

REQUEST FOR PROPOSAL

Sub Sea Fibre Project Technical Consultant



GOVERNMENT OF MONSTERRAT
Office of the Premier
Brades, Montserrat
Tel: 1-664-491-3378 / 3463

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PART A

Part A

PART A - Background

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PART A

1 Introduction and Project Overview

1.1 Prior to 1989, Montserrat was a small economy on the verge of becoming self-sufficient with a population of 12,000. However, two natural disasters, Hurricane Hugo in 1989 and the destructive volcanic eruptions from 1995 to 2010¹ have affected all aspects of Montserratian social and economic life. Plymouth, the capital together with a significant area of prime agricultural land was destroyed and almost two thirds of the island² is now beyond productive use and lies within an exclusion zone.

Montserrat has been without international fibre connectivity since the deactivation of the Fox's Bay landing point of the Eastern Caribbean Fibre System (ECFS) following the evacuation of Plymouth.

There has been extensive planning and appraisal work on the prospects for re-establishing fibre optic connectivity to Montserrat which along with recent engagements with the market have demonstrated that there will be interest in taking forward the project. The most recent meetings in December 2017 gave positive indications that the key players in the region would be open to participating in a co-funded arrangement,

The actual details and contractual model for the co-funded solution has yet to be defined and will be formulated as the process goes forward. There is also an openness to explore the type of link (s) and to which neighbouring island (s) is most beneficial with regard to connectivity residency and offers best VFM.

These Terms of Reference relate to the provision of technical, commercial, and cost-benefit expertise to the UK's Department for International Development (DFID) and the Government of Montserrat (GoM) for the re-establishment of a fibre optic link for Montserrat.

Project Objective

To provide DFID and GoM with expert advice and support to help the facilitation of a co-funded [Public-Private] fibre optic solution for Montserrat, in particular the planning, preparation and undertaking of a procurement process. The key benefit of a re-established link will be the availability of improved internet services for the broad economic and social development of Montserrat including enhanced IT resilience and disaster preparedness.

2 The Authority

2.1 The Government of Montserrat is the funding agent; the Office of the Premiere will be the procuring entity managing the project and has been deemed to be The Authority. The Authority shall actively manage the resulting Contract and key activities including contract review meetings, key deliverables and analysis of management information provided.

If you have any queries relating to this RFP please email them to procurement@gov.ms for the attention of MS Harjinder Jutle.

PART B

Part B

PART B - RFP Overview

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PART B

1 Letter of Invitation

30th July, 2018

Dear Sir/Madam,

Re: Sub Sea Fibre Project Technical Consultancy

You are invited to submit a proposal for the above named project. Proposal documents can be accessed by visiting the two websites below;

- **Electronic proposal documents can be downloaded and submitted via the MyTenders Portal at <https://www.mytenders.co.uk/>**
- **Hard copies can be downloaded from the Government of Montserrat website at <http://www.gov.ms/tenders/>**

The suite of documents consists of the following documents;

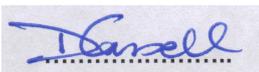
1. Instructions to Bidders
2. RFP Check List
3. Form of Proposal
4. GoM & Consultant Agreement
6. General Conditions of Contract
7. Anti-Collusion Statement
8. Evaluation Criteria

The submission deadline is Wednesday 8th August 2018, no later than 12.00 midday Eastern Caribbean time, (17.00 hours UK time). Please refer to Instructions to Bidders for full details on how to make a submission.

If you require any clarifications, please submit them via email to the procurement department for the attention of Harjinder Jutle, at procurement@gov.ms; or in writing to the Ministry of Finance and Economic Management, Brades, Montserrat, MSR1110.

No later than 5th August 2018.

Yours faithfully,



Daphne Cassell

**Permanent Secretary
Office of the Premier**

PART B

2 Introduction

- 2.1 The Authority wishes to secure the services of a Technical consultant for the Sub Sea Fibre Project. The Authority is managing this procurement process in accordance with Government of Montserrat's Public Procurement Regulations (the "Regulations"). This is a supply of services Contract being procured under the open competitive procurement procedure.
- 2.2 The Authority is procuring this contract on behalf of the Government of Montserrat and DFID
- 2.3 Part C contains the Instructions to Bidders.
- 2.4 Part D contains the Bid Evaluation criteria.
- 2.5 Part E contains the General Contract Agreement & Contract Conditions
- 2.6 Part F contains the Service requirements, key deliverables for the proposed project.
- 2.7 Part G contains the templates for the Bidders Response.
- 2.8 Following evaluation of all responsive bids, the Departmental Tenders Committee will award a contract to the most qualified and economically advantageous consultant to undertake the said services for the project.
- 2.9 The Government of Montserrat through the Departmental Tenders Committee reserves the right not to conclude a Contract as a result of the current procurement process.

