



Savings | Choice | Service

SPORTS AND SPECIAL NEEDS PRODUCTS

REQUEST FOR PROPOSALS # 2023-442

Request for Proposals Timetable	
Event	Time/Date
OECEM's Issue Date of Request for Proposals:	February 2, 2024
Proponent's Information and Ontario Tenders Portal Jaggaer Demonstration Session:	2:00 pm on February 8, 2024
Proponent's Deadline to Submit Questions:	5:00 pm on February 13, 2024
OECEM's Deadline for Issuing Answers:	February 16, 2024
Proponent's Deadline to Submit Questions Related to Addenda & Question and Answer Documents:	5:00 pm on February 20, 2024
OECEM's Deadline for Issuing Final Documents:	February 27, 2024
Closing Date:	2:00:00 pm on March 5, 2024
Anticipated Master Agreement Start Date:	April 2024

All times specified in this timetable are local times in Toronto, Ontario, Canada

OECEM 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 Project Background	5
1.2.1 Historical Spend.....	5
1.2.2 Customer Engagement.....	5
1.3 Award Strategy	6
1.3.1 No Contract until Execution of Written Master Agreement.....	6
1.3.2 Customer’s Usage of Master Agreements	6
1.3.3 No Guarantee of Volume of Work or Exclusivity of Master Agreement.....	7
1.4 About OECM.....	7
1.4.1 Use of OECM Master Agreements	8
1.4.2 OECM Geographical Zones.....	9
1.4.3 The Ontario Broader Public Sector Procurement Directive.....	9
1.4.4 Trade Agreements.....	9
PART 1A – RULES OF INTERPRETATION AND DEFINITIONS	10
1A.1 Rules of Interpretation.....	10
1A.2 Definitions	10
PART 2 - THE DELIVERABLES	14
2.1 Description of Deliverables	14
2.1.1 Overview of Deliverables.....	14
2.2 Category A – Team and Individual Sports Products	14
2.3 Category B – Physical Education and Play Products.....	15
2.4 Category C – Floor and Wall Mats.....	15
2.5 Category D – Special Needs Products.....	16
2.6 Category E – Multi-Sensory Environmental Products	16
2.7 Order Management.....	16
2.7.1 Online Ordering	17
2.7.1.1 Website Security	17
2.7.1.2 Website Testing.....	17
2.7.1.3 Customer Online Portal (Optional).....	18
2.7.2 Electronic Commerce.....	18
2.7.3 Minimum Order.....	18
2.7.4 Bulk or Large Orders.....	18
2.7.4.1 Coordinated Bulk Ordering	18
2.7.5 Order Acknowledgement	18
2.7.6 Order Changes and/or Cancellation	19
2.7.6.1 Back Orders.....	19
2.7.6.2 Product Substitution.....	19
2.8 Delivery.....	19
2.8.1 Delivery Lead Times	19
2.8.2 Damaged or Defective Products	20
2.8.3 Returns	20
2.8.4 Recalls.....	20
2.9 Product Warranty.....	20
2.9.1 Warranty Support.....	20
2.9.2 Non-Obsolescence	21
2.10 Invoicing.....	21
2.10.1 Payment Terms and Methods.....	21
2.10.2 Electronic Fund Transfer.....	21
2.11 Rates 22	
2.11.1 Customer Core List (Optional).....	22
2.11.2 Travel Expenses	22
2.12 OECM Cost recovery Fee.....	23
2.13 Support to Customers.....	24
2.13.1 Customer Satisfaction.....	24
2.13.2 Incentive to Customers	24
2.14 Supplier Management Support to OECM.....	25

2.14.1	Master Agreement Award and Launch.....	25
2.14.2	Promoting OEMC Master Agreements.....	25
2.14.3	Supplier Performance Management Scorecard	26
2.14.4	Process to Add Other Products	26
2.14.5	Saving Calculation	26
2.14.6	OECM's Supplier Recognition Program.....	27
2.14.7	Reporting to OEMC.....	27
2.15	Environmental, Social, and Governance and Ethical and Sustainability Considerations	27
2.16	Disaster Recovery and Business Continuity	27
2.17	Accessibility for Ontarians with Disabilities Act.....	27
2.18	Financial Administration Act Section 28.....	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
3.4.1	Minimum Percentage Discount off Proponent's Published Canadian Price	30
3.4.2	Maximum Net Rate	31
3.5	Stage IV – Cumulative Score (per Category).....	32
3.6	Stage V – Tie Break Process (per Category).....	32
3.7	Stage VI – Negotiations	32
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	35
4.2.1	Communication with OEMC.....	35
4.2.2	Proponent to Review RFP	36
4.2.3	Proponent to Notify	36
4.2.4	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	37
4.3.3	Proposal Submission Requirements.....	37
4.3.4	Other Proposal Considerations.....	38
4.3.5	Proposal Receipt by OEMC.....	38
4.3.6	Withdrawal of Proposal.....	38
4.3.7	Amendment of Proposal on OTP	38
4.3.8	Completeness of Proposal.....	38
4.3.9	Proposals Retained by OEMC.....	38
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.....	39
4.3.16	RFP Incorporated into Proposal.....	39
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	40
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	41

4.5.1	Confidential Information of OECM	41
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.....	42
4.5.7	Municipal Freedom of Information and Protection of Privacy Act.....	42
4.5.8	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.....	45
4.6.5	Entire RFP	45
4.6.6	Priority of Documents.....	45
4.6.7	Disqualification for Misrepresentation	45
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.....	46
	APPENDIX A – FORM OF MASTER AGREEMENT.....	47
	APPENDIX B – COMMERCIAL RESPONSE.....	48
	APPENDIX C – SUPPLIER REPORTING REQUIREMENTS	49
	APPENDIX D – SUPPLIER PERFORMANCE MANAGEMENT SCORECARD	50
	APPENDIX E – OECM’S SUPPLIER CODE OF CONDUCT	52
	APPENDIX F – OECM SCHOOL BOARD, COLLEGE AND UNIVERSITY CUSTOMERS IN ONTARIO	54

PART 1 – INTRODUCTION

This non-binding Request for Proposals (“RFP”) is an invitation to obtain Proposals from qualified Proponents for Sports and Special Needs Products as described in Part 2 – The Deliverables.

OECM intends to award one (1) or more Master Agreements in each category, with a Term of the Master Agreement (“Term”) of six (6) years.

This RFP is issued by OECM.

1.1 Objective of this RFP

The objective of this RFP is to:

- (a) Provide OECM Customers the ability to purchase Products from qualified Suppliers to satisfy their requirements;
- (b) Reduce the costs of associated competitive procurement processes on an ongoing basis (i.e., fewer competitive procurement documents issued by Customers);
- (c) Obtain quality products and services at the best overall value;
- (d) Provide innovative products and solutions that will assist Customers;
- (e) Minimize instances of back-orders and promote increasing inventory investments;
- (f) Ensure timely deliveries at the lowest cost to the Customer and the Supplier; and,
- (g) Provide a strong cooperative and proactive relationship with the Supplier.

