



**SPECTRUM MANAGEMENT AUTHORITY**

**REQUEST FOR PROPOSAL**

**For Licence in the 700 MHz Spectrum (Band 13)**  
**(SMA-RFP700-2021-02-01)**

**...Shaping Your Future with Wireless...**

## RESPONSES TO INQUIRY/CLARIFICATION

The Spectrum Management Authority (SMA) hereby issues its response to all request for inquires and clarifications received as at the close for clarification request, 4:00 pm, Tuesday, February 23, 2021, regarding the Request for Proposal (RFP)# SMA – RFP700-2021-02-01 issued on 2021 February 09. The clarifications requested and the SMA's responses to the requests are outlined as follows:

### INQUIRY/CLARIFICATION 1.

Reference is made to the Amendment at Page 4 Section III: Instruction to Bidders which states that the Technical Proposal and the Financial Proposal are to be placed in two separately labelled envelopes. Clarification is being sought regarding whether the Company documents set out at page 10 of the RFP Section II: Pre-Qualification Criteria as well as Forms 2 and 3 are to be included in the envelope marked Technical Proposal, if not where should they be included? In addition please clarify the form of certification of the relevant documents of incorporation. Does the SMA mean certified by a Justice of the Peace or certified copies obtained from the Companies Office of Jamaica.

**SMA'S Response:** The Company documents set out at page 10 of the RFP Section II: Pre-Qualification Criteria as well as Forms 2 and 3 are to be included in the envelope marked Technical Proposal.

Please note, with the exception of the Financial Proposal, with the Bidder's bid amount, which is to be submitted separately, all other submissions are to be included in **envelope marked** the Technical Proposal. Additionally, the SMA refers bidders to the footnote to **Section II: Pre-Qualification Criteria**, which specifies that supporting documents, include 'Original or certified copies. Certified copies must be done by the issuing authority. For example certificates of incorporation must be certified by the Companies Office of Jamaica'.

### INQUIRY/CLARIFICATION 2.

- i. We wish to have clarified whether the Client Reference Form is required for new entrants. The RFP recognises that applicants may be new entrants and it would therefore be reasonable to assume that such new entrants may not yet be currently operating in this or any other market such that there are client references available. Will an applicant who is a new entrant in the market be penalised for not supplying client reference forms?
- ii. Alternatively, will an incumbent that provides client references be eligible for additional points in its technical assessment that nullifies partially/wholly or outweighs the 10 points incentive for new entrants?

- iii. Furthermore, can the SMA provide specific examples of the categories of references which can be deemed clients for the purposes of this form and indicate how many references are to be provided?

**SMA'S Response:**

- i. The SMA refers bidders to Amendment # 2, specifically Section V, Clause C - Preparation of bids.
- ii. The SMA further advises, no additional points will be awarded in the technical assessment.
- iii. Category of references include companies receiving a comprehensive range of services such as, voice telephony, Internet access, data and IT solutions, value-added services, wholesale services and mobile business and payment solutions, or persons who can verify or authenticate the key experts' experience carrying out the tasks for which they are hired.

**INQUIRY/CLARIFICATION 3.**

Reference is made to the prequalification checklist at page 34 of the RFP item 8. Please provide clarification on what constitutes "provisionally recommended for grant of Telecommunications Licence(s) which permits the holder to offer mobile services..."? How does a new entrant prove provisional recommendation?

**SMA'S Response:**

The SMA refers bidders to Amendment # 2, specifically Section VI, Evaluation and Qualification Criteria - Prequalification Evaluation Checklist.

**INQUIRY/CLARIFICATION 4.**

Given the need for both coverage (700MHz) and Capacity Spectrum, clarification is sought with respect to whether the SMA will be reserving/offering the AWS band as well as backhaul spectrum to a new entrant that is awarded the 700MHz Band 13 spectrum. It is noted that the RFP indicates that the AWS spectrum 'may' be awarded. It is therefore imperative that the SMA provides clarity with respect to whether the AWS and backhaul spectrum is included, in order for a new entrant to be certain about all the pricing elements it is required to take into account in making its financial bid.

Section 20(2)(c) of the Telecommunications Act requires the Minister to assign spectrum in accordance with international best practices. Best practice requires regulatory certainty. In this case regulatory certainty requires bidders to be certain about the spectrum for which they are bidding. The provision of AWS and

backhaul spectrum would justify a higher bid than for just 700MHz spectrum and would affect the bidding strategy of new entrants.

It would be advisable for the AWS and backhaul spectrum to be made available to a new entrant based on an administrative fee payment schedule stipulated in advance, in the event that the new entrant wins the 700MHz spectrum, rather than having the uncertainty which exists with the current wording.