PART C

Part C

PART C - Instructions to Bidders

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PART C

1 General

- 1.1 These instructions are designed to ensure that all Bidders are given equal and fair consideration. It is important therefore that you provide all the requested information in the format and order specified.
- 1.2 Bidders should read these instructions carefully before completing the Bid documentation. Failure to comply with these requirements for completion and submission of a Bid may result in the rejection of the Bid. Bidders are advised therefore to acquaint themselves fully with the extent and nature of the Montserrat General Condition of Contract.
- 1.3 Each Bidder will:
 - i. Examine the RFP and any documents referenced in the RFP and any other information provided by the Procuring Entity.
 - ii. Consider all risks, contingencies and other circumstances relating to the delivery of the requirements and include adequate provision in your financial submission to manage such risks and contingencies
 - iii. Ensure that pricing information is submitted in XCD (Eastern Caribbean Dollars).
 - iv. If necessary, obtain independent advice before submitting a bid
 - v. Satisfy itself as to the correctness and sufficiency of your Financial Submission, including the proposed pricing and the sustainability of the pricing.
- 1.4 The Bidder shall ensure that each and every sub-consultant, consortium member and adviser abides by the terms of these instructions and the Conditions of Bid.
- 1.5 The Bidder shall not make contact with any other employee, agent or consultant of the Authority who are in any way connected with this procurement exercise during the period of this procurement exercise, unless instructed otherwise by the Authority.
- 1.6 The Authority or Government of Montserrat shall not be committed to any course of action as a result of:
 - issuing this RFP or any invitation to participate in this procurement exercise;
 - an invitation to submit any Response in respect of this procurement exercise;
 - communicating with a Bidder or a Bidder's representatives or agents in respect of this procurement exercise; or
 - any other communication between the Authority and/or any relevant GoM Departments (whether directly or by its agents or representatives) and any other party.
- 1.7 Bidders shall accept and acknowledge that by issuing this RFP the Authority shall not be bound to accept any Bid and reserves the right not to conclude a Contract for some or all of the services and services for which Bids are invited.
- 1.8 The Authority reserves the right to amend, add to or withdraw all or any part of this RFP at any time during the procurement exercise.

PART C

2 Type of Contract

2.1 The Montserrat General Conditions of Contract will be adopted for this contract.

3 RFP Checklist

3.1 Bidders must complete the Form of Proposal, Document Check List, Anti-collusion statement, Technical Questionnaire, Cost Proposal. Failure to fully complete these documents will lead to their bid becoming non-compliant and rejected.

4 Tax Compliance

4.1 The bidder must submit a Tax Compliance Certificate from the Inland Revenue Department along with the bidding documents, if the individual or company is based in Montserrat. In the case of a sole trader, the tax compliance certificate should be issued in that individual's name. However, where the sole trader is trading using a business name, the tax compliance certificate should be issued in the business name. In the case of a company, the tax compliance certificate should be issued in the name of the Company". It is therefore incumbent on the bidder to ensure that the tax compliance certificate is issued in the correct name. Diligent checks will be made with the Inland Revenue Department and the Financial Services Commission to verify the accuracy of certificates. Bids received with improper tax compliance certificates will be rejected.

4.2 Except in cases where there is an exemption from tax, of which proof must be provided; residents of Montserrat for tax purposes are subject to tax on the profits from this project while non-residents are liable to a **20% Withholding Tax** deduction from the gross amount.

Please take into consideration your tax obligations and liabilities to the Government of Montserrat. For further information please contact Montserrat Customs & Revenue Service (MCRS) via email at irev@gov.ms.

4.3 All services undertaken will be the subject of taxation in accordance with the current legislation.

5 Bid Validity

5.1 Bids are to remain open for acceptance for a period of 90 days. A Bid valid for a shorter period will be rejected.

6 Timescales

6.1 Set out below is the proposed procurement timetable. This is intended as a guide and whilst the Authority does not intend to depart from the time table it reserves the right to do so at any stage.

PART C

DATE	STAGE
30th July, 2018	RFP Published on the Government of Montserrat website. (www.gov.ms/tenders) and myTenders https://www.mytenders.co.uk/
5th August, 2018	Clarification Period Closed
8 th August, 2018 by 12.00 Eastern Caribbean time, UK 17.00hrs	RFP Return Date (Submission Deadline).

7 Authority's Contact Details

7.1 Unless stated otherwise in these Instructions or in writing from the Authority, all communications from Bidders (including their sub-consultants, consortium members, consultants and advisers) during the period of this procurement exercise must be directed to the designated Authority contact named in Section. 2.1 of Part A.

7.2 All communications should be clearly headed "**Sub Sea Fibre Project Technical Consultant**" and include the name, contact details and position of the person making the communication.

7.3 Suppliers' requests for Bid clarifications must be submitted in accordance with the procedure set out in PART C Section 11 – Queries Relating to Bid.

8 Alternative Bid

8.1 Bidders are not allowed to submit alternative Bids.

9 Insurance

9.1 The successful Bidder may be asked to submit details of their current insurance in relation to carrying out consultancy services for this project.

10 Submission of Bids

10.1 Bidders must obtain for themselves at their own responsibility and expense all information necessary for the preparation of Bids. Bidders are solely responsible for the costs and expense incurred in connection with the preparation and submission of their Bid and all other stages of the selection and evaluation process. Under no circumstances will the Authority be liable for any costs or expense borne by Bidders, sub-consultants, suppliers or advisers in this process.

PART C

10.2 The Authority may at its own absolute discretion extend the closing date and the time for receipt of Bids specified under PART C Section 6. Any extension granted under this PART C Section 10 will apply to all Bidders.

10.3 All Bids will be arithmetically checked; any errors will be brought to the proposer's attention. The rates supplied would be the basis for the arithmetic correction and would be the determining factor for any queries about the corrected price.

10.4 The Authority is not bound to accept the lowest Bids and has the right to accept and reject any Bid offers.

10.5 **Late Bids will not be accepted or if accepted, considered.**

10.6 **Submitting a Tender (Bid)**

There are two options for submitting a tender

- **Electronic tender submissions can be uploaded via the Mytenders Portal at <https://www.mytenders.co.uk/>**
If you are intending to make an electronic submission to this tender, please register your interest on mytenders at the earliest opportunity. Please ensure that you allow sufficient time to upload your documents.
- **Hard copies can be submitted by hand – Please follow the instructions set out below;**

Submitting a hard copy of your tender

You will need two plain envelopes for the Tender submission

You must follow these instructions, failure to do so may result in the bid being non-compliant and not considered any further.

Envelope 1.

