

NL Health Services

Open Call for Bids Request for Proposals (RFP)

GENERAL TERMS & CONDITIONS

Provincial Health Authority,
operating as Newfoundland & Labrador (NL) Health Services

Contents

1.0 Background 3

2.0 INSTRUCTIONS 6

3.0 EVALUATION, REJECTION AND ACCEPTANCE OF PROPOSALS 11

4.0 ADDITIONAL TERMS AND CONDITIONS 15

5.0 LICENSES, PERMITS AND APPROVALS 20

6.0 NLHS POLICIES 24

1.0 Background

Newfoundland & Labrador (NL) Health Services

On April 1, 2023, the Government of NL amalgamated the 4 Regional Health Authorities and the NL Centre for Health Information into the one Provincial Health Authority, operating under NL Health Services (NLHS). NLHS is divided into 5 Regional Zones: Eastern Urban, Eastern Rural, Central, Western, and Labrador-Grenfell.

Western

Western geographical boundaries are from Port Aux Basques southeast to Francois, northwest to Bartlett's Harbour, and on the eastern boundary north to Jackson's Arm. Within this geographical region, Western serves a population of approximately 77,983 residents.

Western's regional office is located in Corner Brook. The organization employs over 3,100 staff who work in approximately 50 separate buildings throughout the region.

Western has approximately 1,200 volunteers who assist in delivering a number of programs and services and special events within acute care, long term care and community, which enhance the quality of life for patients, residents, and clients.

<http://www.westernhealth.nl.ca>

Eastern (Urban and Rural)

Eastern is the largest integrated health network in Newfoundland and Labrador, serving a regional population of more than 290,000 and offering unique provincial programs and services. They employ over 13,000 health care and support services professionals.

Eastern offers the full continuum of health care services including community and public health care, long-term care and hospital care.

The 2 regional zones extend west to Port Blandford and includes all communities on the Avalon, Burin and Bonavista Peninsulas. There are more than eighty hospitals, health care centres, long-term care facilities and community care sites.

Eastern Urban supports the development of data and technical standards and provides analytic, evaluation and information management services that support health care delivery, health system management, performance measurement and monitoring, program planning, policy and decision-making and research. This also includes the development, implementation, and operation of a confidential and secure provincial electronic health record (EHR) and provincial health information systems.

<http://www.easternhealth.nl.ca> and www.nlchi.nl.ca

Labrador-Grenfell

Labrador-Grenfell provides quality health and community services to a population just under 37,000 and covers the communities north of Bartlett's Harbour on the Northern Peninsula and all of Labrador. Corporate headquarters is located in Happy Valley-Goose Bay. Labrador-Grenfell employs approximately 1661 staff and operates twenty-two facilities, including three hospitals, three community health centers, fourteen community clinics/nursing stations and two long term care facilities.

Labrador-Grenfell provides a wide range of health and community services to a diverse population, over a wide geographic area. These include:

- Acute Care, Diagnostic and Clinical Support Services (in selected locations);
- Community Health and Wellness;
- Dental Services;
- Health Protection Services;
- Long-term Care;
- Mental Health and Addictions Services;
- Residential Services; and
- Therapeutic Intervention, Family Rehabilitation and Other Rehabilitation Services.

<http://www.lghealth.nl.ca>

Central

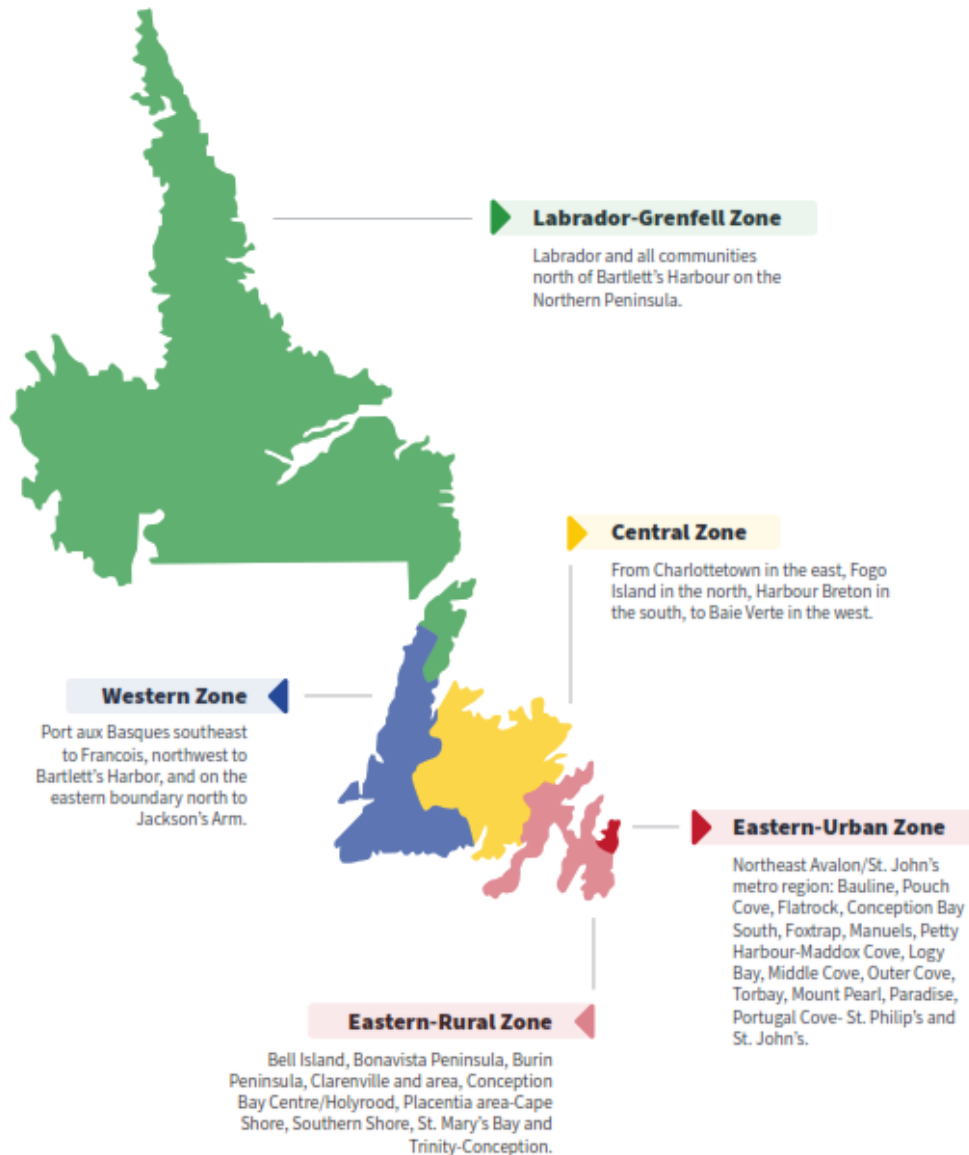
Central is the second largest health region in Newfoundland and Labrador serving a population of approximately 94,000 in 177 communities. The zone extends from Charlottetown in the east, Fogo Island in the northeast, Harbour Breton in the south to Baie Verte in the west. This geographical area encompasses more than half of the total landmass of the island and services nearly 20 per cent of the provincial population.

