



SPECTRUM MANAGEMENT AUTHORITY

REQUEST FOR BIDS

FOR LICENCES IN THE 700 MHz SPECTRUM

September 16, 2013

...Shaping Your Future with Wireless...

TABLE OF CONTENTS

BACKGROUND.....	1
INVITATION TO BID.....	2
INSTRUCTION TO BIDDERS.....	3
AUCTION DESIGN.....	8
POST QUALIFICATION ASSESSMENT.....	9
GRANT OF LICENCE.....	14
TIMETABLE.....	15
APPENDICES.....	16
Appendix 1 – OUR Licence Application Requirements	
Appendix 2 – Bid Submission Form and Certificate of Compliance	
Appendix 3 – Bank Guarantee Template	
Appendix 4 – Spectrum Licence Template	

1.0 BACKGROUND

The Ultra High Frequency Television (UHF TV) band covers a range of channels from 14 – 69, with the upper portion of the band, channels 52 (698 MHz) – 69 (806 MHz), referred to as the 700 MHz band. Internationally, the 700 MHz band was previously used for analog television broadcasting, however at the International Telecommunication Union’s (ITU) World Radiocommunication Conference 2007 (WRC-07), the decision was for the band to be allocated for both mobile broadband wireless services and International Mobile Telecommunications - Advanced (IMT-Advanced).

Unlike most other countries, in Jamaica the band is immediately available to be re-allocated in conformance with the guidelines of the ITU’s Frequency Allocation Table and in the national interest. Currently the band is “clean” and “clear” without any activity, which confirms its availability for assignment.

Therefore, further to Cabinet Decision No. 11/13, dated March 18, 2013, regarding the 700 MHz band (channels 52 (698 MHz) – 69 (806 MHz), the Cabinet approved the licensing of the upper portion of the UHF TV band, to accommodate mobile broadband wireless services, by way of an auction and licence fees.

Recognizing the inter-relatedness between demand, competitiveness, and innovation within the telecommunications industry, and in particular its impact on the development of a country, the spectrum is being made available to facilitate the rollout of new technologies and services and increase competition through a new entrant. Hence, the Government of Jamaica (GoJ) determined that an auction be used as the mechanism to award the spectrum and that the process be guided by the following objectives:-

- Greater diversity and competition in the market;
- The provision of ubiquitous access to mobile broadband services in Jamaica;
- An optimal return for the spectrum band asset;
- The development and advancement of the country’s telecommunications capability and infrastructure, in a way which will serve as a catalyst for increased commercial activity; and
- The creation of an educated and knowledge based society capable of leveraging the cumulative benefits of telecommunications and ICT to achieve global competitiveness.

The process leading to the grant of licence will be administered by the Spectrum Management Authority (SMA), on behalf of the Minister with responsibility for telecommunications, in collaboration with the ICT Division within the Ministry of Science, Technology, Energy and Mining (MSTEM), the Office of Utilities Regulation (OUR) and the Fair Trading Commission (FTC).

The SMA reserves the rights to make necessary and reasonable adjustments to the licensing process in the overall interest of achieving a fair and transparent outcome.

2.0 INVITATION TO BID

The SMA hereby invites interested parties to participate in the GOJ's **First Price Sealed Bid Auction**. This bidding process will lead to the grant of licences in the 700 MHz band, subject to completion of the post-qualification criteria.

This Request for Bids (RFB) package contains information pertaining to the auction and the submission of Post-Qualification applications and relevant appendices. This document supersedes the Memorandum – Licensing the 700MHz Band, issued on 2013 April 15, and the Addendum issued on 2013 August 30 in relation to the 700 MHz spectrum auction.

Other relevant information pertaining to this process will be made available on the SMA's website at www.sma.gov.jm, and on the website of the MSTEM at www.mstem.gov.jm.

At any time prior to the deadline for submission of bids, the SMA may amend the bidding documents by issuing an addendum. Any addendum issued shall be part of the bidding documents and shall be communicated in writing. To give prospective bidders reasonable time in which to take an addendum into account in preparing their bids, the SMA may, at its discretion, extend the deadline for submission of bids.

All comments and requests for clarification in relation to the RFB must be addressed in writing to:

The Auction Manager
c/o Spectrum Management Authority
13-19 Harbour Street
Kingston
spectrumauction@sma.gov.jm

The deadline for submission of questions is **September 23, 2013 by 2 p.m.** Responses to questions will be posted on the SMA and MSTEM websites by September 25, 2013.

2.1 Spectrum on Offer

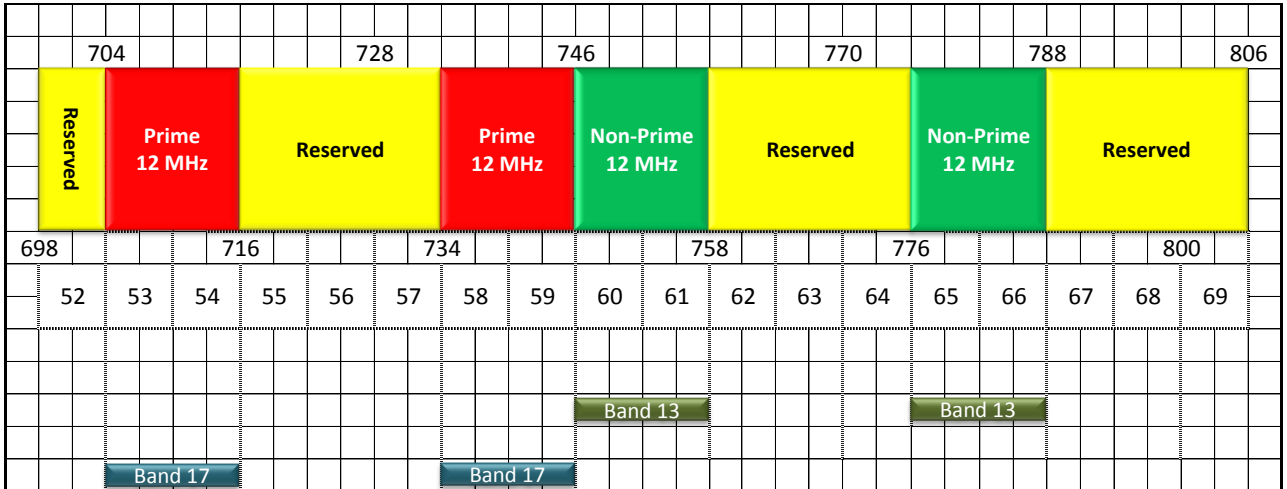
Band 17:

- ▶ The entire block 1 i.e. 2 paired blocks of 12 MHz at 704-716 MHz and 734-746 MHz.

