractor agrees to reasonably cooperate with the Board in connection with any access requests for Personal Information as provided for in the Privacy Laws. The Contractor agrees to amend Personal Information as required by the Privacy Laws, only upon receiving instructions to do so from the Board, its personnel or any other individual to whom the Personal Information relates. The Contractor agrees, within 10 business days, to return to the Board or destroy all Personal Information that is no longer necessary to fulfill the purpose(s) for which it was made available, unless otherwise instructed by the Board or required by law.

20. CONFIDENTIALITY

- 20.1 The Contractor agrees not to divulge or communicate to any person or use for a purpose other than delivering the work required under this Agreement without the Board's prior written consent, any of the trade secrets or other secret or confidential, technical or commercially sensitive information belonging to the Board or its officers, stakeholders and/or third parties (the "Confidential Information"), whenever received by the Contractor and in whatever capacity.
- 20.2 The Contractor shall limit the disclosure of the Confidential Information to only those of its employees who have a need to know it and who have been specifically authorized to have such disclosure. The Contractor shall return all of the Confidential Information once the Contractor has completed its work under this Agreement and shall not retain any copies of the Confidential Information.
- 20.3 These restrictions will continue to apply after the termination of this Agreement, without limit in time but will cease to apply to information which enters the public domain otherwise than through unauthorized disclosure by the Consultant.

21.0 CONFLICT OF INTEREST

- 21.1 The Contractor and the Contractor's subcontractors, directors, officers, employees, agents and volunteers shall avoid any Conflict of Interest in the performance of their contractual obligations.
- 21.2 Where the Contractor foresees that conflict may arise, the Contractor shall bring the matter to the attention of the Board, which shall not unreasonably deny the Contractor the right to proceed with the potentially conflicting engagement.

22.0 PROPRIETARY RIGHTS

- 22.1 Both parties will retain all rights to methodology, knowledge, and data brought to the work and used therein. No rights to proprietary interests existing prior to the start of the work are passed hereunder other than rights to use same as provided for below. The Contractor will not knowingly incorporate into the work any data, software or hardware the use of which by the Board violates the proprietary rights of third parties.
- 22.2 All title and beneficial ownership interests to all intellectual property, including copyright, of any form, including, without limitation, discoveries (patented or otherwise), software, data (hard copied and machine readable) or processes, conceived, designed, written, produced, developed or reduced to practice in the course of the work will vest in and remain with the Board. Furthermore, the Contractor agrees to waive any moral rights that it has, and/or cause its employees to waive any moral rights they may have, in the work. The Contractor will not do any act which may compromise or diminish the Board's interests as aforesaid.
- 22.3 The Contractor grants to the Board a non-exclusive paid up license to use any data and other proprietary items incorporated into the work by the Contractor hereunder. The Contractor may, by prior written notice and written acknowledgment by the Board's representative, reserve the right to incorporate into the work data or other proprietary property for the use of which the Contractor wishes to charge a fee. If said notice and acknowledgment are not executed prior to the incorporation, the Contractor will be deemed to have waived any such fee. The Board will have the right to exploit such data and property and to license same to third parties provided that such licenses contain reasonable reservations of proprietary rights in favour of the Contractor (which may be included in a general reservation, but will contain the same order of legal protection as the Contractor uses when distributing such data or property to third parties) or provided the use of same does not reveal information proprietary to the Contractor.
- 22.4 Except as required in the performance of the work or as authorized in writing by the owner, or as required by applicable law (including the Freedom of Information and Protection of Privacy Act (Ontario) and the Personal Information Protection and Electronic Documents Act (Canada)), each party will keep confidential all proprietary information of the other, including, without limitation, all unpublished business and technical information, papers, or records, however produced.
- 22.5 The provisions of this Article shall survive any termination or expiry of this Agreement.

23.0 INDEMNITY

- 23.1 The Contractor hereby agrees to indemnify and hold harmless the Board, its employees and appointees (the “Indemnified Parties”) from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively, “Claims”), by whomever made, sustained, brought or prosecuted, including for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Contractor, its subcontractors or their respective directors, officers, agents, employees or independent contractors in the course of performance of the Contractor’s obligations under, or otherwise in connection with, this Agreement.
- 23.2 The obligations contained in this paragraph shall survive the termination or expiry of this Agreement.

