



REQUEST FOR PROPOSALS

CONSULTANT FOR THE ROLE OF ADVISOR

FOR

RADIO FREQUENCY SPECTRUM

PRICING

ECS 04/2013

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1. INTRODUCTION

- 1.1 The Utilities Regulation and Competition Authority (URCA) is the regulator of the electronic communications sector (ECS) in The Bahamas.
- 1.2 On 28 December 2012, URCA published its Draft URCA Annual Plan for 2013 (“the Plan”) - ECS 27/2012. In the Plan URCA proposed to conduct a Spectrum Pricing Review (SPR) in the year 2013 following the publication of the National spectrum Plan (NSP).
- 1.3 URCA now wishes to engage the services of a suitably qualified consultant to aid in developing a revised pricing framework for the Radio Frequency Spectrum (RFS) in The Bahamas. The pricing framework will encompass all parts of the radio frequency spectrum and should be based on international and regional best practices.
- 1.4 The Consultant will function as an Advisor to the Spectrum Pricing Review Team (SPRT) and report to the Project Lead designated by URCA.
- 1.5 The Consultant, which may be an individual or a firm, must have expert knowledge of the issues that impact RFS pricing, and experience in the valuation of RFS in other jurisdictions, preferably with similar characteristics to The Bahamas.
- 1.6 This Request for Proposals defines the objectives and deliverables along with the parameters within which these objectives and deliverables are to be achieved.
- 1.7 **INTERESTED CONSULTANTS ARE ADVISED TO NOTE CAREFULLY THE TIMEFRAME FOR RESPONSES TO THIS REQUEST FOR PROPOSALS WHICH MUST BE STRICTLY ADHERED TO. URCA ADVISES THAT BASED ON THE PRICING REVIEW DELIVERABLES, THE SELECTED CONSULTANT MUST BE AVAILABLE TO BEGIN PROVIDING SERVICES BY 10th JUNE 2013.**

2. SUBMISSION OF PROPOSALS

- 2.1 Consultants are required to submit their proposals in electronic (adobe pdf) format via email to:
 - Stephen Bereaux
 - Director of Policy and Regulation

Utilities Regulation and Competition Authority

Nassau, Bahamas

Email: sbereaux@urcabahamas.bs

- 2.2 The subject of all email submissions should be “RFP for Radio Frequency Spectrum Pricing Review Consultant” and emails must be received by URCA by no later than **5:00 pm on 10th May 2013**.

3. BACKGROUND

3.1 The Bahamas is an archipelagic nation consisting of some 700 islands and cays. The population of The Bahamas is approximately 353,658 with the islands of New Providence and Grand Bahama accounting for 70.39% (248,948) and 14.63% (51,756) of total population (353,658), respectively. The island of Abaco represents 4.72% (16,692) whilst the remaining 10.26% is largely scattered across approximately 20 smaller islands and cays.

3.2 The legal architecture for regulation and competition in the Electronic Communications Sector (“ECS”) has undergone significant reforms with the enactment of¹:

- The Communications Act, 2009 (“the Comms Act”);
- The Utilities Regulation and Competition Authority Act, 2009 (“the URCA Act”);
and
- The Utilities Appeals Tribunal Act, 2009 (“the UAT Act”).

The URCA Act established URCA as the converged sector regulator and competition authority for electronic communications networks and carriage services.² The Comms Act grants URCA wide ranging powers to regulate licensees operating in the sector. Section 93 of the Comms Act authorizes the Minister (in the case of Premium spectrum) and URCA (in respect of Standard spectrum) to impose charges for the allocation or use of spectrum which reflect the need to ensure efficient and optimal use of this scarce state resource. Such charges are in all cases payable to URCA on behalf of the

¹ These documents are available at www.urbahamas.bs.

² The converged sectors include telecommunications, broadcasting (including pay TV), and radio frequency spectrum.

Government. The legislation makes URCA solely responsible for management of the radio spectrum, save in respect of premium spectrum.

3.3 All segments of the ECS have been liberalized with the exception of mobile voice and mobile data services³.

3.4 Section 5 of the Comms Act requires that all policy measures, decisions and laws to take effect in the electronic communication sector in The Bahamas, should be made with a view to implementing the electronic communications sector policy objectives set out in section 4 of the Comms Act, and the Electronic Communications Sector Policy (ECSP) as published by the Government from time to time in accordance with section 6 of the Comms Act. The following are the relevant electronic communications policy objectives as set out in section 4 of the Comms Act:

- a) The furtherance of the interests of consumers by promoting competition and in particular:
 - (i) to enhance the efficiency of the Bahamian electronic communications sector and the productivity of the Bahamian economy;
 - (ii) to promote investment and innovation in electronic communications networks and services;
 - (iii) to encourage, promote and enforce sustainable competition; and
 - (iv) to promote the optimal use of state assets, including radio spectrum;and
- b) The furtherance of the interests of persons in The Bahamas in relation to the electronic communications sector by —
 - (i) promoting affordable access to high quality networks and carriage services in all regions of The Bahamas;
 - (iv) promoting availability of a wide range of content services which are of high quality.