Band 13:

- ▶ The entire block 2 i.e. 2 paired blocks of 12 MHz at 746- 758 MHz and 776-788 MHz.

See graphical representation of the spectrum packages below.



2.2 Incentive package for new entrants

All new entrants that acquire a licence will be entitled to the following:-

- ▶ 2x5 MHz in the 1800 or 1900 MHz band for the period of fifteen (15) years which is exempted from the payment of Spectrum Licence fees;
- ▶ Backhaul frequencies for reasonable rollout (i.e. 30%) for a period of two (2) years after which time Spectrum Licences Fees will be applicable.

In relation to the above mentioned incentives, Spectrum Regulatory Fees will be applicable on an annual basis one (1) year after the grant of licence.

- ▶ The option of accepting the award of a fibre optic cable licence by the OUR (if the technical requirements are satisfied) with an extended rollout provision of three (3) years.

3.0 INSTRUCTION TO BIDDERS

The SMA requires that Bidders observe the highest standard of ethics during this licensing process.

3.1 Eligible Bidders

- 3.1.1 A Bidder may have the nationality of any country.
- 3.1.2 A Bidder shall hold or be eligible to become the holder of a Carrier or a Service Provider Licence as detailed under Part III of the Telecommunications Act, 2000. Details of the Application requirements are set out in **Appendix 1**.

- 3.1.3 **Bidders are required to submit a Compliance Certificate certifying that it has not entered and will not enter into any agreements or arrangements of any kind with any competitor regarding the amount to be bid, the amount of spectrum being bid for, or bidding strategies. For the avoidance of doubt, the word competitor means any entity other than the Bidder or connected persons which could potentially be a Bidder in this auction based on qualifications, abilities or experience.**
- 3.1.4 ***Prohibition of Collusion*** - Bidders are prohibited from co-operating, collaborating, colluding, discussing or negotiating settlement agreements or other such similar agreements and/or arrangements related to the Spectrum Licences being auctioned or relating to the post-auction market structure. Any such agreements and/or arrangements shall be reviewable *ab initio* by the Fair Trading Commission (FTC) pursuant to the provisions of the Fair Competition Act (FCA); and all Bidders and/or parties hereby recognize, acknowledge and submit to the jurisdiction of the FTC with respect to such agreements and/or arrangements.
- 3.1.5 ***Connected Persons*** - Where two or more Bidders are deemed to be connected as defined by section 11(6) of the Telecommunications Act (the Act), only one entity may participate in the auction. Therefore, “persons shall be treated as being connected with a given person (“L”) and the person with them, and shall be so treated notwithstanding that at the relevant time any of the persons in question (not being individuals) had not yet come into existence or had ceased to exist:-
- a) a holding company or the subsidiary of L;
 - b) any company of which L has control;
 - c) any company of which L and persons connected with L together have control; or
 - d) any company which together with L constitute a group.”

Section 151 of the Companies Act establishes the definition of holding company and subsidiary for the purposes of this auction.

- 3.1.6 ***Anti-Competitive Behaviour*** - Bidders shall not be permitted to enter into any ‘agreement’ as defined within the FCA, with any persons, enterprises, organizations, associations or such other entities that would restrict or adversely influence the ability of other Bidders to plan, build or operate their networks under the Spectrum Licence. Any such agreements shall be reviewable *ab initio* by the FTC pursuant to the provisions of the FCA; and all Bidders and/or parties herein hereby recognize, acknowledge and submit to the jurisdiction of the FTC with respect to such agreements and/or arrangements.

Bidders who engage in any collusive or anti-competitive behaviour as outlined above will risk exclusion from the post-qualification process, or revocation of the Spectrum Licence, if this has already been granted.

3.1.7 Bidders must observe the aggregate spectrum cap of **80MHz**.

In the event an incumbent wishes to acquire additional spectrum above the established cap, the incumbent may only do so if it relinquishes other spectrum with similar technical characteristics (i.e. low band for low band or high band for high band). Such incumbent would only be required to relinquish spectrum if it is a Successful Bidder. The frequencies to be relinquished will be determined by the SMA in consultation with the entity, and must be relinquished no later than **nine (9) months** after the award of the 700 MHz licence.

Where frequencies are to be relinquished in accordance with the cap the pro-rated value of the spectrum being relinquished will be used to offset the spectrum price to be paid by the Successful Bidder. The pro-rated value would be based on the licensing fee paid at the time of acquisition of the spectrum being relinquished and the validity period remaining on the Spectrum Licence.

3.2 Bid Submission

3.2.1 Bid Submission Deadline

Bids must be submitted on **October 11, 2013 by 2:00 p.m.**

3.2.2 Reserve Price and Currency

Bids must meet the following reserve prices and be quoted in United States Dollars:-

- Band 17: **Reserve Price** = US\$45.0M
- Band 13: **Reserve Price** = US\$40.0M

Bids which do not meet the reserve price will not be accepted.

3.2.3 Documents Comprising the Bid

The Bid shall comprise the following:

- a) Bid Submission Form,
- b) Compliance Certificate,
- c) Bank Guarantee/Bond in the amount of 25% of the proposed bid price, per block.
The Bank Guarantee or Bond must be valid for ninety (90) days.