1.2 Project Background

In 2016, OECM initiated a Request for Proposals (RFP) for Sports and Special Needs Products; Inspection & Repair Services, resulting in the establishment of master agreements with four (4) awarded suppliers. The cumulative spend under this agreement amounts to approximately twenty-five million dollars (\$25 million). The current master agreement expires on June 30, 2024.

1.2.1 Historical Spend

OECM currently has Sports and Special Needs Products agreements in place with three (3) suppliers that expire on June 30, 2024. There are presently eighty-six (86) unique Customers using these existing OECM agreements:

- (a) Sixty-five (65) School Boards;
- (b) Five (5) Colleges;
- (c) One (1) University; and,
- (d) Fifteen (15) other organizations.

Approximate purchases through these existing agreements from July 2016 to January 2024 are approximately twenty-five million dollars (\$25,000,000).

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

1.2.2 Customer Engagement

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

- (a) Bluewater DSB;

- (b) Bruce-Grey CDSB;
- (c) Franco achat; and,
- (d) George Brown College.

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

1.3 Award Strategy

OECM may, through this RFP process, enter into Master Agreements with one (1) or more Suppliers in each category for the provision of the Sports and Special Needs Products.

The Term is intended to be for six (6) years.

Customers participating in the Master Agreements will execute a 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.

1.3.1 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 Products 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 Products has occurred.

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

1.3.2 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 Products a Customer may:

- (a) Select a Supplier and sign a CSA; or,
- (b) Seek Rates and other relevant Product information specific to a Customer's organization (e.g., by issuing a non-binding request via a Second Stage tool (e.g., Quick Quote ("QQ")), or Customer's process (e.g., directly or via an online e-tendering platform)) from the Supplier for their specific Product requirements (e.g., reporting, Rates, invoicing). If selected by the Customer, the Supplier shall provide the Products in accordance with the specifications stated in 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 Products or it may request the Supplier to propose appropriate Products to fulfill the Customer's requirements and any other applicable information.

The Customer may negotiate their unique requirements (e.g., reporting, Rates, the length of time the Rates remain firm, 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 Products and/or Services;
- (b) Volumes;
- (c) Delivery locations;
- (d) Reporting requirements;
- (e) Invoicing; and,
- (f) 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.

1.3.3 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.

1.4 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.

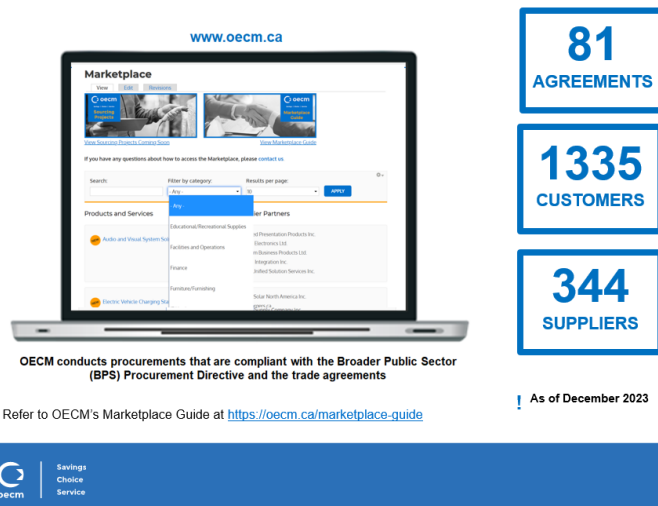
OECM contracts with innovative, reputable Suppliers to offer a comprehensive choice of collaboratively sourced and competitively priced products and services through its Marketplace, the goal of which is to generate significant value and savings, quality of choice and consistent service for its Customers. 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;

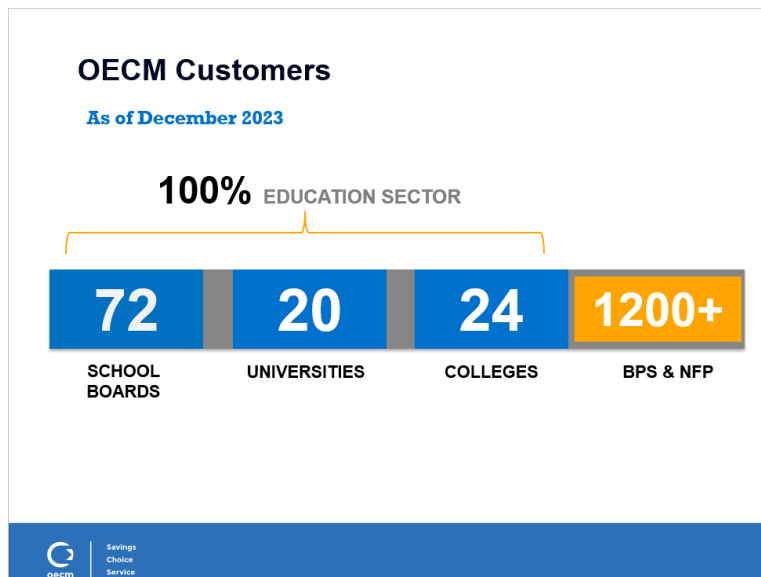
- (c) Supporting Customers' access and use of OECM agreements through analysis, reporting and the development of tools, guides, and other materials;
- (d) Effectively managing supplier contract performance while harnessing expertise and innovative ideas, to drive continuous improvements through a Supplier 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



1.4.1 Use of OECM Master Agreements

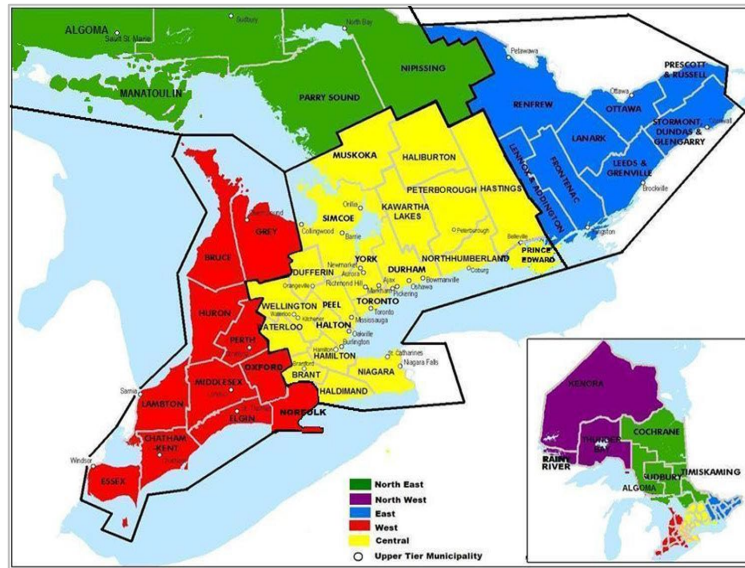
As of December 2023, 1335 Customers were using one (1) or more OECM agreements with a cumulative spend of more than four (4) billion dollars over the last fifteen (15) years.