Within Central, there is a diverse array of primary, secondary, long term care, community health and various enhanced secondary services. These are provided through 35 community health offices, 13 health care facilities, including two regional referral centres, six community health centres and five long term care facilities.

Regional Zone Boundaries



NL Health Services



2.0 **INSTRUCTIONS**

2.1. **Definitions**

- a) *Agent*: An individual or company who, by mutual consent, acts on behalf of the Proponent(s) or NLHS.
- b) *Agreement*: the document, ideally in the form of the template provided in the open call (if applicable)
- c) *Applicable Law*: 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.
- d) *ATIPPA*: Access to Information and Protection of Privacy Act. Legislation designed to create a culture of openness and accountability in the public sector while protecting the personal information of citizens and commercially sensitive information of businesses. This applies to all public bodies including government departments, agencies, health boards, school boards and municipalities.
- e) *Business Day*: Monday to Friday between the hours of 9:00am to 5:00pm NL Time, excluding public holidays as defined in the Labor Standards Act or as otherwise agreed to by the parties in writing.
- f) *Compliant Proposal*: A proposal that has met all mandatory conditions and requirements as set out in the RFP.
- g) *Conflict of Interest*: Includes, but is not limited to, any situation or circumstance where , in relation to the performance of its obligations under the Agreement, the Proponent's other commitments, relationships or financial interest could, or could be seen to, (i) exercise and improper influence over the objective, unbiased and impartial exercise of its independent judgement; or (ii) compromise, impair or be incompatible with the effective performance of its obligations under the Agreement. (see Schedule E - Unfair Advantage and Conflict of Interest Statement)
- h) *Day*: Calendar day
- i) *Deliverable(s)*: Objectives/goals/outputs to be fulfilled by the successful Proponent(s) of this RFP.
- j) *Disqualified*: A Proposal status whereby the proposal has been considered Non-Conforming and shall therefore no longer be considered under the RFP Process.
- k) *Equipment*: The goods intended to be procured pursuant to this RFP.
- l) *Evaluation Committee*: A committee tasked with evaluating, and ultimately, awarding, the RFP.
- m) *Regional Zones*: The five Regional Zones operating under NLHS (Eastern Urban, Eastern Rural, Central, Western, and Labrador-Grenfell).
- n) *Non-Compliant Proposal*: A Proposal that does not contain the mandatory requirements specified by this RFP. Non-Conforming Proposals shall be disqualified from the RFP process.
- o) *Open Call for Bids (Open Call)*: A document that solicits proposals to satisfy an organization's specific requirements for a specific commodity, as defined by the Public Procurement Act, that the organizations will need in the future. May be in the form of a Request for Proposal (RFP) or an Invitation to Tender.
- p) *Personal Information*: Recorded information about an identifiable individual or that may identify an individual as provided in ATIPPA.

- q) *Preferred Proponent(s)*: The proponent(s) that have been identified as the highest ranking proponent(s) in accordance with the evaluation process.
- r) *Proponent(s)*: A party or parties that submits a compliant Proposal in response to the Request for Proposal issued by NLHS.
- s) *Proposal*: A written submission by a Proponent(s) in response to an organization's need or availability for a certain commodity or project. May also be referred to as a bid, quotation or submission.
- t) *Request for Proposal (RFP)*: A Request for Proposals is used to invite submissions when the requirement is of a complex or unique nature and all or part of the requirements cannot be precisely defined. A RFP may also be used when requirements are fully known however the evaluation is comprised of a number of factors in addition to price to ensure best value is obtained.
- u) *Service Provider*: The successful Proponent(s) as selected by NLHS to provide the goods and services as set out in this RFP.
- v) *Subcontractor*: A party to whom the Proponent(s) has contracted to work on the Proponent(s)'s behalf for the provision of the goods or services as required by the contract between the Proponent(s) and NLHS.
- w) *Successful Proponent*: means the Proponent who has been awarded the RFP by NLHS.
- x) *Technical Acceptance*: The process to ensure that the Equipment meets manufacturer specifications and regulatory requirements. The product delivered must be the product that was ordered, the Equipment is not damaged, operates in its intended function, meets manufacturer's testing for operational readiness (if applicable) and is ready for Clinical Acceptance
- y) *Unfair Advantage*: Any conduct, direct or indirect, by an proponent that may result in gaining an inequitable advantage over the proponents, including but not limited to:
 - i. Possessing, or having access to, information in the preparation of its proposal that is confidential to NLHS 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

2.2. All parties that submit a Proposal must read the Terms and Conditions as outlined in this RFP. Submission of a Proposal indicates that you have read and understood NLHS's Terms and Conditions and that you accept and agree to be bound by all Terms and Conditions.