A Bidder shall be barred from participating in the process if any of the above are not provided. See Sample Forms at **Appendices 2 and 3**.

3.2.4 Format and Signing of Bid

Bidders shall prepare one original of the documents comprising the bid and clearly mark it “ORIGINAL”. In addition, the Bidder shall submit three (3) copies of the bid and clearly mark them “COPY”. In the event of discrepancy between the original and the copies, the original shall prevail.

The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder.

Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.

3.2.5 Submission, Sealing and Marking of Bids

Bids shall be submitted by hand in hard copies. The bidder shall enclose the original and each copy of the Bid in separate sealed envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope.

The inner and outer envelopes shall:

- a) bear the name and address of the Bidder;
- b) be addressed to the SMA; and
- c) specify that it is regarding the ‘**700 MHz spectrum auction**’.

If all envelopes are not sealed and marked as required, the SMA will assume no responsibility for the misplacement or premature opening of the bid.

The proposals shall be deposited in the tender box at the SMA addressed to:

The Auction Manager
Spectrum Management Authority
13-19 Harbour Street
Kingston
Jamaica

The date and time of delivery must be registered before the envelope may be deposited in the box. The date and time of delivery will be recorded by a SMA Officer and confirmed by the person delivering the proposal. A receipt will be issued to the person delivering the bid. Therefore, the outer envelope of each bid and the receipt will reflect the date and time of delivery, the signature of the person delivering the proposal and the signature of the SMA Officer.

The box will be padlocked to prevent bids from being deposited without the date and time being recorded and to prevent bids from being removed by a person other than the Auction Manager or designated officer who holds the key.

All costs to prepare and submit a response to this Invitation to Bid shall be borne by the bidder. In addition, the SMA shall not be liable for any costs incurred by a bidder.

3.2.6 Late Submission of Bids

Bids received after the deadline will not be considered. Faxed or electronically transmitted bids will not be accepted.

3.3 Withdrawal, Substitution, and Modification of Bids

3.3.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice, duly signed by an authorized representative. The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:

(a) submitted in accordance with Clause 3.2.3, and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” and

(b) received by the SMA prior to the deadline prescribed for submission of bids.

3.3.2 Bids requested to be withdrawn shall be returned unopened to the Bidders.

3.3.3 No bid may be withdrawn, substituted, or modified after the deadline for submission of bids.

3.4 Bid Opening

Bids will be publicly opened and verified by the bidder or duly appointed representative as well as the SMA’s Internal Auditor and the members of the Bid Opening Committee.

Bids will be opened and announced on **October 11, 2013 at 2:15 p.m.** at:-

Spectrum Management Authority
13-19 Harbour Street
Kingston
Jamaica

3.5 Changes in Circumstances

Any changes to a Bidder’s circumstances during the process must be communicated in writing to the SMA at the earliest possible opportunity.

3.6 Rejection of Bids

The SMA reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to licence award, without incurring any liability to Bidders.

4.0 AUCTION DESIGN

4.1 Methodology

This will be a **First Price Sealed Bid, Single Round Auction** whereby bidders will be required to submit only one (1) bid. The submitted bids will be compared and the bidder with the highest bid will be required to pay the amount bid as outlined at section 6.0 and will become eligible for award of the licence subject to the fulfillment of the post-qualification requirements.

If a bidder opts to bid on more than one block, then the Bid Form must clearly state the amount bid per block. In such a case the Bank Guarantee/Bond provided must correspond to 25% of the total bid price for both blocks.

In the event a Successful Bidder fails to complete the post-qualification process, the licence will be offered to the next highest bidder subject to the satisfaction of the post-qualification requirements.

4.2 Auction Validity

If there are less than two (2) bidders per block the SMA reserves the right to reject the bid received with respect to the single block.

For clarity, if there are two (2) bidders for block 1 and only one (1) bidder for block 2, the auction will continue. However, the SMA may exercise its right to award only one (1) licence with respect to block 1 provided the reserve price is met.

Notwithstanding the foregoing, the SMA reserves the right to abort the auction, at any stage, at its discretion.

4.3 Tied Bids

In the event of a tied bid, bidders will be requested to submit another bid to determine the final winner. The tie break shall not exceed two (2) additional rounds of bidding.

In the event the tie is not broken, the licence will be awarded via a beauty contest.

4.4 Return of Bank Guarantee

Bank Guarantees/Bonds will be returned to Unsuccessful Bidders, either to the representative present at the Bid Opening or by courier to the address stated in the bid on the next business day.

Bank Guarantees/Bond from Successful Bidders will be returned after 25% of the bid amount is paid to the SMA. If a Successful Bidder fails to complete the post-qualification process or fails to pay the deposit as stipulated the SMA will exercise the bidder's Bank Guarantee.

4.5 Unforeseen Events

If unforeseen events have a major impact on the licensing process, the SMA may temporarily or entirely interrupt the process. Under such circumstances, the SMA is entitled to, when appropriate,

- resume the process at the phase when it was interrupted, *or*
- declare the process to be invalid and restart from the beginning or from a specific point.

Should an unforeseen event occur, the SMA intends to resume the process with as little disruption or as few delays as possible. Examples of events viewed by the SMA as unforeseen include but are not limited to natural or other disasters that affect the SMA or the Bidders. The list of unforeseen events is not exhaustive and the SMA shall make a sole determination of such events.

4.6 Unsold Spectrum

Any spectrum not awarded on completion of this process may be awarded at a future date in a manner to be determined by the Minister, in consultation with the SMA.

5.0 POST-QUALIFICATION ASSESSMENT

All Successful Bidders will be required to meet the post-qualification criteria outlined herein in order to be awarded a 700 MHz spectrum licence. The SMA's determination of a Bidder's responsiveness will be based on the contents of the application submitted.

The SMA may reject an application from a Successful Bidder for, among other reasons, the following:

- if the application is incomplete, or
- if the application contains misleading information.

The SMA reserves the right to request additional information and/or clarification based on a Successful Bidders submission. Successful Bidders are required to comply with all such reasonable requests.