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

1.4.2 OECM Geographical Zones

OECM Customers are located in five (5) geographical Zones throughout the Province of Ontario.



Also refer to Appendix F – OECM School Board, University and College Customers in Ontario illustrating OECM’s educational Customers by Zone.

1.4.3 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 here [Broader Public Sector Procurement Directive \(gov.on.ca\)](http://www.gov.on.ca/BroaderPublicSectorProcurementDirective).

1.4.4 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 OEMC or the Supplier, such terms shall be construed and interpreted as synonymous and shall be construed to read “OEMC shall” or the “Supplier shall”, as the case may be;
 - ii. The term “should” relates to a requirement that OEMC 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;

“Authorized Reseller” means a Person that is authorized by the OEM to market, advertise, sell and distribute the Products;

“Best and Final Offer” or **“BAFO”** means a process during the negotiation stage in which a Preferred Proponent may be invited by OEMC 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 OEMC 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;

“Cost Recovery Fee” or **“CRF”** means a fee, which contributes to the recovery of OEMC'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 OEMC's competitively sourced agreements. Once Customer-Supplier Agreements have been executed, this fee is remitted by the Supplier to OEMC 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 Products and related 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;

“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 OEMC 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 OEMC 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;

“OEMC” means the Ontario Education Collaborative Marketplace;

“OEMC'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 Jaggaer” 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;

“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;

“Product” 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;

“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, and/or minimum percentage discount off Proponent’s Published Canadian Price for the Products and Related Services as set out in the Proponent’s submitted Appendix B - Commercial Response;

“Request for Proposals” or **“RFP”** means this Request for Proposals #2023-441 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., Quick Quote (“QQ”), 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 Products specific to a Customer’s organization;

“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 1.5 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 Sports and Special Needs Products RFP #2023-442 Deliverables which will be incorporated into the final Master Agreement(s) by Category.

OECM requires that the Proponent has a clear and comprehensive understanding of the RFP requirements (i.e. Part 2 – The Deliverables **and** Part 4 – Master Agreement Structure and Management). The Proponent will be required to indicate their agreement accordingly in the Form of Offer in the Qualification Envelope on OTP.

2.1 Description of Deliverables

The Proponent may submit a Proposal, by Zone, for one (1), some or all of the following **Product** categories. Each Category will be evaluated, scored, and awarded independently.

Requirements applicable to specific Categories are set out in the RFP Sections as mentioned below. Deliverables, as set out in Sections 2.7 to 2.18, are applicable to all Categories.:

Category Title	RFP Section Reference
Category A – Team and Individual Sports Products	2.2
Category B – Physical Education and Play Products	2.3
Category C – Floor and Wall Mats	2.4
Category D – Special Needs Products	2.5
Category E – Multi-Sensory Room Products	2.6

2.1.1 Overview of Deliverables

The Supplier shall provide the following to meet the requirements set out in this RFP during the Term of the Agreement and shall possess, at a minimum, the experiences and capabilities set out below:

- Extensive knowledge related to the Product being proposed;
- Experience providing the required Products to organizations of similar size and scope;
- Ability to facilitate Manufacturer (“OEM”) Product warranty, as applicable;
- Provide professional and timely customer support to Customers (e.g. orders, technical support, warranty claims, health & safety concerns); and,
- Ensure Products meet government legislation/regulations (i.e. safe use, concussion, necessary certifications).

2.2 Category A – Team and Individual Sports Products

The Supplier shall provide a broad range of Products for team and individual general sports including, but not limited to:

- Aquatics;

- Archery;
- Badminton;
- Baseball and softball;
- Basketball;
- Bowling;
- Coaching;
- Curling;
- Field hockey;
- Floor hockey;
- Football and rugby;
- Golf;
- Handball;
- Pickleball
- Hockey;
- Lacrosse and ringette;
- Racquet sports;
- Soccer;
- Spikeball
- Squash;
- Storage;
- Table tennis;
- Tennis;
- Track and field;
- Volleyball;
- Weight lighting;
- Winter sports; and,
- Wrestling.

2.3 Category B – Physical Education and Play Products

The Supplier shall provide a broad range of Physical Education (“PE”) and play Products including, but not limited to:

- Balance and movement;
- Balls for playing;
- Bean bags and tossers;
- Cheerleading;
- Cones and markers;
- Cricket;
- Eye goggles;
- First aid kits and safety;
- Frisbee;
- Hoops and rings;
- Jump ropes;
- Parachutes;
- Pinnies and jerseys;
- Scooters; and,
- Scoring and timekeeping.

2.4 Category C – Floor and Wall Mats

The Supplier shall provide a broad range of floor and wall mat Products and related Services including, but not limited to:

- Standard floor and wall mats;
- Custom floor and wall mats;
- Folding mats; and,
- Installation Services.

2.5 Category D – Special Needs Products

The Supplier shall provide a broad range of Products for special needs including, but not limited to:

- Bean bag chairs;
- Chairs;
- Change tables;
- Fiber optic lights;
- Individual trampolines;
- Lifts;
- Cushions;
- Pea pods;
- Physio balls;
- Rubber medicine balls;
- Scooters;
- Shoulder wraps;
- Slant boards;
- Standers;
- Strollers;
- Toileting products;
- Transportation devices (e.g. seats, vests);
- Vibrating snakes;
- Walkers; and,
- Wheelchair accessories.

2.6 Category E – Multi-Sensory Environmental Products

The Supplier shall provide a broad range of Products and related services (e.g. design and installation services) related to multi-sensory environments including, but not limited to:

- Ballpools;
- Bubble tubes;
- Cushion;
- Fiber optics;
- Rockers;
- Soft furnishings;
- Solar range projectors with effect wheels/cassettes;
- Swings;
- Textures;
- Wall padding; and,
- Weighted products.

2.7 Order Management

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

- (a) Electronic Data Interchange (“EDI”);
- (b) Email to a Supplier representative or central ordering centre;
- (c) Fax;
- (d) Supplier’s online ordering process;
- (e) Toll-free phone; and/or,
- (f) Via purchase order through the Customer’s system;

The Supplier shall provide a two (2) staged ordering process (i.e., order and approval) to Customers for all ordering methods upon request.

2.7.1 Online Ordering

Customers may use the Supplier's website to place orders where available. The Supplier's online ordering website is expected to meet the following requirements at the minimum:

- (a) Be secure and user-friendly;
- (b) Be accessible from a standard web browser;
- (c) Allows generic individual or custom user login ID and password;
- (d) Contains Product offerings and pricing;
- (e) Features search function to allow easy Product lookup by category, description, manufacturer, and Product code;
- (f) Contains real-time inventory information (i.e., in stock and out of stock); back-ordered Products and expected shipping time shall be clearly marked at time of order checkout; an option to cancel the back-ordered Products shall also be provided at time of order check out;
- (g) Suggest alternatives (e.g., economic, ergonomic and green Products) as available;
- (h) Allows for Customer internal approval for purchases as required;
- (i) Allows for various payment methods (e.g. use of P-Card or budget codes (G/Ls);
- (j) Provide information related to website maintenance, warehouse closing and other situations where orders will be impacted; and,
- (k) Does not store Customer payment related (e.g. P-card) information without Customer's consent.

