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RESPONSE TO PROSPECTIVE CONSULTANT

Paragraph 4.2.10 at page 11 of the Terms of Reference (TOR) for the Provision of Consultancy Services for the Drafting of the Rules of Practice and Procedure for the Environmental Commission of Trinidad and Tobago invites Prospective Consultants to submit written questions on matters on which clarification is needed by September 3rd, 2021 at 3:00 p.m. One Prospective Consultant submitted the questions that follow on September 3rd, 2021 at 8:32 a.m. Paragraph 4.2.10 of the TOR also commits the Commission to post on its website the questions that were asked and the responses given.

Please see the following questions which were submitted by a Prospective Consultant and the related responses from the Environmental Commission:

Question 1. Does the Commission have a proposed timeline for the project including estimated start, completion and milestone dates?

Please refer to the Terms of Reference (TOR) which is posted on the Environmental Commission's Website. In particular, please note the following:

At Part 3.0, at page 8 of the TOR:

- Part 3.2.1: *"The Required Services under the Agreement are to be performed during a six-month period, unless an alternative time period is put forward by the Consultant in his/her proposal and accepted by the Commission as the Client."*

At Appendix A1 "Scope of Works" at paragraph 5.0, at page 32 of the TOR:

- "Project Schedule and Deliverables": *"5.2 The Required Services are to be performed over a period to be agreed and set out in the draft¹ Project Schedule hereto annexed as "Appendix A2"."*

¹ Delete the word "draft" when contract is finalized

At Part 6.0 at page 13, of the TOR:

- *“6.1.1 Once the top Consultant is selected in accordance with section 5.0 above, he/she will be notified via a Letter of Acceptance of the technical proposal in writing and by email by the Registrar of the Environmental Commission and he/she will be invited to negotiate the specific payment terms (not the price) **and the specific time lines for delivery of the Required Services, that is, the Project Schedule and the Payment Schedule, that will be included in the Contract”***
- *“6.2.1 Negotiations of the specific payment terms **and time lines will take place prior to the execution or the “sign off” of the contract between the Registrar and the top selected Consultant.”***

Question 2. Has the Commission prepared a policy brief outlining, *inter alia*, the rationale for the revision to the Rule of Practice and Procedure and gaps to be addressed?

Please refer to all of Part 2.0 at page 3 of the TOR – “Current Challenges” - of the Terms of Reference which is posted on the Environmental Commission’s Website.

Additionally, at Part 3.1.1, at page 8 of the TOR references are made to Appendices A and A1 which are the Draft Form of the Contract and the Scope of Works respectively. Please refer to the said Scope of Works at Appendix A1.

In relation your question re “gaps to be addressed”, Appendix A1 “*Scope of Works*” paragraph 4.1 at page 30 states that “*The Consultant will be required to (a) conduct comprehensive research, review and analysis of the existing Commission’s Rules of Practice and Procedure and advise the Commission on any and all amendments that are needed in order to ensure that the Commission’s Rules set out all the Practices and Procedures that will enable it to carry on its mandate and jurisdiction under the Act.*”

As such the successful Consultant will be required to conduct the research and identify and advise on the “gaps to be addressed” (See further Appendix A1 – Scope of Works paragraph 4.2(a) at page 30).

Question 3. Is the Commission minded to engage in either broad or targeted stakeholder consultation in developing and finalizing the proposed Rules of Practice and Procedure? If yes, then does the Commission have a preferred method of consultation and what are the contemplated roles (if any) of the consultants in this process?

Yes, the Commission will be engaging in stakeholder consultations. The Commission (the Client) will be conducting the said consultations and will invite the Consultant to attend the stakeholder meetings if required. (Please refer to Appendix A2 – Draft Project Schedule Phase 3, No. 9 at page 35 of TOR)

The role of the Consultant in the stakeholder consultations are set out in the TOR as follows:

- See Appendix A1 “Scope of Works” paragraph 4.2 (k) at page 32 of the TOR which states that the Consultant would be required to *“Evaluate amendments to the Revised Draft proposed by the Stakeholders during the Stakeholder Consultation Process and provide appropriate advice to the Registrar of the Commission within a time frame to be agreed and which will be included in the final contract.”*
- See Appendix A2 phase 3 No. 10, at page 35, which outlines the specific responsibilities of the Consultant.

Question 4. Are there any legislative amendments to the Environmental Management Act, Chap. 35:05, subsidiary legislation or other stand alone legislation which are anticipated to be enacted in the short to medium term and which would impact on the drafting of the Rules?

Please refer to Part 2.0 – Current Challenges - of the TOR in particular Part 2.3, at page 3 of the TOR – “Required Services and Deliverables” – and more particularly Part 2.3.1 (a) & (b).

Question 5. Would the Commission be providing a dedicated liaison officer to access and supply materials from the Commission and partner organizations?

The phrase “to access and supply materials from the Commission and partner organizations” is not clear. However, please refer to the following in the TOR:

- Appendix A, paragraph 8.6, at page 17 of the TOR.
- Appendix A2 Phase 1 No. 2 & No. 4 at pages 33 & 34 of the TOR.
- Appendix A2 Phase 2 No. 7 at page 35 of the TOR.
- Appendix A2 phase 3 No. 9 & No. 11 at pages 35 & 36 of the TOR.

Question 6. Would the Commission facilitate access to information from key public sector stakeholders as necessary (e.g. the Judiciary, Attorney General's office and other superior courts of record similarly constituted to the Commission)?

Please refer to the Draft Contract at Appendix A at page 14 of the TOR and the Appendices annexed (A1, A2, A3 at pages 27, 33 & 37 of the TOR respectively) for the obligations of the Client (the Commission) and the Consultant.

More particularly, if this is a specific reference to the process of stakeholder consultation, please refer to Appendix A2, Phase 3, No. 9 at page 35 of the TOR, which indicates that the Client (the Commission) will be responsible for conducting stakeholder consultations and will identify its relevant stakeholders and invite the Consultant to the Stakeholder meetings “if required” and collate the Stakeholder concerns and /or comments into appropriate issues/instructions for the consultant.

Question 7. Is it intended that the draft Rules would be sent to the Chief Parliamentary Counsel's department (CPC) for review and finalization before adoption? If yes, then has the CPC provided any guidance as to what is required for their purposes, such as a legislative drafting brief as opposed to draft rules?

See section 84 of the *Environmental Management Act 2000, Chap. 35:05* for the Commission's jurisdiction with respect to the making of Rules of Procedure and Practice. Also please refer to the Deliverables at paragraph 2.3.1 of the TOR.