Successful Bidders will be informed in writing by **December 4, 2013** if they have been successful in their application to be awarded a 700 MHz spectrum licence by meeting the post-qualification criteria.

5.1 Instructions to Successful Bidders

All Successful Bidders interested in completing the licensing process for the 700 MHz spectrum are required to provide the following information. All proposals shall be written in English and shall contain, at a minimum, the following:

A. COMPANY DATA

Certified copies of relevant documents of incorporation, for the relevant jurisdiction viz:-

- Certificate of Incorporation
 - Memorandum of Association (if applicable)
 - Articles of Association or Incorporation
- Other particulars of applicant, including -
 - (a) address of company's registered office,
 - (b) name of principal applicant (must be a Director of the Company) and contact details including telephone & fax numbers as well as e-mail address,
 - (c) name of company's Technical Officer and contact details including telephone and fax numbers as well as e-mail address.
 - A detailed list of the shareholders inclusive of the absolute and percentage value of shareholdings and organizational chart showing the relationship between the shareholders and any connected person.
 - A detailed list of all current Directors of the Company, including dates of appointment, position held and nationality. The same information should be provided for any Directors who resigned within six (6) months of the auction.
 - Where the directors of the applicant company reside outside of Jamaica, each such director must submit a police report with the application.
 - Certificate of Good Standing from the Companies Office of Jamaica or equivalent in other jurisdiction.

B. LEGAL AND REGULATORY

- Copies of the relevant applications for or licences issued pursuant to the **Telecommunications Act, 2000** pertaining to the provision of wireless broadband and mobile services in Jamaica that is, Domestic Carrier, Domestic Service Provider Licence, Domestic Mobile Service Provider Licence and Domestic Mobile Carrier Licence.

- List of all telecommunications licences, permits or authorizations issued to the company or its associated companies stating clearly the relevant jurisdiction for each and the validity period of the licence or authorization.
- List of all applications pending for telecommunications licences, permits or authorizations made by the company or its associated companies, indicating the respective jurisdiction for each.
- Details of all suits, actions or administrative proceedings past or present to which the company or its associated companies and directors have been implicated.

C. TECHNICAL DATA

- A Network/Systems Design, including a detailed technical description of all of the systems/equipment comprising the network which will be used in relation to this proposal, a description of and specifications for the technology to be used, including its compliance with established international standards.
- Frequency Channel Plan, including Reuse proposal.
- Indication of how the points of presence will be connected, whether by wireless or other communication media. If by fibre or leased facility, state clearly the capacity and evidence of availability of this capacity from a licensed provider (such as a letter of intent).
- Detailed Network Rollout Proposal including population/geographic coverage maps and rollout timeframes for the relevant networks and/or services during the rollout period.
- Evidence of organizational and technical competence (qualification and relevant experience) of main technical officers of the company to successfully operate and maintain the proposed network.

D. BUSINESS AND FINANCIAL DATA

A Business Plan, including but not limited to the following information:

- ▶ the proposed service(s) to be offered,
- ▶ the projected subscriber base for each service for each year of expected rollout (i.e. five (5) years in the case of a new entrant and four (4) years in the case of an incumbent),
- ▶ the proposed roll out plan detailing the percentage population coverage after years one, two and three (the information provided will be a condition of the licence to be granted),
- ▶ sufficient data and information to support the projections made above,
- ▶ the anticipated capital expenditure and the proposal for financing the project, and
- ▶ the period from the granting of the spectrum licence to the commencement of service(s).

Successful Bidders **must**:

- ▶ Provide a certified copy of the last annual independently audited financial statement as well as the most recent unaudited financial statements (an officer

of the company must attest to the validity of the unaudited statements). If none is available, the Successful Bidder must submit information stating the reason for its unavailability.

- ▶ Demonstrate that it has the financial resources to construct and operate the network for the first two (2) years of operation under the Licence and must provide information or verification of its creditworthiness, available capital, and source of financing including, if applicable, a qualified lender's statement of commitment to providing a specified sum.
- ▶ Provide information on whether the Successful Bidder, any of its Directors or shareholders or any connected person has ever been bankrupt or been associated with a company that has become bankrupt or insolvent.
- ▶ Provide detailed information indicating whether the Successful Bidder or any connected person of the Successful Bidder is currently engaged in bankruptcy proceedings.
- ▶ Indicate whether the Successful Bidder or any connected person currently holds a licence or authorization to operate a telecommunications network in other countries (details should include list of countries as well as the number of years the Successful Bidder has engaged in operating telecommunications network(s).

Note: Three (3) copies of the proposal must be submitted. One marked "Original" with all the original documentation, and the others marked "Copy".

Proposals must be received **no later than 4:30 p.m. on October 23, 2013**. Late proposals shall not be accepted.

Failure to comply fully with the above requirements, including packaging, may result in rejection or disqualification of the proposal.

5.2 Confidentiality/Non-Disclosure

The provisions of Section 7 of the Telecommunications Act shall apply with full force and effect to all information disclosed by Successful Bidders in response to this RFB save for details of the amount bid per block. As such, all information will be treated as confidential and will only be disclosed pursuant to the criteria in the Act.

Respondents to this RFB are deemed to have consented to the disclosure of confidential information to all persons legitimately engaged in the licensing process.

5.3 Evaluation of Applications

The evaluation of the proposals will serve as the basis for determining whether a Successful Bidder is suitable to be awarded a licence in the 700 MHz spectrum.

The SMA will evaluate the proposals which have been determined to be substantially responsive, that is, satisfy all the requirements of Section 5.1. The following merit point system will be used in evaluating the proposals:

Technical	50 Points
• Network design (including robustness of network)	20
• Wireless access design and efficiency of Spectrum use	20
• Demonstrated Technical Competence and Experience	10
Business and Financial	40 Points
• Current financial stability and financial proposal for the next 5 years	15
• Risk Analysis	5
• Market Analysis Plan	5
• Roll Out Plan	5
• Service and Marketing Proposal	5
• Business Performance in the telecommunications market	5
Company, Legal and Regulatory	10 Points
• Company Track Records and Experience in providing telecommunications services	5
• Compliance with Legal and Regulatory Requirements	5

Applicants must attain a minimum of 70% of total points and a minimum of 50% of each category in order to successfully qualify to be awarded a licence.