The supplier shall provide OECM access to their online website for auditing purposes.

2.7.1.1 Website Security

The proponent should describe their website security features and their process for protecting Customer data, purchases and confidential information such as credit card information.

All Customer's data shall be encrypted when it is moved across the Supplier's network and/or between the Supplier's data centre locations.

The Supplier shall support Customer's established information security policies and controls for protecting sensitive data.

The Supplier and the Customer shall mutually agree to website security requirements when executing a Customer-Supplier Agreement ("CSA").

The supplier shall support the Customers federal and provincial compliance requirements on an ongoing basis and stay current on those requirements.

2.7.1.2 Website Testing

Customers may need to perform integration testing on the Supplier's online ordering system to ensure it is compatible with the Customers' systems, policies and procedures before executing a CSA to ensure the website meets Customer's specific requirements.

Suppliers shall be expected to provide Customers with the following for a test account, at no additional cost:

- (a) URL/Website address;
- (b) Login ID;

- (c) Password; and
- (d) Confirmation Orders can go to;

Customers may test from beginning to end of the order process, including submitting the order. Customers will not be responsible for any live orders that go through during the testing period.

2.7.1.3 Customer Online Portal (Optional)

Some Customers may require the option for a Customer Portal, which provides the ability for Customer employees to order from a specific template of Products that have already been approved by the Customer.

The Supplier and the Customer shall mutually agree to any costs associated with the Customer Online Portal when executing a Customer-Supplier Agreement ("CSA").

2.7.2 Electronic Commerce

Customers currently use a variety of Enterprise Resource Planning ("ERP"), E-Procurement (e.g. cXML Punchout, PeopleSoft, Jaggaer) for processing orders and payments. To support these processes, the Supplier shall provide reasonable technology and implementation support, during the Business Day for the Term of the Agreement, at no additional cost to the Customer.

2.7.3 Minimum Order

The Customer shall endeavour to achieve a minimum order amount of \$100 Canadian Dollars per order. For any orders where this minimum order amount is not met, the Supplier may charge a shipping fee.

2.7.4 Bulk or Large Orders

Customers may, from time to time, purchase bulk and/or large quantities of Products. If this is requested, the Supplier is encouraged to offer better Rates and/or percentage discounts than those in the Agreement (e.g. through a quick quote process).

2.7.4.1 Coordinated Bulk Ordering

The Supplier shall support coordinated bulk purchases initiated by OEMC and/or Customers for several Customers during the Term. If this occurs, OEMC or the Customer may negotiate a lower Rate with the Supplier for bulk purchases. Lead time for bulk purchases may differ from that set out in Section 2.8.1. The Customer will ensure reasonable lead times for bulk purchases are requested.

OEMC and/or Customers may consolidate various Customer volumes and coordinate bulk purchases. Once Products have been received at Customer's location, the Supplier shall invoice each Customer accordingly.

2.7.5 Order Acknowledgement

The Supplier shall acknowledge the receipt of an order by Customer immediately or within one (1) Business Day upon order receipt; in addition, the Supplier shall confirm all relevant ordering information with Customer prior to the shipment of any order, including but not limited to the following:

- (a) Order Number;
- (b) Order Date;
- (c) Customer Number (if applicable);
- (d) Product information (e.g., product description, catalogue number, quantity ordered; price);
- (e) Sales Tax (as a separate line item) and Total Sum; and,
- (f) Estimated Delivery Date (including back orders).

2.7.6 Order Changes and/or Cancellation

The Supplier shall accept new orders, order changes and/or cancellation as may be required, within timelines mutually agreed upon between the Customer and the Supplier, at no additional cost to the Customer.

2.7.6.1 Back Orders

Back orders, if any, should be confirmed at the time of the order confirmation with an estimated delivery date. The Customer, at its sole discretion and at no additional cost to the Customer, will have the option to:

- (a) Cancel some or the entire order;
- (b) Ask the Supplier to ship only available Products and cancel any backorders; and/or,
- (c) Agree to an alternative delivery schedule based on anticipated Product and/or Service availability.

2.7.6.2 Product Substitution

The Supplier should only substitute Products with prior approval from the Customer. The Supplier shall substitute Products with equivalent or greater Products at no additional cost to the Customer. Customers may wish to test substituted Products prior to approving at no additional costs.

2.8 Delivery

Customers require various types of delivery. For Customer locations that do not have loading docks, the Supplier shall make the delivery with a lift gate or equivalent. All Products shall be Delivered Duty Paid ("DDP") to inside the door or the dock of the Customer's location as requested by the Customer. Customers may have more than one (1) delivery location within one (1) delivery address.

The Supplier should consolidate, where possible, multiple orders by delivery address, provided the delivery is made within allowable lead time. When shipping multiple orders to the same delivery address, the Supplier shall package, label and deliver orders separately.

The Supplier should deliver orders with correct Products and quantities within the lead time.

Products will be packaged appropriately to ensure safe delivery. All deliveries must include a packing slip specifying the Customer's required information (e.g. name of the employee who placed the order, purchase order number, Products and quantities ordered and shipped, back ordered Products and quantities, if any) and all applicable Material Safety Data Sheets ("MSDS") and/or Safety Data Sheets ("SDS").

Deliveries must be made by the Supplier's own transportation fleet or a reputable transportation company that allows for tracking of the shipments.

2.8.1 Delivery Lead Times

The Supplier shall provide the following maximum lead time to Customers:

- (a) Stocked Products - Next Business Day delivery for orders received by 2:00 pm, local time zone;
- (b) Non-Stock Products - Forty-eight (48) to Seventy-Two (72) hours delivery; and,
- (c) Product Equipment – Four (4) to Six (6) weeks.

The Supplier and Customers may mutually agree upon other lead times and/or terms which are mutually beneficial to both parties. These terms may include blanket purchase orders with scheduled release dates, bulk or large orders for the academic year or special delivery requirements (e.g. specific hours).

The Supplier shall coordinate directly with the Customer regarding the status of orders, and delivery.

2.8.2 Damaged or Defective Products

The Customer may not accept the delivery of the Products if they are:

- (a) Damaged (or the packaging is damaged);
- (b) Not delivered as agreed; or,
- (c) Substituted without prior approval of the Customer.

The Supplier shall be responsible for all shipping costs related to the return and replacement (e.g. immediately if required by Customer for an imminently scheduled ceremony/event) of any damaged or defective Products from the Customer's location. Customers will not be responsible for any additional costs (e.g. re-stocking fees) due to damaged or defective Products received.

2.8.3 Returns

The Supplier shall accept all Products returned by the Customer that were ordered incorrectly and not used within thirty (30) days from the delivery date.. Product returns that contain no damages and/or defects may be subject to a restocking and/or shipping fee.