³ The Communications Act was amended in April 2011 to provide for an extended mobile exclusivity period for Bahamas Telecommunications Company Ltd. (BTC). See the Communications (Amendment) Act 2011.

- 3.5 Consistent with section 31(1) of the Comms Act, in April 2013 URCA will issue a Consultation Document for National Spectrum Plan (ECS xx/2013) in which URCA proposed to conduct a review on spectrum prices in The Bahamas.
- 3.6 The spectrum prices and licence fees currently charged by URCA are a combination of historical charges and, in respect of recently opened bands, interim fees imposed by URCA in 2012 out of necessity. URCA originally intended to review these prices after the review of the National Spectrum Plan 2013 (which is a key input to this project) was completed.
- 3.7 In April 2013, URCA will publish *The National Spectrum Plan (2013-2016) Consultation Document*. In section 6.5 of that NSP, URCA proposes to conduct the Radio Frequency Spectrum (RFS) Pricing Review with the key objectives of:
- i. Promoting efficient and optimal use of the spectrum;
 - ii. Maximizing the net benefits to the Bahamian society and economy;
 - iii. Recovering the administrative cost of managing spectrum; and
 - iv. Administering fees in a non-discriminatory manner.

In this valuation of RFS, URCA wishes to take into account the mentioned objectives and any other critical elements of decision making that impact RFS valuation and pricing. The RFS Pricing Review is scheduled for completion by 15th October 2013. Subject to Board approval, the applicable results of the RFS Pricing Review will be published in URCA's Fee Schedule and subsequently implemented by URCA.

- 3.8 The aforementioned URCA documents are available at the "Publications" tab of URCA's website (www.urcabahamas.bs).

4. SCOPE OF THE SPECTRUM PRICING REVIEW

The NSP sets out regulatory, technical, financial and geographical elements which ought to be given due consideration during the RFS pricing review. The Consultant is required to ensure all advice, suggestions and recommendations rendered in alignment with that plan. The scope of each element is defined below.

4.1 **Benchmarking Scope**

The consultant is required to benchmark URCA spectrum fee structure against the spectrum fee structures of countries with similar economies, geographies and/or demographics and provide a comparative analysis of spectrum fees. In this regard the consultant may:

- i. Evaluate the fees set for standard spectrum and premium spectrum by URCA;
- ii. Recommend an appropriate mechanism for pricing spectrum;
- iii. State whether current fee levels for standard and premium spectrum are appropriate;
- iv. Identify critical issues which may need to be addressed in the future;
- v. Recommend an appropriate pricing mechanism for standard and premium spectrum; and
- vi. Suggest leading practice with elements that are specific to The Bahamas.

4.2 **Regulatory Scope**

The Consultant's advice, suggestions and recommendations must take into account national objectives, as specified in the sector policy, which aims to advance and facilitate the development and access to communications technology in The Bahamas whilst supporting the Government of The Bahamas in fulfilling its social and economic policy objectives of obtaining maximum benefit from the use of the radio spectrum resources in The Bahamas.

4.3 **Technical Scope**

The SPRT will recommend a pricing strategy that will include a pricing matrix consisting of premium pricing, value pricing, geographical pricing, administrative cost recovery pricing and administrative incentive pricing. The SPRTs goal is to balance the objectives listed in sections 3.4 and 3.7 of this RFP. The SPRT's aim is to set prices at an appropriate level to generate sufficient price pressure to balance those objectives. The proposed pricing strategy ought to take into account:

- i. Technical issues such as the allocation of frequencies in the National Frequency Allocation Table (NFAT), propagation characteristics of radio frequency spectrum, ITU-2000 and ITU-Advance plans for specific bands, legacy and emerging technologies and financial implications of

- using a particular frequency band to provide electronic communications services;
- ii. Economic issues such as production and consumption of electronic communications services and their impact on the supply and demand for radio frequency spectrum;
 - iii. Social issues such as the need for universality of services throughout the islands of The Bahamas and the furtherance of the governments social and economic development agenda;
 - iv. Geographical issues such as the archipelagic nature of the Bahama Islands and the implementation of a pricing strategy that encourages service providers to make a wider range of high quality services available throughout the archipelago;
 - v. Demographical issues, such as age distribution, income levels, and education, and how these and similar indicators can be used to segment and define the wireless electronic communications market on various islands in The Bahamas. These demographical issues should be used to assess current and future demands for promoting ubiquitous wireless electronic communications services throughout The Bahamas with the objectives of ensuring efficient use of the RFS by providers and users of legacy and emerging terrestrial, maritime, aeronautical, extra-terrestrial mobile and fixed services and technologies.

