



**Invitation to Tender for the Review of Jersey Telecom
Limited's Regulatory Separated Accounts**

23 November 2010

Introduction

Jersey is a self-governing British Crown Dependency with its own legal system, but its international representation and defence are ordinarily conducted by the government of the United Kingdom. Jersey is not part of the European Union ('EU'), but it has a special relationship with the EU and certain European legislation applies in accordance with Protocol 3 to the 1972 Treaty of Accession under which the United Kingdom joined the European Communities. The government authority is the States of Jersey.

Jersey Telecom was a States department that provided the monopoly telecommunications service. The States introduced the Telecommunications (Jersey) Law 2002 ('the Law') that enabled the Jersey Competition Regulatory Authority ('JCRA') to licence and regulate telecommunication providers in Jersey. Prior to the full implementation of the law Jersey Telecom (JT) was incorporated into a limited liability company under Jersey law, the States retained 100% of the share capital. Since 1 January 2003 JT has lost its statutory monopoly and now faces competition in all telecommunications markets. Nevertheless, it remains the dominant provider of fixed network communications, where there is virtually no infrastructure competition, and retains a strong market position in the mobile sector following the introduction of competition in that sector.

The JCRA is required under the Law to ensure that consumers in Jersey have their demands for telecommunications services met in the most efficient way, in particular by promoting competition where appropriate. To this end the JCRA has licensed other operators ('OLOs') to provide competitive and innovative services within the island. In addition, the JCRA can impose special requirements on telecommunications operators through licence conditions when an operator has Significant Market Power ('SMP'). Licensees have the right to interconnect to other networks. In order for the JCRA to properly evaluate whether the terms of such access are fair and equal and do not involve cross-subsidisation, undue preference, an abuse of SMP or any other form of anti-competitive conduct, a Licensee with SMP must maintain separated accounts to enable the JCRA to separately identify the relevant economic costs of various commercial activities of concern.

Under the terms of its licence issued by the JCRA, JT as a Licensee with SMP in certain markets¹ is required to provide to the JCRA separated accounts ('SA') in order to determine the costs and prices of certain products, in particular the costs and prices of wholesale products offered by JT to OLOs through its Reference Interconnect Offer ('RIO') or otherwise. The JCRA conducted a review of the JT Separated Accounts² and the resulting documents were the subject of a consultation in August 2009. As a consequence of this review the current submission of the SA is now available to the JCRA, however it is now proposed to examine these accounts in detail to ensure that the methodology and assumptions made by JT are appropriate. Further

¹ Review of the Telecommunications Market in Jersey – available at: http://www.jcra.je/pdf/091127_Telecommunications_Market_Review_consultation_t-3.pdf

² Review of the JT Separated Accounts and Wholesale Access Provisions – available at: http://www.jcra.je/pdf/091127_Telecommunications_Market_Review_consultation_t-3.pdf

information on the processes thus far involved with the JT separated accounts can be found on the JCRA website www.jcra.je.

The JCRA also consulted on the publication requirement of the JT SA in December 2009³ and received several responses from interested parties⁴. In response to this consultation the JCRA published an Initial Notice ('IN')⁵ which defined the SA publication conditions. Several responses were received to this IN and consequently a second IN was then published⁶ from which further comments were received.

The JCRA is inviting qualified parties to tender for this work programme.

Interested parties may also wish to note that a separate review of JT's RIO rates is being conducted as a separate project.

Scope of the review

The successful tenderer shall be required to review JT's Regulatory Separated Accounts and all supporting documentation in order to provide the JCRA with an independent assessment of the reasonableness or otherwise of the JT Regulatory Separated Accounts and methodology. The successful tenderer shall be required to identify any shortcomings in the methodology. Should it be necessary that the successful tenderer requires additional clarification and explanations from JT then, where necessary, these will be obtained via the JCRA through information requests under the JT Licence.

The requirement is outlined below:

- a. Review JT's 2009 Regulatory Accounts including the Accounting Documents and Cost Attribution Methodology;
- b. Assess the reasonableness and assumptions underlying JT's methodology, particularly in the light of experience in other jurisdictions;
- c. Where necessary seek additional clarification and explanations from JT, via information requests through the JCRA if required; and
- d. Review the appropriate level of audit for the Regulated Separated Accounts taking account best practice and what is considered appropriate for an operator of JT's scale.

³ Consultation Document 2009 – T4 Consultation on the Publication of Jersey Telecom Limited's Separated Accounts:

<http://www.jcra.je/pdf/091215%20JT%20Separated%20Accounts%20Consultation%20T-4.pdf>

⁴ All responses can be found here:

<http://www.jcra.je/cms3/v2/public/cmsChild.asp?pageID=1024&childID=1064>

⁵ Initial Notice 26/06/10:

<http://www.jcra.je/pdf/100624%20SEPARATED%20ACCOUNTS%20INITIAL%20NOTICE.pdf>

⁶ Initial Notice 12/08/10:

<http://www.jcra.je/pdf/100812%20SEPARATED%20ACCOUNTS%20second%20INITIAL%20NOTICE.pdf>

The JCRA expects that these tasks will form an essential part of the scope of the project, but this is not a comprehensive list and tenderers are invited to clearly state the approach and process they propose to use to meet the requirements of this Invitation to Tender.

Key Deliverables

In addition to the public domain statistical information that is referenced in this document, the JCRA will make available to the successful tenderer the requisite information necessary to complete this work. As a nominated JCRA consultant the successful tenderer will be expected to work with all stakeholders. It will also have access to the relevant personnel and data within JT.

It is envisaged that the tenderer will work closely with the JCRA and provide suitable feedback during the process. It is estimated that the work can be completed within three months of the award of the tender. It is assumed that this project will commence in January 2011. Key deliverables are:

1. Within 4 weeks of project commencement, the successful tenderer will provide an initial report on whether the cost allocations are relevant within each product and the accuracy of the allocations;
2. Within 8 weeks a report on any changes that may need to be introduced in order to improve the quality of the allocations and any further recommendations for the improvement of the accounts;
3. It is expected that the successful tenderer will have an ongoing dialogue with JT to ensure it is properly engaged in the review.
4. Within 12 weeks of the commencement the tenderer will provide a final report on the project.

Evaluation Criteria of the Tender Documents

The tenders shall be assessed using a mix of the following criteria:

- Relevant experience
- Quality of the team
- Value for money
- Proposed process outlined in the tender response

The JCRA shall conduct this evaluation process in-house.

Technical Contact

All queries relating to this ITT should be addressed to:

Graeme Marett
Phone: +44 1534 514996
Email: g.marett@jcra.je

Tender Instructions

1. Invited parties shall respond, in writing, within 7 days of the receipt of this document stating whether or not they wish to proceed with the tender;
2. Uninvited tender responses resulting from the JCRA website posting shall also confirm in writing the intention to proceed;
3. Submitted tenders shall be valid for a period not less than 30 days from the closure date of the tender;
4. The tenderer shall provide a named contact together with contact details to the JCRA as part of the tender document;
5. The JCRA reserves the right not to accept the lowest or any tender and at its sole discretion may optionally retender for the programme of work after the closure date; and
6. The tenderer shall provide to the JCRA the completed report in both printed and electronic format.

The JCRA standard terms and conditions for tenders are available as a separate document but should be read in conjunction with this tender request.

Completed tenders should be addressed to:

Graeme Marett
JCRA
2nd Floor Salisbury House
1 – 9 Union Street
St Helier
Jersey CI
JE2 3RF

g.marett@jcra.je

www.jcra.je

Closure date for tenders:

Tenders must be received by 5:00pm 17 December 2010 at the JCRA office.

Terms of Tender

Deliverables

All deliverables shall be in English.

A DRAFT report shall be submitted to the JCRA after completion of the programme of work. The JCRA shall provide comments to the tenderer, where appropriate, after receiving the draft report, enabling the tenderer to complete the FINAL REPORT.

The final report shall be provided to the JCRA in both hard copy and electronic formats.

Qualifications

The tenderer shall provide to the JCRA with the tender document relevant previous experience of this class of audit work.

The tenderer shall provide the experience of the members of team that shall be employed on this project including the CVs of the team members.

Confidentiality

The tenderer shall be required to sign a confidentiality agreement with the JCRA not to disclose to a third party any data received with or obtained from the review.

Terms

The tender shall provide the following information:

1. Tenders are required to submit a fixed price contract. All costs shall be expressed in Pounds Sterling;
2. The projected timeline of the programme of work;
3. A clear statement that the tenderer has no conflict of interest with any other relevant party on the Island of Jersey, and/or that it shall not place itself in such a position during the completion of the programme. The tenderer shall disclose to the JCRA any matter which in its view may breach such a conflict of interest;
4. A breakdown of costs for the programme of work shall be provided at the end of the contract in sufficient detail that the JCRA may determine where any additional invoiced costs have been incurred;

5. Value Added Tax is not applicable to work carried out on the Island of Jersey;
6. The terms of payment for the completed work.
7. The tenderer understands that final report produced for the JCRA shall become the intellectual property of the JCRA.