Follow the steps written below:

1. Write the name of the bidder (Tenderer, Supplier) on this envelope
2. Write the name of the project and the address on the envelope as written below;

Supplier Name (*Your Company Name*)
Proposal for Sub Sea Fibre Technical Consultant
Departmental Tenders Committee
Ministry of Finance and Economic Management
P.O. Box 292, Brades, Montserrat, MSR1110

3. Now put this envelope into another plain envelope (Envelope 2.)

Envelope 2

Continue following the steps below:

4. Envelope 1 should now be inside this envelope (Envelope 2), seal the envelope and then write the Project Title and address for Tender return.;

PART C

**Proposal for Sub Sea Fibre Technical Consultant
Departmental Tenders Committee**

Ministry of Finance and Economic Management

P.O. Box 292, Brades, Montserrat, MSR1110

***NB: Envelope 2 must not have the Bidders name on it or any other markings.** Tenders are to be delivered to the address above. Tenderers will be given a receipt.

11 Queries Relating to Bid

11.1 All requests for clarification about the requirements or the process of this procurement exercise shall be made in accordance with these Instructions.

11.2 The Authority will endeavour to answer all questions as quickly as possible, but cannot guarantee a minimum response time. In order to satisfy query requests, the Authority has designated a specific personnel to deal with clarification requests from Bidders

11.3 Clarification requests can be submitted via e-mail to procurement@gov.ms from the date shown under PART C Section 6.

11.4 In order to ensure equality of treatment of Bidders, the Authority intends to share the questions and clarifications raised by Bidders together with the Authority's responses (but not the source of the questions) to all participants on a regular basis.

11.5 The Authority reserves the right not to respond to a request for clarification or to circulate such a request where it considers that the answer to that request would or would be likely to prejudice its commercial interests.

PART D

Part D

PART D - Bid Evaluation

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PART D

1 Introduction

1.1 The Bid process will be conducted to ensure that Proposals are evaluated fairly to ascertain the most technically and economically advantageous Proposal.

2 Evaluation of Bids

2.1 The following evaluation criteria will be used to evaluate Bids received in response to this RFP. The Administrative Compliance would be applied before the remaining criteria and is either pass or fail, with failure meaning that bids would be deemed Non-compliant. **Bidders must achieve a minimum score of 65% to be considered for award of contract.**

QUESTION NUMBER	Question title	WEIGHTED SCORE %
D1.1	Administrative Compliance	PASS/FAIL
D1.2	Financial Evaluation	50%
D1.4	Technical Questionnaire	35%
D1.5	Bidders Experience	15%

3 Administrative Compliance (PASS/FAIL)

3.1 Bidders must submit all the documents requested in the RFP. The RFP checklist provides a list of requirements which need to be fulfilled. All Bidders are required to fully complete the Form of Proposal including the commencement time and the proposed completion time which are highlighted. In addition, they need to fully complete the RFP Bidders Response Template. A valid Tax Compliance Certificate only if based in Montserrat need to be submitted with their submission. Bidders should sign and date the Anti-Collusion statement. Similarly details of previous experience must be submitted. The Administrative Compliance which is a Pass/Fail. If **all** the above requirements are fulfilled, then the Bidder would move on to the other evaluation criteria. If any of the above mentioned items are not submitted, then the Bidder would be deemed non-compliant and rejected.

4 Financial Evaluation (50%)

4.1 Bidders must complete the Form of Proposal and return them with their RFP submission. The Bid price is a significant factor and the Government of Montserrat will seek to ensure that the services are undertaken at the most economically advantageous price. However, there are other factors which comprise the criterion and these will be considered proportionately. Government of Montserrat is not bound to accept the lowest or any Bid. The percentage for this criterion will be calculated proportionately in comparison to other price submissions from Bids. Bidders must submit all the documents requested in the RFP document. The RFP checklist provides a list of requirements which need to be fulfilled.

PART D

5 Technical Questionnaire (35%)

Complete Technical Questionnaire in Part G

6 Bidders Experience (15%)

6.1 Prospective Bidders need to provide information of at least 2 previous contracts completed within the past 10 years of a similar nature to the scope of services presented in this RFP. These details should include but are not limited to the following; the entity or person for which the work was completed, contact information for the entity or person, the value of the services, the location of the services.

7 Award of Contract

7.1 The Departmental Tenders Committee will inform the successful bidder through an award of Contract at the end of proposal evaluation. Unsuccessful bidders will also be notified at the same time as the successful bidder.

PART E

Part E

PART E - GoM and Consultant Agreement

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1 General Contract

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PART E**1 General****Service Contract**

This Agreement (“the Agreement”) effective as of the day of 2018 is by and between....., an entity having a mailing address of (“Sub Sea Fibre Technical Consultant or (“SSFTC”), and the Office of the Premier (OP), having a mailing address of P.O Box 292, Brades, Montserrat, MSR1110.

RECITALS:

WHEREAS, the Office of the Premier (OP) desires to retain the Sub Sea Fibre Technical Consultant (SSFTC) to provide services and to undertake the objectives set out in the Terms of Reference; and

WHEREAS, the **SSFTC** desires to perform such services as described in this Agreement.

NOW, THEREFORE, the OP and the **SSFTC** hereby agree as follows:

1. SUB SEA FIBRE TECHNICAL CONSULTANT

The **SSFTC** represents that it is fully experienced and properly qualified to perform the Services as provided under this Agreement as set out in the Terms of Reference, and that it is, and will remain for the duration of this Agreement, properly permitted, licensed, equipped, organized and financed to perform such Services.

2. INDEPENDENT CONTRACTOR

Except as otherwise expressly provided in this Agreement or otherwise authorized in writing by the OP, in performing the Services and incurring expenses under this Agreement, the **SSFTC** shall operate as, and have the status of, an independent contractor and shall not act as agent or be an agent of the OP. As an independent contractor, the **SSFTC** shall be solely responsible for determining the means and methods of performing the Services and shall have complete charge and responsibility for the **SSFTC** personnel engaged in the performance of the Services.