2.8.4 Recalls

The Supplier shall ensure that Products meet current safety standards and regulations and shall advise OEM and Customers of any changes with regulatory agencies related to the Products, which may impact the future availability of Products, or Service support of the Products.

The Supplier shall immediately report recalled Products to OEM and Customers advising applicable details (e.g. model number, serial number). Supplier shall comply with the requirements of any Applicable Law in respect to recalled Products and repair or replace the Product at no additional cost to Customer.

2.9 Product Warranty

The Supplier shall warrant purchased Products from the date of receipt at Customer's location for a minimum of one (1) year against, but not limited to the following conditions:

- (a) Faulty material;
- (b) Manufacturing defects; and,
- (c) Poor workmanship.

The Supplier shall register the equipment for warranty and manage manufacturer's warranty coverage upon delivery.

The Supplier must submit any special assembly, installation, care or maintenance instructions that must be followed to make a claim on the warranty directly to the Customer on purchase of the Product, unless directed otherwise by the Customer.

Where a manufacturer's standard warranty applies to the Product, the Supplier shall be responsible for arranging Product exchanges and repairs. For all Products with warranty coverage, costs of parts, labour, and shipping to and from the Customer's location on all Products associated with repairs and/or replacement shall be at no cost to the Customers.

The Supplier shall provide warranty repairs within forty-eight (48) business hours of the Customer's request for service.

All warranty-related repairs shall be performed by certified technician. Where possible, the Supplier should always repair at the Customer's location to minimize equipment downtime.

2.9.1 Warranty Support

Warranty support shall include but are not limited to the following:

- (a) Customer telephone support during Business Days; and,
- (b) Toll-free telephone number.

2.9.2 Non-Obsolescence

Replacement parts and components for the Products should be made available to Customers to purchase beyond the standard warranty period.

2.10 Invoicing

The Supplier shall submit an invoice to the Customer after Products have been received at Customer's designated location. Flexibility in invoicing processes is required. Customer may request invoices in different frequencies (e.g., quarterly, monthly) or specific formats.

The invoices, in either paper or electronic format, as detailed in the Customer's CSA shall be itemized and include, but not limited to:

- (a) Customer's name;
- (b) Invoice date and number;
- (c) Detailed Service description;
- (d) Rate of Services;
- (e) Billable hours (as applicable);
- (f) Other costs such as travel, food or accommodations as applicable;
- (g) Extended total and Harmonized Sales Tax ("HST").

The Supplier should provide necessary electronic commerce support to Customers ensuring invoicing functionality operates smoothly if Customers are using SciQuest (e.g., support cXML and/or portal).

2.10.1 Payment Terms and Methods

The Customer's common payment terms are net thirty (30) days. Different payment terms, however, may be agreed to when executing CSAs (e.g. 2%/10 early payment discount for Customers).

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

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

2.10.2 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.

2.11 Rates

The proposed Product and/or Service Rates shall be firm Rates for the entire term of the Master Agreement and shall be Rates per Category for Customers located in Ontario as detailed below:

(a) Minimum percentage discount off Proponent's Published Canadian Price applicable to all Customers;

(b) Maximum net Rates per service, for related Services

(c) 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,

(d) Exclusive of the HST, or other similar taxes.

The Supplier may, however, lower its Rates and/or increase the minimum percentage discount off Supplier's Canadian List Price for specific Products and/or Related Services when the Customer and Supplier mutually agree without affecting the Rates in the Master Agreement.

In extenuating circumstances, OEMC may consider a Rate adjustment substantially effecting the provision of Products and/or Related Services resulting from 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 such request from the Supplier must be accompanied and supported by documentation deemed appropriate by OEMC. OEMC may use a third-party index (e.g. Consumer Price Index ("CPI")) in its Rates review. The Supplier must submit documentation (i.e. Rate impact analysis) demonstrating how the request affects the delivery of Products in this Master Agreement. OEMC will not consider any fixed costs or overhead adjustments in its review of the Supplier's documentation.

2.11.1 Customer Core List (Optional)

The Customer and the Supplier may, when executing the CSA develop a Core List specific to the Customer needs. Details of the core list, including Product description, catalogue/OEM number, packaging, Rates, escalations, and Rate refresh frequency/timing shall be mutually agreed upon by the Customer and the Supplier and outlined in CSA.

The Supplier shall provide the Customer with thirty (30) days written notice prior to any Rate increase.

Rate increases shall be no greater than the twelve (12) month average of the Customer Price Index (CPI) for the applicable year and occur on an annual basis unless otherwise agreed to in writing by the Customer and the Supplier. Core List Rates shall not exceed MA Rates.

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 OEMC as part of the sales reporting.

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

2.11.2 Travel Expenses

The Supplier must obtain prior approval from the Customer for costs incurred as a result of accommodation or travel associated with a particular Assignment. These costs must be charged in accordance with the Customer's travel policy, as may be amended from time to time. Suppliers may obtain applicable rates from the Customer. All such pre-approved costs, where applicable, must be itemized separately on invoices.

Customers shall not be responsible for any meal, hospitality, or incidental expenses incurred by the Supplier, whether incurred while travelling or otherwise including:

(a) Meals, snacks and beverages;

(b) Gratuities;

(c) Laundry or dry cleaning;

- (d) Valet services;
- (e) Dependent care;
- (f) Home management; and,
- (g) Personal telephone calls.

2.12 OECEM Cost recovery Fee

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

The Supplier shall pay to OECEM a maximum CRF of **one-point-seven-five percent (1.75%)** on all Products and Related Services invoiced by the Supplier to the Customers throughout the Term.

CRF will be calculated as follows:

EXAMPLE OF HOW CRF WILL BE CALCULATED WITH A CRF = 1.75%				
Sales per Quarter	Calculation	CRF	HST	Total CRF Payment to OECEM
If Supplier has \$100,000 total sales in first quarter	\$100,000 x 1.75% CRF	\$1750	\$227.5	\$1977.5
If Supplier has \$200,000 total sales in second quarter	\$200,000 x 1.75% CRF	\$3500	\$455	\$3955
If Supplier has \$50,000 total sales in third quarter	\$50,000 x 1.75% CRF	\$875	\$113.75	\$988.75
If Supplier has \$50,000 total sales in fourth quarter	\$50,000 x 1.75% CRF	\$875	\$113.75	\$988.75
Total CRF Payment to OECEM for <u>first year of the Master Agreement</u>:				\$7910

The CRF and applicable HST shall be paid to OECEM 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 OECEM's sole discretion, be adjusted downwards for remaining Term.

The Supplier shall be responsible for paying interest, as specified in Article 4.08 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.

2.13 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 training/demonstrations, knowledge transfer, and no-cost educational events (e.g. webinars), if available;
- (h) Establishing an ongoing communications program with the Customer (e.g. new initiatives, innovation, sustainability);
- (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. inventory count, relocation of warehouse, website maintenance);
- (k) Provide Customer reporting and/or access to online reports; and,
- (l) Attending meetings with Customers, as requested.