4.4 **Financial Scope**

Pursuant to section 93(2) of the Comms Act:

“URCA may, where radio spectrum other than spectrum in the premium band is to be allocated or used, impose charges to be paid to the Government which reflect the need to ensure the optimal use of radio spectrum.”

Accordingly, URCA is responsible for the determination and imposition of charges to be paid for the use of for non-premium spectrum bands. By contrast, section 93(1) provides that:

“the Minister may, where radio spectrum in the premium spectrum band is to be allocated or used, impose charges to be paid to the Government which reflects

the need to ensure optimal use of that spectrum, or prescribe the methods by which such charges will be set.”

Although URCA is not responsible for the setting of charges for premium spectrum, it provides advice to the Minister upon request in relation to those charges. Hence, upon advice of the Consultant, the SPRT will include Premium Spectrum in the RFS Pricing Review. Also, Pursuant to section 91 of the Comms Act, URCA is also responsible for the collection of all spectrum fees on behalf of the Treasurer. Spectrum fees are therefore payable annually to URCA by licensees; however, those fees are remitted in their entirety by URCA to the Treasurer. The Consultant will be expected to make recommendations for pricing models that facilitate the separation of the administrative cost of managing spectrum from spectrum fees, in order to assist URCA with arriving at the necessary changes which would enable recovery of its costs incurred in spectrum management.

4.5 **Geographical Scope**

The geographical scope of URCA’s responsibility, as established by section 29 of the Comms Act, is the entire Bahamas, which would include all lands, territorial waters and air space that constitute the Commonwealth of The Bahamas. The Consultant is required to give due consideration to the geography of The Bahamas and suggest a pricing model that could encourage expansion of wireless electronic communications services into under-served territories.

5. **PRINCIPAL TASKS**

5.1 As mentioned above, the assignment as defined in this Request for Proposals is intended to secure the services of a suitably qualified consultant to facilitate the work of The SPRT in its tasks of conducting a RFS Pricing Review.

5.2 Accordingly, the consultant is required to:

- i. Upon request, attend meetings of the SPRT, either in person or via videoconference;
- ii. Provide feedback on written proposals, notes and minutes as required by the project lead;

- iii. Provide the SPRT with technical and other experience and expertise in the regulatory and industry matters relating to the spectrum pricing. Such expertise should include, but is not limited to:
 - a. Providing precedents of relevant documentation,
 - b. Making recommendations of technical and other solutions based on identified needs; and,
 - c. Identification and recommendation of international best practices relating to spectrum pricing where appropriate.
- iv. Upon request, provide technical and other expert assistance to URCA on any regulatory measures which URCA is required to make in relation to spectrum pricing; and
- v. Assist Project Lead in monitoring progress and ensuring completion of deliverables by the SPRT
- vi. .

5.3 It is envisaged that the consultant's engagement will continue until the publication of the Spectrum Pricing Review and/or the URCA Fee Schedule for 2014, though URCA reserves the right to terminate the engagement at any time, subject to payment of outstanding fees and expenses.

6. PROPOSALS AND QUALIFICATIONS

6.1 Proposals must contain at a minimum:

- i. Based on the nature of the engagement, it is envisaged that proposals would identify a single expert as the Principal Consultant who would act as a direct advisor to the Spectrum Pricing Review Team. That person must have adequate personal knowledge and expertise of spectrum pricing implementations, though the Principal Consultant would have access as necessary to additional expertise as required to provide technical or other support.
- ii. Proposals must provide details of all individual consultants expected to contribute, with their Curriculum Vitae (CVs) attached and the particular skills each would be expected to contribute to the process.

