



Organisation of Eastern Caribbean States



REQUEST FOR EXPRESSIONS OF INTEREST

Organisation of Eastern Caribbean States Caribbean Digital Transformation Project (CARDTP)

Grant No.: IDA – D6520

Assignment Title: Consulting Services for Strengthening of Governance, Legal and Regulatory Frameworks Covering Telecommunications and Electronic Communications and Support for Drafting of New or Amending Existing Legislation and Regulations

Reference No.: *LC-OECS COMMISSION-202022-CS-QCBS*

The Organisation of Eastern Caribbean States (OECS) Commission has received funding from the World Bank toward the cost of the Caribbean Digital Transformation Project (CARDTP), and intends to apply part of the proceeds for Consulting Services for Strengthening of Governance, Legal and Regulatory Frameworks Covering Telecommunications and Electronic Communications and Support for Drafting of New or Amending Existing Legislation and Regulations.

The consulting services ("the Services") include the following:

1. Conducting a comprehensive review of the governance framework, including the current mandate under the ECTEL Treaty (as amended by Protocol), the EC Bill, the Telecommunications Act, Regulations, other legislative instruments, and policies
2. Developing a framework and methodology for market competition assessment and advise on the capacity-building requirements of regulatory stakeholders to conduct such exercises on a periodic basis
3. Developing a framework for conducting a regulatory impact assessment ("RIA") of the recommended changes to the governance framework and electronic communications legislative framework (legislation and regulations)

The assignment is expected to be undertaken during a eighteen (18) month period.

The OECS now invites eligible consulting firms ("Consultants") to indicate their interest in providing the Services. Interested Consultants should provide information demonstrating that they have the required qualifications and relevant experience to perform the Services. The minimum required qualifications and experience are listed in section 6 of Terms of Reference (TOR). The detailed Terms of Reference (TOR) for the assignment are attached to this request for expressions of interest and can be found at the following website: www.oecs.int.

The shortlisting criteria are:

- At least ten (10) years of work experience in the area of electronic communications/ telecommunications regulation, including policy development
- At least one (1) successfully completed similar assignment during the past five (5) years
- Experience in related and or similar consultancies undertaken in the OECS and/or Caribbean region or Small Island Developing States ('SIDS') countries would be an advantage

Key Experts will not be evaluated at the shortlisting stage.

The attention of interested Consultants is drawn to Section III, paragraphs, 3.14, 3.16, and 3.17 of the World Bank's Procurement Regulations for IPF Borrowers, Fifth Edition, September 2023 ('Procurement Regulations'), setting forth the World Bank's policy on conflict of interest.

To obtain the maximum degree of comparison among Expressions of Interests (EOIs) and facilitate the evaluation process, the EOI should be a maximum of 30 pages and include the following information included below:

- **Title page with name of firm submitting the EOI:** should contain name of firm (or joint venture and/or a sub-consultancy, if applicable), address, email, telephone, name of contact person and date of submission.
- **Expression of Interest:** including the firm's general and specific experience and similar assignments

Consultants may associate with other firms to enhance their qualifications but should indicate clearly whether the association is in the form of a joint venture and/or a sub-consultancy. In the case of a joint venture, all the partners in the joint venture shall be jointly and severally liable for the entire contract, if selected.

A Consultant will be selected in accordance with the Quality and Cost Based Selection method set out in the Procurement Regulations.

Further information can be obtained at the address below during office hours 08:30 a.m. – 4:00 p.m. (0830 to 1600 hours).

Ms. Jenna Flavien
Procurement Officer
Caribbean Digital Transformation Project
OECS Commission
Morne Fortuné
P.O. Box 1383
Castries
Saint Lucia
Telephone: 758-455-6424
Email: procurementbids@oecs.int

Copied to:

Mr. Imran Williams, *imran.williams@oecs.int*

An electronic copy of Expressions of Interest are to reach the OECS Commission by **August 16, 2024** addressed to:

Ms. Jenna Flavien, Procurement Officer

At the following email address:

procurementbids@oecs.int

copied to imran.williams@oecs.int

The email submissions should include the name and address of the Consultant and shall be clearly marked in the subject line as "**Expression of Interest – "Consulting Services for Strengthening of Governance, Legal and Regulatory Frameworks Covering Telecommunications and Electronic Communications and Support for Drafting of New or Amending Existing Legislation and Regulations"**".

The Terms of Reference for this consultancy is provided below.



Organisation of Eastern Caribbean States



Caribbean Digital Transformation Project **IDA – D6520**

Scope of Services
Terms of Reference

Consulting Services for Strengthening of Governance, Legal and
Regulatory Frameworks Covering Telecommunications and
Electronic Communications and Support for Drafting of New or
Amending Existing Legislation and Regulations

July 2024

1. Background

The Organisation of Eastern Caribbean States (“OECS”) Commission and the Governments of the Commonwealth of Dominica, Grenada, Saint Lucia, and St. Vincent and the Grenadines are implementing a digital transformation project, financed by the World Bank Group. The Caribbean Digital Transformation Project (“Project”) comprises four (4) components that address key bottlenecks and harness opportunities to develop the digital economy of the Eastern Caribbean as a driver of growth, job creation and improved service delivery.

One component of the project focuses on Telecommunications: Legal and Regulatory Environment, Institutions and Capacity. This sub-component, under the technical leadership of the Eastern Caribbean Telecommunications Authority (“ECTEL”), supports greater electronic communications sector competition, affordability and service quality across the region, as well as enhancing the resilience of and emergency response capabilities for critical communications infrastructure. The sub-component also supports the modernisation of the legal, regulatory and institutional frameworks governing the electronic communications sector and the capacity to implement them nationally and regionally.

Established by Treaty in 2000, which was subsequently amended by Protocol Amendment in 2019, the ECTEL was established to facilitate a harmonised and coordinated approach to achieve liberalised and competitive telecommunications/electronic communications sectors in the following five (5) OECS Contracting States: Commonwealth of Dominica, Grenada, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines (hereafter collectively referred to as “the ECTEL Contracting States”). The initial liberalisation of the telecommunications sectors in the ECTEL Contracting States and the introduction of competition and regulation were underpinned by a Telecommunications Act and a core suite of Regulations passed in each of the Contracting States. Since its original promulgation, the parent legislation has remained largely unchanged, but additional Regulations have been made as required.

However, cognisant of the continuing evolution of the telecommunications/electronic communications sector in the Eastern Caribbean to include Information and Communications Technology (“ICT”), and correspondingly, the changing role of regulators, the telecommunications/electronic communications frameworks in the ECTEL Contracting States are outdated. In preparation for the legislative reform being undertaken by ECTEL, the ECTEL Treaty was amended by Protocol Amendment, the aim of which is to expand the scope of ECTEL from telecommunications to electronic communications. Additionally, a new Electronic Communications (“EC”) Bill has been prepared for implementation in ECTEL’s Contracting States, to supersede and replace the Telecommunications Acts and establish a new regulatory framework going forward. At the time of writing, the approved EC Bill has been passed in St. Kitts and Nevis and St. Vincent and the Grenadines, and it is expected to be tabled in other Contracting States in the coming months.

Several draft Regulations and other documents have already been prepared that will operate under the EC Act (once in force). However, recognising that there has been a lengthy period between when the EC Bill was drafted and when it is enacted in the ECTEL Contracting States, amendments to the EC Bill and to other previously prepared instruments may be necessary

(See Annex A). Moreover, to properly support the EC Act when it becomes effective in all Contracting States, additional Regulations and other legislative instruments may also be required to continue and to further strengthen the enabling environment for the delivery of digital technologies and services.

Further, regulation has evolved since the early 2000s when the initial frameworks were established. With the EC Act broadening and deepening the enabling environment for digital regulation, it is also opportune to strengthen and update the existing regulatory governance structures at ECTEL and in the ECTEL Contracting States to ensure that they are not only aligned with current best practices but can also support the digital revolution envisaged.

2. Objectives of this Assignment

The overall objective of this Consultancy is to strengthen the governance, legal and regulatory frameworks for electronic communications in the ECTEL Contracting States and ensure that they are forward-looking, robust, yet sufficiently flexible and agile to support the ongoing digital transformation of Contracting States.

3. Scope of Work

In carrying out the tasks under the Scope Of Work (“SOW”), the Consultant shall identify and assess important issues that should be addressed in the assignment and discuss these matters with ECTEL. Key tasks to be undertaken by the Consultant are as follows:

3.1 Conduct a comprehensive review of the governance framework, including the current mandate under the ECTEL Treaty (as amended by Protocol), the EC Bill, the Telecommunications Act, Regulations, other legislative instruments, and policies. This exercise should include the review of the current and proposed structure of the National Telecommunications Regulatory Commissions (“NTRCs”), their current governance relationship with ECTEL for electronic communications within the ECTEL Contracting States, and should identify deficiencies in the current framework and the proposed under the EC Bill, along with recommendations and best practices that could be considered for adoption.

Prepare the Public Consultation Document on the draft Comprehensive Review of the Governance Framework.

Prepare a Determination Paper on the revised Comprehensive Review of the Governance Framework including ECTEL’s position and responses to comments and feedback received from the public consultation process

3.2 Develop a framework and methodology for market competition assessment and advise on the capacity-building requirements of regulatory stakeholders to conduct such exercises on a periodic basis through the:

- (i) Reviewing the competition sections of the EC Bill (to be expanded as necessary)
- (ii) Reviewing the draft Electronic Communications Guidelines on Market Analysis and the Assessment of Significant Market Power for Networks and Services (“Guidelines”) and identify any deficiencies;
- (iii) Proposing a framework for market competition assessment, which should include the methodology for defining the relevant market, assessing market power and identifying anti-competitive conducts, and recommending pro-competitive obligations on licensees with significant market power and tools and instruments to address anti-competitive conducts in the market; and
- (iv) Preparing the Public Consultation Document on the proposed market competition assessment framework, and methodology;
- (v) Preparing the Determination Paper with ECTEL’s position and responding to comments and feedback received from the public consultation process
- (vi) Advising on the capacity-building requirements of regulatory stakeholders to conduct such exercises
- (vii) Developing a strategy and delivering capacity building on the proposed framework and methodology for market competition assessment, including the tools for periodic reviews and monitoring of the electronic communications market in the ECTEL Contracting States.

3.3 Conduct a review of the existing telecommunications/electronic communications policy, legal and regulatory framework in ECTEL Contracting States and that proposed under the EC Bill and:

- (i) Consider the recommendations from the comprehensive review of the governance framework as outlined in SOW 3.1;
- (ii) Identify any deficiencies that exist in the policy and EC Bill or any inconsistencies with best practices and propose amendments that could be made;
- (iii) Review already drafted Regulations and other legislative instruments listed in Annex A, identify any deficiencies or inconsistencies, and propose amendments that could be made that are aligned with the EC Bill and/or best practices;
- (iv) Draft any recommended new Regulations or other legislative instruments that are aligned with the EC Bill and/or best practices;
- (v) Identify any other priority areas that should be augmented through Regulations or other instruments that have not already been done;
- (vi) Prepare the Public Consultation Document (“PCD”) on the proposed recommendations on amendments to the EC Bill, EC Regulations, legislative instruments and proposed new Regulations/legislative instruments. The PCD should

include any draft policy statements and accompanying Explanatory Notes to the proposed revised and new legislation/regulations/other instruments;

- (vii) Conduct workshops/capacity-building sessions on the proposed changes to telecommunications/electronic communications policy, legal and regulatory framework in ECTEL Contracting States; and
- (viii) Prepare a Determination Paper with ECTEL's position and responses to comments and feedback received from the public consultation process.

3.4 Develop a framework for conducting a regulatory impact assessment ("RIA") of the recommended changes to the governance framework and electronic communications legislative framework (legislation and regulations):

- (i) Conduct the RIA and propose a strategy through which the potential adverse consequences of the changes to the institutional and electronic communications legislative framework could be minimised; and
- (ii) Develop a strategy and deliver capacity building on the proposed RIA, including tools for periodic reviews and monitoring of the impact on the governance framework for the staff of ECTEL and the NTRCs. In developing the strategy for capacity building the Consultant should identify the relevant skills requirements for RIA within the ECTEL and NTRCs.

3.5 Prepare a Draft Final Consolidated Report. This should include ECTEL's position on the feedback received from the specified public consultations ("Determination Papers"), as well as Final Reports and Final Drafts of documents (legislation, regulations, legislative instruments) in accordance with SOW 3.1—3.4.

3.6 Submit a Final Consolidated Report. This report will be initially presented in draft form and should include:

- (i) A description of activities and tasks undertaken during the assignment;
- (ii) Any Recommendations for follow-up activities related to the assignment;
- (iii) The main findings from consultations, meetings and presentations undertaken during the assignment and the circumstances that impacted positively and negatively on the conduct of the assignment; and
- (iv) A description of all deliverables and the final draft proposed Regulations which should include the reporting requirements for electronic communications network operators and a framework for the publication of QoS/QoE measurements.

4 Project Implementation Period

The implementation period for the assignment will be no more than eighteen (18) calendar months from the date of contract signature.

5 Deliverables

The deliverables under this assignment are as specified in the table below and should be submitted in an electronic and editable format. The deliverables should be comprehensive, properly formatted, and clearly presented.

No.	Deliverables	Due Date (after contract signature)
1.	Inception Report which includes: <ul style="list-style-type: none"> (i) A work plan outlining the methodology to undertake the assignment (ii) A preliminary analysis that identifies the pertinent issues, gaps, and risks, and presents an assessment of the current and draft legal and regulatory framework 	Month 1
2.	Public Consultation Document with draft Governance Framework Review Report , as outlined in SOW 3.1.	Month 3
3.	Public Consultation Document with draft Framework and Methodology for Market Competition Assessment , as outlined in SOW 3.2	Month 5
4.	Determination Paper with Revised Governance Framework Review Report , as outlined in SOW 3.1	Month 6
5.	Draft Report on the Legislative and Regulatory Review , as outlined in SOW 3.3	Month 7
6.	Determination Paper on Revised Reports , as outlined in deliverable 3 above (Framework and Methodology for Market Competition Assessment), which should include ECTEL's position.	Month 8
7.	Delivery of Capacity Building Activities , as outlined in SOW 3.2	Month 9
8.	Draft Regulatory Impact Assessment , as outlined in SOW 3.4 (i)	Month 9
9.	Revised Report on the Legislative and Regulatory Review , as outlined in SOW 3.1 and SOW 3.3 which should incorporate ECTEL's position.	Month 10
10.	Revised Report on Regulatory Impact Assessment as outlined in SOW 3.4(i) which should incorporate ECTEL's position.	Month 11
11.	Delivery of Capacity Building Activities , as outlined in SOW 3.4 (ii) and demonstration of the tools required for periodic reviews and	Month 11

No.	Deliverables	Due Date (after contract signature)
	monitoring of the impact to the proposed institutional and legislative framework for the staff of ECTEL and the NTRCs.	
12.	<p>Recommendations for the Legislative and Regulatory Framework under the EC Bill, as outlined in SOW 3.1 and 3.3 in accordance with the OECS standard of model legislative drafting (as seen in the draft legislative package), which should include the following:</p> <ul style="list-style-type: none"> (i) Draft proposed amendments to the EC Bill; (ii) Draft recommended legislation, regulations and legislative instruments for the EC Bill (iii) Draft propose amendments to the already existing draft Regulations; (iv) Draft new regulations and legislative instruments that have been identified as priority from the review as outlined in SOW 3.1 and 3.3; (v) Draft Public Consultation Document on the proposed recommendations on amendments to the EC Bill, EC regulations, legislative instruments and proposed new regulations/legislative instruments as outlined SOW 3.3(vi). 	Month 13
13	Execution of Workshops/Capacity Building Sessions , as outlined in SOW 3.3 (vii)	Month 16
14.	Determination Paper on completion of the Public Consultation , as outlined in SOW 3.3(vii) and 3.5 on deliverable 12 above, with ECTEL's position and responses to comments/feedback from the public consultation proces	Month 17
15.	Final Consolidated Report	Month 18

6 Selection Criteria

ECTEL seeks the services of a Consulting Firm that satisfies the requirements outlined below:

- (i) At least ten (10) years of work experience in the area of electronic communications/ telecommunications regulation, including policy development;
- (ii) At least one (1) successfully completed and similar assignment during the past five (5) years; and

- (iii) Experience in related and or similar consultancies undertaken in the OECS and/or Caribbean region or Small Island Developing States ('SIDS') countries would be an advantage.

The Consulting Firm may associate with other firms in the form of a joint venture or a sub-consultancy to enhance their qualifications.

To successfully undertake the assignment, the Consulting Firm shall have core team members who possess a range of skills and qualifications, including the key experts identified below with the corresponding qualifications. As such, the Consulting Firm shall have key experts with the following qualifications and experience:

(a) Electronic Communications/Telecommunications Regulatory Expert (Team Lead)

Academic Qualifications/Skills

1. Specialist(s) with at least a Master's Degree in Economics, Engineering, Telecommunications, Law, Regulation or a related field.
2. Project Management would be an advantage.
3. Competency in conducting and presenting training and capacity building.
4. Fluency in both written and spoken English.

Experience

1. At least ten (10) years of working experience in electronic communications/telecommunications regulation.
2. Demonstrated experience of successful completion of conducting governance, regulatory or legislative assessments.
3. Demonstrated experience in conducting and successfully completing a regulatory impact assessment, specifically with transitional legislative frameworks such as for the electronic communications/telecommunications sector.
4. Demonstration of successful completion of at least one (1) similar assignment during the past five (5) years.
5. Demonstrated experience in participating in multi-country related projects in SIDS countries or in undertaking consultancies in the OECS or CARICOM region.

(b) Legal Expert

Academic Qualifications

1. 1. A Master's Degree or Diploma in Legislative Drafting with at least ten (10) years' experience in the drafting of legislation and legislative instruments.

2. Experience in the area of electronic communications/telecommunications and regulation of that sector;
3. Fluency in both written and spoken English.

Experience

1. At least seven (7) years of legislative drafting experience for the OECS and/or CARICOM Contracting States;
2. At least five (5) years of demonstrated experience in reviewing and contributing to the development of institutional and legislative frameworks for the electronic communications/telecommunications sector, especially in the English-speaking Caribbean region.
3. Demonstration of successful completion of at least one (1) related assignment during the past five (5) years.
4. Demonstrated experience in participating in multi-country related projects in SIDS countries or in undertaking related consultancies in the OECS or CARICOM region.

(c) Regulatory Economics Expert

Academic Qualifications

1. Specialist(s) with at least a Master's Degree in Economics, Industrial Organisation or a related field.
2. Fluency in both written and spoken English.

Experience

1. At least five (5) years of demonstrated experience in conducting competition and market assessments.
2. Demonstrated experience in the electronic communications regulatory experience would be considered an advantage.
3. Demonstrated experience in reviewing and contributing to the market assessment frameworks for the electronic communications/telecommunications sector.
4. Demonstrated experience in conducting and successfully completing a regulatory impact assessment, specifically with transitional legislative frameworks such as the electronic communications/telecommunications sector.
5. Demonstration of successful completion of at least one (1) related assignment during the past five (5) years.
6. Demonstrated experience in participating in multi-country related research projects in SIDS countries or in undertaking consultancies in the OECS or CARICOM region.

(d) Technical Expert

Academic Qualifications

1. At least a Master's Degree in Engineering (Electrical, Telecommunications, Electronics, Computer Science), Information and Communications Technology, Information Technology or a related field.
2. Fluency in both written and spoken English.

Experience

1. At least seven (7) years of experience in the electronic communications/telecommunications sector, specifically experience in operations, maintenance of electronic communications/telecommunications networks (cellular, fibre optics), infrastructure, deployment and delivery of services.
2. Knowledge and experience in the electronic communications telecommunications sector in developing countries.
3. Demonstration of successful completion of at least one (1) related assignment during the past five (5) years.
4. Demonstrated experience in participating in multi-country related projects in SIDS countries or in undertaking consultancies in the OECS or CARICOM region.

7. Additional Information

7.1 The Consultant is expected to be home-based, though provision may be made for missions to one or more of the ECTEL Contracting States.

7.2 During the conduct of the assignment, the Consultant will work with the management and staff of ECTEL.

7.3 ECTEL will provide the following support services and facilities without any charge:

- (i) Make available to the Consultant all studies, reviews, relevant laws and regulations relevant to the execution of the assignment.
- (ii) Arrange for access to telephone and internet, and when the Consultant is operating from its offices.
- (iii) Assign at least one (1) member of its Staff to serve as its representative to the Consultant. ECTEL shall ensure that the staff designated as its representative to the Consultant for this assignment has the capacity to deal with the issues related to the assignment and is willing and able to learn from the Consultant.

Annex A: Proposed Legislation and Under Instruments for the Electronic Communications Framework

Existing Legislation and Other Documents to be Reviewed and Revised Draft to be Produced

1. Electronic Communications Bill
2. Mobile (Electronic Communications) (Roaming Services) Bill
3. Mobile Electronic Communications (Roaming Services) Regulations
4. Licence and Authorisation Regulations
5. Licence Templates
6. Universal Service and Access Fund Regulations
7. Universal Service and Access Order
8. Universal Service and Access Fund Contribution Order
9. Submarine Cable Landing Stations Access Regulations
10. Network Infrastructure and Wholesale Access
11. Retail Tariff Regulations
12. Consumer Protection Regulations
13. Fees Regulations
14. Guidelines on Market Analysis and Significant Market Power for Networks and Services
15. Net Neutrality Regulations
16. Quality of Service Regulations

Initial List of Legislation and Other Documents to be Drafted

1. Procedure of the Tribunal Regulations
2. Exemption Regulations
3. Fees Regulations
4. Number Portability Regulations
5. Spectrum Management Regulations
6. Manual for Tribunal
7. Spectrum Management Policy
8. Exemption Orders
9. Strengthen the rules for the management of a competitive electronics communications sector
10. Develop mechanisms to deal with change of ownerships/significant change of shares/Mergers and Acquisition
11. Amateur Radio Regulations
12. Terminal Equipment and Public Network Regulations
13. Interconnection Regulations
14. Interconnection Code
15. Manual for Tariff Review