

Fair Trading Commission



TENDER

**For the Supply of Technical Assistance in the
Review of the Price Cap Plan 2016 which governs
the Regulated Services of
Cable & Wireless (Barbados) Ltd.**

GENERAL

The Fair Trading Commission (the Commission) is a statutory body established by the Fair Trading Commission Act (FTCA) CAP. 326B. The Commission is responsible for, *inter alia*, regulating utility services, consumer protection and promoting and ensuring fair and effective competition in the Barbados economy.

The Commission currently regulates domestic and international fixed line telecommunications services, electricity and water and wastewater.

Telecommunications services in Barbados provided by Cable & Wireless (Barbados) Ltd (C&W or alternatively, the Company) include domestic landline, Broadband (Internet), mobile and international telephony services. Other providers also offer fixed wireless, mobile and internet services. Digicel (Barbados) Ltd. (Digicel) holds a Full Domestic License and Ozone Wirless Inc. (Ozone) is licensed to provide mobile services.

An invitation is extended to prospective bidders for the provision of technical assistance in the review of the Price Cap Plan (PCP) 2016, which governs the Regulated Services of Cable & Wireless (Barbados) Limited (C&W).

INSTRUCTIONS TO TENDERERS

All bidders must supply the following information in their bids. Failure to provide the information will render the bid void: -

- a. Registration number of the company.
- b. Country in which the company is registered.
- c. The date on which the company was first incorporated.
- d. A copy of the company's Certificate of Incorporation, as evidence that the company is in existence at the date of the bid, and the names and addresses of all company directors.

- e. In the case of sole proprietorships or partnerships, the names and addresses of owners must be supplied. If the business is registered under the Registration and Business Names Act, a copy of the registration must be provided.
- f. Bidders must provide a copy of their VAT Registration Certificate.
- g. Bidders should be aware that the labour clauses (Public Contracts) Act, Cap. 349 shall, in so far as is applicable to the subject of the tender, apply to any contract made in respect of the tender.
- h. Information on the last three (3) jobs carried out including any recommendations must be submitted.
- i. Failure to provide the abovementioned information will render the tender response void.
- j. Tenders should be submitted in sealed envelopes marked **“Tender for the Provision of technical assistance in the review of the Price Cap Plan (PCP) 2016, which governs the Regulated Services of Cable & Wireless (Barbados) Limited (C&W).”** addressed to:

**The Chief Executive Officer
Fair Trading Commission
“Good Hope”
Green Hill
St. Michael
Bb12003, Barbados**

to reach the office no later than September 27, 2019 at 4:00pm.

- k. Tenders are to be placed in the Tenders Box which is located on the ground floor of the Commission’s Office at the address stated above.
- l. The Commission reserves the right to refuse any tender that does not conform to the requirements set out in this notice.
- m. The Commission does not bind itself to accept the lowest or any Tender.
- n. Any tender delivered after the closing date and time or any extension thereof will not be considered.

All tenders must be quoted in either **Barbados Dollars or US Dollars**. Prices quoted in Barbados dollars must be **inclusive of VAT**. Tenders quoted in US dollars will be

evaluated using the prevailing exchange rate at the date of closing of the tender. Payments in US dollars shall be made at the buying rate set by The Central Bank of Barbados at the time of payment.

PENALTIES

The Commission reserves the right to enforce penalties against a bidder for delays occasioned by them in the execution of these works. The penalty shall apply from the stated completion date of the particular phase. The total penalty shall not exceed 5% of contract sum.

CONDITIONS OF TENDERING

Acceptance of Tender and Tenderer's Expenses

The Commission will not reimburse the bidder for any expense incurred in the preparation of this tender.

Firm Price

No price variation clause may be included in the Tender. Prices in Barbados or US dollars must be quoted and such prices shall include for all materials, labour, plant, equipment, transport, handling of materials and plant, tools and appliances, management fees and all other things necessary for the execution of the work. Price(s) quoted in Barbados dollars must be inclusive of VAT.