The wording of the RFP begs the question, if a new entrant should not take in to account the prospect of AWS and backhaul spectrum as a part of its overall bidding strategy then why has the AWS and backhaul spectrum been mentioned in this manner? Moreover, how will the price be determined?

**SMA'S Response:** The discretion in paragraph 1.5 of the RFP is limited to whether the 2x10 MHz spectrum in 1900 MHz or the AWS bands will be awarded "without fees" not whether there will be an award. The waiver of the fees in each case is subject to Cabinet Approval.

#### **INQUIRY/CLARIFICATION 5.**

As regards reference in the RFP to the roll out of voice services, pages 7 and 8 of the RFP refer to the licensing of "the 700MHz to accommodate mobile broadband wireless services" b) "that band 13 of the 700 MHz Band be licenced immediately and that the process be guided by the following objectives: Increase broadband access to unserved and/or underserved areas...". Further, on pages 15 and 16 the RFP states that "The network description shall also outline:... Use of appropriate technologies for the provision of wide- scale voice and mobile broadband services.". Hence, clarification is required from the SMA whether the provision of voice services via VOIP over broadband satisfies the requirement that mobile voice services be required at launch. Consequently, it would not be necessary to enable calls in the traditional form to telephone numbers which, between subscribers on different networks, enabled by TDM or SIP interconnection.

**SMA'S Response:** The requirement for provision of voice services is not specific to any technology, the SMA operates by a technology neutral approach. As such, the provision of voice services can either be via packet switched or circuit-switched network.

#### **INQUIRY/CLARIFICATION 6.**

a) The Specimen Licence on page 69 of the RFP references the requirement

to cover a percentage of communities vs national population. Please clarify whether the percentage coverage requirement of the 'Supplied List' (Appendix 6) is based on population or communities?

**SMA'S Response:** The percentage coverage refers to the population within the communities.

b) Clarification is required on the Scoring Methodology set out at page 36 which provides ( $\geq 95\%$  population coverage = 10 points,  $> 75\%$  population coverage = 6 points,  $< 50\%$  population coverage = 3 points). What score is attributable to the range  $\geq 50\%$  to  $75\% = < ?$  Moreover, can the SMA confirm whether the percentages in brackets refer only to the coverage of communities and apply both to new entrants and incumbents?

**SMA'S Response:** The SMA refers bidders to Amendment # 2, specifically Section VI, Evaluation and Qualification Criteria - Technical Proposal Evaluation Sheet.

#### **INQUIRY/CLARIFICATION 7.**

On page 54 there is only reference to the population coverage requirements for incumbents. What are the roll out obligations for incumbent providers for communities on the 'Supplied List'? Should the figures be copied in from the bottom of page 69 and the top of page 70 of the Specimen licence.

**SMA'S Response:** The SMA refers bidders to Amendment # 2, specifically Form 6 - TECH- 3: Description of Approach, Methodology, and Roll-Out Plan.

#### **INQUIRY/CLARIFICATION 8.**

Parts of Banana Ground and Richmond Park appear to be duplicated in the Supplied listing. If this is indeed an error, then the number of communities in the Supplied List would be reduced to 209. Accordingly, please provide clarification.

**SMA'S Response:** The SMA advises, save and except for 'Part of Banana Ground' in the parish of Clarendon, which is duplicated, there are no other duplications in the Supplied List.

#### **INQUIRY/CLARIFICATION 9.**

It is noted with much concern that in the event of a tie, the RFP states on page 21 that the SMA will proceed with a coin toss. We seek clarification on why this methodology is being used when the SMA has weighted the technical proposal

as 70%. Why not revert to the applicant with the highest technical proposal scoring.

**SMA'S Response:** The SMA is cognizant of the concerns raised, however, having considered all factors, the settled approach is an acceptable practice in the event of a tie.

#### **INQUIRY/CLARIFICATION 10.**

Section 5.1 on page 70 of the Specimen Licence only seems to account for new entrants:

"The maximum rollout timelines are 12 months, 24 months 36 months and 48 months following the licence award the Licensee shall provide the Authority with a list of the Communities they have covered in order to meet the service roll-out requirements given in Clause 3.2. For the purposes of this section, 95% of residents in those Communities should receive mobile services from the Licensee at a signal strength of – 105 dBm or higher. For the remaining duration of the licence, 95% of residents in the list of covered Communities supplied by the Licensee at 48 months should receive mobile services from the Licensee at a signal strength of – 105 dBm or higher."

To be consistent the damages should apply to incumbents in accordance with incumbent rollout requirements (50% of Communities within 12 months and 95% of Communities within 24 months).