3. ASSIGNMENT

The **SSFTC** shall not assign any of its rights, interests or obligations under this Agreement or subcontract any of the Services to be performed by it under this Agreement without the express written consent of the OP. Any subcontract or Assignment shall be subject to all terms of this Agreement. The OP shall have the right to assign this Agreement to a third party upon notice to the **SSFTC**.

4. COMPENSATION AND PAYMENT

For satisfactory performance of the Services, or as may be modified by mutual agreement, the OP agrees to compensate the **SSFTC** an amount not to exceed Inclusive of reimbursable expenses, as set forth in the Schedule attached hereto.

5. CONFIDENTIALITY

(a) For purposes of this Clause:

(1) The term “Confidential Information” as used herein means all material and information, whether written or oral, received by the **SSFTC** from or through the OP or any other person connected with the

PART E

Project, or developed or otherwise received or obtained by the **SSFTC** in connection with the Project or the performance of Services under this Agreement. Confidential Information shall include, but not be limited to, samples, substances and other materials, conversations, correspondence, records, notes, reports and other documents, in draft or final form, including any documentation or data relating to the results of investigations, testing, sampling in laboratory or other analysis, and all conclusions, interpretations, recommendations and/or comments relating thereto.

(2) The term “SSFTC” as used herein includes all officers, directors, employees, agents, representatives and sub-consultants of the **SSFTC**.

The **SSFTC** shall mark all Confidential Information as “Privileged and Confidential” and keep all Confidential Information in a secure location within the **SSFTC** offices. The OP shall have the right, but not the obligation, to enter the **SSFTC** offices in order to inspect the arrangements of the **SSFTC** or keeping the Confidential Information secure. No inspection by the OP shall relieve the **SSFTC** of the responsibility for the performance of its obligations hereunder.

- (b) The **SSFTC** shall hold the Confidential Information in trust and confidence, shall not disclose the Confidential Information or any portion thereof to any third party without the prior written consent of the OP, and shall not use the Confidential Information or any portion thereof for any purpose whatsoever except in connection with the performance of the Services under the Agreement.
- (c) The **SSFTC** shall notify the OP immediately upon receipt by the **SSFTC** of any request for Confidential Information. The **SSFTC** is not prohibited by this Clause from disclosing portions of the Confidential Information if, and to the extent that, such portions have become generally available to the public other than by an act or omission of the **SSFTC** or any of its subcontractors, or disclosure of such portions is required by subpoena, warrant or court order; PROVIDED, however, that in the event that any third party, including but not limited to a governmental employee, officer or entity, requests all or a portion of the Confidential Information, the **SSFTC** shall oppose such request and cooperate with the OP in obtaining a protective order or other appropriate remedy unless and until the OP in writing –
- (i) waives compliance with the provisions of this Clause; or
 - (ii) determines that disclosure is legally required. In the event that such protective order or other remedy is not obtained, or the OP waives compliance with this Clause or determines disclosure is legally required, the **SSFTC** shall disclose only such portions of the Confidential Information that, in the opinion of the OP, it is legally required to disclose, and the **SSFTC** shall use its best efforts to obtain from the party to whom the Confidential Information is disclosed written assurance that confidential treatment will be accorded to such portions of the Confidential Information as are disclosed.
- (d) To the extent the copies of documentary Confidential Information are authorized by the OP to be retained by the **SSFTC** they shall be retained in a secure location in the **SSFTC** office for a period of seven (7) years after completion of the Services or termination of this Agreement, and thereafter, disposed of at the OP’s direction.

6. OP’S OWNERSHIP OF DOCUMENTS

Notwithstanding any other provision herein to the contrary:

- (a) Without payment of additional compensation to the **SSFTC**, any documents prepared by the **SSFTC** for this Project shall become the OP’s property upon completion, cancellation, suspension or termination of the Services or this Agreement and upon payment of all sums due to the **SSFTC** for work properly performed. Reproducible copies of the original documents shall be turned over to the OP at that time in a format reasonably acceptable to the OP.
- (b) Reuse of any of these documents by the OP shall be at the OP’s risk.

PART E

The **SSFTC** shall be permitted to retain copies, including reproducible copies, of any or all documents for such use as it may require, except that use of any document without substantial modification shall be attributed to the OP and shall have the OP's prior written consent. Any such re-use by the **SSFTC** shall be at its own risk.

To the extent that the OP has paid for the **SSFTC** Services under this Agreement, the **SSFTC** hereby grants to the OP a non-exclusive, perpetual, royalty-free license to the intellectual property embodied in the documents prepared by the **SSFTC** in connection with the Project. The OP may make any changes, additions, and deletions thereto, all without further permission or consent of the **SSFTC**, although the **SSFTC** shall not be liable to the OP or any third party as a result of any such changes, additions, or deletions. The OP agrees to indemnify, defend and hold harmless the **SSFTC** from and against any damages, losses, costs or expenses (including reasonable attorneys' fees) arising out of any such changes, additions or deletions by the OP.

7. INDEMNIFICATION

The **SSFTC** agrees to indemnify, defend and hold harmless the OP, against any and all claims, losses, damages, liabilities, costs or expenses (including, without limitation, attorney's fees and costs of litigation and or settlement, whether incurred as a result of a claim by a third party or an indemnity hereunder) arising out of the Services performed pursuant to this Agreement, except to the extent arising out of the negligence or wilful misconduct of the Indemnified Party that is seeking to be indemnified.

8. DISCOVERY OF CONFLICTS, ERRORS, OMISSIONS OR DISCREPANCIES

In the case of conflicts, discrepancies, errors or omissions among the various parts of this Agreement, the **SSFTC** shall submit the matter immediately to the OP for clarification. Any Services affected by such conflicts, discrepancies, errors or omissions which are performed by the **SSFTC** prior to clarification by the OP shall be at the **SSFTC's** risk.