2.13.1 Customer Satisfaction

Understanding that each Customer is different, the Supplier should perform customer satisfaction surveys with the Customer's staff who received the Services. The survey should be focused on, but not limited to the following:

- (a) Customer support;
- (b) Response time; and
- (c) Performance (i.e. Service quality).

The survey content, frequency and requirements may vary from one (1) Customer to another. The Supplier to work with the Customer to develop and distribute surveys to collect Customer feedback, as mutually agreed upon by the Supplier and Customer. Results shall be shared with OECM, if requested.

2.13.2 Incentive to Customers

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

- (a) Use of Purchasing Card ("P-Card") for immediate payment;
- (b) Early payment discount for Customers;
- (c) Higher volumes; and,

- (d) Overall growth.

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

2.14 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:

- (a) Assigning to OECM a Supplier Account Executive and team responsible for supporting and overseeing all aspects of the Master Agreement;
- (b) 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).

2.14.1 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.

2.14.2 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 Products and/or Related 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.

2.14.3 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.

2.14.4 Process to Add Other Products

During the Term the Supplier may request adding other Products and or/Related Services (e.g., newly available Products) to the Master Agreement to align with Customer needs. OECM will review and assess the request and may accept or reject based on Products 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 Product and/or Service refresh.

Additional Product and Services requests from the Supplier must be accompanied by appropriate documentation (e.g., Product description, and 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 Products and Services. In the event the Supplier's performance is poor and/or unacceptable, OECM may not agree to the Supplier's Product and/or Service refresh request. All other Products shall remain unchanged.

Rates, for newly added Products, will be negotiated at the time of the request ensuring Rate alignment with similar Products currently available on the Master Agreement .

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

2.14.5 Saving 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).

2.14.6 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.

2.14.7 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.

2.15 Environmental, Social, and Governance and Ethical and Sustainability Considerations

The Supplier shall possess and provide information, related to its ethical and sustainability business practices locally and globally.

The Supplier shall collaborate and support the Customer to align with their sustainability policies and practices and institutional goals. This can include the suppliers efforts to act as environmental stewards: uphold high standards of working conditions.

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

- (a) Environment: Act as environmental stewards (e.g. addressing climate change, decarbonization and greenhouse gas emissions, resource depletion, waste and pollution).
- (b) Social: Uphold high standards for working conditions, health and safety, employee relations and community impact (equality, inclusions and accessibility, cultural impacts); and,
- (c) Governance: Provide transparency and accountability in corporate governance and leadership (e.g. corporate oversight, risk management).

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 and ethical sustainability commitments.

2.16 Disaster Recovery and Business Continuity

The Supplier shall have and provide 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 Product availability critical to Customers.

2.17 Accessibility for Ontarians with Disabilities Act

OECM and its Customers are committed to the highest possible standards for accessibility. The Supplier must be capable to recommend and deliver, as appropriate for Deliverable, accessible and inclusive Products consistent with the Ontario Human Rights Code (OHRC), the *Ontarians with Disabilities Act, 2001* (ODA) and *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) and its regulations in order to achieve accessibility for Ontarians with disabilities.

In accordance with Ontario Regulation 429-07 made under the *Accessibility for Ontarians with Disabilities Act, 2005* (Accessibility Standards for Customer Service), Customers have established policies, practices and procedures governing the provision of its services to persons with disabilities.

The AODA may be found at http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_05a11_e.htm.

2.18 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 Products 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.

[End of Part 2]

PART 3 – EVALUATION OF PROPOSALS

3.1 Stages of Proposal Evaluation

OECM will conduct the evaluation of Proposals per Category in the following stages for each category:

Stage	Type of Evaluation	Refer to RFP Section	Scoring Methodology and Maximum Points (if applicable)	Minimum Threshold Requirement (if any)
Stage I	Qualification Response	3.2	Pass/Fail	Pass
Stage II	Technical Response	3.3	140 points	70 points
Stage III	Commercial Response	3.4	60 points per Category	Not Applicable
Stage IV	Cumulative Score	3.5	200 points	Not Applicable
Stage V	Tie Break Process	3.6	No Point Allocation	Not Applicable
Stage VI	Negotiations	3.7	No Point Allocation	Not Applicable
Stage VII	Master Agreement Finalization	3.8	No Point Allocation	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
Form of Offer	Qualification
Compliance with Form of Master Agreement	Qualification
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.

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 and Master Agreement management. The Technical Response questions are applicable to all Categories.

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

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. The overall threshold for the Technical Response is fifty percent (50%) or forty-five (45) points. Some Technical Response sections also contain a fifty percent (50%) minimum threshold that Proponents must pass to continue onto the next stage.

Point allocations for the Technical Response sections are as follows:

Technical Response Sections	Available Points	Minimum Thresholds	Point
- Proponent's Experience and Qualifications	20	10	
- Customer Support	30	15	
- Logistics Services	25	N/A	
- Product Offerings	30	15	
- Environmental, Social and Governance	35	N/A	
TOTAL POINTS:	140	70	

Detailed sub-point allocations and minimum thresholds 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 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.

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

3.4 Stage III – Commercial Response (per category)

The Proponent **must** complete and upload Appendix B – Commercial Response per category, in Microsoft Excel format only, 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 are as follows:

Commercial Response Sections	Available Points per Category (Cat)				
	Cat-A	Cat-B	Cat-C	Cat-D	Cat-E
- Product List	45	45	30	45	30
- Discounts for Product Groups	15	15	15	15	15
- Services	-	-	15	-	15
TOTAL POINTS:	60	60	60	60	60

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

3.4.1 Minimum Percentage Discount off Proponent's Published Canadian Price

Minimum percentage discount off proponent's published Canadian price will be evaluated using a relative formula based on the average minimum percentage discount proposed per subcategory. See example below:

EXAMPLE OF COMMERCIAL RESPONSE EVALUATION FOR MINIMUM PERCENTAGE DISCOUNT OFF		
Proposed Rates	Calculation	Resulting Points
If Proponent 1 proposes the highest percentage discount of 40% that proponent will receive 100% of the points allocated.	$40\% \div 40\% \times 2.5$ Points	2.5
If Proponent 2 proposes the second highest percentage discount of 20% that proponents will receive 50% of the points allocated.	$20\% \div 40\% \times 2.5$ Points	1.25
If Proponent 3 proposes the third highest percentage discount of 10% that proponent will receive 25% of the points allocated.	$10\% \div 40\% \times 2.5$ Points	0.625

Where a percentage discount 100% is entered in any Rate cell, it is deemed to mean that the particular Product 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. 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 Discount Rate of 100% for a particular Product	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%

3.4.2 Maximum Net Rate

Maximum Net Rates will be evaluated using a relative formula. See example below:

EXAMPLE OF COMMERCIAL RESPONSE EVALUATION FOR MAXIMUM NET RATE		
Proposed Rates	Calculation	Resulting Points
If Proponent 1 proposes the lowest rate of \$100 for a Product/Service, that proponent will receive 100% of the points allocated.	$\$100 \div \100×4 Points	4
If Proponent 2 proposes the second lowest rate of \$200 for a Product/Service, that proponents will receive 50% of the points allocated.	$\$100 \div \200×4 Points	2
If Proponent 3 proposes the third lowest rate of \$400 for a Product/Service, that proponent will receive 25% of the points allocated.	$\$100 \div \400×4 Points	1

Where \$0.00 is entered in any Rate cell, it is deemed to mean that the particular Product/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 Product/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/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 B – Commercial Response will receive a zero (0) point allocation for that particular pricing section.