2.3. Rules of Interpretation

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

- Wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine and feminine includes the other gender.
- 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 list of items provided but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean “includes without limitation” and “including without limitation”.

- 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 by particular examples intended to fall within the meaning of the general words.
- Unless otherwise indicated, time periods will be strictly applied.
- The use of the words *may*, *could* or *should* indicate a permissive requirement which NLHS would like the Proponent to address in its Proposal.
- The use of the words *must*, *shall* or *will* indicate a mandatory requirement.

2.4. Proponents must not alter any portion of the RFP with the exception of adding the information requested by the RFP.

2.5. **Pricing**

All prices should be stated in Canadian dollars with HST exempt and all other duties and levies included.

All costs associated with the RFP should be indicated in the proposal. If these charges have not been stated specifically, it will be assumed that they have been included in the total Proposal price.

2.6. **Proposal Format**

Proposals should completely address on a point-by-point basis each requirement identified in the RFP and should be complete in all respects utilizing the RFP schedules.

The entire content of the Proponent’s Proposal is to be self-contained and the content of web sites or other external documents referred to in the Proposal may not be considered to form part of its Proposal. NLHS is under no obligation to seek out information not contained in the Proposal. In addition, the Proponent should not assume that NLHS will look up information in referenced materials included in the Proposal if the Proponent didn’t include the information as part of the response to the schedules of this RFP.

2.7. **RFP Submission, Revision & Withdrawal**

Proposals must be legible, complete and must include the RFP number and name.

The proposal must clearly contain the legal name of the proposing company, the company’s address and proper contact information, along with the signature of an

authorized official for the firm submitting the RFP, as requested in Schedule “C” (RFP Form). Incomplete or illegible proposals will be disqualified.

It is the Proponent’s sole responsibility to ensure their RFP is received when, where and how it is specified in this RFP document. NLHS is not responsible for lost, delayed, or incorrectly delivered RFPs. Proponents are advised to make submissions well before the deadline. Proponents making submissions near the deadline do so at their own risk.

Electronic submissions are mandatory and must be directed through the Merx website: <https://www.merx.com/govnl/nl-phsssc>. Proposals received after the closing time will not be considered.

The time for the opening of Bids will be determined according to Newfoundland time (NT) as per Greenwich Mean Time (GMT). Only the names of the Proponents will be read out. You can attend this public opening by phone at:

Participant Pass-Code: **6925330**
Dial-in Number(s): **1.866.811.9555**

Proposals submitted by email, facsimile or hard copy will not be accepted.

The Corporation Act of Newfoundland and Labrador requires that an extra-provincial company be registered before it begins or carries on business in the Province. If a Proponent’s company is not-registered, NLHS reserves the right to require registration in Newfoundland and Labrador as a condition of the agreement.

Each proponent’s proposal must be prepared without any connection, knowledge, comparison of information, or arrangement with any other proponent, employee, representative or Agent thereof. Each proponent will be responsible to ensure that its participation in this process is conducted fairly and without collusion or fraud.

It is the proponent’s sole responsibility to include any and all relevant information with the proposal submission as it relates to the RFP requirements. Failure to do so may result in a lower overall score or a non-complaint bid.

Amendment of Proposal

Proposal revisions, changes, and alterations will be accepted by NLHS provided they are received prior to the closing date and time of the RFP. To do this, Proponents will be required to withdraw the initial bid in Merx and resubmit. If it’s a revision to the total, lump sum bid price, or the individual item prices, this can be done without withdrawing the bid by selecting the open call in Merx; click the “View Bid” icon in the top right corner; click the “Action” icon (gear); choose “Modify Bid Price”. If the bid revisions need to be made to a submitted document, the proposal will need to be withdrawn and resubmitted.

Where a Proponent submits multiple Bids to an RFP, Merx will automatically nullify and replace the previous Proposal.

Withdrawal of Proposal

Proponents may withdraw their Proposal at any time, prior to the closing date & time of the RFP by selecting the open call in Merx; click the “View Bid” icon at the top right corner; click the “Actions” icon (gear); and choose “Withdraw”.

2.8. Enquiries

During the RFP process, no communications are to be made with any employees of NLHS with respect to the RFP.

All questions shall be directed through the Merx website: <https://www.merx.com/govnl/nl-phsssc>.

The Supply Chain department will be the only official source of information regarding this RFP and information from any other source shall be considered unofficial and may not be correct. Information, offers or commitments from any other source, including NLHS employees, shall not be binding on NLHS.

Oral responses to questions will **not** be provided. Responses to written questions will be posted as addenda on the website: <https://www.merx.com/govnl/nl-phsssc>. It is the Respondent’s responsibility to ensure they have all relevant information by regularly checking <https://www.merx.com/govnl/nl-phsssc>. NLHS will not disclose the source of any questions submitted by Respondents.

Questions must be received no later than 72 hours prior to the submission deadline, unless otherwise indicated in Schedule A - Specifications. Any communication or questions concerning the RFP that are received after this deadline will not be replied to.

2.9. Addenda

Addenda issued to this RFP will be posted on the <https://www.merx.com/govnl/nl-phsssc>. During the open RFP period any required additions, deletions or alterations to the RFP requirements will be issued in the form of an addendum. All such changes will become an integral part of the RFP.

NLHS reserves the right to amend or supplement this RFP, giving equal information and cooperation by way of issued addenda, to all Proponent(s) because of any such amendment. It is the Proponent’s responsibility to ensure they have all the relevant and up to date information respecting this RFP and any amendments.