24.0 INSURANCE

The Contractor represents and warrants that it has, and will maintain in good standing during the term of this Agreement and for a period of two years thereafter such commercial liability and other insurance as would be maintained by a prudent person having substantially the same business as that of the Contractor.

25.0 FORCE MAJEURE

Neither Party shall be liable for damages caused by delay or failure to perform its obligations under this Agreement where such delay or failure is caused by an event beyond its reasonable control. A Party claiming force majeure shall immediately notify the other Party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen business days, the other Party may immediately terminate this Agreement by giving notice of termination. Such termination shall be in addition to the other rights and remedies of the terminating Party under this Agreement, at law or in equity.

26.0 SEVERABILITY

If any provisions of the Agreement will for any reason be held illegal or unenforceable, such provision will be deemed separable from the remaining provisions of the Agreement and will in no way affect or impair the validity or the enforceability of the remaining provisions of the Agreement.

27.0 ENUREMENT

This Agreement shall enure to the benefit of and be binding upon the heirs, successors and permitted assignees of the Parties.

28.0 AGREEMENT

The Contractor hereby agrees to do the work and to provide the Deliverables as indicated in this and related documents in consideration of the Ontario Energy Board paying in accordance with the rates and the terms, conditions, and provisions outlined in these documents. The Contractor acknowledges that he / she / it has carefully examined this and the related documents and has a clear and comprehensive knowledge of the work to be performed and the Deliverables that are required and agrees to finalize and execute the Agreement in accordance with the above-noted documents.

IN CONSIDERATION OF the background and the mutual covenants and agreements contained herein, the parties agree to be bound by this Agreement including all parts and Appendices.

IN WITNESS WHEREOF the parties hereto execute this Agreement under the hands of their respective proper officers duly authorized on their behalf, on the date(s) set out below.

_____ Name Title Ontario Energy Board	_____ Date
--	---------------

_____ Name Title Company Name	_____ Date
--	---------------

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th. Floor
Toronto ON M4P 1E4
Telephone: (416) 481-1967
Facsimile: (416) 440-7656

Commission de l'Énergie de l'Ontario
C.P. 2319
2300, rue Yonge
27e étage
Toronto ON M4P 1E4
Téléphone: (416) 481-1967
Télécopieur: (416) 440-7656

APPENDIX B – FORM OF OFFER

To **Ontario Energy Board**

1. Proponent Information

(a) Proponent's registered legal business name and any other name under which it carries on business:

(b) Proponent's address, telephone and facsimile numbers:

(c) Name, address, telephone and facsimile numbers of the contact person(s) for the Proponent:

(d) Name of the person who is primarily responsible for the Proposal:

(e) Name of the person who will be managing the operation of the proposed deliverables:

(f) Whether the proponent is an individual, a sole proprietorship, a corporation, a partnership, a joint venture, an incorporated consortium or a consortium that is a partnership or other legally recognized entity:

(g) Name(s) of the proprietor, where the proponent is a sole proprietor; each of the directors and officers where the proponent is a corporation; each of the partners where the proponent is a partnership and applicable combinations of these when the proponent is a joint venture or consortium, whichever applies:

(h) Whether the proponent intends at any time during the term of an agreement arising out of this RFP, to use the services of another Person, in connection with the management of the deliverables to be provided pursuant to this agreement. If so, attach full details:

(i) Whether the proponent is a partner, director, officer, shareholder of, or a contributor of capital to another individual, sole proprietorship, corporation, partnership, joint venture, or a consortium that has as its principal business the provision of deliverables similar to the deliverables required pursuant to this RFP. If so, provide full details by way of attachment.

2. Offer

I/We have carefully examined the RFP documents and have a clear and comprehensive knowledge of the Deliverables required under the RFP. By submitting the proposal, we agree and consent to the terms, conditions and provisions of the RFP.

3. Mandatory Requirements

I/We enclose herewith as part of the proposal, responses to all mandatory submission requirements, as set out below:

MANDATORY REQUIREMENT FORMS:	Yes	Page
Form of Offer (Appendix B)		
Rate Bid Form (Appendix C)		
Tax Compliance Form (Appendix D)		
Reference Form (Appendix F)		
{**include any additional mandatory requirements here**}		
Notice to proponents: There may be Mandatory Requirements in this RFP other than those set out above. See the Mandatory Requirements section of this RFP for a complete listing of Mandatory Requirements.		