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

3.5 Stage IV – Cumulative Score (per Category)

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

Subject to the express and implied rights of OECM; the Proponents with the highest scoring Proposals or all Proponents by 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 (per Category)

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

3.7 Stage VI – Negotiations

Concurrent negotiations, with the Preferred Proponents, will be based on the RFP requirements, 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 5.6.

[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 OECCM 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
OECCM's Issue Date of Request for Proposals:	February 2, 2024
Proponent's Information and Ontario Tenders Portal Jaggaer Demonstration Session:	2:00 pm on February 8, 2024
Proponent's Deadline to Submit Questions:	5:00 pm on February 13, 2024
OECCM's Deadline for Issuing Answers:	February 16, 2024
Proponent's Deadline to Submit Questions Related to Addenda & Question and Answer Documents:	5:00 pm on February 20, 2024
OECCM's Deadline for Issuing Final Documents:	February 27, 2024
Closing Date:	2:00:00 pm on March 5, 2024
Anticipated Master Agreement Start Date:	April 2024
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.

OECCM 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 and submission of its Proposal;
- (b) The Proponent's attendance at any meeting related to the RFP process, in relation to the RFP process;
- (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 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.

4.2.4 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; or,
- (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 Products 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, or discussion 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 Products 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 Products 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 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 Products 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 Products, or,
 - v. the funding for the acquisition of the proposed Products 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 Products and/or 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 OEEM and/or its Customers.

4.6.9 Cancellation

OEEM 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/wp-content/uploads/2017/07/OQTC-Consolidated-Jan-24-2017.pdf>; 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		
Reports	Frequency	Due Date
<u>Integrated Reporting Template</u>		
1. Sales Report including, but not limited to: (a) Customer's name; (b) Invoice number and date; (c) Spend per Category; (d) Manufacturer's Product number; (e) Supplier's Product/Service number; (f) Product/Service description; (g) Unit of measure; (h) Quantity shipped per unit of measure; (i) Rate per unit; (j) Total per Product/Service; (k) Savings (i.e. Supplier's published Canadian price minus discount, financial incentives); and, (l) Cost Recovery Fees.	Monthly	8th Business Day
2. Second Stage Selection Process Report including, but not limited to: (a) Customer's name; (b) Reference number; (c) Number of requests received and submitted; (d) Product and/or Service requirement (e.g. type, committed volume); (e) Resulting savings; and, (f) Status (e.g. complete, due date to return to Customer).		
3. Key Performance Indicators ("KPIs") Report - As set out in Appendix D – Supplier Performance Management Scorecard	Quarterly (calendar)	8th Business Day following each quarter
<u>Other Reports:</u>		
Specific Customer Reports - As requested (e.g. spend, voucher/credit program related reports, back order, delivery, recalls)	As requested	As requested
OECM Ad Hoc Reports - As requested and mutually agreed upon	As requested	As requested

Final reporting requirements will be determined during negotiations.

APPENDIX D – SUPPLIER PERFORMANCE MANAGEMENT SCORECARD

Master Agreement performance means the Supplier aligns with OEMC'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 OEMC's efforts to provide greater value to Customers, OEMC has implemented a Supplier Recognition Program ("SRP"). Through the SRP, OEMC 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 OEMC 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 OEMC;
- (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, OEMC provides Customers a thorough understanding of the Supplier's performance aiding the adoption of the Master Agreement.

By providing the reports, OEMC 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 OEMC. 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 Products on time. The Supplier's performance score will be considered when OEMC 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 OEMC and Customer KPIs.

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

OECM and Customer's Evaluation of Supplier's Performance		
Key Performance Indicator	Performance Measurement	Performance Goal
Defective Products	Per quarter	Less than 1%
Customer Issues – Number of Customer Complaints	Total of Customer complaints annually out of total Customer requests	Customer complaints are less than 2% of total Customer requests
Accurate Invoicing	Percentage of Invoices containing errors quarterly	Less than 2% of all invoices
Delivery Lead Time	Within the agreed lead time for the Products/Services	98% of the time
Order Fulfilment Accuracy	Products/Services delivered as ordered	98% of the time
Second Stage Response Rate	Response to Second Stage request within two (2) Business Days	98% of the time
Account Executive Response Time	Response time of less than one (1) Business Day	98% of the time
Customer Refund	Refund for returned goods or unused pre-paid voucher/credit within the agreed upon timeline	98% of the time

OECM Evaluation of Supplier's Performance		
Key Performance Indicator	Performance Measurement	Performance Goal
On time Spend Report Submissions	On time	98% of the time
On time submission of executed CSAs received within 30 days of execution	On time	98% of the time
On time CRF payment remittance	Day of	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.

Penalties and Rewards

The Supplier shall be responsible for all liquidated damages incurred by the Customers as a result of Supplier's failure to perform according to the Master Agreement and/or Customer-Supplier Agreement. Additional penalties for failure to meet or rewards for exceeding the Master Agreement and/or Customer-Supplier Agreement requirements may be mutually agreed upon between the Customer and the Supplier, at the time of Customer-Supplier Agreement execution. Any penalty and/or reward shall be reported to OECM.

APPENDIX E – OECEM'S SUPPLIER CODE OF CONDUCT

The Supplier will take every measure to comply with OECEM'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 OECEM's Customers as mutually agreed upon between the Customer and Supplier. OECEM'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 Products to OECEM 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 OECEM, and only use this information as part of their business relations with OECEM;
- (d) Comply with intellectual property rights relating to the Products provided to OECEM and its Customers;
- (e) Never place an OECEM 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 OECEM; and,
- (g) Disclose to OECEM any behaviour deemed unethical on the part of an OECEM 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 OECEM 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 OECEM employees and Customers. The Supplier must avoid situations that may adversely influence their business relationship with OECEM or can be directly or indirectly perceived as a conflict of interest and interfere with the provision of the Products to OECEM or its Customers. The Supplier must disclose any actual or potential conflicts of interest promptly to OECEM;
- (c) Never offer to OECEM 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 OECEM's employees' ability to make business decisions in the best interest of OECEM and its Customers. If a Supplier is unsure whether a gift or entertainment offer to an OECEM employee complies with OECEM'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 OECEM 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 Products are identified and approved by the Customer and monitored to ensure compliancy with contractual obligations and adherence to OECEM'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 Products 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/wp-content/uploads/2022/01/oecm-supplier-code-of-conduct.pdf>