NLHS assumes no responsibility for notifying individual Proponent(s) of the existence of addenda. Proponent(s) are advised to check for amendments up to the closing date and time. Upon submitting a Proposal, each Proponent(s) will be deemed to have received notice of all addenda that have been issued.

Each addendum will be incorporated into and become part of this document. No amendment of any kind to the RFP is effective unless it is contained in a written addendum issued by NLHS.

Any addendums added within seven (7) calendar days of the submission deadline (including on closing day) will extend closing by a reasonable period to be determined by NLHS

2.10. Consultants

NLHS reserves the right to disclose to its consultants the RFP and any Proposal in order to secure an expert opinion, if deemed necessary. Permission would need to be granted by the proponents prior to the information being released.

2.11. Contract Participation of the Shared Services NLHSs

If the contract is not provincial in nature, the successful respondent(s) may be required to allow any or all of Regional Zones to avail of the goods and services outlined in the RFP.

The scope of this RFP is focused on the unique requirements of the participating Zone(s), consequently the scope of the work may differ for each Zone and, therefore, would be negotiated under a separate set of terms and pricing.

2.12. Trade Agreements

If applicable, this procurement process is subject to trade agreements (i.e. Atlantic Procurement Agreement and Agreement on Internal Trade).

2.13. Electronic Documents

NLHS reserve the right to conduct business transactions with electronic documents and using electronic signatures instead of paper-based documents and wet-ink signatures. Each decision to execute a document using an electronic signature shall have no effect on the legal validity of any prior or subsequently completed transactions using either electronic or paper-based documents or electronic or wet-ink signatures.

3.0 EVALUATION, REJECTION AND ACCEPTANCE OF PROPOSALS

3.1. General Instructions

Proposals must clearly provide all the necessary information required to ensure that a thorough assessment of the Proponent's response can be made. Responses and substantiating documentation should be direct and grouped together with an index provided to ensure the Evaluation Committee is able to easily locate relevant information.

3.2. Evaluation of Proposals

Evaluation of proposals will be made by a committee of individuals designated by NLHS in their sole discretion.

RFP's will be open for acceptance for at least ninety (90) days following RFP closing, unless indicated otherwise in Schedule A - Specifications.

The evaluation committee will assess proposals against the requirements identified in the RFP. Proposals not meeting these requirements may be rejected without further consideration at the absolute discretion of the evaluation committee. The evaluation of the proposals will be conducted in stages, where the specified criteria (as described in Schedule A - Specifications) will be used to score the proposals and rank them in a relative position based on how each proposal meets the requirements of the RFP.

- Stage 1** - Review of Mandatory Requirements
- Stage 2** - Evaluation of Rated Requirements (Schedule A - Specifications)
- Stage 3** - Financial Evaluation (Schedule B - Financials)
- Stage 4** - Further evaluations of short-listed Proponents (if applicable)
i.e. presentations, site visits, demos or other as set out in the RFP
- Stage 5** - Reference Validation (if applicable)

3.3. Stage 1 - Review of Mandatory Requirements

Proponents must review and respond to all schedules listed in Merx. General format is as follows, but is subject to change based on RFP requirements. Proponents must review the documents in Merx to ensure all of the mandatory requirements are addressed. Proposals that fail to meet these requirements in full will not be considered for further evaluation.

- Schedule A – Equipment Specifications
- Schedule B – Financial Submission
- Schedule C – RFP Form
- Schedule D – Privacy/Confidentiality Oath

Proponents must upload any supplementary and supporting documents as requested. The Proponent shall submit electronic copies of all applicable reference materials as required by the RFP. Failure to submit mandatory documents required with the RFP submission will result in disqualification.

3.4. Stage 2 - Evaluation of Rated Requirements (Schedule A - Specifications)

Proponents should provide detailed responses to the requirements set forth in Schedule A Specifications. The Evaluation criteria listed in Schedule A will provide the criteria weights that will be used to calculate the vendor scores.

Technical/Qualitative scores will be provided by the subject matter experts on the evaluation committee. Scores will be calculated based on the Proponents response versus the RFP requirements.

3.5. Stage 3 - Financial Evaluation (Schedule B - Financials)

Proponents are to complete Schedule B - Financials in accordance with the instructions contained the RFP. Financials will not be opened by NLHS until the Technical/Qualitative portion is completed, approved and finalized by the evaluation committee. Rankings will be done via a weighted score:

$$\text{Proponent's Score} = (\text{Lowest Total Bid}/\text{Current Total Bid}) * \text{Criteria Weight}$$

3.6. Stage 4 - Further Evaluation of Short-Listed Proponents (if applicable)

As a supplement to the submitted proposal, the evaluation committee may select Proponents to present and/or demonstrate its products and/or services. The purpose of this is to learn more about the Proponents proposal by asking appropriate questions and ensuring all requirements are met. Scores from the proposal evaluations may be adjusted accordingly (increase or decrease) based on the Orals. NLHS may, but is not obligated to, provide a list of questions to the Proponents to review prior to the Orals so they can address them during their presentation.

This is considered part of the RFP evaluation process and shall be done by the Proponent(s) at no additional cost to NLHS.

By submitting a Proposal, the Proponent(s) agrees to provide a demonstration.

3.7. Stage 5 - Reference Validation (if applicable)

If listed as a requirement in Schedule A - Specifications, the Evaluation Committee may validate as many references provided by the preferred Proponent(s) in the References as deemed appropriate. References may be assessed by a pass/fail rating, which will serve to validate (or not, as the case may be) the evaluation conducted by the Evaluation Committee. Or, if references are listed as an Evaluation Criteria, they will be given a rank based on the reference provided. NLHS reserves the right to check references other than those provided by Proponent(s)

3.8. Tie Score

In the event of a tie score, the evaluators will rank the tied proponents. If the resulted rankings are still tied, the successful proponent will be determined by comparing scores of the highest weighted section in the rated criteria and will follow to the next highest weighting and so forth until a clear winner is determined.