4. Rates

I/We have submitted our Rates in accordance with the instructions in the RFP.

5. Tax Compliance

I/We hereby certify that

(Registered Legal Business name of Proponent)

in submitting this proposal with accompanying Tax Compliance Form (Appendix D), is in full compliance with all tax statutes administered by the Ministry of Finance for Ontario and that, in particular, all returns required to be filed under all provincial tax statutes have been paid or satisfactory arrangements for their payment have been made and maintained.

6. References

I/We have included the number and type of references required by the RFP (Appendix F) and consent to the Board performing checks with those references and with any other relevant references.

7. Addenda

We have received and allowed for Addenda number _____ in preparing my/our proposal.
(Insert #'s or "NONE")

8. Bid Irrevocable

I/We understand that my/our submitted proposal is based upon the acceptance of the proposal, in whole or in part, within 120 days of the Proposal Submission Deadline and is irrevocable during that period.

9. Conflict of Interest

Proponents while completing this portion of the Form of Offer should refer to the definition section of the RFP.

I/ We hereby confirm that there is not nor was there any actual or potential Conflict of Interest relating to the preparation of our submission nor do we foresee any actual or potential Conflict of Interest in performing the contractual obligations contemplated in the RFP.

[or if applicable, strike out the above and include the following:]

The following is a list of actual or potential Conflicts of Interest relating to the preparation of our submission or the performance of the contractual obligations contemplated in the RFP:

In submitting the proposal, I/we have/have no **[strike out the inapplicable portion]** knowledge of or ability to avail ourselves of confidential information of the Crown (other than confidential information which may have been disclosed by the Board to the proponents in the normal course of the RFP) which is relevant to the contemplated contract, its pricing or the RFP evaluation process.

The following individuals, as employees, advisors, or in any other capacity (a) participated in the preparation of our proposal; **AND** (b) were employees of the Ontario Public Service ("OPS") or the OEB and have ceased that employment since January 1st, 2003:

Name of Individual:
Job Classification (of last position with OPS or OEB):
Ministry/Agency (where last employed with OPS or OEB):
Last Date of Employment with OPS or OEB:
Name of Last Supervisor with OPS or OEB:
Brief Description of Individual's Job Functions (at last position with OPS or OEB):
Brief Description of Nature of Individual's Participation in Preparation of Proposal:

(Repeat above for each identified individual)

I/we agree that, upon request, I/we shall provide the Board a Conflict of Interest Declaration from each individual identified above in the form prescribed by the Board.

10. Disclosure of Information to Advisers

I/We hereby consent, pursuant to subsection 17 (3) of the *Freedom of Information and Protection of Privacy Act*, to the disclosure, on a confidential basis, of this proposal by the Board to the Board's advisers retained for the purpose of evaluating or participating in the evaluation of this proposal.

11. Proof of Insurance

By signing the Form of Offer, each proponent acknowledges its willingness, if selected, to provide proof of insurance coverage as required in the Agreement. If selected, the selected proponent must provide proof of insurance coverage in the form of a valid certificate of insurance prior to the execution of the Agreement by the Board.

12. Execution of Agreement

I/We understand that in the event my/our proposal is selected by the Board, in whole or in part, I/we agree to finalize and execute the Agreement in accordance with the RFP.

Signature of Witness

Signature of proponent representative:

Name of Witness:

Name and Title:

Date:

I have authority to bind the proponent.

APPENDIX C - RATE BID FORM

To: Ontario Energy Board

With respect to RFP #: RFPOEBIT2010-0904

Microsoft SharePoint, Exchange and System Operating Monitoring Implementations

Submitted by: _____

Instructions

Please refer to **Section 3.2.2 – Rate Bid Form (Appendix C)**, and **Section 3.4 - Stage IV Evaluation of Pricing** for information regarding the completion of this form.

Proponents are to provide the following cost breakdowns:

Total Project Cost \$_____

(Include all disbursements, expenses -including travel expenses - and PST* if applicable, in the above amount. GST is not applicable.)

*PST Itemized Separately \$_____ (If PST is applicable to this procurement include the amount for PST itemized separately here. Otherwise, note N/A).

Proposed Resource(s)

Resource(s) Per Diem

SIGNATURE: _____

NAME / TITLE _____

I have authority to bind the proponent.