Technical Requirements – The Successful Bidder must demonstrate that it has a viable technical plan and the competence to roll out and operate a network as indicated in its proposal.

Business and Financial Requirements – The Successful Bidder must demonstrate that it has or has access to the financial resources to complete the build-out of its network and to provide the services, as identified in the proposal. The Successful Bidder must also demonstrate a track record of sound financial stability and management to satisfy the SMA of its ability to properly manage its financial affairs in a manner which will ensure continuity of service to the public in Jamaica.

Company, Legal and Regulatory Requirements – The Successful Bidder must demonstrate that it has the expertise and experience to manage the roll out and operations of a major telecommunications network in Jamaica and that it is fully compliant with all the laws of its jurisdiction.

5.4 Rejection of Proposals

If the SMA considers that an individual proposal or all proposals received do not meet the required conditions, the SMA may reject such proposals and shall provide in writing the reason(s) for the rejection of the proposal(s).

6.0 GRANT OF LICENCE

When the post-qualification assessment has been concluded, the SMA shall publish the names of the Bidders who will be awarded licences. An invoice will be sent to these Successful Bidders after completion of the post-qualification assessment. The invoice is to be paid by wire transfer within fifteen (15) calendar days from the date of receipt of invoice.

Successful Bidders will be required to complete payment for the licence as follows:-

- 1st instalment fifteen (15) calendar days after receipt of invoice – 25% of bid price (upon payment of which Bank Guarantee/Bond will be returned).
- 2nd instalment – further 25% of bid price due on the first anniversary date after grant of licence.
- 3rd instalment – further 25% of bid price due on the second anniversary date after grant of licence.
- 4th instalment – final 25% of bid price due on the third anniversary date after grant of licence.

The SMA shall assign the Spectrum Licence for each frequency block as soon as the first instalment is received. In the event the licence is awarded and the Bidder fails to make subsequent payments as outlined above **the licence shall be revoked and all monies paid up to the time of revocation shall be non-refundable.**

Successful Bidders who acquire Spectrum Licences in the auction shall pay annual Regulatory Fees effective one (1) year after the grant of Spectrum Licence onwards. Such Regulatory Fees will be proportional to the amount of spectrum licensed. Notwithstanding the tenure of the licence, it shall become invalid if the annual Regulatory Fees are not paid to the SMA. It is important to note that the SMA reserves the right to review these fees at periodic junctures in order to ensure that said fees are reasonable and contribute proportionately to the normal operating costs of the SMA pursuant to section 26 of the Telecommunications Act, 2000.

Successful Licensees shall be expected to adhere to the Terms and Conditions of the Spectrum Licence granted. See **Appendix 4** for Licence Template.

The Licensees shall ensure at all times that all the directions of the SMA are adhered to.

7.0 TIMETABLE

In order to provide interested parties with sufficient information to facilitate business planning, the following indicative timetable of key events is set out below.

Activity	Timeline
Issue of Request for Bid	September 16, 2013
Submission of Bids	October 11, 2013
Submission of Applications for Post-Qualification Assessment	October 23, 2013
Announcement of Bidders approved for grant of licence	December 4, 2013
Issue of licences	December 18, 2013

Prospective bidders are encouraged to start preparing the documents in support of the post-qualification assessment as soon as a decision is taken to participate.

Note that depending on the extent of review required during the post-qualification period, the proposed date for the announcement of Bidders approved for grant of licence may be extended.

© 2013 Spectrum Management Authority
13-19 Harbour Street
Kingston
Tel: (876) 967-7948/948-7800
Fax: (876) 922-4093
Website: <http://www.sma.gov.jm>

APPENDIX 1:

OUR LICENCE APPLICATION REQUIREMENTS

- ▶ Application Procedures for Telecommunications Licences
- ▶ Application Requirements for Telecommunications Licences
- ▶ Application Form for Telecommunications Licences
- ▶ Verification Form

**OFFICE OF UTILITIES REGULATION
TELECOMMUNICATIONS ACT, 2000**

PROCEDURES FOR PROCESSING APPLICATIONS FOR LICENCES

The Telecommunications Act, 2000 (The Act) pursuant to Part III provides for the Office of Utilities Regulation (the Office) to receive and process applications for a licence and to make recommendations to the Minister in relation to such applications. These procedures set out the process by which the Office will solicit and process applications for licences and provide recommendation to the responsible Minister for issuance of licences under the Act.

INITIATING THE LICENSING PROCESS

The licensing process is initiated when the Minister with portfolio responsibility for Telecommunications, issues a directive pursuant to the Act, specifying the number and type of licences to be issued. To date, Ministerial Directives have been issued with the following effect:

TYPE OF LICENCE ISSUED	NO. OF LICENCES TO BE ISSUED
Data Service Provider	100
Domestic Carrier	unlimited
Domestic Voice Service Provider	unlimited
¹ Free Trade Zone Carrier	equal to number of spectrum licences
² Free Trade Zone Service Provider	1000
International Carrier	unlimited
International Service Provider	unlimited
International Voice Service Provider	unlimited
Internet Service Provider	100
Internet Service Provider/Subscriber	
Television Operator	unlimited
International Submarine Cable Facility	as specified in each Directive

APPLICATION FORMS

Application forms and supporting documentation may be collected from:-

Office of Utilities Regulation
3rd Floor,
PCJ Resource Centre,
36 Trafalgar Road,
Kingston 10
Jamaica

¹ No Longer Offered

² No Longer Offered

Digital copies of the relevant application forms may also be downloaded from the Office's website at www.our.org.jm, or by arrangement, the Office will dispatch by courier at applicant's cost.