3.9. Value-Added Bids

Each Proponent(s) is encouraged to submit value-added proposals and highlight the specific areas where the added value is found; and/or form partnerships between Proponents in order to meet the requirements noted.

“Added value” is the realization of additional benefits beyond the inherent worth of a requirement explicitly requested in this RFP. Some examples of value-added services include leading practices implementation, training etc.

A Proponent(s) should provide a detailed explanation of the value added goods or services they are prepared to provide. It is important that the value of the good/service is explicitly defined in quantifiable terms. The Proponent(s) must explicitly state all additional costs associated with the services proposed as a value add. Services with additional costs will be considered as optional and may not be evaluated as part of the total cost of the Proposal. NLHS will not be responsible for the omission of any Value Adds during the evaluation process.

For clarity, to be evaluated as part of the Value-Add Incentive, the Value-Add Incentive must be consistent with the remainder of the Proponent’s Proposal and is not to be considered an opportunity to propose an alternative solution. Financial enhancements that directly impact the price of the proposal (e.g., rebates) must be included with the financial section of electronic RFP response. If the Proponent(s) offers any rebates, they are to be paid directly to the participating NLHS.

The provision of cash is not requested nor will be considered as a Value-Add Incentive but rather any cash should be applied by the Proponent to the pricing submission of the Proposal.

3.10. Award of RFP

All award information will be posted on <https://www.merx.com/govnl/nl-phsssc>, after award.

Any notification of award from any other source will be considered unofficial and may not be correct. Notification of RFP award from any other source will not be binding upon NLHS.

NLHS reserves the right to award to one or more Proponents to participate in contract negotiations.

The successful Proponent will be required to sign a formal service agreement with NLHS within 30 days of being awarded the contract unless extended by NLHS at its sole discretion. Failure to sign a contract may result in the loss of the contract and NLHS choosing another proposal.

Prior to concluding an Agreement with a Proponent, the participating NLHS may in its sole discretion, issue a purchase order or letter of intent to any Proponent or any third party as an interim measure. For certainty, the participating NLHS makes no commitment to any Proponent that an Agreement will be executed. The Proponent(s) acknowledges that the selection of a Proponent or commencement of any discussions does not obligate NLHS to execute the Agreement.

If a written Agreement cannot be negotiated within sixty (60) Days of the date of the award letter NLHS may in its sole discretion, terminate negotiations with that Proponent and either negotiate an Agreement with the next highest ranked Proponent,

or terminate the RFP process and not enter into an Agreement with any of the Proponents.

The Successful Proponent(s) will be required to sign the Oath of Privacy/Confidentiality or Affirmation for Contractors/Vendors as set out in Schedule D.

3.11. Debriefing

Once an Agreement is executed by the awarded Proponent and the participating Health Authority, an award notice will be posted on Merx. If required, a debriefing must be requested in writing within ten (10) calendar Days of the posting of the award notification. Any request that is not received within ten (10) Days may not be considered and the Proponent will be notified in writing.

Proponents should note that, regardless of the time of submission of a request by a Proponent, debriefings will not be provided until an executed Agreement and subsequent award notification has been posted.

3.12. Proponent Complaint & Review Process

The purpose of the complaint and review process is to provide a review mechanism in which Proponents have the opportunity to register a complaint where, after they have received a supplier debriefing, they feel they have been aggrieved.

In the event that a Proponent wishes submit a protest, they shall do so in writing within 15 business days of the supplier debriefing. Any complaints received after that timeframe will not be considered.

Complaint submissions shall contain the following information:

- Proponent(s) name and business contact information;
- reference information respecting the open call for bids; and
- a description of the complaint.

Please note that this process is not intended to address disputes over facts or legal rights and obligations, and under no circumstances will this process result in any contract award being set aside by NLHS and the participating NLHS(s). Only complaints from Proponents that participated in the specific open call shall be reviewed.

3.13. Subsequent Phases of Work

Should additional work (that fits this role) be required upon expiration of this contract, NLHS reserves the right to retain the successful professional services firm who is awarded this RFP to complete this additional work under separate contract (if performance matches expectations).

4.0 ADDITIONAL TERMS AND CONDITIONS

- 4.1. This RFP may be withdrawn and/or cancelled at any time prior to contract execution by NLHS in its sole discretion without any recourse to the Proponent(s).
- 4.2. Proponent(s) are required to disclose to NLHS any potential or perceived conflict of interest issues by completing Schedule E - Unfair Advantage and Conflict of Interest Statement. The Proponent should not have any actual or potential Conflict of Interest or any other type of Unfair Advantage in submitting its Proposal or in performing or observing the contractual obligations set out in the Agreement, except to the extent of what is covered in Schedule E.
- 4.3. NLHS reserves the right to disqualify any Proponent(s) that, in NLHS's sole opinion, has an actual or potential conflict of interest or an unfair advantage, whether existing now or is likely to arise in the future or may permit the Proponent(s) to continue and impose such terms and conditions as NLHS may require.
- 4.4. NLHS may award the contract in whole, in part or not at all.
- 4.5. Proponent(s) may be requested to demonstrate financial stability during the evaluation process.
- 4.6. Site visits or tours that are schedule by NLHS may require attendance to be mandatory or optional. Proponents will be responsible for their costs to attend such visits or tours. Oral questions during such tours will be permitted however complex questions should be forwarded to NLHS via the Merx platform. There will be a maximum of two representatives from each Proponent to take part in any tour or site visit.

Proponents may request a site visit via the Question tab in Merx. Requests will be considered by NLHS if they are deemed to be applicable to the RFP response, and shall be scheduled at a date and time to be determined by NLHS. NLHS reserves the right to decline site visits at its sole discretion without any recourse to the Proponent(s).

