

REQUEST FOR PROPOSALS TO CONSULT ON AND DEVELOP LONG RUN INCREMENTAL COST (LRIC) MODEL

Clarification #1

DATE: JUNE 10, 2011

Question 1

On Page 7 of the LRIC RFP, it is stated that "A Consultant (including its Personnel and Sub-Consultants) that is affiliated to, employed by or engaged in a contract for services, with any of the telecommunication service providers operating in Jamaica or any of their affiliated companies, whether operating in Jamaica or not, shall not be awarded a Contract." The term "affiliated companies" is potentially far-ranging, particularly if these companies need not be operating in Jamaica. Can the OUR provide any further clarification as to what they would consider to be an affiliated company, and equally what they would consider to not be an affiliated company? For example, would the OUR consider a Cable & Wireless operating company in a different country to be affiliated?

Answer 1

Section 2(1) of Jamaica's Companies Act defines "affiliated" as follows:

"affiliated" in relation to two or more companies means that-

- (a) one of them is the subsidiary of the other;*
- (b) each of them is a subsidiary of the same company;*
- (c) each of them is controlled directly or indirectly by the same person; or*
- (d) each of them by virtue of paragraph (a), (b) or (c) has a relationship with the same company at the same time*

This is the interpretation to be applied to the term "affiliated" for purposes of the LRIC RFP.

Therefore, using the example given in the question by way of illustration only, a Cable and Wireless operating company in another country would be an affiliated company of Cable and Wireless Jamaica as they are both subsidiaries of the same parent company and/or are both controlled directly or indirectly by the same person.

The Companies Act at section 151 goes on to describe in greater detail the criteria by which a company is considered a "subsidiary". Participants are therefore encouraged to review relevant

sections of the Companies Act which can be found on the Ministry of Justice website:
<http://www.moj.gov.jm/laws/statutes/companies1-447.pdf>

Question 2

On Page 24 of the LRIC RFP, three job titles are stated as part of the technical scoring (Team Leader, Telecommunications Engineer, Industry Analyst). Can the OUR clarify what their broad expectations of these roles are, in particular the "industry analyst" role, since there appears to be no definition provided within the RFP?

Answer 2

Team Leader – is the project manager with overall reporting responsibility to the OUR (the Client). The team leader is charged with coordinating the activities of the rest of the team to ensure the successful completion of the project. This person will be the Client's point of contact/liason and will be responsible for providing updates on the project's progress.

Telecommunication Engineer – will provide technical expertise to the analyst and the project team. This person will play a key role in assessing and optimising network design, dimensioning, specification and other technical areas of the project.

Industry Analyst – should have the relevant qualification and experience to assess the current state of the industry and the existing regulatory environment so as to make appropriate recommendations to the Client on framework and policy changes that are necessary to ensure successful completion of the project. This person would analyse information gleaned from meetings with the OUR , the industry as well as data available and advise the Client. This person will be in charge of analysing issues such as cost assumptions, demand calculation, routing factors, etc.

Question 3

Should the Consultant see a need for more than three core team members, will this be reflected in the technical scoring? Or, will the scoring be based solely on the credentials of our nominees for these three roles?

Answer 3

Bidders may indicate more or less than 3 persons as they desire. However, scoring will be based on the 3 functional areas identified. Bidders may indicate in their bid that a particular function will to be carried out by more than one person or that one person will carry out more than one

function. The scoring will however depend on the ability and experience of the named person(s) to carry out the specific function.

Question 4

On Page 12 of the LRIC RFP, paragraph 3.4 states that "*Paragraph (c) indicates the recommended number of pages for the description of the approach, methodology and work plan of the STP*". However, paragraph (c) contains no such references. Can the OUR confirm that there are no such recommendations for responses to this RFP?

Answer 4

The inclusion of the reference "*Paragraph (c) indicates the recommended number of pages for the description of the approach, methodology and work plan of the STP*" in paragraph 3.4 was an oversight as there is no recommended number of pages. Respondents may use as many pages as they deem necessary to provide the information required by the RFP in their technical proposals.

Question 5

On Page 71 of the LRIC RFP, an advance payment guarantee is described as part of the mechanism for the first invoice. Can you confirm that this guarantee does not need to be arranged for the proposal, but only at the contract finalisation stage for the successful Consultant?

Answer 5

Note the provisions of item 6.4 in the Special Conditions of Contract section of the RFP. Twenty percent (20%) of the Contract Sum is payable to the successful Consultant on the effective date of the consultancy contract in exchange for the advance payment guarantee. It is therefore only the successful Consultant who is awarded the contract who will be required to put this guarantee in place.