COMPLETION AND SUBMISSION OF APPLICATIONS

- All applications should be submitted with the prescribed fees to the OUR. A receipt evidencing delivery of application will be given for each application submitted to the OUR.
- Receipts will be mailed by ordinary post to applicants who submit applications by registered post.
- Where applicable, applications are received by the OUR on a continuing basis.
- All applications and supporting material should be submitted in English. Each application must state that it is being submitted pursuant to an invitation.
- Applicants must submit no fewer than **three (3)** copies of each application and **one (1)** copy each of the supporting documentation. The Office reserves the right to request additional copies of applications and supporting documentation.
- Additional information may be requested by the OUR or submitted by the applicant in respect of any application at any time before making its recommendations to the Minister.
- With the exceptions applications for International Submarine Cable Facility licence and such other classes of licence as may be determined by the responsible Minister and the fees for which are determined at the issuance of a directive, each application must be accompanied by a non-refundable application fee of JA\$65,000. A separate fee is payable in respect of each application. This payment shall be made by cash, certified cheque or bank draft made payable to the Office of Utilities Regulation.
- Applicants should note the disclosure requirements of the Telecommunications Act, 2000 and any Rules and Regulations made pursuant to this Act. The OUR strongly recommends that applicants rely on independent legal advice in preparing applications and prior to their submission to the Office.
- Applicants are required to notify the Office of any change to the information submitted with the application. Notification should be done within fifteen (15) working days after the deadline for the submission of applications.
- Applicants are required to meet all costs arising from (a) the preparation and

submission of applications, (b) providing any additional information requested and (c) the processing of each application including responding to public comments and attending at, and making submissions to the Office concerning these applications. The Office, the Office of the Prime Minister and the Government of Jamaica will not accept responsibility or liability for such costs, regardless of whether a licence is granted.

PROCESSING OF APPLICATIONS

- The Act requires that Applicants for licences be published in a national newspaper and interested parties allowed 30 days for submitting comments to the OUR.
- All applications and supporting documentation become the property of the OUR upon submission. The OUR reserves the right, subject to the relevant and applicable confidentiality provisions of the legislation, to make public the names of corporate entities which have submitted applications as well as such information about the contents of the applications as it deems appropriate. Members of the public and other interested parties will have the right to inspect all applications and supporting documentation and to submit comments to the OUR.
- All supporting material submitted with individual applications which may contain sensitive/confidential information concerning business or commercial or financial affairs should be submitted along with the application in a sealed envelope marked "**Confidential Information**". Where the OUR proposes to disclose any such information, it will give the Applicant reasonable notice and an opportunity to make representations to the OUR before the Office makes a final decision on disclosure of such information.
- An evaluation of the Application is conducted by the OUR to determine eligibility for the issuance of a licence. The OUR reserves the right to conduct further discussions with, and request further and better particulars from the applicants if necessary.
- Applicants should be prepared to send a representative(s) to the offices of the OUR to discuss their applications and supporting documentation, if requested by the OUR.

RECOMMENDATIONS OF LICENCES

- The Office shall prepare a report setting out its recommendation for acceptance or rejection of each application. This report is submitted to the Minister for his consideration. Copies of this Report will be made available to each Applicant upon request.

ISSUANCE OF LICENCES

- Pursuant to the Act, the Minister may upon receipt of a recommendation from the Office, either grant the licence, refer the recommendation back to the Office for further consideration; or refuse to grant the licence. In the event of a refusal the Minister shall as soon as practicable give written reasons for such refusal.
- Licences granted by the Minister are issued by personnel in the Minister's Office. The Office shall maintain a register of all applications for licences and all licences granted pursuant to the Act, in electronic form.

**GENERAL TERMS AND CONDITIONS OF LICENCES
PURSUANT TO THE TELECOMMUNICATIONS ACT, 2000**

The following categories of licenses are currently being offered under the Telecommunications Act, 2000.

CARRIER LICENCE

The Licensee is authorized to own and operate the facilities specified in the application and detailed in the licence

SERVICE PROVIDER LICENCE

The Licensee is authorized to provide services specified in the application and detailed in the licence.

Application Requirements for Telecommunications Licences

All Applicants for a Telecommunication Licence will be required to provide information including but not limited to:

1. COMPANY DATA

Certified Copies of relevant documents of incorporation for relevant jurisdiction, viz:

- ▶ *For incorporation of Jamaican companies which took effect prior to February 2004:*
 - Certificate of Incorporation
 - Memorandum of Association
 - Articles of Association

- ▶ *For incorporation of Jamaican companies which took effect subsequent to February 2004:*
 - Certification of Incorporation
 - Articles of Incorporation

- Other particulars of applicant, including –
 - (a) address of company's registered office,
 - (b) name of principal applicant (must be a Director of the Company) and contact details including telephone & fax numbers as well as e-mail address,
 - (c) names, businesses, addresses and dates of appointment of the directors, the chief executive officer and the company secretary.

- A detailed list of the addresses and country of domicile and shareholdings of all shareholders holding more than 10% of any class of shares in the company. Contact information including telephone number, facsimile number and email addresses.

- Name and address of any person or organization acting on behalf of the applicant (contact in Jamaica). Contact information including telephone number, facsimile number and email addresses.

- Name and contact information of the Company's auditors.

- If the applicant has been incorporated for longer than eighteen months, attach the audited financial statement for period ending not later than one year prior to the date of this application.

- Details of the network or service.

- Completed Declaration of Applicant Form.

- Where the directors of the applicant company reside outside of Jamaica, each such director must submit a police record with the application.

APPENDIX 2:**BID FORM TEMPLATE****Company X Letterhead****(Date)**

The Managing Director (Acting)
Spectrum Management Authority
13-19 Harbour Street
Kingston.

Re: Auction of the 700MHz Band in Jamaica

Dear Sirs

(Name of Company) hereby bids US\$ _____ for _____ MHz of spectrum in the 700MHz band in Jamaica as set out below.