**SMA'S Response:** The SMA advises the penalties for non-observance of roll-out conditions are as specified in the specimen licence.

#### **INQUIRY/CLARIFICATION 11.**

Please provide clarification on how "the pro-rated value of the spectrum being relinquished will be used to offset the spectrum price to be paid by the Winner of the RFP" as stated on page 22 of the RFP. If, for instance, the licence fee paid at the time of acquisition apportioned over the period of the licence, how does the SMA determine how much to offset? Would the offset be against the total amount to be paid for the 700MHz spectrum or just against the amounts to be paid subsequent to the initial 50% deposit?

**SMA'S Response:** The offset, if any, will be against the total amount.

## **INQUIRY/CLARIFICATION 12.**

What are the penalties for not relinquishing spectrum within the 9 month timeframe in the event that an operator currently with 120MHz wins the 700MHz spectrum? In the absence of sizeable penalties there are strong incentives to stall handing back other spectrum. The SMA has not set out a process for relinquishing the spectrum to avoid delay or unfair advantage to an incumbent.

A new entrant would be unable to launch until it obtained the spectrum that is handed back. Moreover, a new entrant would be incurring expenditure until the actual hand back time and re-issue of the spectrum to a new entrant. We suggest that the period should be no more than 3 months for hand-back of spectrum and that the new entrant with the highest technical score in the 700MHz bid, but which fails to secure the 700MHz spectrum, should be eligible to receive the handed back spectrum based on an administrative price.

How will the SMA obtain the necessary legal certainty to ensure that an incumbent does not delay the handing back of other spectrum? In this respect it is vital that an incumbent bidder should sign a contract covering the handing back of low band spectrum and including penalty terms before a bid for 700MHz is accepted. This is because, as the SMA will know, it is far harder to negotiate terms connected to spectrum that has already been issued than doing so in advance. The SMA's negotiating position will be very much weaker if it awards 700MHz spectrum from an incumbent and then attempts to negotiate which spectrum should be handed back afterwards. A detailed plan for vacating use of the spectrum, including migration of existing customer traffic on the spectrum to other spectrum held, should be required from incumbents, to facilitate the SMA's evaluation of the technical, financial and operational feasibility of the plan. Submission of a plan that is not assessed as feasible should result in a significant deduction of points in the technical evaluation.

**SMA'S Response:** Legal certainty is safeguarded by the Telecommunications Act, 2000 which bestows specific powers on the SMA with regard to the management of the spectrum.

### **INQUIRY/CLARIFICATION 13.**

The FTC stated in its recent report on the mobile telecommunications market that "...policy must be implemented to facilitate competitive entry...". However, the RFP does not seem to be consistent with that approach as a minor point incentive for new entrant is not sufficient to offset the great advantages that the incumbents have in terms of being long established national operators with far greater resources at their disposal. Relatively modest network changes would probably enable the incumbents to meet the rollout requirements and the -105dBm signal strength threshold without any undue challenge. It is only the commercial impetus that has prevented that coverage being provided up to this date and not technical difficulties. Commercial impetus will only arrive by way of more competition. Without more competition it would be rational for the existing operators to act more like a duopoly, to focus on not competing too aggressively and to do the minimum necessary in terms of coverage going forwards, because that is the way for them to maximise profits.

Will the SMA therefore clarify how it will be able to facilitate competitive entry, for example has 700MHz spectrum or similar quality low band spectrum been reserved for new entrants? The current RFP wording seems more likely to preserve the status quo, or even promote the status quo due to the cash flow advantage of the spectrum price offset policy discussed above, rather than to facilitate entry. The ITU, in its "*Guidelines For The Review of Spectrum Pricing Methodologies and the Preparation Of Spectrum Fees Schedules*<sup>1</sup>" states on page 15 that new entry and growth may be encouraged through "spectrum set asides". Additionally, in a recent ITU workshop on "*Spectrum Management: Strategic Planning and Policies for Wireless Innovation*" states on page 24 that "setting aside spectrum for entrants in individual spectrum auctions<sup>2</sup>" is one of the methods for ensuring market entry.

Moreover, the RFP at page 8 acknowledges that a present situation exists in which the "*digital sector within Jamaica is currently underdeveloped... the main cause of these low levels of access was identified to be lack of digital infrastructure and limited coverage from 4G networks*". This is in circumstances where the incumbents have been furnished with the requisite spectrum and in spite of that have yet to bridge the digital divide. Have they efficiently used their spectrum, have they met their existing roll-out obligations? How does the possibility of granting additional spectrum to the incumbents accelerate competition in the market?



**SMA'S Response:** The position as articulated in the RFP was guided by international best practices and the directives of the Government of Jamaica.