APPENDIX F – OECM SCHOOL BOARD, COLLEGE AND UNIVERSITY CUSTOMERS IN ONTARIO

Zones	School Board Customers			College Customers	University Customers
Central	Brant Haldimand Norfolk Catholic District School Board ("CDSB")	Hastings and Prince Edward DSB	Waterloo Region DSB	Centennial College of Applied Arts and Technology ("CAAT")	Brock University
	Conseil scolaire catholique MonAvenir	Kawartha Pine Ridge DSB	Wellington CDSB	Conestoga College Institute of Technology and Advanced Learning	McMaster University
	Conseil scolaire Viamonde	Niagara CDSB	York CDSB	Durham CAAT	OCAD University
	District School Board ("DSB") of Niagara	Peel DSB	York Region DSB	Fleming CAAT	Toronto Metropolitan University
	Dufferin-Peel CDSB	Peterborough Victoria Northumberland and Clarington CDSB		George Brown CAAT	Trent University
	Durham CDSB	Simcoe County DSB		Georgian CAAT	University of Guelph
	Durham DSB	Simcoe Muskoka CDSB		Humber College Institute of Technology and Advanced Learning	University of Ontario Institute of Technology
	Grand Erie DSB	Toronto CDSB		Loyalist CAAT	University of Toronto
	Halton CDSB	Toronto DSB		Mohawk CAAT	University of Waterloo
	Halton DSB	Trillium Lakelands DSB		Niagara CAAT	Wilfrid Laurier University
	Hamilton-Wentworth CDSB	Upper Grand DSB		Seneca CAAT	
	Hamilton-Wentworth DSB	Waterloo CDSB		Sheridan College Institute of Technology and Advanced Learning	
East	Algonquin and Lakeshore CDSB	Conseil scolaire de district catholique ("CSDC") de l'Est Ontarien	Renfrew County CDSB	Algonquin CAAT	Carleton University
	CDSB of Eastern Ontario	Limestone DSB	Renfrew County DSB	Canadore CAAT	Queen's University
	Conseil des écoles catholiques du Centre-Est	Ottawa CDSB	Upper Canada DSB	La Cité collégiale	University of Ottawa
	Conseil des écoles publiques de l'Est de l'Ontario	Ottawa-Carleton DSB		St. Lawrence CAAT	
North East	Algoma DSB	Conseil scolaire public du Nord-Est de l'Ontario	Northeastern CDSB	Cambrian CAAT	Algoma University
	Conseil scolaire catholique de district des Grandes Rivières	DSB Ontario North East	Rainbow DSB	Collège Boréal	Laurentian University
	Conseil scolaire catholique du Nouvel-Ontario	Huron-Superior CDSB	Sudbury CDSB	Northern CAAT	Nipissing University

	Conseil scolaire catholique Franco-Nord	Near North DSB		Sault CAAT	
	Conseil scolaire public du Grand Nord de l'Ontario	Nipissing-Parry Sound CDSB			
North West	CSDC des Aurores Boréales	Lakehead DSB	Superior North CDSB	Confederation CAAT	Lakehead University
	Keewatin-atricia DSB	Northwest CDSB	Superior-Greenstone DSB		
	Kenora CDSB	Rainy River DSB	Thunder Bay CDSB		
West	Avon Maitland DSB	Greater Essex County DSB	St. Clair CDSB	Fanshawe CAAT	University of Windsor
	Bluewater DSB	Huron-Perth CDSB	Thames Valley DSB	Lambton CAAT	University of Western Ontario
	Bruce-Grey CDSB	Lambton Kent DSB	Windsor-Essex CDSB	St. Clair CAAT	
	Conseil Scolaire Catholique Providence	London District Catholic School Board			

Zones	School Board Customers			College Customers	University Customers
Central	Brant Haldimand Norfolk Catholic District School Board ("CDSB")	Hastings and Prince Edward DSB	Waterloo Region DSB	Centennial College of Applied Arts and Technology ("CAAT")	Brock University
	Conseil scolaire catholique MonAvenir	Kawartha Pine Ridge DSB	Wellington CDSB	Conestoga College Institute of Technology and Advanced Learning	McMaster University
	Conseil scolaire Viamonde	Niagara CDSB	York CDSB	Durham CAAT	OCAD University
	District School Board ("DSB") of Niagara	Peel DSB	York Region DSB	Fleming CAAT	Ryerson University
	Dufferin-Peel CDSB	Peterborough Victoria Northumberland and Clarington CDSB		George Brown CAAT	Trent University
	Durham CDSB	Simcoe County DSB		Georgian CAAT	University of Guelph
	Durham DSB	Simcoe Muskoka CDSB		Humber College Institute of Technology and Advanced Learning	University of Ontario Institute of Technology
	Grand Erie DSB	Toronto CDSB		Loyalist CAAT	University of Toronto
	Halton CDSB	Toronto DSB		Mohawk CAAT	University of Waterloo
	Halton DSB	Trillium Lakelands DSB		Niagara CAAT	Wilfrid Laurier University
	Hamilton-Wentworth CDSB	Upper Grand DSB		Seneca CAAT	
Hamilton-Wentworth DSB	Waterloo CDSB		Sheridan College Institute of Technology and Advanced Learning		
East	Algonquin and Lakeshore CDSB	Conseil scolaire de district catholique ("CSDC") de l'Est Ontarien	Renfrew County CDSB	Algonquin CAAT	Carleton University
	CDSB of Eastern Ontario	Limestone DSB	Renfrew County DSB	Canadore CAAT	Queen's University
	Conseil des écoles catholiques du Centre-Est	Ottawa CDSB	Upper Canada DSB	La Cité collégiale	University of Ottawa
	Conseil des écoles publiques de l'Est de l'Ontario	Ottawa-Carleton DSB		St. Lawrence CAAT	
North East	Algoma DSB	Conseil scolaire public du Nord-Est de l'Ontario	Northeastern CDSB	Cambrian CAAT	Algoma University
	Conseil scolaire catholique de district des Grandes Rivières	DSB Ontario North East	Rainbow DSB	Collège Boréal	Laurentian University
	Conseil scolaire catholique du Nouvel-Ontario	Huron-Superior CDSB	Sudbury CDSB	Northern CAAT	Nipissing University
	Conseil scolaire catholique Franco-Nord	Near North DSB		Sault CAAT	
	Conseil scolaire public du Grand Nord de l'Ontario	Nipissing-Parry Sound CDSB			
North West	CSDC des Aurores Boréales	Lakehead DSB	Superior North CDSB	Confederation CAAT	Lakehead University
	Keewatin-Patricia DSB	Northwest CDSB	Superior-Greenstone DSB		
	Kenora CDSB	Rainy River DSB	Thunder Bay CDSB		
West	Avon Maitland DSB	Greater Essex County DSB	St. Clair CDSB	Fanshawe CAAT	University of Windsor
	Bluewater DSB	Huron-Perth CDSB	Thames Valley DSB	Lambton CAAT	University of Western Ontario
	Bruce-Grey CDSB	Lambton Kent DSB	Windsor-Essex CDSB	St. Clair CAAT	