9. RESPONSIBILITY TO CORRECT DEFICIENCIES

It shall be the **SSFTC's** responsibility to correct, in a timely fashion and at the **SSFTC's** sole expense, any deficiencies in its Services resulting from the **SSFTC's** failure to act in accordance with the Standard of Care, provided such deficiencies are reported to **SSFTC** within one hundred twenty (120) days after completion of the Services, i.e., on expiry of the Defects Liability Period.

10. TERMINATION

The OP may, by written notice to the **SSFTC** effective upon receipt, terminate this Agreement in whole or in part at any time (subject to the provisions of Clause 16 of this Agreement), either for the OP's convenience or for the default of the **SSFTC** provided, however, that such termination shall not relieve the OP of its obligation to pay charges justly due to the **SSFTC** or Services properly performed and expenses properly incurred prior to such termination. Upon termination, the **SSFTC** shall deliver to the OP all documents required to be delivered pursuant to Clauses 6 and 7.

11. FORCE MAJEURE

Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party, and which by that party's exercise of due diligence and foresight could not reasonably have been avoided. Upon removal of such cause, the party affected shall resume its performance as soon as reasonably possible. Neither the **SSFTC's** financial inability to perform nor an event, which could have been prevented, had the **SSFTC** acted in accordance with the Standard of Care shall be deemed to be an event of Force Majeure.

PART E

12. WAIVER

The failure of the OP to enforce, at any time, the provisions of this Agreement does not constitute a waiver of such provisions in any way or waive the right of the OP at any time to avail itself of such remedies as it may have for any breach or breaches of such provisions. None of the conditions of this Agreement shall be considered waived by the OP unless such waiver is explicitly given in writing by the OP. No such waiver shall be a waiver of any past or future default, breach or modification of any of the terms or conditions of this Agreement unless expressly stipulated in such waiver.

13. GOVERNING LAW

This Agreement shall be governed by the laws of Montserrat, without regard to its conflict of law's provisions.

14. ENTIRE AGREEMENT AND SEVERABILITY

The rights and obligations of the parties, and their respective agents, successors and assignees hereunder shall be subject to and governed by this Agreement, including Schedules "A", "B", which supersedes any other understandings or writings between the parties. No changes, amendments or modifications of any of the terms and conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. The invalidity of one provision, or invalid application thereof, of this Agreement shall not affect the validity of any other provision or any other application of any provision of the Agreement.

15. DISPUTE RESOLUTION

- (a) Any controversy or claim arising out of or relating to this Agreement or the breach hereof, shall be subject to good faith negotiation and/or mediation as a condition precedent to binding dispute resolution. The OP and the **SSFTC** will attempt in good faith to promptly resolve any controversy or claim arising out of or relating to this Agreement or the breach thereof by negotiations between representatives of each party who have authority to settle the controversy. The disputing party shall give the other party written notice of the dispute, which notice shall include a general description of the dispute, and the name and title of the individual who will represent that party. The representatives shall meet at a mutually acceptable time and place within seven (7) calendar days after the date of the disputing party's notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute.
- (b) If good faith negotiations are not successful, the parties shall endeavour to resolve their disputes by mediation. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 45 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If binding dispute resolution is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the mediators (s) and agree upon a schedule for later proceedings.
- (c) If the dispute has not been settled within 45 calendar days after the date of the disputing party's notice under Clause 15 (a) above, any lawsuit or proceeding regarding or relating to an unresolved dispute between the parties, regardless of whether there are other parties to the dispute, shall be commenced and filed in Montserrat.
- (d) The **SSFTC** shall and shall cause its sub consultants, if any, to continue full performance under this Agreement pending the above claim resolution procedures and the ensuing litigation proceedings, if any, unless and until either OP the **SSFTC** terminates this Agreement or the Final Completion Date occurs.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the dates set forth below, to be deemed effective as of the date first written above.

PART E

SUB SEA FIBRE TECHNICAL CONSULTANT (SSFTC):

.....

By: _____

Printed Name: _____

Title: _____

Dated: _____, 2018

PART F**Part F****PART F – Terms of Reference****Terms of Reference**

These Terms of Reference relate to the provision of technical, commercial, and cost-benefit expertise to the UK's Department for International Development (DFID) and the Government of Montserrat (GoM) for the re-establishment of a fibre optic link for Montserrat.

Objective

To provide DFID and GoM with expert advice and support to help the facilitation of a co-funded [Public-Private] fibre optic solution for Montserrat, in particular the planning, preparation and undertaking of a procurement process. The key benefit of a re-established link will be the availability of improved internet services for the broad economic and social development of Montserrat including enhanced IT resilience and disaster preparedness.

Recipient

The recipients of the services are the UK's Department for International Development (DFID) and the Government of Montserrat (GoM).

Background

Prior to 1989, Montserrat was a small economy on the verge of becoming self-sufficient with a population of 12,000. However, two natural disasters, Hurricane Hugo in 1989 and the destructive volcanic eruptions from 1995 to 2010³ have affected all aspects of Montserratian social and economic life. Plymouth, the capital together with a significant area of prime agricultural land was destroyed and almost two thirds of the island⁴ is now beyond productive use and lies within an exclusion zone.

Montserrat has been without international fibre connectivity since the deactivation of the Fox's Bay landing point of the Eastern Caribbean Fibre System (ECFS) following the evacuation of Plymouth.

There has been extensive planning and appraisal work on the prospects for re-establishing fibre optic connectivity to Montserrat which along with recent engagements with the market have demonstrated that there will be interest in taking forward the project. The most recent meetings in December 2017 gave positive indications that the key players in the region would be open to participating in a co-funded arrangement,

The actual details and contractual model for the co-funded solution has yet to be defined and will be formulated as the process goes forward. There is also an openness to explore the type of link (s) and to which neighbouring island (s) is most beneficial with regard to connectivity residency and offers best VFM.