Contractor to Obtain their Own Information

Contractors shall inform themselves on all matters necessary for compliance with and completion of the Contract and in all matters that might in any way affect the prices quoted.

Payments

Payments shall be made after the completion of each item of work or when the entire job is completed. The method to be followed shall be agreed by the Commission and the Contractor prior to the starting of the contract. Prior to any payment, the Contractor shall submit to the Commission a statement in a form acceptable to the Commission, filled out and signed by the Contractor stating the cumulative amounts and value of work carried out as of the date of the statement and accompanied by schedules and other such data to assist the Commission in evaluating the value of work carried out. The statement shall also show the cumulative amount and value of work paid by the Commission as of the date of the statement and the balance amount and value of work claimed by the Contractor.

Insurance

The Contractor shall obtain adequate insurance to indemnify the Commission against all claims for death, injuries, damage to property and losses sustained by the Contractor during the performance of duties under this Contract.

Addenda

Any interpretation of, or change in the Tender Document prior to the specified closing date, will be made only by Addendum issued by the Commission to each Bidder to whom the Tender Document has been issued and it shall become part of the Tender Document.

Contract Documents

The Contract documents will comprise of the following:

- a. The tender document.
- b. Scope of works.
- c. Costing schedule.

Compliance with Conditions of Tendering

The bidder must comply with all the above Conditions of Tendering. Failure to comply with or breach of any of the Conditions shall disqualify the Tender.

Performance Security

The successful Bidder shall furnish the performance security in a form acceptable to the Commission within twenty-seven (27) days of the receipt of notification of award from the Commission. The performance security must be in a sum equivalent to ten percent (10%) of the contract price. The performance security shall be valid for one (1) calendar year after the date of completion of the Contractor's obligations, and shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the Commission and shall be in one of the following forms:-

- a. A bank guarantee irrevocable letter of credit, issued by a bank located in Barbados, acceptable to the Commission and in the form provided in the Bidding Document or another form acceptable to the Commission; or
- b. A cashier's or certified cheque payable to the Commission.

The performance security will be discharged by the Commission and returned to the bidder not later than thirty (30) days following the date of completion of the bidder's performance obligations, including any warranty under the Contract.

CONDITIONS OF CONTRACT

Period of Contract

The period of Contract shall be fourteen (14) weeks from the date of signing of the Agreement. All rates given in the Bill of Quantities shall exist for the entire period of the Contract.

Examination of Works

The progress of the work will be monitored by Commission representatives to ensure compliance with agreed standards and payment maybe withheld if defects are not corrected in a timely manner after being reported to the Bidder's Supervisors.

Termination of Contract

This Contract shall be terminated for convenience by any one of the parties to the Contract by a written notice of ninety (90) calendar days. The Commission shall be entitled to terminate this Contract and to recover from the Contractor the amount of any loss resulting from such determination due to non-performance by the Contractor.

Project Objectives

The main objectives of this review are to:

- a. Determine whether there is a continuing need for retail price regulation in Barbados;
- b. Provide the Company with the economic incentive to reduce operating costs;
- c. Provide the Company with an incentive to be innovative and replace plant in an efficient and prudent manner;
- d. Provide the Company with a reasonable opportunity to earn a fair return on its investment;
- e. Allow efficiency gains to be passed onto consumers through reduced prices of Telecommunications services;
- f. Foster competition within the telecommunications market;
- g. Streamline regulatory procedures relating to rates;
- h. Facilitate pricing flexibility and responsiveness to evolving technological, legal and market conditions.

The successful tenderer will also be expected to assess current market conditions in the telecommunications sector and their impact on the type and extent of regulation that is warranted in the local market. Technological advances and the advent and proliferation of mobile services, broadband and Over the Top (OTT) services have seemingly changed the competitive landscape in relation to domestic and international fixed line calling. It is therefore imperative to determine whether there is a need to make changes to the PCP 2016 in consideration of the performance of C&W given the developments in the telecommunications sector. If warranted, the successful tenderer will be expected to develop a new Price Cap Model and compliance rules from the result of this review. Alternatively, the successful tenderer may propose an alternate form of incentive regulation to be applied or to advise on whether there exists a need to continue retail price regulation.