Mandatory site visits will be announced via an addendum that will provide the date and time for vendors to respond, along with any special protocols.

- 4.7. Proponent(s) agree to comply with all applicable laws, regulations, and standards, including all labor, occupational health and safety and workers compensation requirements of the Province of Newfoundland and Labrador.
- 4.8. NLHS reserves the right to negotiate further with the preferred Proponent(s) and/or to request the best and final offer from the highest ranked Proponent(s).
- 4.9. NLHS reserves the right to negotiate pricing, value added and other savings opportunities with the successful Proponent(s) at time of award and throughout the duration of the contract.
- 4.10. NLHS is not bound to accept the lowest price or any Proposal of those submitted.

- 4.11.** After the submission of Proposals, interviews and negotiations may be conducted with some of the Proponent(s), but there shall be no obligation to receive further information, whether in writing or oral, from any Proponent(s). NLHS shall not be obligated in any manner to any Proponent(s) whatsoever until a written agreement has been duly executed relating to an approved proposal.
- 4.12.** The Corporation Act of Newfoundland and Labrador requires that an extra-provincial company be registered before it begins or carries on business in the Province. If a Proponent(s)'s company is not-registered, NLHS reserves the right to require registration in Newfoundland and Labrador as a condition of the contract.
- 4.13.** No contract whatsoever is created by or arises from this RFP, which under no circumstances constitutes an offer by NLHS to enter into a contract with any party whatsoever. NLHS and NLHS do not have any obligation, responsibility, commitment or legal liability toward any Proponent(s) or any Proponent(s)'s Subcontractor(s) arising from the RFP or any proposal submission submitted in response to it, or from the RFP process.
- 4.14.** Written notice of award from NLHS, the Service Provider's proposal, the RFP itself, and the subsequent full execution of a written contract will constitute a contract for the award. No Proponent(s) will acquire any legal or equitable rights or privileges relative to the services until the occurrence of such events. No work will begin without a contract that has been fully executed by both parties.
- 4.15.** Proponent(s) shall not make news releases concerning the RFP or the awarding of the same without the written consent of NLHS, and then only in coordination with NLHS.
- 4.16.** Claims made by the Proponent(s) in the Proposal will constitute contractual warranties. Any provision in the Proposal may, in NLHS's sole discretion, be included as a provision of the contract made between NLHS and the successful Proponent(s). In a case of conflict between the written agreement between NLHS and the Successful Proponent(s) and the RFP and the Proposal, the terms of the written agreement shall prevail.
- 4.17.** NLHS reserves the right to request clarification of the contents of any Proposal. Proponent(s) may be required to submit supplementary documentation clarifying any matters contained in their Proposals. This shall not be treated as an opportunity for the Proponent(s) to submit new information modifying its Proposal. Notwithstanding the foregoing NLHS is not obliged to seek clarification of any aspect of the proposal.
- 4.18.** NLHS reserves the right to verify any statement or claim contained in any proposal or made subsequently in any interview or negotiation. That verification may be made by whatever means NLHS deems appropriate and may include contacting the references provided by the Proponent(s). In submitting a proposal, the Proponent(s) is deemed to consent to NLHS verifying any information from third parties and receiving additional information regarding the Proponent(s).

- 4.19. The Terms and Conditions of this RFP will prevail over the Terms and Conditions submitted by any company submitting a proposal.
- 4.20. Unless the RFP documents specifically state otherwise, the RFP document, all proposals and any subsequent contract will be construed and interpreted in accordance with the laws of Newfoundland and Labrador and heard in the courts of Newfoundland and Labrador.
- 4.21. Proponent(s) are solely responsible for their own costs and expenses in relation to this RFP and the award of the proposed contract including preparing and submitting a proposal, attending interviews or meetings with NLHS or evaluation team during the evaluation of the proposal, site tours, and the negotiation, finalization and execution of any contract with NLHS. NLHS is not liable to pay such costs and expenses or to reimburse or to compensate a Proponent(s) under any circumstance and NLHS has no obligation to purchase or acquire any of the commodities.
- 4.22. By submitting a proposal, the Proponent agrees that it shall not claim damages for any matter arising out of this RFP process or in preparing and submitting a proposal. The Proponent further agrees to and hereby waives any claim for damages for loss of profits if no resulting contract is entered into with the Proponent.

4.23. Liability and Indemnity

NLHS and its representative employees and Agents shall not be held liable or accountable for any error or omission in any part of this RFP or response to Proponent(s) questions. While NLHS and/or its employees and Agents, have made efforts to ensure an accurate representation of information in this RFP, the information contained in this RFP is supplied solely as a guideline for Proponent(s). The information is not guaranteed or warranted to be accurate by NLHS and/or its employees or Agents, nor is it necessarily comprehensive or exhaustive. Nothing in this RFP is intended to relieve Proponent(s) from the responsibility of conducting their own investigations and research and forming their own opinions and conclusions with respect to the matters addressed in the RFP. Proponent(s) will be solely responsible to ensure their proposal meets all requirements of the RFP, to advise NLHS immediately of any apparent discrepancies or errors in the RFP, and to request clarification if in doubt concerning the meaning or intent of anything in the RFP.

NLHS shall not be liable to the Proponent(s) for any losses, expenses, costs, claims, or damages of any kind that result from the Proponent(s) preparing a Proposal in response to the RFP and/or participating in the RFP process, and NLHS shall not indemnify the Proponent(s) for any losses, expenses, costs, claims, or damages of any kind that result from the Proponent(s) preparing a Proposal in response to the RFP and/or participating in the RFP process.

4.24. Confidentiality of Information

The Proponent(s) its employees, Agents, and Subcontractors shall neither disclose, nor authorize, nor permit, disclosure to any person or corporation now, or at any time

in the future, any information or documents of any kind or other matter or thing which comes to its knowledge or into its possession by reason of this process (“Confidential Information”) and shall retain all Confidential Information as confidential.