³ The last significant activity was recorded in February 2010 but the Volcano remains active

⁴ Plus two maritime areas

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Expertise Required

It is for the consultant to propose what expertise is required for the satisfactory conclusion of this assignment. As a guide, consultants will be expected to cover all or most of the following areas of expertise in carrying out this assignment:

- (i) Expert knowledge of the optical fibre submarine cable sector, including familiarity with trans-oceanic cable laying operations and risks;
- (ii) In-depth expertise in international broadband provision, and knowledge of onward requirements for linking cable ends with broadband networks, including how pricing and costs are formulated;
- (iii) Understanding of potential sources of private sector revenue which might enable the costs of the cable installation to be funded by the private sector, and all of the recurring costs for Operating and Maintaining the cable to be funded by the private sector;
- (iv) Financing expertise in submarine cable and broadband sectors, and ability to carry out initial enquiries relating to interested parties
- (v) Legal and procurement expertise in the relevant sectors to assist GoM and HMG with any legal or procurement issues in entering into contracts with interested parties.

Scope of the Services

1. Address possible gaps in knowledge of issues that are critical to DFID and GoM in deciding the appropriate contract model for the re-establishment of an optical fibre submarine cable for Montserrat.
2. These information gaps are likely to include, but are not restricted to: the feasibility of reaching an agreement with cable suppliers in time to meet with their existing planned timetables; the cable connection requirements on Montserrat itself; the risks of cable failure; and the management and operational arrangements.
3. Examine and evaluate the various financing options/approaches suggested by potential suppliers for the venture.
4. Review and report on options on oversight, management, and contracting for each stage of the venture. This narrative may include anything else of significance to the investment that the consultants advise as helping to inform decisions
5. To review and reflect on discussions with potential suppliers in previous market engagement events and as the process proceeds, evaluating the, comment on the advantages and disadvantages of each proposals and suggested approach.
6. It is for the selected consultants to identify the highest priority issues to be resolved in taking forward this work, and for them to recommend to DFID/GoM the most appropriate way to proceed. Relevant issues, inter alia, include:
 - a. Governance, management and legal issues with respect to necessary agreements with major partners, including cable, broadband, and private sector users, and the current providers of internet connections on island as appropriate
 - b. Alternative investment options for DFID/GoM, including funding amounts, duration, and disbursement profiles.

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- c. Constraints, barriers and risks that could affect the success of the project at planning, design, financing, implementation, and operational stages, in consultation with key stakeholders.

Outputs and Deliverables

1. Contribute to the design and preparation of a tender process, to include ITT documents for the sourcing, provision, installation and management of a new subsea fibre optic solution for Montserrat.
2. Working with GoM and DFID colleagues, examine and assess responses received from potential suppliers. Help determine whether these responses address the need for a co-funded (with DFID) fibre optic solution for Montserrat.
3. If a suitable proposal is received, provide support and assistance for the finalisation of a contract, including any negotiation.
The ultimate decision to proceed with a contract will be determined by DFID and GoM.

Timetable

The Consultant will commence the assignment as soon as possible, with aim of launching a tender process during Q2 18/19.

Payments will be linked to the completion of the key deliverables which will be agreed between the parties following acceptance of a proposal to provide the required support.

The Consultant will commence the assignment as soon as possible, with aim of launching a tender process in early October 2018.

Payments will be linked to the completion of the key deliverables which will be agreed between the parties following acceptance of a proposal to provide the required support.

Reporting

The consultant will report to the Montserrat Subsea Fibre Project Steering Committee (MSFPSC). The main point of contact for the MSFPSC will be, Denzil West, Director DITES, OP, GoM; westd@gov.ms.

Written submissions should be sent to Denzil West, and copied to Allan Clarkin, Deputy Program Manager, Overseas Territories Department, DfID; a-clarkin@dfid.gov.uk.

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PART G - BIDDERS RESPONSE

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1 RFP Document Checklist

Project Title: **Sub Sea Fibre Project Technical Consultant**

Date RFP advertised: Monday 30th July **2018**

Proposal Deadline Date: **Wednesday 8th August 2018**

Proposal Deadline Time: **12:00pm**

Below are the following documents that must be submitted for a consultant's bid to be valid. Bidders are asked to supply and tick off the following information. Failure to provide any of the stated documents will result in the bid being considered non-compliant and rejected.

The below documents should be presented with their bid to ensure that their bid is valid.

Signed Form of Proposal (**Including time for completion and notice period**)

Tax Compliance Certificate (**If locally registered in Montserrat**)

Signed Anti-Collusion Statement

Bidders Company Details

Completed Technical Questionnaire

.....
Bidders Authorized Signature

.....
Date

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2 Form of Proposal

The Chairperson
Departmental Tenders Committee
Ministry of Finance and Economic Management
Government Headquarters
Brades
Montserrat

Dear Sir/Madam;

Re: Sub Sea Fibre Project Technical Consultant

I/We the undersigned undertake to complete the above Services in accordance with the General Conditions of Contract, Terms of reference and for the sum of:

EC\$
.....

(Amount in Words):
.....
.....

If my/our proposal is accepted, I/We undertake to commence the Services within _____ **days** from the date of the contract signing, and complete the services within _____ **days** from the date of the contract signing.

I/We understand that I/We shall not be reimbursed for any cost that may have been incurred in compiling this proposal.

I/We confirm this proposal shall remain valid for a period of 90 days from the date of submission of this proposal.

Except in cases where there is an exemption from tax, of which proof must be provided; residents of Montserrat for tax purposes are subject to tax on the profits from this project while non-residents are liable to a **20% Withholding Tax** deduction from the gross amount.