SCOPE OF WORKS

The successful tenderer shall assess the efficiency and effectiveness of the Price Cap Plan 2016 and the Company's performance and advise on the implementation of a new price cap regime or other appropriate regulation.

In performing this review the successful tenderer shall:

- Assess the Company's regulatory and financial reports.
- Conduct an in depth investigation of and produce a detailed report on, the Company's true cost of providing a voice service over fibre.
- Consider market developments and technology changes that have impacted and may continue to impact the Company's performance.
- Take into consideration the level of competition in the industry and be guided by any policy issued by the Ministry responsible for Telecommunications.
- Review the performance under PCP 2016 to determine whether this method of regulation continues to be the best model to adopt, given the changes in both technology and telecommunications business models.
- Provide recommendations for modification of the model or proposal for an alternative approach, as warranted.

- Assist the Commission in preparing a public consultation document. This document will provide a summary of the Company's performance and present proposals for a mechanism that the successful tenderer believes is best suited to govern the regulated services of C&W. The successful tenderer shall take into consideration the responses to the consultation.
- Provide advice and make recommendations, as well as identify, evaluate and provide feedback on critical issues that could impact on the timelines or quality of the output of the project.
- Provide the opportunity for Commission staff to develop knowledge and expertise by facilitating their involvement throughout the duration of the project.

CLIENT MEETINGS

Meetings with the Commission, C&W and other interested parties will be facilitated as required during the project.

The successful tenderer would be expected to liaise with the Commission's Director of Utility Regulation regarding the progress of the project on an on-going basis.

REPORTS

The successful tenderer shall submit to the Commission two (2) copies of the following:

- ◆ An Interim Report indicating any areas of difficulty that could impact on the progress of the project and identify issues which should be included in the public consultation paper within three (3) weeks of start of the project;
- ◆ Reports on the status of the project, as necessary;
- ◆ A Draft Final Report within three (3) weeks of the scheduled end of the project, providing a detailed assessment of the Price Cap Plan 2016 with recommendations for modification of the plan, specifications for a new plan, or proposal for an alternative approach as warranted; and
- ◆ A Final Report.

DURATION

The Commission is seeking to formally engage the services of the successful tenderer with effect from October 25, 2019.

The Price Cap Plan 2016 review is required to be completed no later than February 28, 2020.

PROPOSALS

Prospective tenderers will be required to submit proposals, which should include:

- ◆ A project plan detailing the approach, methodology and dates for completion of tasks to meet the specified deadlines. Any event which may affect the ability of the tenderer to meet specified deadlines may be discussed with the Commission.
- ◆ A list of the persons/entities who will be involved in the project, along with details of their expertise. The tenderer should demonstrate proficiency and experience in the areas of relevant regulatory matters in telecommunications and Price Cap development. Previous work in the Caribbean or other developing countries would be considered an asset.
- ◆ A schedule of fees, the time each participant is expected to spend on the project, the stages of payment, travel and accommodation and other expenses directly related to the project.

Any matters which are considered pertinent to the work to be performed but which have not been identified under the “Scope of Work” should be included in the proposal.

PROVISION OF FACILITIES

The Commission will provide physical office accommodation.

SUMMARY OF KEY DATES

Tenderers should be aware of the following key dates/deadlines when submitting proposals.

| <u>TASK</u> | <u>DATES</u> |
|--------------------------|--------------------|
| Submission of Proposals | September 27, 2019 |
| Selection of Consultants | October 11, 2019 |
| Start of Project | October 25, 2019 |
| Interim Report | November 15, 2019 |
| Draft Final Report | January 10, 2020 |
| Final Report | January 31, 2020 |

FAIR TRADING COMMISSION

"GOOD HOPE"

GREEN HILL

ST. MICHAEL

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