The Proponent(s) may disclose Confidential Information to:

- a) Employees of the Proponent(s) who have a need to know;
- b) Agents and Subcontractors who have a need to know provided that the Proponent(s) has a confidentiality agreement with the Agent or permitted Subcontractor containing terms substantially similar to this document; and
- c) Any other person with prior written authorization from NLHS.

The Proponent(s) shall ensure that such employees, Agents, and Subcontractors will comply with the terms of this agreement and the Proponent(s) shall be responsible for any breach of the terms of this document and any agreements between NLHS and the Proponent(s) by them.

Notwithstanding anything within this RFP, the Proponent(s)' obligations of confidentiality in this RFP do not include information or documents which:

- a) Are, or become, publicly known or available through no wrongful act of the Proponent(s), its employees, Agents, or subcontractors;
- b) Are independently developed without benefit of the Confidential Information; or
- c) Are received by or from a third party without restriction and without a breach of an obligation of confidentiality.

Confidential Information may be disclosed to the extent required by law or court order, provided that NLHS is given reasonable notice and opportunity to seek to prevent or limit its disclosure.

The Proponent(s) shall immediately notify NLHS of any actual or potential loss, unauthorized disclosure, access or use of Confidential Information, or any other breach or potential breach of confidentiality. Further, the Proponent(s) shall provide commercially reasonable assistance to NLHS to regain possession of the Confidential Information and to prevent further unauthorized disclosure, access, or use.

The Successful Proponent(s) will be required to sign a Privacy and Confidentiality Oath. Privacy training led by an appropriately designated representative of NLHS may also be a requirement post contract award.

Information pertaining to NLHS obtained by the Proponent(s), its employees and Agents as a result of its participation in relation to this RFP, is proprietary and confidential. The data provided in this RFP is for the sole purpose of assisting the Proponent(s) in the preparation of a proposal to NLHS. The data must not be copied or disclosed by the Proponent(s) except for the purpose of responding to the RFP.

4.25. Access to Information and Protection of Privacy Act

This procurement process is subject to the **Access to Information and Protection of Privacy Act, 2015**. The bidder agrees that any specific information in its bid that may qualify for an exemption from disclosure under subsection 39(1) of the **Access to Information and Protection of Privacy Act, 2015** has been identified. If no specific information has been identified it is assumed that, in the opinion of the bidder, there is no specific information that qualifies for an exemption under subsection 39(1) of the **Access to Information and Protection of Privacy Act, 2015**.

All Proposals, including attachments and any documentation, submitted to and accepted by NLHS in response to this Open Call for Bids become the property of NLHS. A Bidder's Bid package may be subject to disclosure under the Access to Information and Protection of Privacy Act, 2015. By submitting a Bid, the Bidder agrees to the appropriate disclosure of the information supplied, subject to the provisions of the Act.

NLHS cannot guarantee the confidentiality of the content of any Proposal after the closing of the Open Call for Bids, as all correspondence, documentation and information provided in response to or because of this RFP may be reproduced for the purposes of evaluating the Proponent's submission.

4.26. Consent

It is the responsibility of each Proponent to obtain the consent to provide documentation related to the people that will be assigned to the provide services related to the RFP. This could be in the form of resumes or other documentation that provides personal information. NLHS will consider that the appropriate consents have been obtained for disclosure and use as per the purposes described.

4.27. Intellectual Property

The Proponent(s) shall not use any intellectual property of NLHS, including but not limited to logos, registered trademarks or trade names of NLHS, at any time without the prior written approval of NLHS as appropriate.

All Deliverables, documentation, services and intellectual property rights of any kind derived and/or developed pursuant to the RFP are to remain the exclusive property of NLHS.

Requests to present data or publish or present papers derived from work pursuant to this RFP in any publications, journals or at professional conferences must be made to the participating NLHS(s), and approval must be obtained in writing.

5.0 LICENSES, PERMITS AND APPROVALS

5.1. Medical Devices and Medical Device Establishments Licenses

If applicable the Proponent(s) shall:

- Confirm that for all Equipment that is defined as a Device under Food and Drugs Act and as a Medical Device under the Food and Drugs Act, Medical Devices Regulations and is being proposed for consideration pursuant to this RFP is licensed with Health Canada, Therapeutic Products Directorate, Medical Devices Bureau unless it is exempted under the Food and Drugs Act, Medical Devices Regulations;
- Provide a copy of the valid Medical Device License Number;
- If applicable, provide a statement that there has been submitted an application for a Medical Device License pursuant to the Food and Drug Act, Medical Devices Regulations and that the Proponent has not received any indication that the said application will be refused; (Note to Proponent: if not applicable, just state not applicable);
- Confirm that a valid Medical Device Establishment License Number for the Proponent under the Food and Drugs Act and Food and Drugs Act, Medical Devices Regulations exists unless there is a valid exemption under the said Regulations. With respect to the requirement set out in this Subsection, if the Proponent is a joint venture or a consortium, then this confirmation of the Medical Device Establishment License shall be provided for one member of the joint venture or consortium;
- Provide a copy of the valid Medical Device Establishment License Number.

If either the Equipment or the Proponent is exempted from having either of the said Licenses, a statement to that effect shall be submitted with the Proposal.

5.2. Permits, Licenses and Approvals

Proponents shall obtain all permits, licenses and approvals required in connection with the products/services pursuant to this RFP. The costs of obtaining permits, licenses and approvals shall be the responsibility of and shall be paid for by the Proponent.

5.3. Electrical Equipment

Without in any way limiting the provisions of 5.2 General, any electrical product or Equipment being proposed for consideration pursuant to this RFP must, by the time an Agreement is entered into, be authorized or approved in accordance with the Canadian Standards Association by a certification organization, accredited with the Standards Council of Canada Act, and shall bear the certification organization's mark which identifies Equipment certified for use in Canada. Certification shall be to the standard that is appropriate for the intended use of the electrical Equipment at NLHS facilities. Proponents are responsible for on-site certification and related costs.

5.4. Rights of Supply Chain and NLHS

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

- after the RFP closing and prior to award, request all Proponents to re-submit with their Best and Final Offer (BAFO);
- make public the names of any or all Proponents;
- request written clarification or the submission of supplementary written Information from any Proponent and incorporate such clarification or supplementary written information into the Proponent's Proposal, at NLHS'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 Proponent's Proposal in any material manner;
- waive formalities and accept Proposals that substantially comply with the requirements of this RFP, in NLHS's sole discretion;
- waive any irregularities in Bids or in the submission of Proposals, provided that such irregularities are minor and do not constitute a material deviation as set out in the Mandatory Requirements section, in NLHS's sole discretion;
- disqualify any Proponent whose Proposal contains misrepresentations or any other inaccurate or misleading information, or any Proponent whose reasonable failure to cooperate with NLHS impedes the evaluation process, or whose Proposal is determined to be Non-Compliant with the requirements of the RFP;
- disqualify a Proposal where the Proponent has previously breached an Agreement with NLHS, the Proponent has been charged or convicted of an offence in respect of an Agreement with any NLHS, or 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 NLHS;
- disqualify any Proposal of any Proponent who has breached any Applicable Law 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;
- disqualify a Proposal jointly submitted by multiple parties, in the event that one party decides to opt-out of the RFP process, cannot continue to be a Proponent, or cannot fulfill the obligations set out in this RFP;
- identify a specific question, or specific questions, which require a Proponent to achieve a minimally acceptable score in order to qualify for the award;
- adjust a Proponent's scoring or reject a Proponent's Proposal on the basis of:
 - a financial analysis determining the actual cost of the Proposal when considering factors including quality, service, price, and transition costs arising from the replacement of existing goods, services, practices, methodologies, and infrastructure (howsoever originally established);
 - the Proponent's past performance on previous Agreements awarded by NLHS;

- the information provided by a Proponent pursuant to NLHS exercising its clarification rights under this RFP process; or
 - other relevant information that arises during this RFP process;
- Negotiate in respect of any term or condition proposed by Proponent in its Proposal, whether a business or legal term or condition or otherwise;
- 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;
- accept or reject a Proposal if only one Proposal is submitted and where the Proposal is rejected, NLHS may cancel the RFP or enter into direct negotiations with the sole Proponent;
- reject Bids received from parties who cannot show a reasonable acquaintance with or preparation for the class of work specified;
- reject a Subcontractor proposed by a Proponent within a consortium;
- select any Proponent other than the Proponent whose Proposal reflects the lowest cost to the participating NLHS(s);
- cancel this RFP process at any stage and issue a new RFP for the same or similar requirements, including where:
 - NLHS determines it would be in the best interest of the participating NLHS(s) not to award an Agreement;
 - the Proposal prices exceed the Proposal prices received by NLHS for products/services acquired of a similar nature and previously done work;
 - the Proposal prices exceed the costs the participating NLHS(s) would incur by doing the work, or most of the work, with its own resources;
 - the Proposal prices exceed the funds available for the proposed products/services;
 - funding associated with the RFP has been revoked, modified, or has not been approved;
- and where NLHS cancels this RFP, they may do so without providing reasons, and NLHS may thereafter follow an alternate procurement process including but not limited to a new Request for Proposals, Request for Qualifications, complete a Limited Open Call process or do nothing;
- NLHS can reject any or all Proposals in its absolute discretion, including where a Proponent has launched legal proceedings against a NLHS(s) or is otherwise engaged in a dispute with a NLHS(s).
- By submitting a Proposal, the Proponent authorizes the collection, by NLHS, of the information identified in this RFP, which NLHS may request from any third party.
- In the event that the Preferred Proponent fails or refuses to execute the Agreement within sixty (60) Days from being notified of its position as the Preferred Proponent, NLHS may in its sole discretion:

- extend the period for concluding the Agreement, provided that if substantial progress towards executing the Agreement is not achieved within a reasonable period of time from such extension, NLHS may in its sole discretion, terminate the discussions;
 - exclude the Preferred Proponent's Proposal from further consideration and begin discussions with the next highest-ranked Proponent without becoming obligated to offer to negotiate with all Proponents;
 - 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 Equipment;
 - cancel this RFP in the event the Preferred Proponent fails to obtain any of the permits, licences and approvals required pursuant to this RFP.
- NLHS and the remaining NLHSs shall not be liable for any expenses, costs, losses or any direct or indirect or punitive or other damages incurred or suffered by any Proponent or any third party resulting from the NLHS exercising any of its express or implied rights under this RFP or otherwise, whether in contract, tort (including gross negligence), or under any equitable or other principle available at law or otherwise.

6.0 NLHS POLICIES

6.1. NLHS Policies and Guidelines

By submitting this bid, you are acknowledging and agreeing to comply with NLHS policies and guidelines.

6.2. Government of Newfoundland and Labrador's Mandatory Vaccine Policy

By submitting this bid, you are acknowledging and agreeing to comply with the Government of Newfoundland and Labrador's mandatory vaccine policy as it pertains to on-site vendors, suppliers, contractors, and volunteers should you be determined to be the preferred supplier and awarded a contract. The Policy states, in part:

On-site vendors, suppliers, contractors, volunteers

The employer will take the steps required for staff of any current vendors, suppliers, contractors or volunteers who regularly work alongside Provincial Government employees during normal business hours to follow the same vaccination or testing/masking requirements that apply to employees.

The full policy can be viewed at the following link:

<https://www.gov.nl.ca/exec/tbs/mandatory-vaccination-policy/>