In the event of a successful bid, (Name of Company) agrees to pay such sums within fifteen (15) days of calendar notification of the successful completion of the post-qualification assessment.

Spectrum Block	Bid Amount (US\$)
Block 1	
Block 2	

The signed Bidder's Compliance Certificate is attached.

Yours Sincerely,

(Name of Authorizing Officer)

**(Signature of Authorizing Officer
(Company X Letterhead))**

BIDDER COMPLIANCE CERTIFICATE

The Bidder certifies and undertakes that:

- i. The Authorized Officers of the Bidder have read and understood the relevant legislation and the information published in relation to the Auction.
- ii. The Bidder is legally capable of bidding in the Auction and has in place all necessary consents, permissions and board approval for this purpose, save those which, by virtue of legal or regulatory process, are not obtainable until after the results of the Auction are known and the Bidder further understands that it will bear the risk of failure to obtain such consents, permissions and approvals that are not obtainable until after the results of the Auction are known.
- iii. The Bidder understands and will be legally capable of satisfying its obligations under the terms and conditions of the Licence granted pursuant to the Auction and the terms of any Licence granted as a consequence of winning a spectrum Licence in the Auction.
- iv. The Bidder is not the subject, and none of its Directors, officers or representatives are the subject, of a criminal investigation or proceedings in Jamaica or abroad which might reasonably be expected to affect adversely their business or materially affect the Bidder's ability to bid in the Auction or to satisfy the terms of any Licence awarded pursuant to the Auction, and that there is no reason to believe that such investigations or proceedings might occur during the Auction.
- v. The Bidder has not entered and will not enter into any agreements or arrangements of any kind with any competitor regarding the amount to be bid, the amount of spectrum being bid for, or bidding strategies.
- vi. The Bidder is not connected, as defined in the Telecommunication Act, to any other participant in the Auction.

- vii. The Bidder understands and will abide by the Aggregate Spectrum Cap Policy.

- viii. The following Officer(s) representing the Bidder in the Auction have been duly and properly delegated by the Bidder to act and they have the authority and power to bind the Bidder in the transaction.
 - 1.
 - 2.
 - 3.

SWORN to by the said (Name of Declarant))
)
 At)
)
 In the Parish of)
)
 This day of 2013)
)

(Signature of Declarant)

Before me:-

Notary Public/ Justice of the Peace for the Parish of

APPENDIX 3:**BANK GUARANTEE TEMPLATE**

The bank guarantee must conform to the template below for the applicant's bid to be considered in the auction.

ON DEMAND GUARANTEE**The Bidder**

[Name]
[Address]
[Post code]
[Country]

At the request of
Beneficiary

Spectrum Management Authority (SMA)
13-19 Harbour Street
Kingston
Jamaica

We, the undersigned
Bank

[Name]
[Address]
[Post code]
[Identification/registration number]
[Country]

GUARANTEE in favour of the Bidder's obligations, 25% of the auction fees resulting from the auction of a licence in the 700 MHz band in Jamaica **up to and including an amount of** [XXXX] United States Dollars (USD).

On Demand Guarantee

The Bank shall irrevocably and on demand from the SMA pay to the SMA the requested sum up to and including the above amount. The demand shall be made in writing. The written demand shall be signed by the Acting Managing Director of SMA. The Bank shall not be entitled to any other examination or documentation of the claim. The undertaking of the Bank is independent and unconditional in relation to the SMA.

Payment and interest

The Bank shall effect payment of the amount required within five (5) days of receipt of a demand. After this time, if the required sum has not been paid, the Bank shall pay default interest of 6% per annum until payment is effected.

Law and jurisdiction

This Guarantee shall be subject to the laws of Jamaica.

The agreed venue for any litigation with respect to this Guarantee shall be Jamaica.

Validity

This Guarantee shall remain valid for ninety (90) days from October 11, 2013.

Enforcement clause

The Bank agrees that a judicial decision made by a Jamaican court shall be directly enforceable in relation to the Bank.

Date: _____

Bank: _____

Signature of person(s) entitled to sign for the bank:

Full name(s) and title(s):

Telephone number(s): _____

APPENDIX 4:
LICENCE TEMPLATE



**GOVERNMENT OF JAMAICA
SPECTRUM MANAGEMENT AUTHORITY**

Lic# SL-

**The Telecommunications Act
Spectrum (Successful Bidder) Licence, 2013**

Whereas (Successful Bidder) is eligible for the grant of a Spectrum Licence under the Telecommunications Act.

NOW THEREFORE in accordance with sections 23 and 78 (3) of the Telecommunications Act the Minister with principal responsibility for telecommunications **HEREBY GRANTS** the following Spectrum Licence for the purpose of providing wireless broadband services:

Licence Term: From **2013 December** to **2028 December** **15 year(s)**

Period of Validity: From **2013 December X** to **2028 December X**

The Licensee is hereby licensed to use portions of the electromagnetic spectrum as set forth in the following schedule for the term of this Licence and subject to the provisions of the Telecommunications Act and the terms and conditions attached hereto.

Dated 2013 December X

Hon. Phillip Paulwell, M.P.
Minister of Science, Technology, Energy and Mining

SCHEDULE

Uplink (Multi-point to Base)	Downlink (Base to Multi-point)



Terms and Conditions

Short Title

1. This Licence may be cited as “**Spectrum (Successful Bidder) Licence, 2013**”

Interpretation

2. In this Licence, unless the context otherwise requires:

“Convention” means the International Telecommunication Convention of Nairobi, 1982 and the General and Administrative Regulations thereof and includes any Convention and any Regulations which may from time to time be in force in substitution thereof or amendment thereto and to which the Government of Jamaica is a party;

“International Radio Regulations” means the Radio Regulations annexed to the Convention and includes any Regulation made in the amendment, in addition to or substitution for the said Radio Regulations;

“Licence” means the **Spectrum (Successful Bidder) Licence 2012**.