Date

APPENDIX D - TAX COMPLIANCE DECLARATION FORM

The Ontario Energy Board expects all suppliers to pay their provincial taxes on a timely basis. In this regard, proponents are advised that any contract with the Ontario Energy Board will require a declaration from the successful proponent that the proponent's provincial taxes are in good standing.

In order to be considered for a contract award, the proponent must submit the following tax compliance status statement and the following consent to disclosure:

Declaration

I/WE hereby certify that _____ at the time of submitting its proposal,
(legal name of proponent)
is in full compliance with all tax statutes administered by the Ministry of Finance for Ontario and that, in particular, all returns required to be filed under all provincial tax statutes have been filed and all taxes due and payable under those statutes have been paid or satisfactory arrangements for their payment have been made and maintained.

Consent to Disclosure

I/We consent to the Ministry of Finance releasing the taxpayer information described in this Declaration to the Board issuing the RFP as necessary for the purpose of verifying that I/we am/are in full compliance with all statutes administered by the Ministry of Finance.

Dated at _____ this _____ day of _____ 20____

(An authorized signing officer)

(Print Name)

(Title)

(Phone Number)

(Fax Number)

APPENDIX E - PROPOSAL RETURN LABEL
AFFIX THIS LABEL TO YOUR SUBMISSION PACKAGE ENVELOPE

Proponent to complete the following:
(Full Legal Name and Address)

NAME _____ **RFP# RFPOEBIT2010-0904**

Microsoft SharePoint, Exchange and System Operating Monitoring Implementations

ADDRESS _____

PROPOSAL SUBMISSION DEADLINE:

Date: April 9, 2010

Time: 3:00 p.m. (EDT)

CONTACT _____

PHONE NO. _____

**TO: Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4
Attn: Procurement Administrator**

The Postal Code is to aid in identifying the building only. The onus remains solely with Proponents to instruct courier/ delivery personnel to deliver Proposal submissions to the exact floor location specified above by the Proposal Submission Deadline. Proponents assume sole responsibility for late deliveries if these instructions are not strictly adhered to.

Important Instructions

Proposals must be submitted in a sealed package(s) to the address indicated on the Proposal Return Label between the hours of 8:30 a.m. and 5:00 p.m. (Toronto Time), Monday through Friday (excluding Statutory Holidays), AND NO LATER THAN THE PROPOSAL SUBMISSION DEADLINE NOTED ABOVE.

The Ontario Energy Board does not accept responsibility for Proposal submissions directed to any location other than the Ontario Energy Board address indicated on the label above. The Postal Code is to aid in identifying the building only. **The onus remains solely with Proponents to instruct courier/ delivery personnel to deliver Proposal submissions to the EXACT FLOOR location specified above.**

Proponents assume sole responsibility for late deliveries if these instructions are not strictly adhered to.

Failure to affix this Label to your submission envelope/ package may also result in submissions not being recognized as Proposals. This could result in your Proposal arriving late at the Tenders Office and will be deemed late, disqualified and returned to the Proponent.

Proposals received by Fax or any other kind of electronic transmission will be rejected.

APPENDIX F – Reference Form

Each proponent shall provide at least three (3) references (with full contact information) for each proposed consultant as requested in the RFP at **section 3.2.4**.

Reference #1

Company Name:	
Company Address:	
Contact Name:	
Contact Telephone Number:	
Date Work Undertaken:	
Nature of Assignment:	

Reference #2

Company Name:	
Company Address:	
Contact Name:	
Contact Telephone Number:	
Date Work Undertaken:	
Nature of Assignment:	

Reference #3

Company Name:	
Company Address:	
Contact Name:	
Contact Telephone Number:	
Date Work Undertaken:	
Nature of Assignment:	

APPENDIX G –Acknowledgement Form

RFP ACKNOWLEDGEMENT FORM

Request for Proposals (project #) RFPOEBIT2010-0904

Microsoft SharePoint, Exchange and System Operating Monitoring Implementations

Ontario Energy Board contact: Procurement Administrator

Address: 2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Fax: 416.440.7671

Email: Procurement@oeb.gov.on.ca

Please complete this form and return by fax / email (as applicable) to the RFP contact person if you are interested in the procurement opportunity.

Company Name: _____

Address: _____

Contact Person: _____

Position: _____

Phone Number: _____

Fax Number: _____

Email Address: _____