- iii. A description of similar assignments undertaken by the consultant including jurisdiction, client name, scope of work done, and contract value. The consultant should also provide the name and contact details of persons in each jurisdiction mentioned who could be contacted by URCA in relation to the assignment undertaken.
- iv. Details of the relevant skills, knowledge, and experience of experts to be committed to the process (both on a firm and per individual basis). URCA requires that the Principal Consultant have specific knowledge and experience of spectrum pricing reviews in other jurisdictions, preferably with similar characteristics to The Bahamas.
- v. A proposed work-plan based on the spectrum pricing activities, as detailed by URCA, outlining work-plan dates for completion of tasks to meet URCA's deadlines should be submitted for review.
- vi. A proposal including daily and hourly rates of all consultants, based on seniority and expertise, as well as an estimated total fee for the engagement (based on the work-plan proposed under item iv. of this section). This should be transparent so that it is possible to work through each individual's rates, number of man-days to be spent on the work, and fee estimate per person.
- vii. Estimate of expenses, where applicable, including airfares and hotels depending on the need for time on the ground, industry engagement and training.
- viii. Proposed payment terms. URCA prefers that professional fees be payable in arrears within thirty (30) days of invoice. Invoices should be issued based on defined, time-bound deliverables of the Consultant. Travel related expenses should, where possible, be met directly by URCA or should be invoiced on a recovery basis once already incurred.

6.2 Consultants shall disclose to URCA any potential or perceived conflict of interest issues together with their proposals. In addition, any potential or perceived conflict of interest which arises at any time following submission of proposals should be disclosed to URCA as soon as it arises. In particular, URCA must be aware of any connections with any

URCA licensee in The Bahamas or its affiliates, and any interest in any vendor of Spectrum Pricing solutions or software.

- 6.3 All proposals should remain valid for at least 45 days, though as noted above URCA expects to commence the project review in June 2013. URCA reserves the right to accept or reject any proposal. In the event that URCA may not be able to successfully negotiate a contract with the best evaluated bidder, it may proceed to the second ranked bidder.
- 6.4 All fees and expenses must be denominated in United States Dollars or Bahamian Dollars.
- 6.5 All requests for clarification and/or additional information should be in writing, and must be submitted to URCA by no later than April 26, 2013. URCA may issue addenda to this RFP to address any questions or requests for clarification, but shall address all requests by no later than May 3, 2013.

7. PROJECT TIMESCALES AND DELIVERABLES

- 7.1 It is envisaged that the consultant’s engagement will continue until the Revised RFS Pricing Document has been approved by URCA’s Board. URCA reserves the right to terminate the engagement at any time, subject to payment of outstanding fees and expenses.

URCA’s intended timeframes related to this RFP and project are as follows:

- (i) Issuance of RFP April 22, 2013
- (ii) Deadline date for Receipt of Proposals 17 May, 2013
- (iii) Engagement of Consultant June 14, 2013
- (iv) Publication of Consultation Document August 30, 2013
- (v) Close of Public Consultation Period September 30, 2013
- (vi) Publication of Final Decision October 29, 2013
- (vii) Completion of Project November 8, 2013

The Consultant will provide URCA with the following deliverables, at a minimum (though the consultant may propose additional or expanded deliverables in its draft work plan submitted together with its proposal):

- | | | |
|------|--|------------------|
| i. | Recommendations for Pricing Framework | July 12 28, 2013 |
| ii. | Input for First Draft Consultation Document | August 2, 2013 |
| iii. | Input for Final Draft Consultation Document | August 23, 2013 |
| iv. | Comments on Public Responses to Consultation | October 12, 2013 |
| v. | Input to URCA Final Decision | October 19, 2013 |

8. EVALUATION CRITERIA

- 8.1 Proposals will be evaluated by a committee made up of URCA staff.
- 8.2 The Evaluation committee will make recommendation to URCA's Board which will make the final decision.
- 8.3 Proposals will be evaluated based on price (40%) and technical expertise (60%).
- 8.4 Technical criteria consist of, *inter alia*:
- 8.4.1 The Principal Consultant and the Firm's relevant knowledge and expertise in the required area.
- 8.4.2 The Principal Consultant and the Firm's experience with the valuation of RFS in other jurisdictions with similar characteristics to The Bahamas.
- 8.4.3 The proposed project plan and adherence to timeframe specified for completion.
- 8.5 The technical criteria will be assessed both on a firm, and per individual basis with a focus on the Principal Consultant.
- 8.6 Financial criteria consist of the level of fee estimates and the consultants' hourly rates, based on level of effort and seniority of consultants.
- 8.7 URCA shall not be bound to accept the lowest price or any proposal. In the event that URCA, in its sole discretion, decides to reject all proposals or cancel this process (with or without reissuance of the RFP) it may do so without any liability to any bidder.

9. FORM OF AGREEMENT

- 9.1 It is expected that services shall be performed on the basis of a contract to be agreed between URCA and the successful consultant. In the event that agreement cannot be reached URCA reserves the right to end negotiations and select an alternative applicant.