“Licensed Spectrum” means the spectrum set forth in the Schedule.

“Licensee” means **Successful Bidder and any successors or assigns of that Company**.

“Minister” means the Minister who, for the time being, has principal responsibility for the regulation of telecommunications and includes any person or body to whom the Minister has delegated his or her powers in relation to Spectrum Management.

“Telecommunications Act” means the Telecommunications Act of 2000, as may be amended from time to time, and a reference to the Telecommunications Act includes each Regulation, Rule or other Instrument made pursuant to that Act.

“Authority” means the Spectrum Management Authority.

Except where specifically provided for in this Licence, expressions in this Licence have the same meanings as under the Telecommunications Act.

Grant of Licence

- 3.1 Subject to the Terms and Conditions set out herein, the Licensee is hereby licensed to use those portions of the electromagnetic spectrum as set forth in the Schedule in the most efficient manner that is technically and economically feasible for the term of this Licence and subject to the provisions of the Telecommunications Act and this Licence.

- 3.2 The Licensee is to utilise the assigned spectrum for the deployment of wireless broadband services as follows:

Incumbents

- At least 50% population coverage within 18 months;
- At least 90% population coverage within 48 months.

New entrant

- At least 30% population coverage within 24 months;
- At least 90% population coverage within 60 months.

Duration and Renewal of Licence

- 4.1 This Licence shall be renewable subject to the Licensee's record of compliance with the terms and conditions of the spectrum licence, and the provisions of the Act or any regulations made thereto.

- 4.2 This Licence has a term of **fifteen (15) years**, subject compliance with the terms and conditions contained herein.

Scope of Rights in Spectrum

5. This Licence does not grant to the Licensee any property right in the Electro-magnetic Spectrum or right to use the spectrum except in accordance with the terms of this Licence.

Harmful Interference

6. Pursuant to Section 63A(1) of the Telecommunications Act, the Licensee shall comply with any request or directive issued by the Minister to ensure that the activities of the Licensee do not cause Harmful Interference to the lawful operation of any other Licensed Spectrum user.

Frequencies

- 7.1 Authorisation of the use of any frequency by the Licensee may be withdrawn by the Minister after one month's notice to the Licensee if such frequency remains unused by the Licensee for six consecutive months. However, at the written request of the Licensee, an extension may be granted on such terms as the Minister deems necessary to ensure efficient utilisation of the spectrum. For the avoidance of doubt, no extension of use will be permitted without the Minister's approval.

- 7.2 Changes in location of Licensed Facilities, emission, power or use of aerial systems relating to the use of the Licensed Spectrum shall only be made by the Licensee in accordance with the approval of the Minister except that:

- i) Changes that do not increase the likelihood of Harmful Interference are permitted; and
- ii) A suitable alternative frequency may be assigned at any time by the Minister for transmission at any point to replace and release any frequency set forth in

the attached schedule hereto in order to ensure a more efficient use of the frequency spectrum. Notwithstanding the foregoing, the Minister will endeavour to provide reasonable notice and shall consult with the Licensee where changes to the assignment are to be undertaken.

Call Signs

8. Whenever rendered necessary in order to secure compliance with the International Radio Regulations, or to identify a source of interference with any other facility lawfully operated the Minister may:
- i) by notice in writing to the Licensee assign call signs to all of the stations operated by the Licensee; and
 - ii) in the same or another notice as aforesaid direct that the call signs so assigned shall be announced in such manner as may be authorised in such notice.

Fees

- 9.1 The Licensee shall be required to pay Spectrum Licence Fees in relation to all allocations of Spectrum, and Spectrum Regulatory Fees pursuant to Section 26 of the Telecommunications Act to cover the reasonable operating costs of the Authority.

- 9.2 The Licensee shall be required to pay Spectrum Licence as follows:

- **25% of bid price – December 2013**
- **25% of bid price – December 2014**
- **25% of bid price – December 2015**
- **25% of bid price – December 2016**

- 9.3 The Licensee shall be required to pay annual Spectrum Regulatory Fee, as invoiced, upon the start of provision of services to the public.

- 9.4 The Minister may review the fees pursuant to Section 23(7) of the Telecommunications Act.

Modification of Licence

10. This Licence may be modified in writing at any time upon approval by the Minister.

Revocation or Suspension of Licence

11. i) This Licence may be revoked or suspended in accordance with Section 23A of the Telecommunications Act; or
- ii) if the assigned frequency remains unused for six (6) consecutive months.

Assignment or Transfer of Licence

12. This Licence shall not be assigned or transferred.

General

13. The Licensee shall ensure at all times that:
- i) the Licensee complies with all obligations under the Telecommunications Act thereunder;
 - ii) no legal impediment exists which would disqualify the Licensee from continuing to hold the Licence and that the Licensee satisfies all other legal requirements to hold the Licence;
 - iii) the Licensee has the technical qualifications to fully perform the obligations attaching to the Licence; and the Licensee satisfies any and all financial requirements, as imposed pursuant to the Act;
 - iv) the Licensee adheres to all the directions of the Authority;
 - v) the Licensee is not directly or indirectly connected to or in anyway affiliated with another licensee of the 700 MHz band without the prior approval of the Minister.
14. Any notice or other document required or authorised to be served upon the Licensee under the Telecommunications Act or this Licence, may be served by registered post to the Licensee's registered office or by dispatching it to the Licensee's registered office by courier.
15. This Licence and the terms and conditions hereof, shall constitute the entire grant of the Licence and supersede any prior Licences, permits or undertakings.
16. If a provision of or part to this Licence is deemed unlawful or unconstitutional, the remainder of this Licence shall remain valid and enforceable.
17. To the extent that this Licence refers to specific parts or sections of the Telecommunications Act, such parts or sections shall be deemed renumbered in this Licence according to any such renumbering of those parts or sections in the Telecommunications Act, as a result of the amendment of that Act.
18. The Licensee shall comply with the regulations made pursuant to the Telecommunications Act and to the Laws of Jamaica.