Please take into consideration your tax obligations and liabilities to the Government of Montserrat. For further information please contact Montserrat Customs & Revenue Service (MCRS) via email at irev@gov.ms

Name:

Signed:

Name of firm (If Applicable):

Address:

.....
.....

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Tel #:

Fax #:

Email Address:

Date:

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3 Proposal Submission Ant-Collusion Certificate

I/WE CERTIFY THAT THIS PROPOSAL IS MADE IN GOOD FAITH, AND THAT WE HAVE NOT FIXED OR ADJUSTED THE AMOUNT OF THE PROPOSAL BY OR UNDER OR IN ACCORDANCE WITH ANY AGREEMENT OR ARRANGEMENT WITH ANY OTHER PERSON. I/WE ALSO CERTIFY THAT WE HAVE NOT AND I/WE UNDERTAKE THAT WE WILL NOT BEFORE THE AWARD OF ANY CONTRACT FOR THE WORK:

DISCLOSE THE PROPOSAL PRICE OR ANY OTHER FIGURES OR OTHER INFORMATION IN CONNECTION WITH THE PROPOSAL TO ANY OTHER PARTY (INCLUDING ANY OTHER COMPANY OR PART OF A COMPANY FORMING PART OF A GROUP OF COMPANIES OF WHICH I AM/WE ARE A PART OF) NOR TO ANY SUB-CONSULTANT (WHETHER NOMINATED OR DOMESTIC) NOR SUPPLIER (WHETHER NOMINATED OR DOMESTIC) OR ANY OTHER PERSON TO WHOM SUCH DISCLOSURE COULD HAVE THE EFFECT OF PREVENTING OR RESTRICTING FULL COMPETITION IN THIS PROPOSALING EXERCISE

ENTER INTO ANY AGREEMENT OR ARRANGEMENT WITH ANY PERSON THAT THEY SHALL REFRAIN FROM PROPOSALING, THAT THEY SHALL WITHDRAW ANY PROPOSAL ONCE OFFERED OR VARY THE AMOUNT OF ANY PROPOSAL TO BE SUBMITTED OR OTHERWISE COLLUDE WITH ANY PERSON WITH THE INTENT OF PREVENTING OR RESTRICTING FULL COMPETITION

PAY, GIVE OR OFFER PAY OR GIVE ANY SUM OF MONEY OR OTHER VALUABLE CONSIDERATION DIRECTLY OR INDIRECTLY TO ANY PERSON FOR DOING OR HAVING DONE OR CAUSING OR HAVING CAUSED TO BE DONE IN RELATION TO ANOTHER PROPOSAL OR PROPOSED PROPOSAL FOR THE WORK ANY ACT OR THING OF THE SORT DESCRIBED AT I), II) OR III) ABOVE.

I/WE FURTHER DECLARE THAT I/WE HAVE NO KNOWLEDGE EITHER OF ANY SUM QUOTED OR OF ANY OTHER PARTICULARS OF ANY OTHER PROPOSAL FOR THIS CONTRACT BY ANY OTHER PARTY.

I/WE FURTHER CERTIFY THAT THE PRINCIPLES DESCRIBED ABOVE HAVE BEEN, OR WILL BE, BROUGHT TO THE ATTENTION OF ALL SUB-CONSULTANTS, SUPPLIERS AND ASSOCIATED COMPANIES PROVIDING SERVICES OR MATERIALS CONNECTED WITH THE PROPOSAL AND ANY CONTRACT ENTERED INTO WITH SUCH SUB-CONSULTANTS, SUPPLIERS OR ASSOCIATED COMPANIES WILL BE MADE ON THE BASIS OF COMPLIANCE WITH THE ABOVE PRINCIPLES BY ALL PARTIES.

I/WE ACKNOWLEDGE THAT ANY BREACH OF THE FOREGOING PROVISIONS SHALL LEAD AUTOMATICALLY TO THIS PROPOSAL BEING DISQUALIFIED AND MAY LEAD TO CRIMINAL OR CIVIL PROCEEDINGS.THE GOVERNMENT OF MONTSERRAT SHALL TREAT ANY PROPOSAL RECEIVED IN CONFIDENCE BUT RESERVES THE RIGHT TO MAKE THE SAME AVAILABLE TO ANY OTHER FUNDING ORGANISATION OR STATUTORY REGULATORY AUTHORITY EITHER HAVING JURISDICTION OVER THE SERVICES OR WHO MAY NOW OR AT ANY TIME IN THE FUTURE HAVE STATUTORY POWER TO REQUIRE DISCLOSURE OF THIS PROPOSAL.

IN THIS CERTIFICATE, THE WORD 'PERSON' INCLUDES ANY PERSONS AND ANY BODY OR ASSOCIATION, INCORPORATED OR UNINCORPORATED; ANY AGREEMENT OR ARRANGEMENT INCLUDES ANY TRANSACTIONS, FORMAL OR INFORMAL AND WHETHER LEGALLY BINDING OR NOT; AND 'THE WORK' MEANS THE WORK IN RELATION TO WHICH THIS PROPOSAL IS MADE.

SIGNATURE:

IN CAPACITY OF:

DATE:2018

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DULY AUTHORISED TO SIGN PROPOSALS AND ACKNOWLEDGE THE CONTENTS OF THE ANTI-COLLUSION CERTIFICATE FOR AND ON BEHALF OF:

NAME OF FIRM:

FULL POSTAL ADDRESS:

.....

.....