Question 6

Is it necessary to form a team with local person in order to complete the project?

Answer 6

There is no requirement for bidders to use local personnel.

Question 7

Regarding the Curriculum Vitae for proposed professional staff we would like to know what is meant at Paragraph 11, Form TECH-6 by “Detailed tasks assigned”. Does it correspond to Phases described at Paragraph E, Section 5?

Answer 7

“Detailed tasks assigned” in Form TECH 6 means that bidders should indicate what specific tasks relating to the project will be assigned to the individual to which the Curriculum Vitae corresponds.

Question 8

We understand that the consultation to take place between OUR and the stakeholders will determine the methodology of the modelling but as the methodology does have a strong impact on the estimated number of professional staff-months for the Project (estimated charge of the mission for the consultant) we would be interested in your keen perception of the model to be developed.

- a. Will the model be a pure LRIC model (European Commission recommendation of 7 May 2009) or a LRAIC model (often implemented because easier to implement especially if a strong cost orientation is not required)?
- b. Is it likely to be a Bottom-Up, a Top-Down or a Hybrid model?

Will the model be the one of a generic/average mobile operator? (leading to a unique rate and symmetry of rates). Or will there be one model per mobile operator (a strong market share asymmetry is suspected to induce asymmetric costs for operators)?

Answer 8

Section 33 (1) of the Telecommunication Acts (the “Act”) states that:

“Where the Office is required to determine the prices at which interconnection is to be provided by a dominant carrier, it shall, in making that determination, be guided by the following principles -

- (a) costs shall be borne by the carrier whose activities cause those costs to be incurred;*
- (b) non-recurring costs shall be recovered through non recurring charges and recurring costs shall be recovered through recurring charges;*

- (c) *costs that do not vary with usage shall be recovered through flat charges and costs that vary with usage shall be recovered through charges that are based on usage;*
- (d) *costs shall include attributable operating expenditure and depreciation and an amount estimated to achieve a reasonable rate of return;*
- (e) ***prices for interconnection shall be established between the total long run incremental cost of providing the service and the stand alone cost of providing the service, so, however, that the prices shall be so calculated as to avoid placing a disproportionate burden of recovery of common costs on interconnection services;***
- (f) *where appropriate, interconnection costs shall include provision for a supplementary charge, being a contribution towards the access deficit of the interconnection provider.”*

The successful Consultant should therefore be guided by this section of the Act and take into account its own analysis of the Jamaican market and the results of the consultations that are a part of the consultant’s scope of work when making its recommendations to the OUR on a proposed LRIC methodology. Note that the model to be developed should be one of a generic mobile operator with symmetric rates.

Question 9

We understand that you are inviting proposals “to consult on and develop a Long Run Incremental Cost Model to determine the rate to be charged for mobile interconnection”. Does the scope of services from the consultant include the definition of a mechanism of regulation of the determined rates? (ie: glide path, separate management accounting obligations...) Does the scope include interconnection rates of SMS or data?

Answer 9

The “mechanism of regulation of the determined rate” is a part of the Consultant’s scope of services and will need to be addressed in the consultation with the industry. The Consultant’s scope of work also includes determining interconnection rates for SMS and data.

Question 10

We noticed that a WACC for telecom operators in Jamaica was determined in 2010. Will this WACC 2010 be an input for the modelling? Or will the Consultant need to update the WACC into a 2011 version?

Answer 10

The WACC determined by the OUR should be used in the model. This can be found at the following link:

http://our.org.jm/images/stories/content/Telecommunications/DeterminationNotice/Decisions/Decision%202009%20Determination%20Notice_Estimate%20%20WACC%20for%20Telecoms%20Networks_Final.pdf

Question 11

Do the Jamaican operators run a management accounting (in addition to the financial accounting required by law)? This might be of great help when trying to reconcile operator's figures with the figures from the LRIC model.

Answer 11

Currently, we are aware of only one operator that has a management accounting system.

Question 12

We understand that, as of March 2006, the OUR has imposed an obligation on Cable & Wireless Jamaica (C&W J) to prepare and submitted (CCA based) regulated accounts on an annual basis (i.e. document TEL 2006/04 Vol. However, we were unable to find any information on whether this requirement has now been fully implemented. Could the OUR please confirm whether C&W J is currently submitting regulated accounts on a CCA basis to the OUR and if so, whether this information would be available to the consultant developing the mobile LRIC model?

Answer 12

Cable and Wireless Jamaica Limited ("C&WJ") does not submit regulated accounts to the OUR. However, in submitting its reference interconnection offers ("RIO") C&WJ asset valuation must reflect modern equivalent assets. This information will be made available to the consultant in developing the LRIC model if it is needed.

Question 13

Under Jamaican laws, is the assistance by a French consultant subject to tax(es)? Is there any tax withholding, registration fees?

Answer 13

Bidders should seek their own professional advice regarding the tax liability if any, of their staff in connection with the services to be provided under the tendered consultancy. Jamaica's Ministry of Finance and the Public Service and Ministry of Foreign Affairs and Foreign Trade may be able to provide guidance regarding the tax liability of foreign nationals and the existence of double taxation and other treaties that may govern these liabilities.

It should be noted however that the successful consultant whether local or overseas based, is required to have in place a valid Tax Compliance Certificate ("TCC") as a condition for contract execution. Successful overseas consultants may therefore need to register with the Jamaican Tax Administration Department to receive a Taxpayer Registration Number (TRN) to be able to obtain a TCC. Information regarding the TRN and TCC can be found at the following link: www.jrs.gov.jm

Question 14

Where could we find some editable version of the "Form TECH-x" and of the "Form FIN-y"?
(1<x<8, 1<y<5)

Answer 14

Editable versions of the Forms have been uploaded to the OUR website and can be accessed at the following link:

http://www.our.org.jm/index.php?option=com_content&view=article&id=983:lric-rfp&catid=223:other&Itemid=495

Question 15

Could the OUR please confirm whether the other two mobile network operators submit any financial and operational information to the OUR on a regular basis?

Answer 15

All mobile network operators are required to submit audited financial statements to the OUR on an annual basis as well as, basic operational data such as number of subscribers, revenue, traffic,

etc. This information will be made available to the consultant in developing the model if it is needed.

Question 16

Could the OUR also verify whether it is aware of these two operators having developed some form of cost accounting information to date (and if so, on what basis)?

Answer 16

One operator used a FAC model, another operator submitted a Top-Down Cost model as the basis for the tariff proposed in its reference interconnect offer (RIO). The third operator is yet to submit any cost or model to justify the tariff included in its RIO.

Question 17

We understand that C&W J has published several RIO document, containing regulated interconnection charges for fixed and mobile services. Could the OUR please confirm what the latest approved version of the RIO is (i.e. RIO 5a vs. RIO6)? Further, could the OUR please confirm whether the mobile interconnection services contained in the RIO are based on C&W J's separated accounting data (i.e. FAC - CCA based unit costs for these services)?

Answer 17

It is worth noting that only the fixed RIO has been approved by the OUR. Mobile operators were instructed to submit a RIO to the OUR however these RIOs have not yet been approved. The OUR is in the process of developing a harmonised RIO for the mobile sector with the LRIC to be developed used to determine interconnection rates. The latest approved RIO for the fixed line network is RIO 5 however, consultation on RIO 6 has begun. As far as the OUR is aware, the interconnect tariff submitted by C&WJ in its mobile RIO is based on its FAC costs.

Question 18

We understand that in March 2011 America Movil has announced that it has entered an agreement with Digicel to allow, amongst others and subject to official approval, Digicel to acquire Claro in Jamaica. Can the OUR confirm whether this transaction is still being pursued in Jamaica and if so, would it be possible to provide us with an indication on if and when the transaction may be completed?

Answer 18

As far as we are aware the announced transaction between Digicel and Claro is still being pursued by the parties in Jamaica. The issue of any relevant governmental approvals in connection with the transaction is within the remit of the Minister with responsibility for the sector (currently the Prime Minister of Jamaica) and not the OUR. We are therefore not in position to provide any further information as to the status of this matter.

Question 19

We have read in the press that Digicel is in the process of buying Claro. What would be the impact on the assignment.

Answer 19

As indicated in the Terms of Reference section of the RFP (section 5) the successful Consultant will be required to develop and calibrate a suitable LRIC model, as well as the methodology to guide its implementation, for purposes of estimating the cost of providing interconnection for mobile networks in the Jamaican market. The announced transaction will not impact the required outputs of the consultancy.

Question 20

Do we also need to submit with our proposal “Appendix G, Form of Advance Payments Guarantee”? From reading the RFP, it appears that we don’t, and this only gets submitted should we win the contract?

Answer 20

The guarantee set out in Appendix G is not required to be submitted with the bid proposal. In accordance with item 6.4 of the Special Conditions of Contract the guarantee would be submitted by the Consultant who has been awarded the contract on the effective date of the contract in exchange for an advance payment of a portion of the agreed Contract Sum.