CONTACT #:

PART G**4 Project Experience**

4.1 Please list at least 2 projects successfully completed in the last 10years that is of a similar nature.

NO	PROJECT DESCRIPTION	CLIENT	PROJECT VALUE (US\$)	PROJECT DURATION (MM/YR)	
				START	END
1					
2					
3					
4					
5					

PART G**5. Technical Questionnaire Criteria****Quality Evaluation**

Quality will be measured upon evaluation of Bidders' responses to the Technical Questionnaire. Each question in the Technical Questionnaire is marked using the following scores:

Scoring - Quality Criteria	
Rating of Response	Score
Very Good or Fully Compliant Submission which meets all requirements and is fully explained in comprehensive detail. Clearly includes all the information requested and instils full confidence that the Tenderer has the ability to fully meet the requirements of the Contract.	9 – 10
Good or Fully Compliant Submission which meets all the requirements and is explained in reasonable detail. Includes all the information requested and instils reasonable confidence that the Tenderer has the ability to fully meet the requirements of the Contract.	7 – 8
Satisfactory or Compliant Submission which meets the essential requirements and is explained in adequate detail. Although brief or lacking some detail, all the information requested has been supplied and the Council is relatively confident that the Tenderer has the ability to meet the requirements of the Contract.	5 – 6
Weak or Partially Compliant (Minor issues) Submission which in some areas falls short of requirements and is poorly explained. Not all of the information requested has been supplied and The Council has minor concerns regarding the Tenderers ability to meet the requirements of the Contract.	3 – 4
Unacceptable or Non-Compliant (Major issues) Submission which clearly fails to meet requirements and is not explained. Key information requested has not been supplied and the Council has major concerns regarding the Tenderers ability to meet the requirements of the Contract.	1 – 2
An answer to the question has not been provided or the Tenderer has not understood the requirements of the question and therefore the answer provided does not address the question.	0

PART G**6. Technical Questionnaire**

Weighted quality scores will be calculated by multiplying the score for each quality question by its individual weighting. The weighted scores will be totalled for each bid.

<p>Question 1: (10%) Please describe your knowledge of the optical fibre submarine cable sector, including familiarity with trans-oceanic cable laying operations and risks.</p>
<p>Bidders response:</p>
<p>Question 2: (5%) Please describe your In-depth expertise in international broadband provision, and knowledge of onward requirements for linking cable landings with broadband Internet services, including how pricing and costs are formulated;</p>
<p>Bidders response:</p>
<p>Question 3: (5%)</p> <ul style="list-style-type: none"> a) Please demonstrate your understanding of potential sources of private sector revenue which might enable the costs of the cable installation to be funded by the private sector, and all of the recurring costs for operating and maintaining the cable to be funded by the private sector. b) Please include how you will examine and evaluate the various financing options/approaches suggested by potential suppliers for the venture.
<p>Bidders response:</p>
<p>Question 4: (5%) Please provide details of your knowledge and experience in relation to financing in submarine cable and broadband sectors, and ability to carry out initial enquiries relating to interested parties. Provide examples of similar projects where you have achieved this.</p>
<p>Bidders response:</p>
<p>Question 5: (15%) Please outline your legal and procurement experience in the relevant sectors to assist GoM and DFID with any legal or procurement issues in entering into contracts with interested parties. Please outline options that work well.</p>
<p>Bidders response:</p>
<p>Question 6: (5%) Please describe your approach to project management and include project management tools that you will utilise to deliver the scope of services, outputs and deliverables.</p>

PART G**Bidders response:****Question 7: (5%)**

Please describe your approach to stakeholder engagement and provide examples of where you have achieved this successfully particularly in public/private partnerships.

Bidders response:**Question 8: (40%)**

Please outline what approach you would adopt to meet the requirements of this project if you were successful; Please ensure that you address the key points below in your response;

Scope of the Services

2. Address possible gaps in knowledge of issues that are critical to DFID and GoM in deciding the appropriate contract model for the re-establishment of an optical fibre submarine cable for Montserrat.
3. These information gaps are likely to include, but are not restricted to: the feasibility of reaching an agreement with cable suppliers in time to meet with their existing planned timetables; the cable connection requirements on Montserrat itself; the risks of cable failure; and the management and operational arrangements.
4. Examine and evaluate the various financing options/approaches suggested by potential suppliers for the venture.
5. Review and report on options on oversight, management, and contracting for each stage of the venture. This narrative may include anything else of significance to the investment that the consultants advise as helping to inform decisions
6. To review and reflect on discussions with potential suppliers in previous market engagement events and as the process proceeds, evaluating the, comment on the advantages and disadvantages of each proposals and suggested approach.
7. It is for the selected consultants to identify the highest priority issues to be resolved in tacking forward this work, and for them to recommend to DFID/GoM the most appropriate way to proceed. Relevant issues, inter alia, include:
 - a. Governance, management and legal issues with respect to necessary agreements with major partners, including cable, broadband, and private sector users, and the current providers of internet connections on island as appropriate
 - b. Alternative investment options for DFID/GoM, including funding amounts, duration, and disbursement profiles.
 - c. Constraints, barriers and risks that could affect the success of the project at planning, design, financing, implementation, and operational stages, in consultation with key stakeholders.

Bidders Response:

PART G**Question 9 (8%)**

Please outline your approach to ensuring that key outputs and deliverables are met within the required timescales.

Outputs and Deliverables:

1. Contribute to the design and preparation of a tender process for the sourcing, provision, installation and management of a new fibre optic solution for Montserrat.
2. Working with GoM and DFID colleagues examine and assess responses received from potential suppliers. Help determine whether these responses address the need for a co-funded (with DFID) fibre optic solution for Montserrat.
3. If a suitable proposal is received, provide support and assistance for the finalisation of a contract, including any negotiation. The ultimate decision to proceed with a contract will be determined by DFID and GoM.

Bidders Response:**Question 10 (2%)**

What resources will you dedicate to the completion of this project?

Please include your availability, on site and off site, working days and hours.

Bidders Response: